



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

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

## Further Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2020/0446/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage.	<b>Location:</b> Land opposite and S.W. of 165 Favour Royal Road Augher
<b>Applicant Name and Address:</b> Finbar Mc Quaid 163 Favour Royal Road Augher	<b>Agent Name and Address:</b> Bernard J Donnelly 30 Lismore Road Ballygawley BT70 2ND
<b>Summary of Issues:</b> This application has been changed to a dwelling on a farm and information has been presented to demonstrate the applicant is a horse breeder. Horse breeders are afforded the same policy provisions as farmers in respect of dwellings on farms.	
<b>Summary of Consultee Responses:</b> DFI Roads – safe access to have 2.0m x 50.0m sight lines	
<b>Characteristics of the Site and Area:</b> This site is an irregular shaped plot cut out of a larger agricultural field and is set back approximately 70m from a shared public access road which accesses onto Favour Royal Road. Augher Village is located approx. 2 mile to the west. Access to the site will traverse an open field with the site located in the SW corner of the field with mature trees and hedgerow along the western and southern boundaries. All remaining boundaries are open to the field, with a small maintained hedgerow located at roadside.  The site is low lying and relatively flat. Some site clearance has taken place on site, and gravel/hard-core has been laid at the access and there is evidence some of the roadside verge/earth bank has been cut back to create sight splays.	

Along this dead-end road (which is also part of Favour Royal Road) there are a number of detached dwellings and a farm holding at the end of road. There is also forest areas along this stretch of road. Adjacent and south is No. 163 Favour Royal Road, while opposite the site is 3 no. dwellings.

**Description of Proposal**

Proposed dwelling and garage.

**Deferred Consideration:**

This application was before the Planning Committee at its meetings in September 2020 and November 2020. Members will be aware the issues here was that it was not demonstrated development in the course of the erection of a building had been carried out and the approved access was not put in place before development was commenced. The application was deferred to seek clarification and allow further consideration of the issues.

Since then the applicant has submitted additional information for consideration against Policy CTY10 for a dwelling on a farm. The information presented relates to the applicants breeding of horses. Members are advised Policy CTY10 makes provision for those involved in the keeping and breeding of horses for commercial purposes to be assessed against the criteria as a farmer.

In support of the proposed development the following information has been submitted:

- letter from T Gourley (Planning Consultant) advising the applicant and his father have been keeping horses and breeding them on this land since 2011
- the applicants father lives in the house to the immediate west of the proposed site and he has stables located to the rear of his house
- aerial photographs of the land showing horses grazing and exercising in this field in 2012, 2013, 2015, 2017 and 2020
- letter from Gerry McQuaid stating he breeds horses and has done since 2011, small numbers now due to the depressed state of the equine business following the pandemic outbreak
- horse passport for Mountforest Lady issued 25 June 2012
- letter from P McKernan to state his stallion has been presented to Mssrs McQuaid mares for the last 10 years
- letter from D Irwin to state he has bought foals from Mssrs McQuaid for the past 10 years
- letter from T Keogh stating he bought a foal from Mssrs McQuaid in 2019
- letter from A McKenna, a veterinarian in Emyvale who has acted for Mr McQuaid for the opast 10 years in relation to his brood mares
- information in respect of renewing Farm and Equine Insurance for Mr G McQuaid 163 Favour Royal Road, May 2007, May 2011 and May 2021 and a letter from the insurance broker to advise this type of insurance has been held since 1999.

DAERA have advised they supply equine numbers to horse breeders, however this is a voluntary process and they do not have any records of Mr McQuaid. They advised to contact NI Horse Board for further information. NI Horse Board have confirmed the passport provided is correct and the details correspond with the information submitted. They are unable to provide any records for foals produced by the mare which Mr McQuaid

has. NI Horse Board also confirmed that foals can be sold without a passport and that is common practice as the new owner usually names the horse. In light of the above I am satisfied the applicant can demonstrate the horse breeding has been in existence for a period in excess of 6 years and that it is currently ongoing as the google streetview picture below captured in July 2021 shows cattle and horses in the field. I am satisfied this application meets with criteria a in CTY10.



A check of the land that has been shown as owned has been undertaken. There has been no planning permission granted for dwellings in the last 10 years on the land and no development opportunities sold off. I consider criteria b has been met.

The applicant has a dwelling, garden room and a number of buildings to the rear of the dwelling immediately to the south of this proposed site. The proposed dwelling and garage will be sited to cluster with these and as such I am satisfied that criteria c has been met.

The proposed dwelling is 2 storey with 2 front projections; a sandstone stone stairwell with a 2 storey arched window and a 2 storey gable fronted projection. The dwelling is proposed to have self coloured render to the walls and a natural slate roof. There is a single storey sandstone side projection for a play room and a single storey family room at the rear. It is proposed to have a one and half storey garage to the rear of the dwelling, similar in finishes and style to the house. The house design is fairly typical of houses in the area as there is an eclectic mix here. The applicants fathers house is a dormer bungalow and across the road there is a 2 storey house with 2 full 2 storey projections with bay windows on them to the front and immediately adjacent to that is a 2 storey with a 2 storey central porch. I consider the design is acceptable in this location given its set back and the surrounding development. Landscaping has been carried out along the boundary with the applicants father's house, there is a strong hedge to the rear boundary and new landscaping is proposed along the sites new boundaries which will assist in the overall integration of the dwelling. No levels have been provided to show the dwellings finished floor however I consider it would be appropriate to condition that these levels are submitted and agreed before any works are undertaken on the site, to ensure the development will not be prominent in the landscape and integrates satisfactorily.

In view of the above, I recommend this application is approved with the conditions suggested below attached.

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 any development hereby approved, the vehicular access including visibility splays of 2.0mx 50.0m shall be provided in accordance with the details as set out on drawing No 02 bearing the stamp dated 30 MAR 2020. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

3. All hard and soft landscape works as detailed on drawing no 02 bearing the stamp dated 30-NOV-2020 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

REASON: In the interest of visual amenity and to protect the character of the rural area.

4. The development hereby approved shall not commence until a plan showing existing and proposed ground levels and proposed floor levels of the dwelling and garage hereby approved has been submitted to and approved by the Council.

REASON: In the interest of visual amenity and to protect the character of the rural area

**Signature(s)**

**Date:**



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## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2020/0446/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed change of house type to previously approved Ref. M/2006/1301/RM	<b>Location:</b> Land opposite and S.W. of 165 Favour Royal Road Augher
<b>Applicant Name and Address:</b> Finbar Mc Quaid 163 Favour Royal Road Augher	<b>Agent Name and Address:</b> Bernard J Donnelly 30 Lismore Road Ballygawley BT70 2ND
<b>Summary of Issues:</b> No justification for a dwelling in the countryside and it has not been demonstrated there is a legitimate fallback position that would allow a dwelling to be built on this site	
<b>Summary of Consultee Responses:</b> DFI Roads – safe access to have 2.0m x 50.0m sight lines	
<b>Characteristics of the Site and Area:</b> This site is an irregular shaped plot cut out of a larger agricultural field and is set back approximately 70m from a shared public access road which accesses onto Favour Royal Road. Augher Village is located approx. 2 mile to the west. Access to the site will traverse an open field with the site located in the SW corner of the field with mature trees and hedgerow along the western and southern boundaries. All remaining boundaries are open to the field, with a small maintained hedgerow located at roadside.  The site is low lying and relatively flat. Some site clearance has taken place on site, and gravel/hard-core has been laid at the access and there is evidence some of the roadside verge/earth bank has been cut back to create sight splays.	

Along this dead-end road (which is also part of Favour Royal Road) there are a number of detached dwellings and a farm holding at the end of road. There is also forest areas along this stretch of road. Adjacent and south is No. 163 Favour Royal Road, while opposite the site is 3 no. dwellings.

**Description of Proposal**

Proposed change of house type to previously approved Ref. M/2006/1301/RM

**Deferred Consideration:**

This application was before the Planning Committee at its meeting in September 2020, the agent was granted speaking rights but was unable to be located to speak. It was agreed to defer the application to allow further discussion with the agent about the validity of the application and whether it was a change of house type as there is some doubt over the issue of commencement of the previous permission.

The Head of Development Management contacted the agent and explained the application was deferred and invited them to make contact to discuss the way forward. The agent advised they had arrived at the offices after the committee meeting had started and they did not get to speak about the application and wished the application to be brought back to the next available committee to allow them the opportunity to speak to the members.

In the documents that were submitted in the request to speak are 5 photographs that appear to have been taken from Google Maps and Streetview. (see appendix). The dates that have been highlighted on the images refer to the image being captured in Mar 2009. As explained in the previous report the issues in this case relate to whether or not the previous planning permission on the site was implemented in time. The OPP was granted on 13 May 2003, ref M/3003/0514/O and RM was granted on 14<sup>th</sup> November 2006, ref M/2006/1301/RM. Development in the course of the erection of the building must have been commenced on the site before 14<sup>th</sup> November 2008, this being the later of the 2 dates of 5 years from 13<sup>th</sup> May 2003 and 2 years from 14<sup>th</sup> November 2006. The images that have been presented for discussion show relatively new works completed to the front of the site that have removed hedges and provided new fences, gates and entrances. This does not show any works in the course of the erection of the approved buildings on the site on 14<sup>th</sup> November 2008.

There has been no new information to demonstrate that the previous permission was commenced in time and despite the offer to discuss the case further the applicant has requested this application is brought back to the committee to allow them to speak to the members.

In view of the above, it has still not been demonstrated that the previous planning permission was lawfully commenced within the time and recommendation is that this application is refused.

Reasons for Refusal:

1.The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the proposal falls within any of the range of types of development which in principle are considered to be acceptable in the countryside and therefore does not contribute to the aims of sustainable development.

**Signature(s)**

**Date:**

## APPENDIX



Photograph 1



Photograph 2



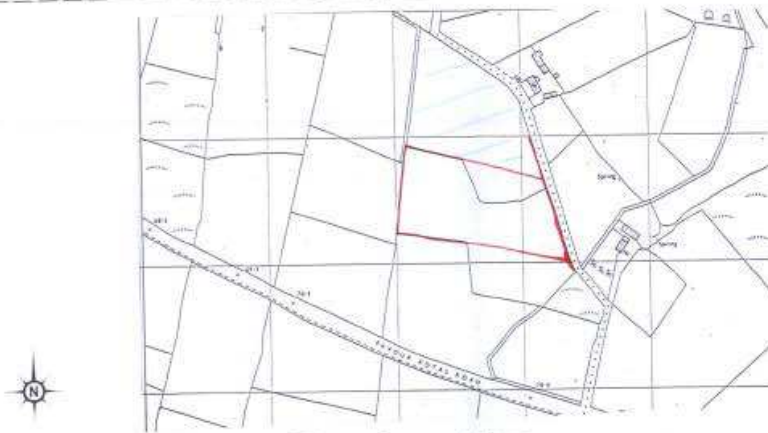
Photograph 3



Photograph 4



Photograph 5



**Site Location.** SCALE: 1/2500  
From I.G. Map No. 196/3.

LANDSCAPING TABLE:			
TREE PLANTING:			
Species	Planting	Size	Height
Birch	10m x 10m	10m	10m
Willow	10m x 10m	10m	10m
Cherry	10m x 10m	10m	10m
Roadside	10m x 10m	10m	10m
HEDGE PLANTING:			
Species	Planting	Size	Height
Donkey Bush	10m x 10m	10m	10m
Donkey Bush	10m x 10m	10m	10m
Donkey Bush	10m x 10m	10m	10m

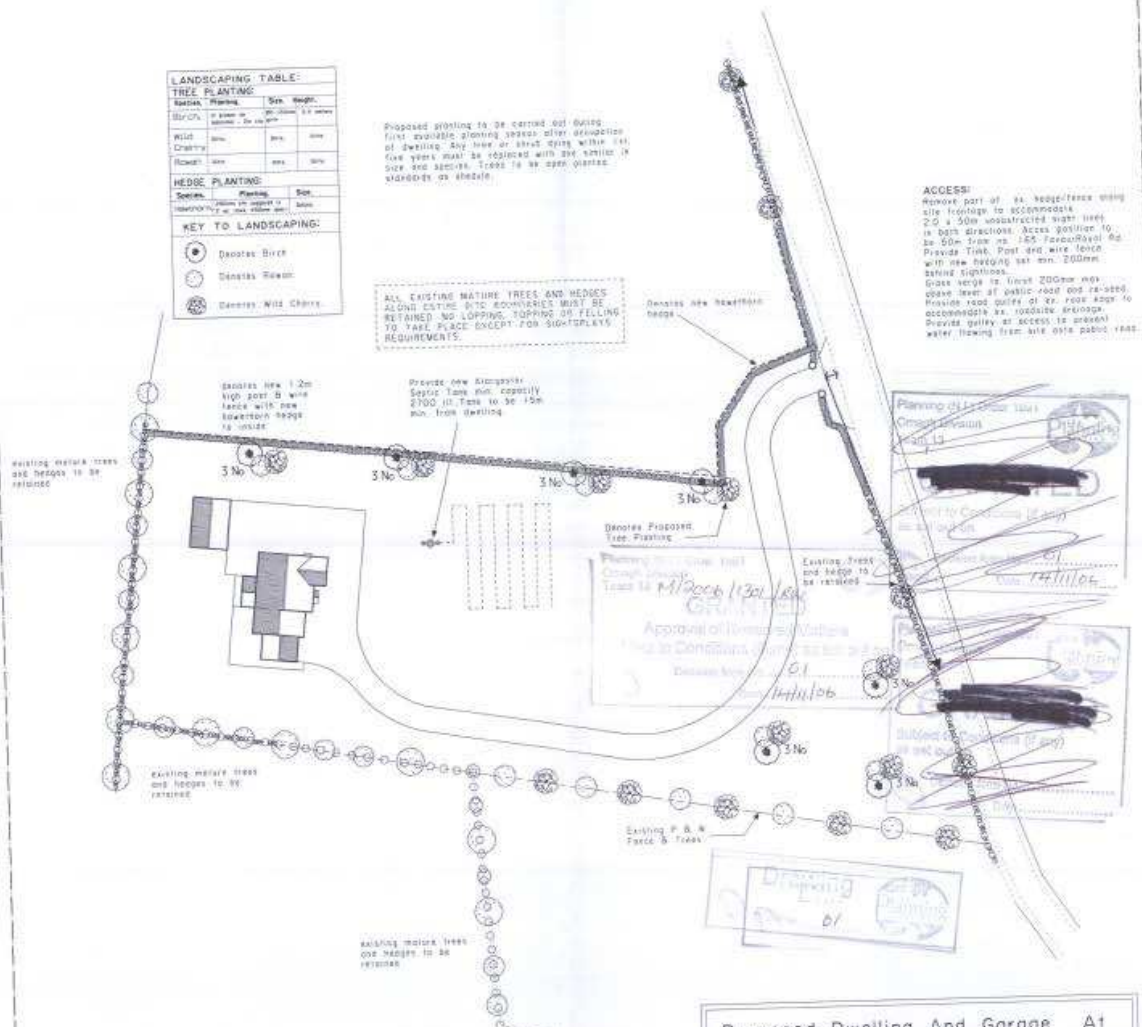
**KEY TO LANDSCAPING:**

- Donkey Bush
- Donkey Bush
- Donkey Bush

Proposed planting to be carried out during first available planting season after completion of dwelling. Any loss or shrub dying within first four years must be replaced with one similar in size and species. Trees to be open planted standards as schedule.

ALL EXISTING MATURE TREES AND HEDGES ALONG EXISTING SITE BOUNDARIES MUST BE RETAINED. NO LOPPING, TOPPING OR FELLING TO TAKE PLACE EXCEPT FOR SIGNPOSTS REQUIREMENTS.

**ACCESS:**  
Remove part of ex. hedge/fence using site licence to accommodate 2.0 x 50m unobstructed sight lines in both directions. Access gateway to be 50m from ex. 105' road/road to Private Tack. Post and wire fence with new retaining wall min. 200mm behind sightlines.  
Gate verge to front 200mm may cross level of public road and re-seed. Provide road gulley at ex. road edge to accommodate ex. roadside drainage. Provide gully at access to prevent water flowing from site onto public road.



**Block Plan.** SCALE: 1/500.

Proposed Dwelling And Garage At Favour Royal Road, Augher, Co-Tyrone For Mr. Gerard McQUAID.



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### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 1st September 2020	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0446/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed change of house type to previously approved Ref. M/2006/1301/RM	<b>Location:</b> Land opposite and S.W. of 165 Favour Royal Road Augher
<b>Referral Route: recommendation to Refuse</b>	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Finbarr Mc Quaid 163 Favour Royal Road Augher	<b>Agent Name and Address:</b> Bernard J Donnelly 30 Lismore Road Ballygawley BT70 2ND
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



**Representations:** None Received

### Description of proposal

This is full planning application for a change of house type to previously approved ref. M/2006/1301/RM.

### Characteristics of Site and Area

This site is an irregular shaped plot cut out of a larger agricultural field and is set back approximately 70m from a shared public access road which accesses onto Favour Royal Road. Augher Village is located approx. 2 mile to the west. Access to the site will traverse an open field, with the site located in the SW corner of the field with mature trees and hedgerow along the western and southern boundaries. All remaining boundaries are open to the field, with a small maintained hedgerow located at roadside.

The site is low lying and relatively flat. Some site clearance has taken place on site, and gravel/hard-core has been laid at the access and there is evidence some of the roadside verge/earth bank has been cut back to create sight splays.

Along this dead-end road (which is also part of Fever Royal Road) there are a number of detached dwellings and a farm holding at the end of road. There is also forest areas

along this stretch of road. Adjacent and south is No. 163 Favour Royal Road, while opposite the site is 3 no. dwellings.

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

#### **Planning Act 2011**

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

#### **Area Plan**

The site is located in the open countryside as defined in the Dungannon and South Tyrone Area 2010 where SPPS and PPS21 are applicable. There are no specific area plan policies relevant to this proposal.

The Mid Ulster District Council Local Development Plan 2030 ? Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020.

In light of this the draft plan cannot currently be given any determining weight.

#### **Representations**

None received

#### **Relevant planning history**

M/2003/0514/O- outline planning permission was granted on this site for a 2 storey dwelling and garage on 15.05.2003.

M/2006/1301/RM- reserved matters was granted for a 2 storey dwelling and garage on 14.11.2006.

Therefore to secure the above permission development had to commence on site prior to 14.11.2008.

#### **Key Planning Policy**

SPPS Strategic Planning Policy Statement

PPS21 Sustainable Development in the Countryside

PPS3 Access, Movement and Parking

#### **Planning Assessment**

This proposal is for a change of house type to previous permission M/2006/1301/RM. M/2006/1301/RM was granted under a different Regional Rural Policy than currently exists. In order to consider if this proposal is acceptable in principle one of two things have to be established. The first is whether development on this site has lawfully commenced within the lifetime M/2006/1301/RM, including any pre commencement conditions. If this cannot be established, then the proposal has to be considered against

the policy criteria of PPS21 Sustainable Development in the Countryside as this is new policy consideration for all development proposals in the Countryside.

From viewing Council Ortho Maps it is clear that no access point or foundations of buildings have been created on this site on 09/03/2010. At this point the previous permission had lapsed. The agent has not able to produce any evidence, such as Building Control inspection certificates, to prove that foundations had been laid prior to the expiration of the previous permission. Therefore, from the evidence presented, I can say with a strong degree of certainty that development on this site has not been lawfully commenced within the lifetime of the permission therefore no weight can be attached to the previous permission. Had it been demonstrated that the previous permission was lawfully commenced, then I would be in a position to consider the proposed amendments to the house type as presented in this subject application, as the previous permission would have been secured and a dwelling completed on the site.

However, no weight can be attached to the previous permission. Therefore I have to consider the proposal under the policy provisions of the current regional rural policy PPS21.

Strategic Planning Policy Statement- The policy provision of SPPS do not impact on the policy provisions of PPS21 Sustainable Development in the Countryside, which is the applicable policy for assessing planning applications in the countryside, until such times as the new area plan is adopted.

There are certain circumstances where the development of a dwelling is considered acceptable in the countryside, subject to certain criteria. These are listed in CTY1 Development in the Countryside. The applicant has not provided a case where this proposal could be considered acceptable under the provisions of Policy CTY1 of PPS21. On assessing the application on the ground I am of the view that the proposal does not meet any of the policy criteria contained within PPS21.

I therefore have to recommend to Members that this proposal is recommended as a refusal as it is contrary to policy CTY1 of PPS21.

In terms of the proposed house design, the proposed house design is almost identical to what was previously granted in 2006. In my view rural design considerations, integration and impacts on rural character considerations are broadly similar now to those that were considered previously. Given that the size, design and siting are almost identical I find the proposed design acceptable in this instance for this site and locality.

It has also been clarified by DfI Roads that existing suitable visibility splays are in place.

Other Policy and Material Considerations

The site is not subject to flooding and there are no land contamination issues to consider.

This site is not located with or adjacent to an International, National or Locally protected or designated site. In my view, there will be no detrimental environmental impacts.

Should Committee Members decide to overturn my recommendation then I am of the view that the proposed design, access, and landscaping proposals are acceptable, with similar conditions to M/2006/1301/RM being applied.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation:</b> That planning permission be refused for the following reason.	
<b>Refusal Reasons</b>  1.The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the proposal falls within any of the range of types of development which in principle are considered to be acceptable in the countryside and therefore does not contribute to the aims of sustainable development.	
<b>Signature(s)</b>  <b>Date:</b>	

ANNEX	
<b>Date Valid</b>	30th March 2020
<b>Date First Advertised</b>	26th May 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 163 Favour Royal Road,Augher,Tyrone,BT77 0EW The Owner/Occupier, 165 Favour Royal Road Augher Tyrone The Owner/Occupier, 165a,Favour Royal Road,Augher,Tyrone,BT77 0EW	
<b>Date of Last Neighbour Notification</b>	28th May 2020
<b>ES Requested</b>	No



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## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2020/0790/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed dwelling and detached double garage with storage above	<b>Location:</b> Approximately 50 metres South West of 50 Cadian Road Eglish Dungannon
<b>Applicant Name and Address:</b> Ryan Muldoon 31 Carrowcolman Road Eglish Dungannon BT70 1LF	<b>Agent Name and Address:</b> Colm Muldoon 31 Carrowcolman Road Eglish Dungannon BT70 1LF
<b>Summary of Issues:</b>  Dwelling on a farm, the applicant has advised they do not have a business id issued by DAERA. Information has been submitted to show the works that have been done to the land and the return that has received from the land for the past 6 years. No existing building son the farm to site with.	
<b>Summary of Consultee Responses:</b> DFI Roads - access to be improved to provide sight lines on 2.4m x 70.0m and forward sight lines of 70.0m	
<b>Characteristics of the Site and Area:</b>  The site lies in the open countryside just outside the settlement limits of Eglish and outside all other areas of constraint.  The red line of the site depicts a large agricultural field on raised ground above the Cadian Road. The site rises from the East to the West and is accessed via a small narrow laneway off the Cadian Road which rises steeply along the site front (East) and along the side (North).	

The site is bounded on all sides by thick mature trees with the only access a small agricultural gateway in the NW corner.

**Description of Proposal**

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

**Deferred Consideration:**

This application was before the Planning Committee in November 2020 and it was deferred to allow a meeting with the Planning Manager. At a zoom meeting on 12 November 2020 the appellants were unable to fully participate due to technical issues however it was confirmed the land is used for agricultural purposes, though the family do not have a business id issued by DAERA.

Members will be aware that Policy CTY10 refers to the farm business having to be active and established. Farming activity can take many different forms, the SPPS refers to Regulation (EU) No 1307/2013 for the definition of agricultural activity. In this case the applicants have 3ha of land to the east and west sides of Cadian Road. The land is currently in grass. Con acre agreements have been provided for the period from 1 November 2012 to November 2022 that allows John McCann to graze cattle, spread slurry, fertilise the ground and cut silage between March and November and graze sheep between November and March. Invoices have been provided for the following:

2014 - fencing works, baling, spraying rushes and mowing grass, cleaning cattlegrids and lane

2015 –spraying fields with herbicides and pesticides, cleaning lane, fence repairs, hedge cutting

2016 – repair gates, replacing posts, pesticides and herbicides, install cattle grid, clean lane, fertilise, cut hedges

2017 – fence repairs, sow feed and mow rushes, cattle grid, fertilise, rotovate and roll land, spray rushes and mow grass, cut hedges

2018 – drains, bale hay, cut hedges, fertilise,

2019 – repair fences, sow fields, drains, cut hedges

2020 - kill rushes and cut fields, cut hedges,

2021 – cut hedges

A letter has been received from an agricultural contractor that states hedge cutting that has been carried out is in the field and along the Cadian Road, this is done every year and has been done for the past 10 years.

Taking into account the extensive information presented, I am of the view that a business is being conducted here on these 3ha and that it is agricultural in nature, in accordance with the requirements of criteria a in CTY10. The information demonstrates that it has been ongoing for over 6 years and as such I consider this is an active and established farm for the purposes of this policy.

I have checked the farm land that has been identified and can advise there have not been any development opportunities sold off from the holding in the past 10 years and no

planning permission has been granted for any dwellings on the land in the past 10 years. I consider criteria b has been met.

Criteria c requires any dwellings to be sited beside existing buildings on the farm. The applicants have advised they do not have any buildings on the farm. The existing farm house is located at 31 Carrowcolman Road on the south side of Eglis. This is a chalet dwelling with a small wooden building at the roadside. No other grounds are identified as being in ownership here and the dwelling is beside a number of chicken houses. As there are no buildings to cluster with on the farm, the members could refuse the application on that grounds. However the applicant can, under their permitted development rights, erect another building at the existing farmhouse without requiring planning permission. This would then constitute a group of buildings for the purposes of the policy. If there is an existing group of buildings on the holding, the exception within Policy CTY10 is engaged which, provide there are demonstrable health and safety reasons or verifiable plans to expand the farm, permit a dwelling anywhere else on the farm away from a group of buildings provided it does not offend policies CTY13 and CTY14.

As can be seen in the aerial picture below the existing dwelling is located on a relatively compact plot and it is surrounded on all sides by chicken houses, that are not in the applicants control or ownership.



I do not believe it would not be possible to locate a new dwelling beside the existing farm house and I consider there may well be health and safety issues with any new dwelling in close proximity to the existing chicken houses. While I have already concluded there is no group of buildings on the farm, I do consider an exception could be exercised here.

I consider it would be reasonable, when the policy allows for a dwelling elsewhere when there is a group of buildings on the farm, to also consider the possibility of an alternative site where there is no group of buildings. The development has already been considered against policies CTY13 and CTY14 in the previous report, I have also assessed this especially from the view along Killyliss Road. Given the location of the site, its limited inter-visibility with other development, the mature trees around all the boundaries of the site which are in the applicants control and can be conditioned for retention I concur that a

dwelling here would be well integrated, would not be prominent and would not contribute to a build-up of development.

For the avoidance of doubt, I do not consider this application fully meets with the criteria c in policy CTY10, due to the lack of a group of farm buildings. I do however consider it would be unduly harsh to refuse planning permission for the sake of the applicants not having an additional building, that could be erected without the need for planning permission, at there existing buildings on Carrowcolman Road and for this reason I recommend that an exception to policy could be made in these specific circumstances.

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

It is my opinion that an exception to policy may be made for this development for the reasons already set out and that planning permission could be granted for this dwelling with the conditions attached below.

Conditions:

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

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

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

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

3. The curtilage of the proposed dwelling shall be agreed at Reserved Matter Stage and the remainder of the field shall be retained for agricultural purposes.

Reason: In the interests of visual amenity and to ensure that the amenities incidental to the enjoyment of the dwelling will not adversely affect the countryside.

4. Details of existing and proposed levels within the site, levels along the roadside, and the finished floor level of the proposed dwelling shall be submitted for approval at Reserved Matters stage. The dwelling shall be built in accordance with levels agreed at Reserved Matters stage.

Reason: To ensure that the dwelling integrates into the surrounding countryside.

5. A detailed landscaping plan shall be submitted and approved as part of the Reserved Matters application and shall identify the location, species and numbers of trees and hedges to be retained and planted. All existing boundaries shall be retained and augmented with trees and native species hedging. All new curtilage boundaries including both sides of any proposed access laneway shall also be identified by new planting, and shall include a mix of hedge and tree planting. The retained and proposed landscaping shall be indicated on a landscape plan, with details to be agreed at reserved matters stage. During the first available planting season after the commencement of development on site, all proposed trees and hedges indicated in the approved landscaping plan at Reserved Matters stage, shall be planted as shown and permanently retained thereafter, unless otherwise agreed by Mid Ulster Council in writing.

Reason: In the interest of visual amenity and to assist with integration.

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

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

7. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1 including sight lines of 2.4m by 70.0m in both directions and a forward sight distance of 70.0m where the existing lane meets the Cadian Road. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

#### Informatives

1. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

**Signature(s)**

**Date:**



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

## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0790/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and detached double garage with storage above	<b>Location:</b> Approximately 50 metres South West of 50 Cadian Road Eglish Dungannon
<b>Referral Route:</b> Contrary to policy	
<b>Recommendation:</b>	refuse
<b>Applicant Name and Address:</b> Ryan Muldoon 31 Carrowcolman Road Eglish Dungannon BT70 1LF	<b>Agent Name and Address:</b> Colm Muldoon 31 Carrowcolman Road Eglish Dungannon BT70 1LF
<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

None

### Characteristics of the Site and Area

The site lies in the open countryside just outside the settlement limits of Eglishe and outside all other areas of constraint.

The red line of the site depicts a large agricultural field on raised ground above the Cadian Road. The site rises from the East to the West and is accessed via a small narrow laneway off the Cadian Road which rises steeply along the site front (East) and along the side (North).



The site is bounded on all sides by thick mature trees with the only access a small agricultural gateway in the NW corner.



**Description of Proposal**

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

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

PPS 1 General Principles  
 PPS 3 Access, Movement and Parking  
 PPS 21 Sustainable Development in the Countryside  
 SPPS  
 CTY 1 - Development in the Countryside  
 CTY 2a  
 CTY 8 - Ribbon Development  
 CTY 13 - Integration and Design of Buildings in the Countryside  
 CTY 14 - Rural Character

**History**

M/1994/0341/F - Approval for a dwelling. - GRANTED

The applicant has not provided any case of need for a dwelling on this site or justification as to why it could not be located within the settlement limits.

It does not represent a dwelling in a cluster (cty2a), there is no dwelling to replace (cty3), it cannot be considered an infill opportunity (cty8) and no farming case has been provided (cty10). The applicant was basing his application on the basis that there was a previous approval granted some 25 years ago. However, this permission has lapsed and the permission was never started.

Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is considered that a dwelling could blend in successfully with its immediate and wider surroundings if it were of a size and scale that is comparable to the dwellings in the vicinity. I have no concerns regarding integration.

In terms of policy CTY14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It is considered that a dwelling on this site would not respect the traditional pattern of settlement.

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

Recommendation Refusal.

**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.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	3rd July 2020
<b>Date First Advertised</b>	14th July 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 50 Cadian Road,Dungannon,Tyrone,BT70 1LY The Owner/Occupier, 55 Cadian Road,Dungannon,Tyrone,BT70 1LY	
<b>Date of Last Neighbour Notification</b>	5th August 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2020/0790/O Proposal: Proposed dwelling and detached double garage with storage above Address: Approximately 50 metres South West of 50 Cadian Road, Eglish, Dungannon, Decision: Decision Date:  Ref ID: M/2003/1570/O Proposal: Proposed dwelling Address: Opposite 49 Cadian Road, Eglish, Dungannon Decision: Decision Date: 29.06.2004  Ref ID: M/1974/0244 Proposal: ERECTION OF BUNGALOW Address: BROSSLOY, EGLISH, DUNGANNON Decision: Decision Date:  Ref ID: M/1994/0341 Proposal: Site for dwelling Address: APPROX 250M NORTH EAST OF NO 49 CADIAN ROAD EGLISH DUNGANNON. Decision: Decision Date:  Ref ID: M/2005/2112/F	

Proposal: Proposed dwelling house  
 Address: Adjacent to 47 Cadian Road, Dungannon  
 Decision:  
 Decision Date: 02.03.2006

Ref ID: M/2008/0473/F  
 Proposal: Proposed change of house type to provide additional ground floor sun room to previously approved replacement dwelling- M/2006/1269/RM  
 Address: 49 Cadian Road, Eglish, Dungannon  
 Decision:  
 Decision Date: 13.06.2008

Ref ID: M/2003/0327/O  
 Proposal: Proposed replacement dwelling  
 Address: 49 Cadian Road, Eglish, Dungannon  
 Decision:  
 Decision Date: 06.05.2003

Ref ID: M/2006/1269/RM  
 Proposal: Replacement dwelling  
 Address: 49 Cadian Road, Eglish, Dungannon  
 Decision:  
 Decision Date: 20.06.2006

Ref ID: M/1992/0217B  
 Proposal: Erection of Dwelling  
 Address: ADJACENT TO 49 CADIAN ROAD BENBURB  
 Decision:  
 Decision Date:

Ref ID: M/1998/0594  
 Proposal: Site for dwelling  
 Address: 70M NORTH OF 51 CADIAN ROAD EGLISH DUNGANNON  
 Decision:  
 Decision Date:

#### **Drawing Numbers and Title**

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

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

Date of Notification to Department:  
 Response of Department:





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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2020/1049/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed dwelling and garage (Amended access)	<b>Location:</b> Lands to rear of 195 Coalisland Road Dungannon
<b>Applicant Name and Address:</b> Patrick Mallon P.O.box 875 Matraville New South Wales NSW 2036	<b>Agent name and Address:</b> Michael Herron Architects 2nd Floor Corner House 64-66A Main Street Coalisland BT71 4NB
<b>Summary of Issues:</b> Whether the proposal meets with the policies for a dwelling on a farm, if it affects the setting of Edendork and if the access to it is safe.	
<b>Summary of Consultee Responses:</b> DfI (Roads) – safe access can be provided with sight lines of 2.4m x 90m in both directions and forward sight distance of 90.0m. Access to be widened to 4.1m for the first 10m back from the road edge  DETI Geological Survey Northern Ireland (GSNI) - the proposed site is not in the vicinity of any known abandoned mine workings.  NI Water –the receiving Waste Water Treatment Works / Sewer Network has available capacity.	
<b>Characteristics of the Site and Area:</b> The site is a relatively large V-shaped plot. It comprises two adjoining rectangular fields located running along the south side of Edendork.	

The site is set back from and accessed off the Coalisland Rd (A45 Dungannon - Coalisland) located to its north via an existing access and driveway serving and running along the northwest side of an existing bungalow, no. 195 Coalisland Rd. No. 195 sits to the rear of no. 199 Coalisland Rd, a roadside dwelling. No. 199 and 195 are located within the settlement limits as is the access and drive serving the site.

The site sits adjacent and to the rear of no. 195 and two other dwellings nos. 191 and 183 Coalisland Rd, located approx. 30m and 110m southwest of no. 195 respectively.

A mix of post and wire fencing, mature trees and hedgerows primarily defines the boundaries of the site.

The landform within the site rises upwards from the Coalisland Rd through the access and first field to the rear of no. 195, past nos. 191 then 183 before turning and dropping down through the second field past the southwest side of no. 183 to a playing field within neighbouring Edendork Primary School grounds.

Views of the site are limited to passing along its access off the Coalisland Rd due to its location set back to the rear of existing roadside development and vegetation.

The area surrounding the site is generally characterised by development within Edendork to its north and agricultural lands it backs onto to its south

### **Description of Proposal**

This is an outline application for a proposed dwelling and garage on a farm and it is proposed to be located on lands to the rear of no. 195 Coalisland Road Dungannon

### **Deferred Consideration:**

This application was before the members in December 2020 as it was proposed as a site within a cluster under Policy CTY2A, it was deferred for an office meeting with the Planning Manger to explore other options. At a meeting on 10 December 2020 the agent was asked to explore if there is potential for a dwelling on a farm.

The applicant owns approx. 1.7ha of land here outside the settlement limits of Edendork. A dwelling, large garage and a steel cabin to the north are the applicants mothers and are located within the settlement limits and accessed off a private laneway. I have been advised Mr Mallon owns the land and has done so for over 10 years. Information has been provided that advises since November 2014, this land is and has been let to Joe McQuaid, who is registered with DEARA and is actively farming the land. Aerial maps from 2019, 2016, 2013, 2010 and 2007 (a – e below) show the land is maintained in good agricultural condition and it is obvious this land is being farmed. Invoices provided relate to Mrs A Mallon, 195 Coalisland Road for works carried out by R & M Greenkeeper Ltd in March 2015, April 2015, March 2016 and April 2017. Other invoices relate to fertilizer (Gouldings 27-4-4), round baling, land drainage and silage wrapping in 2015. While these invoices are not showing current activity on the land, it is obvious the land is being farmed as I noted on site on 6 September 2021 that grass had been cut in the fields and Mrs Mallon advised the land had slurry spread on it the week before. Overall I am content that the

Mallons have been deriving an income from a farm business here, it has been ongoing for a period in excess of 6 years and is currently still active. I consider criteria a has been met.



(a) 2019



(b) 2016



(c) 2013



(d) 2010



(e) 2007

A check of the land that is owned has not identified any planning permission for a dwelling on these lands in the last 10 years and no opportunities, out with the settlement limits have been sold off. I consider criteria b has been met.

In respect of criteria c, the proposed siting of the dwelling is just behind the applicants mothers house, a large garage and a steel cabin, which I consider to be a group of buildings on the farm. Members should be aware of the preamble to PPS21 that the policies in PPS21 only relate to the countryside, it is implicit in this that development within the settlement limits cannot be used to make a case for development in the countryside. I consider this is a technical point in respect of the policy, however I caution members to ensure any decision is taken in the knowledge that it does not meet the policy and would be an exception to policy. In this case there is no other lands owned by the applicant, the only group of buildings they have shown that they own are in the settlement limit. CTY10 is clear that it will allow a dwelling for an active farmer and there is an exception within the policy where they cannot locate beside existing buildings a new dwelling will be acceptable where it meets CTY13 and CTY14. It would appear there is nowhere in the policy that would envisage circumstances where the existing group is inside the settlement limits. Members are advised this proposal could be refused on this grounds as there is no group of buildings outside the settlement limit to cluster with. I consider this is something the policy did not foresee and I am not aware of it happening elsewhere. This would, in my view, appear to be a unique set of circumstances and one which is unlikely to set a wide ranging precedent if an exception to CTY10 was accepted here.

Given the location of the site adjacent to the settlement limits of Edendork, Policy CTY15 also requires assessment. The proposed siting in the north part of the site is tucked in behind mature vegetation. This is identified as within the control of the applicant as it is around his mother's house. This vegetation can be conditioned to be retained at a height of 6m which I consider would provide screening for a single storey, low elevation dwelling with a maximum ridge height of 5.5m such that it would be practically invisible from the surrounding areas of public resort. A dwelling here would technically result in urban sprawl, but it will not, in my opinion, adversely affect the setting of this part of Edendork.

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

In light of the above, I consider this proposed dwelling is within the spirit of policy and is clustering with existing development on the farm. I note the existing buildings are in the settlement but that an appropriately designed and sited dwelling here would have no significant impacts on rural character or the setting of the settlement of Edendork. It is my recommendation this application is approved as an exception to Policy CTY10.

**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 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 the Council.

3. Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 90.0m in both directions, a 90.0m forward sight line and the access lane widened to 4.1m for the first 10.0m back from the edge of the public road, shall be provided in accordance with a 1:500 site plan submitted as part of the reserved matters application. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

4. A detailed scheme of structured landscaping for the site including along all site boundaries, shall be submitted at Reserved Matters stage at the same time as the dwelling to include details of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during the first available planting season after the occupation of the dwelling which is hereby approved.

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

5. The dwelling hereby permitted shall have a ridge height not exceeding 6.0 metres above existing ground level and be designed in accordance with the design guide 'Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside'

Reason: To ensure that the proposal does not adversely affect the setting of Edendork.

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

Reason: To ensure the dwelling integrates into the landform.

7. The proposed dwelling shall be sited as generally indicated on the approved plan 01A which was received on 12th April 2021.

Reason: In the interests of visual amenity and to protect the setting of Edendork.

8. The curtilage of the proposed dwelling shall be agreed at Reserved Matter Stage and the remainder of the field shall be retained for agricultural purposes.

Reason: In the interests of visual amenity and to ensure that the amenities incidental to the enjoyment of the dwelling will not adversely affect the countryside.

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#### **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.

**Signature(s):**

**Date**



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

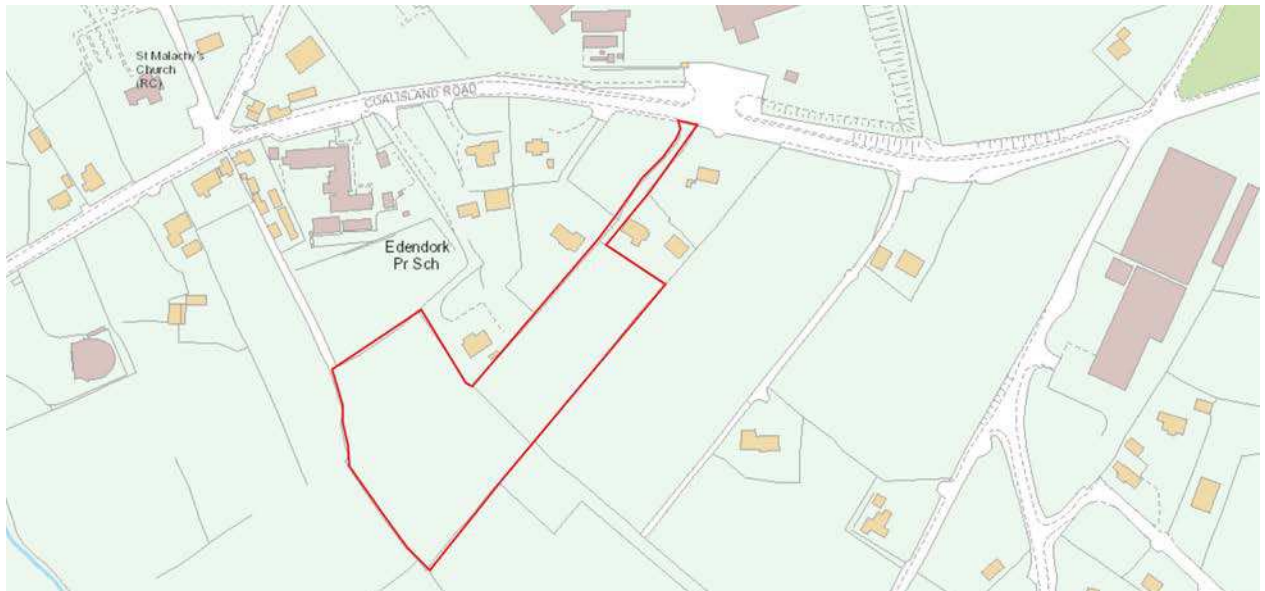
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1049/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage under policy CTY2A	<b>Location:</b> Lands to rear of 195 Coalisland Road Dungannon
<b>Referral Route: Refusal</b>	
<b>Recommendation: Refuse</b>	
<b>Applicant Name and Address:</b> Patrick Mallon P.O.box 875 Matraville New South Wales NSW 2036	<b>Agent Name and Address:</b> Michael Herron Architects 2nd Floor Corner House 64-66A Main Street Coalisland BT71 4NB
<b>Executive Summary:</b> <p>The site is not located within a cluster of development in the countryside. The cluster of development referred to, and all but one, of the dwellings within it (dwelling located one field to the east of the site) is located within Edendork Settlement Limits.</p> <p>The proposal is contrary to Policy CTY1 of PPS 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.</p> <p>The proposal is contrary to Policy CTY15 of PPS 21, in that the development would if permitted result in urban sprawl.</p> <p>The proposal is contrary to PPS 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2.4 metres x 90 metres cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15.</p>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	DETI - Geological Survey (NI)	No Objection
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection

### **Representations:**

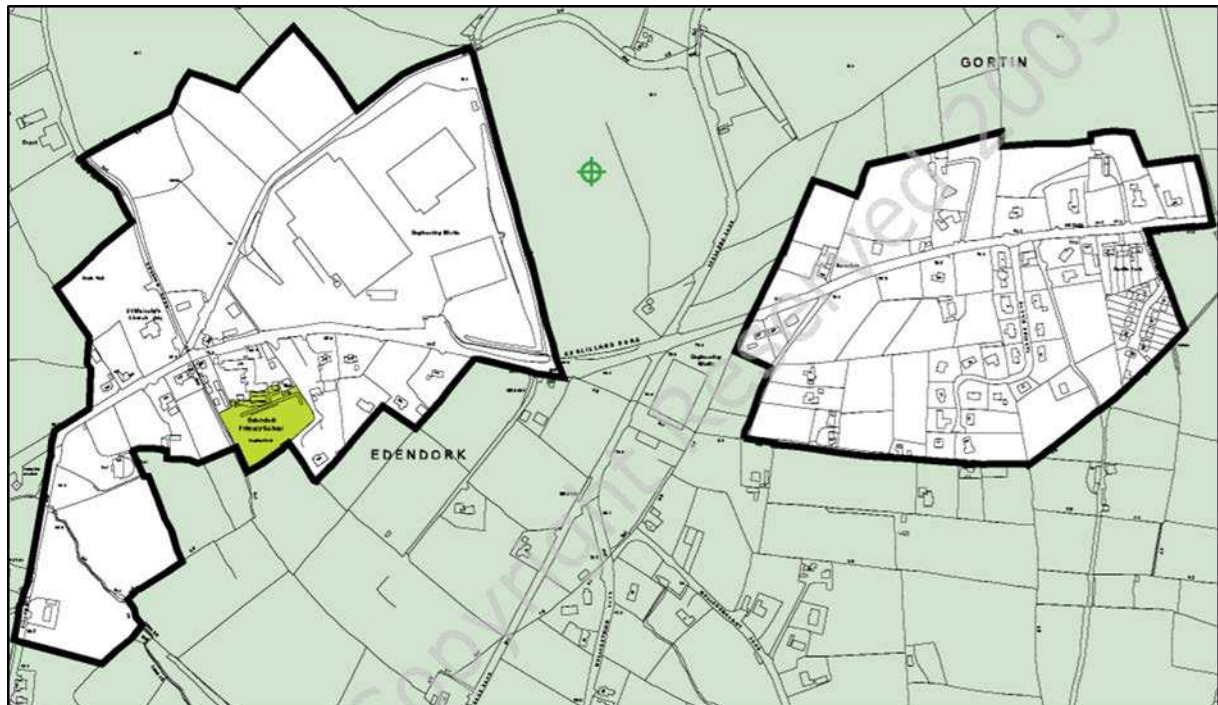
Letters of Support	None Received
Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### **Description of Proposal**

This is an outline application for a proposed dwelling and garage (under policy CTY2A) to be located on lands to the rear of no. 195 Coalisland Road Dungannon

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

The site is located in the rural countryside, just outside and at the edge of Edendork Settlement Limits, as defined by the Dungannon and South Tyrone Area Plan (see Fig: 1 below).



**Fig 1: Edendork Settlement Limits**

Edendork is defined in two nodes, the eastern cluster comprising largely housing and western cluster comprising a small number of houses, a primary school, church, hall and number of industrial businesses.

The site is a relatively large V-shaped plot. It comprises two adjoining rectangular fields located running along the south side of the aforementioned western cluster.

The site is set back from and accessed off the Coalisland Rd (A45 Dungannon - Coalisland) located to its north via an existing access and driveway serving and running along the northwest side of an existing bungalow, no. 195 Coalisland Rd. No. 195 sits to the rear of no. 199 Coalisland Rd, a roadside dwelling. No. 199 and 195 are located within the settlement limits as is the access and drive serving the site.

The site sits adjacent and to the rear of no. 195 and two other dwellings nos. 191 and 183 Coalisland Rd, located approx. 30m and 110m southwest of no. 195 respectively.

A mix of post and wire fencing, mature trees and hedgerows primarily defines the boundaries of the site.

The landform within the site rises upwards from the Coalisland Rd through the access and first field to the rear of no. 195, past nos. 191 then 183 before turning and dropping down through the second field past the southwest side of no. 183 to a playing field within neighbouring Edendork Primary School grounds.

Views of the site are limited to passing along its access off the Coalisland Rd due to its location set back to the rear of existing roadside development and vegetation.

The area surrounding the site is generally characterised by development within Edendork to its north and agricultural lands it backs onto to its south

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

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

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

Development Control Advice Note (DCAN) 15: Vehicular Standards

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

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

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

## **Planning History**

### On site

No History

### Adjacent site

- M/2014/0123/O – Dwelling and garage – 220m NW of 34 Edendork Rd Dungannon – Granted 20<sup>th</sup> February 2015
- LA09/2015/0130/RM – Proposed Dwelling and Garage – 220m NW of 34 Edendork Rd Dungannon – Granted 6<sup>th</sup> July 2015

The above applications relates to no. 36 Edendork Rd a 2-storey dwelling located adjacent and halfway along the southwest boundary of the current site. This dwelling was approved as a dwelling on a farm, under CTY10 of PPS21.

- LA08/2016/1328/F - Construction of an underground gas pipe line and associated infrastructure – 4<sup>th</sup> April 2017

The above application relates to the gas to the west pipelines, a portion of which runs along the Coalisland Rd. There have been various discharge of conditions in relation to this proposal.

## **Consultees**

1. DfI (Roads) – were consulted in relation to access arrangements and outlined approval of this application would result in the intensification of a substandard access therefore proposal does not comply with DCAN15. In order for the applicant to create a safe access onto Coalisland Rd to meets standards set out in PPS 3 and DCAN 15 the following must be applied:

Sightlines of 2.4m x 90m in both directions (as per DCAN 15 Table A & B)

- An FSD of 990.0m will be required.
- Hedges/fences removed either side of access point (may require 3<sup>rd</sup> party land).
- New walls fences/hedges must be set back 0.5m behind the sightline.

In its current form Roads outlined the following reason for refusal:

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2.4 metres x 90 metres cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15.

2. DETI Geological Survey Norther Ireland (GSNI) – were consulted in relation to this proposal on the 22<sup>nd</sup> September 2020, as the site is located within an area of constraint on abandoned mines, and responded on the 8<sup>th</sup> October 2020 with no objection. They stated they had assessed the planning proposal in view of stability issues relating to abandoned mine workings and search of the their "Shafts and Adits Database" indicates that the proposed site is not in the vicinity of any known abandoned mine workings.

3. NI Water – were consulted in relation to this proposal on the 22<sup>nd</sup> September 2020 and responded on the 23<sup>rd</sup> September 2020 with no objection. They stated the receiving Waste Water Treatment Works / Sewer Network has available capacity.

**Dungannon and South Tyrone Area Plan** - The site is located in the rural countryside outside any designated settlement.

**The Strategic Planning Policy Statement (SPPS) for Northern Ireland** - advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside which deals with development such as proposed, are retained.

**Planning Policy Statement (PPS) 21: Sustainable Development in the Countryside**

- PPS 21 is the overarching policy for development in the countryside states that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in CTY1 of PPS21. One instance is a new dwelling in an existing cluster in accordance with Policy CTY2a New Dwellings in Existing Clusters, which has 6 criteria tests.

The agent submitted a supporting statement alongside this application making the case, in this instance, for a dwelling under Policy CTY 2a. The statement goes through the 6 criteria test of Policy CTY 2a and outlines how each been met, as detailed below:

1. The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.
  - There are 6 other dwellings within this cluster, nos. 183, 187, 189, 193, 195, 199 Coalisland Rd (Fig: 2)



2. The cluster appears as a visual entity in the local landscape.
  - Proposal would appear as a visual entity in the local landscape.

3. The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.
  - Proposal is located close to Edendork Primary School, Church of St Malachy's and Terex Corporation.
4. The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.
  - Site is located to rear of no. 195 Coalisland Rd and adjacent to no. 193 Coalisland Rd.
5. Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.
  - Proposal can be absorbed into existing cluster.
6. Development would not adversely impact on residential amenity.
  - Proposal does not adversely impact on residential amenity as it is to rear of any existing dwellings and does not impinge on the curtilage of the existing dwellings.

Having taken into account the supporting statement I would not agree that this proposal meets Policy CTY 2a, as the site is not located within a cluster of development in the countryside. The cluster of development referred to, and all but one, of the dwellings within it (dwelling located one field to the east of the site) is located within Edendork Settlement Limits.

Additionally, the proposed development by reason of its location immediately adjacent Edendork Settlement Limits would be contrary to Policy CTY 15 – The Setting of Settlements in that it would result in urban sprawl.

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

Given the open nature of no. 195 Coalisland Rd's back garden and the proposed site elevated above it and accessed along its gable and garden I feel there are potential amenity issues in terms of overlooking if the proposal had complied with policy to warrant planning approval. However, this could be mitigated by landscaping, design and siting.

Additional information to address Roads comments that the access was substandard was not sought as proposal deemed to fail the policy tests of PPS21.

The site is not located within an area of known natural heritage significance or built heritage interest.

Flood Maps NI indicating no flooding on site but indicate a small amount of surface water flooding on the Coalisland Rd at the access to the site.

### **Recommendation**

Refuse

<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation</b>	Refuse
<b>Reason for Refusal</b> <ol style="list-style-type: none"> <li>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.</li> <li>2. The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted result in urban sprawl.</li> <li>3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2.4 metres x 90 metres cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15.</li> </ol>	
<b>Signature(s)</b>  <b>Date:</b>	



## Deferred Consideration Report

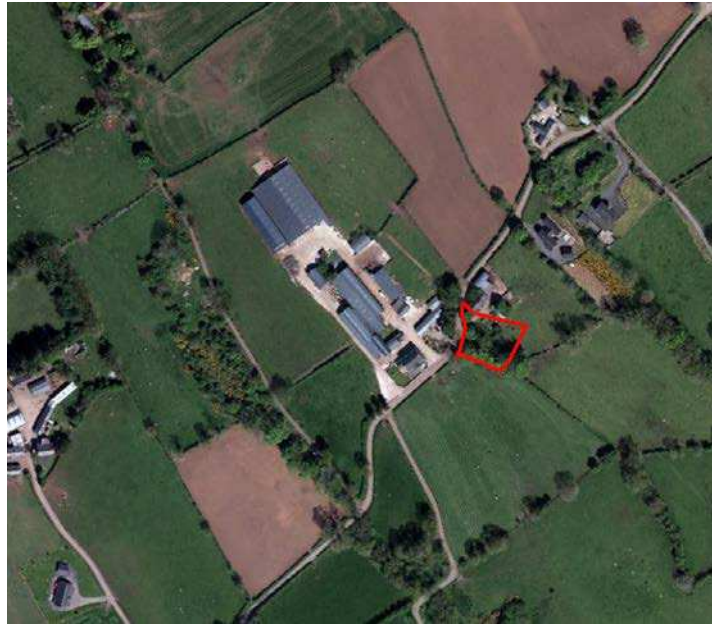
Summary	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2020/1110/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for replacement dwelling	<b>Location:</b> Approx 40m East of 40 Ballymacilcurr Road Maghera
<b>Applicant Name and Address:</b> Declan Mc Kenna 143 Tirkane Road Maghera	<b>Agent name and Address:</b> D M Kearney Design 2a Coleraine Road Maghera BT46 5BN
<b>Summary of Issues:</b>  No representations have been received in respect of this proposed development.	
<b>Summary of Consultee Responses:</b>  DfI Roads advised that the access arrangements are acceptable subject to condition.	
<b>Characteristics of the Site and Area:</b>  The site is located in the rural area on a minor road 1.8Km from the main Moneysharvan Road and 2.9Km from Maghera town centre. The site is currently occupied by a vacant and dilapidated building set within a small former farmyard. There is modest vacant two storey dwelling located on the road frontage with associated out-buildings set around the perimeter of the yard. The subject building has four external walls intact up to roof level, with the eaves level approximately 2m above ground level. The walls are constructed with random rubble stone with a single door and one window in the front, north-eastern elevation, with two smaller windows in the rear elevation. The building in question measures approximately 8m x 5m. There is what appears to be the remnants of what could have been a hearth on the inside of the south-eastern gable wall, although this is not substantive. The north-western gable is attached to an open fronted outbuilding and there are a number of deciduous trees growing very close to the rear wall. The site is located almost directly opposite a large working farmyard.	

**Description of Proposal**

The proposal is an outline full application for a replacement dwelling therefore the details of the design and finishes have not been provided nor considered.

**Deferred Consideration:**

This application was presented to the Planning Committee in April 2021 with a recommendation to refuse as it was considered the application had not demonstrated that the building to be replaced was ever a dwelling and any replacement dwelling will have a visual impact significantly greater than the existing building.



The application was deferred for an office meeting which took place on 22 April 2021. Following a site visit by a senior planner and the submission of additional information from the agent, I consider a dwelling will be acceptable on this site. Although there is no confirmed evidence that the building was ever used as a dwelling it does display some residential characteristics such as a partially slated roof, the remains of a chimney breast and window openings. There is a strong belt of trees to the foreground of the proposed site and I consider a dwelling with a 7m ridge will not appear incongruous at this location.

There is a mixture of larger two storey dwellings, smaller two storey dwellings and a bungalow on lower ground. The site of the dwelling sits at a higher level than those in the immediate environment.

**Conditions:**

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

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

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

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

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

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

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



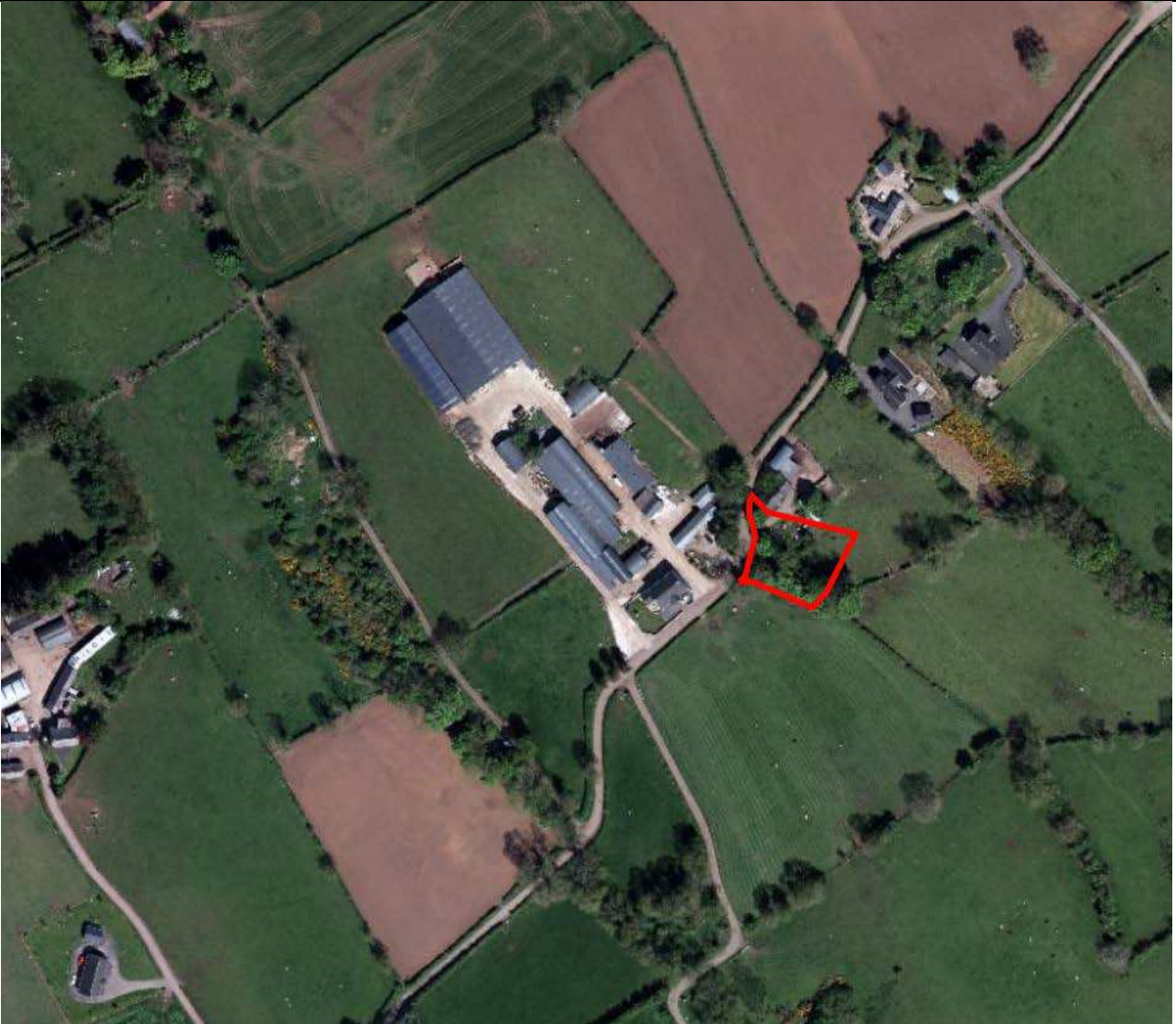
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
 District Council

Development Management Officer Report  
 Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1110/O	Target Date:
Proposal: Proposed site for replacement dwelling	Location: Approx 40m East of 40 Ballymacilcurr Road Maghera
Referral Route:  The application is being presented to Committee as it is being recommended for refusal.	
Recommendation:	REFUSE
Applicant Name and Address: Declan Mc Kenna 143 Tirkane Road Maghera	Agent Name and Address: D M Kearney Design 2a Coleraine Road Maghera BT46 5BN
Executive Summary:	
Signature(s):	

## Case Officer Report

## Site Location Plan



## Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	NIEA	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
<p>Summary of Issues including representations</p> <p>No representations have been received in respect of this proposed development.</p>	
<p>Characteristics of the Site and Area</p> <p>The site is located in the rural area on a minor road 1.8Km from the main Moneysharvan Road and 2.9Km from Maghera town centre.</p> <p>The site is currently occupied by a vacant and dilapidated building set within a small former farmyard. There is modest vacant two storey dwelling located on the road frontage with associated out-buildings set around the perimeter of the yard. The subject building has four external walls intact up to roof level, with the eaves level approximately 2m above ground level. The walls are constructed with random rubble stone with a single door and one window in the front, north-eastern elevation, with two smaller windows in the rear elevation. The building in question measures approximately 8m x 5m.</p>  <p>The building to be replaced is the unroofed part of the building above.</p>	

There is what appears to be the remnants of what could have been a hearth on the inside of the south-eastern gable wall, although this is by no means conclusive.



Possibly the remnants of a hearth

The north-western gable is attached to an open fronted outbuilding and there are a number of deciduous trees growing very close to the rear wall. The site is located almost directly opposite a large working farmyard.

#### Description of Proposal

The proposal is an outline full application for a replacement dwelling therefore the details of the design and finishes have not been provided nor considered.

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

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

The proposal accords with the Magherafelt Area Plan 2015 insofar as it is in the rural area and is for the replacement dwelling.

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

PPS 21 Policy CTY 3 Replacement Dwellings - states the planning permission will be granted for a replacement dwelling where the building to be replaced exhibits all the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. This includes buildings previously used as dwellings.

The building to be replaced still has the external walls intact, with one doorway and three small windows which are clearly evident. However, there is no further evidence to lead me to believe this building was ever a dwelling. Although there would appear to be, what

may be the remnants of a hearth, there is little of this feature left and this alone is not sufficient to demonstrate conclusively that the building was formerly a dwelling. Given the size of the subject building, the size of the windows, the lack of evidence of any former internal walls, and the shape and size of the so-called hearth, in addition to the position of the building to the front/side of the main dwelling, which would all suggest that the building was some type of former out-building, probably used for agricultural purposes. In my opinion, the building to be replaced is more likely to have been something such as a blacksmiths workshop or a building to make animal foodstuffs. The applicant was requested to provide verifiable evidence that the subject building was formerly a dwelling, however, they have failed to provide any evidence. Consequently, in the absence of verifiable evidence to the contrary, it is my opinion that the proposed development should be refused for the reasons stated below:-

Whilst the subject building may be regarded as being vernacular, due to its current state, its position within the existing built form and the level of mature vegetation which provides screening from the public road, it is not considered to make an important contribution to the heritage, appearance or character of the local area. Therefore, there would be no requirement to retain the building.

In addition, this policy states that proposals for a replacement dwelling will only be permitted where all of the following criteria are met:-

- the replacement dwelling is sited within the established curtilage of the existing dwelling unless it is too restrictive to accommodate a modest size dwelling or that there are clear landscape, heritage, access or amenity benefits; In this case, the proposed development extends outside the existing curtilage as the existing is too restricted and therefore this part of the proposal is acceptable.
- the overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building; As the curtilage of the existing building is too restricted to accommodate a modern dwelling, it will be set outside the boundaries of the existing building. As the existing building will be removed, so will the mature trees growing against the rear wall. This will open up views of the site on approach from the south-west from where any dwelling is going to have a significantly greater impact than the existing building which is well screened from this approach by the existing vegetation.



The existing building has an insignificant visual impact. The mature trees growing against the rear wall will have to be removed, thereby opening up views of the site.

- As this is an outline application, details of the design have not been provided, however, if the proposed development were to be approved, any replacement dwelling should, in my opinion, be restricted to a maximum ridge height of 5.5m above finished floor level with an under-build of 0.45m above existing ground level and the design can be conditioned to be in keeping with the rural design guide;
- All services can be provided without adverse impact on the environment or character of the locality;  
The provision of services will not have any adverse impact on the environment or character of the locality.
- Access will not prejudice safety and convenience of traffic.  
DfI Roads have advised that the proposal will have no adverse effect on traffic.

### PPS 3 - Access, movement and parking

As discussed above, DfI Roads have advised that the proposal will have no adverse effect on traffic.

### Recommendations

In my opinion, there is insufficient evidence to prove the building to be replaced was ever a dwelling and the replacement dwelling will also have a visual impact significantly greater than the existing building. Therefore the proposed development should be refused for the reason stated below:-

Neighbour Notification Checked	Yes
Summary of Recommendation:  Refuse for the reason listed below:-	
Reason for Refusal:  1. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that it has not been demonstrated that the building to be replaced was ever a dwelling and any replacement dwelling would have a visual impact significantly greater than the existing building.	
Signature(s)  Date:	

ANNEX	
Date Valid	14th September 2020
Date First Advertised	29th September 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 40 Ballymacilcurr Road Culnady Londonderry	
Date of Last Neighbour Notification	13th November 2020
Date of EIA Determination	N/A
ES Requested	No
Planning History  Ref ID: LA09/2019/0455/O Proposal: Proposed 2 storey dwelling and detached double garage Address: Approx 72m East of 40 Ballymacilcurr Road, Maghera, Decision: PG Decision Date: 20.06.2019  Ref ID: LA09/2020/1110/O Proposal: Proposed site for replacement dwelling Address: Approx 40m East of 40 Ballymacilcurr Road, Maghera, Decision: Decision Date:	
Summary of Consultee Responses  DfI Roads advised that the access arrangements are acceptable subject to condition.	
Drawing Numbers and Title	

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

Notification to Department (if relevant)

Date of Notification to Department:  
Response of Department:



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2020/1115/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed site for dwelling and garage based on policy CTY2a (New dwellings in existing cluster)	<b>Location:</b> Lands N/North West of 162b Washingbay Road and East of 152a Cloghog Road Coalisland
<b>Applicant Name and Address:</b> Mr Brendan Corr Magheracastle Lonin 2 Mountjoy Road Coalisland	<b>Agent name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b> The proposed development does not meet all the criteria for a dwelling in a cluster as set out in CTY2A as the site is comprised of 3 fields and each does not have development on 2 sides.	
<b>Summary of Consultee Responses:</b>  DFI Roads - no objection subject to standard conditions and informatives  DETI Geological Survey - site contains no known abandoned mine workings or known underground works.  Historic Environment Division - content that the proposal is satisfactory to SPSS and PPS 6 archaeological policy requirements	

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

The site is located in the rural countryside as designated within the Dungannon and South Tyrone Area Plan 2010, approx. 1km northeast of Annaghmore.

The site comprises the majority of three large fields set back on lands elevated from and accessed off the Washingbay Rd to south, via a short recently gravelled and steep lane between no.160b Washingbay Rd, a 1 ¾ storey dwelling and an excavated site comprising foundations. The outer boundaries of the three fields are all generally bound by and separated from each other by a mix of post and wire fencing and mature vegetation.

No. 162b Washingbay Rd, a bungalow set back on elevated lands adjacent the Washingbay Rd and no. 152a Cloghog Rd a 1 ½ storey dwelling set well back from the Cloghog Rd bounds the site to the south and west, respectively.

Views of the site are over a short distance on the western and eastern approach to the site from the Washinbay Rd and passing along its roadside frontage.

Whilst the wider area surrounding the site is rural in nature comprising predominantly undulating agricultural landscape interspersed with single dwellings and farm groups, there is a high degree of development pressure in the form of dwellings extending along both sides of the Washingbay Rd to the south of the site and Cloghog Rd further west of the site.

### **Description of Proposal**

This is an outline application for a dwelling and garage on lands North / North West of 162b Washingbay Road and East of 152a Cloghog Road Coalisland, based on policy CTY2a (New dwellings in existing cluster)

### **Deferred Consideration:**

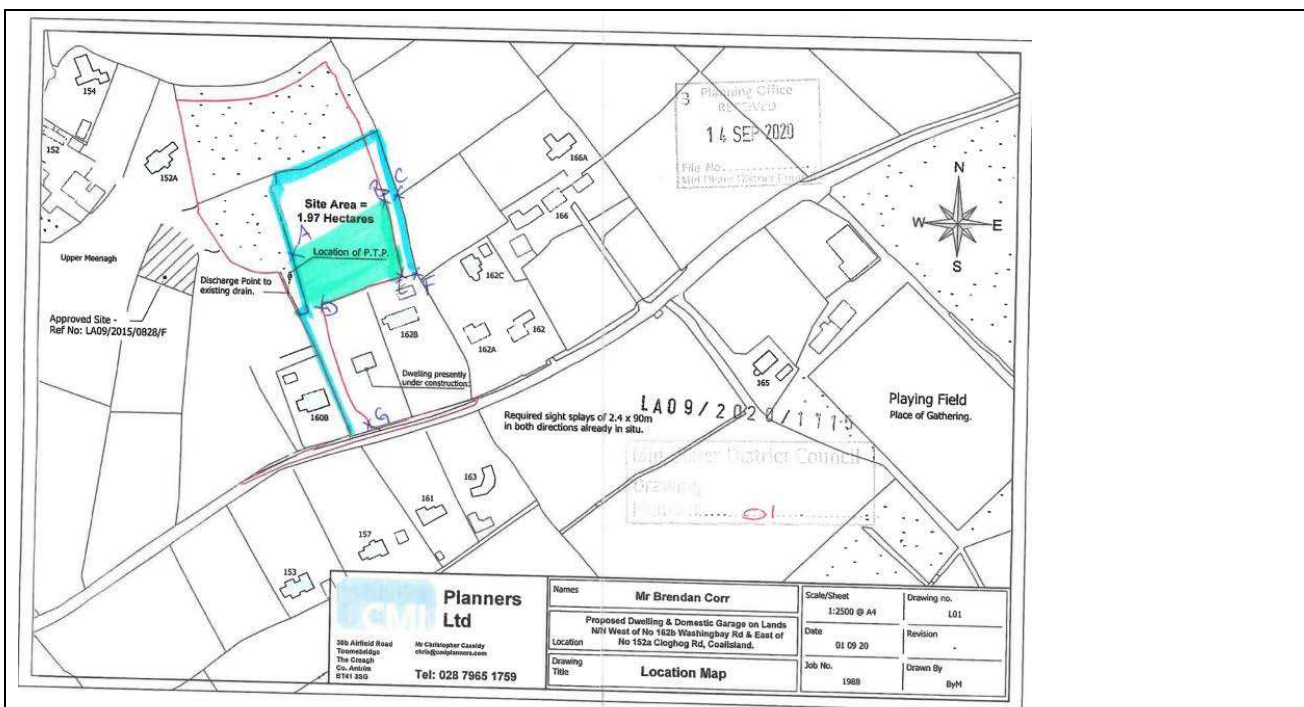
This application was deferred at the planning committee on 11th January 2021 for a meeting with the planning manager to discuss the proposal further. At a meeting on 20th January 2021 the agent indicated there are 2 sites that have been commenced on the boundaries of the site and indicated that Naomh Colum Cille CLG is an established hurling club to the east of the site and is a community facility that the cluster is associated with.

There are 6 criteria that policy CTY2a states must be met before a new dwelling can be accepted as being within a cluster.

- It is clear the proposed site is visually linked with considerably more than 4 buildings as there are at least 11 dwellings and associated buildings along this side and the opposite side of Washingbay Road.
- On approach from the west, I consider a dwelling located in the south part of the proposed site will be visually linked with the existing dwelling to the front and west of the site and other development to the front of the site. Travelling along Washingbay Road, I was aware of development from the dwelling at 160B on the map stretching to the east of the site to the entrance to the hurling club. My view of this was a considerable amount of development which I consider re-enforces the impression of the visual entity here. During my inspection I noted the development ends after the

laneway to the hurling club, so my view of the overall area is one that there is a cluster to the west.

- Members will be aware that CTY2a sets out 'the cluster is associated with a focal point..... or at a crossroads'. My impression is that the development here extends to the hurling club and as such I am content that development here will be associated with this focal point.
- Due to the site characteristics, with the rising ground, existing vegetation around the site and the development to the front of the site, I consider a bungalow located in the south part of the site would read with the cluster here and is in character with the other development further east. The other development to the east includes development up laneways and to the rear of development along the frontage. There is a dwelling located at 166A that I consider sets the rear extent of the cluster. A dwelling in the front of the site will in my opinion respect the character of the cluster and the development within it.
- There are 2 dwellings to the front of the site and an approved split level dwelling which is on a site that has been commenced under a previous approval. CTY2a requires the amenity of these dwellings to be taken into account. Due to the difference in levels and the location of the dwellings on the sites, it is my opinion that bungalow could be located with sufficient separation, orientation and landscaping to ensure the privacy of these properties is not adversely impacted upon. This is a matter that will be fully considered at Reserved Matters stage, however I consider a height restriction is necessary here to prevent potential overlooking.
- The final criteria for clustering requires the site to have a suitable degree of enclosure and be bounded on at least 2 sides by other development in the cluster. The site has been created at such a size that it touches other development on 2 sides and this could be seen as meeting the policy. In my opinion this is not the correct interpretation of the policy. In my view, a dwelling sited to the south of the site, as indicted in green on the attached plan, will have the benefit of mature trees to the east and west, as shown in blue and it has the approved and built development to the front. This provides a very good degree of enclosure for any dwelling on this site. The site identified in green does not have development on 2 sides and as such it does not fully meet all of the requirements of this criteria for a dwelling in a cluster. As indicated above given the existing development in and around the site, I do not consider a dwelling on this site, as identified, would have any significant detrimental impacts on the overall appearance of the area and as such I consider an exception could be made to Policy CTY2a in this case and that planning permission could be granted with the conditions proposed.



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

In light of the above considerations is it my recommendation that an exception to CTY2a is accepted here and that planning permission is granted.

#### 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 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 the Council.

3. Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 100.0m in both directions and 100.0m forward sight line, shall be provided in accordance with a 1:500 site plan submitted and agreed as part of the reserved matters application. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

4. All existing vegetation as identified in blue on the attached plan ref 01 bearing the stamp dated 14-SEP-2020 shall be permanently retained.

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

5. A detailed scheme of structured landscaping with native species hedges and trees planted along the boundaries identified A-B-C, D-E-F and D-G on drawing no 01 bearing the stamp dated 14-SEP-2020 shall be submitted at Reserved Matters stage at the same time as the dwelling. The scheme shall include details of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during the first available planting season after the occupation of the dwelling which is hereby approved. Any tree shrub or plant dying within 5 years of planting shall be replaced in the same position with a similar size and species.

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

6. The dwelling hereby permitted shall have a ridge height not exceeding 6.0 metres above existing ground level and be designed in accordance with the design guide 'Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside'

Reason: To ensure that the proposal does not adversely impact on the amenity of existing and approved residential development.

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

Reason: To ensure the dwelling integrates into the landform and to protect residential amenity.

7. The proposed dwelling shall be sited in the area shaded green on the approved plan 01 which was received on 14 SEP 2020.

Reason: To ensure that the development is integrated into the landscape and does not impact on residential amenity.

8. The curtilage of the proposed dwelling shall not extend outside the area shaded green on the approved plan 01 which was received on 14 SEP 2020 and the remainder of the fields shall be retained for agricultural purposes.

Reason: In the interests of visual amenity and to ensure that the amenities incidental to the enjoyment of the dwelling will not adversely affect the countryside.

**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.

**Signature(s):**

**Date**



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

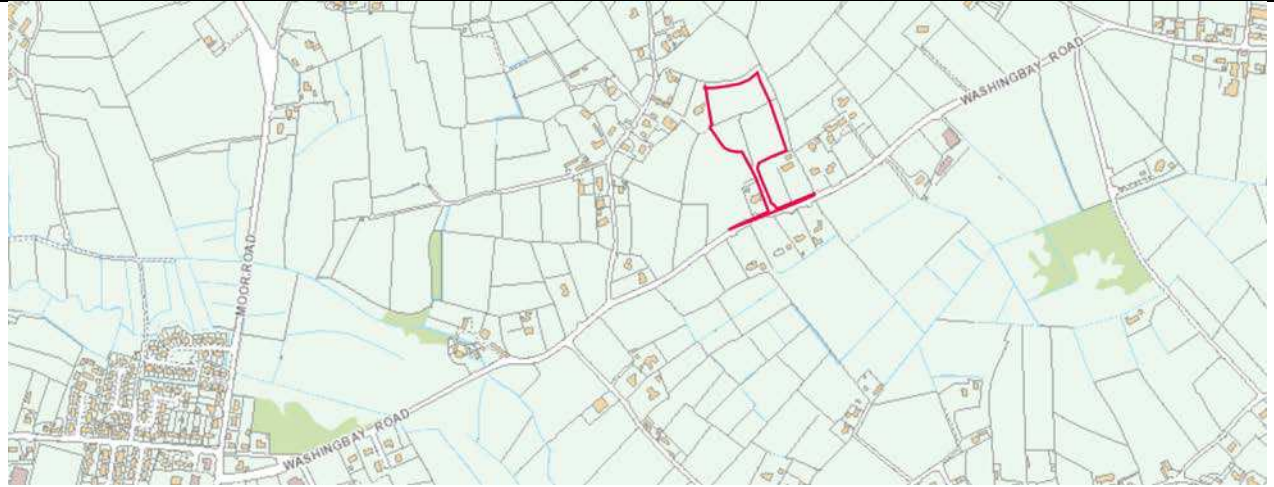
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1115/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for dwelling and garage based on policy CTY2a (New dwellings in existing cluster)	<b>Location:</b> Lands N/North West of 162b Washingbay Road and East of 152a Cloghog Road Coalisland
<b>Referral Route: Refusal</b>	
<b>Recommendation: Refuse</b>	
<b>Applicant Name and Address:</b> Mr Brendan Corr Magheracastle Lonin 2 Mountjoy Road Coalisland	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b> This proposal is contrary to Policy CTY1 and CTY2a of PPS 21, New Dwellings in Existing Clusters in that the proposed dwelling and garage is not located within an existing cluster of development associated with a focal point or located at a cross-roads.  There is a high degree of development pressure in the form of dwellings extending along both sides of the Washingbay Rd to the south of the site and Cloghog Rd further west of the site, which I would consider two separate clusters of development. Neither cluster is associated with a focal point or located at a cross-roads. Additionally, I do not believe the site sits within either aforementioned cluster, rather comprises lands (3 relatively large fields) located between.  I note the overall site would be bounded on two sides by development within the Cloghog Rd and Washingbay Rd clusters located to its west and south, respectively. But you can make a site as big as you like to make it have development on two sides, as is the case here, but this is not in my opinion within the spirit of the policy.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



**Consultations:**

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	DETI - Geological Survey (NI)	No Objection
Statutory	Historic Environment Division (HED)	Content
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	0	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Characteristics of the Site and Area</b>		
<p>The site is located in the rural countryside as designated within the Dungannon and South Tyrone Area Plan 2010, approx. 1km northeast of Annaghmore.</p> <p>The site comprises the majority of three large fields set back on lands elevated from and accessed off the Washingbay Rd to south, via a short recently gravelled and steep lane.</p> <p>Whilst the site does not take in all the outer boundaries of the three fields within it, namely the most northern and eastern field boundaries, they are all generally bound by and separated from each other by a mix of post and wire fencing and mature vegetation.</p> <p>The aforementioned lane, runs between no.160b Washingbay Rd, a 1 ¾ storey dwelling and an excavated site comprising foundations. It is bound to its west / party boundary with no. 160b by a mix of mature hedgerow and tree vegetation and to its east / party boundary with the site by low post and wire fencing.</p> <p>No. 162b Washingbay Rd, a bungalow set back on elevated lands adjacent the Washingbay Rd and no. 152a Cloghog Rd a 1 ½ storey dwelling set well back from the Cloghog Rd bounds the site to the south and west, respectively.</p> <p>Views of the site are over a short distance on the western and eastern approach to the site from the Washinbay Rd and passing along its roadside frontage.</p> <p>Whilst the wider area surrounding the site is rural in nature comprising predominantly undulating agricultural landscape interspersed with single dwellings and farm groups, there is a high degree of development pressure in the form of dwellings extending along both sides of the Washingbay Rd to the south of the site and Cloghog Rd further west of the site.</p>		
<b>Description of Proposal</b>		
<p>This is an outline application for a dwelling and garage on lands North / North West of 162b Washingbay Road and East of 152a Cloghog Road Coalisland, based on policy CTY2a (New dwellings in existing cluster)</p>		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
<p>Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the</p>		

determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 6: Planning, Archaeology and The Built Heritage

Planning Policy Statement 21: Sustainable Development in the Countryside

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

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

**Representations**

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

**Planning History**

On Site

None

Adjacent

- M/1999/0420 - Dwelling and garage - Approx. 160m south west of 166 Washingbay Rd Coalisland - Granted 4<sup>th</sup> October 1999
- M/2001/0970/RM - Dwelling house - 160m south west of 166 Washingbay Rd Coalisland - Granted 15<sup>th</sup> 2002

The above applications relate to no.162b Washingbay Rd Coalisland located to the south of the site.

- M/2004/2190/O - Dwelling - 170m west of 162 Washingbay Rd Coalisland - Granted 6<sup>th</sup> April 2005
- M/2007/0608/RM - Dwelling house with integral garage - 170m west of 162 Washingbay Rd Coalisland - Granted October 2007
- M/2009/0941/F - Domestic garage - 170m west of 162 Washingbay Rd Coalisland - Granted December 2009
- M/2011/0299/F - Amendment to house under construction in relation to siting - 170m west of 162 Washingbay Rd Coalisland - Granted 6<sup>th</sup> June 2011

The above applications relate to no. 160b Washingbay Rd Coalisland located to the south of the site.

- M/2005/0696/O - Dwelling house – 125m west of 162 Washingbay Rd Coalisland - Withdrawn 11<sup>th</sup> October 2005

- M/2010/0628/F - Proposed Gap Site Dwelling and Detached Garage - West of & Adjacent to 162b Washingbay Rd Coalisland – Granted 29<sup>th</sup> September 2010
- LA09/2020/0799/F - Proposed change of house type to that Previously approved to provide two storey dwelling and domestic garage (ground floor built into hill - first floor at existing ground level) - Site West and adjacent to 162B Washingbay Rd Coalisland – ongoing

The above applications relate to an excavated site comprising foundations located to the south of site between nos. 160b and 162b Washingbay Rd

- M/2009/0295/O - Replacement bungalow - 110m E of 152 Washingbay Rd Coalisland - August 2009
- M/2011/0059/F - Proposed replacement dwelling and garage - 110m E of 152 Washingbay Rd Coalisland - 9<sup>th</sup> August 2011

The above applications relate to no. 152a Washingbay Rd located to west of site accessed off the Cloghog Rd.

- M/2008/0400/O - Dwelling - 100m SE of 152 Washingbay Rd Coalisland - Granted 17<sup>th</sup> May 2012
- LA09/2015/0828/F - Proposed dwelling and garage and change of access as approved under M/2008/0400/O - 100m SE of 152 Washingbay Rd Coalisland - Granted 15<sup>th</sup> November 2016

The above applications relate to a site accessed off the Washingbay Rd located adjacent western boundary of site just south of no. 152a Washingbay Rd. This site was approved for CTY10 of PPS21 Dwellings on a Farm.

### **Consultees**

1. DfI Roads – were consulted in relation to access arrangements and have no objection subject to standard conditions and informatives.
2. Historic Environment Division (HED) – were consulted as the site is located is located within an archaeological site and monument (TYR047:011, TYR047:023). HED assessed the application and responded that they were content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.
3. DETI Geological Survey of Northern Ireland (GSNI) – were consulted as the site was located within an area of constraint on abandoned mines, in view of stability issues relating to abandoned mine workings. GSNI responded that a search of the GSNI “Shafts and Adits Database” indicates that the proposed site contains no known abandoned mine workings or known underground works.

### **Consideration**

Dungannon and South Tyrone Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

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

Planning Policy Statement 21: Sustainable Development in the Countryside - is the overarching policy for development in the countryside states that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in CTY1 of PPS21. One instance, which the applicant has applied under, is a new dwelling in an existing cluster in accordance with Policy CTY2a New Dwellings in Existing Clusters.

Policy CTY 2a New Dwellings in Existing Clusters states planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria bullet pointed criteria are met:

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.

I believe there is a high degree of development pressure in the form of dwellings extending along both sides of the Washingbay Rd to the south of the site and Cloghog Rd further west of the site (see Fig 1 below) which I would consider two separate clusters of development. That said I do not believe the site sits within either cluster rather comprises lands in between.



Fig 1: Map showing Washingbay Rd to the south and Cloghog Rd to the west of site

- The cluster appears as a visual entity in the local landscape.

The two clusters of development referred to above along the Washingbay Rd and Cloghog Rd, would in my opinion, appear as two separate visual entities in the local landscape, separated by intervening agricultural lands including fields within the current site.

- The cluster is associated with a focal point such as a social / community building / facility, or is located at a cross-roads.

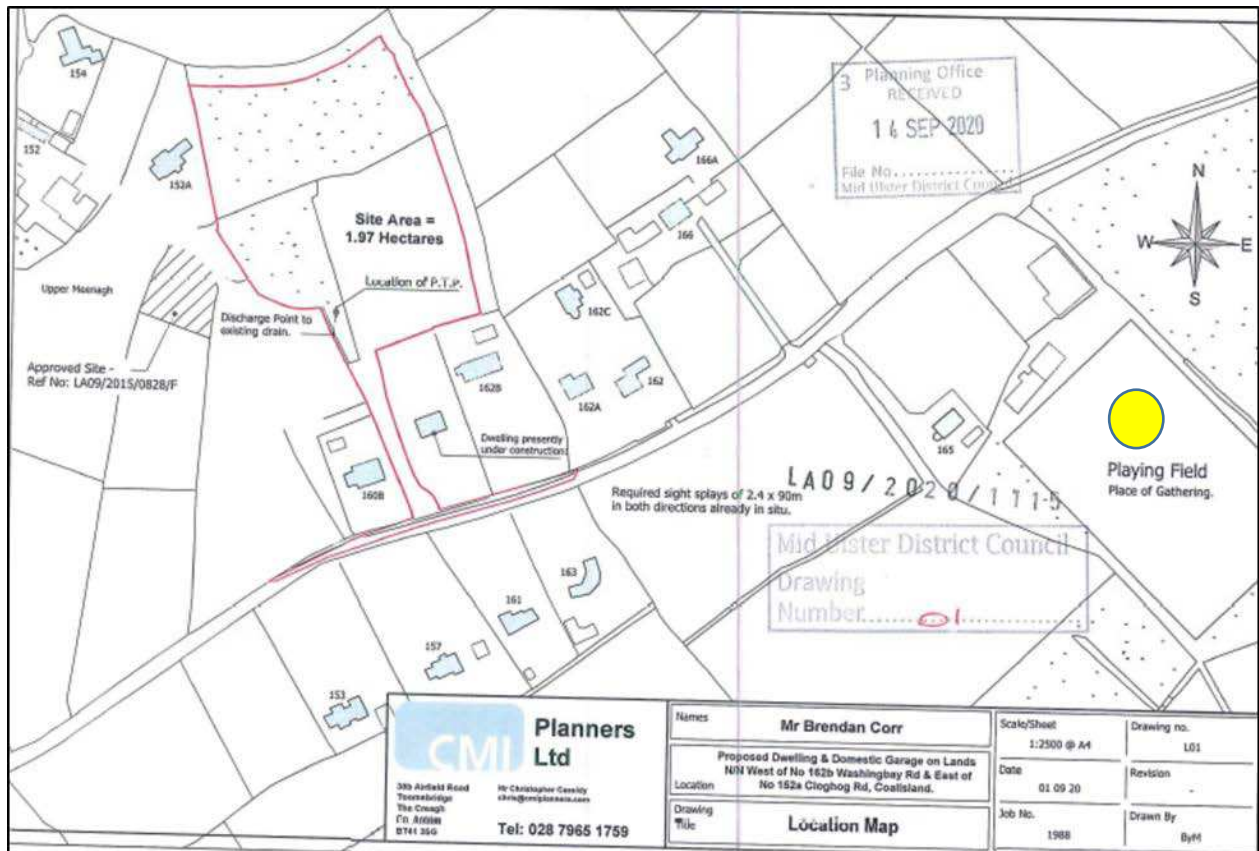


Fig 2: Site Location Plan identifying focal point to east of site.

Neither the two clusters in my opinion are associated with a focal point such as a social / community building / facility, or located at a cross-roads. Whilst the agent has identified a playing field as a focal point on the submitted site location plan above (Fig 2) and I believe this could be considered a focal point when on site it feels too far removed from the site and cluster of development to associate with it.

- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.

Given the site takes in three fields bound by a mix of hedgerows and trees, parts of it, namely the 2 most northern and eastern fields would provide a suitable degrees of enclosure, in my opinion, for a dwelling. The remaining field, located immediately to the rear of no. 162b Washingbay Rd, would not benefit from the same sense of enclosure as unlike the other fields it is open and exposed to views given only post and wire and some young trees bound its most southern / party boundary with 162b.

The above said, no matter which field within the site, a dwelling was sited, it would not be bounded on at least two sides by development within either cluster. I note the dwelling approved under LA09/2015/0828/F (see area to west of site hatched grey in Fig 2 above) was not commenced on the date of site inspection and the dwelling noted as being under construction immediately south of the site in Fig 2 comprises only footings. The site as a whole would be bounded on two sides by development within the Cloghog Rd cluster (no.152a Cloghog Rd, a 1 ½ storey dwelling) and Washingbay Rd cluster (nos160b and 162b Washing Rd a 1 ¾ story dwelling and bungalow, respectively) located to its west

and south, respectively. But you can make a site as big as you like to make it have development on two sides, as is the case here, but this is not in my opinion within the spirit of the policy.

- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.

I do not believe a dwelling on this site would be absorbed into either cluster through rounding off and consolidation and that if permitted it would significantly alter the existing character of particularly the Washinbay Rd cluster (which it is to be accessed through) by visually extending / intruding development into the open countryside.

- Development would not adversely impact on residential amenity.

Given the scale of the site, parts of it could accommodate a dwelling and garage of an appropriate siting, size, scale and design without significant adverse impact on the residential amenity of neighbouring properties.

Overall, it is my opinion that the proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed dwelling is not located within an existing cluster of development associated with a focal point or located at a cross-roads and if permitted would visually intrude into the open countryside.

I have considered other instances listed under CTY1 of PPS21 whereby the development of a dwelling in the countryside is considered acceptable however this proposal fails to meet with these instances.

Additionally, I have been in contact with the agent via phone and email on the 19<sup>th</sup> November 2020 to advise Planning's opinion is that the case submitted does not comply with Policy CTY2a of PPS 21 as the site is not located within an existing cluster of development. That no matter where on site a dwelling was situated it would not be bound on two sides by development within a cluster. Given the aforementioned opinion the agent was asked, has all other cases for a dwelling in the countryside been explored? E.g. does the applicant farm, is there any opportunity under Policy CTY 10 of PPS21 for a dwelling on a farm? The agent was advised to submit the additional information on a without prejudice basis within 14 days from the date of this email (3<sup>rd</sup> December 2020) or the application would proceed to the next available committee meeting based on the information on file. To date no additional information has been received.

#### Other Policy and Material Considerations

Flood Maps NI indicate no flooding on site.

Natural Environment Division (NED) map viewer available online identified no natural heritage features of significance on site.

**Recommend:** Refuse

<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation:</b>	Refuse
<b>Refusal Reasons</b>	
<ol style="list-style-type: none"> <li>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.</li> <li>2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed dwelling is not located within an existing cluster of development associated with a focal point or located at a cross-roads.</li> </ol>	
<b>Signature(s)</b>	
<b>Date:</b>	



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2020/1119/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed domestic dwelling and garage in a cluster	<b>Location:</b> 10m West of 44 Ballyscullion Road, Bellaghy
<b>Applicant Name and Address:</b> Mr Brian Milne 44 Ballyscullion Road Bellaghy	<b>Agent name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b> Following a deferred office meeting and a site visit with Members a refusal is recommended as previous.	
<b>Summary of Consultee Responses:</b>  No objections	
<b>Characteristics of the Site and Area:</b>  The site is located within the rural countryside, approx. 400m east of settlement limits of Bellaghy. The site is part of a larger agricultural field. The land is flat and bounded on the eastern and southern boundaries by existing hedges. The northern and western boundaries are currently undefined. The surrounding area is mainly characterised by agricultural and residential buildings.	
<b>Description of Proposal</b>  Proposed domestic dwelling and garage in a cluster	

**Deferred Consideration:**

The application was deferred in February 2021 for an office meeting and again in October 2021 for an accompanied site visit with Members. At the site visit the issue of development on at least 2 sides was addressed and it is considered the site meets the policy requirements of PPS 21 in this regard. Cllr Milne referred to both Bellaghy GAC football grounds and a to business further along the road, known locally as Evans', though it was apparent at the site visit this is no longer operational.

Members also raised a query in relation to the PAN issued by DfI which has been subsequently withdrawn.



Having considered the focal points I would comment as follows:

It is accepted the grounds of Bellaghy GAC lie partly inside the development limits of Bellaghy, though the pitches lie outside the limits and the agent is relying on this as a focal point. Having carried out a site visit, it is my opinion that with the physical distance between the site and the GAC there is no visual linkage on the ground. I do not consider there is an association with the football grounds and I do not advise relying on this as a focal point.

At the site visit, we walked to a building further along the Ballyscullion Road, which was once used for business purposes. However, it was apparent the business is no longer operational, the building was closed and there was no evidence of an operational business externally. Cllr Milne stated the area is known locally as Evans' because of the former business in this building. There was no signage on the building or at the entrance to the site to indicate a former business at this location. I do not consider this is a focal point for the purposes of this planning application.

I therefore do not consider the application to meet the tests of CTY 2a of PPS 21.

In terms of CTY 14, a dwelling at this location will result in a suburban style build-up of development when viewed with existing and approved buildings in this area. A dwelling will

also add to an existing ribbon of development to the 3 dwellings to the east on the Ballyscullion Road, which is contrary to CTY 8.

The Mid Ulster District Council Local Development Plan 2030 Draft Strategy was launched on 22 February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced on 25 March 2020 and was to run for 8 weeks. Due to issues faced with COVID 19 this period was extended and closed on 24 September 2020. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

I recommend a continued refusal of this application for the reasons listed below.

**Reasons for Refusal:**

1. The proposal is contrary to the SPPS and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY 2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the existing cluster of development is not associated with a focal point.
3. The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that a dwelling on the proposed site would add to an existing ribbon of development along this part of Ballyscullion Road.
4. The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would result in a suburban style build-up of development when viewed with existing and approved buildings.

**Signature(s):**

**Date**



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

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1119/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed domestic dwelling and garage in a cluster	<b>Location:</b> 10m West of 44 Ballyscullion Road Bellaghy
<b>Referral Route:</b>  Refusal- Contrary to Policies CTY1, CTY2a and CTY14 of PPS 21	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Brian Milne 44 Ballyscullion Road Bellaghy	<b>Agent Name and Address:</b> CMI Planners 38b 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
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

Contrary to Policies CTY1, CTY2a and CTY14 of PPS 21

### Characteristics of the Site and Area

The site is located within the open countryside, approximately 0.4km east of the settlement limits of Bellaghy as per the Magherafelt Area Plan 2015. The red line of the application site consists of part of a larger agricultural field which is flat in nature with the site bounded on the east and southern boundaries with existing hedges along these sides. The northern and western boundaries are currently undefined and expand into the larger agricultural field. The surrounding area is mainly agricultural with a build up of single houses located to the east of the site.

## Description of Proposal

This is an outline planning application for a proposed domestic dwelling and garage in a cluster.

## Planning Assessment of Policy and Other Material Considerations

The Magherafelt Area Plan identifies the site as being outside any defined settlement limits, located east of Bellaghy settlement limit. There are no other specific designations or zonings.

- Magherafelt Area Plan 2015
- Strategic Planning Policy Statement (SPPS)
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- Local Development Plan 2030 - Draft Plan Strategy

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A number of examples are provided in CTY 1 detailing the different cases which would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- *The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.*

I am content that the application site is located within an existing cluster that lies outside of a farm and consists of four or more buildings, which at least three are dwellings. I would contend that the proposed site is located at the edge of an existing cluster, which is located to the east of the site as shown on image 1 below.



Image 1: Site location plan showing extent of existing cluster

- *The cluster appears as a visual entity in the local landscape*

Whilst travelling along the Ballyscullion Road it is clear that the cluster appears as a visually entity in the local landscape, with most dwellings sharing a road frontage onto the Ballyscullion Road.

- *The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.*

The agent contends that the cluster of development is associated with Wolfe Tones GAC that is partly located within the settlement limits of Bellaghy, with the playing field located within the open countryside. However, I am not of the opinion that the cluster of development is associated with the GAA club given the distance between the site and the lack of visual linkage between the two. The GAA grounds are located approximately 300m west of the application site, but given the topography of the land, the GAA grounds are not visually linked to the site or the cluster of development. The image below is taken from site, facing towards Bellaghy GAA grounds, which are not visible from the site.



Image 2: View from the site towards GAA grounds

From this, the proposal fails to meet this policy criteria of CTY2a.

- *The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.*

The application site has a dwelling located adjacent to the red line being No.44 Ballyscullion Road, there is no development to the north and west of the site. Another dwelling is located directly south of the dwelling but is separated by the Ballyscullion Road. Given the fact that the site is not bounded to the South with the dwelling, rather the road separates the site from the dwelling I do not believe the site 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.*

As previously mentioned I believe the proposed application site is located within an existing cluster albeit, at the edge of the cluster. From this I am content that a dwelling here could be absorbed into the existing cluster through rounding off and a well-designed dwelling would not visually intrude into the open countryside. I do not believe a dwelling would significantly alter the existing character of the area given the existing development in the area.

- *Development would not adversely impact on residential amenity.*

As this is an outline application, no detailed design details have been provided for a dwelling, but given the size of the application site and the surrounding area I am content a dwelling at this location would not adversely impact on residential amenity.

On the basis of the above assessment, the application fails to meet the policy criteria outlined in Policy CTY2a.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been submitted. However, I am content a well designed dwelling at this location would not be a prominent feature in the landscape would visually integrate into the surrounding landscape.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As the proposal cannot meet the policy criteria set out in Policy CTY2a, I believe any dwelling approved here would therefore result in a suburban style build-up of development when viewed with existing and approved buildings. I also be of the opinion that a dwelling located here which fails to comply with Policy CTY2a would add to a ribbon of development along the Ballyscullion Road as there is already a row of three dwellings immediately east of the site and a dwelling approved here would add to this. As there is no gap to be filled, it could not be considered an exception to policy CTY8. As a result, the proposal fails to meet the policy criteria of CTY14.

**PPS 3- Access, Movement and Parking:**

DfI Roads were consulted on the planning application and provided conditions to be applied to any approval and that as part of any reserved matters application should show access constructed in accordance with the form RS1.

**Other Material Considerations**

The Mid Ulster District Council Local Development Plan 2030 -Draft Plan Strategy: was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues faced with COVID19, this period has been extended and closed at 5pm on 24th September 2020. In light of this, the draft plan cannot currently be given any determining weight.

**Neighbour Notification Checked**

**Yes/No**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

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

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the existing cluster of development is not

associated with a focal point and the site does not provide a suitable degree of enclosure and is not bounded on at least two sides with other development in the cluster.

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

**Signature(s)**

**Date:**

ANNEX	
Date Valid	16th September 2020
Date First Advertised	29th September 2020
Date Last Advertised	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 44 Ballyscullion Road Bellaghy Londonderry The Owner/Occupier, 47 Ballyscullion Road Bellaghy Londonderry The Owner/Occupier, 48 Ballyscullion Road Bellaghy Londonderry	
Date of Last Neighbour Notification	6th October 2020
Date of EIA Determination	
ES Requested	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/1119/O Proposal: Proposed domestic dwelling and garage in a cluster Address: 10m West of 44 Ballyscullion Road, Bellaghy, Decision: Decision Date:   Ref ID: H/2009/0177/F Proposal: Proposed Sun Room to East of dwelling Address: 44 Ballyscullion Road, Bellaghy Decision: Decision Date: 01.06.2009	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Deferred Consideration Report

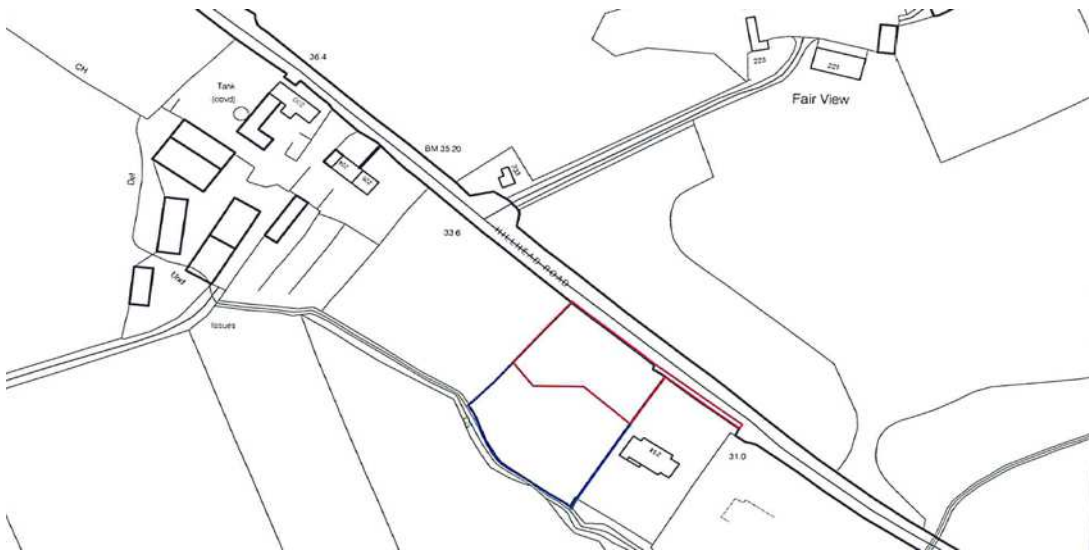
Summary	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2020/1225/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed infill dwelling, in area of average plot size of 44m road frontage	<b>Location:</b> Land adjacent to 214 Hillhead, Castledawson, Magherafelt
<b>Applicant Name and Address:</b> Jim Mc Pherson 6 Lissadell Drive Magherafelt	<b>Agent name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Summary of Issues:</b>  No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below.	
<b>Summary of Consultee Responses:</b>  No objections.	
<b>Characteristics of the Site and Area:</b>  The site is located adjacent to 214 Hillhead Road, Castledawson, Magherafelt. and is located outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is a large agricultural field, the boundary to the north-east and is comprised of mature vegetation and hedgerow's and the boundary to the southwest cuts through the centre of the field and is undefined. The roadside boundary is comprised of mature hedgerow and scattered trees and the south-eastern boundary consists of a wooden fence approx 1.0 metre in height and laurel hedgerow on the neighbours side. The elevation of the site is relatively flat and sites slightly lower than Hillhead road. Moyola Forest is to the south of the application site and Moyola river runs along the south to south west.	

## Description of Proposal

Proposed infill dwelling, in area of average plot size of 44m road frontage.

## Deferred Consideration:

The application was presented to Committee in February as a refusal, following which an office meeting took place on 11 February 2021. The application was reconsidered and present again as a refusal at the Planning Committee in October 2021. It was agreed at the October meeting to defer the application again for a site visit with Members.



At the site visit the issue of a gap site was discussed at length and those present walked the length of the gap to visually assess the infill site. The frontage sizes of the neighbouring sites were discussed and assessed on the ground. Members were referred to policy which requires the gap being big enough for a maximum of 2 dwellings. All frontages were considered and visually assessed. Members were asked to consider the gap and consider if it provides a visual break between the two ends of development on the ground.

Since the first deferral, a full application has been submitted for an off site replacement, which is now approved. However, this dwelling will not share a common frontage. The agent also advised due to flooding issues to the rear a dwelling would be sited to the front of the site and would most likely be of linear form.

One of the key considerations in this application is where it states in PPS 8 *“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”*. I am of the opinion the gap is too large to accommodate up to a maximum of two houses. In fact, I consider the gap to provide a clear visual break between numbers 214 and 228 Hillhead Road. From the information submitted by the agent, in support of the application, it is clear there are varying frontage widths along this stretch of the Hillhead Road. These vary, with plot widths of 35.5m, 47.5m, 84.5m and 49.5m. The

application site has a width of 47m at its frontage, with the adjacent field having a plot width of 72m. The agent has presented an argument that only two dwellings can be accommodated between the two fields. However, I disagree with this. It is my opinion, when considering the varying widths of neighbouring plots, the neighbouring field can accommodate two dwellings which would respect the existing development pattern. This would therefore result in three infill dwellings which is contrary to PPS 8. The agent has also put forward an argument the lands are impeded by the floodplain from the Moyola River. However, the lands have not been so impeded so as to prevent a dwelling being designed on the application site and I fail to see how a deeper site to the north could not accommodate two dwellings. There is no justification why the field to the immediate north is restricted by 20m, as shown on a coloured drawing submitted by the agent. It would seem this is drawn to show a more restricted site than what is actually possible.

Since there is a clear visual break between nos 214 and 228 I consider a new dwelling on this site would add to ribbon development at this location, which is contrary to PPS 8.

Since, in my opinion, the visual break is so strong, to approve a dwelling on this site would add to a ribbon of development and it is therefore contrary to CTY 14 as a new dwelling will cause a detrimental change to the rural character of this area.

A refusal is therefore recommended for the reasons stated below.

### **Refusal Reasons**

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

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 Hillhead 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 or 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**



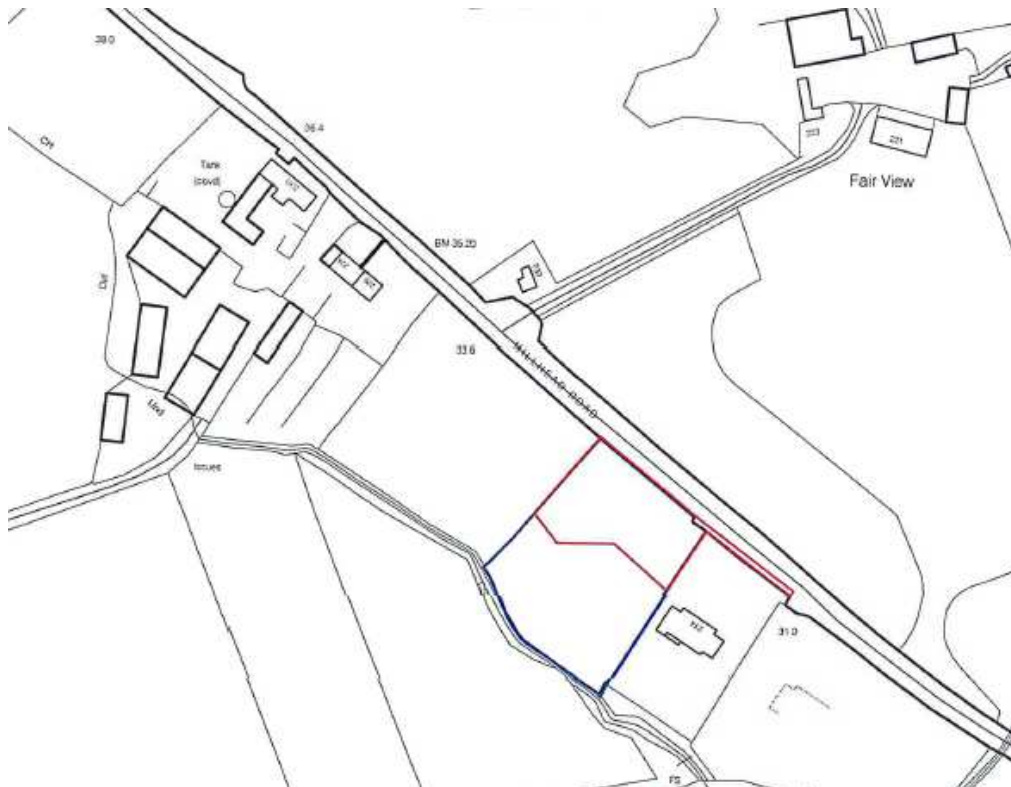


## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2020/1225/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed infill dwelling	<b>Location:</b> Land adjacent to 214 Hillhead Castledawson Magherafelt
<b>Applicant Name and Address:</b> Jim Mc Pherson 6 Lissadell Drive Magherafelt	<b>Agent name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Summary of Issues:</b>  No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below.	
<b>Summary of Consultee Responses:</b>  No objections	
<b>Characteristics of the Site and Area:</b>  The site is located adjacent to 214 Hillhead Road, Castledawson, Magherafelt. and is located outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is a large agricultural field, the boundary to the north-east and is comprised of mature vegetation and hedgerows and the boundary to the southwest cuts through the centre of the field and is undefined. The roadside boundary is comprised of mature hedgerow and scattered trees and the south eastern boundary consists of a wooden fence approx 1.0 metre in height and laurel hedgerow on the neighbour's side. The elevation of the site is relatively flat and sites slightly lower than Hillhead road. Moyola Forest is to the south of the application site and Moyola river runs along the south to south west.	

## Description of Proposal

Proposed infill dwelling



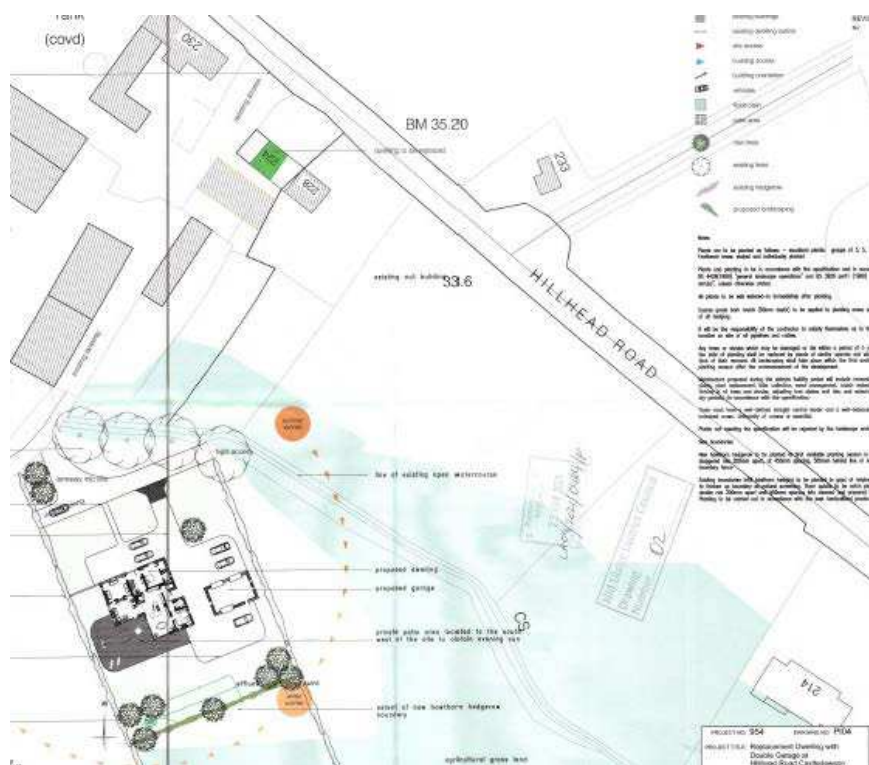
## Deferred Consideration:

The application was presented to Committee in Feb 2021 as a refusal for the following reasons;

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location.
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 Hillhead 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 or add to a ribbon of development; and would therefore result in a detrimental change to further erode the rural character of the countryside.

Subsequently it was deferred for a virtual office meeting which was held with the Area Planning Manager on 11<sup>th</sup> Feb 2021. It was agreed a further site visit and re-assessment would be carried out by the senior planner.

Since the deferral, a full application has been submitted for an offsite replacement for No.224 (shown in green) under LA09/2021/0464/F. It will be sited to the rear of this semi-detached property which is to be retained, however the new dwelling will not share a common frontage and so does not aid in providing the continuously and substantially built up frontage that is required under CTY8.



The agent also advised due to potential flooding issues to the rear, a dwelling would be sited to the front of the field due to this restriction and it would most likely be of linear form, ensuring it would remain in keeping with the existing character. Although this may be the case, it remains the gap is too large and so the principle of the policy is not being met.

An exception will only be permitted for the development of a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage, which respects the pattern of development in terms of size, scale and plot size.

There is one dwelling on the south eastern side, No. 214 Hillhead Road, with another almost fully constructed. On the other side of the application site is a large agricultural field with no dwellings or buildings then there is a semi-detached property (No.224 & 228) and attached shed, then attached dwelling No. 230. Based on existing plot sizes, I am still of the opinion the gap is too large to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and therefore this site is not believed to be suitable as an infill/gap site in line with CTY8. In this case it would also add

to ribbon development in the area. I would consider this an important visual break in the landscape and as such it should be developed.

The proposal is also contrary to Policy CTY 14, Rural Character of PPS 21. Permission for a dwelling on this site would cause a detrimental change to or further erode the rural character of the area and as previously mentioned it would add to a ribbon of development.

Refusal is therefore recommended for the reasons stated.

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

**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.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would not constitute a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and would, if permitted, result in the creation of ribbon development along Hillhead 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**



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1225/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed infill dwelling , in area of average plot size of 44m road frontage	<b>Location:</b> Land adjacent to 214 Hillhead Castledawson Magherafelt
<b>Referral Route:</b>  Committee - Refusal	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Jim Mc Pherson 6 Lissadell Drive Magherafelt	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

Case Officer Report		
<b>Site Location Plan</b>		
		
<b>Consultations:</b>		
Consultation Type	Consultee	Response
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	DFI Roads - Enniskillen Office	Content
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b>		
<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 adjacent to 214 Hillhead Road, Castledawson, Magherafelt and is located outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is a large agricultural field, the boundary to the north-east and is comprised of mature vegetation and hedgerow's and the boundary to the southwest cuts through the centre of the field and is undefined. The roadside boundary is comprised of mature hedgerow and scattered trees and the south eastern boundary consists of a wooden fence approx 1.0 metre in height and laurel hedgerow on the neighbours side. The elevation of the site is relatively flat and sites slightly lower than Hillhead road. Moyola Forest is to the south of the application site and Moyola river runs along the south to south west.</p>		
<b>Description of Proposal</b>		
Proposed infill dwelling		

## **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) 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. There is one dwelling on the south eastern side, No 214 Hillhead road, however on the other side of the application site is a large agricultural field with no dwellings or buildings. Therefore, there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case and it would add to ribbon development in the area.

Also, in terms of the application site itself, the Policy PPS 8 states that 'an exception will be permitted for the development of a small gap site sufficient to accommodate up to a maximum of two houses.' Following discussion with the Planning Manager it was agreed that the gap site was too large and therefore fails to meet the criteria set out in this policy.

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 and as previously mentioned it would add to a ribbon of development.

**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- Contrary to Policy PPS21

**Conditions/Reasons for Refusal:**

**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.

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 Hillhead 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 or 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:**

ANNEX	
<b>Date Valid</b>	6th October 2020
<b>Date First Advertised</b>	20th October 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 214 Hillhead Road Castledawson Londonderry The Owner/Occupier, 233 Hillhead Road Castledawson Londonderry	
<b>Date of Last Neighbour Notification</b>	18th November 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/1225/O Proposal: Proposed infill dwelling , in area of average plot size of 44m road frontage Address: Land adjacent to 214 Hillhead , Castledawson, Magherafelt, Decision: Decision Date:  Ref ID: H/1986/0040 Proposal: ALTERATIONS AND ADDITIONS TO BUNGALOW Address: 67 BELLSHILL ROAD, CASTLEDAWSON Decision: Decision Date:  Ref ID: H/1988/0011 Proposal: SITE OF DWELLING Address: 100M SE OF 244 HILLHEAD ROAD CASTLEDAWSON Decision: Decision Date:  Ref ID: H/2001/0809/O Proposal: Site of Dwelling. Address: Site Adjacent To 214 Hillhead Road, Castledawson. Decision:	

Decision Date: 20.03.2003

Ref ID: H/1989/0566

Proposal: DWELLING WITH GARAGE

Address: HILLHEAD ROAD CASTLEDAWSON

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. 01  
Type: Site Location Plan  
Status: Submitted

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2020/1375/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling in substitution for dwelling previously approved under planning Ref I/2009/0372/F and retention of existing mobile home for a temporary period of 3 years to facilitate construction of new dwelling	<b>Location:</b> 27a Drumconvis Road Coagh Cookstown
<b>Applicant Name and Address:</b> Mr Payne 3 Coltrim Lane Moneymore BT80 9JZ	<b>Agent name and Address:</b> T4 Architects 169 Coagh Road Stewartstown Dungannon BT71 5LW
<b>Summary of Issues:</b>  This application was presented to August 2021 Planning Committee as an approval and was subsequently deferred for the agent to make amendments and to allow the objectors to consider these.  Summary of the objections are as below; - Objector raised concerns of loss of privacy, overlooking, overshadowing and lack of light with regards to the dwelling and the mobile home. That the noise level of the building work would adversely impact the welfare of their childrens health. - Objector raised concerns over ownership in that the applicant does not own the site, in that part of the site is actually owned by the objector. - Raised concerns over lack of site lights in that the site would require site lines and permission over their lands which the applicant does not have. - Objector stated that this site has been refused on three previous applications due to undesirable change in the character of this rural area, undesirable extension of ribbon development, unacceptable intensification of suburban type sprawl beyond the limit of development for Coagh leading to an undesirable change in the rural character of this area.	

- Concern raised over the boundary line and that the site has been developed on the objectors land.
- Raised issue that the static mobile home had no permission.
- Raised concerns that the objectors house was unoccupied when original permission was granted and would have objected to the dwelling.
- Raised issues that the site had not lawfully commenced within time.
- Issues raised over increased traffic generation
- It was noted that there is asbestos in the two sheds situated on the site and when broken up could cause serious health concerns.
- Fears that there are too many houses in the area affecting conservation and the new works would affect the local wildlife.
- Noted that the previously site has lapsed, went on to state conditions had not been met which would require a new application to be submitted rather than an amendment.

All objections have been fully considered including those received after the August 2021 Committee meeting.

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

The proposed site is located approximately 0.35km south east of the development limits of Coagh and it is situated within the open countryside as per defined in the Cookstown Area Plan 2010. The site is identified adjacent to 27a Drumconvis Road, Coagh and on the site sits a detached agricultural building, a caravan and the foundations of the previously approved dwelling. I note that the boundaries are defined by fencing along the eastern and western boundaries with the southern boundary defined by a line of mature trees with the roadside boundary undefined. The immediate area is rural in character and is defined by rolling agricultural land, dispersed single dwellings and farm holdings with the settlement of Coagh in close proximity.

#### **Relevant planning history**

I/2009/0372/F - Proposed dwelling for small gap site under CTY 8 - 200M North West of No 43 Ballinderry Bridge Road, Coagh, Cookstown - Permission Granted - 12.02.2010

### **Description of Proposal**

The proposed full application for proposed dwelling in substitution for dwelling previously approved under planning Ref I/2009/0372/F and retention of existing mobile home for a temporary period of 3 years to facilitate construction of new dwelling, site is located 27a Drumconvis Road Coagh Cookstown.

### **Deferred Consideration:**

This application was presented as an Approval to Planning Committee on 3 August 2021 and was subsequently deferred at the suggestion of the Area Planning Manager for the agent to make amendments to the location of the dwelling moving it 2m from the boundary, and to give the objectors the opportunity to make comment on any changes.

Following the Committee meeting the agent submitted amended plans on 11 August 2021.

Neighbours were notified on 27.08.2021 and the objectors sent an email on 8 Sept 2021 regarding these amends.

The objector's state the amended plans show the house moved 2m but that they own 2.5m from the fence and this proposal will not allow them sufficient ground to build and maintain a wall or allow for screening. They ask for the plan to be amended and moved 4.5m from their fence.

The proposal has now been moved the 2m, which was suggested by the Area Planning Manager at the August Planning Committee meeting, in an attempt to address the neighbour's objections relating to privacy and amenity. It should be noted the Council has recommended approval at this meeting based on the dwelling located closer to the objectors. By moving the dwelling the proposal still has not satisfied the objectors concerns in relation to ownership and boundary issues although they so not mention amenity issues in their email. However as previously stated, ownership/boundary disputes are outside the remit of planning. In terms of planning, the moving of the house has in my opinion helped lessen any impact on the neighbours and the agent has fulfilled the request made the Area Planning Manager at the August Committee meeting.

Much information has been submitted by the applicant which the agent has responded to, in relation to the commencement of development of the original application and ownership/boundary issues. The objectors state the foundations were not dug until April 2018 and that Google Earth Pro images prove this in their objection of 19th August 2021. However after looking at the website, it appears the image provided remains the same between the dates 25th May 2012 and 17th April 2015. What this only proves is that the development was commenced at some time between these dates.

As detailed in the original case officers report the Building Control records show an inspection was carried out on 23rd Dec 2014 which recorded that foundations were excavated.

Based on the evidence available, MUDC are content that development has lawfully commenced in line with the original approval decision notice before its expiry date of 12<sup>th</sup> Feb 2015.

All planning issues which objectors have raised have been fully considered. Any civil issues relating to landownership and boundary issues have been addressed insofar as the Council are required to and the agent is content the correct certificate has been signed. Beyond this the issues lie outside the remit of planning. The applicant has been changed to Mr Payne and Certificate A has been signed. Neighbours were notified of this change.

The objectors asked on 20th Sept 2021 for this application to be held until Mr William Orbinson QC makes contact with MUDC. They also asked for further evidence to be presented by the applicants, however after discussion with the Area Manager we are content we have all the information required in order to make an informed decision and relevant information which has been submitted can be viewed online by all parties, and so there is no need to hold the application being presented to Committee.

The objectors also state the application should not refer to a replacement. However the proposal has been described and assessed as such;  
Proposed dwelling in substitution for dwelling previously approved under planning Ref I/2009/0372/F and retention of existing mobile home for a temporary period of 3 years to facilitate construction of new dwelling. There is no mention of a replacement of the dwelling or a caravan in the description.

In relation to the DFI response of 4th June 2021 which the objectors have again raised. MUDC opinion have not changed since the original assessment was made. There were no access conditions on the original approved I/09/0372/F and the argument was put forward that there would only be one dwelling remaining at the site following the removal of the caravan, there would be no intensification of access would occur.

In light of the previous history and that this access has been used to serve an occupied caravan for approx. 10 years it would seem unreasonable to require a higher standard than previously accepted.

Approval with conditions is recommended.

## **Conditions**

1. This permission is granted solely as a substitute for the permission for a dwelling previously granted on the site under Ref: I/2009/0372/F on the 12.02.2010 and only one dwelling shall be constructed on the site.

Reason: To ensure that only one dwelling is constructed on site.

2. All landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 02/03 date stamped 11 August 2021 shall be carried out in the first planting season following the commencement of the construction of the development hereby approved.

Reason: To ensure the development integrates into the countryside

3. 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 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.

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

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

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

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

6. The mobile home hereby permitted shall be for a limited period of 3 year from the date of this permission only and shall be removed and the land restored to its former condition.

Reason: This is a temporary permission.

### **Informatives**

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

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

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

**Signature(s):**

**Date**



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1375/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling in substitution for dwelling previously approved under planning Ref I/2009/0372/F and retention of existing mobile home for a temporary period of 3 years to facilitate construction of new dwelling	<b>Location:</b> 27a Drumconvis Road Coagh Cookstown
<b>Referral Route:</b>  Approval - To Committee - Objections received.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mr and Mrs Cotton 6A Drumearn Avenue Cookstown	<b>Agent Name and Address:</b> Nest Architects 3A Killycolp Road Cookstown BT80 9AD
<b>Executive Summary: Approval</b>	
<b>Signature(s): Peter Henry</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	7
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### Summary of Issues

Approval - To Committee - Seven objections received;

### Characteristics of the Site and Area

The proposed site is located approximately 0.35km south east of the development limits of Coagh and it is situated within the open countryside as per defined in the Cookstown Area Plan 2010. The site is identified adjacent to 27a Drumconvis Road, Coagh and on the site sits a detached agricultural building, a caravan and the foundations of the previously approved dwelling. I note that the boundaries are defined by fencing along the eastern and western boundaries with the southern boundary defined by a line of mature trees with the roadside boundary undefined. The immediate area is rural in character and is defined by rolling agricultural land, dispersed single dwellings and farm holdings with the settlement of Coagh in close proximity.

#### Relevant planning history

I/2009/0372/F - Proposed dwelling for small gap site under CTY 8 - 200M North West of No 43 Ballinderry Bridge Road, Coagh, Cookstown - Permission Granted - 12.02.2010

**Representations**

Five neighbour notifications were sent out however six objections were received in connection with this application.

**Description of Proposal**

The proposed full application for proposed dwelling in substitution for dwelling previously approved under planning Ref I/2009/0372/F and retention of existing mobile home for a temporary period of 3 years to facilitate construction of new dwelling, site is located 27a Drumconvis Road Coagh Cookstown.

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

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

Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

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'.

Starting with the proposed dwelling part of this application first, I note the principle of development has been established through previous approval I/2009/0372/F. After consultation with Building Control I am content that the site has lawfully commenced within time. I note that commencement of the site is in dispute by comments made by the objector, setting this aside, the site is located within a line of 3 or more buildings and would constitute an infill dwelling in accordance with policy CTY 8 and therefore regardless of history an infill opportunity exists.

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. Acknowledging the previously approved design and taking into consideration the surrounding development of two storey dwellings, I am content that the proposed dwelling will not appear visually prominent in the landscape. The fact this is considered an infill will mean that this dwelling will read as part of a built up frontage, with the view that this coupled with the landscaping, that of the existing and proposed, that the dwelling will be able to satisfactorily integrate into the landscape. I note that the intention is to use an existing unaltered access therefore I am content that this is able to integrate also. In terms of the proposed design, I note that this has been amended during the application to counter the objections received, from which I am content that the design is acceptable within this rural context. From this, I am content that the application is able to comply with CTY 13.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As

mentioned previously I am content that a dwelling in this location will not be unduly prominent in landscape, from this I am content that the development is able to respect the pattern of development in the area. I am content on balance that this proposed application will not unduly change the character of the area. I am content that the proposed development complies with CTY 14.

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

I note that the intention is to use the existing unaltered approved access. There were no access conditions on the previous approval I/2009/0372/F. Given the objections that comment from DFI Roads was sought, in their response initially requested additional plans showing splays etc. The agent provided correspondence from the original application which stated the original application is being considered as 'Gap Site' under CTY 8 and would require current road service standards however given this application is fundamentally a replacement dwelling at the site where only one dwelling would remain and no intensification of pedestrian and vehicular access would occur. As such this argument was put to DFI Roads, who in their response, stated that the wording may lend itself to being a replacement dwelling if this is not the case then road amendments would be required. In light of the previous history and that this access has been used to serve an occupied caravan on this site for around a decade, it is my view that it would be unreasonable to require a higher standard than previously accepted.

With regards to the mobile home, I note that under CTY 9 of PPS 21 which states that Planning permission may be granted for a residential caravan or mobile home, for a temporary period only, in exceptional circumstances.

These exceptional circumstances include:

- the provision of temporary residential accommodation pending the development of a permanent dwelling; or
- where there are compelling and site-specific reasons related to personal or domestic circumstances (see Policy CTY 6).

It goes on to state that all permissions will normally be subject to a three-year time limit. However, this may be extended having regard to the particular circumstances of the case. I note that three years has been requested in this application. Policy goes on to state that the siting of a residential caravan or mobile home will be subject to the same planning and environmental considerations as a permanent dwelling. Permission will depend on the ability to integrate the unit within an existing building group and screen the unit from public view. Considering this, I note that the provision of the mobile home is provide temporary residential accommodation for such times during the construction of proposed dwelling which has been shown to be acceptable. In terms of the siting, the mobile home is located to the rear of the site beside the agricultural building to the rear with a backdrop of mature trees; in terms of this I am content this siting is acceptable on balance complying under CTY 9.

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

In response to the comments made by the objector;

- Objector raised concerns of loss of privacy, overlooking, overshadowing and lack of light with regards to the dwelling and the mobile home. That the noise level of the building work would adversely impact the welfare of their children's health.

I note that a number of amended house plans have been received, which in my opinion have made reasonable attempts to alleviate the concerns over amenity. The removal of a number of windows on the elevation that abuts the objectors property coupled with new landscaping along the same boundary will significantly reduce any impact. This coupled with the separation distance between the site and the objectors dwelling means that I am content that is unlikely to cause any adverse impact on neighbouring amenity. In terms of the impact of the static mobile home, I note it will be pushed further into the site reducing any ability for overlooking and it is only to be approved for a temporary basis. With regards to any noise during construction having an impact on the objectors children health, whilst I acknowledge this I note that the construction phase will only run for a finite time and best practices should be implemented during construction but all noise cannot be stopped, some noise will be typical of building a dwelling.

- Objector raised concerns over ownership in that the applicant does not own the site, in that part of the site is actually owned by the objector.

In terms of the ownership concerns and boundary issues, I note in the first instance that planning does not confer title. However, I note after a land registry check the lands appear to be owned by a Mr R Paine, the certificate was subsequently amended. With regards to the claims that part of the proposed site is owned by the applicant, I note that a series of information has been provided by both the applicant and the objector. In that the ownership issue has been raised and addressed and given the history of the site with the ambiguity over this ownership that I am content that this has been adequately investigated. As noted that planning does not confer title, any outstanding issues over ownership will be a civil matter and the application is deemed as a valid application with the appropriate certificate signed.

- Raised concerns over lack of site lights in that the site would require site lines and permission over their lands which the applicant does not have.

In terms of the site showing no site lines, the access issue has been raised and addressed above, it is my view that it would be unreasonable to require a higher standard than previously accepted. Any requirement for splays or sight lines would be a civil matter.

- Objector stated that this site has been refused on three previous applications due to undesirable change in the character of this rural area, undesirable extension of ribbon development, unacceptable intensification of suburban type sprawl beyond the limit of development for Coagh leading to an undesirable change in the rural character of this area. With regards to the comments made that this site has been refused previously for a number of reasons, I note that in terms of planning there is a live planning permission on the site which could be developed at any time. Therefore I am content that the principle of development has been established and as previously mentioned the site is still able comply under CTY 8.

- Concern raised over the boundary line and that the site has been developed on the objectors land.

As noted, the ownership issues have been investigated and any remaining boundary issue is a civil matter.

- Raised issue that the static mobile home had no permission.

In terms of the static mobile having no permission, I note that they have come in to rectify this through requesting a temporary permission which has been accepted on a temporary basis.

- Raised concerns that the objectors house was unoccupied when original permission was granted and would have objected to the dwelling.

In terms of the comments that when the site was originally approved the objectors house was unoccupied and someone would have objected to the previous site at the time, I note that the statutory neighbour notification and advertising was done and could only be taken as things were at the time, in which the site was approved.

- Raised issues that the site had not lawfully commenced within time.  
With regards to the site commencing, Building Control records note the site works were started on 23/12/14 which is within the date of the permission meaning in planning terms that the site was lawfully commenced.
- Issues raised over increased traffic generation.  
In terms of an increased traffic generation as a result of this application, again this has been considered in the previous application and this application is unlikely create any adverse increases as it still only for one dwelling.
- It was noted that there is asbestos in the two sheds situated on the site and when broken up could cause serious health concerns.  
Talking about the concerns of the asbestos of the two sheds on the site, I note that there is no reference of these having asbestos nor to be removed. Planning would expect best practice in removing asbestos if sheds were to be demolished.
- Fears that there are too many houses in the area affecting conservation and the new works would affect the local wildlife.  
In terms of the impact on conservation and impact on wildlife, I will circle back to the fact there is a live permission on the site and the change of design is not likely to cause any adverse impacts on the conservation or local wildlife.
- Noted that the previously site has lapsed, went on to state conditions had not been met which would require a new application to be submitted rather than an amendment.  
As stated I am content that the site has lawfully commenced.

**Neighbour Notification Checked****Yes****Summary of Recommendation:****Approval****Conditions:**

1. This permission is granted solely as a substitute for the permission for a dwelling previously granted on the site under Ref: I/2009/0372/F on the 12.02.2010 and only one dwelling shall be constructed on the site.

Reason: To ensure that only one dwelling is constructed on site.

2. All landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 02/2 date stamped 30<sup>th</sup> June 2020 shall be carried out in the first planting season following the commencement of the construction of the development hereby approved.

Reason: To ensure the development integrates into the countryside

3. 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 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.

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

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

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

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

6. The mobile home hereby permitted shall be for a limited period of 3 year from the date of this permission only and shall be removed from the site.

Reason: In order to allow the applicant temporary accommodation whilst erecting the dwelling.

**Informatives**

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

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

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	4th November 2020
<b>Date First Advertised</b>	1st December 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 24 Drumconvis Road, Coagh, Tyrone, BT80 0HD The Owner/Occupier, 24a Drumconvis Road Coagh The Owner/Occupier, 25 Drumconvis Road Coagh Tyrone Francisco Martin 27 Drumconvis Road Coagh Tyrone Franciso & Mrs Teresa Martin 27, DRUMCONVIS ROAD, COAGH, TYRONE, Northern Ireland, BT80 0HD Teresa Martin Email Teresa Martin Email Teresa Martin Email Francisco Martin Email Address	
<b>Date of Last Neighbour Notification</b>	4th March 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2018/1499/F Proposal: Proposed new dwelling and garage in infill site between 23 and 27 Drumconvis Road, Coagh ( As substitute for Planning Approval I/2007/0422/RM dated 11/06/08) Address: Adjacent to 23 Drumconvis Road, Coagh, Cookstown, Decision: PG Decision Date: 27.03.2019  Ref ID: I/1996/4044 Proposal: Proposed Chicken Houses Address: 23 DRUMCONNIS ROAD, COAGH Decision:	

Decision Date:

Ref ID: I/2007/0422/RM

Proposal: Dwelling house

Address: Adjacent to 23 Drumconvis Road, Coagh

Decision:

Decision Date: 12.09.2007

Ref ID: I/2004/0423/O

Proposal: Proposed Site for New Dwelling

Address: Adjacent to 23 Drumconvis Road, Coagh

Decision:

Decision Date: 14.06.2004

Ref ID: I/2009/0372/F

Proposal: Proposed dwelling for small gap site under CTY 8

Address: 27a Drumconvis Road, Coagh, Co Tyrone, BT80 OHD

Decision:

Decision Date: 16.02.2010

Ref ID: LA09/2020/1375/F

Proposal: Proposed dwelling in substitution for dwelling previously approved under planning Ref I/2009/0372/F and retention of existing mobile home for a temporary period of 3 years to facilitate construction of new dwelling

Address: 27a Drumconvis Road, Coagh, Cookstown,

Decision:

Decision Date:

Ref ID: I/1980/0165

Proposal: PETROL STATION

Address: 27 DRUMCONVIS ROAD, COAGH

Decision:

Decision Date:

Ref ID: I/1995/0133

Proposal: Retirement bungalow

Address: ADJACENT TO 27 DRUMCONVIS ROAD COAGH CO TYRONE

Decision:

Decision Date:

Ref ID: I/1987/0075

Proposal: PROPOSED SITE FOR NEW BUNGALOW

Address: SITE ADJACENT TO 27 DRUMCONVIS ROAD, COAGH

Decision:

Decision Date:

Ref ID: I/2012/0340/F

Proposal: Proposed extension and internal alterations to dwelling

Address: 27 Drumconvis Road, Coagh,

Decision: PG

Decision Date: 04.12.2012

<b>Summary of Consultee Responses</b>
<b>Drawing Numbers and Title</b>
<p>Drawing No. 06 Type: Levels and Cross Sections Status: Submitted</p> <p>Drawing No. 01 Type: Site Location Plan Status: Submitted</p> <p>Drawing No. 03 Type: Proposed Floor Plans Status: Submitted</p> <p>Drawing No. 05 Type: Proposed Elevations Status: Submitted</p> <p>Drawing No. 04 Type: Proposed Elevations Status: Submitted</p> <p>Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted</p>
<b>Notification to Department (if relevant)</b>
<p>Date of Notification to Department: Response of Department:</p>



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2021/0146/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for 2 storey dwelling and garage at builders yard with use of existing entrance to the Drum Road	<b>Location:</b> Site between Oakland Villas and 167 Drum Road Cookstown
<b>Applicant Name and Address:</b> Philip and Judith Mitchell 167 Drum Road Cookstown	<b>Agent name and Address:</b> PDC Chartered Surveyors 16 Gortreagh Road Cookstown BT80 9ET
<b>Characteristics of the Site and Area:</b>  The application site lies outside any defined settlement limits as defined in the Cookstown Area Plan 2010. The site is located in the rural area, the settlement limit of Cookstown is located approx. 2.2km east of the proposal site. The application site comprises a portion of land located to the rear of the detached chalet dwelling No.167. On the date of the site inspection it was noted there appeared to be recent clearing of the application site. The application proposes to utilise the existing access on to Drum Road via Oakland Villas which currently serves 6 dwellings. Whilst the proposal argues the entrance of the application site to Oakland Villas is existing and in use, it appears recent clearing has taken place and it is noted that there is an ongoing enforcement investigation regarding this. The topography of the site is relatively flat. Close board fencing currently defines the southern boundary separating the site with the curtilage of No.167. The western boundary of the site is defined by mature trees and hedging, whilst the remaining boundaries are currently undefined. There is a medium degree of development pressure in the immediate context given the 2 storey terrace dwellings within Oakland Villa to the west of the site and detached dwelling of No. 167 with associated outbuildings to the south east. The wider landscape character is rural with the predominant land use being agricultural fields and dispersed holdings and dwellings. Drum Manor Forest Park is located a short distance to the west.	

## Description of Proposal

This is an outline planning application for a dwelling and garage on lands Oakland Villas and 167 Drum Road, Cookstown.

## Deferred Consideration:

This application was presented as a refusal to Planning Committee in June 2021 for the following reasons;

## Refusal Reasons

1. The proposal is contrary to the SPPS and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to CTY 8 Ribbon Development of Planning Policy Statement 21 in that the proposal does not constitute a gap site within a substantial and continuously built up frontage along this part of Drum Road and would create or add to a ribbon development.
3. The proposal is contrary to CTY 14 Rural Character of Planning Policy Statement 21 in that the development would further erode rural character adding to a ribbon of development.
4. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point or it is not located at a cross-roads.

It was subsequently deferred for a virtual office meeting with the Area Planning Manager and a meeting was held on 17 June 2021 and the senior planner was asked to re-visit the site and consider policy CTY2a as it is considered that CTY8 cannot be met.

Certain criteria must be met in order to meet the policy for Policy CTY2a – New dwellings in existing clusters. In the policy this states it should be a focal point 'such as' a social/community building/facility.

There must also be a cluster of development which lies outside a farm and consist of 4 or more buildings, of which at least 3 are dwellings. This excludes garages and outbuildings, and I would consider this cluster has more than 4 dwellings and which would constitute the required number. The existing cluster appears as a visual entity in the local landscape.

In the policy there is no exhaustive list of what constitutes a focal point, but rather some examples are given. A focal point is considered as giving a place a 'sense of identity' and somewhere that is well known to the local community with a sense of presence, and so keeping within the spirit of the policy. The agent had mentioned at the office meeting there is a 'Builders Yard' at No.167 which was established since the 1980s. However at the time of my site visit it was evident it was not being used as such, and had not been for a long period of time, and therefore could not be considered as a focal point. However, I would consider the 'Village Green' area to the front of Oakland's Villas, the SW of the site, would fall under this definition.



This should not be seen as setting a precedent for dwellings approved under CTY2a, but rather that is in the spirit of the policy. A dwelling on the site would not have any detrimental impact on the existing rural character of this area and it would constitute a rounding off within an existing cluster of development.

In terms of CTY13 the site has a good degree of enclosure and it is considered the existing vegetation would aid in integrating a dwelling. To ensure the dwelling is in keeping with the existing character of the area I would add a 6.5m ridge height condition, as well as a siting condition to ensure the protection of the amenity of the neighbours.

Objections had been received in relation to the site being regarded as not meeting infill policy, also stating that false information was given in relation to the access to be used and that it was only opened recently. The original case officer dealt with these issues at the time this application was presented to Committee in June 2021 and no further objections have been received.

Policy CTY14 states permission will be granted where a dwelling does not cause any detrimental change for further erode the character of the area. This site would not significantly alter the character of the area and therefore I feel complies with this policy.

Approval with conditions is therefore recommended in this case.

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

### **Conditions:**

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

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

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

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

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

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

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

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

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

Reason: In the interests of visual amenity.

7. The proposed dwelling shall have a ridge height of less than 6.5 metres above finished floor level.

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

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

Reason: In the interest of visual amenity.

9. The proposed dwelling shall be sited in the area shaded blue on the approved plan 01 date stamped 2 Feb 2021.

Reason: To ensure that the development is satisfactorily integrated into) the landscape in accordance with the requirements of Planning Policy Statement 21 and to preserve the amenity and privacy of the adjoining dwelling.

**Signature(s):**

**Date**



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0146/O	<b>Target Date:</b> 18/05/21
<b>Proposal:</b> Proposed infill site for 2 storey dwelling and garage at builders yard with use of existing entrance to the Drum Road	<b>Location:</b> Site between Oakland Villas and 167 Drum Road Cookstown
<b>Referral Route:</b>  Recommended refusal	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Philip and Judith Mitchell 167 Drum Road Cookstown	<b>Agent Name and Address:</b> PDC Chartered Surveyors 16 Gortreagh Road Cookstown BT80 9ET
<b>Executive Summary:</b> Proposal considered against prevailing planning policy – considered the proposal fails to comply with Policy CTY1 of PPS21. 2no. letters of objection have been received.	
<b>Signature(s):</b>   	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen	Content

#### 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

#### Characteristics of the Site and Area

The application site lies outside any defined settlement limits as defined in the Cookstown Area Plan 2010. The site is located in the rural area, the settlement limit of Cookstown is located approx. 2.2km east of the proposal site. The application site comprises a portion of land located to the rear of the detached chalet dwelling No.167. On the date of the site inspection it was noted there appeared to be recent clearing of the application site. The application proposes to utilise the existing access on to Drum Road via Oakland Villas which currently serves 6 dwellings. Whilst the proposal argues the entrance of the application site to Oakland Villas is existing and in use, it appears recent clearing has taken place and it is noted that there is an ongoing enforcement

investigation regarding this. The topography of the site is relatively flat. Close board fencing currently defines the southern boundary separating the site with the curtilage of No.167. The western boundary of the site is defined by mature trees and hedging, whilst the remaining boundaries are currently undefined. There is a medium degree of development pressure in the immediate context given the 2 storey terrace dwellings within Oakland Villa to the west of the site and detached dwelling of No. 167 with associated outbuildings to the south east. The wider landscape character is rural with the predominant land use being agricultural fields and dispersed holdings and dwellings. Drum Manor Forest Park is located a short distance to the west.

### **Description of Proposal**

This is an outline planning application for a dwelling and garage on lands Oakland Villas and 167 Drum Road, Cookstown.

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

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

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

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Cookstown Area Plan 2010
- PPS 3: Access, Movement and Parking
  - Policy AMP 2 Access to Public Roads
  - Policy AMP 3 Access to Protected Routes
- PPS 21: Sustainable Development in the Countryside
  - Policy CTY 1 Development in the Countryside
  - Policy CTY 8 Ribbon Development.
  - Policy CTY 13 Integration and Design of Buildings in the Countryside
  - Policy CTY 14 Rural Character

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

### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, 1 letter of support and 2 letters of objection have been received. The address of the letter of support is No.167, which is

outlined in blue within the applicant's control, and the representation states "suitable infill site". The issues outlined in the 2no objection letters are summarised below:

- Both objection letters argue that the application includes false information. The representations state the application attempts to open a new access into the car parking area at Oakland Villas and this was never previously used as an entrance. They state this proposed entrance was only opened up on 08/02/21 involving the removal of 20ft of hedging and cutting down of 3 large trees. It is argued the reference on the block plan that the existing entrance is used to access 6 dwellings at Oakland Villas and the builder's yard for over 30 years with up to 30 vehicles using it per day is false.

Following a review of the original block plan submitted, I requested that the agent remove the annotations to the existing access use / current vehicle numbers accessing the builder's yard as this information is not necessary to be included on drawings. I also requested reference to "Commenced footings for commercial buildings" to be removed as no planning approval relating to commercial buildings was identified and regardless this does not form part of this planning application. The agent has submitted an amended block plan removing these annotations and has also provided what appears to be a land registry map showing the access through Oakland Villas shaded blue which he has advised is a right of way to the premises from this entrance. He also submitted a site layout plan from the 1990s however this Drawing does not include any DOE Planning Service stamps and also does not include the said "commercial building" that is annotated on the original layout plan. On the date of the site inspection, I noted that there appeared to be recent clearing of the application site and proposed entrance. It is noted there is currently an enforcement investigation ongoing with respect the entrance/access from Oakland Villa to the parcel of land subject to this application. Following observations on the site inspection, a review of google street view and aerial images, it appears that the access from the application site to Oakland Villas was not always in place. I requested that the agent amend Q.12 of the P1 Form as this is not "use of an existing unaltered access" and the agent has subsequently amended accordingly.

### **Planning History**

I/1980/0144 - Proposed store for owners use – 167 Drum Road, Cookstown – Permission Granted

I/1993/0031 - Change of use from store, garage and office to manufacturing workshop and stores including construction of new access – Adjacent to Oakland Villas, Cookstown – Permission Refused

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

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

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained. The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations.

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

PPS21 is the overarching policy for development in the countryside. Policy CTY 1 provides clarification on circumstances in which development will be permitted in the countryside. This application is being considered against Policy CTY 8 of PPS21. Considering the requirements of CTY 8, 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.

In this case, it is my opinion that the proposal does not constitute a small gap site within an otherwise substantial and continuously built up frontage and the application site does not respects the existing development pattern along the frontage. It is noted from the submitted block plan that the applicant is relying on No.01 and No.5-6 Oakland Villas; and No.167 Drum Road and the associated outbuilding/garage as a line of three or more existing buildings along the road frontage for the purposes of meeting Policy CTY8. When approaching the site from the west, the rear of the terrace dwellings of No.1-4 Oakland Villas are visible. These dwellings have an eastern orientation and do not face onto Drum Road, set back approx. 18 metres from this public road. When continuing from this approach, the semi-detached units No.5-6 Oakland Villa and the detached dwelling of No.167 only come into clear view when almost at the entrance of Oakland Villas. No.167 is located on the roadside set on a large curtilage with amenity space 22 metres in length to the west of the dwelling. When approaching the site from the east the side elevation of No.167 is viable, whilst they are only partial/isolated views of the front elevation of the terrace block No.1-4 Oakland Villa and little to no views of No.5-6 Oakland Villa which are set back 48 metres from Drum Road. It is noted that the amplification to policy CTY8 states “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, I do not consider that the terrace block of No.1-4 Oakland Villas; the semi-detached dwellings No.5-6 Oakland Villas; the application site and No.167 are in a line with a common frontage along Drum Road. It is considered the land within the curtilage of No.167 provides a gap between the development of Oakland Villas and No.167 and outbuilding. Whereas the proposed application site is not located along the road frontage, set back approx. 51 metres from the Drum Road and comprising the land to the rear of the curtilage of No.167. The road frontage portion of the site currently serves as the access for dwellings to Oakland Villas and only forms a means of access to the where the dwelling would have to be accommodated. In the context of the size, scale, siting and plot size of existing built form within Oakland Villas, the application site would not respect the existing development pattern. The buildings of No.1-4 and No.5-6 Oakland Villa face into the development, not onto Drum Road and I do not consider they form “a line of 3 or more buildings along a road frontage without accompanying development to the rear”. It is considered an approval of this application would add to a ribbon of development and Policy CTY 8 is clear when it states that planning permission will be refused for a building which creates or adds to a ribbon of development.

Policy CTY2a of PPS21 provides an opportunity for a new dwelling at an existing cluster of development provided all listed criteria is met. I am content that the site lies outside of a farm and consists of four or more buildings in which more than three of such are dwellings. Given the build-up of development, this cluster could be considered as a visual entity in the local landscape. It is also accepted, given this is an outline application, that the proposed dwelling could be sited and designed to ensure no adverse impact to residential amenity. However, there does not appear to be a focal point in close proximity to the site nor is the site located at a cross-roads, failing this part of the policy. Therefore, it is considered the proposal would also fail under Policy CTY2a.

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. Given the existing, established vegetation to the boundaries of the site and the flat topography, I consider a dwelling and garage could be accommodated without appearing as an overly prominent feature in the landscape. I am content that a dwelling and garage on the site will not be a prominent feature in the landscape given the set back to Drum Road and the flat topography of the site. There are minimal critical views when travelling in an easterly direction, however should planning permission be granted a condition requiring the submission of a landscaping plan to accompany any forthcoming reserved matters application will be required, particularly to ensure integration along the east boundary. Should permission be granted the design of the proposed dwelling would also be a matter for consideration at the Reserved Matters stage.

CTY 14 states that planning permission will be granted for a building where it does not cause a detrimental change to, or further erode the rural character of the area. As stated above, I do not consider the proposal site represents a small gap site within a line of 3 or more buildings with a common frontage. In my opinion, the proposal would add to a ribbon of development which is detrimental to the surrounding rural character contributing to a localised sense of build-up of development. The proposed dwelling will access via Oakland Villas, I do not consider the plot size or siting to respect the traditional pattern of settlement. In my opinion, the proposal has the potential to further erode the rural character of the area and as such is contrary to Policy CTY 14.

### PPS 3: Access, Movement and Parking

DfI Roads were consulted and have responded with no objections subject to conditions. It is noted that the adjacent road network is a protected route. DfI Roads Checklist provided states "A505 is not accessed directly but via Oakland Villas therefore PPS3 AMP3 not applicable". Annex 1 of PPS21 "Consequential amendment to Policy AMP 3 of PPS 3 Access, Movement and Parking" provides exceptions for a development proposal involving access onto a Protected Route in certain cases and removes reference to intensification of an existing access as was previously the criteria within PPS3 (Clarification). Therefore, on the basis of DfI Roads response it is not considered the proposal will prejudice road safety or significantly inconvenience the flow of traffic.

**Neighbour Notification Checked**

**Yes**

### **Summary of Recommendation:**

The proposal is recommended for refusal for the reasons stated below.

**Reasons for Refusal**

1. The proposal is contrary to 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 CTY 8 Ribbon Development of Planning Policy Statement 21 in that the proposal does not constitute a gap site within a substantial and continuously built up frontage along this part of Drum Road and would create or add to a ribbon development.
3. The proposal is contrary to CTY 14 Rural Character of Planning Policy Statement 21 in that the development would further erode rural character adding to a ribbon of development.
4. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point or it is not located at a cross-roads.

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



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2021/0224/F	<b>Target Date:</b> <add dae>
<b>Proposal:</b> Dwelling for a person with long term needs under Policy CTY6.	<b>Location:</b> 80m West of 67 Dungormon Road Dungannon BT71 6SE.
<b>Applicant Name and Address:</b> Mr Paul Brannigan 67 Dungormon Road Dungannon BT71 6SE	<b>Agent name and Address:</b> Hamill Architects Ltd Unit T2 Dungannon Enterprise Centre 2 Coalisland Road Dungannon BT71 6JT
<b>Summary of Issues:</b> The personal and domestic circumstances are not considered to be compelling and site specific.	
<b>Summary of Consultee Responses:</b>  DFI Roads – safe access can be provided	
<b>Characteristics of the Site and Area:</b>  The site lies within the open countryside just a short distance to the south of the settlement limits of Killyman and outside all other areas of constraint as depicted in the DSTAP 2010.  The red line of the site is rectangular and includes a large two storey detached dwelling situated at number 67 Dungormon Road, Killyman.  The site is bounded on all sides by mature trees and other vegetation and there is a large forest/wooded area directly south of the site. The existing dwelling has a long winding driveway with pillars and a 1.5 metre wall along the whole site frontage. There is also a small tennis court in the northern section and the dwelling itself is two storey, finished in grey render with three front peaks, two chimneys on the ridgeline and a large detached garage. The site also boasts a large front and side lawn.	

### **Description of Proposal**

The application seeks full planning permission for a dwelling for personal and domestic circumstances.

### **Deferred Consideration:**

This application was before the committee in June 2021 and it was deferred to allow a meeting with the Planning Manager. A meeting was held on 17 June and the agent was advised of the requirements of Policy CTY6 and the need to provide compelling and site specific personal and domestic circumstances and that development should integrate into the landscape. It was further advised that the circumstance must demonstrate that if the development was refused there would be a genuine hardship to the applicant and then a sequential approach is required in that an extension, conversions of existing buildings and temporary accommodation should also be considered before a permanent dwelling would be allowed.

No new information was presented in respect of the applicants specific needs for a dwelling here. It was indicated the applicant wishes to dispose of the existing house to either a family member or to sell it and to build a new, smaller dwelling specifically adapted for his needs. It was indicated that the Councils Draft Plan has a proposed policy that would allow an extension to a dwelling for another dwelling for a carer. However the Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

The applicant is not a farmer and there are no other circumstances being put forward to allow further consideration under different policies.

The proposed site is well enclosed as can be seen in the photos below, the site is indicated by the red line. Access to the site is through an existing gate and provision of sight lines will have limited impact on the existing vegetation. In light of this, I do not consider the proposed dwelling would be visible from the public road or contribute to a sense of build up or loss of rural character and does not offend policies CTY13 and CTY14.



Site viewed from north



Site viewed from west

As the applicant has been unable to provide sufficient information to demonstrate the proposed dwelling is a necessary response to domestic and personal circumstances which would result in undue hardship, I must recommend this application is refused.

#### **Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long term evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused, in addition it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.

**Signature(s):**

**Date**



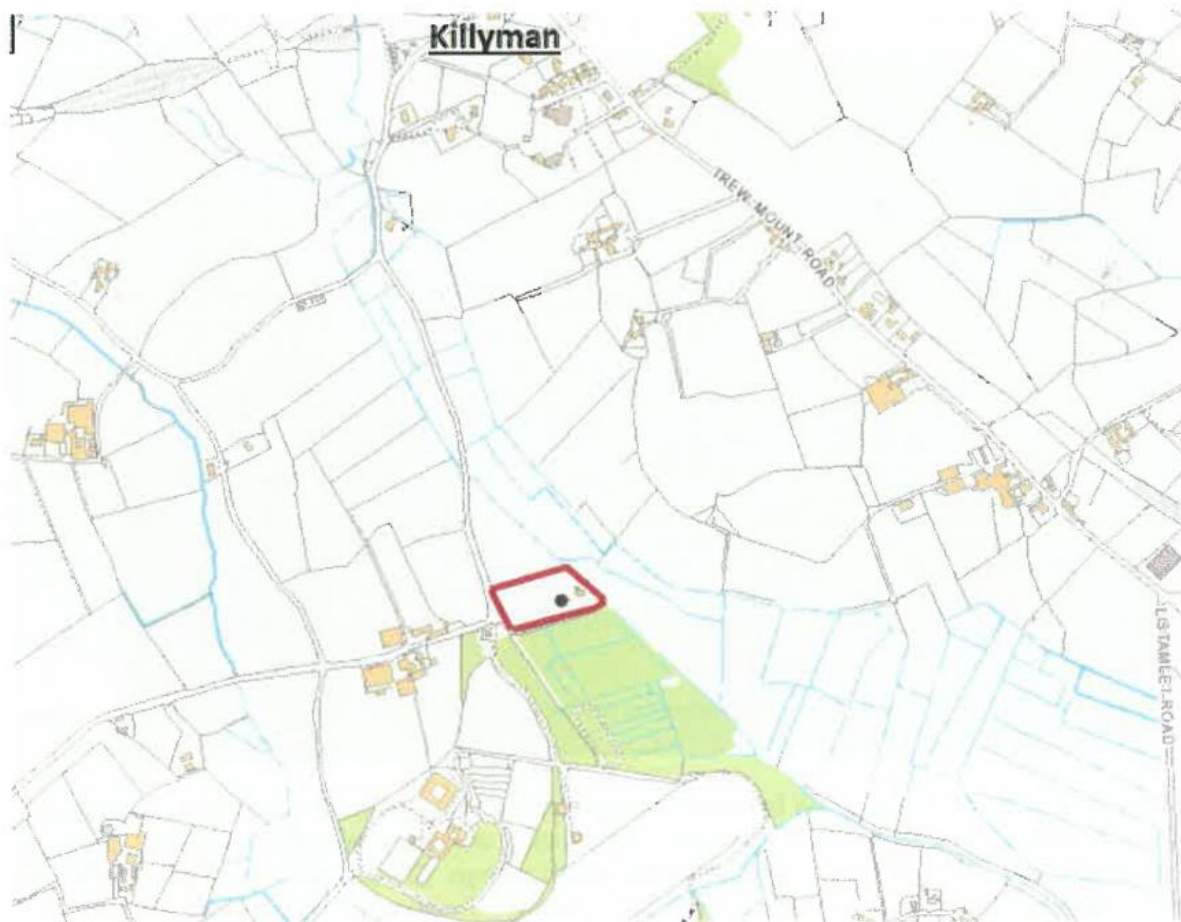
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
 District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0224/F	<b>Target Date:</b>
<b>Proposal:</b> Dwelling for a person with long term needs under Policy CTY6.	<b>Location:</b> 80m West of 67 Dungormann Road Dungannon BT71 6SE.
<b>Referral Route: Contrary to Policy</b>	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Mr Paul Brannigan 67 Dungormann Road Dungannon BT71 6SE	<b>Agent Name and Address:</b> Hamill Architects Ltd Unit T2 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	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice

#### Representations:

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

#### Summary of Issues

No objections received

### Characteristics of the Site and Area

The site lies within the open countryside just a short distance to the south of the settlement limits of Killyman and outside all other areas of constraint as depicted in the DSTAP 2010.

The red line of the site is rectangular and includes a large two storey detached dwelling situated at number 67 Dungormon Road, Killyman.



The site is bounded on three sides by mature trees and other vegetation and there is a large forest/wooded area directly south of the site. The existing dwelling has a long winding driveway with pillars and a 1.5 metre wall along the whole site frontage. There is also a small tennis court in the northern section and the dwelling itself is two storey, finished in grey render with three front peaks, two chimneys on the ridgeline and a large detached garage. The site also boasts a large front and side lawn.



## Description of Proposal

The application seeks full planning permission for a dwelling for personal and domestic circumstances.



## Planning Assessment of Policy and Other Material Considerations

### History

M/2000/0519/F - Replacement Dwelling - 67 Dungormon Road - GRANTED

### Assessment

Regional Development Strategy

Dungannon Area Plan (CAP) 2010

SPPS

PPS1

PPS3

PPS21

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 **Dungannon and South Tyrone 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.

The **Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy** was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on

24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

Key Planning issues;

**Planning Policy Statement 21**

Policy CTY 1 - Development in the Countryside

Policy CTY 6 - Personal and Domestic Circumstances

Policy CTY 13 - Integration and Design

Policy CTY 14 - Rural character

Objections / comment received from 3rd Parties;

There have been no objections / comments received in relation to this proposal.

Policy CTY 6 is centred on permitting dwellings in the countryside for those who may have special personal or domestic circumstances (eg) a young adult who requires a high level of care but who also will benefit from independent living. It specifically refers to the applicant as being the person who has long term needs. The policy provides an opportunity for those who have specific long term needs to live in the countryside where they otherwise may have to consider alternative accommodation (eg) care home, in an urban area, away from their family and support systems.

In this case the proposal seeks permission for a two storey dwelling of over 200m<sup>2</sup> floor space, and also includes a double garage. The applicant has put forward a supporting statement detailing a number of compelling health conditions, which I will not describe for the purposes of confidentiality.

However, Criteria A, of PPS 21 CTY 6 states that 'planning permission for a new dwelling must be necessary to prevent genuine hardship should planning permission be refused?'. In this case the applicant already resides on a large two storey property (over 4000ft<sup>2</sup>) on the existing site which could easily be adapted for the purposes required in this case. Therefore, it is my opinion that the applicant would not be subject to genuine hardship should permission be refused.

Criteria B, of PPS21 CTY6 also states 'there must be no alternative solutions to meet the particular circumstances such as an extension, or conversion of existing property?'. In this case the site is part of the applicants existing curtilage of over two acres in size and the dwelling itself is over 4000ft<sup>2</sup>, therefore there is ample room for an extension to the existing dwelling and plenty of existing floor space that could be converted to meet the applicant's needs.

The applicant has failed to demonstrate refusal would cause demonstrable hardship, and there are clear alternative solutions rather than the erection of a new dwelling, therefore in my opinion this is contrary to PPS21 CTY6.

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.

In my opinion I consider that the proposed house type in the position suggested would not blend in successfully with its immediate and wider surroundings. Furthermore as the position of the dwelling is to the front of the plot, with very little in the way of roadside landscaping, would cause the dwelling to be a prominent feature in the landscape. The site would rely primarily on roadside landscaping plan and therefore it is considered that the site does not have the capacity to absorb a dwelling of this size and scale.

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. I consider that the site and its surrounding environs are not suitable for absorbing a dwelling of this size and scale on this particular footprint. A dwelling if approved would create a suburban style build up within the area and would not respect the traditional pattern of settlement exhibited in the area, therefore damaging rural character.

Recommendation - Refusal

CTY1

CTY6 CRITERIA A + B

CTY13

CTY14

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

The applicant has not provided evidence to show how the proposed dwelling is needed and would create genuine hardship should it be refused;  
the existing dwelling and site has room and capabilities of being extended or converted;  
the proposed dwelling would result in a suburban style build up of development and the site is open along the front and would rely on landscaping for integration.  
In conclusion there are no overriding reasons why this development is essential in the countryside.

**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 CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long term evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused, in addition it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and the proposed building relies primarily on the use of new landscaping for integration.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change to the rural character of the countryside.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	15th February 2021
<b>Date First Advertised</b>	2nd March 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b> The Owner/Occupier, 65 Dungorman Road Dungannon Tyrone The Owner/Occupier, 67 Dungorman Road Dungannon Tyrone The Owner/Occupier, 67 Dungorman Road,Dungannon,Tyrone,BT71 6SE	
<b>Date of Last Neighbour Notification</b>	26th February 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2021/0224/F Proposal: Application for house for a person with long term needs under Policy CTY6. Address: 80m West of 67 Dungorman Road, Dungannon BT71 6SE., Decision: Decision Date:  Ref ID: M/2000/0519/F Proposal: Replacement Dwelling Address: 67 Dungorman Road Dungannon Decision: Decision Date: 09.11.2000  Ref ID: M/2001/0436/F Proposal: Revision of approved house type (M/2000/0519/F). Address: 67 Dungorman Road, Dungannon. Decision: Decision Date: 24.07.2002  Ref ID: M/1979/0931 Proposal: ALTERATIONS AND EXTENSIONS TO EXISTING DWELLING Address: 67 DUNGORMAN ROAD, KILLYMAN, DUNGANNON Decision: Decision Date:	

Ref ID: M/2006/1346/F  
 Proposal: Extension to dwelling  
 Address: 67 Dungorman Road, Killyman, Dungannon  
 Decision:  
 Decision Date: 05.04.2007

Ref ID: M/2006/1349/F  
 Proposal: Retention of existing garden wall  
 Address: 67 Dungorman Road Killyman Dungannon  
 Decision:  
 Decision Date:

### **Drawing Numbers and Title**

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

Drawing No. 04  
 Type: Proposed Plans  
 Status: Submitted

Drawing No. 03  
 Type: Proposed Plans  
 Status: Submitted

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

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

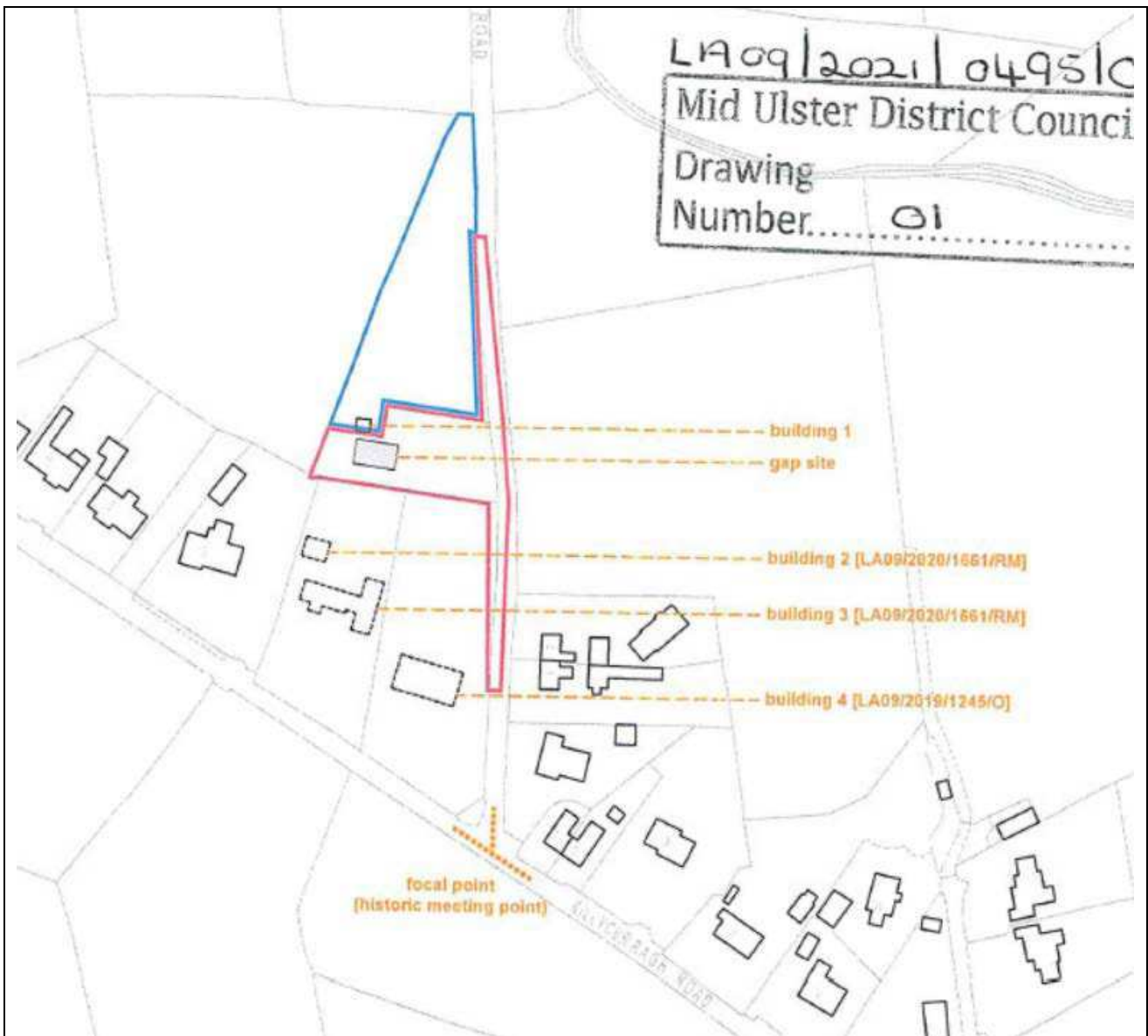
Date of Notification to Department:  
 Response of Department:



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2021/0495/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed infill dwelling	<b>Location:</b> Site NW of 7a Killycurragh Road, Orritor, Cookstown (with access via Craigs Road).
<b>Applicant Name and Address:</b> Mr Maurice Freeburn 7a killycurragh Road Orritor Cookstown BT80 9LB	<b>Agent name and Address:</b> Mark Nelson Architecture Garden Studio 2 Craigmount Orritor Cookstown BT80 9NG
<b>Summary of Issues:</b>  Proposal is contrary to PPS 21 as it fails to comply with policies listed for a dwelling house. No objections received.	
<b>Summary of Consultee Responses:</b>  No concerns raised.	
<b>Characteristics of the Site and Area:</b>  The application site is located within the open countryside, just outside the development limits of Orritor as defined in the Cookstown Area Plan 2010. The red line covers a portion of a larger agricultural field with roadside frontage along Craigs Road. There is a small metal structure located immediately north of the application site. The east and west boundaries are defined by mature vegetation and trees. The southern boundary of the site is defined by post and wire fencing and given the nature of the red line I note that the northern boundary is currently undefined. The topography of the site is relatively flat however the surrounding landform is undulating with an incline when travelling northerly along Craigs Road towards the site. The surrounding fields further north beyond the red line are at a lower ground level. The surrounding area is predominantly agricultural in nature with the predominant land use being agricultural fields. It is noted there is a degree of development pressure along the adjacent road network Kilcurragh Road with a number of detached road side dwellings. Speed signs are located along the roadside adjacent to the existing agricultural entrance to the site which accord with the settlement limits of Orritor.	

<b>Description of Proposal</b>
<p>This is an outline planning application for a new dwelling and garage on lands NW of 7a Killycurragh Road, Orritor, Cookstown. The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 8 Ribbon Development.</p>
<b>Deferred Consideration:</b>
<p>This application was recommended as refusal for the following reasons;</p> <p>It was subsequently deferred for a virtual office meeting with the Area Planning Manager, which was held on 17th June 2021. It was agreed the senior planner would carry out a site visit and reassess the proposal, taking into account the additional information submitted by the agent. The application was further presented as a refusal at the October Planning Committee and it was agreed by members that a site visit would be carried out. This took place on 19 October 2021 with Cllrs Colvin and Clarke in attendance.</p>



The issue of rounding off and infill was considered. The permanency and legitimacy of the metal structure was discussed. The basis of the approval of the dwelling under construction was discussed and it is agreed the dwelling does not have a frontage to the Killycurragh Road. The position of the development limit was referred to.



One of the main issues to consider is the permanency of the metal structure being relied upon immediately to the north of the application site. The building in question has no planning permission, is a small metal structure, currently being used for agricultural storage purposes. I am not satisfied it can be constituted as a building due to its size, scale and nature. Also, the 'building' does not have a common road frontage. Therefore, it is not part of the build-up.

It was agreed by those present at the site visit that the dwelling under construction (LA09/2020/1661RM) does not front onto the Killycurragh Road. That dwelling was approved by Planning Committee as an exception to Policy and considered as a rounding off, together with LA09/2019/1245/O, which is not yet constructed.

On the location plan 01 the agent has indicated a focal point 'historic meeting point', in terms of policy CTY2a, an opportunity is provided for a new dwelling at an existing cluster of development subject to meeting a number of criteria as follows;

- 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 site lies outside of a farm, however it is not located within an existing cluster, given that 3 buildings approved as not yet constructed.

- The cluster appears as a visual entity in the local landscape;

As stated above there is no cluster to rely on.

- The cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads,

An 'historic meeting point' is not sufficient to meet the requirements of a focal point. No further information has been submitted to support this claim of being a meeting point and there is nothing on site to indicate it either.

- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;

This is not the case, as previously stated the structure to the north cannot be considered as a 'building'; and the site is not currently bound by any development on other sides.

- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside;  
A dwelling on the site would mar the distinction between the rural countryside and the settlement limits, altering the existing character of the area. I do not consider the site is a 'rounding off'.
- Development would not adversely impact on residential amenity.

There would be no adverse impact on residential amenity.

However, the site fails on 5 parts of the criteria of CTY2a as no cluster of development exists and so cannot be permitted under this policy.

In terms of CTY15, given the close proximity of this rural site to the settlement limits of Orritor, I am of the opinion a dwelling here would mar the distinction between them. While the 2 approvals to the south were considered as 'rounding off', they were seen to have no detrimental impact to the rural character. However, if this site was development it would add to urban sprawl, the site currently represented a visual break and a clear separation from Orritor, going into the countryside and it should therefore, be protected to prevent ribbon development and further urban sprawl.

A continued refusal is being recommended.

#### **Reasons for Refusal:**

1. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed dwelling is not located within an existing cluster of development; it does not appear as a visual entity in the local landscape; the cluster is not associated with a focal point or located at a cross-roads; it is not bounded on at least two sides with other development; and it cannot be absorbed into an existing cluster through rounding off.
3. The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a gap site within a substantial and continuously built up frontage.
4. 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 the rural character of the countryside, in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings.

**5.** The proposal is contrary to Policy CTY 15 of Planning Policy Statement 21 Sustainable Development in the Countryside in that the development if permitted would mar the distinction between the designated settlement limits and the surrounding countryside.

**Signature(s):**

**Date**



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0495/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed infill dwelling	<b>Location:</b> Site NW of 7a Killycurragh Road Orritor Cookstown (with access via Craigs Road)
<b>Referral Route:</b> Recommended refusal	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Mr Maurice Freeburn 7a Killycurragh Road Orritor Cookstown	<b>Agent Name and Address:</b> Mark Nelson Architecture Garden Studio 2 Craigmount Orritor
<b>Executive Summary:</b> Proposal considered against prevailing planning policy – considered the proposal fails to comply with any of the policy set out under Policy CTY1 of PPS21 for an individual dwelling house. No letters of representation received.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Characteristics of the Site and Area

The application site is located within the open countryside, just outside the development limits of Orritor as defined in the Cookstown Area Plan 2010. The red line covers a portion of a larger agricultural field with roadside frontage along Craigs Road. There is a small metal structure located immediately north of the application site. The east and west boundaries are defined by mature vegetation and trees. The southern boundary of the

site is defined by post and wire fencing and given the nature of the red line I note that the northern boundary is currently undefined. The topography of the site is relatively flat however the surrounding landform is undulating with an incline when travelling northerly along Craigs Road towards the site. The surrounding fields further north beyond the red line are at a lower ground level. The surrounding area is predominantly agricultural in nature with the predominant land use being agricultural fields. It is noted there is a degree of development pressure along the adjacent road network Kilcurragh Road with a number of detached road side dwellings. Speed signs are located along the roadside adjacent to the existing agricultural entrance to the site which accord with the settlement limits of Orritor.

### **Description of Proposal**

This is an outline planning application for a new dwelling and garage on lands NW of 7a Killycurragh Road, Orritor, Cookstown.

The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 8 Ribbon Development.

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

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

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

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

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

### **Representations**

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

### **History on Site**

LA09/2020/1661/RM – Proposed dwelling & garage - Adjacent to 7a Killycurragh Road, Cookstown – Permission Granted 09/03/21

LA09/2020/0824/O - Gap site for dwelling & garage - Adjacent to 7a Killycurragh Road, Cookstown – Permission Granted 08/12/20

LA09/2019/1245/O - Gap site for dwelling & garage - Junction of Craigs Road & Killycurragh Road, Orritor, Cookstown – Permission Granted 04/03/20

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

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

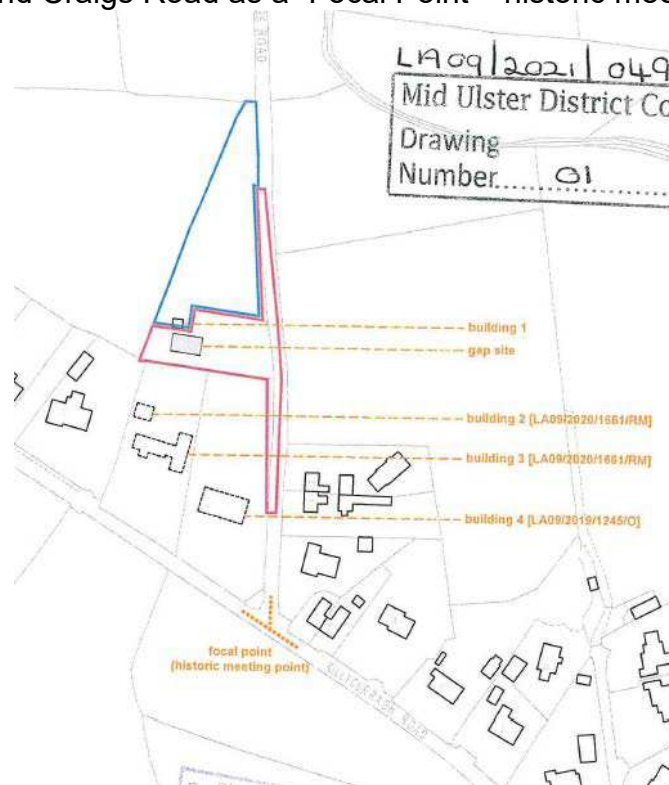
The Strategic Planning Policy Statement for Northern Ireland – The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within retained policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. SPPS advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided 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.

Immediately north of the application site is a small square metal structure which appears to be used for storage. This structure does not appear to have the benefit of planning permission however ortho imagery does appear to indicate it has existed in place for more than five years. Given the nature, small scale and finish of this structure, I am not satisfied this would constitute a building which could be used to bookend a gap site. Furthermore, the said structure does not have frontage with the road. South of the application site there is a green field. It is noted that Drawing 01 has indicated a dwelling and garage annotated Building 2 & 3 (Approved under LA09/2020/1661/RM) and a dwelling annotated Building 4 (Approved under LA09/2019/1245/O). It is noted that both these planning applications were approved by the Planning Committee as an exception to policy as they relied on buildings to the east within the settlement limits of Orritor therefore failed Policy CTY8 however it was considered they would result in a 'rounding off' of development. It does not appear development has yet commenced on site and on the date of the site inspection I did not note any construction started on either approved site. The field currently represents an undeveloped piece of land. Therefore cannot be considered to constitute a line of 'buildings' for the purpose of satisfying CTY8 criterion.

This application does not currently represent a gap site located within a substantial and continuously built up frontage and therefore fails to meet Policy CTY8.

It is noted the agent has annotated on the site location plan the road junction of Killycurragh Road and Craigs Road as a “Focal Point – historic meeting point”.



Policy CTY2A provides an opportunity for a new dwelling at an existing cluster of development subject to the following criteria.

- 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 lies outside of a farm however I do not consider the application site is located within a cluster given that the 3 buildings included in the site location plan immediately to the south have not yet been build and all development to the east is within the settlement limits of Orritor. I do not consider that buildings within the settlement limits can be relied upon to meet policy requirements within PPS21. As such I am of the opinion that there is no clear cluster evident, and as such the cluster it cannot appear as a visual entity, failing the first two criteria. In terms of a focal point, no further information has been provided that this road junction is a historic meeting point and therefore I do not consider this to be an acceptable ‘focal point’ for the purpose of policy. In terms of the site having a suitable degree of enclosure, I note north of the site there is an existing metal structure with a shared boundary however I do not

consider this structure is located within a cluster of development and the site is not currently bounded by development on any other side. I am of the opinion that a dwelling would mar the distinction between the settlement limits and countryside which would alter the existing character of the area and the site does not represent rounding off. However, I am content that an appropriately designed dwelling would unlikely have an adverse impact on residential amenity.

Having considered the above, I am of the opinion that this application would fail under CTY 2a as no evident cluster exists. I note that no other policy considerations were offered and I am content that there is no replacement opportunity on site, nor personal and domestic circumstances or farm case provided. As such, the site fails under CTY 1 of PPS 21.

Given the proximity to the defined development limits of Orritor, approx. 30m SW of the site, I am also of the opinion that a dwelling in this location would fail under CTY 15 as it will mar the distinction between the settlement and the surrounding countryside. Whilst the planning approvals immediately south were considered to be acceptable as rounding off with no detrimental impact to rural character, it is considered to continue development north of this would result in urban sprawl and would set an unfavourable precedent. The proposal site is not considered a 'gap' as demonstrated above, however it is considered it does represent a visual break and clearly defines the transition into the countryside. Cookstown Area Plan designates settlement limits in order to protect the individual character of each settlement and to prevent ribbon development and urban sprawl into the surrounding countryside.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore no design details has been submitted however I am of the opinion that an appropriately designed dwelling in keeping with building on tradition guidance will not appear prominent in the landscape. However, it is considered a ridge height restriction of 6 metres would be required to respect the existing built form in the surrounding area. It is considered the site has an acceptable degree of enclosure to integrate into the landscape being bound on the eastern, western and southern sides by some degree of existing vegetation. It is considered the existing vegetation should be retained along with additional landscaping therefore a landscaping scheme will be required should the Planning Committee consider the proposal acceptable and planning permission be granted.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not appear prominent in the landscape. I note that this application has failed under Policy CTY2A, CTY 8 and CTY 15 therefore it will erode rural character and will extend a ribbon of development. It is therefore considered the proposal fails under Policy CTY 14.

PPS 3: Access, Movement and Parking - The application site seeks to create a new access on to Craigs Road. DfI Roads have been consulted and have offered no objections subject to conditions. It is considered a dwelling on the site will not prejudice road safety or significantly inconvenience the flow of traffic and accords with Policy AMP2 of PPS3.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation:</b>  Having considered all relevant prevailing planning policy, the proposal is recommended for refusal for the reasons stated below.	
<b>Reasons for Refusal:</b>  <ol style="list-style-type: none"> <li>1. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.</li> <li>2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed dwelling is not located within an existing cluster of development; it does not appear as a visual entity in the local landscape; the cluster is not associated with a focal point or located at a cross-roads; it is not bounded on at least two sides with other development; and it cannot be absorbed into an existing cluster through rounding off.</li> <li>3. The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a gap site within a substantial and continuously built up frontage.</li> <li>4. 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 the rural character of the countryside, in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings.</li> <li>5. The proposal is contrary to Policy CTY 15 of Planning Policy Statement 21 Sustainable Development in the Countryside in that the development if permitted would mar the distinction between the designated settlement limits and the surrounding countryside.</li> </ol>	
<b>Signature(s)</b>  <b>Date:</b>	



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2021/0691/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed change of house type design to that previously approved under I/2011/0514/RM and garage.	<b>Location:</b> Killycanavan Road 170m NE of Junction with Brookend Road Ardboe Dungannon BT71 5BP.
<b>Applicant Name and Address:</b> Hannah Quinn 159b Battery Road Coagh Cookstown BT80 0HS	<b>Agent name and Address:</b> Seamus Donnelly 80a Mountjoy Road Aughrimderg Coalisland BT71 5EF
<b>Summary of Issues:</b>  The site is in a flood inundation area for Brookend Pond, a dwelling was approved here and could be built as approved. There is no Reservoir Management Plan in place.	
<b>Summary of Consultee Responses:</b>  DFI Roads – safe access can be provided DFI Rivers – some flooding on site and site is in an induction area for Brookend Pond which is a reservoir, no details of condition, management or maintenance regime for the reservoir	
<b>Characteristics of the Site and Area:</b> There does not appear to be any significant changes on site or in the immediate vicinity from the most recent planning permission granted on site under LA09/2018/0969/F (see 'Description of Proposal').  The site, which contains the foundations of a garage granted under applications I/2006/0247/O & I/2011/0514/RM, is a flat, square-shaped plot measuring approx. 2 hectares is located in the rural countryside approx. 2 miles south of Ardboe, adjacent the Killycanavan Road from which it proposes to take its access. Cut from the roadside	

frontage of a much larger agricultural field the boundaries of this site are undefined but for a dense row of tall trees and hedges that along its roadside frontage (southeast boundary). A stream runs along the southwest boundary of the site. The stream is bound to the outside / southwest by a dense row of tall trees and hedges as by enlarge are the boundaries of the host field.

Critical views of this site are limited to passing along the roadside frontage of the site. This is due to the vegetation bounding the aforementioned stream and host field and within the wider vicinity, which screen it from the Brookend Road located to the west and from views on the southwest and northeast approach travelling along Killycanavan Road. The bend in the Killycanavan Road on the northeast approach also aids in screening the site until passing the roadside frontage of the host field.

This area of countryside is predominantly rural in character. It comprises relatively flat agricultural land interspersed with single dwellings and farm groups. There is a bungalow dwelling, no.33 Killycanavan Road located on a triangular shaped roadside plot, approx. 70 metres to the north east of and at the same side of the road as the site.

#### **Description of Proposal**

This is a full planning application for a change of dwelling house type and detached to that previously approved on lands at Killycanavan Rd 170m NE of Junction with Brookend Rd Ardboe Dungannon under planning application I/2011/0514/RM.

#### **Deferred Consideration:**

Members will be aware this application was before them as an approval in November 2021. The applicant had concerns in respect of the proposed condition 7 which stated:

7. Prior to the commencement of any other development hereby permitted the developer will be required to provide for agreement by Mid Ulster Council a Reservoir Management Plan that confirms the condition, management and maintenance regime for Brookend Pond.

The application was deferred to allow a meeting with the Planning Manger to discuss the condition. At the meeting it was explained that Council has an obligation to identify where there is a risk to development and life. In this case there is a Reservoir that does not have a condition report or a management and maintenance regime that certifies it as in a safe condition which will be kept safe. DFI Rivers have advised due to the lack of this there is a high risk to development and any future residents. Given that this proposal is on a site that has an extant approval that can be implemented, the condition may be set aside, however the Council would be neglecting its duty if it did not draw attention to the fact in any decision. In this case it is considered necessary to add an informative to any subsequent planning permission to highlight this fact.

Members should note conditions may be discharged provided the necessary information is submitted to satisfy the statutory consultee, however an informative, while it has no legal bearing, cannot be removed from the decision.

The application is still recommended as approval without the previously suggested condition but with the following informative instead:

1. THE APPLICANT/DEVELOPER AND ANY FUTURE PURCHASERS/OCCUPANTS MUST BE AWARE OF THE FACT THIS DEVELOPMENT IS IN AN AREA THAT IS AT RISK FROM INUNDATION IN THE EVENT OF FAILURE OF A RESERVOIR. BROOKEND POND IS A RESERVOIR FOR THE PURPOSES OF THE RESERVOIRS ACT, THIS DEVELOPMENT IS DOWNSTREAM OF THE RESERVOIR AND WITHIN THE FLOOD INUNDATION ZONE. SHOULD BROOKEND POND RESERVOIR FAIL THERE IS A RISK TO THE OCCUPIERS SAFETY AND PROPERTY ON THIS SITE.

#### **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 existing mature trees and vegetation along the entire site boundaries as indicated on Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021, shall be retained 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 Department, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Department in writing at the earliest possible moment.

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

3. There shall be no development, tree planting, hedges, permanent fencing, sheds, or land raising within the area hatched blue and identified as maintenance strip on Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021.

Reason: To ensure access and egress for maintenance of the watercourse.

4. All proposed landscaping as detailed on Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021, except that within the maintenance strip, shall be carried out during the first available planting season following the occupation of the development hereby approved. Any trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

5. The vehicular access including visibility splays of 2.4m x 45m in both directions and any forward sight distance, shall be provided in accordance with Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

7. One dwelling only shall be constructed within the area of the site outlined in red on the approved Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021.

Reason: To control the number of dwellings on the site as this permission is in substitution for planning approvals I/2006/0247/O & I/2011/0514/RM respectively and is not for an additional dwelling on this site.

### **Informatives**

1. THE APPLICANT/DEVELOPER AND ANY FUTURE PURCHASERS/OCCUPANTS MUST BE AWARE OF THE FACT THIS DEVELOPMENT IS IN AN AREA THAT IS AT RISK FROM INUNDATION IN THE EVENT OF FAILURE OF A RESERVOIR. BROOKEND POND IS A RESERVOIR FOR THE PURPOSES OF THE RESERVOIRS ACT, THIS DEVELOPMENT IS DOWNSTREAM OF THE RESERVOIR AND WITHIN THE FLOOD INUNDATION ZONE. SHOULD BROOKEND POND RESERVOIR FAIL THERE IS A RISK TO THE OCCUPIERS SAFETY AND PROPERTY ON THIS SITE.

**Signature(s):**

**Date**



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

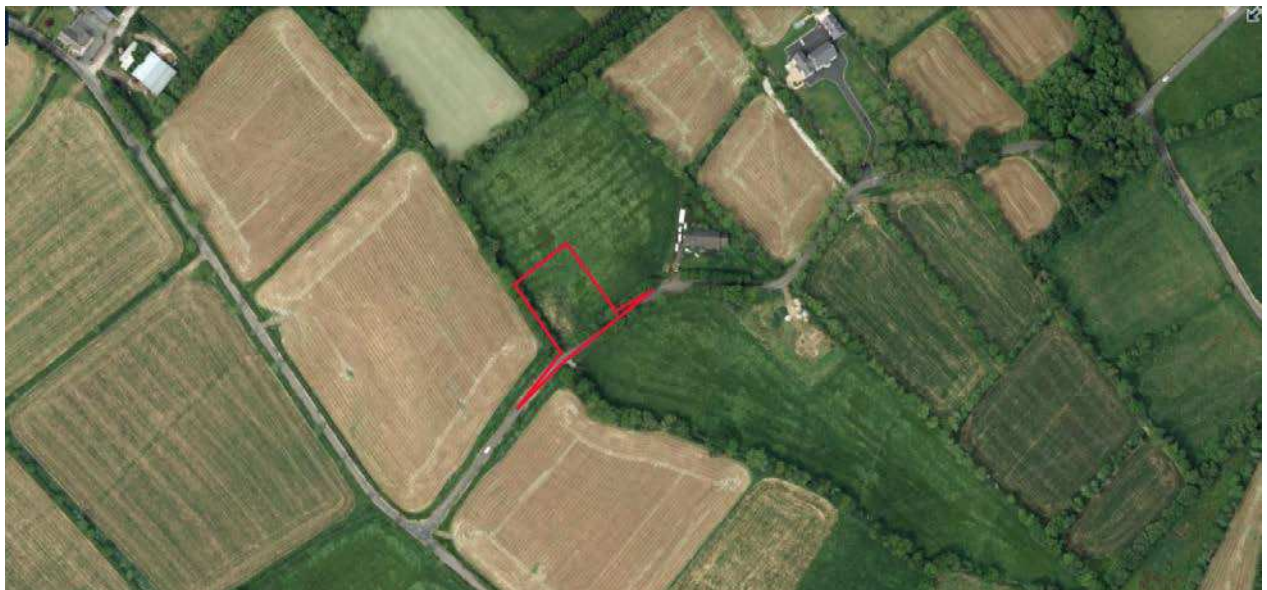
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

**Development Management Officer Report  
Committee Application**

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0691/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed change of house type design to that previously approved under I/2011/0514/RM and garage.	<b>Location:</b> Killycanavan Road 170m NE of Junction with Brookend Road Ardboe Dungannon BT71 5BP
<b>Referral Route: Contrary to PPS 15: Planning and Flood Risk</b>	
<b>Recommendation: Approve</b>	
<b>Applicant Name and Address:</b> Hannah Quinn 159b Battery Road Coagh Cookstown BT80 0HS	<b>Agent Name and Address:</b> Seamus Donnelly 80a Mountjoy Road Aughrimderg Coalisland BT71 5EF
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	Rivers Agency	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>Description of Proposal</b>		
<p>This is a full planning application for a change of dwelling house type and detached to that previously approved on lands at Killycanavan Rd 170m NE of Junction with Brookend Rd Ardboe Dungannon under planning application I/2011/0514/RM.</p> <p>Reserved matters permission I/2011/0514/RM for a dwelling and garage on this site was granted on the 15th February 2012 on the back of outline permission I/2006/0247/O.</p> <p>Outline permission I/2006/0247/O for a dwelling and garage on this site, was refused on the 14th December 2006 by the Department under ‘A Planning Strategy for Rural Northern Ireland’. This decision was appealed (reference: 2007/A0279), the appeal allowed and the dwelling and garage subsequently granted on the 2nd February 2009.</p> <p>In more recent times, full permission LA09/2018/0969/F granted a change of vehicular access and extension of site curtilage for the dwelling and detached garage approved under reserved matters planning ref I/2011/0514/RM on the 27<sup>th</sup> November 2018.</p> <p>Under application LA09/2018/0969/F, it was established that the principle of development had been established on this site under permissions I/2006/0247/O and I/2011/0514/RM. The applicant has until 27<sup>th</sup> November 2023 to implement this permission. I therefore regard this as a legitimate ‘fall back’ position.</p> <p>I note during the processing of this application an amended block plan was received to address issues raised by Rivers Agency. Amendments included the garage and septic tank being repositioned on site away from a watercourse and portion of site subject to pluvial and fluvial flooding; a 5m maintenance strip being provide along the aforementioned watercourse; and a few existing and proposed spot levels across the site show that water from the development should not affect other houses as directed to the lower levels to the southwest.</p>		
<b>Characteristics of the Site and Area</b>		
<p>There does not appear to be any significant changes on site or in the immediate vicinity from the most recent planning permission granted on site under LA09/2018/0969/F (see ‘Description of Proposal’).</p> <p>The site, which contains the foundations of a garage granted under applications I/2006/0247/O &amp; I/2011/0514/RM, is a flat, square-shaped plot measuring approx. 2</p>		

hectares is located in the rural countryside approx. 2 miles south of Ardboe, adjacent the Killycanavan Road from which it proposes to take its access. Cut from the roadside frontage of a much larger agricultural field the boundaries of this site are undefined but for a dense row of tall trees and hedges that along its roadside frontage (southeast boundary). A stream runs along the southwest boundary of the site. The stream is bound to the outside / southwest by a dense row of tall trees and hedges as by enlarge are the boundaries of the host field.

Critical views of this site are limited to passing along the roadside frontage of the site. This is due to the vegetation bounding the aforementioned stream and host field and within the wider vicinity, which screen it from the Brookend Road located to the west and from views on the southwest and northeast approach travelling along Killycanavan Road. The bend in the Killycanavan Road on the northeast approach also aids in screening the site until passing the roadside frontage of the host field.

This area of countryside is predominantly rural in character. It comprises relatively flat agricultural land interspersed with single dwellings and farm groups. There is a bungalow dwelling, no.33 Killycanavan Road located on a triangular shaped roadside plot, approx. 70 metres to the north east of and at the same side of the road as the site.

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

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

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

Regional Development Strategy 2030

Cookstown Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 3 - Access, Movement and Parking

Planning Policy Statement 15 - Planning and Flood Risk

Planning Policy Statement 21 - Sustainable Development in the Countryside

Supplementary Planning Guidance for PPS21 - 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

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

### **Representations**

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

## Planning History

- I/2006/0247/O – outline permission for a dwelling and garage - refused on the 14th December 2006 by the Department, under 'A Planning Strategy for Rural Northern Ireland'. This decision was appealed (reference: 2007/A0279), the appeal allowed and the dwelling and garage subsequently granted on the 2nd February 2009.
- I/2011/0514/RM – reserved matters permission for a dwelling and garage – Granted 15th February 2012.
- LA09/2018/0969/F – proposed change of vehicular access and extension of site curtilage for dwelling and detached garage previously approved under approval of reserved matters planning ref I/2011/0514/RM – Granted 27<sup>th</sup> November 2018

## Consultees

1. DfI Roads were consulted in relation to access arrangements and raised no objections subject to standard conditions and informatives. Accordingly, I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
2. Rivers Agency (RA) were consulted in relation to flooding on site. Below is a summary of RA key issues raised under the following policies of PPS15 Planning and Flood Risk:
  - FLD1 Development in Fluvial (River) Plains - Development lies partially within the 1% AEP fluvial flood plain. The applicant should carry out a Flood Risk Assessment to verify the more accurate extent of the floodplain. Development will not be permitted within the 1% AEP fluvial flood plain unless applicant can demonstrate it constitutes an exception to the policy.
  - FLD2 Protection of Flood Defence and Drainage Infrastructure - Policy requires a working strip of minimum width 5m retained at all times along the designated watercourse to southwest of site for maintenance purposes.
    - I am content that this proposal will not hinder access to the stream to facilitate any future maintenance by Rivers Agency, other statutory undertaker or the riparian landowners if required as a buffer of 5m has been provided and can be conditioned to be retained clear of impediments.
  - FLD 3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains - Development located partially within predicted flood area. Drainage Assessment not required by policy, however it is the developer's responsibility to assess flood risk and drainage impact and mitigate risk to development and any impacts beyond site.
  - FLD 5 Development in Proximity to Reservoirs - Site within potential area of inundation emanating from Brookend Pond. It has not been demonstrated the condition, management and maintenance regime of Brookend Pond is appropriate to provide sufficient assurance regarding reservoir safety to enable the development to proceed. RA carried out an

assessment of flood risk to people at this site for an uncontrolled release of water emanating from Brookend Pond. As a result of this analysis the overall hazard rating at this site is considered high. This is considered by RA to be an unacceptable combination of depth and velocity for this particular development. Policy FLD 5 states there will be a presumption against any development located in areas where it is indicated that there is the potential for an unacceptable combination of depth and velocity.

Further to RA response above the agent was contacted to provide the additional information / drawings required to address the issues raised. Subsequently a letter from Mr Pat Quinn, a Chartered Town Planning Consultant was received on the 3rd September 2021, from the applicant's agent.

In the letter Mr Quinn advises a material start has been made on implementing the existing permissions (I/2006/0247/O, I/2011/0514/RM) relating to a dwelling and garage. Meaning regardless of current application's outcome the applicant can erect a dwelling and garage on this site. Since the applicant wants to make use of this valuable site, she intends to complete the dwelling and garage already approved, if the current application is refused. This creates a 'fall back' position, which must be the determining consideration.

The fall back principle requires consideration of what an applicant can do without the need for a further planning permission. This site has a long planning history. Permission was granted on appeal for a dwelling and garage under reference I/2006/0247/O. Detailed approval was granted under reference I/2011/0514/RM. A material start was made on this permission before approval expired. Under reference LA09/2018/0969/F permission was granted to change the access and extend the curtilage. The approval of LA09/2018/0969/F confirms that the I/2011/0514/RM house had lawfully commenced. Since the applicant can lawfully continue to erect the dwelling and garage on the extended site, she has a fallback position.

Rivers Agency (RA) has commented on the current application and among other things point out the development lies partially within the 1% AEP fluvial floodplain and partially within a predicted flooded area. The site is also within the potential area of inundation emanating from Brookend Pond and as a result RA consider the overall hazard rating at this site to be high. RA has requested additional information including a Flood Risk Assessment and confirmation that the condition, management and maintenance regime for Brookend Pond is appropriate to provide sufficient assurance regarding reservoir safety.

When considering the issues raised by Rivers Agency and the additional information requested the Council must be mindful of the following.

1. The subject application involves a change of house type which seeks to replace a four-bedroom house which has lawfully commenced with a four-bedroom house,
2. The houses occupy similar positions within the same site,
3. If the current application is refused the applicant fully intends to erecting the dwelling and garage already approved and lawfully commenced, therefore

4. Refusing the current application will serve no useful purpose since it will not prevent a four-bedroom house with a detached garage from being built on the subject site.

Since there is certainty that the applicant will implement her fall back position in the event of a refusal, the above factors dictate the fall back position must be the determining consideration in this case. This current application should therefore be approved.

Having taken into account the contents of Mr Quinn's letter, I would concur that there is a fall back position here by virtue of the LA09/2018/0969/F permission and refusing this application cannot prevent a dwelling and garage being built in a similar position on site. Whilst it would be normal practice to request a Reservoir Management Plan it is clear a planning approval exists which could be implemented therefore it would strike Planning as reasonable to protect the future occupants or any investors in the property that assurance is sought before development is commenced. This can be done via condition.

### **Consideration**

Cookstown Area Plan 2010 - is the statutory local development plan for the application site. The site is located outside any development limit and the development plan offers no specific policy or guidance in respect of the proposal.

The Strategic Planning Policy Statement for Northern Ireland - Retains the policy provisions of the Planning Policy Statements relevant to this proposal.

Planning Policy Statement 21: Sustainable Development in the Countryside - is the overarching policy for development in the countryside. It provides certain instances where the development of a dwelling is considered acceptable in the countryside subject to criteria. These instances are listed in Policy CTY1 of PPS21.

As detailed above in the 'Description of Proposal', under application LA09/2018/0969/F, it was established that the principle of development had been established on this site under permissions I/2006/0247/O and I/2011/0514/RM. The applicant has until 27<sup>th</sup> November 2023 to implement this permission. I therefore regard this as a legitimate 'fall back' position.

In light of the above I consider there is a legitimate fall back position that the dwelling approved by under permissions I/2006/0247/O and I/2011/0514/RM could be completed in accordance with the approved details. That said with respect to the design of the dwelling and garage it must still comply with CTY 13 and 14 of PPS 21.

CTY 13 states that the proposed development must be able to visually integrate into the surrounding landscape and be of an appropriate design. Policy CTY 14 allows for a building in the countryside where it does not cause detrimental change to or further erode the rural character of the area.

I believe the site has the capacity to absorb the newly proposed dwelling and garage in accordance with Policy CTY13 and with minimal disruption to the rural character of the area in accordance with CTY14. I do not believe the proposed dwelling and garage

would have any significantly greater visual impact when viewed from surrounding vantage points than the previously approved bungalow (ridge height approx. 5.4m above FFL) and garage (ridge height approx. 4.1m above FFL) scheme.

The design (including finishes) of the proposed dwelling and garage are in my opinion generally simplistic and reflective of traditional rural design and in keeping with the rural design principles set out in 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside. The dwelling is sited, similar to the previous scheme, to front onto and run parallel to the Killycanavan Rd. It has a simple rectangular-shaped floor and pitched roof construction with a ridge height approx. 6m above FFL; 2 chimneys expressed along its ridgeline; a rear return; and small centrally located pitched roof front porch. Whilst it also 2 front projections, one to either side of the front porch, which is not considered consistent with simple rural form and normally accepted I am content that in this instance as views of the site will be limited to passing the roadside frontage of the site it is acceptable in this instance. The garage which is to be located to the rear / south west side of the dwelling also has a simple rectangular shaped floor plan and pitched roof construction with a ridge height approx. 5.3m above FFL. Finishes to the dwelling and garage include black roof tiles and k-rend walls with natural stone detailing as indicated on the drawings submitted.

I have no concerns regarding the proposed dwelling and garage adversely impacting the amenity of neighbouring properties to any unreasonable degree in terms of overlooking / overshadowing given none bound the site and the closest is no. 33 Killycanavan Road, a detached bungalow is located approx. 70m northeast of the site.

#### **Other Policy/Considerations**

NIEA Natural Environment Map Viewer identified this site is within an area known to breeding waders and herons which are priority species – the previous approval has commenced on site and I do not believe this proposal introduces any development that would have a significantly greater impact than the previous approval. And as such I am content subject to referring the applicant to DAERA's Standing Advice for Priority species that in accordance with Policy NH 2 of PPS2 Natural Heritage they are not likely to be harmed by this proposal.

Historic Environment Map Viewer identified no built heritage interests on site.

Epic identified site within SG - Defence Estates however consultation only required if height of development is over 15.2 metres, which is not the case here.

As a stream is located along the south western boundary of this site this proposal was considered in light of whether it would have a hydrological link to a European site. However based on the location, nature and scale of the proposal, and the distant link (approx. 1 ½ miles) to Lough Neagh and Beg it is not considered there should be a significant effect from this proposal.

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

<b>Neighbour Notification:</b>	Yes
<b>Summary of Recommendation:</b>	Approve
<p><b>Conditions</b></p> <ol style="list-style-type: none"> <li>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.</li> <li>2. The existing mature trees and vegetation along the entire site boundaries as indicated on Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021, shall be retained 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 Department, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Department in writing at the earliest possible moment.  Reason: To ensure the development integrates into the countryside and to ensure the maintenance of screening to the site.</li> <li>3. There shall be no development, tree planting, hedges, permanent fencing, sheds, or land raising within the area hatched blue and identified as maintenance strip on Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021.  Reason: To ensure access and egress for maintenance of the watercourse.</li> <li>4. All proposed landscaping as detailed on Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021, except that within the maintenance strip, shall be carried out during the first available planting season following the occupation of the development hereby approved. Any trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.  Reason: To ensure the development integrates into the countryside and to ensure the maintenance of screening to the site.</li> <li>5. The vehicular access including visibility splays of 2.4m x 45m in both directions and any forward sight distance, shall be provided in accordance with Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.</li> </ol>	

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

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

7. Prior to the commencement of any other development hereby permitted the developer will be required to provide for agreement by Mid Ulster Council a Reservoir Management Plan that confirms the condition, management and maintenance regime for Brookend Pond.

Reason: To ensure that future occupants are not at significant risk from flood inundation.

8. One dwelling only shall be constructed within the area of the site outlined in red on the approved Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021.

Reason: To control the number of dwellings on the site as this permission is in substitution for planning approvals I/2006/0247/O & I/2011/0514/RM respectively and is not for an additional dwelling on this site.

### Informatives

1. This site is located within an area of potential flooding and any development hereby approved and undertaken on this site will be at the developers own risk.

Please see DfI Rivers consultation response received and scanned to the Planning Portal on the 28<sup>th</sup> June 2021 for details of above.

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 permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
4. This determination relates to planning control only and does not cover any consent or approval, which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.
5. 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.

6. Department for Infrastructure Roads comments:

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.

The applicant should contact the Department for Infrastructure Roads Service's Maintenance Section in order that an agreement may be reached regarding maintenance costs and incurred expenses in consequence of any damage caused to the public road.

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

It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.

7. Please see attached DAERA Environmental Advice for Planning - Standing Advice - Priority Species published May 2015 and updated Nov 2017.

**Signature(s)**

**Date:**