



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

07 September 2021

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Magherafelt and by virtual means Council Offices, Ballyronan Road, Magherafelt, BT45 6EN on Tuesday, 07 September 2021 at 19:00 to transact the business noted below.

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

Yours faithfully

Adrian McCreesh
Chief Executive

AGENDA

OPEN BUSINESS

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

Matters for Decision

Development Management Decisions

4. Receive Planning Applications

7 - 230

	Planning Reference	Proposal	Recommendation
4.1.	LA09/2019/0179/F	Variation of condition 12 of M/2011/0126/F (opening hours condition) at lands 70m S of 177 Annagher Road, Coalisland for DMAC Engineering.	REFUSE
4.2.	LA09/2019/0822/F	Shed over existing storage tank at lands 48m SE of 130	REFUSE

		Coolreaghs Road, Cookstown for Mr Ronnie Smith.	
4.3.	LA09/2019/1300/F	Amendment to the overall turbine tip heights (consented under LA09/2015/0460/F and K/2015/0066/F) and varying of planning condition from 25 years to 35 years at Murley Wind Farm in the townlands of Killygordan, Tattanafinnell, Edgegole and Cole Glen Forest near Fivemiletown for Renewable Energy System Limited.	APPROVE
4.4.	LA09/2019/1548/O	4 Detached dwellings and garages, accessed through Riverside Gardens, at Lands approx. 80m S of Hughes Furniture, Bellshill Road, Castledawson, for Hughes Furniture.	REFUSE
4.5.	LA09/2019/1667/O	2 dwellings and garages with new access, at land adjacent to 95 Mullaghmore Road, Dungannon, for Ms C Cuskeran.	APPROVE
4.6.	LA09/2020/0516/F	Amendment of house location (previously approved in M/2008/0722/RM) and new access at 36 Lisgallon Road, Dungannon, for Farasha Properties Ltd.	REFUSE
4.7.	LA09/2020/0537/F	Housing developmen (40 units) with associated carparking and landscaping, at Killymeal House and adjacent lands, Killymeal Road, Dungannon for J & V Construction.	APPROVE
4.8.	LA09/2020/0759/F	Housing development consisting of 8 dwellings with associated access, roads, landscaping and provision of temporary treatment plant (Amended Plan) at lands adjacent to 121 Ruskey Road, The Loup, for Mr McVey.	APPROVE
4.9.	LA09/2020/0832/F	Application to vary Condition 16 of H/2010/0009/F to change the operational lifetime of the wind farm from 25 years to 30 years at Crocandun approx 450m WSW of junction of Cullion Road and	APPROVE

		Drumard Road Draperstown for Brookfield Renewable.	
4.10.	LA09/2020/0949/F	Extension of existing confectionery warehouse, additional car-parking and external hardstanding / loading / unloading area at 58 Old Eglish Road, Dungannon, for Northern Confectioners Ltd.	APPROVE
4.11.	LA09/2021/0077/F	Alternative Acoustic noise barrier (to approved LA09/2016/0543/F) at 100 Gortgonis Road, Coalisland for Toubcal Limited.	APPROVE
4.12.	LA09/2021/0226/F	Extension and alterations to existing clubhouse for additional changing facilities, bar/function area, kitchen, toilets, storage and viewing gallery at 7 Meadowbank Road, Magherafelt, for Rainey Old Boys RFC.	APPROVE
4.13.	LA09/2021/0387/F	Renewal of change of house type from 3 detached dwellings (approved under I/2014/0081/F) to 6 semi detached dwellings at 15, 15A and 16 St Jeans Cottages Cookstown for Hoover Investments Ltd.	APPROVE
4.14.	LA09/2021/0462/F	Housing development and associated works at lands immediately SW of 44 Dungannon Road, Moy, for P D Construction Ltd.	APPROVE
4.15.	LA09/2021/0478/F	Dwelling (amended plans) at 20m SE of 30 Moneyneany Road, Moneyneany, for Mr F McCloskey.	APPROVE
4.16.	LA09/2021/0539/O	Site for dwelling & garage 180m NE of 83 Moneysharvan Road, Maghera, for Mrs Bridget Church.	REFUSE
4.17.	LA09/2021/0635/O	Dwelling & domestic garage at land immediately N of 43 Tullyglush Road & between 43 & 51a Tullyglush Road, Ballygawley, for Gerard Quinn.	REFUSE
4.18.	LA09/2021/0690/O	2 dwellings adjoining and NE of 100 Trewmount Road, Killyman, for Briege O'Donnell.	REFUSE
4.19.	LA09/2021/0734/RM	2 dwellings and garages at lands between 61 and 65 Kilnacart	APPROVE

		Road, Dungannon, for Mr Thomas Cassidy.	
4.20.	LA09/2021/0739/F	Dwelling & Garage/Store 150m NE of 230 Coalisland Road, Gortin, Dungannon, for Mr Cathal Keogh.	REFUSE
4.21.	LA09/2021/0822/O	Infill site of dwelling & domestic garage at 60m S of 88 Gulladuff Hill, Magherafelt, for Dan McCrystal.	REFUSE

5. Receive Deferred Applications

231 - 500

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2017/0319/F	Relocation of 2 chimney stacks (approved M/2011/0126/F); retention of 4 further chimney stacks at 70m S of 177 Annagher Road, Dungannon for DMAC Engineering.	APPROVE
5.2.	LA09/2017/1366/F	Residential Development for 52 units at 20 Dungannon Road, Cookstown for McKernan Construction Ltd.	APPROVE
5.3.	LA09/2018/1648/F	Retention of open-sided storage building at Blackpark Road, Toomebridge, for Creagh Concrete Products Ltd.	APPROVE
5.4.	LA09/2019/0787/O	Site for a dwelling and garage at 40m SW of 44 Moyagoney Road, Portglenone, for Mr Paul Madden.	APPROVE
5.5.	LA09/2019/1305/F	8No two storey apartments within 2 blocks at 63 Thomas Street, Dungannon, for Farasha Properties Ltd.	APPROVE
5.6.	LA09/2019/1432/O	Site for dwelling and domestic garage at approx 100m NW of 84 Loup Road, Moneymore, for Mr Michael O'Boyle.	APPROVE
5.7.	LA09/2020/0452/F	Replacement dwelling and Garage (amended description) at 20 Reaskcor Road, Dungannon, for Mr & Mrs G Burrows.	APPROVE
5.8.	LA09/2020/0657/O	Dwelling between 66 & 66a Derryoghill Road, Dungannon, for Eugene Daly.	APPROVE

5.9.	LA09/2020/0707/F	Dwelling and garage 20m E of 15 Lisgorgan Lane, Maghera, for William Drennan.	APPROVE
5.10.	LA09/2020/0840/F	Dwelling and garage (infill site) adjacent to 55 and opposite 59 Coole Road, Bogside Aughamullan, Coalisland, for Fionntan Cullen & Niamh Carberry.	APPROVE
5.11.	LA09/2020/1337/O	Dwelling and garage at 10m W of 45 Drumenny Road, Ballinderry, for Gavin Mc Geehan.	APPROVE
5.12.	LA09/2020/1549/F	Football stand to cover existing stepped terrace at 108 Killyliss Road, Eglis, Dungannon for Eglis GAC.	APPROVE
5.13.	LA09/2021/0053/F	Change of house type (approved 1/2008/0439/F) at approx 120m E of 24 Muntober Road, Cookstown, Mr Daniel Ward.	APPROVE
5.14.	LA09/2021/0116/O	Dwelling & garage at lands E of 91 Creagh Road, Castledawson, for Ciaran Devlin.	APPROVE
5.15.	LA09/2021/0381/F	Change of house type at approx 110m S.W. of 125 Killycolpy Road, Ardboe, for Mr R O'Neill And Ms L Donnelly	APPROVE

6. Receive report on application LA10/2021/0806/F 501 - 508

Matters for Information

7 Minutes of Planning Committee held on 3 August 2021 509 - 542

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

Matters for Decision

8. Receive Report on Request to Review TPO Decision

9. Receive Enforcement Report

Matters for Information

10. Confidential Minutes Planning Committee held on 3 August 2021

11. Enforcement Case Live List
12. Enforcement Cases Opened
13. Enforcement Cases Closed



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Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0179/F	Target Date:
Proposal: To continue use of the land and factory without complying with condition 12 of planning approval (M/2011/0126/F) - seeking variation of opening hours condition Monday - Friday from 6am - 8pm	Location: Lands 70m South of 177 Annagher Road Coalisland.
Referral Route: Recommendation to refuse, objections.	
Recommendation:	Refuse
Applicant Name and Address: DMAC Engineering 177 Annagher Road Coalisland	Agent Name and Address: CMI Planners Ltd 38 Airfiled Road Toomebridge
Executive Summary: It has not been demonstrated by the applicant/agent that this proposal will not result in detrimental impacts to residential amenity, especially in the morning time between the hours of 6am and 7am Monday to Friday.	
Signature(s):	

Case Officer Report

Site Location Plan: 01



Representations:

Letters of Support	None Received
Letters of Objection	2
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

A number of objections have been received and issues raised include;

- the extension of opening hours would have an adverse affect on health and well being;
- noise that is currently experienced all day long would be extended in the morning time and would have a detrimental impact on peace and private amenity;
- currently already in breach of opening hours (enforcement are aware);
- extended opening hours would result in more noise and fumes from the factory;
- the reason for the condition being added was to protect private amenity, however as applicant has not stuck to this condition and as a result private amenity is currently being adversely impacted.

Description of proposal

This is an application for non-compliance of condition 12 of planning approval M/2011/0126/F - seeking variation of opening hours condition Monday - Friday from 6am - 8pm.

Condition 12 of M/2011/0126/F reads;

The development hereby permitted shall not remain open for business prior to 07:00 hrs nor after 20:00hrs Monday to Friday, 08:00 hrs to 14:00hrs on Saturdays nor at any time on a Sunday.

Reason: In the interests of residential amenity.

Characteristics of site and area

This site is that which relates to the permission M/2011/0126/F, and incorporates the DMAC Factory building, associated circulation, parking and hardstand areas, finished product storage areas and an area to the south of the site (beyond the large earth bund) which is used to control and regulate site drainage.

The sizable earth bund, approx 5-7m high, to the south of the site acts as a sound buffer to protect residential amenity further to the south. Beyond the earth bund to the south is the area of drainage which is relatively flat and defined by bare earth/soil.

There is also earth banking and mature landscaping along the NE boundary of the site.

Topography within the factory site is relatively flat, however Annagher Road to the north is elevated well above the site, leaving little views of the large factory from the public road.

In the locality there are detached single dwellings to the south, east and north of the site. Land to the east and NE is agricultural in nature. Annagher Road is located to the north, with Coalisland Town located further to the west.

Planning Assessment of Policy and Other Material Considerations

Planning Act 2011

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

Area Plan

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

Dungannon South Tyrone Area Plan 2010- The site is located just outside the development limits of Coalisland, in the countryside. The policy provisions of SPPS and PPS21 apply.

Relevant Planning Policy

SPPS- Strategic Planning Policy Statement

PPS21- Sustainable Development in the Countryside

PPS4- Planning and Economic Development

Relevant Planning History

M/2011/0126/F- permission granted for a small rural industrial enterprise on land situated adjacent to existing settlement limit of Coalisland, for DMAC on 13.04.2015.

Condition 12 of this permission reads;

The development hereby permitted shall not remain open for business prior to 07:00 hrs nor after 20:00hrs Monday to Friday, 08:00 hrs to 14:00hrs on Saturdays nor at any time on a Sunday.

Reason: In the interests of residential amenity.

M/2006/2126/F- Retention of Replacement shed for the purpose of paint spraying machine components, permission was refused on 22.06.2017.

An enforcement notice was served on this site for unauthorised breached in planning control and the offender fined 15,000. These buildings have now been removed and this part of land now lies bare with exposed soil. This site also contains drainage for the adjacent DMAC Factory site, and is the subject to two current application where decisions are pending (see below);

-LA09/2019/0838/F- Hobby/Storage shed, porta cabin to be used as a canteen and recreation room, raised flower beds, poly tunnels and car parking associated with Coalisland mens shed club, permission granted 09.03.2021.

-LA09/2018/0943/F- Extension to existing factory premises to provide staff car parking (under consideration- deferred for further consideration).

There is also some current enforcement action on the DMAC site relating to hours of operation and unauthorised chimney flues with associated odour.

3rd Party Objections

A number of objections have been received and issues raised include;

- the extension of opening hours would have an adverse affect on health and well being;
- noise that is currently experienced all day long would be extended in the morning time and would have a detrimental impact on peace and private amenity;
- currently already in breach of opening hours (enforcement are aware);
- extended opening hours would result in more noise and fumes from the factory;
- the reason for the condition being added was to protect private amenity, however as applicant has not stuck to this condition and as a result private amenity is currently being adversely impacted.

Consideration

The applicant wants to amend condition 12 of planning ref M/2011/0126/F, to extend hours of operation from 7am-8pm Mon-Fri to 6am-8pm Mon-Fri. It has been raised by objectors that DMAC may already be in breach of this condition, and this is being investigated by the Planning Enforcement Team.

The reason for the condition is to protect existing residential amenity. Objectors currently complain about noise levels, especially early in the morning. To consider the impacts of noise, nuisance and general disturbance I consulted Environmental Health. On 21st June 19 Environmental Health provided comment stating that commencement of operations would impinge on what is generally regarded as quiet sleeping hours (11pm-7am) where a higher level of protection is afforded to residential amenity to facilitate sleep between these hours. Environmental Health go on to say that two objectors have stated that current noise levels are impacting their amenity and extension of operating hours to 6am would further impact them and for this reason the applicant is required to provide a noise impact assessment and/or mitigation measures to control noise emissions from the premises.

Following on from this the agent then provided a Noise Impact Assessment and on 10.08.2021 Environmental Health provided a response. Environmental Health conclude that the Noise Impact Assessment shows that the impact of amending opening hours to 6am would have an excess of rating noise level over background noise level of +7 dB. BS 4142 states that a difference of +5 dB is likely to be an indication of adverse impact, depending on context, whilst a difference of +10 dB or more is likely to be an indication of significant adverse impact.

Environmental Health conclude that this difference of + 7 dB indicates that variation of the opening hours is likely to impact neighbouring residential amenity.

In response to Environmental Health comments the agent has provided an e-mail to put forward his interpretation of how he envisages this change in opening hours will impact on nearby residents. This e-mail is only his view, and in my opinion should not override the concerns of Council's Environmental Health Department.

In my view, I would have significant concern about allowing the factory to open at 6am. This would mean machines, extractor fans, vehicles, welding, metal work, spraying etc. starting before 7am. Plus employees would be arriving to the site by car before 6am, and would involve the starting and stopping of engines, and the opening and slamming of doors. It is difficult to see how noise, nuisance or general disturbance could be mitigated against so as not to cause detriment to residential amenity, given that current noise levels are found by objectors to be having detriment to their existing residential amenity.

The agent states that only 5 people would be arriving at 6am to turn on machines etc. I am not sure that Council could appropriately control this. A variance of condition can only consider the condition itself, and I am not sure if it would be lawful to control numbers of people attending the site or noise levels, as it is only hours of operation that are being considered.

I find it important to note that there is a pending application for the extension of a staff carpark to the south of the existing DMAC factory. This proposal will involve the cutting through of an existing earth bund that currently acts as a noise buffer to properties to the

south. Should both proposals be granted then this will mean factory noise escaping through a hole in an earth bund, and cars parking closer to where current objectors live. In my view both proposals need to be looked at carefully to consider both scenarios, given the sensitivities currently experienced at the site.

The applicant/agent has been provided with ample opportunity to demonstrate that earlier opening hours would not have a detrimental impact on existing residential amenity and this has not been demonstrated.

I recommend to Members that this application is refused as it will result in detrimental impacts to nearby residential amenity.

Under paragraph 3.8 of SPPS the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. I contend that, on current information before me, that it has not been clearly demonstrated that harm to interests of acknowledged importance (i.e. residential amenity) will not occur. The applicant/agent has been given a fair chance to demonstrate otherwise, and has failed to do so. I advise Members to refuse this proposal. At this time and in absence of any additional information I find the objectors concerns to be determining.

PPS21 Sustainable Development in the Countryside states that there are a range of types of development which in principle considered to be acceptable in the countryside, one is industry and business uses in accordance with PPS4.

Policy PED 9- General Criteria for Economic Development of PPS4 has a number of criteria that have to be met including criteria;

(b) does not harm the amenities of nearby residents;

(e) does not create a noise nuisance.

In my view the applicant/agent has failed to demonstrate these points, and that the condition as stands meets the lawful tests of a condition and is necessary to control the impacts of current operations on this site on nearby residential amenity.

The proposal is contrary to SPPS paragraph 3.8, PPS21 policy CTY1 and PPS4 policy PED9 in that it has not been demonstrated that the proposed hours of operation will not have a detrimental impact to existing residential amenity.

Neighbour Notification Checked	Yes
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Summary of Recommendation:	
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That planning permission is refused for the following reasons;

Reasons for Refusal:	
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1. The proposal is contrary to policy CTY1 of PPS21 Sustainable Development in the Countryside and Policy PED9 of Planning Policy Statement 4: Planning and Economic Development in that it has not been demonstrated that the proposal;

- will not harm the amenities of nearby residents;
- will not create a noise nuisance.

2. The proposal is contrary to paragraph 3.8 of SPPS in that it has not been demonstrated that proposal will not cause harm to interests of acknowledged importance, namely rural character and residential amenity. The proposal will, if granted permission, result in a detrimental impact to existing residential amenity through impacts noise, nuisance and general disturbance.

ANNEX

Date Valid	8th February 2019
Date First Advertised	21st February 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 161 Annagher Road, Coalisland, Tyrone, BT71 4NF The Owner/Occupier, 172 Annagher Road, Coalisland, Tyrone, BT71 4NF The Owner/Occupier, 174 Annagher Road, Coalisland, Tyrone, BT71 5DA The Owner/Occupier, 175 Annagher Road, Coalisland, Tyrone, BT71 5DA The Owner/Occupier, 175a ,Annagher Road, Coalisland, Tyrone, BT71 5DA The Owner/Occupier, 177 Annagher Road, Coalisland, Tyrone, BT71 5DA Martin Dooey 181 Annagher Road, Coalisland, BT71 5DA The Owner/Occupier, 181 Annagher Road, Coalisland, Tyrone, BT71 5DA The Owner/Occupier, 32 Washingbay Road, Coalisland, Tyrone, BT71 4PU The Owner/Occupier, 36 Washingbay Road Coalisland Tyrone James Hughes	
Date of Last Neighbour Notification	
Date of EIA Determination	N/A
ES Requested	No

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



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Management Officer Report
Committee Application

Summary	
Committee Meeting Date: Sept 2021	Item Number:
Application ID: LA09/2019/0822/F	Target Date:
Proposal: Erection of a shed over existing storage tank for the storage of farm feeds (amended description)	Location: Lands 48m SE of 130 Coolreaghs Road Cookstown.
Referral Route: Opinion is to refuse Contrary to Policy CTY12.	
Recommendation: Refusal	
Applicant Name and Address: Mr Ronnie Smith 155 Coolreaghs Road Cookstown	Agent Name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge
Signature(s): M.Bowman	

Case Officer Report

Site Location Plan



Consultations:		
Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Content
Statutory	DAERA - Omagh	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	No Objection
Representations:		
Letters of Support	None Received	
Letters of Objection	5	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
Summary of Issues Policy CTY12 is not satisfactorily met / proposal has given rise to objection.		
Characteristics of the Site and Area		
<p>Rural farming area located just NW of the Cookstown development limits. Primarily agricultural activity is dominant use in the locality. The site is located in Field No 1 of the applicants farm lands and positioned tightly against a neighbouring farm complex associated with No 130 Coolreaghs Road. Nearest residential property is No 130 itself which is located just north of the adjoining farm complex of buildings.</p> <p>What is stated to be a ‘storage tank’ is located on what will be the footprint of the proposed shed which itself measures 5.7m x 4.0m with a 3m roof height which slopes down to 2.1m.</p> <p>The site overlaps the location of an Outline permission for a dwelling on a farm approved for Mr Smith (same applicant) under LA09/2017/0867/O. Whilst a Reserved Matters application has been received and remains undetermined, there is a dispute between the applicant and an adjacent landowner in relation to the approval of the Outline permission. Members have been previously briefed on this matter.</p>		
Description of Proposal		
Erection of a shed over existing storage tank for storage of farm feeds.		



Planning Assessment of Policy and Other Material Considerations

Primary Policy considerations are the Local Cookstown Area Plan, Draft Plan Strategy, PPS21, CTY12, SPPS.

The primary policy provision for this proposal in this area of open countryside is CTY12 of PPS21.

Policy CTY 12 – Agricultural and Forestry Development

Planning permission will be granted for development on an active and established agricultural or forestry holding where it is demonstrated that:

- (a) it is necessary for the efficient use of the agricultural holding or forestry enterprise;
- (b) in terms of character and scale it is appropriate to its location;
- (c) it visually integrates into the local landscape and additional landscaping is provided as necessary;
- (d) it will not have an adverse impact on the natural or built heritage; and
- (e) it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution.

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

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

Exceptionally, consideration may be given to an alternative site away from existing farm or forestry buildings, provided there are no other sites available at another group of buildings on the holding, and where:

- it is essential for the efficient functioning of the business; or
- there are demonstrable health and safety reasons.

This proposal for an isolated farm shed away from any group of farm buildings engages the 'exceptional' test of the above policy.

The agent was asked to provide a supporting case to justify the essential need for the building at this location. The application when submitted was described as being for the shelter of animals and storage of farm feeds. That supporting statement is summarised as below:

- The applicant has let / split his lands out in conacre to 2 different farmers. Fields 1 and 2 (8.5 acres) here are farmed by Mr Crawford whos farm holding is located a relatively short distance away At No 53 Dunabraggy Road, Cookstown. The remaining 7 fields (12 acres) only a few hundred metres away around Mr Smyths own dwelling (No 155) are taken by Mr Ivor Smyth of No 214 Orritor Road. The provided conacre agreement provided covers a period from Mar 2017 to Mar 22.
- In terms of why the shed is essential – whilst the applicants farm holding is active and established for the required 6 year period, Mr Smyth seeks permission for a shed for Mr Crawford to use. The site is chosen because of the storage tank, its proximity to neighbouring farm sheds. The use of existing buildings located at the main farm belonging to Mr Smyth are discounted as these are fully utilised by the other conacre farmer and under DEARA rules no 2 farmers can use the same farm buildings due to cross-contamination risks.
- The need for the shed is expressed as being to allow Mr Crawford to winter house his animals.

The shed itself in terms of its visual impact on the landscape does not provide a concern for me. The backdrop of substantial farm sheds associated with No. 130 Coolreaghs road will enclose the shed provide an acceptable degree of integration.

However, given the entirety of the case made here is for Mr Crawfords farming needs it is worth examining the farm business and lands which he has. It appears that that his holding at No 53 Dunabraggy Road is only a relatively short distance away and I therefore question why the proposed shed is essential at this location serving only the 2 fields on Coolreaghs Road. There appears to be a complex of farm buildings associated with No 53 also. It is reasonable to assume that the 2 fields taken by Mr Crawford would not necessarily require a new farm shed given that it would be relatively easy to have moved livestock a short distance between the site and No 53 Dunabraggy Road.

An objection received (before the agents supporting statement) from Ross Planning who represents the owner of the adjoining farm group (No 130) makes the following points:

- This application has been made in the context of ongoing considerations regarding a farm dwelling proposed on the site and objections which have been made to it.
- CTY12 is not met – a need or farming reason is not made.
- This is a tactic to gain permission for a shed and then a dwelling under Policy CTY10.

An additional objection was received on 16 April 2020 from Ross Planning making the following points:

- That the applicant has made a convoluted case for a shed.
- That there is insufficient details surrounding the third party tenants in relation to active farming.
- There is no information about the applicants current sheds
- There is no information about the applicants need / his animals needs
- No information provided about any other farm sheds.

In reply to this, CMI Planning provided a further supporting statement dated 15 June 2020:

- That a conacre agreement is in place running until 2025
- The above proves agricultural activity by the tenant farmers.
- Screenshots from the agent claim to show that Mr Smith has 70 beef cattle and Mr Crawford has 131 animals.
- That the conacre agreement contains an agreement also to rent all the sheds on the applicants holding.
- The tenant farmer, having 131 animals, needs proper handling facilities.
- That it is not practicable to expect sick animals to be moved 3 miles away to the tenant farmers sheds. In addition this shed will provide secure storage for medicines.

A consultation with SES / NIEA on the proposal as originally submitted (to include animals) resulted in the need for an ammonia air dispersion assessment due to the proximity of 1 SAC and 3 ASSIs within 7.5km of the site. SES required the following:

In response to this the agent decided to amend the proposal and remove any reference to livestock from it. On the 18th June 2021 the agent formally amended the P1 form and submitted a

revised statement of need. It should be noted however that submitted plans in March 2021 still show a small animal isolation area, which has not yet been removed.

It states that the shed will now only be used for storage of animal feeds. It is claimed that Mr Crawford (who leases the lands) under a lease agreement in place until 2025 has 131 cows and has no storage buildings at this location.

The statement does on to state the following points in support:

1. The application site is in a sustainable location beside an existing farm yard.
2. The benefits of the shed include the delivery of a building appropriate to the location
3. A facility which is subsidiary to and will help to maintain the farming operations of Mr Crawford.
4. Will provide secure storage at this remote location.
5. Enhances productivity with feed and medicines on site
6. Reuses a previously developed tank which will be 'filled in'.
7. Establishes a new building which maintains and improves the appearance of the locality
8. No significant and demonstrable impacts exist to outweigh the benefits of the proposal.

Upon re-notifying of the amended description a further objection has been received by Ross Planning setting out the following additional objections:

1. That the nature of the application has been substantially changed.
2. Inexplicably there is no longer a need for animal housing at this location.
3. No specific details are given to explain why animal feeds must be stored here instead of the lessee's own holding.
4. No indication is given relating to the type or quantity of feed.
5. It is more common for a farmer to operate outlying fields without the need for a shed to house feed / this usually delivered daily.
6. The policy says that this type of proposal is only acceptable in exceptional circumstances.
7. The proposal does not make sense in policy / practical terms and this late change is further evidence that there is no need for a farm building at this location.

In response, whilst the description of the proposal has been amended, its acceptability in policy terms still rests with the Policy tests of CTY12 referenced above. The latest objection recognises that the 'exceptional test' of Policy CTY12 remains central to the determination of this proposal and the relevant shortcomings in the additional need for this shed.

In summary, I do not consider that the removal of livestock when coupled with the relatively close proximity of the tenant farmers own farm and buildings that the exceptions test set out for a remote shed, even just for storage, is met.

Neighbour Notification Checked

Yes/No

Summary of Recommendation: Refusal as it not been adequately demonstrated why the proposal essential for the efficient functioning of the farm.

Reason for Refusal:

1. The proposal is contrary to Policies CY1 and 12 of PPS21 in that it has not been demonstrated that the proposal is necessary for the efficient use of the agricultural holding.

Signature(s) M.Bowman

Date: 12th Aug 2021

ANNEX	
Date Valid	13th June 2019
Date First Advertised	27th June 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 130 Coolreaghs Road Cookstown Tyrone Les Ross Ross Planning, Head Office, 9a Clare Lane, Cookstown, BT80 8RJ	
Date of Last Neighbour Notification	6th January 2020
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2018/0130/RM Proposal: Dwelling and Garage Address: 65m South of 130 Coolreaghs Road, Cookstown, Decision: Decision Date: Ref ID: LA09/2017/0867/O Proposal: Proposed dwelling and garage Address: 65m South of 130 Coolreaghs Road Cookstown,	

Decision: PG

Decision Date: 24.08.2017

Ref ID: LA09/2019/0822/F

Proposal: Erection of a shed over existing storage tank for shelter of animals and storage of farm sheds.

Address: Lands 48m SE of 130 Coolreaghs Road, Cookstown.,

Decision:

Decision Date:

Ref ID: I/1993/6028

Proposal: Site for Single Storey Dwelling Coolreaghs Road Cookstown

Address: Coolreaghs Road Cookstown

Decision:

Decision Date:

Ref ID: I/2007/0358/F

Proposal: Proposed replacement dwelling and garage

Address: 130 Coolreaghs Road, Cookstown, Co.Tyrone

Decision:

Decision Date: 13.02.2008

Ref ID: I/2008/0339/F

Proposal: Change of garage from original approved under I/2007/0358/RM (to accommodate additional domestic storage

Address: 130 Coolreaghs Road, Cookstown, Co Tyrone BT80 9QD

Decision:

Decision Date: 21.07.2008

Ref ID: I/1976/0434

Proposal: IMPROVEMENTS TO EXISTING DWELLING

Address: 130 COOLREAGHS ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1995/0089

Proposal: Site for Dwelling

Address: 50M SOUTH OF 130 COOLREAGHS ROAD COOKSTOWN

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.

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Status: Submitted

Drawing No.

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Status: Submitted

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Status: Submitted

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Status: Submitted

Drawing No.

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Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant) Date of Notification to Department: Response of Department:

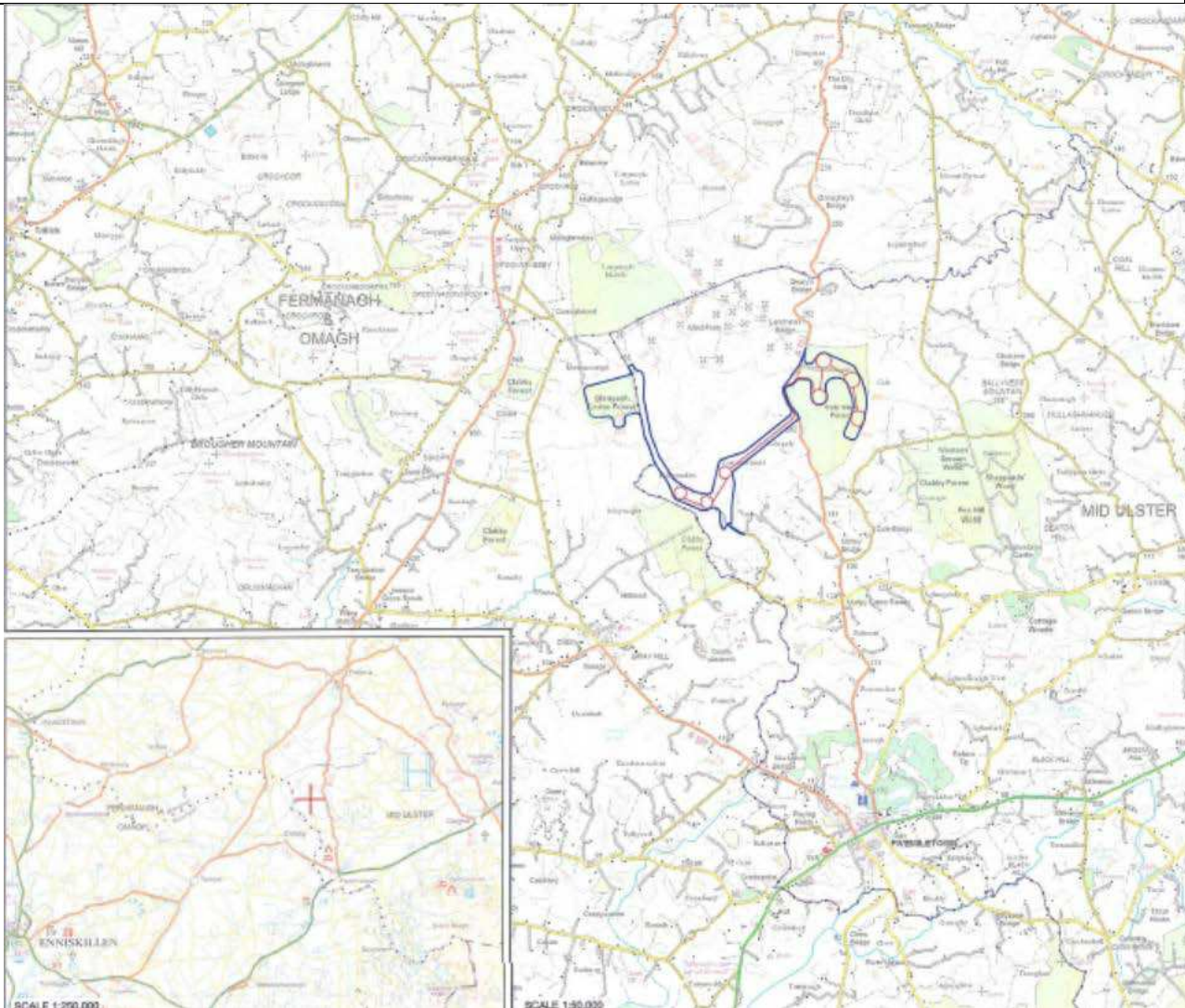


**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1300/F	Target Date:
Proposal: An amendment to the overall tip height of the consented Murley Wind Farm from 126.5m to 149.9m (consented under LA09/2015/0460/F and K/2015/0066/F). Turbine geometry to be considered includes blade lengths of between 50m and 63m and hub heights of between 86.9m and 99.9m. The proposal also includes an application to vary planning condition 25 years to 35 years from the date on which the wind farm is connected to the electricity grid	Location: The site is located in the townlands of Killygordan, Tattanafinnell, Edgegole and Cole Glen Forest near Fivemiletown.
Referral Route: This is a Major planning application.	
Recommendation:	APPROVE
Applicant Name and Address: Renewable Energy System Limited Willowbank Business Park, Willowbank Road, Millbrook, Larne, BT40 2SF,	Agent Name and Address:
Executive Summary: This is an application to amend the overall size of the approved windfarm and to extend the approved period from 25 years to 35 years. There are no concerns raised by any consultees and no objections have been received.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	Rivers Agency	Substantive Response Received
Non Statutory	Arqiva Services Limited	No Objection
Non Statutory	Cable And Wireless Worldwide PLC	
Non Statutory	Everything Everywhere Limited	Considered - No Comment Necessary
Non Statutory	N.I Water - Windfarms	Substantive Response Received

Non Statutory	Ofcom Northern Ireland	Substantive Response Received
Non Statutory	P.S.N.I. Information And Communications Services	Substantive Response Received
Non Statutory	The Joint Radio Company	Add Info Requested
Non Statutory	Belfast International Airport	No Objection
Non Statutory	CAA - Directorate of Airspace Policy	Considered - No Comment Necessary
Non Statutory	City of Derry Airport	Substantive Response Received
Non Statutory	National Air Traffic Services	No Objection
Non Statutory	Royal Society for the Protection of Birds - Headquarters	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	DAERA - Countryside Management Branch	
Non Statutory	DAERA - Forestry Division	Substantive Response Received
Non Statutory	DAERA - Fisheries Division	No Objection
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	Environ Health Fermanagh And Omagh	Substantive Response Received
Non Statutory	Council For Nature Conservation And The Countryside	
Non Statutory	DETI - Geological Survey (NI)	No Objection
Non Statutory	DfE Energy Division	No Objection
Non Statutory	DoF - CPD - Windfarm Geotechnical & Advisory	
Non Statutory	DRD - Economics Branch	
Non Statutory	NIEA	Substantive Response Received

Non Statutory	Shared Environmental Services	Substantive Response Received
Non Statutory	Northern Ireland Tourist Board	Substantive Response Received
Non Statutory	UK Crown Bodies - D.I.O. LMS	Considered - No Comment Necessary
Non Statutory	UK Crown Bodies - D.I.O. Safeguarding	
Non Statutory	NIE - Windfarm Developments	No Objection
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	No objection
Statutory	NIEA	Advice
Statutory	NIEA	No objection

Representations:

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

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

Murley Wind Farm is located on privately owned lands, which comprise of agricultural lands and privately owned commercial forest. The site is located within the vicinity of Glengesh Lower Forest, Moysnaght, Killygordon, Tattanafeinnell, Edergole and Cole Glen Forest, near Fivemiletown, Co. Tyrone. The wind farm is located within 3 distinct areas; these are Glengesh Lower Forest, Killygordon and Cole Glen Forest.

The Development is located on an existing upland site, partially occupied by commercial forestry, which spans either side of the B122 road corridor linking Fivemiletown and Fintona. The development itself comprises 9 wind turbines with a maximum blade tip height of 149.9 m located between approximately 220 m and 250 m AOD. Two turbines are in the Fermanagh and Omagh Council Area and seven turbines are in the Mid Ulster District Council Area.

Description of Proposal

An amendment to the overall tip height of the consented Murley Wind Farm from 126.5m to 149.9m (consented under LA09/2015/0460/F and K/2015/0066/F). Turbine geometry to be considered includes blade lengths of between 50m and 63m and hub heights of between 86.9m and 99.9m. The proposal also includes an application to vary planning condition 25 years to 35 years from the date on which the wind farm is connected to the electricity grid.

Planning Assessment of Policy and Other Material Considerations

The Regional Development Strategy 2035

Strategic Planning Policy Statement

Dungannon and South Tyrone Area Plan 2010

MUDC Local Development Plan 2030 - Draft Plan Strategy

Planning Policy Statement 2 - Natural Heritage

Planning Policy Statement 3 - Access, Movement and Parking

Planning Policy Statement 6 - Planning, Archaeology and the Built Heritage

Planning Policy Statement 18 - Renewable Energy

Planning Policy Statement 21 - Sustainable Development in the Countryside

MUDC received a planning application for this development on 3 October 2019. The application was advertised in the local press, neighbours were notified and a series of consultations were issued.

There is planning history to this site which follows in this report. The applications to highlight for members are the following:

K/2015/0066/F - A proposal for a wind farm comprising of nine turbines (each with an overall maximum height of up to 126.5m above ground level) and associated infrastructure including upgraded site entrances, new and upgraded on-site access tracks, an on-site substation and control building, underground cables, overhead grid line, two temporary monitoring masts, temporary construction compounds, enabling works compounds, permanent crane hardstandings and road widening and improvement works on sections of the transport route (road improvement works). Two turbines are located within the Mid Ulster Area. Planning permission is requested with the condition that the proposed wind farm development to which it would relate must be begun within a year period from the date of Planning consent, as permitted under Article 34 of the Planning (NI) Order 1991, as amended at Murley wind farm in the townlands of Glengesh Lower Forest, Moysnaght, Killygordon, Tattanafeinnell, Edergole and Cole Glen Forest, near Fivemiletown, Co. Tyrone.,

LA09/2015/0460/F - A proposal for a wind farm comprising of nine turbines (each with an overall maximum height of up to 126.5m above ground level) and associated infrastructure including upgraded site entrances, new and upgraded onsite access tracks, an onsite substation and control building, underground cables, overhead grid line, two temporary monitoring masts, temporary construction compounds, enabling works compounds, permanent crane hardstandings and road widening and improvement works on sections of the transport route (road improvement works). Two turbines are located

with the Fermanagh Omagh Council area and seven are located within the Mid Ulster Council Area at Murley Wind Farm in Townlands of Glengesh Lower Forest, Moysnaght, Killygordon, Tattanafeinnell, Edergole and ColeGlen Forest, near Fivemiletown, Co Tyrone,

This current application is for an amendment to the overall tip height of the consented Murley Wind Farm from 126.5m to 149.9m with blade lengths of between 50m and 63m and hub heights of between 86.9m and 99.9m. The proposal also includes an application to vary planning condition 25 years to 35 years from the date on which the wind farm is connected to the electricity grid.

This is a Major planning application as prescribed in the Development Management Regulations. Consequently, Section 27 of the 2011 Act places a statutory duty on applicants for planning permission to consult the community in advance of submitting an application.

Section 27 also requires that a prospective applicant, prior to submitting a major application must give notice, known as a 'proposal of application notice' (PAN), to the council, that an application for planning permission for the development is to be submitted. There must be at least 12 weeks between the applicant giving the notice and submitting any such application. The applicant has complied with the legislative requirements in this regard.

Assessment of proposal within the planning policy and guidance context:

Regional Development Strategy:

The RDS 2035, whilst is not an operational policy, it does provide the overarching framework for NI, from which planning policies are derived. The vision of the RDS is supported by eight aims:

- Support strong, sustainable growth for the benefit of all parts of NI;
- Strengthen Belfast as the regional economic driver and Londonderry as the principal city of the North West;
- Support NI's towns, villages and rural communities to maximise their potential;
- Promote development which improves the health and well-being of communities;
- Improve connectivity to enhance the movement of people, goods, energy and information between places;
- Protect and enhance the environment for its own sake;
- Take actions to reduce Northern Ireland's carbon footprint and facilitate adaptation to climate change; and
- Strengthen links between north and south, east and west, with Europe and the rest of the world.

The plan aims to deal with climate change as a key environmental and economic driver and complements the Sustainable Development Strategy. Policies include:

- RG5: Deliver a sustainable energy supply. To facilitate access to a range of opportunities for recreational and cultural activities – Increase the contribution that renewable energy can have to the overall energy mix.

- RG9: Reduce our carbon footprint and facilitate mitigation and adaption to climate change whilst improving air quality – Increase the use of renewable energies.

Strategic Planning Policy Statement

The SPPS is a statement of the Department's policy on important planning matters that should be addressed across Northern Ireland. The provisions of the SPPS are material to all decisions on individual planning applications and appeals. The SPPS states that objective of the planning system is to secure the orderly and consistent development of land whilst furthering sustainable development and improving well-being. The SPPS goes on to state the planning system should positively and proactively facilitate development that contributes to a more socially economically and environmentally sustainable Northern Ireland.

Para 3.7 of the SPPS states furthering sustainable development also means ensuring the planning system plays its part in supporting the Executive and wider government policy and strategies in efforts to address any existing or potential barriers to sustainable development.

It is recognised in the SPPS that Northern Ireland has significant renewable energy resources and a vibrant renewable energy industry that makes an important contribution towards achieving sustainable development, and is a significant provider of jobs and investment across the region.

The aim of the SPPS in relation to renewable energy is to facilitate the siting of renewable energy generating facilities in appropriate locations within the built and natural environment in order to achieve Northern Ireland's renewable energy targets and to realise the benefits of renewable energy without compromising other environmental assets of acknowledged importance.

Para 6.219 of the SPPS states that the aim for plan for sustainable development to plan for sustainable development is based on three overarching principles:

- Meeting the needs and aspirations of our society including supporting rural regeneration and progressing policies, plans and proposals that can improve the health and well-being of local communities;
- Economic sustainability including the promotion of recovery and balancing growth;
- Environmental sustainability including the protection and enhancement of heritage assets landscape and seascape character, ensuring that the planning system contributes to a reduction in energy usage and greenhouse gas emissions by continuing to support growth in renewable energy sources and promoting high quality development and good design.

Dungannon and South Tyrone Area Plan 2010

This is the current statutory area plan for the former Council District of Dungannon. The site is located on and close to the boundary of Mid Ulster and Fermanagh and Omagh

Council areas, north of Fivemiletown, east of Clabby and south of Fintona. The area lies outside of any areas of designation in the Area Plan.

MUDC Local Development Plan 2030 - Draft Plan Strategy:

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

Planning Policy Statement 18 - Renewable Energy

Policy RE1 of PPS 8 states that development that generates energy from renewable resources will be permitted provided the proposal, and any associated buildings and infrastructure, will not result in an unacceptable adverse impact on:

- (a) public safety, human health, or residential amenity; iii, v, vi, iv
- (b) visual amenity and landscape character; i, ii, vii,
- (c) biodiversity, nature conservation or built heritage interests; iii, iv,
- (d) local natural resources, such as air quality or water quality; and
- (e) public access to the countryside.

Policy RE1 also goes on to address applications for wind energy development which are also required demonstrate all of the following which can be addressed under (a) to (e) above:

(a) public safety, human health or residential amenity;

(iii) that the development will not create a significant risk of landslide or bog burst;

The agent states it is likely that the greater part of the site was covered in the past by peat and associated ericoid and moss-dominated communities, but peat cutting, drainage and land reclamation has resulted in highly modified habitats of lower conservation interest and value. The study area is now dominated by highly modified habitats that comprise mainly wet/dry modified grassland. Most of the peatland units have been extensively drained, to lower the water-table and provide suitable conditions for livestock grazing, turbary extraction and the establishment of coniferous plantations.

NED notes that the revised Peat Slide Risk Assessment was undertaken in accordance with the Peat Landslide Hazard and Risk Assessments: Best Practice Guide for Proposed Electricity Generation Development, second edition. 854 peat probes were carried out across the site, with 413 within the infrastructure layout. Each Turbine foundation has three probes placed around its circumference, crane pads have 5 probes equally spaced, with extras covering

turning areas. Each temporary construction compound is probed in a 25m grid. Track probes were spaced at 50m intervals with 10m off-set to either side.

T1 has moderate risk of peat slide risk, and T2, T6, T7, T8, T9 and the north-east Construction Compound had low risk. However, with various mitigations, peat slide risk can be reduced further:

1. Turbine 1 will be micro-sited 15m northeast away from the nearby watercourse and the extent of the associated infrastructure will be reduced so that all infrastructure will be sited out with the 150m buffer from the drainage channel. The new micro-siting position is shown on Figure 2.1 Rev B Infrastructure Layout.
2. Stabilisation will be installed down-slope of Turbine 1 if detailed design and slope modelling determines it is necessary
3. Minimising forestry removal around Turbine 8
4. Construction of the Northeast Temporary Construction Compound (NW TCC) on a reinforced floating platform to minimise excavation of peat material
5. Best practice construction techniques will be used at all turbine infrastructure, as detailed in the oCEMP
6. No materials will be stockpiled in medium or high peat slide risk areas
7. A monitoring regime will be in place during construction to alert, prevent and control downslope impacts.

NED notes that the risk of peat slide at Turbine 6 could be further lowered by micro-siting 30m north to a flatter area: NED would recommend that this implemented. Sections of track on deep peat will be floated: these include from the site entrance at Hunter's Hill Wind Farm to the junction of T2 and T1 including the NW temporary construction compound, and from the site entrance on Murley Road to the existing access track in Cole Glen Forest including the NE temporary construction compound. Other sections will also be floated if found to be needed. This will reduce the amount of excavated peat. These sections of track are shown on Figure 2.1 Rev B Infrastructure Layout. NED notes that the two site calibration masts at Turbine 2 and to the south of this turbine have been removed from the development, as shown on Figure 2.1 Rev B Infrastructure Layout.

(iv) that no part of the development will give rise to unacceptable electromagnetic interference to communications installations; radar or air traffic control systems; emergency services communications; or other telecommunication systems;

The proposed development has been assessed from a technical safeguarding aspect in respect of any potential impact on the NIE Emergency Services Radio Communications and Public Safety Telecommunications Infrastructure. This assessment is based on safeguarding criteria and in accordance with the information contained in the planning application. Accordingly Westica Communications has no technical safeguarding objections to this proposal.

MBNL/EE have no microwave link within 100 metres and no mast within 250 metres of the proposed wind turbines and therefore have no objections to the proposal.

(v) that no part of the development will have an unacceptable impact on roads, rail or aviation safety;

Planning Policy Statement 3 - Access, Movement and Parking:

Dfi Roads notes that this application is for an increase in overall tip height from previously approved under planning applications LA09/2015/0460/F & K/2015/0066/F.

Review of the fore-mentioned history applications would indicate that there was outstanding road issues relating to access requirements which does seem to be closed out through the planning process associated with these applications however Council Planning issued an approval and Dfi did not provide conditions.

As these applications were approved without roads related conditions Council Planning should review Dfi Roads comments dated 14/12/2017 for application LA09/2015/0460/F and e-mail dated 27 April 2017 for application K/2015/0066/F relating to road requirements and apply suitably worded conditions to reflect these comments to ensure safe access arrangements to support this current application.

The main traffic impacts are associated with the increase in vehicle movements along the Killygordon, Aghintain and B122 Murley Roads during the construction stage of the project. These roads have relatively low levels of existing traffic and a small number of receptors will be affected. The agent has stated that, at worst, the frequency of vehicle movements is expected to be one vehicle every five minutes, on seven days in the third month of construction.

The agent has considered the effect of increase HGV traffic flow on severance, driver delay, pedestrian delay, pedestrian amenity, fear and intimidation, accidents and safety and cumulative impacts. The agent will develop a Traffic Management Plan once the construction schedule, plant requirements and turbine model have been defined. This will ensure impacts to the delivery route are minimised where possible and will be submitted to Dfi for the approval prior to construction. It is not considered there will be a significant impact on road safety.

Under certain climatic conditions ice can build up on turbine blades which may be thrown from the blades during blade rotation or fall when blades are stationary. The agent has stated in the ES the International Energy Association have recommended an empirical formula to calculate the maximum distance that ice may be thrown from an operating turbine based on turbine geometry. For the proposed turbine envelope this ice throw risk distance has been calculated and used in the wind farm design to located turbines away from public roads and therefore the potential for ice throw to affect members of the public is considered to be low.

The proposed development has been examined from an aerodrome safeguarding aspect from the details provided in the Planning Portal and it does not conflict with Belfast International Airports safeguarding criteria. Accordingly there are no safeguarding objections to this proposal, however in the interests of aviation

safety, Belfast International Airport would recommend that the developer installs a Low/Medium (Low if its less than 45m above ground level or Medium if it is more than 45m above ground level) Intensity, Omni-directional, Night Vision Compatible, Steady Red Obstacle light at the highest point of the hub. The light should be lit 24 hours a day, seven days a week and it is to warn low flying aircraft that there is an obstacle at this location.

The Civil Aviation Authority state that like any wind turbine development the proposed wind farm has the potential to impact upon aviation-related operations. Any structure of 150 metres or more must be lit in accordance with the Air Navigation Order and should be appropriately marked. In addition, for obstacles under 150m, there might be a need to install aviation obstruction lighting to some or all of the associated wind turbines in response to aviation stakeholders' comments.

City of Derry Airport has no objection to this planning application.

In the case of this proposed wind energy development, JRC does not foresee any potential problems based on known interference scenarios and the data you have provided.

The proposed development is not within the vicinity of a railway line at this location.

(vi) that the development will not cause significant harm to the safety or amenity of any sensitive receptors (including future occupants of committed developments) arising from noise; shadow flicker; ice throw; and reflected light;

Environmental Health have been consulted on the planning application and subject to a number of conditions do not consider the proposed increase in size of the approved wind turbines will present any significant harm on residential amenity by way of noise.

According to the Best Practice Guide (BPG) to PPS 18 shadow flicker generally only occurs in relative proximity to sites and has only been recorded occasionally at one site in the UK. Shadow flicker is caused by the moving shadow of the turbine rotor being cast over a narrow opening such as a window or open door. The likelihood of disturbance from shadow flicker is dependent on the distance from turbines, turbine orientation, the time and day of the year and the weather conditions. The BPG states at distances greater than 10 rotor diameters from a turbine, the potential for shadow flicker is very low.

The agent has identified there are 26 inhabited houses within 10 rotor diameters and of those, 7 are expected to experience some shadow flicker with H175 expected to be affected by 9.4 hours of shadow flicker annually and H65 is expected to be affected the most at 37.8 hours of shadow flicker annually. The agent has stated mitigation measures can be incorporated into the operation of the wind farm to reduce the instance of shadow flicker. Mitigation measures range from planting tree belts between the affected dwelling and the responsible turbine(s), or installing blinds at the affected dwellings. If there is extreme

nuisance, mitigation could be to the extreme of shutting down individual turbines during periods when shadow flicker could theoretically occur.

(b) visual amenity and landscape character;

(i) that the development will not have an unacceptable impact on visual amenity or landscape character through: the number, scale, size and siting of turbines;

The proposal comprises 9 turbines in the same location as the approved Murley Wind Farm. The applicant is seeking permission to amend the overall tip height of the turbines 149.9m with two possible turbine dimension scenarios within this overall height and also to vary the consent to run for 35 years rather than the consented 25 years.

A Landscape and Visual Impact Assessment (LVIA) has been carried out to establish the full extent of likely landscape and visual effects arising from the proposed wind farms within a study area that extends into a 30km radius from the site.

A visual assessment is concerned with assessing if there are any significant visual effects from the proposal on the landscape and from surrounding properties. By virtue of their size and scale and exposed locations wind turbines will have a visual impact. The degree of the impact will depend on a number of factors. PPS 18 refers to supplementary planning guidance "Wind Energy Development in NI's Landscapes" and this should be taken into account when assessing all wind turbine proposals.

The proposed wind farm falls within LCA 16 - Brougher Mountain and in terms of sensitivity to wind energy the LCA is deemed to have a high to medium rating due to the presence of complex and distinctive landform features, though it is recognised there may be less sensitive areas where there are large forestry plantations.

The development will have direct physical effects on the landscape character of a small part of the Brougher Mountain LCA though its location in close proximity to an existing cluster of wind farms within the same part of the LCA means that it should not significantly alter the existing baseline character. The agent states that summit of Brougher Mountain serves to screen views of the development from the western end of the LCA and other summits have a similar effect on views to the east where visibility of the development from within the LCA would also be patchy.

The LVIA for the consented scheme included twenty shortlisted viewpoints. Ten of these have been retained for detailed assessment of the development and a further viewpoint located on Murley Road in close proximity to the development has been added. A desktop review of viewpoints used in the consented scheme which are located beyond c.10 km from the development were deemed unlikely to experience any significantly different visual effects arising from the proposed tip height increase and have not been included for more detailed analysis. Viewpoint 9 from the previous LVIA was visited as part of the site assessment for this

development but views were found to be limited by maturing forestry in the foreground of this location. This forestry is likely to mature further in coming years to entirely screen views from this location and, therefore, is not considered in the LVIA.

Clogher Valley, although locally recognised as having high scenic quality, is not subject to any official designation and does not enjoy the protection that an AONB have. The consented case officer report considered the likely views from 5-15 kms as being critical for the consideration of the proposal with a summary of those in the district within 2-5kms also.

VP 7 is 4.7 km to the south, 7 turbines are visible but seen with the urban clutter of the settlement of Fivemiltown. The turbines are still visible with other approved turbines in the landscape. The views are not considered to be prominent and to no greater extent than the consented scheme. The visual effects are judged to be not significant.

VP 8 is 7.2km to the south, 7 turbines are visible and seen with existing turbines. The cluster is extended to the west but no further than already consented. The foreground is pastoral fields, mature hedgerows, trees and small areas of woodland. There are no significant changes to the nature of this view since the original LVIA. The visual effects are judged to be not significant.

VP 10 is 10.4km to the south east, 7 turbines are visible and seen with existing turbines. The cluster is extended to the west but no further than already consented. There are clear views across the Clogher Valley in the middle distance to the broad horizon formed by the Brougher Mountain uplands. The existing Lendrum's wind farm forms a visible feature together with a number of single turbines. The foreground is a mix of forestry, pastoral fields and rough grazing land with hedgerows and stands of trees. A substantial area of forestry in the immediate foreground has been felled since the consented development and it is acknowledged the view from this location is now wider in extent and encompasses a greater proportion of open ground in the middle distance as well as a more extensive view along the Brougher Mountain uplands in the distance. Half of the turbines would be seen as an integral part of Lendrum's whilst the other 3 would be visible to the western side of the cluster. However, the proposed turbines would be located at a lower contour level than the existing turbines. It is considered the amendment would not introduce a completely new element into the existing view where a large cluster of wind turbines are already a key feature on the horizon. The visual effects are judged to be not significant.

VP 11 is 4.9kms to the east with 4 turbines and 2 tips visible. The foreground comprises a pastoral upland landscape common in the valleys. The majority of the proposed turbines would be located on land on which is screened by higher foreground. There have been no significant changes to the nature of this view since the original LVIA. The visual effects are judged to be not significant.

I do not consider there will be significant views of the proposed development that will have a significant impact on the character of the area over that which has been consented to date.

(ii) that the development has taken into consideration the cumulative impact of existing wind turbines, those which have permissions and those that are currently the subject of valid but undetermined applications;

Chapter 4 of the ES addresses the cumulative baseline and analysis of effects. The cumulative baseline refers to all existing, consented and developments within the 30km study area. There are a total of 35 wind farms and commercial single turbines considered to form the cumulative baseline for this Landscape and Visual Impact Assessment (LVIA), of which 29 are existing, 4 are consented and 2 are proposed. Exact data for a further 3 turbine proposed windfarm called Cloghfin Road is unknown and therefore it has not been considered. The cumulative baseline also includes single turbines where they are existing elements within the final viewpoints.

The development is located as part of the Lendrum's cluster of existing and wind farms and would replace the consented Murley windfarm (LA09/2015/0460/F) which would already add to this cluster. It's cumulative effects in relation to these wind farms have previously been considered since most of the cumulative elements of this cluster are existing elements and because the proposal will replace the consented Murley wind farm.

The original LVIA concluded that the overall magnitude of effect on landscape character resulting from the consented Murley windfarm would be low. Taking this into consideration the incremental cumulative landscape effects of the development are considered negligible. The presence of other clusters of existing and consented wind farms throughout the study area was a key consideration in the assessment of cumulative landscape and visual effects.

(vii) that above-ground redundant plant (including turbines), buildings and associated infrastructure shall be removed and the site restored to an agreed standard appropriate to its location.

A condition should be included that within 12 months of the cessation of electricity generation at the site, or upon the expiration of this permission, whichever is the sooner, all structure and access tracks shall be removed and all land affected by the development restored in accordance with a decommissioning scheme submitted to and approved by the Council prior to the commencement of any works, or in accordance with any variation to the scheme to which the Council subsequently agrees in writing.

(c) Biodiversity, nature conservation or built heritage interests;

Planning Policy Statement 2 - Natural Heritage:

PPS 2 - Planning and Nature Conservation sets out the planning policy for nature conservation for the whole of Northern Ireland. It describes the statutory framework that helps to protect designated areas. It also outlines the criteria the

Local Planning Authority will employ when processing planning applications that might affect nature conservation interests.

NED has considered the documents and drawings to date. The western section of the site is hydrologically connected to Upper Lough Erne SAC/SPA through the Colebrooke River and one of its tributaries, and is approximately 36km downstream of the proposal. A large part of the development lies within the River Blackwater catchment and flows into Lough Neagh, approximately 80km downstream of the proposal. The mouth of the Tempo River is approximately 25km downstream of the proposal. Although the development site is located at large distances from these sites, potential pollution incidents may have a cumulative impact on the features of these sites, especially salmon which are present in the Colebrooke River system and the Tempo River ASSI.

An oCEMP has been submitted which details a number of mitigation methods for the protection of watercourses on site including the implementation of a pollution prevention plan, no access watercourse buffer zones, SUDS drainage mechanisms, foul effluent removal by tanker, measures to avoid chemical and fuel spills, regular machinery inspections, emergency response plans and contractor briefings.

Water quality monitoring will be implemented throughout the project to enable early detection of any pollution incidents by comparing readings against baseline data. Emergency procedures will be implemented if a pollution incident is detected.

The Peat Management Plan details measures of the safe temporary storage of excavated peat, including storage on shallow peat with slopes angles less than 5 degrees, not to be with 50m of a watercourse and no peat to be stored deeper than 1m depth. These measures are likely to reduce the likelihood of any suspended solids originating from the stockpiles entering watercourses via surface water.

NED are content that there will be no significant impacts to any designated sites, provided that a Final CEMP is produced that includes (but not limited to) all relevant PPGs and the mitigation for protection of watercourses detailed in the oCEMP, Emergency Procedure in the event of a contaminant spillage, Safety and Environmental Requirements for contractors on all activities and Peat Management Plan documents.

Shared Environmental Services have carried out an appropriate assessment in accordance with the Regulations and having considered the nature, scale, timing, duration and location of the project, SES advises the project would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects. In reaching this conclusion, SES has assessed the manner in which the project is to be carried out including any mitigation being conditioned.

Planning Policy Statement 6 - Planning, Archaeology and the Built Heritage

This is an amendment to the tip height of a consented wind farm. A desktop survey, conducted by Gahan and Long on behalf of RES UK and Ireland Ltd, indicated that the proposed development site lies within an area of some archaeological interest, with a total of 63 recorded archaeological sites located within the 5km study area. Of these, 20 were identified as scheduled monuments of regional importance. There are, however, no known sites of archaeological interest located within the proposed development site. To summarise, within 5kms of the site there are :

- 63 recorded archaeological sites of which 36 have upstanding remains. None of the archaeological sites of regional importance will be directly physically impacted upon by the proposed wind farm development;
- 7 listed buildings which will not be directly impacted upon by the proposed wind farm;
- 2 historic gardens and neither will be directly physically impacted upon by the proposed wind farm.

Having considered the report by Gahan and Long it is possible that previously undiscovered surviving archaeological material may exist sub-surface within the development area, which may be negatively impacted upon by the proposed development. Therefore, during the construction phase of the development archaeological mitigation may be required.

(d) local natural resources, such as air quality or water quality;

Regulation Unit (Land and Groundwater Team) has considered the impacts of the proposal on the environment and on the basis of the information provided refers to standing advice. The foundations for the wind turbine could potentially impact on groundwater flow paths, groundwater receptors (aquifers) or secondary receptors. Hence it is recommended that the applicant considers the potential risks to potential receptors identified initially through a desktop study only. If the desktop study identifies any potential impacts then a more detailed risk assessment may be required. The Planning Authority should satisfy themselves that the desktop study did not identify any water features that could be affected by the foundations of the single wind turbine.

Having considered the information in Chapter 9 "Geology and Water Environment" in the submitted ES it is clear that without mitigation the proposed development has the potential to cause adverse changes of moderate significance, primarily relating to potential for contamination of downstream watercourses by silt and suspended soils. Mitigation provided includes, but is not limited to:

- Avoidance based on constraints identified by the baseline assessment;
- Design of site elements to minimise impact on the water environment;
- Implementation of a surface water management plan comprising the use of SuDS (drainage) and silt management, including temporary blocking of forestry drainage;
- Construction phase pollution prevention procedures;

- Maintenance and monitoring during construction and operational phases.

Implementation of the mitigation proposed would result in no significant residual effects to the receiving hydrological environment as a result of the proposed development, and there is no likelihood of significant cumulative impacts over and above any pre-existing effect caused by existing wind development.

The outcomes of this assessment into potential impacts on geology, hydrology and hydrogeology associate with the Murley Wind Farm, taking into account the proposed amendment to increase the overall turbine blade tip heights from 126.5m to 149.9m, remain unchanged relative to the original development proposals consented in 2015.

(e) public access to the countryside

The proposed site is located within a grazing farmland and commercial forestry which was planted in coniferous forest. The site for the proposed wind farm is currently not used for public recreation given the current use for forestry and will not be used for public recreation during construction phase.

Neighbour Notification Checked	Yes
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Summary of Recommendation:

Approve subject to the conditions listed below.

Conditions:

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

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

2. The permission shall be for a limited period of 35 years from the date on which the wind farm is first connected to the grid. Within 12 months of the cessation of electricity generation at the site, or upon the expiration of this permission, whichever is the sooner, all structure and access tracks shall be removed and all land affected by the development restored in accordance with a decommissioning scheme submitted to and approved by the Council prior to the commencement of any works, or in accordance with any variation to the scheme to which the Council subsequently agrees in writing.

Reason: To ensure the landscape is restored once the wind farm ceases to operate.

3. Roads reason to be finalised

4. A detailed programme of works and any required/associated traffic management proposals and the final haulage route for delivery of the turbines shall be submitted to and agreed by the Council prior to the commencement of any element of road works or delivery of turbines or component to the site.

Reason: To facilitate the convenient movement of all road users and the orderly progress of work in the interests of road safety.

5. The level of noise immissions from the combined effects of the permitted wind turbines (including the application of any Tonal Penalty when calculated in accordance with the procedures described on pages 104 - 109 of ETSU-R-97 and any Amplitude Modulation penalty when calculated in accordance with the procedures described in condition 8) shall not exceed values set out in Table 1. Noise limits for any dwellings which lawfully exist or have planning permission for construction at the date of this consent but are not listed in Table 1 shall be represented by the physically closest location listed in Table 1 unless otherwise agreed by Mid Ulster District Council.

Reason: To control the noise levels from the development at noise sensitive locations.

Table 1:

Property	Standardised wind speed at 10m height (m/s) within the site averaged over 10-minute periods								
	4	5	6	7	8	9	10	11	12
H1	27.7	31.2	30.6	27.5	28.0	35.7	35.7	35.7	35.7
H3	26.7	30.2	33.2	34.2	34.7	34.7	34.7	34.7	34.7
H9	26.7	30.2	33.2	34.2	34.7	34.7	34.7	34.7	34.7
H16	38.8	32.3	35.2	34.8	35.1	36.8	36.8	36.8	36.8
H21	27.0	30.5	33.5	34.5	35.0	35.0	35.0	35.0	35.0
H22	27.5	31.0	34.0	35.0	35.5	35.5	35.5	35.5	35.5
H29	28.8	32.3	35.3	36.3	36.8	36.8	36.8	36.8	36.8
H31	28.4	31.9	34.9	35.9	36.4	36.4	36.4	36.4	36.4
H32	28.3	31.8	34.8	35.8	36.3	36.3	36.3	36.3	36.3
H36	28.1	31.6	34.6	35.6	36.0	36.0	36.1	36.1	36.1
H55	25.9	29.4	32.4	33.4	33.0	33.9	33.9	33.9	33.9
H56	25.8	29.3	32.3	33.3	33.8	33.8	33.8	33.8	33.8

H59	27.7	31.2	34.21	35.2	35.7	35.7	35.7	35.7	35.7
H64	30.0	33.5	36.5	37.0	38.0	38.0	38.0	38.0	38.0
H65	30.3	33.8	36.6	37.0	38.3	38.3	38.3	38.3	38.3
H72	29.0	32.5	35.5	34.7	31.8	37.0	37.0	37.0	37.0
H73	27.5	31.0	34.0	35.0	35.5	35.0	35.5	35.5	35.5
H74	36.4	39.9	32.9	33.9	28.0	34.4	34.4	34.4	34.4
H78	29.1	32.6	35.6	36.6	37.1	37.1	37.1	37.1	37.1
H79	29.3	32.8	35.8	36.8	37.3	37.3	37.3	37.3	37.3
H83	29.5	33.0	34.4	34.6	37.5	37.5	37.5	37.5	37.5
H85	25.7	29.2	32.2	33.2	33.7	33.7	33.7	33.7	33.7
H87	27.4	30.9	33.9	34.5	35.4	35.4	35.4	35.4	35.4
H88	25.8	29.3	32.3	33.3	33.8	33.8	33.8	33.8	33.8
H89	25.2	28.7	31.7	32.7	33.2	33.2	33.2	33.2	33.2
H90	24.7	28.2	31.2	32.2	32.7	32.7	32.7	32.7	32.7
H94	27.2	30.7	33.7	33.7	34.1	35.2	35.2	35.2	35.2
H95	27.2	30.7	33.7	34.7	34.1	35.2	35.2	35.2	35.2
H96	26.0	29.5	32.5	33.5	34.0	34.0	34.0	34.0	34.0
H97	25.6	29.1	32.1	33.1	33.6	33.6	33.6	33.6	33.6
H98	25.1	28.6	31.6	32.6	33.1	33.1	33.1	33.1	33.1
H99	24.7	28.2	31.2	32.2	32.7	32.7	32.7	32.7	32.7
H100	25.1	28.6	31.6	32.6	33.1	33.1	33.1	33.1	33.1
H101	25.8	29.3	32.3	33.3	33.8	33.8	33.8	33.8	33.8

6. Within 6 months of the development first becoming fully operational (unless otherwise extended with Mid Ulster District Council) the wind farm operator shall at his/her expense employ a suitably qualified and competent person to undertake a noise survey to assess the level of noise immissions from the wind farm. The duration of such monitoring shall be sufficient to provide comprehensive

information on noise levels with all turbines operating across the range of wind speeds referred to in Condition 3 and covering a range of wind directions. Details of the noise monitoring survey shall be submitted to Mid Ulster District Council for written approval prior to any monitoring commencing. Mid Ulster District Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise survey.

Reason: To protect the amenity of the adjoining residential properties.

7. Within 4 weeks of a written request by Mid Ulster District Council, following a noise complaint from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind farm operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of noise immissions from the combined effects of the permitted wind turbines, at the complainant's property, following the procedures described in Pages 102-109 of ETSU-R-97 and if necessary, those described in condition 1. Details of the noise monitoring survey shall be submitted to Mid Ulster District Council for written approval prior to any monitoring commencing. Mid Ulster District Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring.

Reason: To protect the amenity of the adjoining residential properties.

8. The wind farm operator shall provide to Mid Ulster District Council the results, assessment and conclusions regarding the noise monitoring required by Conditions 6 and 7, including all calculations, audio recordings and the raw data upon which that assessment and conclusions are based. Such information shall be provided within 3 months of the date of a written request of Mid Ulster District Council unless otherwise extended in writing by Mid Ulster District Council.

Reason: To control the noise levels from the development at noise sensitive locations.

9. Wind speed, wind direction and power generation data shall be continuously logged throughout the period of operation of the wind farm. This data shall be retained for a period of not less than 12 months. The recorded wind data, standardised to 10m height above ground level and relating to any periods during which noise monitoring took place or any periods when there was a specific noise complaint, shall be provided within 3 months of the date of a written request of Mid Ulster District Council unless otherwise extended in writing by Mid Ulster District Council.

Reason: To allow Council to investigate any complaints.

10. Within 4 weeks from receipt of a written request from Mid Ulster District Council, following an amplitude modulation (AM) complaint to it from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind farm operator shall submit a scheme for the assessment and regulation of AM to Mid Ulster District Council for its written approval. The scheme shall be in general accordance with:

- Any guidance endorsed in National or Northern Ireland Planning Policy or Guidance at that time, or in the absence of endorsed guidance,
- Suitable published methodology endorsed as good practice by the Institute of Acoustics; or in the absence of such published methodology,
- The methodology published by Renewable UK on the 16th December 2013; and implemented within 3 months of the written request of Mid Ulster District Council unless otherwise extended in writing by Mid Ulster District Council.

Reason: To allow Council to investigate any complaints.

11. Construction work, which is audible at any noise sensitive property outside the site, shall only take place between the hours of 07.00 - 19.00 hours on Monday to Friday, 07.00 - 13.00 hours on Saturday with no such working on Sunday. Outwith these hours, work at the site shall be limited to turbine erection, testing/commissioning works, emergency works, or construction work that is not audible at any noise sensitive property.

Reason: To protect the amenity of the adjoining residential properties.

12. No development activity, including ground preparation or vegetation clearance, shall take place until a final Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Planning Authority. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise approved in writing by the Planning Authority. The CEMP shall include the following:
- a) Construction methodology and timings of works;
 - b) Pollution Prevention Plan; including details of the establishment of buffer zones to watercourses (e.g. 50m to streams and 20m to minor drains) and details of watercourse crossings;
 - c) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;
 - d) Peat Spoil Management Plan; including identification of peat/spoil storage areas, management and handling of peat/spoil and details of the reinstatement of excavated peat/spoil;
 - e) Mitigation measures for construction in peatland habitats;
 - f) Water Quality Monitoring Plan;
 - g) Environmental Emergency Plan;
 - h) Details of the appointment of an Ecological Clerk of Works (ECoW) and their roles and responsibilities;
 - i) Draft Decommissioning Plan detailing the removal of infrastructure, protection of habitats, pollution prevention measures and the restoration of habitats and natural hydrological processes on the site.

Reason: To protect Northern Ireland priority habitats and species, to ensure implementation of mitigation measures identified within the Environmental Statement and to prevent likely significant effects on designated sites.

13. No development activity, including ground preparation or vegetation clearance, shall take place until a final Habitat Management Plan (HMP) has been submitted

to and approved in writing by the Planning Authority. The approved HMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved HMP, unless otherwise approved in writing by the Planning Authority. The HMP shall include the following:

- a) Clear aims and objectives for the proposed habitat management/restoration areas and bat buffer zones (where re-colonisation should be allowed to proceed naturally);
- b) Description of pre-construction, baseline habitat conditions;
- c) Appropriate maps, clearly identifying habitat management areas;
- d) Detailed methodology and prescriptions of habitat management and restoration measures, including timescales, and with defined criteria for the success of the measures;
- e) Details of the prohibition of habitat damaging activities, including agricultural activities;
- f) Confirmation of landowner agreement with all proposed habitat management measures for the lifetime of the wind farm;
- g) Details of the regular monitoring of the effectiveness of habitat management and restoration measures using appropriate methodology (e.g. visual inspections, vegetation quadrats, fixed point photography) in years 1, 3, 5, 10, 15, 20, 25 and 30 after construction;
- h) Details of the production of regular monitoring reports which shall be submitted to the Planning Authority within 6 months of the end of each monitoring year and which shall include details of contingency measures should monitoring reveal unfavourable results.

Reason: To compensate for the loss of and damage to Northern Ireland priority habitats and to mitigate for impacts to priority species and breeding birds.

14. No development activity, including ground preparation or vegetation clearance, shall take place on site between 1 March and 31 August in any year until an Ornithological Mitigation Strategy (OMS) has been prepared by a suitably experienced and competent ornithologist and approved in writing by the Planning Authority. The approved OMS shall be implemented in accordance with the approved details and all works must conform to the approved OMS, unless otherwise approved in writing by the Planning Authority. The OMS shall include:
 - a) Details of the appointment of a suitably experienced and competent ornithologist, with the power to halt works, to supervise works during the bird breeding season;
 - b) Details of pre-construction bird surveys, including the location of any recorded active nests or breeding activity;
 - c) Details of appropriate mitigation measures to be implemented prior to any works commencing, including the establishment of species specific buffer zones to active nests or breeding territories (to be agreed with NIEA) and the phasing of works to avoid any development activity within these breeding bird buffer zones;
 - d) Details of the timing of ground preparation and vegetation clearance to avoid disturbance to breeding birds;
 - e) Details of appropriately timed bird surveys to be conducted during the construction phase;
 - f) Details of appropriate mitigation measures to be implemented during the construction phase, including, temporarily halting works and the establishment of

species specific buffer zones to active nests or breeding territories (to be agreed with NIEA);

- g) Provisions for the reporting of the implementation of the OMS to the Planning Authority after construction has commenced and at the end of each bird breeding season during which works take place.

Reason: To protect breeding birds during the construction phase.

15. No development activity, including ground preparation or vegetation clearance, shall take place until an Ornithological Management & Monitoring Plan (OMMP) has been prepared by a suitably experienced and competent ornithologist and approved in writing by the Planning Authority. The approved OMMP shall be implemented in accordance with the approved details and all works must conform to the approved OMMP, unless otherwise approved in writing by the Planning Authority. The OMMP shall include:
 - a) Details of a programme of ornithological mitigation measures, including wader habitat management measures within the Curlew compensation areas which must be completed prior to the first breeding season post-construction, and a predator control programme using legal methods;
 - b) Details of a programme of post-construction monitoring of breeding waders within the site and 800m buffer zone, using the methods of Brown and Shepherd (1993)³, with a minimum of four visits made between April and June, in the first survey period after construction is completed (year 1) and in years 2, 3, 5, 10 and 15 thereafter;
 - c) Details of a programme of regular turbine carcass searches around turbines and within 50m of linking overhead power cables in years 2 (first operational year), 3 and 5 using methods recommended by Scottish Natural Heritage (SNH 2009: Sections 48-56)⁴, to produce mortality data for birds, including estimation of the rate of carcass removal by scavengers, estimation of observer efficiency of carcass detection, and the reporting of mortality incidents to NIEA;
 - d) Provisions for the implementation of contingency mitigation measures should monitoring reveal significant impacts on birds;
 - e) Details of the production of monitoring reports which shall be submitted to the Planning Authority within 6 months of the end of each monitoring year.

Reason: To ensure implementation of the long term ornithological mitigation measures as described in the Environmental Statement and to monitor the impact of the proposal on sensitive bird species.

16. Prior to the erection of internal overhead power cables which will link the three turbine clusters and the on-site electricity sub-station, high-visibility bird deflectors shall be attached along the cables at regular intervals and these shall be maintained for the lifetime of the structure.

Reason: To reduce the risk of collision for bird species.

17. No turbine shall become operational until a Bat Monitoring Programme (BMP) has been submitted to and approved in writing by the Planning Authority. The approved BMP shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority. The BMP shall include the following:

1. Details of the proposed monitoring of bat activity across the site post construction using appropriate methodology for a period of time to be agreed with the planning authority;
2. Details of bat carcass searches at selected turbines using appropriate carcass search methodology and frequency, for a period of time to be agreed with the planning authority;
3. Details of the production of yearly monitoring reports to be submitted to the planning authority within 6 months of the end of each monitoring year;
4. Provision for review of the monitoring programme, including timescales;
5. Specific thresholds for triggering further remedial or mitigation measures, such as curtailment of turbines where more than one bat is killed per turbine per year;
6. Provision for contingency measures which may be deemed necessary depending on the results of the monitoring and which shall be implemented if instructed by the Planning Authority.

Reason: To monitor the impact of the proposal on bats

18. No development activity, including ground preparation or vegetation clearance, shall take place until a Protected Species Management Plan (PSMP) has been submitted to and approved in writing by the Planning Authority. The approved PSMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved PSMP, unless otherwise agreed in writing by the Planning Authority. The PSMP shall include the following:
 - a) Details of the appointment of a competent ecologist as an Ecological Clerk of Works (ECoW), with the power to halt works, including their roles, responsibilities and timings of visits with regard to management of protected species;
 - b) Details of updated surveys for protected species prior to works commencing using appropriate methodology;
 - c) Details of appropriate mitigation for protected species to be implemented during the site preparation, construction and operational phases, including timing of works, wildlife corridors, buffer zones and/or fencing;
 - d) Details of appropriate monitoring of impacts to protected species during construction works;
 - e) Details of appropriate procedures/measures to be followed should monitoring indicate potential impacts to protected species and/or potential breaches of wildlife legislation.

Reason: To mitigate for impacts on protected species, particularly Pine Marten and Common Lizard, using the site.

19. The appointed contractor must submit a Final Construction Environmental Management Plan (CEMP) for approval by Mid Ulster District Council Planning before commencement of any works on site. This plan should contain all the appropriate environmental mitigation as detailed in the Outline CEMP by RES and as advised by NIEA WMU and NED in their responses to the consultation dated 19/07/2021.

Reason: To ensure that the appointed contractor is aware of and implements the appropriate environmental mitigation during construction/decommissioning phases that protects the features of the connected European Sites in Upper Lough Erne.

20. The developer shall notify Mid Ulster District Council in writing of the date of commencement of works on site and of the date when the turbines have become fully operational.

Reason: To ensure compliance with the appropriate conditions.

Signature(s)

Date:

ANNEX	
Date Valid	3rd October 2019
Date First Advertised	15th October 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses)	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No Voluntary statement received.
Planning History <p>Ref ID: LA09/2019/0951/PAN Proposal: Amendment to the overall tip height of the consented Murley Wind Farm from 126.5m to 149.9m including blade lengths of between 50m and 63m and hub heights of between 86.9m and 99.9m and vary planning condition 25 years to 35 years from the date on which the wind farm is connected to the electricity grid and a relocation of the substation Address: The site is located in the townlands of Killygordan, Tattanafeinnell, Edgegole and Cole Glen Forest near Fivemiletown, Decision: Decision Date:</p> <p>Ref ID: M/2014/0526/PREAPP Proposal: Intention to submit an Environmental Statement for a proposed wind energy project comprising 9 turbines with an overall height of 126.5m and ancillary development. Address: Murley, in the vicinity of Glengesh Lower Forest, Moysnaght, Killygordan, Tattanafeinnell, Edergole and Cole Glen Forest, near Fivemiletown, Co Tyrone, Decision: Decision Date:</p> <p>Ref ID: K/2005/0387/F Proposal: Amendment to proposed wind farm comprising amended layout including reduction from 10 to 8 wind turbines (each with a maximum overall height of no greater than 101m), associated transformers, a permanent anemometer mast, two temporary</p>	

anemometer masts, some upgrading of existing access tracks and extending to new turbine locations, gates, a site control room and substation, electrical cabling, a temporary site compound and all ancillary works

Address: Hunter's Hill, (In the townlands of Tattymoyle Lower, Edergole, Killygordon and Tattanafeinnell), Co Tyrone

Decision:

Decision Date: 14.01.2008

Ref ID: L/2004/0535

Proposal: Proposed Windfarm

Address: Tattanafeinnell

Decision:

Decision Date:

Ref ID: LA09/2019/1096/DETEI

Proposal: Intention to submit an ES for Proposed Tip Height Increase for Murley Wind Farm

Address: The site is located in the townlands of Killygordon, Tattanafeinnell, Edgegole and Cole Glen Forest near Fivemiletown,

Decision:

Decision Date:

Ref ID: LA09/2019/1300/F

Proposal: An amendment to the overall tip height of the consented Murley Wind Farm from 126.5m to 149.9m (consented under LA09/2015/0460/F and K/2015/0066/F).

Turbine geometry to be considered includes blade lengths of between 50m and 63m and hub heights of between 86.9m and 99.9m. The proposal also includes an application to vary planning condition 25 years to 35 years from the date on which the wind farm is connected to the electricity grid

Address: The site is located in the townlands of Killygordon, Tattanafeinnell, Edgegole and Cole Glen Forest near Fivemiletown,

Decision:

Decision Date:

Ref ID: M/2014/0312/PREAPP

Proposal: Request for scoping opinion in relation to the landscape and visual impact assessment of a proposed windfarm at Murley Mountain, Co Tyrone

Address: Murley Mountain, Co Tyrone,

Decision:

Decision Date:

Ref ID: LA09/2015/0460/F

Proposal: A proposal for a wind farm comprising of nine turbines (each with an overall maximum height of up to 126.5m above ground level) and associated infrastructure including upgraded site entrances, new and upgraded onsite access tracks, an onsite

substation and control building, underground cables, overhead grid line, two temporary monitoring masts, temporary construction compounds, enabling works compounds, permanent crane hardstandings and road widening and improvement works on sections of the transport route (road improvement works). Two turbines are located with the Fermanagh Omagh Council area and seven are located within the Mid Ulster Council Area

Planning Permission is requested with the condition that the proposed wind farm development to which it would relate must be begun within a 10 year period from the date of planning consent

Address: Murley Wind Farm in Townlands of Glengesh Lower Forest, Moysnaght, Killygordon, Tattanafeinnell, Edergole and Cole Glen Forest, near Fivemiletown, Co Tyrone,

Decision: PG

Decision Date: 10.05.2018

Ref ID: LA09/2015/0362/F

Proposal: Proposed erection of an 80m Meteorological Mast for 5 years in order to measure wind speed and direction

Address: Site is approx. 2250m NW of Murley Crossroads in the Townlands of Killygordon and Tattanafeinnell, near Fivemiletown,

Decision: PG

Decision Date: 06.10.2015

Ref ID: K/2015/0066/F

Proposal: A proposal for a wind farm comprising of nine turbines (each with an overall maximum height of up to 126.5m above ground level) and associated infrastructure including upgraded site entrances, new and upgraded on-site access tracks, an on-site substation and control building, underground cables, overhead grid line, two temporary monitoring masts, temporary construction compounds, enabling works compounds, permanent crane hardstandings and road widening and improvement works on sections of the transport route (road improvement works). Two turbines are located within the Mid Ulster Area. Planning permission is requested with the condition that the proposed wind farm development to which it would relate must be begun within a year period from the date of Planning consent, as permitted under Article 34 of the Planning (NI) Order 1991, as amended

Address: Murley wind farm in the townlands of Glengesh Lower Forest, Moysnaght, Killygordon, Tattanafeinnell, Edergole and Cole Glen Forest, near Fivemiletown, Co. Tyrone.,

Decision: PG

Decision Date:

Summary of Consultee Responses

See main body of report

Drawing Numbers and Title

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

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

Drawing No. 03
Type: Proposed Elevations
Status: Submitted

Drawing No. 04
Type: Proposed Elevations
Status: Submitted

Drawing No. 05
Type: Floor Plans
Status: Submitted

Drawing No. 06
Type: Proposed Elevations
Status: Submitted

Drawing No. 07
Type: Proposed Elevations
Status: Submitted

Drawing No. 08
Type: Proposed Floor Plans
Status: Submitted

Drawing No. 09
Type: Proposed Plans
Status: Submitted

Drawing No. 10
Type: Site Layout or Block Plan
Status: Submitted

Drawing No. 11
Type: Site Layout or Block Plan
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



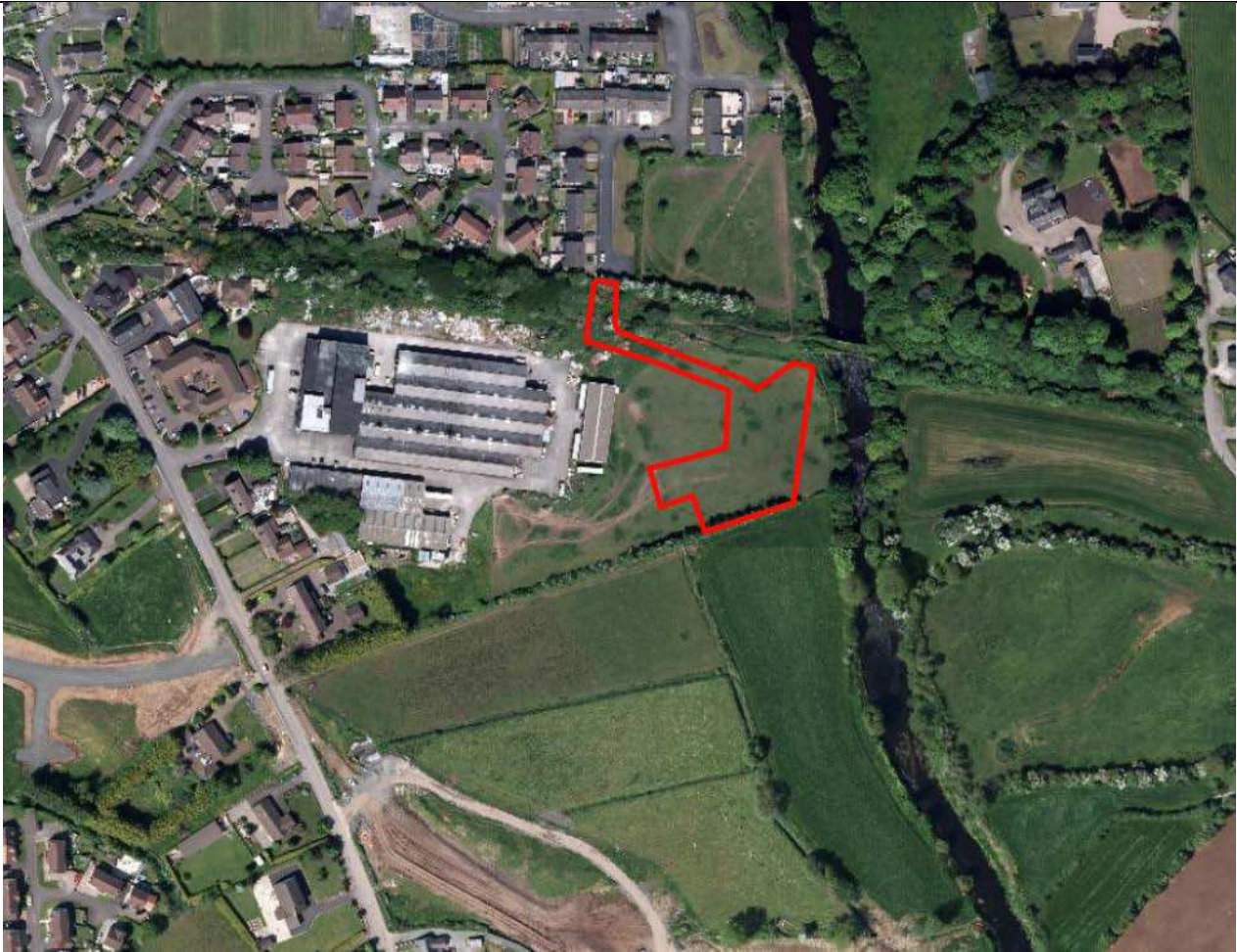
Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1548/O	Target Date:
Proposal: 4 Detached dwellings and garages accessed through Riverside Gardens, Castledawson	Location: Lands approx. 80m South of Hughes Furniture Bellshill Road Castledawson
Referral Route: This application is being presented to Committee as it is being recommended for refusal.	
Recommendation:	REFUSE
Applicant Name and Address: Hughes Furniture 14 Bellshill Road Castledawson	Agent Name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SG
Executive Summary:	
Signature(s):	

Case Officer Report


Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received
Statutory	NIEA	Standing Advice
Statutory	Historic Environment Division (HED)	Content
Non Statutory	Shared Environmental Services	Substantive Response Received
Statutory	NIEA	Advice
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
Summary of Issues	
No representations have been received in relation to this planning application.	
Characteristics of the site and area	
<p>The site is currently accessed through the Hughes Furniture site on the Bellshill Road Castledawson. The site is located around 80m east of Hughes Furniture and is located on the eastern side of the large commercial building, which was the former Nestle Chocolate Factory. The site lies within an area zoned as Industrial land (CN 06). This is bounded to the north by the historical railway line with a small area of open space and residential dwellings located to the northern side of the historical railway line, to the south by open agricultural land and to the east by the Moyola River which flows through the Brough Road Local Landscape Policy Area (CN 09).</p>	
Description of Proposal	
<p>This is an outline application for a site for four detached dwellings and garages, of a single house type, with the access being taken through Riverside Gardens, Castledawson. An indicative block plan indicates that three of the dwellings will be sited backing onto the Moyola River with the fourth dwelling facing northwards and backing onto the adjoining agricultural lands to the south. The dwellings are served via a single access road from Riverside Gardens with the access being taken through the historic railway line and culminating at a turning head to the south west of the dwellings.</p>	
 <p>The indicative site layout showing access taken off Riverside Gardens and through the historic railway line.</p>	

As this is an outline application, details of the design of the house types etc. have not been provided, nor considered at this stage.

Planning Assessment of Policy and Other Material Considerations

The relevant policies for consideration of this application are:

Magherafelt Area Plan 2015

Strategic Planning Policy Statement

Planning Policy Statement 3 - Access, Movement and Parking.

Planning Policy Statement 4 - Planning and Economic Development use

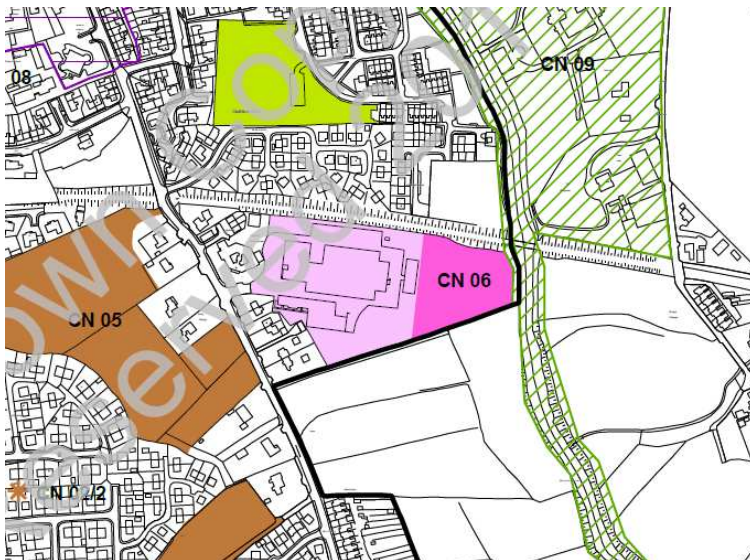
Planning Policy Statement 7 - Quality Residential Environments.

Planning Policy Statement 12 - Housing in Settlements

Planning Policy Statement 13 - Transportation and Land Use

Creating Places

As the site is located within an area zoned for Industrial Use within the Magherafelt Area Plan 2015, the critical planning policy is therefore PPS 4.



Map No.8 Castledawson showing the existing industrial zoning with the area zoned as CN 06 for Light Industry

The lands in question are sited within an area extending to 0.84ha, zoned as Industrial land – CN 06. This area of zoned land is the only area within Castledawson which has been zoned for future industrial use. All other areas of industrial land are existing industrial areas.

The key site requirements of the CN 06 are :-

- The site is to be used for light industrial use as defined in Class B2 of the Planning (Use Classes) Order 2004 and for no other type of industrial use.
- The site shall be accessed via the existing industrial access on Bells Hill Road.
- Contemporaneous with the new development, the eastern boundary of the site adjacent to the Moyola River is to be planted with a 5-8 metre belt of trees of native species to provide screening for the development and to afford protection for the visual amenity and character of the river corridor (refer to Designation CN 09).

It should be noted that a Planning Appeal decision against the refusal notice on a previous application ref: H/2006/0713/O, Appeal ref: 2007/A0574 dated 3rd November 2009 (see Appendix 1), which included the entire CN 06 zoning in addition to the adjacent existing zoned

industrial land was dismissed. The Commissioner stated in their report that *'I am not persuaded that the appeal site is a vital local industrial land resource which must be retained'* and therefore the refusal reason based on Paragraph 35 of PPS 4 and relating to the retention of industrial land and buildings was not sustained.

The Commissioner also referred to insufficient information about the condition of the land and the extent of any contamination that was there or the remediation that might be required. The Department sustained the second reason for refusal as the Commissioner stated that *'The grant of an outline permission would establish the principle of development on the site and it would not be appropriate to allow this where there are unallayed concerns about the extent of contamination, its environmental implications and the adequacy of remediation works'*.

However, that appeal was held prior to both the publication of Planning Policy Statement 4 – Planning and Economic Development (November 2010) and the adoption of the Magherafelt Area Plan 2015 (December 2011).

The implications of PPS 4 on this application is that the proposal must be assessed against Policy PED 7 - Retention of Zoned Land and Economic Development Uses, which is clear and unambiguous in stating that 'Development that would result in the loss of land or buildings zoned for economic development use in a development plan (either existing areas or new allocations) to other uses will not be permitted, unless the zoned land has been substantially developed for alternative uses'.

PED 7 goes on to state 'An exception will be permitted for the development of a sui generis employment use within an existing or proposed industrial/employment area where it can be demonstrated that: the proposal is compatible with the predominant industrial use; it is of a scale, nature and form appropriate to the location; and provided approval will not lead to a significant diminution of the industrial/employment land resource in the locality and the plan area generally'.

As the application is on zoned land which has not been developed for any alternative use and the proposed development is not considered to be an exception as it is not for a sui generis employment use, the proposal is therefore clearly contrary to Policy PED 7. This is further supported by the Planning Advice Note – Implementation of Planning Policy for the Retention of Zoned Land and Economic Development Uses introduced in November 2015 which states at Para's.14-15;

'Only in exceptional circumstances will the loss of land zoned for economic development use in a local development plan to other uses be considered. Planning permission should therefore not normally be granted for proposals that would result in the loss of such land and buildings to other uses'.

'The retention of economic development land can not only make a substantial contribution to the renewal and revitalisation of towns and beyond but it can also provide employment opportunities accessible to large sections of the urban population and the rural hinterland. The existence of redundant business premises and derelict industrial land can be an important resource for the creation of new job opportunities in areas of high unemployment and social deprivation'.

With regards to the Magherafelt Area Plan 2015, the proposal is also contrary to the zoning CN 06. Although the Department withdrew its refusal reason in respect of prematurity, at the aforementioned appeal, the Zoning was confirmed through the adoption of the Area Plan. The proposal is therefore contrary to the Magherafelt Area Plan 2015 in that it would result in the loss of land zoned for economic development use.

Further to DAERA's Regulation Unit Land and Groundwater Team requesting the submission of a Preliminary Contaminated and Risk Assessment (PRA) for the application site, a Phase 1 PRA

was submitted. The Phase 1 PRA was submitted and concluded that there are potential risks to human health and/or environmental receptors and as such an intrusive investigation is required.

The PRA was also considered by Environmental Health who advised that;
 'The risk assessment included a conceptual site model which identified potential pollutant linkages due to the former railway line that ran to the north of the site and some in-fill which could pose a risk to future site users. They have qualified the risk as 'Low-Moderate' and have recommended further Phase 2 site investigation to quantify these risks. A Generic Quantitative Risk Assessment which involved the drilling of 4 no. boreholes to obtain soil and water samples and facilitate ground gas monitoring was completed and the samples were sent for analysis. The results were duly considered by Environmental Health who advised of the following:- 'There were no exceedances of SGV or S4UL values were observed. Ground gas monitoring did not identify any excess ground gas issues and therefore no additional ground gas protection measures are required. A condition was therefore suggested to ensure if any unknown contamination is discovered during construction, then it would be dealt with in an acceptable manner.

Environmental Health also advised that;
 'The applicant should be aware that the proposed development is located in close proximity to an existing bedding warehouse. Such an activity may give rise to offensive conditions and a resulting impact upon the amenity enjoyed by the proposed development due to noise from deliveries etc.'.
 Therefore the proposed development also has the potential to have an adverse impact on residential amenity by way of noise.

A block plan has been provided for the proposed development and although this is an outline application, it is treated as a conceptual layout of how the site could be developed. The proposed layout has a density 10.0 units per hectare on a site of 0.4ha.

PPS 7 Quality Residential Environments – Policy QD 1 Quality in new Residential Environments requires new residential developments to create a quality residential environment which should be based on a concept plan which drawn on the positive aspects of the surrounding area.

Proposals must conform to nine criteria listed in the policy in order to protect residential amenity, residential character, environmental quality and movement. Any proposals which fails to satisfy the criteria, even if the site is designated for residential use, will not be acceptable.

As this is an outline application the proposed block plan is being treated as a conceptual plan and is therefore being assessed against these criteria as follows:-

(a) The proposal fails to meet the first of these criteria in that it does not respect the surrounding context insofar as the proposal is for a housing development within an industrial site. In terms of layout, the density at 10 dwellings per hectare is much lower than the surrounding areas which range from 25.0 dwellings per hectare in Ashbourne to 37.0 dwellings per hectare in Riverside North/South.

(b) The proposed development is in close proximity to a former railway bridge which spans over the River Moyola. The bridge is a Grade B2 structure which is of special architectural and historic interest and which is protected by Section 80 of the Planning Act (NI) 2011. Historic Environment Division considered the impact of the proposed development on the listed structure and on the basis of the information provided, advised that it is acceptable subject to the suggested conditions.

(c) As the proposed development is for four dwellings, there is no requirement to provide public open space. All dwellings have more than the minimum of 40m² private open space.

(d) As the site is within walking distance of the centre of Castledawson, the provision of neighbourhood facilities are not deemed necessary within the site;

(e) Due to the site being located to the rear of an existing commercial business and without taking the access through the commercial premises, the access has been taken through Parkview, Riverside South and Riverside Gardens. This has resulted in the site being in the region of 900m from Castledawson town centre which will provide an acceptable movement

pattern, including walking and cycling and will enable occupants to access public transport routes and the public network system;

(f) Adequate provision can be made for all sites to have in-curtilage parking.

(g) As this is an outline application, the design of the development in terms of form, materials and detailing has not been considered in detail. However, this can be conditioned and considered at Reserved Matters stage.

(h) Environmental Health advised that the proposed development is located in close proximity to an existing bedding warehouse. Such an activity may give rise to offensive conditions and a resulting impact upon the amenity enjoyed by the proposed development due to noise from deliveries etc. Therefore the proposal has the potential to create a conflict with existing adjacent land use.

(i) Generally the layout can be designed to deter crime and to ensure there are no areas which are unsupervised or not overlooked.

Consultee responses

Transport NI advised that as whilst the proposal is contrary to the key site requirements of zoned land, the proposed development could be acceptable subject to the suggested conditions.

Environmental Health suggested a condition to deal with the potential for site contamination. EHD also advised of the potential to create a conflict with the adjacent commercial land use, as discussed above.

Historic Environment Division: HED (Historic Buildings) has considered the impacts of the proposal on the listed structure and advised that it is acceptable subject to the suggested conditions.

NI Water advised that there was capacity at the WWTW.

DAERA: Regulation Unit advised that due to the proximity to Railway land, a preliminary contaminated land risk assessment is required as a minimum. Following the submission of the GQRA, suggested conditions were provided to ensure the site is suitable for the intended use.

Recommendation

On consideration of the above, it is my opinion that planning permission should be refused for the reasons stated below:-

Neighbour Notification Checked	Yes
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Summary of Recommendation:

Refuse for the reasons stated below:-

Reasons for Refusal:

1. The proposed housing development is contrary to the Magherafelt Area Plan 2015 and Designation CN 06 in that the site is zoned as an Industrial (Land Use) Policy Area to be used for light industrial use as defined in Class B2 of the Planning (Use Classes) Order 2004 and for no other type of industrial use.
2. The proposed development is contrary to Planning Policy Statement 4 – Policy PED 7

Retention of Zoned Land and Economic Development Uses in that the development would, if permitted, result in the loss of land zoned for economic development within the Magherafelt Area Plan 2015 and the proposal is not considered to be an exception or a sui-generis employment use.

3. The proposed development is contrary to Policies QD1 and QD2 of Planning Policy Statement 7 Quality Residential Environments and Development Control Advice Note 8 Housing in Existing Urban Areas in that the development as proposed fails to provide a quality residential environment as the applicant has failed to demonstrate through the submission of a Design Concept Statement, how the scheme has emerged from an analysis of the sites location, surrounding context and the specific characteristics of the site and results in piecemeal development.
4. As provided for within Section 40 of the Planning Act (Northern Ireland) 2011, the applicant has failed to provide sufficient information to enable Mid Ulster District Council to determine that the proposed layout will not create a conflict with the existing commercial business by way noise from deliveries etc.

Signature(s)

Date:

ANNEX	
Date Valid	26th November 2019
Date First Advertised	10th December 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 25 Riverside Gardens Castledawson Londonderry	
Date of Last Neighbour Notification	
Date of EIA Determination	N/A
ES Requested	No
Planning History Ref ID: LA09/2017/0672/PAD Proposal: Proposed mix use scheme comprising light industrial (class B2) and residential development Address: Lands at Bellshill Road, Castledawson, Decision: Decision Date: Ref ID: LA09/2019/1548/O Proposal: 4 Detached dwellings and garages accessed through Riverside Gardens, Castledawson Address: Lands approx. 80m South of Hughes Furniture, Bellshill Road, Castledawson, Decision: Decision Date: Ref ID: H/1989/0327 Proposal: HOUSING DEVELOPMENT Address: RIVERSIDE GARDENS CASTLEDAWSON Decision: Decision Date: Ref ID: H/2006/0114/F Proposal: Improvements to 68 No Existing NIHE Dwellings & Environmental Improvements to overall Estate (inc New Road Layouts & General Landscaping) Address: Riverside Estate, Castledawson (Parkview, Riverside North, Riverside South & Riverside Gardens Decision:	

<p>Decision Date: 30.10.2006</p> <p>Ref ID: H/2006/0713/O</p> <p>Proposal: Proposed mixed developement of light industrial units and residential development to include a mix of dwelling types, associated car parking and public open space</p> <p>Address: Lands at 14 Bellshill Road, Castledawson</p> <p>Decision:</p> <p>Decision Date:</p> <p>Ref ID: H/1989/0297</p> <p>Proposal: STORE EXTENSION</p> <p>Address: 14 BELLS HILL CASTLEDAWSON</p> <p>Decision:</p> <p>Decision Date:</p> <p>Ref ID: H/1991/6117</p> <p>Proposal: FUTURE LAND USE TAMNIARAN & TAMNADEESE CASTLEDAWSON</p> <p>Address: TAMNIARAN & TAMNADEESE</p> <p>Decision:</p> <p>Decision Date:</p>
<p>Summary of Consultee Responses</p> <p>Consultees responded as detailed above in the case officers report.</p>
<p>Drawing Numbers and Title</p>
<p>Drawing No. 02</p> <p>Type: Site Layout or Block Plan</p> <p>Status: Submitted</p> <p>Drawing No. 01</p> <p>Type: Site Location Plan</p> <p>Status: Submitted</p>
<p>Notification to Department (if relevant)</p> <p>Date of Notification to Department:</p> <p>Response of Department:</p>

Appendix 1

Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2538
E: info@pacni.gov.uk

Appeal Reference:	2007/A0574
Appeal by:	O'Kane and Devine Ltd against the refusal of outline planning permission.
Development:	Mixed development comprising light industrial units, residential development to include a mix of dwellings, associated car parking and public open space.
Location:	14 Bellshill Road, Castledawson.
Application Reference:	H/2006/0713/O
Procedure:	Informal Hearing 20th October 2009.
Decision by:	Commissioner Helen Fitzsimons, dated 3 rd November 2009.

Decision

1. The appeal is dismissed and outline planning permission is refused.

Reasons for the decision

2. The main issues in this appeal are
 - would the proposed development result in a loss of land which is a vital industrial land resource;
 - whether the development would result in an unacceptable loss of residential amenity; and
 - whether it has been established that any contamination that may exist on the site is capable of being appropriated remediated.
3. Currently there is some 3.09 ha of existing industrial land within the appeal site of which 2.25 ha are built upon. Three buildings occupy the appeal site and are partially in use by two businesses. An additional area of 0.84ha is proposed in the draft Magherafelt Area Plan (dMAP) draft zoning CNO6 and this lies within the appeal site. As no objections were received in respect of this draft zoning there is a strong possibility that it will be confirmed upon adoption of the draft plan. The Department accepted that the issue of prematurity does not arise and withdrew its first reason for refusal.
4. Paragraph 35 of Planning Policy Statement 4 'Industrial Development' (PPS 4) makes provision for the retention of Industrial Land and Buildings. It sets out 5 examples of circumstances in which permission may be granted for the change of use or redevelopment of industrial sites. These examples are not exhaustive and the fundamental test is whether or not the land is a vital industrial land resource that must be retained.

5. In making my assessment against the fundamental test I consider the following factors to be relevant:-

- Whilst Invest NI indicated that it has 84 client companies in Castledawson and the surrounding five wards of which over 80% have three year growth plans there is no evidence before me that it supports the retention of the appeal site for industrial purposes or intends to acquire it for that purpose.
- There is 22.7ha of industrial land currently available across the Magherafelt District and aside from the appeal site 1.015ha of this is located in Castledawson.
- The Department accepted that the buildings are dilapidated and unsuitable for modern use. There are health and safety issues pertaining to damp and the condition of the roof. The Appellant's low occupation level at the appeal site (45 staff) bears testimony to the condition of the buildings and the constraints imposed by their condition.
- Redevelopment of the appeal site in the manner proposed is to enable new light industrial accommodation for the two existing enterprises and an additional four new units. It would not be financially possible to construct the purpose built modern units without the proposed residential element of the scheme. The current industrial land at the appeal site is 3.75ha and 1.67ha would remain in light industrial use. This loss is not significant.
- There would be no loss of jobs for existing staff and up to 35 new jobs would be created.
- The benefit of the appeal proposal would be better use of this industrial land.

6. Taking account of all of the above factors I am not persuaded that the appeal site is a vital local industrial land resource which must be retained. The Department has not sustained its first reason for refusal based on Paragraph 35 of PPS 4.

7. The appeal site is flanked on the north, west and south west by residential properties. The Objector was concerned that the siting of three of the proposed units on the northern boundary of the appeal site would give rise to loss of her amenity and privacy and would result in noise. However, I note that the amended concept plan proposes to retain the railway embankment separating the appeal site from the Objector's property and that the positioning of the units are in keeping with those approved under unimplemented planning permission H/2002/0643/F. Conditions requiring the use of the units for light industrial purposes, restricting fenestration on the rear elevations and mitigating measures for noise would safeguard the amenities of the Objector. There is no intent to remove the western boundary of the Objector's property. The Objector's concerns on these matters do not warrant withholding planning permission.

8. Magherafelt District Council expressed concern that the Preliminary Risk Assessment Report (PRAR) tabled at the hearing did not provide sufficient information about the condition of the land and the extent of any contamination that was there or the remediation that might be required. The Council did not say whether its concerns related only to the residential use proposed. The PRAR was a desktop and a site walkover exercise. It identified a number of potential pollutants associated with the existing use of the appeal site for furniture and mattress assembly; the former use of the appeal site as a chocolate factory; the adjacent electricity sub station and the adjacent railway line. It concluded that there was moderate risk of contamination and recommended a further Generic Quantitative Risk Assessment be carried out by a soil and groundwater analysis. The Council also raised concerns regarding a filled area of land within the appeal site and it said further investigation of this would be required.
9. Both the Department and the Appellant drew attention to the Department for Communities and Local Government Planning Policy Statement 23 'Development on Land affected by Contamination' contains a number of paragraphs that support the implementation of model conditions in granting planning permission on potentially contaminated land. However, this document applies to England where statutory requirements for contaminated land have been put in place under Part IIA of the Environmental Protection Act 1990. No such legislation is in force in Northern Ireland as Part III of the Waste and Contaminated Land (NI) Order 1997 has not been enacted. Nonetheless PPS 23 provides broad principles which could be helpful in considering the appeal proposal. It advises that outline planning permissions should not be granted until the Local Authority is satisfied that it understands the contaminated nature of the site and that the proposed development is appropriate as a means of remediating it.
10. The information submitted in the PRAR is inadequate and requires further substantive investigation to determine whether an appropriate remediation strategy could allow part of the appeal site to be used for residential purposes. These concerns could not be overcome by use of negative condition. The grant of an outline planning permission would establish the principle of development on the site and it would not be appropriate to allow this where there are unallayed concerns about the extent of contamination, its environmental implications and the adequacy of remediation works. The Department has sustained its second reason for refusal and the appeal must fail.

This decision relates to the 1:2500 scale site location plan submitted with the application and the revised concept plan submitted with the appeal.

COMMISSIONER HELEN FITZSIMONS



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1667/O	Target Date:
Proposal: Proposed site of 2no infill dwellings and garages with new access (revised plans)	Location: Land adjacent to 95 Mullaghmore Road Dungannon Tyrone BT70 1RB.
Referral Route: Approval, objections	
Recommendation:	Approve
Applicant Name and Address: Ms C Cuskeran 58 Moneymore Road Magherafelt BT45 6HG	Agent Name and Address: Vision Design 31 Rainey Street Magherafelt BT45 5DA
Executive Summary: Considered to meet infill policy CTY 8, Objections have been received from the adjacent residential property who also owns the adjacent factory. The objector is concerned about drainage issues and potential impacts on his future business operations should there be complaints over noise/dust.	
Signature(s):	

Case Officer Report

Site Location Plan



Representations:

Letters of Support	None Received
Letters of Objection	8
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

A number of objections have been received from the adjacent neighbour to this site, who is both a resident and the owner of the adjacent operational business. The nature of the objections relate to drainage issues and concern that business operations may be prejudiced should new residents complain about noise, nuisance or general disturbance from existing factory operations.

The objections are summarised as follows;

-The objector has a long established manufacturing business adjacent / north of the application site. If planning permission is to be considered as an approval the objector would like it brought to the attention of the applicant/future residents that they may be subject to some noise / dust disturbance from time to time due to the day to day activities at the factory.

-The application site falls from the SE to NE and that there is no existing outfall drainage. The objector is concerned that if the site levels are raised then the natural fall, for site drainage will be into his property.

-The objector states that there is no public foul sewer available for the application site and no existing outfall drainage. Again he would have concerns that the development of this site would cause drainage problems for his property.

-The outline application does not confirm the final location of the proposed houses. If planning see fit to approve same the objector suggests that the houses be located near the rear boundary.

-the site for the 2 houses are directly below a 33k main power line which is running across objectors land.

Description of proposal

This is an outline planning application for 2 no. infill dwellings and garages with new accesses.

Characteristics of site and area

Located not far outside the limits of development of Dungannon along the Mullaghmore Road towards Donaghmore, this is a rectangular shaped roadside frontage plot. The site is slightly lower than road level with a mature hawthorn hedge and 2m wide footpath defining the roadside boundary. There is mature tree lined hedgerows along the eastern and southern boundaries. The site is relatively flat and rises gently to the east.

To the south is a derelict single storey dwelling set back from roadside. To the north is a 2 storey dwelling on a generous site with front lawn, and further north is an existing business that refurbishes airplane steps for commercial aircraft. Opposite the site is agricultural land.

Travelling towards Dungannon to the south development becomes more concentrated.

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 closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent

Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

Representations

A number of objections have been received from the adjacent neighbour to this site, who is both a resident and the owner of the adjacent operational business. The nature of the objections relate to drainage issues and concern that business operations may be prejudiced should new residents complain about noise, nuisance or general disturbance from existing factory operations.

The objections are summarised as follows;

- The objector has a long established manufacturing business adjacent / north of the application site. If planning permission is to be considered as an approval the objector would like it brought to the attention of the applicant/future residents that they may be subject to some noise / dust disturbance from time to time due to the day to day activities at the factory.
- The application site falls from the SE to NE and that there is no existing outfall drainage. The objector is concerned that if the site levels are raised then the natural fall, for site drainage will be into his property.
- The objector states that there is no public foul sewer available for the application site and no existing outfall drainage. Again he would have concerns that the development of this site would cause drainage problems for his property.
- The outline application does not confirm the final location of the proposed houses. If planning see fit to approve same the objector suggests that the houses be located near the rear boundary.
- the site for the 2 houses are directly below a 33k main power line which is running across objectors land.

Relevant planning history

No relevant history.

Key Planning Policy and consideration

Strategic Planning Policy Statement- The policy provision of SPPS do not impact on the policy provisions of PPS21 Sustainable Development in the Countryside in relation to the assessment of this proposal.

The overarching policy for development in the countryside is PPS21. 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 Development in the Countryside. The applicant has provided a case that the site represents a gap site within an existing built up frontage therefore will be assessed against policy CTY 8 Ribbon Development.

In considering Policy CTY8- Ribbon Development it states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental criteria. For the purposes of this policy the definition of a substantial and built up frontage

includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

To the north of this roadside site is a 2 storey dwelling with front garden and curtilage continuing to the road, and a red brick roadside frontage boundary wall set behind a 2m wide footpath. This road frontage wall and manicured front lawn assists with the impression of road frontage development. Further north is an existing business with a number of large buildings, and both the 2 storey dwelling and sheds are visible from the application site and share a common road frontage (Mullaghmore Road).

To the south of the site there is a dwelling set back from the roadside by approx. 60m. Boundaries of this site, including the roadside boundary, are defined by natural vegetation and hedgerows. It is not clear as to the exact extent of the curtilage boundary of this dwelling, as land between the dwelling and roadside is somewhat overgrown with no clearly defined lawn area, and it could be disputed that the land between the house and roadside is established curtilage. Recently an application for a replacement dwelling was granted permission on this site under LA09/2019/0761/O and it was accepted that the curtilage shown on the drawing No. 01 date received 5th June 2019 is the established curtilage of the site, which extends to the roadside.

On certain critical view points driving in both directions along Mullaghmore road you are aware of a line of 3 buildings which share a common frontage with a gap between them. When taking the plot sizes of the dwellings immediately north and south of the site it is my view that this gap is sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage.

There is a good sense of enclosure to this site, with mature hedgerows to both the eastern and southern boundaries, and some mature trees along the frontage of No. 101 to the north.

In my view, 2 dwellings on this site, with plot sizes and siting similar to that shown on drawing No. 01 will infill development on either side and will consolidate development and will not have a detrimental impact on the rural character of this area of countryside.

The proposal meets the exception to policy CTY8 and will not create ribbon development. It will also integrate into the landscape and will not have a detrimental impact on rural character and does not offend policies CTY13 or 14.

This is an outline proposal and due to the 2 storey dwelling and large buildings to the north I think a ridge restriction of 7.5m in height is reasonable and will allow 2 storey dwellings. Retention of existing natural boundaries, where possible, will also assist with integration. Some of the roadside hedge may have to be removed to provide adequate sight lines.

Other Policy and Material Considerations

DfI Roads have no objections to this proposal subject to conditions requiring 2.4m by 110m splays onto the public road and a forward sight distance of 110m. Where roadside hedging is removed, new hedgerow will be conditioned for re-planting.

There are no land contamination issues to consider.

The objector has raised concern that drainage from the site may run into his property. On looking at the Strategic Flood Maps for NI there seems to be a small fraction of the site, to the SW corner, where ponding occurs. No part of the site is within the Q100 Flood Plain. Given that some of site is affected by ponding I find it reasonable to invite a Drainage Assessment (DA) for further consideration. The agent provided a DA and further amendments.

On 28.01.2021 Rivers Agency commented on the the Drainage Assessment and stated that, while not being responsible for the preparation of the DA accepts its logic and has no reason to disagree with its conclusions. Consequently, DfI Rivers cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective. To ensure that there is discharge consent I can attach a planning condition to ensure that there is discharge consent prior to the commencement of any development hereby approved, and that the storm water attenuation system detailed in the DA is safely disposed of at greenfield rate of 4.4 l/s.

On 14.06.2021 Rivers Agency provided their final comments to this proposal and recommend that they have no further concerns or objections with this proposal subject to a condition to ensure that a suitable working strip is shown on site layout Drawing Number ?02Rev1? and that this should be protected from impediments including tree planting, hedges, permanent fencing, sheds, land raising, permitted development rights or future unapproved development by way of a planning condition. Clear access and egress should be provided at all times. This can be added to any permission.

Rivers Agency also advise that a planning informative be attached to an planning permission to ensure that perspective purchasers whose property backs onto this watercourse should be made aware of their obligations to maintain the watercourse under Schedule 5 of the Drainage Order Northern Ireland 1973.

In my view, given the limited amount of the site will be impacted by surface ponding, at the far end of the site away from the objector it is likely this will not impact on this property and I find it unreasonable to seek a Drainage Assessment in this case. Policy FLD3 of PPS15 Planning and Flood Risk states that where a Drainage Assessment is not required then it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site. In my view, in this case, it is the responsibility of the developer to ensure water from this site will not flow into neighbouring residential land.

The objector raises the fact that he operates a business close to the site and that from time to time impacts on amenity through noise/dust/odour may be experienced at these proposed properties. I consulted Environmental Health on this proposal and a Noise Impact Assessment was requested from the applicant/agent. It was challenging to get true reading from existing operations as modelling took place around the time of Covid 19 lockdown and the business was not operating at full capacity, and background noise levels were not a true reflection as traffic on the public road was greatly reduced. However, a Noise Impact assessment was completed, along with additional amends, and on 21.07.2021 Environmental Health provided a response which accepted the results of the NIA and recommended that the proposal could proceed on the basis of mitigating conditions. The conditions include an acoustic fence between the site and

objectors property, and how the proposed dwellings be constructed to ensure greater noise attenuation from the nearby factory operation. I find these conditions to be reasonable. I also find it reasonable to attach an informative to ensure that future residents are aware of the adjacent factory and may experience detrimental impacts to amenity from time to time.

Concern is raised by the objector that there is no public foul sewer available for the application site and no existing outfall drainage. Again, the responsibility will fall to the developer to ensure there is satisfactory means of dealing with sewage from the site, likely through a septic tank. The onus will fall on the developer to ensure the appropriate consents/permissions are in place for the operation of the septic tank. Environmental Health can be consulted at Reserved Matters or full stage to ensure there is an appropriate distance between the locations of the septic tanks and the adjacent residential development, and there seems to be sufficient space for acceptable separation distances.

It is raised by the objector that the site for the 2 houses is directly below a 33k main power line which is running across our land. It is the onus of the developer to contact NIE over these overhead cables to ensure proper site construction practices take place. Should these poles be required to be removed, this will be agreed between NIE and the land owner.

I agree with the objector in terms of positioning the dwellings to the east of the site, as there is potential for overlooking of proposed private amenity space from the objectors front facing windows. The positioning of the dwellings on drawing No. 01 date received 20 DEC 2019 are acceptable in my view. This can be controlled through planning condition.

Design can be considered at Reserved Matters stage, with consideration given to traditional rural design principles and any impacts the proposal may have on the residential amenity of adjacent properties. In my view there is ample space to site dwellings that will not have a detrimental impact on private residential amenity.

This site is located in an area of abandoned mines. I consulted GSNI for comment and they raise no objection to this proposal.

I contend that the objectors concerns have been fully considered and are not determining in my recommendation to approve this proposal, subject to conditions and informatives.

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

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

Reason: Time Limit.

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

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

3. The dwellings hereby permitted shall have a ridge height not more than 7.5m from finished floor level, unless otherwise agreed in writing.

Reason: So that the building integrates into the surrounding countryside and respects the character of development in the area.

4. The under build of the proposed dwellings shall not exceed 0.45m at any point within its proposed footprint.

Reason: So that the building integrates into the surrounding countryside and respects the character of development in the area.

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

Reason: To ensure that the dwelling integrates into the surrounding countryside and to protect amenity.

6. Prior to the commencement of development on site a Schedule 6 drainage consent for the development hereby approved shall be in place, details of which shall be provided to Council.

Reason: To ensure there is satisfactory discharge consent in place, to reduce the risk of flooding and to ensure appropriate drainage.

7. All drainage mitigation measures and maintenance proposals shall be as that indicated in Doc1: Drainage Assessment date stamp received 23.12.2020, unless otherwise agreed by Council.

Reason: To ensure that the site will not flood and to prevent flooding elsewhere.

8. The maintenance strip, indicated hatched yellow on drawing No. 02 rev1 date stamp received 21.05.2021, shall be protected from impediments including tree planting, hedges, permanent fencing, sheds, land raising, permitted development rights and any future development.

Reason: To ensure access can be maintained at all times for essential maintenance purposes.

9. Prior to occupation of any dwelling hereby approved, the 1.8m high, close boarded timber fence, with a mass of at least 10kg/m², as shown on drawing No. 03 dated received 01.04.2021, shall be put in place and permanently retained and maintained thereafter, unless otherwise agreed in writing by Council.

Reason: To safeguard residential amenity.

10. Prior to occupation of any dwelling hereby permitted, glazing capable of providing a sound reduction index of at least 31dB Rw shall be installed in all window openings, unless otherwise agreed in writing.

Reason: To safeguard residential amenity.

11. Prior to occupation of any dwelling hereby permitted, external doors capable of providing a sound reduction index of at least 31dB Rw shall be installed in all external door openings, unless otherwise agreed in writing.

Reason: To safeguard residential amenity.

12. Prior to occupation of any dwelling hereby approved, any passive or mechanical ventilation installed in addition to that provided by open windows, shall have a sound reduction of at least 31dB Rw when in the open position. Mechanical ventilators shall not have an inherent sound pressure level (measured at 1 metre) in excess of 30 dB(A), and shall provide a flow rate of at least 13 litres per second and be in accordance with "The Building Control Technical Booklet K - Ventilation 2012".

Reason: To safeguard residential amenity.

13. All trees and hedges, indicated in yellow on drawing No. 01 date stamp received 20 DEC 2019 shall be permanently retained at their existing height unless otherwise agreed in writing at Reserved Matters stage.

Reason: To ensure the development integrates into the landscape and in the interests of visual amenity and biodiversity.

14. During the first available planting season following the commencement of any dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of those trees and hedges to be retained and measures for their protection during the course of development; details of a native

species hedge to be planted to the rear of the visibility splays and along all new boundaries. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

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

15. 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 110m in both directions onto the public road;
- a forward sight distance of 110m

The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

Informatives

1.This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.

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

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

4. DfI Rivers Agency advise;
Perspective purchasers whose property backs onto this watercourse should be made aware of their obligations to maintain the watercourse under Schedule 5 of the Drainage Order Northern Ireland 1973.

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

5.Perspective purchasers or occupiers are advised that there is an existing operational factory adjacent to these properties and should expect impacts of noise, nuisance and general disturbance from time to time.

Signature(s) Date:

ANNEX	
Date Valid	20th December 2019
Date First Advertised	14th January 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 101 Mullaghmore Road, Dungannon, Tyrone, BT70 1RB Emma Faloon 20 Northland Row, Dungannon, Tyrone, Northern Ireland, BT71 6BL The Owner/Occupier, 88 Mullaghmore Road,Dungannon,Tyrone,BT70 1RB Ellen Hartles- Email Address George McIvor- Email McIvor Aviation,101 Mullaghmore Road, Dungannon, Tyrone, Northern Ireland, BT70 1RD Ellen Hartles Solicitor Simmons Meglaughlin & Orr, 20 Northland Row, Dungannon, Co Tyrone, BT71 6BL	
Date of Last Neighbour Notification	11.06.2021
Date of EIA Determination	Not schedule 1 or 2 development, does not meet the threshold for screening.
ES Requested	No



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

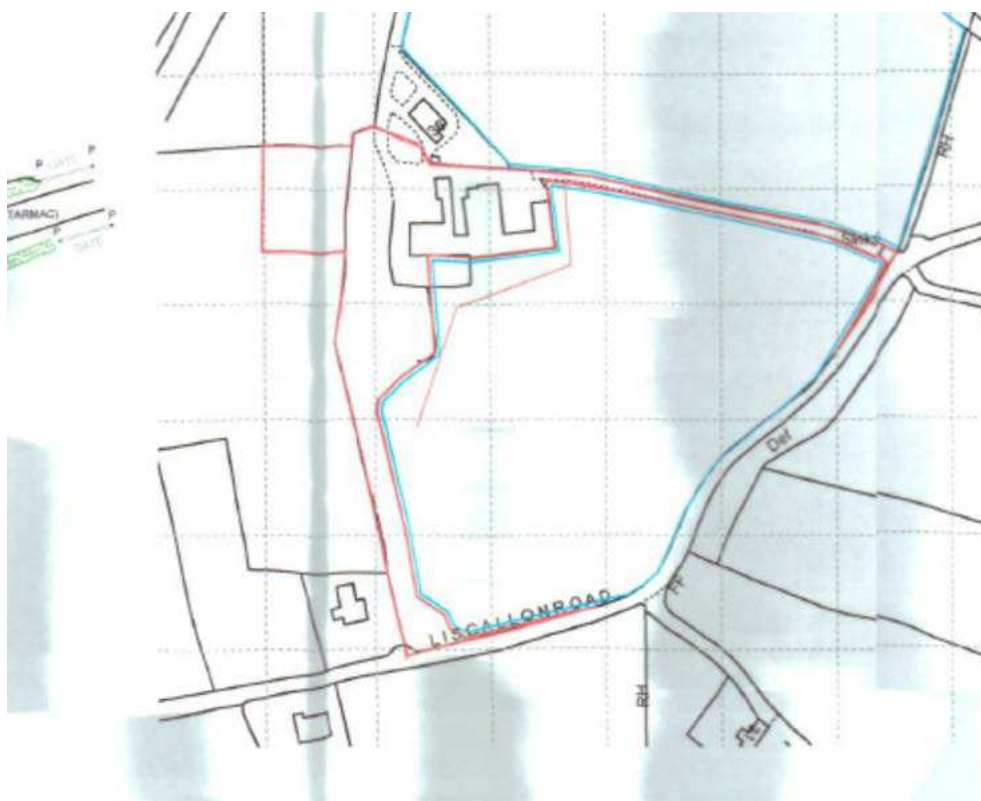
Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 07/09/2021	Item Number:
Application ID: LA09/2020/0516/F	Target Date:
Proposal: Amendment of house location as previously approved in M/2008/0722/RM and proposed new access	Location: 36 Lisgallon Road Dungannon BT70 1SW
Referral Route: 1. Contrary to CTY 1 of PPS 21 in that no need for this dwelling has been demonstrated. There is no legitimate fall-back position in that the no evidence has been provided to show the dwelling approved has begun in accordance with the requirements of Section 63 (2) of the Planning Act (NI) 2011.	
Recommendation:	Refusal
Applicant Name and Address: Farasha Properties Ltd 34 Culrevog Road Dungannon BT71 7PY	Agent Name and Address: J. Aidan Kelly Ltd 50 Tullicullion Road Dungannon BT70 3LY
Executive Summary: There is no evidence to demonstrate that permission granted was commenced in time and there is no fallback position. As this is a replacement dwelling the demolition of the building is not enough to demonstrate commencement. There are minor changes to the front elevation of the dwelling and its position is changed, the form, ridge height and materials remains the same. A new access will run along an existing boundary and access off Lisgallon Road. Other policies in PPS 21 have been assessed notably CTY 10 – Dwelling on a farm as there are farm buildings to the rear of the site. Information has been requested relating to all the land the applicant owns to ascertain has any sites been sold off but at the time of writing this information has never been received. The dwelling that was previously at the site has been demolished so there is no building to be replaced which could be considered under CTY 3.	

Signature(s):

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice

Representations:

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

Characteristics of the Site and Area

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character with agricultural fields, detached dwellings on single plots and farm complexes. There is six other dwellings with a roadside frontage along this immediate area.

The application site is a long rectangular shaped plot that comprises a single storey dwelling and a number of outbuildings. There is an existing laneway to No. 36 accessed from Cullenramer Road and there is an agricultural access to the north east along Lisgallon Road. The site is a cut-out of an existing agricultural field immediately south of the farm holding. The topography of the site rises up steeply from the public road with a level of 82 at the road and 97 at the location of the proposed dwelling. Immediately west of the proposed access is at two-storey dwelling at No. 32. Along the western boundary with No.32 is a post and wire fence and a row of established trees further north towards the farm holding.

Description of Proposal

This is a full application for an amendment of house location as previously approved in M/2008/0722/RM and proposed new access.

Planning Assessment of Policy and Other Material Considerations

Planning History

M/2005/0609/O – Proposed replacement of dwelling structure - 36 Lisgallon Road, Dungannon – Permission Granted 16th June 2005

M/2008/0722/RM - Proposed replacement of dwelling structure + detached domestic garage - 36 Lisgallon Road, Dungannon – Permission Granted 20th August 2008

Representations

The application was advertised in the local press and neighbour notified and at the time of writing no representations have been received.

Planning Policy Consideration

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

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

Dungannon and South Tyrone Area Plan 2010

The plan offers no specific policy relevant to this application as the site lies outside any settlement limits or other designations as defined in the Dungannon and South Tyrone Area Plan 2010.

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

Planning Policy Statement 21 - Sustainable Development in the Countryside

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

The principle of development has already been established through planning approvals M/2005/0609/O and M/2008/0722/RM. The outline was granted approval on 16th June 2005 and the reserved matters was granted approval on 20th August 2008. Therefore, to have a live permission the foundations had to be in place 20th August 2010 which is 2 years from the reserved matters and is the later date for the purposes of the time commencement condition.

A check on Spatial NI orthophotography shows there were foundations in place on the 6th June 2013, I am unable to find any other aerial photos to show if the foundations were in place earlier than this date. The applicant has been asked for additional information but has not been able to provide further evidence of when the works were commenced. Building control have confirmed the foundations were inspected on the 2nd December 2010 and when I completed my site inspection, the foundations are still in place.

I cannot be sure the foundations were in place by 20th August 2010 and I cannot advise the members that the development was commenced in time and there is a live permission on the site. That said, it is clear the foundations were in situ approximately 3 months later and are still in place, the approved development required the demolition of an existing dwelling on the site, which was accepted as a replacement opportunity. In Planning Appeal Ref 2016/A0045 the Commissioner states 'The Planning (Amendment) (Northern Ireland Order 2003 brought 'demolition' into the meaning of development. A number of Directions were issued by the Department under Article 11(2)(f) which narrowed the circumstances under which demolition could be considered as development. The Planning (Demolition – Description of Buildings) Direction 2009 which came in effect on 2 April 2009 was restrictive in terms of the scope of demolition activities that could be considered as development. It would not have included the demolition of the building to be replaced. The Planning (Demolition- Description of Buildings) Direction 2012, which came into effect on 19 September 2012, significantly expanded the range of demolition works that would constitute development. In principle the demolition of the building would have fallen within the definition of development. However, also, on the 19 September 2012 The Planning (General Development) (Amendment) Order (Northern Ireland) 2012 brought, with exceptions, any building operation consisting of demolition of building into the definition of permitted development. Therefore, if the building on the site was demolished prior to the

19 September 2012 the demolition of the dwelling would not have constituted development and then after this date it would have been considered as permitted development. I consider this appeal is relevant in this application.

The Planning Permission that was granted on this site related to the replacement of a dwelling structure which, by definition, infers there is an element of demolition to be carried on. The Planning Act is silent where the development granted relates to works of demolition or what constitutes commencement of development where that is part of the permission. Section 63 (2) Of the Act states

(2) For the purposes of sections 61 and 62, development shall be taken to be begun on the earliest date on which any of the following operations comprised in the development begins to be carried out—

(a) where the development consists of or includes the erection of a building, any work of construction in the course of the erection of the building;

(b) where the development consists of or includes alterations to a building, any work involved in the alterations;

(c) where the development consists of or includes a change of use of any building or other land, that change of use;

(d) where the development consists of or includes mining operations, any of those operations.

In this case it is quite clear the applicant has carried out works to demolish the old building, in accordance with this planning permission, had this been left standing it is most likely that it would be acceptable under the current policy in CTY3 for a replacement dwelling, though I cannot be absolutely sure in that regard. As the replacement dwelling was using an existing access there were no conditions requiring the improvement of the access. I am being asked to consider if it is acceptable to substitute the approved development for this re-sited dwelling and new access.

CTY 13 – Integration and Design of Buildings in the 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.

The topography of the site rises up from Lisgallon Road where there is a level of 82 to a level of 98 at the location of the proposed dwelling. The site itself is a portion of an existing agricultural land immediately south of a group of outbuildings and dwelling at No. 36. The proposal does not include the design of the dwelling and it is conditioned in outline approval M/2005/0609/O that the proposed dwelling shall not have a ridge height greater than 5.5m above finished floor level. Travelling from a northeast direction to the site there are no critical views due to a bend in the road and existing vegetation along the roadside, which is within the applicant's control. Further north at the agricultural laneway there will be critical views of the proposed dwelling but as the proposed dwelling will be situated further west of the outbuildings where the land slopes downwards west by 2m I have no concerns. When at the site the dwelling will have the backdrop of the outbuildings as shown in figure 1 below. In a southwest direction, there are minimal critical views of the proposed dwelling. In addition, as the proposed dwelling is not excessive in its scale or massing compared to other dwellings in the surrounding area, I am content it will not appear overly prominent in this local landscape.



Figure 1 – Photograph of the application site from the road

There are established trees along the western boundary but they are not within the applicant's control but as shown on Drawing 01 Rev 1 date stamped 14 SEP 2020 a new hedgerow is proposed along the west boundary. In addition, a new hedgerow is proposed along the east boundary as this is a cut-out of a field which will aid integration. I am content the proposed dwelling and garage will not rely on new planting for integration.

The proposed dwelling will cut into the hill at the site and a retaining wall of 2m will be located to the rear of the dwelling. The wall will have external finishes of grey interlocking dry built blocks. I am content the scale and design of the retaining wall will integrate at the site. There are minor changes to the design of the proposed dwelling from the planning approval M/2008/0722/RM due to internal changes in the layout. The living room is now to the front and there is a bigger front projection from this room. The front projection is finished in natural stone as opposed to previously roughcast plaster. In addition, there are 2 new bedroom windows on the front elevation but due to separation distances from neighbours, I have no concerns this will create an unacceptable loss of privacy. The proposed re-siting of the dwelling will not create unacceptable overshadowing or loss of light, as there are no other properties abutting the boundary of the dwelling.

The proposal will create a new access directly from Lisgallon Road and DFI Roads were consulted and had no concerns subject to conditions about visibility splays and informatives.

The proposed dwelling and garage has the backdrop of the farm buildings at No. 36 when viewed from the public road, which will provide a backdrop.

I consider the proposal does not offend Policy CTY13 of PPS 21.

CTY 14 Rural Character

As stated earlier in the assessment I am content the proposal will not be a prominent feature in the landscape. It will not result in a suburban style build-up of development when viewed with existing and approved buildings. I consider the design of the proposed dwelling is a simple rural form and respects the pattern of settlement. It will not add or create ribbon development.

Neighbour Amenity

The proposed dwelling is sited on higher ground than a neighbouring dwelling at No. 32. I am content the dwelling will not create unacceptable overlooking or loss of privacy to No. 32 due to the separation distance of 108m from the dwelling to the rear wall of No. 32. In addition, proposed trees and hedging will block any direct views as shown in figure 2 below.



Figure 2 – Photograph of the site from the northern boundary at the farm buildings

Neighbour Notification Checked	Yes
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Summary of Recommendation:

The proposal is recommended for refusal as the foundations were not in place within the required time limit.

Reasons for Refusal

1. Contrary to CTY 1 of PPS 21 in that no need for this dwelling has been demonstrated. There is no legitimate fall-back position in that the no evidence has been provided to show the dwelling approved has begun in accordance with the requirements of Section 63 (2) of the Planning Act (NI) 2011.

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: LA09/2020/0537/F	Target Date:
Proposal: Housing development comprising of 14 no. semi detached dwellings, 7 no. block of 3 dwellings, 1 no. block of 4 dwellings, and 1 detached bungalow (40 no. units total) with associated carparking and landscaping	Location: Killymeal House and Adjacent lands Killymeal Road Dungannon
Referral Route: Approval, contrary to Historic Environment Division (HED) recommendation	
Recommendation:	Approve
Applicant Name and Address: J & V Construction 30 Creemagh Road Dungannon	Agent Name and Address: Clarman & co Unit 1 33 Dungannon Road Coalisland BT71 4HP
Executive Summary: HED advise that the proposal (namely a single storey dwelling) will have a detrimental impact on the setting of Killymeal House.	
Signature(s):	

Case Officer Report

Site Location Plan



Representations: None Received

Description of proposal

This is a full planning application for a housing development comprising of 14 no. semi detached dwellings, 7 no. 3 block dwellings, 1 no. 4 block dwellings and 1 no. detached bungalow (40 no. residential properties total) with associated carparking and landscaping, at the site of Killymeal House in Dungannon.

Characteristics of site and area

The application site is an elevated site to the east of Killymeal House, with a line of mature trees located along the western boundary which are the subject of a Tree Preservation Order. This site is the final phase of development that was granted under an outline application for housing on the wider site under LA09/2018/1234/F. As the overall development is slightly different to what was granted at outline, the developer has submitted a full planning application rather than a Reserved Matters. Other phases of the wider development are built and occupied to the north west, west and south of the site.

Most of the site has been cleared for development purposes, with some land shaping and rough outline of access roads created. There are some spoil heaps from

surrounding development located on the site, along with a construction compound, machinery and building materials.

The site is north of Dungannon Court House, west of St Patricks Academy, and rises from the back of the telephone exchange building along the NW boundary. Part of the north east boundary has some trees between the site and St Patricks Academy. Access to the site is from a new development road that serves new housing to the north west, south and south west of the site, which also serves the rear access to Dungannon Courthouse.

Killymeal House and grounds was a former MOD site and it was listed in 1991. Following a fire in the main house, it is in a poor state of repair. However as part of the development of the wider site, and including this proposal, Killymeal House is being brought back to its former glory and used for housing units.

The site is just to the east of Dungannon Town Centre, as defined in the Dungannon & South Tyrone Area Plan 2010, it is in an area that has a mix of uses with St Patricks Academy and St Patricks College on extensive grounds to the east, Dungannon Leisure Centre, Mid Ulster District Council Offices and South West College Campus to the North West, Dungannon Court to the south and residential development also close by.

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.

Area Plan

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

The Dungannon & South Tyrone Area Plan does not zone this site for any particular purpose, it is part of a large swath of land that is white land within the settlement limits of Dungannon. Policy SETT1 allows for favourably consideration of development provided it meets a number of criteria.

Relevant Planning Policy

SPPS	Strategic Planning Policy Statement
PPS7	Quality Residential Environments
PPS8	Open Space, Sport and Outdoor Recreation
PPS6	Planning, Archaeology and the Built Heritage
PPS3	Access, Movement and Parking

PPS2 Natural Heritage
PPS15 Planning and Flood Risk (revised)

Planning History

LA09/2018/1234/O- Outline application for proposed extension of existing residential development (Sycamore Drive, Killymeal Road, Dungannon) to provide for 2 storey dwellings, granted 11/04/2019.

LA09/2018/1231/F- Proposed development comprising of 8 semi detached dwellings 2No. 4 block dwellings. 1 detached dwelling, a residential apartment block with 2 units and a second apartment block with 4 units (total 23 residential properties) with associated car parking and landscaping, granted 29.03.2019.

LA09/2017/1239/F- Erection of 3 dwellings and conversion of existing building to 2 dwellings. Granted 27.07.2020

LA09/2018/1463/F- Alterations, extension, repair and reinstatement to existing residential outbuildings associated with listed building, Killymeal House, HB Ref HB13/20/023 to form 11 No. 1 bedroom residential units, granted 08.12.2020.

LA09/2015/0241/F- 20 no dwellings, 2 storey in height, with associated carparking and landscaping. Granted, 09.01.2017.

Representations

No 3rd party objections or letters of support have been received on this application. Cllr Francie Molloy attended an online Teams Meeting along with the agent in support of this application.

Recommendation

The Strategic Planning Policy Statement provides no change in direction or clarification in relation to policies relevant to this application, which I have listed.

In principle, the development of the site for residential purposes is in accordance with the Area Plan. The density is reflective of what has been granted on other phases within this site, as are the design details of the dwellings including height, scale, massing, plot sizes, garden sizes and finishes of the buildings and ancillary works. There is sufficient parking, private amenity space, means of access, landscaping and infrastructure to deal with waste water and storm water and no consultees have raised objections on these issues. Proposed levels within the site are acceptable and there will be no issues of overlooking, overshadowing or over dominance of neighbouring property. It has been demonstrated that the Tree Preservation Order within the site can be safeguarded, and that the setting of the listed building can be safeguarded. I will go into these issues in more detail throughout the remainder of my report.

In support of the application the agent has provided a Design and Access Statement, Transport Assessment Form, Drainage Assessment and revisions, Land Contamination Report, Preliminary Ecological Appraisal, Arboricultural Report, and information to address NIW concerns over sewage provision for the site.

I carried out various consultation with statutory and non-statutory consultees to ensure that impacts on the natural and built and environment could be properly considered.

The design and access statement identifies the assets and constraints of the site, including the listed building, topography of the site and the Tree Preservation Order on the site. The larger Killymeal House Site has a tree preservation order in force and this development has the potential to impact on this. This part of the site is the de

Under a previous outline Masterplan for the wider site, LA09/2018/1234/O, the various phases of the site have been indicated along with a central area of open space provision, which includes the site of the Tree Preservation Order (TPO). Some of this central area of open space shown under the masterplan has been encroached upon by a single storey dwelling in this proposal. However, given that there is still well over 10% communal open space provision I am satisfied that there is sufficient communal open space of a development of this size and is in line with policy OS 2 of PPS8. It has also been demonstrated by the agent that the large leafy mature trees within this area of proposed open space can be protected and integrated into the wider development.

Historic Environment Division were consulted on this proposal and indicated that 2 bungalows in the original submission had the potential to cause detriment to the trees (No.s 108 and 109), and potentially have a detrimental impact to the setting of Killymeal House. The agent has provided an Arboricultural Report which demonstrates that the TPO can be safeguarded and protected. The agent also dropped one of these bungalows from the scheme which further safeguards this TPO and the setting of the listed building. Council's in house conservation and tree expert also advises that the TPO can be safeguarded with conditions. As the bungalow is behind the swathe of trees, to the rear of Killymeal House, I am not convinced that one bungalow, which is screened by existing mature trees, will have a detrimental impact on the setting of the listed building. The agent and a local Councillor attended a Teams Meeting and state that there is a family in mind for this bespoke bungalow which will cater for special needs requirements. I am satisfied that there is sufficient evidence to demonstrate that the setting of the listed building will not be impacted, and that the TPO can be protected and safeguarded through planning conditions. I therefore advise Members to set aside HED concerns in this instance. Council does not have to notify HED on this recommendation in this instance.

The developer has undertaken to carry out the works to the listed building in a phased manner and has specified certain works to the listed building to be carried out on completion of each phase of the development. This will result in the building being fully re-instated. The Members of the Planning Committee have agreed in the past that conditions, rather than a planning agreement, as being a suitable method of securing the reinstatement of the listed building. This is reflected in application LA09/2017/1238/F. I consider it is reasonable to attach a condition requiring the completion of works to Killymeal House through this final phase of development on this site, as per details contained within the Development Appraisal for Reconstruction of Killymeal House Phasing Plan.

DfI Roads have agreed a Private Street Plan for the site. The development road provides a footpath link into the public network, it is also worth noting the close proximity of the site to the local schools, leisure centre and other public buildings all of which are within

easy walking distance of the site. There is also a wide footpath along the Killymeal Road which provides a link through to the Oaks Centre, the peripheral cycle route and national cycle network. I consider this provides alternative modes of transport to serve the site. DfI Roads do not raise any road safety issues, or issues surrounding parking provision or access through the site, subject to the inclusion of planning conditions.

Rivers Agency have been consulted in relation to the drainage of the site and raise no objections to the proposal subject to the inclusion of a condition to ensure that prior to the commencement of any of the approved development on site, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 being submitted to the Planning Authority for its consideration and approval.

Historic Environment Division - Historic Monuments Branch (HMB) have requested archaeological surveillance of the site and have requested conditions are attached to any planning permission requiring an archaeological evaluation and surveillance should the development be granted planning permission. I consider this is a reasonable request and recommend these monitoring conditions are attached to any planning permission.

Due to the historic use of this site as an MOD base there is potential land contamination of the site, a report has been submitted that illustrates there is limited potential for land contamination on this part of the site. EHO and NIEA have assessed the report and are content provided conditions in relation to unknown contamination are attached.

NI Water have stated that Dungannon WWTW currently has no capacity for the sewage from this site to be treated at their facility. However in their response dated 22 FEB 2021 under SITE SPECIFIC COMMENTS, NIW state; However, this proposed development site has a Predevelopment Enquiry (PDE) reference: C000747 dated 15/08/2017 for 125 dwellings, which states that the receiving works in Dungannon (WwTW) is available to serve the proposal. NI Water in this case, is prepared to permit approval for connection.

In light of the above considerations, I am content that this proposal meets with the planning policies and I recommend it is approved.

Neighbour Notification Checked	Yes
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Summary of Recommendation:

That planning permission is granted subject to the following conditions.

Conditions

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

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

2. All hard and soft landscape works shall be carried out in accordance with drawing No. 03 rev5 bearing the stamp dated 30th June 2021 and to the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any of the dwellings hereby approved. Any tree, shrub or other plant

identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

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

3. Prior to the occupation of each individual dwelling hereby approved, the boundary treatments defining each curtilage shall be constructed, completed and permanently retained, as detailed on drawings No. 03 rev5 date stamp received 30th June 2021, unless otherwise agreed by Council.

Reason: To assist in the provision of a quality residential environment and to safeguard existing and proposed residential amenity.

4. No units shall be occupied until a landscape management and maintenance plan has been submitted to and approved by the Council. The plan shall set out the period of the plan, long term objectives, management responsibilities, performance measures and maintenance schedules for all areas of landscaping and open space. The landscape management plan shall be carried out as approved.

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

5. No dwelling hereby approved shall be occupied until the proposed public open space has been provided in accordance with details indicated on drawing No. 03 rev5 date stamp received 30th June 2021, and shall be maintained in accordance with condition 4 unless otherwise agreed.

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

6. No dwelling hereby approved shall be occupied until Mid Ulster Council agrees in writing that an acceptable Management and Maintenance agreement has been signed and put in place with a suitable Landscape Management Company. The Landscape Management Company shall be responsible for the management and maintenance of all areas of communal open space, for the lifetime of the agreed landscape management plan. Should the agreed Landscape Management Company be changed or for any reason or cease to exist, then a new Landscape Management Company shall be agreed in writing with Mid Ulster Council within 3 months from that date.

Reason: To ensure that open space is provided, maintained and managed in accordance with PPS 7 - Quality Residential Environments and PPS8 - Open Space, Sport and Outdoor Recreation and to ensure its retention in perpetuity.

7. All tree protection fencing for existing protected trees, TPO.2017.0027, shall be erected prior to the commencement of any site works, as per Plan 32 date stamped 16 FEB 2021 and shall remain in place during the construction phase, all tree works will

accord to BS5837:2012 Trees in relation to design, demolition and construction Recommendations.

Reason: To protect and conserve existing visual amenity values of trees protected by TPO.2017.0027.

8. All proposed tree works will accord with Doc1: Arboriculturalist Impact Assessment by Paul Hawksford date received 16 FEB 2021. There shall be no storage of building materials and no fires within the RPA of protected tree(s) and clear signage shall be erected on protective fencing to state same. All tree works will accord with BS3998:2010 Tree Works Recommendations.

Reason: To protect and conserve existing visual amenity values of trees protected by TPO.2017.0027.

9. Prior to the commencement of any works, a Tree Works Maintenance and Monitoring Plan, minimum of 5 years, shall be submitted to Council for approval, and the approved plan shall be implemented following the completion of Phase 6 and in accordance with BS3998:2010 Tree Work Recommendations.

Reason: To protect, conserve and enhance the visual amenity values of existing protected trees, new trees and all soft landscaping.

10. Prior to the occupation of all the dwellings hereby approved the works to Killymeal House as set out in Phase 6 and Phase 7 on page 10 of Doc 2: Development Appraisal for Reconstruction of Killymeal House Phasing Plan date stamp received 10th AUG 2021, shall be carried out and completed as stated.

Reason : To ensure the orderly reinstatement of Killymeal House in the interests of public safety and built heritage interests.

11. No vegetation clearance shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds.

12. No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree to be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Planning Authority. Any arboricultural work or tree surgery approved shall be carried out in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction ? Recommendations.

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

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

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

14. After completing the remediation works under Condition 12, and prior to occupation of any dwelling hereby approved being occupied, a verification report needs to be submitted in writing and agreed with Planning Authority. This report shall be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance. The verification report shall present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

15. A written remediation scheme for the site shall be provided to Mid Ulster Planning Department (in consultation with the Environmental Health Department of Mid Ulster District Council) prior to the occupation of any dwelling hereby approved.

Reason: To ensure that the site is suitable for its intended development end-use.

16. There shall be no deviation/amendments to the design of the remediation scheme without the prior written approval of Planning Department (in consultation with the Environmental Health Department of Mid Ulster District Council). Written details of any proposed amendments shall be forwarded to Planning Department prior to works being commenced on the Site.

Reason: To ensure that the site is suitable for its intended development end-use.

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

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

18. There shall be no direct discharge of untreated surface water run-off during the construction phase into the Killymeal Drain.

Reason: To minimise the impact of the development on the biodiversity value of the aquatic environment.

19. Storm drainage of the site, during construction and operational phases, must be designed to the principles of the Sustainable Drainage Systems (SuDS) in order to prevent the polluting effects of storm water on aquatic environments. Construction of

SuDS shall comply with the design and construction standards as set out in The SuDS Manual - Construction Industry Research and Information Association (CIRIA) Report C697.

Reason: To minimise the impact of the development on the biodiversity value of the aquatic environment.

20. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by Mid Ulster District Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:

- The identification and evaluation of archaeological remains within the site;
- Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;
- Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and
- Preparation of the digital, documentary and material archive for deposition.

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

21. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under Condition 19.

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

22. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under Condition 19. These measures shall be implemented and a final archaeological report shall be submitted to Mid Ulster District Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Mid Ulster District Council.

Reason: To ensure that the results of archaeological works are appropriately analysed and disseminated and the excavation archive is prepared to a suitable standard for deposition.

DfI Roads Private Street Conditions

PS01. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 04 Rev 4 bearing the date stamp 30 June 2021.

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

PS02. No dwelling(s) shall be occupied until that part of the service road which provides access to it has been constructed to base course, the final wearing course shall be applied on the completion of each phase.

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

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:

ANNEX	
Date Valid	5th May 2020
Date First Advertised	26th May 2020
Date Last Advertised	2nd February 2021
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT The Owner/Occupier, 11 Sycamore Drive, Killymeal Road, Dungannon, BT71 6FU The Owner/Occupier, 11 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT The Owner/Occupier, 15 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT The Owner/Occupier, 17 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT The Owner/Occupier, 19 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT The Owner/Occupier, 20 Sycamore Drive, Killymeal Road, Dungannon, BT71 6FU The Owner/Occupier,	

21 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 23 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 25 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 26 Killymeal Road Dungannon Tyrone
 The Owner/Occupier,
 27 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 29 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 3 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 31 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 33 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 35-37 St Patrick'S Academy, Killymeal Road, Dungannon, Tyrone, BT71 6DS
 The Owner/Occupier,
 5 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 7 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 9 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 Council Offices 15 Circular Road Dungannon
 The Owner/Occupier,
 Courthouse 46 Killyman Road Dungannon
 The Owner/Occupier,
 Dungannon Leisure Centre 5 Circular Road Dungannon
 The Owner/Occupier,
 SELB Bus Depot, Killymeal Road, Dungannon, BT71 6LJ
 The Owner/Occupier,
 Telephone Exchange Killymeal Road Dungannon

Date of Last Neighbour Notification	22nd January 2021
Date of EIA Determination	
ES Requested	No



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0759/F	Target Date:
Proposal: Proposed housing development consisting of 8 dwellings (4 Semi detached and 4 detached) with associated access, roads, landscaping and provision of temporary treatment plant (Amended Plan)	Location: Lands adjacent to 121 Ruskey Road, The Loup
Referral Route: 1no. Objection received	
Recommendation:	Approval
Applicant Name and Address: Mr . McVey 121 Ruskey Road The Loup Moneymore	Agent Name and Address: Newline Architects 48 Main Street Castledawson BT45 7AB
Executive Summary: Proposal complies with relevant prevailing planning policy. 1No. objection letter received and considered below.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Water – Multi Units West	Substantive Response
Non Statutory	Environmental Health Mid Ulster	Substantive Response
Statutory	DfI Roads – Enniskillen	Advice
Statutory	DfI Roads – Enniskillen	Advice
Statutory	Rivers Agency	Advice
Statutory	DfI Roads – Enniskillen	Advice
Statutory	DfI Roads – Enniskillen	Advice
Statutory	Rivers Agency	Advice
Statutory	DfI Roads – Enniskillen	Standing Advice
Non Statutory	NI Water – Multi Units West	Substantive Response
Non Statutory	Environmental Health Mid Ulster	Substantive Response
Statutory	DfI Roads – Enniskillen	Substantive Response

Representations:

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

Characteristics of the Site and Area

The proposal site is located within the settlement limits of The Loup as defined in the Cookstown Area Plan 2010. The site is located between St Patricks Primary School, Loup and a large detached dwelling, 121 Ruskey Road. The site comprises a roadside,

agricultural field which is 0.61 hectares in size. The site is currently accessed via an existing agricultural gate, there is a laneway immediately adjacent, which runs along the NW boundary and appears to provide access to fields to the rear of the site. There is a gentle incline from the public road easterly, with the ground level gradually rising to the rear of the site. The roadside boundary is defined by mature trees and vegetation. The north and east boundary are defined by existing, mature vegetation and the southern boundary is currently defined by palisade fencing. The character of the surrounding area is reflective of a small rural village. St. Patrick's Primary School is located immediately to the south and Saltersland Presbyterian Church is located in proximity to the north with a further mix of land uses further west. There is a mix of small scale housing development within the area and detached dwellings on large plots.

Description of Proposal

This application seeks full planning permission for 8no. Dwelling units comprising 4no. Semi-detached and 4no. Detached on lands adjacent to 121 Ruskey Road, the Loup, Magherafelt.

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 7 - Quality Residential Environments
- PPS 3 - Access, Movement and Parking
- Planning Policy Statement 15 - Planning and Flood Risk
- Creating Places

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.

History on Site

LA09/2015/1161/F – Proposed modular building to accommodate teaching and office facilities with associative siteworks - 119 Ruskey Road, Moneymore, Magherafelt - Permission Granted 14/03/16

I/2008/0520/F - Construction of vehicle lay-by and access road/footpath to the school provision of 31 car parking spaces 1 disabled car parking space + 4 occasional car parking spaces -119 Ruskey Road- Permission Granted 11/06/2009

I/2011/0428/F – Proposed new dwelling and garage - Land 60 metres South East of St Patricks P.S Loup, Permission Granted 08/02/12

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, 1 objection letter was received on 10th September 2020 from Mr Pat McVey the summary of which is provided and considered below:

- Objects to the proposal stating the required sightlines infringe on 2.5m of a laneway under his ownership and he does not give permission for the land to be used to facilitate this development.

It is the responsibility of the applicant to ensure that they control all the lands necessary or have the necessary permissions to carry out the proposed development. Any planning permission granted does not confer title and land ownership is outside the remit of planning and a civil matter between the applicant and the objectors. Nevertheless, following receipt of the above referenced objection letter I sought clarification as to land ownership. The agent was advised that Certificate C Q.27 of P1 form should be accurately completed and notice should be served on any relevant land owner if land within the red line is not owned by the applicant. The applicant has confirmed that the land is within his ownership and provided land registry documents that confirm that the verge of the road/strip of land in question is under the control and ownership of the Road Service and therefore not owned by the objector as claimed.

Key Policy Considerations/Assessment

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

Paragraph 4.11 of the SPPS states that there are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by planning authorities when proposing policies or managing development. For example, the planning system has a role to play in minimising potential adverse impacts, such as noise or light pollution on sensitive receptors by means of its influence on the location, layout and design of new development. Following the submission of amended plans I am satisfied that this proposal, including layout and house designs will not have an adverse impact on residential amenity and represents a quality residential development. This will be discussed in detail further in this report.

Paragraph 4.12 of the SPPS states other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing. Adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. However, the above mentioned considerations are not exhaustive and planning authorities will be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas. Design and layout considerations will be considered further in this report. Consultation with NIW confirmed that there are no Waste Water Treatment Facilities at The Loup WWTW currently available to serve this proposal. The applicant has advised that he has been in talks with NI Water and the issue with the WWTW is not capacity rather a filtration issue which is planned to be upgraded. However should connection not be possible in the future, the applicant has provided a Temporary Treatment Plant to facilitate this development. NI Water and EHD have been consulted on the proposed siting and specifications of the Temporary Treatment Plant and have not raised any objections.

The applicant submitted a Drainage Assessment and following consultation with Rivers Agency, no concern were raised however Section 6 consent for discharge was required, which the agent subsequently provided. Rivers Agency have also requested given that the Drainage Assessment states the proposed drainage is indicative, a condition is attached to any forthcoming approval stating "Prior to the commencement of any of the approved development on site a final detailed drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 must be submitted to the Planning Authority for their consideration and approval". I am content to deal with this by way of applying this condition to any forthcoming decision to safeguard against any potential flood risk. The SPPS gives specific provision for Housing in Settlements subject to a number policy provisions. It does not present any change in policy direction with regards to residential development in settlements than that provided under PPS7.

Cookstown Area Plan 2010 is the statutory local development plan for the application site. The application site is located within the defined settlement limits of The Loup, located on white land with no specific zoning or designation. Cookstown Area Plan 2010 states comprehensive development within the settlement limits of the Loup will normally be permitted provided the scale, layout and detailed design of the development are compatible with the scale and character of the settlement. Accordingly, residential developments in excess of ten units will not normally be permitted. The extant Area Plan states that if the proposal meets all relevant, prevailing planning policy; it will meet the policy tests of Cookstown Area Plan Policy SETT 1 - Settlement Limits.

This proposal seeks full planning permission for 8 residential dwelling units. Drawing 03 Rev 3 date stamped 15th December 2020 provides details on the proposed siting, design, scale and access arrangements. Planning Policy Statement 7: Quality Residential Environments (PPS 7) is a retained policy document under the SPPS and provides the appropriate policy context. Policy QD 1 of PPS 7 sets out the policy framework under which applications of this nature should be assessed. The proposal has been considered against all criteria outlined under Policy QD1.

- a) The proposal is located on urban Whiteland with no specific zoning or designation within the settlement limits of the Loup. The proposed development is residential in nature, there are varying land uses in the surrounding context including a school immediately south and a detached residential unit immediately north and in proximity to the west and southwest. Residential development in the locality varies in densities, scale and design with low to medium density development within Kilreish and along Loup Road and slightly higher density within Birchwood Park. The proposal comprises 8 dwelling units in the form of 4 detached and 4 semi-detached properties. Given the proposed density and varying residential development in the area, I consider the development will respect the surrounding character. There is a slight slope within the site rising gently in an easterly direction towards the rear of the site with a maximum difference in ground level of approximately 2 metres from the road to the rear of the site. There are mature trees and vegetation to the north and rear boundary of the site which are indicated for retention in the landscaping plan. It is considered public views are reduced given this existing and proposed planting particularly travelling along Ballyneill Road and the existing trees to the rear will assist with integration of the units within the development. The layout has been amended during the processing of the application which has resulted in the reduction of the number of units by one. The scale, proportion and massing of each dwelling is considered acceptable and not over dominant and there is adequate separation distances between proposed and existing built form. The development is not dominated by hard surfacing with all dwellings having in-curtilage parking and adequate private amenity space.
- b) No protected archaeological or built heritage features identified have been identified within the site or in close proximity thus it is not considered that the proposal would have a significant impact on any local landscape features of built/archaeological interests.
- c) Each dwelling has adequate private amenity space in excess of the 40m² recommended in Creating Places. A detailed Landscape Plan has also been submitted which shows how the development will be landscaped in order to soften its visual impact. The proposed retention of existing vegetation and additional planting is considered acceptable to allow the development to successfully integrate.
- d) The proposal site is situated within the settlement limits of the Loup thus existing neighbourhood facilities are available in the locality. It is not considered the proposed development would significantly intensify or place unnecessary demands on the existing neighbourhood provisions and amenities within the area and the scale of development does not merit the provision of its own standalone facilities.
- e) A movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, and provides adequate and convenient access to public transport. As the site is within an urban settlement there is an existing movement pattern (e.g.) foot paths and bus routes. The proposal includes the provision of a 2m footpath along the entire front of the site which will adjoin an existing footpath directly south of the

application site. DfI Roads have been consulted and have no objection to the proposal subject to conditions. Having considered the proposed access arrangements and given DfI Roads have offered no road safety objections, it is considered the proposal also complies with Policy AMP2

- f) I considered that adequate provision has been made for the provision of parking on the site. Drawing 03 Rev 3 indicates each dwelling has in-curtilage parking spaces for 2 vehicles. This is in line with Parking Standards Guidance.
- g) The design of the proposed dwellings are considered acceptable and reflect some rural character which is considered appropriate given this is a rural type village. It is considered the proposal includes an appropriate variety of house design and it is noted the front dwellings positioned at the entrance include a dual frontage.
- h) This proposal is residential in nature, there is a mix of land uses in the surrounding area and I do not consider the proposal will conflict with adjacent land uses. Environmental Health were consulted and have raised no concerns subject to conditions to ensure no detrimental impact from the proposed temporary treatment plant. Generally, residential developments by their nature do not generate an unacceptable level of noise, odours or emissions which would impact on residential amenity. There is a detached residential dwelling with large curtilage immediately north of the application site which is the applicants address. St. Patrick's Primary School is located directly south of the site. Dwellings 3-8 are located approx. 7metres from the common boundary with the primary school. The existing boundary treatment between the site and the school is palisade fencing with some dispersed vegetation. The proposal includes the addition of native hedgerow and an additional fence to ensure the proposal will not result in unacceptable overlooking. In terms of overlooking, loss of light and overshadowing, it is considered there is adequate separation distance from neighbouring properties and I do not foresee any unacceptable adverse impact on neighbouring amenity as a result of this proposal.
- i) The proposal seeks permission for a small housing development proposal of 8 units, each with off street parking and private amenity space. I have no significant in terms of crime or health and safety with respect the proposed design.

I conclude that the proposal accords with the extant Area Plan and all prevailing planning policy provisions highlighted above therefore I recommend approval.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approval subject to the below conditions is recommended.

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 south and west boundaries shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: In the interests of visual amenity.

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

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

4. All planting and boundary treatment comprised on drawing number 03 Rev 5 bearing date stamp 15th June 2021 shall be carried out prior to the occupation of any of the dwellings hereby approved and any trees or shrubs which, within a period of 5 years from the occupation of the dwellings, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity and to ensure the protection of residential amenity.

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

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

6. The development shall be served by a private sewage treatment plant until such times as the necessary upgrade of the Waste Water Treatment Works has been completed. On completion of the necessary improvements to the Waste Water Treatment Works the development hereby approved shall be connected to the public sewerage system (subject to all necessary agreements being put in place) and the private sewage treatment plant shall be decommissioned and removed from the site within 3 months of successful connection to the public sewerage system.

Reason: To ensure that a satisfactory, permanent means of sewage disposal is achieved and in the interest of safeguarding residential amenity and public health.

7. No development should take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW). Should adoption of the proposed temporary treatment plant not be feasible by Northern Ireland Water (NI Water), then an adequate and effective maintenance programme shall be put in place for a period not less than 20 years. The programme should be submitted

and agreed for approval by Mid Ulster District Council prior to the construction of any of the dwellings hereby approved.

Reason: To safeguard residential amenity and public health.

8. The sewerage treatment plant shall be located as per Drawing No. 03 Rev 5 bearing date stamp 15th June 2021 and shall be installed and fully operational prior to the occupation of any dwellings hereby approved. The plant shall be maintained by the developer until such times as it is adopted by NI Water or is no longer necessary to serve the development.

Reason: To protect nearby residential amenity from noise and odour

9. An adequate maintenance programme for the temporary package sewage treatment plant, along with signed contract of those that will be responsible for its maintenance, shall be agreed in writing with Mid Ulster District Council prior to the occupation of any dwelling hereby approved. The agreed maintenance programme shall be carried out for the lifetime of the package sewage treatment plant until such times as the necessary upgrade of the Waste Water Treatment Works has been completed, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect nearby residential amenity from noise and odour

10. The odour concentration associated with the package sewage treatment plant shall not exceed 5 ouE/m³ directly above the unit and not more than 3 ouE/m³ at 5 metres from the unit.

Reason: To protect nearby residential amenity from odour

11. The noise level associated with the package sewage treatment plant shall not exceed 5dB (A) below any background level measured at the nearest sensitive dwelling.

Reason: To protect nearby residential amenity from noise

12. Within 4 weeks of a written request by Mid Ulster District Council, following odour or noise complaint from the occupant of a dwelling, which lawfully exists or has planning permission at the date of this consent, the operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of emissions from the sewerage treatment plant. Any works required to resolve noise or odour issues shall be carried out by an approved operator of the package sewage treatment plant and shall comply with the requirements of condition 4 and/or 5. The works shall be completed within a reasonable timeframe to the agreement of Mid Ulster District Council on identification of a nuisance. On completion of the works, the operator shall provide details of a monitoring survey to Mid Ulster District Council for written approval.

Reason: To protect nearby residential amenity from noise and odour

13. The visibility splays of 4.5 metres by 103 metres at the junction of the proposed (access/access road) with the public road, shall be provided in accordance with Drawing No. 08 Rev 3 bearing the date stamp 3 August 2021, prior to the commencement of any other works or other development. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

14. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.
The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 08 Rev 3 bearing the date stamp 03 August 2021

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

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

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

16. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.
No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number 08 Rev 3 bearing the date stamp 03 August 2021. The Department hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

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

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

Informatives

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.
4. The applicant's attention is drawn to NI Water Consultation Response dated 19th May 2021.
5. The Private Streets (Northern Ireland) Order 1980 and The Private Streets (Amendment) (Northern Ireland) Order 1992.
Under the above Orders the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the Department to make the roads (including road drainage) in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001. Sewers require a separate bond from Northern Ireland Water to cover foul and storm sewers.
6. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.
7. Under the terms of The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001, design for any Street Lighting schemes will require approval from Dfi Roads Street Lighting Consultancy, Marlborough House Central Way Craigavon BT64 1AD. The Applicant is advised to contact Roads Service Street Lighting Section at an early stage. The Applicant/Developer is also responsible for the cost of supervision of all street works determined under the Private Streets Order (Northern Ireland) 1980.
8. Separate approval must be received from Dfi Roads in respect of detailed standards required for the construction of streets in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001.
9. Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road,

verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Loughrey Campus, 49 Tullywigan Road , Cookstown, BT980 8SG. A monetary deposit will be required to cover works on the public road.

Signature(s)

Date:



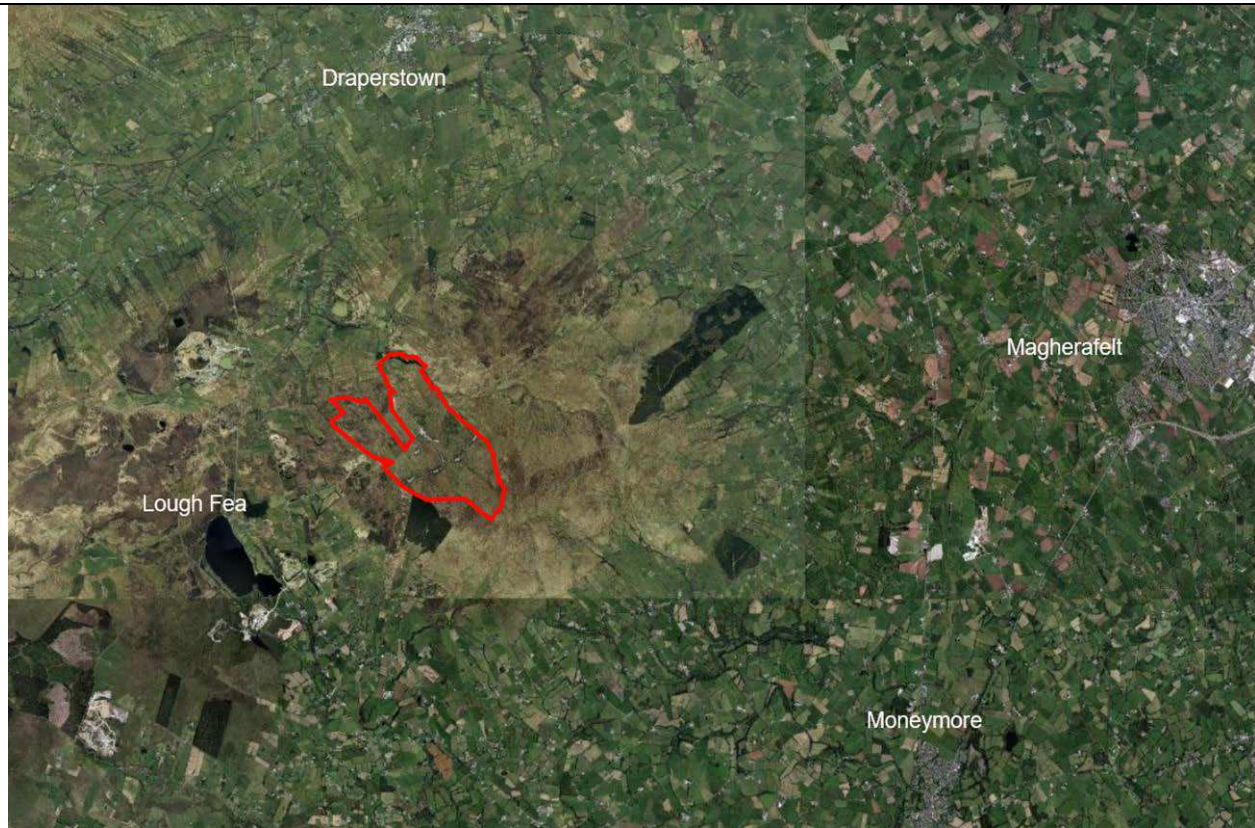
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0832/F	Target Date:
Proposal: An application under Section 54 of the Planning Act (Northern Ireland) 2011 to vary Condition No 16 of planning permission H/2010/0009/F to change the operational lifetime of the wind farm from 25 years to 30 years	Location: Crocandun approximately 450m west south west of junction of Cullion Road and Drumard Road Draperstown Magherafelt
Referral Route: This application is to extend the lifetime of the windfarm. The original application for the windfarm was a major application which was determined by The Department of the Environment.	
Recommendation:	APPROVE
Applicant Name and Address: Brookfield Renewable Floor 5 City Quarter Lapps Quay CORK ROI	Agent Name and Address: Clyde Shanks 2nd Floor 7 Exchange Place Belfast BT1 2NA
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

Representations:

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

Summary of Issues including representations

No representation were received in respect of this application.

Characteristics of the Site and Area

The site is located in the Magherafelt District Council area in the area around Crockandun and Straw Mountain and approximately 4km south of Draperstown. The lands are sited within the Sperrins Area of Outstanding Natural Beauty (AONB) and located to the west of Slieve Gallion and accessed off the Cullion Road. It comprises upland mosaic habitats including bog, flushes etc. and rough grazing. A number of streams are also within the site. The site also contains part of the Sruhanleanantawey ASSI designated for its geological importance. The six turbines have been erected for a short time and are now operational. There is extensive sand and gravel extraction in the wider locality as well as single turbines visible to the west.

Description of Proposal

An application under Section 54 of the Planning Act (Northern Ireland) 2011 to vary Condition No 16 of planning permission H/2010/0009/F to change the operational lifetime of the wind farm from 25 years to 30 years.

Planning Assessment of Policy and Other Material Considerations

Include Development Plan and planning history

H/2010/0009/F - Amendment to proposed windfarm including reduction from 11 to 6 wind turbines (hub height 80m, blade diameter 90m) with an overall height from ground to blade tip of 125m, 2 borrow pits, 110kv substation and compound, construction of internal site tracks and associated works - Approved 28.11.2012.

As this is an application to extend the lifetime of the windfarm from 25 years to 30 years, the issues to be considered are;

What is the reason for the proposed time extension;

Will the proposed extension in the lifetime of the windfarm have any impact on the ecology and hydrology of the site beyond the lifetime of the windfarm;

does the proposal have any greater impact on residential amenity. In that respect, Environmental Health were consulted and advised that :-

The applicant advised that

'para 1.3.88 of PPS 18 Best Practice Guidance (BPG) states the following:

"1.3.88 It is likely that the duration of the planning permission will be linked to the expected operational life of the turbines. However, during this period, proposals may be forthcoming to extend the life of the project by re-equipping or to replace the original turbines with new ones. While there are obvious advantages in utilising established sites, such cases will have to be determined on their individual merit and in the light of the then prevailing policy and other relevant considerations."

It follows that duration of the lifespan of the wind farm relates to the operational life of the turbines and its technology. Given the advances in technology and continued improvements to turbine performance and design, the life expectancy of turbines has increased.

Notwithstanding, Condition 16 of permission H/2010/0009/F states:

"All above ground structures shall be dismantled and removed from the site 25 years from the date when the wind farm is commissioned to the electricity grid or shall be removed if electricity generation has ceased on site for a period of 6 months (unless further consent has been granted). The land shall be restored in accordance with an agreed scheme to be submitted to the Department at least one year prior to the commencement of any decommission works. This scheme shall include details of all works and measures to restore the site, the timeframe within which the works shall be carried out along with proposals for aftercare for a period of 3 years after completion of the restoration works."

Reason: To ensure the development is decommissioned in a manner that protects the ecology and hydrology of the site beyond the lifespan of the windfarm.

The reason for the condition relates to the latter part of condition in regards to the decommissioning of the wind farm and the restoration of the land and not the operational lifespan of the wind farm. The NIEA consultation response dated 16 March 2012 confirms this to be the case in so far as the following condition was proposed:

“No later than 1 year prior to the expiry of the approval a restoration scheme shall be submitted for the approval of the Department and shall be implemented (unless a further consent is granted) in accordance with the approval granted. This scheme shall include details of all works and measures to restore the site in accordance with a site restoration plan agreed with the Department. The site restoration plan shall include details of timescale within which the restoration works shall be carried out along with proposals for aftercare for a period of up to 3 years from completion of restoration works.

Reason: to ensure the development is decommissioned in a manner that protects the ecology and hydrology of the site beyond the life span of the windfarm”

This application merely seeks to extend the operation lifetime of the wind farm by five years. Therefore the applicant will seek to comply with the condition insofar as a restoration scheme will be submitted to the Council at least one year prior to the commencement of decommissioning works detailing the works relating to the protection of ecology and hydrology in accordance with Condition 16.

In my opinion it is accepted that the windfarm can be decommissioned in such a manner that protects the ecology and hydrology of the site and that to permit the windfarm to remain in place for an additional five years beyond the original approved 25 year time limit, will not cause any damage to the ecology and hydrology of the site.

Environmental Health advised;

'The amendment of the lifetime of the wind farm is not considered to have any impact on noise levels. We therefore have no objection to the lifetime of the wind farm being extended to 30 years.'

Given that the proposed extension in the lifetime of the windfarm will not have a detrimental impact on residential amenity, it is considered to be acceptable and should be approved subject to the condition listed below:-

Recommendation

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

All above ground structures shall be dismantled and removed from the site 30 years from the date when the wind farm is commissioned to the electricity grid or shall be removed if electricity generation has ceased on site for a period of 6 months (unless further consent has been granted). The land shall be restored in accordance with an agreed scheme to be submitted to the Department at least one year prior to the commencement of any

decommissioning works. This scheme shall include details of all works and measures to restore the site, the timeframe within which the works shall be carried out along with proposals for aftercare for a period of 3 years after completion of the restoration works.

Reason: To ensure the development is decommissioned in a manner that protects the ecology and hydrology of the site beyond the life span of the windfarm.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approve subject to the condition listed below:-

Conditions:

1. All above ground structures shall be dismantled and removed from the site 30 years from the date when the wind farm is commissioned to the electricity grid or shall be removed if electricity generation has ceased on site for a period of 6 months (unless further consent has been granted). The land shall be restored in accordance with an agreed scheme to be submitted to the Department at least one year prior to the commencement of any decommissioning works. This scheme shall include details of all works and measures to restore the site, the timeframe within which the works shall be carried out along with proposals for aftercare for a period of 3 years after completion of the restoration works.

Reason: To ensure the development is decommissioned in a manner that protects the ecology and hydrology of the site beyond the life span of the windfarm.

Informatives

1. This approval notice relates to Drawing No. 01 which was received on 9th July 2020.

Signature(s)

Date:

ANNEX	
Date Valid	9th July 2020
Date First Advertised	28th July 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 62 Corrick Road Draperstown Londonderry	
Date of Last Neighbour Notification	13th August 2020
Date of EIA Determination	7th April 2021
ES Requested	Yes /No
Planning History The most relevant planning history on this site is the extant planning approval:- H/2010/0009/F - Amendment to proposed windfarm including reduction from 11 to 6 wind turbines (hub height 80m, blade diameter 90m) with an overall height from ground to blade tip of 125m, 2 borrow pits, 110kv substation and compound, construction of internal site tracks and associated works - Approved 28.11.2012	
Summary of Consultee Responses Environmental Health advised that the proposed extension of time i snot considered to have any impact on noise levels and therefore EHD have no objection to the proposal.	
Drawing Numbers and Title	
Drawing No. 01 Type: Site Location Plan Status: Approved	
Notification to Department (if relevant) Date of Notification to Department: Response of Department:	



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 07/09/2021	Item Number:
Application ID: LA09/2020/0949/F	Target Date:
Proposal: Proposed extension of existing confectionery warehouse, additional car-parking and external hardstanding / loading / unloading area (Additional Noise and Lighting Information Submitted)	Location: 58 Old Eglish Road Dungannon
Referral Route: 1. The proposal does not fit neatly into any policy in PPS 4 – Planning and Economic Development as the existing portion of the site is half within the settlement limit of Dungannon and the remaining half where the new shed is located is in the countryside.	
Recommendation:	Approval
Applicant Name and Address: Northern Confectioners Ltd 58 Old Eglish Road Dungannon BT71 7PA	Agent Name and Address: McKeown and Shields Associates Ltd 1 Annagher Road Coalisland BT714NE
Executive Summary: The proposal does not fit neatly into any policy in PPS 4 – Planning and Economic Development as the existing portion of the site is half within the settlement limit of Dungannon and the remaining half where the new shed is located is in the countryside. However members should consider the fact that the Dungannon and South Tyrone Area Plan 2010 is now over ten years since its expiry date and that it will be at least two years before a local policy plan comes forward. In addition the Mid Ulster Draft Plan strategy recognises a shortage of industrial and that there is a lack of available sites at Granville and the land approved at the brick works is still to come on stream. This is also an existing factory and therefore there is a degree of geographic inertia which makes relocation difficult.	

Signature(s):

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	Rivers Agency	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
<p>Characteristics of the Site and Area</p> <p>The existing warehouse is within the settlement limit of Dungannon as defined in the Dungannon and South Tyrone Area Plan 2010. While the remainder of the application site is in the countryside and outside any settlement limits. To the north is within Dungannon limits and is mainly residential with detached dwellings on large plots. The majority of these dwellings have a roadside frontage onto the Old Eglish Road. To the south of the site is mainly housing developments with a mix of detached and semi-detached dwellings. 110m west of the site is Black Lough and agricultural fields as this is outside the Dungannon limits. Directly across the road from the site are single storey orlits which face onto Old Eglish Road.</p> <p>The application site comprises two large storage sheds which are used for the storage business Northern Confectioners. The front of the site has a roadside frontage onto Old Eglish road and there is a tarmacked area to the front which serves as a yard. The front boundary treatment is 2m high metal fencing. To the south and within the curtilage is a gravelled area which is currently used for staff car parking. Along the side and southern boundary is a yard which provides access to the rear of the sheds. The rear boundary treatment is a 2m high blockwork wall with metal fencing on top of the wall.</p> <p>To the rear of the sheds and outside the curtilage of the existing business are agricultural fields. From the rear boundary the land slopes downwards sharply and there are small groupings of established trees within the field.</p>	
<p>Description of Proposal</p> <p>This is a full application for a proposed extension of existing confectionery warehouse, additional car-parking and external hardstanding / loading / unloading area at 58 Old Eglish Road, Dungannon.</p>	
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.</p> <p>Planning History</p> <p>No recent planning histories at the application site.</p> <p>Representations</p> <p>The application was advertised in the local press and neighbour notified and at the time of writing no representations have been received.</p> <p>Local Development Plan 2030 - Draft Plan Strategy</p> <p>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</p>	

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.

SPPS - Strategic Planning Policy Statement for Northern Ireland

The Strategic Planning Policy Statement for Northern Ireland (SPPS) is the most recent expression of Policy by the Department and unless it has changed policy or provided clarification of the existing policies, the existing policies remain to be considered until such times as the Council publishes its own Local Development Framework. I do not consider the SPPS has changed the policies in Planning Policy Statement 1, 3, 4 or 15, which I consider are the relevant policy for consideration. The SPPS does give specific provision for Economic Development, Industry and Commerce subject to a number policy provisions. It does not present any change in policy direction with regards to industrial development in settlements. As such, existing policy will be applied (ie) PPS 4.

Dungannon and South Tyrone Area Plan 2010

The portion of the existing site where the new shed is located is on the boundary and outside the settlement limit so SETT 1 does not apply. However the Dungannon and South Tyrone Area Plan 2010 is now over ten years since its expiry date and that it will be at least two years before a local policy plan comes forward. In addition the Mid Ulster Draft Plan Strategy recognises a shortage of industrial and that there is a lack of available sites at Granville and the land approved at the brick works is still to come on stream. This is also an existing factory and therefore there is a degree of geographic inertia which makes relocation difficult. Therefore even-though the site of the warehouse is in the countryside and outside the Dungannon settlement limit there are the above mentioned issues with zoning of industrial land and the settlement boundary that need to be taken into consideration in this assessment.

PPS 4 - Planning and Economic Development

PED 3

The existing storage and distribution business at Northern Confectioners is within the settlement limit of Dungannon and there are no changes to this area as shown in red in figure 1 below. The proposal is for an extension to the existing warehouse on land to the east of the sheds but this land is in the countryside and on the edge of Dungannon Limits. Though members should be aware this application is not for the expansion of an established economic development situated in the countryside so does not sit neatly within PED 3.

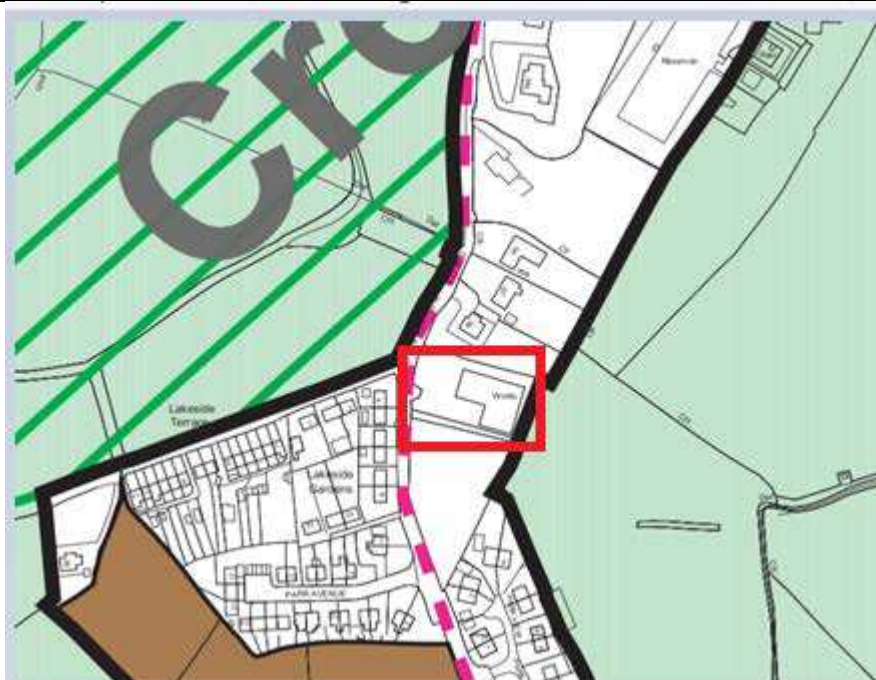


Figure 1 – Snapshot from Dungannon and South Tyrone Area Plan showing the red line as the existing sheds and the proposed siting of new shed in countryside to the east.

The proposed extended shed is 42m in length extending from the rear wall of the existing sheds, 33.5m in width and 11m in height to finished floor level. The shed has a rectangular form and has a finished floor level at the same height as the existing sheds which is 86.6. The proposed external materials are grey cladding panels on the roof and silver grey cladding panels on the walls. I am content the external materials of the proposed shed is acceptable as it will match the existing sheds which are a mix of blockwork walls and grey cladding panels on the roof and upper sections of the sheds.

The proposed location to the rear is in the countryside and is currently a field. As shown in figures 2 and 3 below the land slopes downwards steeply. The front elevation of the shed is 3no. large roller shutter doors which are 4.5m in width and 6m in height. Along the rear elevation of the shed facing onto the private lane there are also 2no. roller doors 4.2m in width and 6m in height. The agent has submitted sections to show how the proposed shed will sit in the sloping landscape. The level at the existing shed is 88m and the existing levels to the rear wall of the proposed shed is 73m, thus there will be a change in levels of 15m.



Figure 2 – View of private lane off Old Eglish Road



Figure 3 – Zoomed in photograph to show the sloping land to the rear of the sheds.

To the south of the proposed shed is a gravelled area which will be used as an access to the new yard area. To the south of the existing shed is currently a sloping field and will be a new turning circle for lorries with a 13m radius. In addition, there is a yard area and 4 no. spaces for HGV parking. This yard area and parking will have the same change in levels and finished floor level as the proposed shed.

As there is a substantial amount of infilling at the site of the proposed shed the applicant has proposed a gabion wall structure to support the shed. This structure has a compacted stone foundation, steel mesh facing and vegetation on the upper layer.

Even-though there is substantial infilling of land to the rear of the site to create a large shed and there is an expansion to the lorry turning area I am content the proposal will not have an unacceptable impact on the character of the site or the surrounding area. There are no critical views of the proposed shed from the main Old Eglish Road. There will be long distance views off a private lane off Old Eglish Road but this is a lightly trafficked lane and is a considerable distance from the main Old Eglish Road.

In a supporting statement submitted on the 23rd March 2021 the applicant has stated the business has operated from the site for over 50 years and there is no space to the south of the site to accommodate an expansion to the existing shed in this direction. The applicant has stated in numerous emails to myself the size of the extension is needed to accommodate an increase in business and they mainly provide products for hospitals and schools. The business has recently launched a new online ordering site which has increased demand so the applicant has stated there is a need for the proposed extension. I am content the proposed shed will integrate at the shed as there are minimal critical views from the public road.

I am content the scale and massing of the proposed shed respects the character of the original shed at the site.

I consider the proposal is for a major expansion of the existing site and as the new shed and lorry area is in the countryside this section of PED 3 is relevant. The agent has stated in a supporting statement dated 10th February 2021 they have operated from the site for over 50 years and a relocation is not possible. As shown earlier in the assessment the business has increasing demand and needs to expand. It is stated the extension to the warehouse area will make the business more efficient in terms of deliveries and increase employment by 4 staff. To relocate or have alternative premises elsewhere would have an economic impact on the business. Northern Confectioners is considered an essential service delivering supplies to hospitals, nursing homes, special needs schools across numerous Council areas. Therefore I consider the extension is essential to the needs of the existing business for operational and employment reasons and makes a significant contribution to the local economy. I am content the proposal will not undermine rural character as there will only be long distance views along a lightly trafficked lane that is only served by the occupants along the lane. The applicant has proposed landscaping on the gabion wall structure and rows of mature trees along the east boundary which has views from the private lane.

Also, as stated earlier in the assessment there has not been a review of the settlement limit of Dungannon for a number of years and work is still progressing on the new Plan Strategy. Work undertaken as part of this Draft Strategy demonstrated there is a lack of industrial land within Dungannon which would hinder relocation of a business of this nature to other premises. Therefore taking all the issues into consideration I would recommend approval.

Policy PED 9: General Criteria for Economic Development

It is my opinion that in principle that the business use has been established at this location and this expansion with a larger shed in principle is acceptable on based on the following premise:

The use is compatible with surrounding land uses.

It is unlikely to harm the amenities of nearby residents.

It is unlikely to adversely affect natural or built heritage.

Rivers agency have been consulted and have stated the proposal is unlikely to cause or exacerbate flooding.

It is unlikely to cause a noise nuisance.

There is no emissions or effluent as the proposed shed is for storage and distribution.

DFI Roads have no concerns about the intensification of the access subject to visibility splays and parking arrangements.

Movement patterns: an application is the appropriate method to demonstrate if and insofar as possible, the needs of walking and cycling needs are met, the needs of people whose mobility is impaired are met, public rights of way are respected. Public Transport connection to this type of economic use are not essential but are a material consideration. This building will not be visible from the roadside.

The proposed shed is to the rear of the site and the proposed landscaping will aid integration.

The determining of crime and promotion of personal safety would require additional information as part of an application in order to fully assess and determine.

Proposals for satisfactorily integrating into the countryside can only be assessed formally through the planning process. In principle there would appear to be no integration problems.

PPS 3 Access, Movement and Parking

DFI Roads were consulted as the proposal will involve a substantial intensification of the parking and lorry turning area at the site. The proposal will create a 13m lorry turning circle to the south adjacent to the new shed, yard area and 4no. loading bays for lorries. DFI Roads are content with the proposal subject to visibility splays of 2.4m x 60m in both directions and conditions relating to gates and hard surfaced areas. The existing site is not accessed off a protected route therefore I am content all the criteria in AMP2- Access to Public Roads have been met.

The proposed warehouse is 1428m² and according to Mid Ulster Parking Standards for a storage warehouse there should be 1 lorry space per 250m². Therefore the new warehouse would need 7 lorry space. On drawing 02 Rev3 date stamped 02 AUG 2021 7 lorry spaces are shown with a further 4 spaces for loading to the south. I am content sufficient lorry spaces have been provided at the site for the size of the development.

PPS 15 – Planning and Flood Risk

FLD 3 – Development and surface water flood risk outside flood plains

There is a proposed new warehouse is 1428m² and a new hard surfaces area to the south to accommodate a 13m lorry turning circle and 4no. lorry loading bays. Consequently as there will be over 1000sqm of new building/hard surfacing a Drainage Assessment was requested by Rivers Agency. Rivers Agency were content with the findings of the Drainage Assessment but state that in the DA it is reported

‘During detailed design, the exact parameters of the attenuation features will be confirmed’. Therefore Rivers Agency have requested a condition that Prior to the commencement of any of the approved development on site, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 must be submitted to the Council for its consideration and approval. Therefore the applicant must submit a final drainage assessment prior to commencing any works.

Neighbour Amenity – Consultee Environmental Health

Environmental health were consulted as the proposal is for a large scale expansion of an existing warehouse which will double in size the floorspace. In addition, there is an expansion of the lorry parking and loading area. Environmental health initially responded with concerns about the impact on neighbour amenity on dwellings to the south and

requested a light impact assessment and noise impact assessment. It was also requested the applicant consider changing the location of the turning circle and loading bays. The applicant responded stating this involves more structural works into the slope of the field and is not a feasible option. Consequently the applicant has shown more landscaping along the southern boundary to act as a buffer and EH are now content.

PPS 21 – Sustainable Development in the Countryside

CTY 15 – The Setting of Settlements

As the siting of the proposed shed is outside and on the boundary of the settlement limit of Dungannon CTY 15 is the relevant policy which applies. This proposal will mar the distinction between Dungannon settlement limit and the remaining countryside. However there are limited critical views from Old Eglish Road and the only views are long distance views along a private lane. I do not consider the proposed shed and lorry area will have an unacceptable impact on the character of Dungannon and the applicant has proposed additional landscaping to mitigate any impact.

Neighbour Notification Checked Yes

Summary of Recommendation:

The proposal is recommended for approval.

Conditions

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

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

2. The limitations on the exterior lighting detailed in the table below shall apply at :

- 58 Old Eglish Road (North of the site)
- New Property, old Eglish Road (South of the site)

Environmental Zone	Light Intrusion (into Windows) Ev [lux]	
	Pre-curfew	Post-curfew
E2	5	1

3. The time of the curfew shall be 10pm.

Reason: To protect the amenity of nearby residential properties.

4. The warehouse hereby approved shall be restricted to daytime only during the hours:

- Monday- Friday 08:00 hrs – 18:00 hrs
- Saturday 08:00 hrs – 13:00 hrs
- No activity on Sunday

Reason: To protect the amenity of nearby residential properties.

5. All external doors to the proposed warehouse shall be kept closed at all times, except for the purposes of loading and unloading.

Reason: To protect the amenity of nearby residential properties.

6. Prior to the commencement of operations within the warehouse building hereby approved the walls and roof panels shall be constructed and permanently retained with no gaps to provide a sound reduction Rw of at least 27dB as outlined in the noise assessment by CD Consulting dated 15/03/2021.

Reason: To protect the amenity of nearby residential properties.

7. Prior to the commencement of operations within the warehouse building hereby approved the doors shall be constructed and maintained to provide a sound reduction Rw of at least 26dB as outlined in the noise assessment by CD Consulting dated 15/03/2021.

Reason: To protect the amenity of nearby residential properties.

8. Prior to the commencement of operations within the warehouse, a 4m high closed board timber and/or 2m high bund with a minimum self-weight of 25 Kg/m² shall be erected between along the southern boundary of the site as detailed on Drawing No. J1606/104/A1 and Drawing Number 6, date stamped 21/05/21 shall be permanently retained and maintained.

Reason: To protect the amenity of residents.

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

Reason: To protect the amenity of residents.

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

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

11. The vehicular access, including visibility splays of 2.4 metres by 60.0 metres in both directions at the access on to the public Road and forward sight distances of 60.0 metres, shall be provided in accordance with Drawing No 02 Rev 3 date stamped 02 AUG 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.

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

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

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

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

14. No operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 02 Rev 3 date stamped 02 AUG 2021 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

Informatives

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

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

3. 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.

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

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

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

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: LA09/2021/0077/F	Target Date:
Proposal: Proposed alternative Acoustic noise barrier to that previously approved under LA09/2016/0543/F	Location: 100 Gortgonis Road Coalisland
Referral Route: Approval with objections.	
Recommendation:	Approve
Applicant Name and Address: Toubcal Limited Unit 12 Torrent Valley Business Donaghmore Dungannon	Agent Name and Address: Mc Keown and Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
Executive Summary: Neighbours have complained about noise, the agent is proposing revised acoustic barriers and Environmental Health have agreed the proposed new boundary fencing.	
Signature(s):	

Case Officer Report

Site Location Plan: 01



Representations:

Letters of Support	None Received
Letters of Objection	1
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	1 Petition Received- 12 signatures

Summary of Issues

- Noise from factory
- visual impact of proposed fence
- issues over address
- other issues not related to planning

Description of proposal

This is a full planning application for a proposed alternative acoustic noise barrier to that previously approved under LA09/2016/0543/F.

Characteristics of site and area

The application site is located at 100 Gortgonis Road, Annaghmore and is currently occupied by an existing manufacturing business, Toubkal Limited/Blackrock Engineering. The site is just inside the settlement limit of Annaghmore as defined in the Dungannon and South Tyrone Area Plan 2010 (DSTAP). In the Western portion of the site is a large two storey workshop and office building. The remainder of the site is used for outside storage, parking and circulation of vehicles throughout the site. The site boundaries are as follows; the roadside boundary is part defined by wire and post fencing and part defined by closed board wooden fencing. The Northern and North Western boundaries are defined by a mix of security fencing, single sheet 3.3m high wooden fencing, and 3.3m high single sheet tin fencing. The Western boundary is defined by closed board wooden fencing and the NE boundary is defined by a 1.8m high earth bund.

This area is characterised by a mix of uses. There is a residential development to the immediate North of the site. To the NW and SW of the site are engineering works and to the SE of the site is a cluster of detached dwellings and agricultural buildings.

Planning Assessment of Policy and Other Material Considerations

Planning Act 2011

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

Area Plan

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

Dungannon and South Tyrone Area Plan 2010 (DSTAP)- just inside the settlement limit of Annaghmore, white land.

Relevant Planning Policy

SPPS Strategic Planning Policy Statement
PPS 4 - Planning and Economic Development

Relevant Planning History

LA09/2016/0543/F- Proposed retention of existing hard standing Industrial Storage area, granted 09.02.2016

LA09/2015/0960/F - Proposed gas tank enclosure also retention of plasma recirculation exhaust annex (no fumes or dust omissions) including provision of small material storage area to side and rear approved on 3rd February 2016.

M/2014/0134/F - Proposed extension to existing factory approved on the 3rd June 2015

M/2013/0318/F - Proposed security fence around existing site - Retrospective application approved 20th December 2013

M/2008/0350/F - Retention of the change of use from existing store for electrical goods and offices to light/ general engineering (manufacture of quarry machinery materials) approved on the 9th June 2009

There have been several enforcement cases open on this site, with all but one closed with further action being suspended for now pending on the outcome of this current application.

Third Party Representations

A letter of objection was received from No. 12 Annaghban Park, which is located approximately 2-3 meters from the boundary of the Factory yard, seeking further clarification on the potential visual impacts of the proposed boundaries, and providing other information about the site. I spoke to the objector over the phone and explained the plans and likely visual impacts, no further objections were received.

A petition was received, signed mostly by residents of Annaghban, one from Gortgonis Road, complaining about unacceptable noise from the factory.

Recommendation

This proposal is only to consider alternative acoustic boundary treatments to those that were granted under LA09/2016/0543/F. In support of the planning application the agent has provided drawing 01 which shows the proposed boundary treatments, along with a Supporting Statement from Lester Acoustics to demonstrate the effectiveness of the proposed acoustic solution.

The main difference in this proposal from what was approved is as follows;
Under LA09/2016/0543/F boundaries A to B to C were defined as a 1.5m high earth bund with 1.8m high fence on top. Boundary C to D. along the NE boundary of the site, was a 1.8m high acoustic timber fence.

This proposal is for;

Along boundaries A to B 3.3m high pallet racking with single skin cladding to rear with surface mass of 1.3kg/m and gravel board to be fitted between ground and the bottom of the fence with a minimum surface mass of 6kg/m.

Boundary b to C 3.3m high close boarded timber fence with gravel board to bottom.

Boundary C to D 1.5m high earth bund with 1.8m high close boarded timber fence with gravel board to bottom. Minimum surface mass of 6kg/m.

Boundaries A to B to C measured 3.3m in height from ground level at that point to the top of the boundary. Boundary C to D has went from a 1.8m high boundary to a proposed 3.3m high boundary. An assessment on visual and residential impacts on the

height of this boundary, as well as the overall acoustic effectiveness of the proposed boundary will be considered.

Environmental Health were consulted on this proposal, and requested to consider Lester Acoustics report and the objection and petition. They have responded and recommend that they have no objections to this proposal subject to the inclusion of planning conditions.

No. 12 Annaghban raised concern over the proximity of the height of the 3.3m high boundary to their rear boundary. Under LA09/2016/0543/F granted permission for a 3.3m high boundary along B to C. Given that this proximity was assessed as being acceptable, I find that the boundary C to D which will now also be 3.3m high, to be acceptable. The boundary C to D runs away from the rear boundary of No. 12, and while it will be visible from this back yard, it is my view that this fence will not be over dominant or cause unacceptable loss of light to the rear garden of No. 12. There is an existing 3.3m high fence in position along boundary B to C which is a good visual guide of the overall visual impact of the fence which will be provided along C to D. This was explained to the objector and they did not put any further objections in writing to Council over potential detrimental impacts on residential amenity. Landscaping to the top of the earth bund will also soften the impact of the boundary in the landscape. To ensure that landscaping will not block sunlight to the rear of No. 12 in the future, I will add a condition to ensure it is topped at a height not more than ? m above the top of the fence line between points C and D.

I am satisfied that the policies within PPS4 have been met in this respect, particularly those in PED 9 which relate to impacts of noise and impacts on neighbouring amenity.

Approve subject to conditions.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That planning permission is granted subject to the following conditions;

Conditions

1. Within 8 weeks from the date of this approval a 3300mm high pallet racking with single skin cladding to the rear shall be put in place between points A to B shown on drawing No. 01 date stamp received 19th January 2021. The pallet racking and single skin cladding shall have a minimum surface mass of 1.3kg/m, and shall be erected with no gaps between the bottom of the cladding and the ground, and shall be permanently retained and maintained thereafter at a height not less than 3300mm above ground level at that point and a surface mass of not less than 1.3kg/m.

Reason: To safeguard residential amenity.

2. Within 8 weeks from the date of this permission a gravel board shall be provided to fill the gap between the bottom of the pallet racking and single skin cladding and the ground level at that point, between points A to B as indicated on drawing No. 01 date stamp received 19 January 2021. The gravel board shall have a minimum surface mass of 6kg/m and shall be permanently retained thereafter.

Reason: To safeguard residential amenity.

3. Within 8 weeks from the date of this permission a 3300mm high close-boarded timber fence shall be erected along the boundary B to C, in accordance with details shown on drawing No. 01 date stamp received 19th January 2021, and shall be permanently retained and maintained thereafter at a height not less than 3300mm above ground level at that point.

Reason: To safeguard residential amenity.

4. Within 8 weeks from the date of this permission a gravel board shall be provided to fill the gap between the bottom of the 3300mm high close-boarded timber fence, between points B to C as indicated on drawing No. 01 date stamp received 19 January 2021. The gravel board shall have a minimum surface mass of 6kg/m and shall be permanently retained thereafter.

Reason: To safeguard residential amenity.

5. The earth bund, shown between points C to D on drawing No. 01 date stamp received 19 January 2021, shall be permanently retained at a height of 1.5m high from ground level at that point.

Reason: To safeguard residential amenity.

6. Within 8 weeks from the date of this approval a 1800mm high close boarded timber fence shall be erected on top of the earth bund, between points C and D as indicated on drawing No. 01 date stamp received 19 January 2021, and shall be permanently retained thereafter.

Reason: To safeguard residential amenity.

7. Within 8 weeks from the date of this permission, a gravel board shall be installed at the bottom of the 1800mm fence and the top of the earth bund, between points C to D as shown on drawing No. 01 date stamp received 19 January 2021, to ensure there are no gaps. The gravel board shall have a minimum surface mass of 6kg/m and shall be permanently retained thereafter.

Reason: To safeguard residential amenity.

8. Within 4 weeks of a written request by the Planning Department following a reasonable noise complaint, the site operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of noise immissions from the site at the complainant's property following the procedures described in: BS 4142:2014

Methods for rating and assessing industrial and commercial sound. Details of the noise monitoring survey shall be submitted to the Planning Department for consideration.

Reason: To safeguard residential amenity.

9. Within the first available planting season from the date of this permission, all landscaping indicated on drawing No. 01 date received 19 January 2021 shall be carried out in accordance with that plan.

Reason: In the interest of visual amenity and biodiversity.

10. No landscaping along the boundary C to D shown on drawing No. 01 date stamp received 19th January 2021 shall be allowed to grow to greater than 200mm above the highest part of that boundary fencing.

Reason: To safeguard residential amenity.

Signature(s)

Date:

ANNEX	
Date Valid	19th January 2021
Date First Advertised	2nd February 2021
Date Last Advertised	18th May 2021
Details of Neighbour Notification (all addresses) The Owner/Occupier, 100 Gortgonis Rd Dungannon BT71 4RY 100 Gortgonis Rd, Coalisland, BT71 4RY Maura McGuckin 12 Annaghbann, Coalisland, BT71 4RY Maura McGuckin 12 Annaghbann, Coalisland, BT71 4RY	
Date of Last Neighbour Notification	7th May 2021
Date of EIA Determination	EIA screening not required for this type of development.
ES Requested	No
Notification to Department (if relevant) Date of Notification to Department: Response of Department:	



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0226/F	Target Date:
Proposal: Proposed extension and alterations to existing rugby club clubhouse to include additional changing facilities, additional bar/function area , kitchen, toilets, storage and viewing gallery	Location: 7 Meadowbank Road, Magherafelt
Referral Route: 1no. Objection received	
Recommendation:	Approval
Applicant Name and Address: Rainey Old Boys RFC 7 Meadowbank Road Magherafelt	Agent Name and Address: Kee Architecture Ltd 9a Clare Lane Cookstown BT80 8RJ
Executive Summary: Proposal complies with relevant prevailing planning policy. 1No. objection letter received and considered below.	
Signature(s): <div style="height: 40px; border: 1px solid black;"></div>	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen	Content
Non Statutory	Environmental Health	Substantive Response
Statutory	DFI Roads - Enniskillen	Standing Advice

Representations:

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

Characteristics of the Site and Area

The application site comprises Magherafelt Rainey Old Boys Rugby Club located at 7 Meadowbank Road, Magherafelt within the defined settlement limits of Magherafelt Town. The site is an existing sport facility defined as a major area of existing open space by the Magherafelt Area Plan 2015. There is an existing clubhouse with associated parking within the site and 2no. Existing rugby pitches immediately to the east. The proposal is sited on a relatively flat area of land at the fringe of the settlement limit with open countryside to the south. The surrounding context to the north is urban in character with predominantly residential land uses to the northwest and open space and recreation land uses to the northeast. The southern and southwest boundary of the site is defined by mature trees, whilst the roadside boundary is defined by green palisade fencing.

Description of Proposal

This planning application seeks full planning permission for the extension and alterations to the existing rugby club clubhouse to include additional changing facilities, additional bar/function area, kitchen, toilets, storage and viewing gallery at 7 Meadowbank Road, Magherafelt.

Planning Assessment of Policy and Other Material Considerations

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

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Magherafelt Area Plan 2015
- PPS 3 - Access, Movement and Parking
- PPS8 - Open Space, Sport and Outdoor Recreation

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

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, 1 objection letter was received. The concerns outlined in this letter are summarised and considered below:

- Existing car parking is inadequate to accommodate game days and needs to be improved. No allowance for parking and an expansion will worsen this. Cars currently park along the Meadowbank Road and on the junction with Parkmore Road on game days which is disruptive to residents and the flow of traffic.

DFI Roads had initially provided consultation response advising they had no concerns. However following the receipt of the above letter of objection, further comment was sought from DFI Roads with regards to parking. DFI Roads advised they were not aware of any significant problems as a result of overflow parking on game days (Saturdays), however advised that the P1 Form expects an increase of 10 vehicles which has the potential for a shortfall of 37 vehicles dispersed elsewhere with the current parking provision of 77 spaces available on site. Clarification was sought from the agent on the parking issue and a supporting statement was subsequently submitted. The Supporting Statement advised a maximum of only two teams can play at any given time as there are only 2 pitches and on Saturday's youth teams play in the morning and senior teams in

the afternoon. The agent advised that the majority of vehicles associated with the youth teams are drop offs and do not park, however accepts that on a small number of occasions the senior 1st team matches in the afternoon may attract a bigger crowd with some overflow on to the Meadowbank Road. The agent argues that the number of matches will not change as a result of this proposal which relates to the clubhouse only, therefore he does not anticipate an intensification or increase of visitors during the Saturday peak time which would increase pressure on current parking arrangements. The Supporting Statement advises that the expected 10 vehicles increase is based on additional vehicles attending the facility socially on a Saturday evening and this increase can be fully accommodated with the existing in-curtilage parking provision. It is argued that there is no capacity to increase the number of teams attending given there are only 2 pitches and no prospect for future expansion as there is no surrounding available land. Having considered the Supporting Statement submitted at internal group, it is considered that the proposal is unlikely to impact on existing parking pressure during game times as the proposed extension to clubhouse relates to changing and viewing facilities for existing visitors during the day time and bar/function and kitchen area to facilitate social events in the evening.

History on Site

H/2009/0613/F- Provision of floodlighting to 2no existing playing pitches - Hatrick Park, 7 Meadowbank Road, Magherafelt - Permission Granted 20/01/10

Key Policy Considerations/Assessment

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. SPPS sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The SPPS states that planning considerations for ancillary development to existing sport and outdoor recreation facilities will require consideration of location, design, hours of operation, noise, impact upon visual and residential amenity, access and links to public transport, floodlighting, landscaping, public safety, nature conservation, biodiversity, archaeology or built heritage.

Magherafelt Area Plan 2015 - The site is located within the development limits of Magherafelt, on land defined as a major area of existing open space. The Plan states within these areas planning applications will be determined in accordance with the provisions of prevailing regional planning policy. It is noted that the proposal is to extend existing club rooms, therefore no open space will be lost as a result of the proposal.

Plan Policy COY 1 Community Uses states planning permission will be granted for community uses within settlement development limits provided all the following criteria are met:

- there is no significant detrimental effect on amenity;

I am content the proposed extension to existing clubrooms will not have an unacceptable impact on neighbouring amenity. The proposal will extend the eastern elevation to

provide a first floor viewing gallery, where currently there is a small first floor terrace. To the western elevation the proposal extends to the rear to provide additional changing space to the ground floor and a bigger function area, kitchen and toilets. Environmental Health have been consulted and whilst identifying odour may be produced from the kitchen, no significant concerns or objections were raised. The proposed extension will have a separation distance of approx. 64m with the closest residential property. I do not consider the proposal will have a significant detrimental effect on amenity to warrant refusal.

- the proposal does not prejudice the comprehensive development of surrounding lands, particularly on zoned sites;

It is not considered that the minor extension of an existing clubhouse within an established Rugby sports ground would prejudice development of surrounding lands.

- the proposals are in keeping with the size and character of the settlement and its surroundings;

The proposed two storey extension is considered large and will extend the floor space of the existing building by approx. 560m² however remains subordinate. The design and finishes are in keeping with the existing built form of the existing clubhouse on site. Given the size and nature of the site, I am content the scale and design of the proposal is in keeping with the character of the surrounding area.

- where necessary, additional infrastructure is provided by the developer; and It is not necessary for additional infrastructure to be provided.

- there are satisfactory access, parking and sewage disposal arrangements.

There is no change to existing access arrangements and sewage disposal arrangements are already in place on site. As previously stated above, it is accepted that the parking provision on site will accommodate the expected increase to the site which will facilitate social events/evening entertainment on site. It is considered the proposal complies with the relevant planning policy with PPS3.

The site is located within the settlement limit of Magherafelt therefore Plan Policy SETT 2 applies. The proposal is located on a large area of existing open space. The use is established on the site and I am content the proposed extension to clubhouse is sensitive to the character of Magherafelt and will not have an unacceptable impact on neighbour amenity. As previously stated, Environmental Health have been consulted and have provided no objections noting the proposal should not give rise to increase noise impacts but odours may be present from the proposed kitchen area. I consider the proposal meets all the criteria in SETT 1 in terms of conservation interests, access, additional infrastructure and the SPPS.

PPS8 - Open Space, Sport and Outdoor Recreation is a retained policy under SPPS. PPS8 sets out planning policies for the protection of open space, the provision of new areas of open space in association with residential development and the use of land for sport and outdoor recreation. This proposal is for an extension to an existing building to facilitate the continuing functioning an existing area of open space. The facility will provide additional changing areas and will be used to provide social events/functions for the rugby club. The proposed extension is approx. 560m². It is not considered the adjacent properties will be impacted by overlooking or overshadowing and no significant

noise impacts have been identified than what already existing. The design of the proposal is acceptable for the site and locality. The proposal will not have a detrimental impact on nature conservation, biodiversity, archaeology or built heritage.

Overall, it is considered the proposal would not conflict with any prevailing planning policy. The use is established on the site and the proposal relates to a subordinate extension of existing facilities, the design is considered acceptable and it is not considered the proposal would not have a detrimental impact on the surrounding area.

Neighbour Notification Checked

Yes

Summary of Recommendation:

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

Conditions

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

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

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:



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report
 Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0387/F	Target Date:
Proposal: Renewal of change of house type from 3 detached dwellings (approved under I/2014/0081/F) to 6 semi detached dwellings	Location: 15 15A and 16 St Jeans Cottages Cookstown
Referral Route: This application is being referred to Committee as it has attracted one letter of objection.	
Recommendation:	APPROVE
Applicant Name and Address: Hoover Investments Ltd 57 Drum Road Cookstown	Agent Name and Address: Manor Architects Stable Buildings 30a High Street Moneymore BT45 7PD
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
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Representations:

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

Summary of Issues

One objection has been received in respect of this application and relates to the following issues:-

Safe access or pedestrians;

The capacity of the existing road to accommodate traffic.

It should be noted that the one objection was received from St. Jean's Residents but was not signed and no name/names were attached.

It should be noted that Transportni were consulted on the extant approved proposal and advised that they had no objections subject to the suggested informatives. As this is an in-time renewal of the extant approved scheme LA09/2016/0323/F no consultation were considered necessary and the same advice is therefore still applicable.

Characteristics of Site and Area

The proposed site is located within Cookstown Settlement Limit. The site forms part of a previous planning permission I/2014/0081/F which granted permission for 4 no. 2 storey detached dwelling. The area to which this subject site relates was granted permission for 3 no. 2 storey dwellings under I/2014/0081/F. The site at present is cleared for development with some hardcore and rubble still remaining on the site. The site is accessed via St Jeans, but an alternate access within the applicants ownership also extends from Westland Rd towards the rear of No. 15a also exists. Views of the site exist from St Jeans.

The proposed site is located within the settlement limits of Cookstown. The site is accessed off St Jeans, an area defined by residential development on sizable plots. A particular character is obvious, pairs of two-storey semi's, some with larger detached properties in what once was their long rear gardens.

Cookstown Council Offices and yard are located to the north of the site, no access is available to the Council Yard from the site or St. Jeans.

Description of Proposal

This is a full planning application for 6 No dwellings (3 x sets of semi detached dwellings).

Planning Assessment of Policy and Other Material Considerations Regional Development Strategy

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

Area Plan

Cookstown Area Plan 2010: Cookstown Settlement Limit, unzoned white land.

Relevant Planning History

I/2014/0081/F - full permission granted for 4 no. 2 storey detached dwellings, granted 24th June 2014.

LA09/2016/0323/F – 6 No dwellings (3 x sets of semi detached dwellings) Approved 21st April 2016

Key planning Policy

The proposal is for housing development within an existing urban area. The Single Planning Policy Statement advises that the policy provisions of PPS7 still stand until such times as an up-to-date Area Plan is in place. Under Policy QD1 of PPS 7- Planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas.

In terms of QD1 of PPS7, Proposals are expected to meet the following criteria:

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

The proposal is for the renewal of an extant approval for 6 no. dwellings (3 sets of semis). The proposal is reflective of housing layout and design of existing development in the area. The proposed house type is a two-storey dwelling (8m in height) with smooth render plaster finish and external red brick chimney finish. The proposed design has ground floor projecting bay windows. The house type is acceptable.

In terms of the surrounding context of the area, two-storey properties are evident, mainly pairs of semi-detached. In terms of density, the proposal is reflective of existing density in the area. The building line has largely been retained. Each plot size generously affords the proposed design, with ample amenity space afforded, average 110sqm per plot. There is a mix of housing in the surrounding residential area, with larger back land plots, consisting of detached properties on similar size plots to the proposed 6 No. dwellings. Each property is in keeping with surrounding properties. It is considered criteria (a) of QD1 is met.

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

No archaeological or built heritage features identified on GIS search. Some existing planting exists along the northern boundaries of the site which could be retained, subject to condition. The proposal includes supplementary planting which will soften the impact of the proposed development.

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

No open space is included within the proposed design. However, each site has a generous amount of private amenity space, with an average of 110sq.m. Supplementary planting is proposed along site boundaries to soften visual impact.

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

The proposal is for 6 No. dwellings that will integrate into the local neighbourhood. No additional facilities are proposed than what exists, but each property will be afforded generous living space and is close to Cookstown Town Centre and other local neighbourhood facilities.

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

Transport NI have been consulted and have no objections subject to standard informatives. The proposed site is located within the settlement limits of Cookstown. There appears to be no infringement on rights of way. Access is afforded through St. Jeans, as with previous development to be replaced.

(f) adequate and appropriate provision is made for parking;

Transport NI have no objections subject to standard informatives.

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

A mix of housing and finishes exists in the surrounding residential area. The proposed design of 6 No. properties of same house type, boundary railings and supplementary planting will result in a more attractive development than what currently exists. The proposed development is located within the settlement limits of Cookstown, but the variety and quality of the design will result in a more attractive form of development than what currently exists.

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

As the building line is respected on each plot, overlooking and loss of light is not an issue.

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

The properties will look forward onto properties on the opposite side of St. Jeans. Street lights are in existence. The proposal has good surveillance of surrounding land and is designed with safety and overlooking of public space in mind, while retaining privacy to the rear.

In terms of PPS 7 (Addendum) - Safeguarding the Character of Established Residential Area, the proposed housing density would result in an acceptable density when read with surrounding development. Whilst the house types, design and layout have changed, it is considered the proposed scheme is not contrary to QD1 of PPS7 or PPS 7 Addendum.

Other considerations

Transport NI have no objections.

NI Water have no objections, but have raised information in their response for the developer to be made aware of, which can be done by informative.

Environmental Health have no objections subject to informatives.

No planning objections have been received.

The site is not subject to flooding and there are no contamination or human health issues to consider.

Consideration

This proposal is for the in time renewal of planning approval LA09/2016/0323/O. The Strategic Planning Policy Statement for Northern Ireland is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS.

There is no conflict between the planning policy applied in the approval of above and the SPPS. Therefore, in my view, this renewal must be approved. This proposal was considered acceptable under the provisions of policy QD1 of PPS7, in that there would be no issues of overlooking and overshadowing, no negative impacts on existing or proposed amenity, no detrimental impacts on neighbouring land-use, acceptable parking, manoeuvring of vehicles and safe access, and, acceptable density.

I recommend that permission be granted as before with the same planning conditions.

Neighbour Notification Checked

Yes

Summary of Recommendation:

As this is an in-time renewal of an extant planning approval, no consultations were necessary. All advice/comments from consultees on the extant approval should be repeated.

Conditions

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

Reason: Time Limit.

2. All landscaping comprised in the approved details of landscaping shown in drawing No 02 date stamp received 8th March 2021 shall be carried out in the first planting season following the commencement of the construction of the development hereby approved and any trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity.

3. All boundary treatments as identified on drawing No 02 date stamp received 8th March 2021 shall be constructed and completed as shown prior to the occupation of any dwelling hereby approved, and permanently retained thereafter, unless otherwise agreed in writing by Mid Ulster Council.

Reason: To assist in the provision of a quality residential environment and to safeguard private residential amenity.

4. The finished floor level of the dwellings and levels within the site shall not exceed the levels shown on the approved plan No 02 date stamp received 8th March 2021, unless otherwise agreed by Mid Ulster Council in writing.

Reason: To safeguard visual and residential.

Signature(s)

Date:

ANNEX	
Date Valid	8th March 2021
Date First Advertised	23rd March 2021
Date Last Advertised	
<p>Details of Neighbour Notification (all addresses)</p> <p>The Owner/Occupier, 17 St. Jeans Cottages, Cookstown, Tyrone, BT80 8DQ</p> <p>The Owner/Occupier, 23 St. Jeans Cottages, Cookstown, Tyrone, BT80 8DQ</p> <p>The Owner/Occupier, 24 St. Jeans Cottages, Cookstown, Tyrone, BT80 8DQ</p> <p>The Owner/Occupier, 25 St. Jeans Cottages, Cookstown, Tyrone, BT80 8DQ</p> <p>The Owner/Occupier, Cookstown Day Centre, 2 Westland Road, Cookstown, Tyrone, BT80 8BX</p> <p>The Owner/Occupier, Mid Ulster Council, Burn Road, Cookstown, Tyrone, BT80 8DT</p> <p>The Owner/Occupier,</p>	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
<p>Planning History</p> <p>Ref ID: LA09/2018/0294/F Proposal: Renewal of application reference I/2013/0073/F (Change of house type to that approved under I/2007/0634/F - storey and a half dwelling and carport). Address: Land adjacent to and the rear of 24 St Jeans, Tullagh, Cookstown, Decision: PG Decision Date: 30.08.2018</p> <p>Ref ID: LA09/2021/0387/F Proposal: Change of house type from 3 detached dwellings (approved under I/2014/0081/F) to 6 semi detached dwellings Address: 15,15A and 16 St Jeans Cottages, Cookstown, Decision: Decision Date:</p>	

Ref ID: I/1993/0189
Proposal: Dwelling and Garage
Address: REAR OF 25 ST JEANS COTTAGES COOKSTOWN
Decision:
Decision Date:

Ref ID: I/1993/0347
Proposal: Garage
Address: 25 ST JEANS AVENUE COOKSTOWN
Decision:
Decision Date:

Ref ID: I/1991/0369
Proposal: Site of Dwelling
Address: TO REAR OF 24 ST. JEANS COTTAGES FAIRHILL ROAD COOKSTOWN
Decision:
Decision Date:

Ref ID: I/1993/0058
Proposal: Site of Dwelling
Address: TO REAR OF 25 ST JEAN'S COTTAGES COOKSTOWN
Decision:
Decision Date:

Ref ID: I/1997/0205
Proposal: Extension to dwelling
Address: 24 ST JEANS AVENUE COOKSTOWN
Decision:
Decision Date:

Ref ID: I/2007/0634/F
Proposal: Proposed alteration to existing access and erection of single storey dwelling with integral garage.
Address: Land adjacent to and to the rear of 24 St Jeans, Tullagh, Cookstown
Decision:
Decision Date: 21.05.2008

Ref ID: I/2013/0073/F
Proposal: Change of house type to that approved under I/2007/0634/F - storey and a half dwelling and carport
Address: Land adjacent to and to rear of 24 St Jeans, Tullagh, Cookstown,
Decision: PG
Decision Date: 18.06.2013

Ref ID: I/2009/0104/LDP

Proposal: 2 no portacabins

Address: 4 Metres South of Council Offices, Burn Road, Cookstown, Co tyrone

Decision:

Decision Date:

Ref ID: I/1999/0161

Proposal: Proposed store to house council owned vehicles
(refuse collection lorries)

Address: BURN ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1983/0299

Proposal: EXTENSION TO COUNCIL OFFICES

Address: BURN ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2012/0256/F

Proposal: Proposed 4 bay vehicle store

Address: Cookstown District Council Depot, Burn Road, Cookstown,

Decision: PG

Decision Date: 19.09.2012

Ref ID: I/1984/0377

Proposal: MAINTENANCE AND GROUNDS MAINTENANCE DEPOT FOR NIHE

Address: ORRITOR ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1992/0374

Proposal: Extension to dwelling

Address: 15 ST JEAN'S COTTAGES COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1980/0397

Proposal: EXTENSION TO DWELLING AND ALTERATION TO EXISTING OUT
BUILDINGS

Address: 15A SAINT JEAN'S COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2014/0081/F

Proposal: Replacement of 4 no existing dwellings with 4 no detached, two storey dwellings (Amended Plans to include House Types and Additional Boundary Treatment)

Address: 15, 15a, 16 and 18 St Jean's Cottages, Cookstown, Co Tyrone,

Decision: PG

Decision Date: 27.06.2014

Ref ID: I/2001/0431/O

Proposal: 2 no replacement dwellings and domestic garages

Address: 15 - 16 St Jean's Cottages Cookstown

Decision:

Decision Date: 05.09.2001

Ref ID: I/2004/1320/O

Proposal: 2 nos. dwellings & domestic garages

Address: 15-16 St Jeans Cottages, Cookstown

Decision:

Decision Date: 24.05.2005

Ref ID: I/2015/0105/F

Proposal: Erection of 16 no semi detached dwellings

Address: Opposite and 15m East of 19 Westland Road, Cookstown,

Decision: PG

Decision Date: 02.05.2017

Ref ID: LA09/2016/0323/F

Proposal: 6 No dwellings (3 x sets of semi detached dwellings)

Address: 15, 15A and 16 St Jeans Cottages, Cookstown,

Decision: PG

Decision Date: 26.04.2016

Summary of Consultee Responses

As this is an in-time renewal applicaiton, consultations were not considered necessary. All advice given by consultees on the extant approved scheme should therefore be repeated.

Drawing Numbers and Title
<p>Drawing No. Type: Status: Submitted</p> <p>Drawing No. 03 Type: Elevations and Floor Plans Status: Submitted</p> <p>Drawing No. 01 Type: Site Location Plan Status: Submitted</p> <p>Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted</p>
<p>Notification to Department (if relevant)</p> <p>Date of Notification to Department: Response of Department:</p>



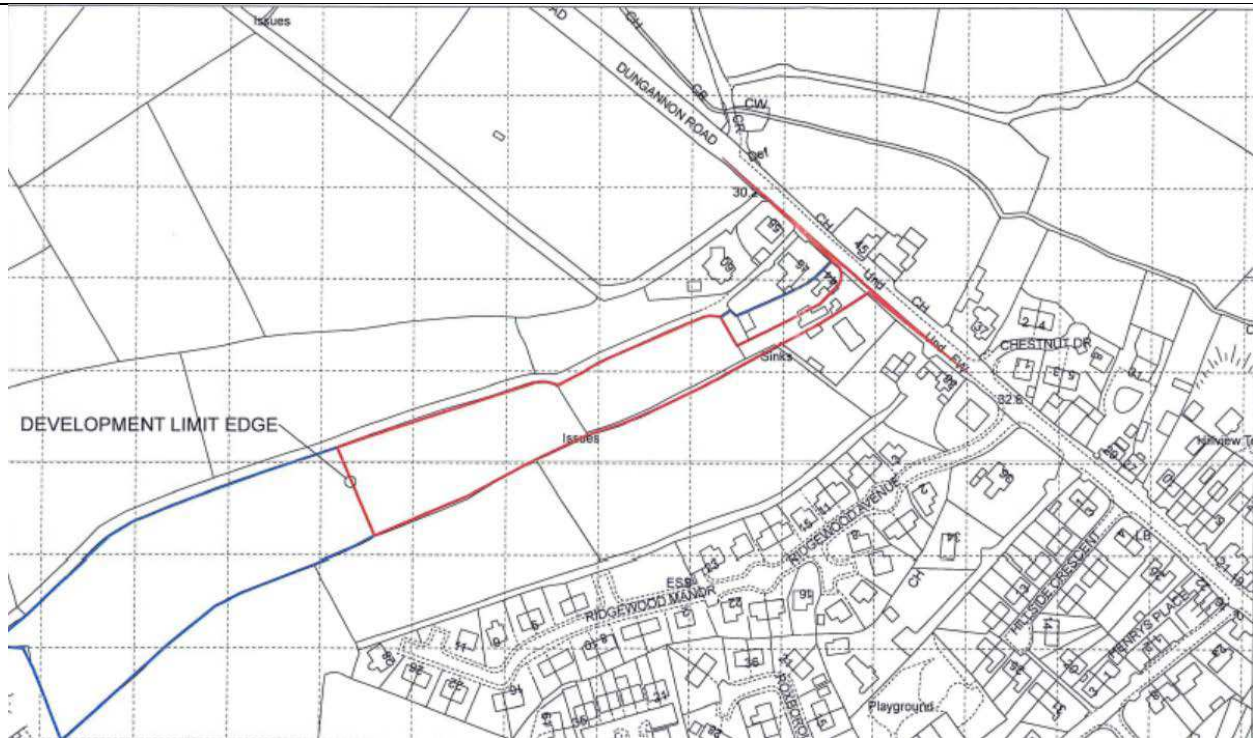
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0462/F	Target Date:
Proposal: Proposed housing development and associated works (revised plans)	Location: Lands immediately South West of 44 Dungannon Road Moy
Referral Route: Approve with Objections	
Recommendation:	Approve
Applicant Name and Address: P D Construction Ltd 30 Dungannon Road Moy	Agent Name and Address: Colm Donaghy Chartered Architects 43 Dungannon Street Moy BT71 7SH
Executive Summary: That the proposal is in accordance with PPS7, objectors concerns do not hold determining weight.	
Signature(s):	

Case Officer Report

Site Location Plan



Representations:

Letters of Support	None Received
Letters of Objection	2
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

These are covered in more detail in the main body of my report below, however some of the issues include traffic, drainage, flooding, impacts on residential amenity and sewage provision.

Description of proposal

This is a full planning application for a proposed housing development and associated works. It is proposed to site 8 detached hipped roofed dwellings, each with their own garage and individual septic tank, in a linear row within an existing elongated agricultural field.

Outline planning permission was granted on this site under LA09/2017/1579/O on 18.12.2020 for housing, condition 4 of which stated that the reserved matters should be in general conformity with drawing No. 02 rev1 date received 02/04/2019.

Characteristics of site and area

The site is located within and on the edge of the development limits of Moy, as defined by the Dungannon and South Tyrone Area Plan 2010. It sits to the west side of the

village set back approx. 70m from and accessed off the Dungannon Rd, the main road linking Moy to Dungannon.

The site is a long rectangular shaped plot (approx. 1h) comprising the eastern half of a large agricultural field running to the rear / south west of no. 44 Dungannon Rd, a two storey roadside dwelling and its curtilage. It measures approx. 220m in length x 30m in depth.

Access to the site is to be taken off the Dungannon Rd, via a new access and laneway approx. 80m in length, along the south side and through the curtilage of no. 44 Dungannon Rd, adjacent its partly within the boundary with no.42 Dungannon Rd. No. 42 is a roadside bungalow with garage to its rear offset to its north side adjacent the proposed lane.

The proposed lane will require the removal of two existing outbuildings on a concrete yard to the rear / south side of no. 44 which currently sit adjacent the party boundary.

The south side of the proposed lane is bound by the aforementioned party boundary between nos. 44 and 42, which comprises a mix of approx. 1.6m high close boarded fencing and a mature hedgerow. The north side opens onto the rear yard/garden of no. 44 .

The north western boundary of the site is defined by a mix of approx. 1.2m high post and wire fencing and mature trees / hedgerow. The eastern boundary is defined by an approx. 1.2m high post and wire fence. The south eastern boundary is defined by a mix of mature hedgerow and trees ranging from approx.3-5m with an open field ditch. The western boundary of the site is undefined on the ground and opens onto the larger field from which the site is cut.

A lane accessed off the Dungannon Rd between nos. 46 and 58 Dungannon Rd runs along the outside of the northern boundary of the site.

A footpath runs along both sides of the Dungannon Rd to the east of the site leading into the village centre.

Critical views of this site, if any, will be extremely limited from the Dunannon Rd. This is due to its location set back from the road to the rear of existing roadside development which, alongside existing vegetation bounding the site and within the wider vicinity, will enclose and screen it.

The immediate area surrounding the site is characterised by a mix of housing styles and densities within the development limits of the Moy. To the east exists primarily detached and semi-detached single and 2 storey roadside dwellings along the Dungannon Rd; to the south primarily high density semi-detached 2 storey housing set back from the Dungannon Rd; to the west and north agricultural lands.

Planning Assessment of Policy and Other Material Considerations

Planning Act 2011

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

Area Plan

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

Dungannon and South Tyrone Area Plan 2010- white land within the to the western portion of the development limits of Moy, with access onto a protected route within the limits of Moy the A29 Dungannon Road. Plan Policy SETT 1 of the Plan states that favourable consideration will be given to development proposals within settlement limits provided certain criteria are met. Given that the principle of housing was granted on this site under LA09/2017/1579/O and the layout is reflective of what was considered acceptable at the outline stage, it is my view that the principle of development for housing on this site is considered to be acceptable.

Relevant Planning Policy

Strategic Planning Policy Statement for Northern Ireland
 Planning Policy Statement 7: Quality Residential Environments
 Planning Policy Statement 7 (Addendum): Safe Guarding the Character of Established Residential Areas
 Planning Policy Statement 3: Access, Movement and Parking
 Planning Policy Statement 2: Natural Heritage

Design Guidance

Creating Places

Relevant Planning History

LA09/2017/1579/O- Proposed housing development with sewage treatment plant and associated works, granted 3 December 2020.

3rd party representations

2 letters of objection have been received on this application and raise the following objections as summarised, one from No. 45 Dungannon Road, one from No. 46 Dungannon Road.

No. 46 Dungannon Road is located approximately 35m east of the NE boundary of the site, and approx.. 10m north of the proposed vehicular access. The main objections raised by this property are;

-Increased traffic on the A29 which is already dangerous. More noise pollution and impacts on road surface with increased traffic.

- Cramming, the elevated site will overlook property. Little space allowed for landscaping. Lead to loss of valuable green space.
- Drains, the existing drains have been over-run/blocked many times overflowing causing the road surface to lift etc. The proposal will lead to increased problems.
- Sewage problems, already experiencing strong unpleasant smells at property, and have been told this is because overloading at the existing WWTW.
- Existing infrastructure not capable of taking more traffic, sewage or runoff/storm.

No. 45 Dungannon Road is located approx.. 80m NE of the NE boundary of the site, and is located on the opposite side of Dungannon Road, and raise the following issues;

- The developer has not gained discharge consent from the owner of the pipe that this development will drain into;
- The existing private pipe is not sufficient for the drainage of this development;
- there has been surface water flooding in the past that has not been mentioned in the Drainage Assessment. As the adjacent landowner they have noticed increased run off and water onto their property in the past number of years, which is concerning given the proposed number of houses;
- The development does not enjoy the ability to obtain a valid consent to discharge without their permission;
- the objector raises issues over who is responsible for the maintenance of the drainage pipe over their land if the pipe is not maintained, and if this pipe is not maintained who is liable for the damage or flood risk to their lands or property? The objector requests that DfI Rivers or NIW are consulted on these issues;
- The objector notices that there DfI Rivers states that it consents to the volume of water, but not it's quality. The objector notes a pumping station to serve the development and that the pumping station will filter (treated effluent) into the drainage system that crosses the road. The objector wants to know which landowner will be responsible for the water quality and any potential pollution, requesting for Rivers, NIW and DfI Roads to be consulted to respond directly;
- the objector is aware that the pipe enters their land, but that it could be removed in its entirety, bunged at the connection as the watercourse is undesignated, and that the resulting drainage issues will be a matter for Rivers, NIW or DfI Roads to address;
- The letter of objection will be relied upon in relation to any proceedings for loss, damage, or environmental detriment to their lands should a breach of discharge arise in this area via the properties referred to herein;
- That No. 45 were not included within the NN section of the P1 Form.

These issues will be considered later in my report.

Representations

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

One objector raises concern that they were not included on the P1 form for neighbour notification. While this may be the case, I am satisfied that they, and all other notifiable neighbours, have been identified and neighbour notified in line with Council's statutory obligations.

Key Policy Consideration and Assessment

Strategic Planning Policy Statement (SPPS) for Northern Ireland does not effect existing retained policy which this proposal will be assessed against, namely PPS 7 and the Addendum to PPS 7.

Planning Policy Statement (PPS) 3 Access, Movement and Parking puts a strong emphasis on accessibility and road safety. DFI Roads have been consulted in relation to the access, movement and parking arrangements and have no objections subject to conditions.

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

a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas; This layout reflects the layout that was agreed at outline stage. I find the development to be respectful to the layout and density of the area. These dwellings will have little or no impact on the existing character of Moy as they are tucked behind existing housing, and will be on a quiet cul-de-sac.

b) features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;
No archaeological or built heritage features were identified on or in close proximity to the site. Mature trees and hedgerows along the northern and southern boundaries of the site will be retained and integrated into the development. NIEA were consulted on this proposal and they are now content with the proposal subject to conditions.

c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;
Public open space is not a requirement for this type of proposal. The block plan submitted shows garden/private amenity area in excess of the 70m² average promoted in Creating Places to be provided to the rear of all the properties. Existing vegetation bounding the site will be conditioned to be retained in order to soften the visual impact of the development and assist in its integration with the surrounding area. Part of the site to the west is at the edge of the settlement limits of Moy which usually requires around 8-10m in depth buffer planting. However, given the set back from the public road, intervening vegetation and existing mature vegetation, it is my view this buffer planting is not required in this instance. Critical views of this site, if any, will be extremely limited from the Dunannon Rd on the approach to the Moy due to its location set back from the road to the rear of existing roadside development, which alongside existing vegetation bounding the site and within the wider vicinity, enclose and screen it.

d) adequate provision is made for necessary local neighbour neighbourhood facilities, to be provided by the developer as an integral part of the development;
Considering the size of the proposal, new neighbourhood facilities are not considered necessary.

e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides

adequate and convenient access to public transport and incorporates traffic calming measures;

Based on the block plan submitted the provision of a footpath along the estate road serving the dwellings will lead to the front of the site connecting to the Dungannon Rd, bound on both sides by a footpath leading into the village centre. The provision of this footpath will support walking and enhance the safety of pedestrians. DfI Roads were consulted and are satisfied with the proposal subject to conditions. The roadway will support cycling.

f) adequate and appropriate provision is made for parking;

Based on the block plan submitted adequate parking for 2 vehicles per dwelling can be accommodated within the site. Additionally DfI Roads were consulted on this proposal and they raised no concerns in respect of parking.

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

I am content with the design and material used. The dwellings will be finished to a high standard and the materials are reflective of those used in the locality.

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

Based on the block plan submitted I am content this proposal should not have any unacceptable adverse effect on any existing or proposed properties in terms of overlooking, loss of light, or overshadowing. The proposed scheme, comprising a linear line of 8 dwellings, backs onto a lane and agricultural lands in the rural countryside to its north and fronts onto the estate road each dwelling is to be accessed off, to its south.

There should be no significant noise or other foreseen disturbance caused by this development. There is sufficient separation between proposed properties, and existing and proposed properties for there to be any impacts of over dominance or over shadowing. Increase traffic will pass between two existing dwellings and this relationship was considered acceptable at the outline stage. The objectors concern in relation to overlooking are not determining in this instance.

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

I am satisfied that the dwellings are to be located within the settlement limits of Moy and there are enough dwellings close by to deter crime to some degree. Adequate rear boundary treatment will secure properties.

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

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

I am satisfied that this proposal complies with Policy LC 1 of the Addendum to PPS 7, Protecting Local Character, Environmental Quality and Residential Amenity, in that the proposal will not have a residential density higher than that found in the area; and the pattern of development is in keeping with the overall character and environmental quality of the established residential area. Unit sizes are well in excess to the minimum standards set in Annex A.

Other policy and material considerations

Objections have been raised in relation to drainage from the site. The agent has provided a Drainage Assessment and letters from Rivers Agency to show schedule 6 discharge consent. In relation to the objectors concern over who will be responsible or liable in the event of a flood, or if an existing drainage pipe is bunged or removed from private property, this is not a planning matter and will be between the interested parties should such an event occur. It is clear that the site is not located within a flood plain, and the initial Drainage Assessment shows that the existing green field rate of run off can be achieved when the dwellings are completed. Rivers Agency are content that it has been demonstrated that satisfactory drainage can be achieved at this site, and DfI Rivers have not raised any objections to this proposal. In response to the letters of objection DfI Rivers make the following comments;

1. Discharge consent lies within the remit of DfI Rivers Armagh area office. Discharge has been consented for an attenuated Greenfield runoff rate that replicates the current drainage regime. The drainage assessment accompanying the application has provided details of a suitable attenuation system that ensures the discharge from the site does not exceed that which has been consented.

2. The maintenance of the existing pipe is the responsibility of the riparian landowner. It is the riparian landowner's responsibility to ensure that the pipe does not result in any obstruction to flow arising from a blockage, structural failure, poor workmanship or any other reasons.

3. DfI Rivers are only concerned about the quantity of water as opposed to the quality. This may be an issue for NIEA.

4. It is the riparian landowner's responsibility to ensure that the pipe does not result in any obstruction to flow arising from a blockage, structural failure, poor workmanship or any other reasons. Similarly, it is the riparian landowner's responsibility to make provision for existing drainage. Moreover, if in the future another landowner wishes to drain land adjoining this site and within the same catchment, he should not be prevented from doing so.

Rivers Agency also require a full Drainage Assessment to be provided for agreement prior to the commencement of any development on site. This can be added as a planning condition.

In relation to the objectors concerns in relation to sewage provision. NIW do indicate that that there is insufficient capacity at Moy WWTW for the development to connect to mains sewage. The agent has shown that they aim to provide each dwelling with its own septic tank provision. A consent to discharge Sewage Effluent must be obtained from Water Management Unit of The Northern Ireland Environment Agency, as required by the Water (Northern Ireland) Order 1999. This consent falls outside the remit of planning legislation and there is a legal requirement for the developer/owner to ensure they have the appropriate consents in place. Environmental Health raise no objections over potential impacts of noise or odour nuisance from the proposed locations of the septic tanks. I am satisfied that the developer has indicated that the proposal can be served by an appropriate means of sewage disposal. It is the developers responsibility to ensure

that the appropriate consents are in place prior to development and an informative can be attached to ensure there is a satisfactory means of sewage disposal prior to the occupation of any dwelling hereby approved.

An objection was raised over the impacts of additional traffic on the road network and road surface. DfL Roads were consulted on this proposal and they do not raise any issues in respect to road safety concerns, or potential impacts on road surface due to increased vehicles. DfL Roads recommend approval subject to conditions, including Private Streets conditions.

One objector requested that Rivers Agency, NIW and Environmental Health be consulted specifically on their letter of objection to comment on who would be liable in the event of flooding or a pollution incident. While Rivers Agency did provide comment, the other two consultees provided general comments and did not raise any specific objections to the proposal. In my view, the issues raised by the objector in relation to drainage and water quality will either be a third party issue or will lie with a different statutory body, so it is outside the remit of this planning assessment to determine liability, as this could be a matter for the Courts. Other consents for the development are required in their own right and are separate and outside the remit of planning consent. That said, I am content that through consultee responses that a satisfactory form of development can be achieved that will not cause detriment to the environment, subject to all appropriate statutory consents being in place, and can be attached as a planning informative.

No land contamination has been identified.

NIEA WMU and NED are content with the proposal subject to conditions.

Neighbour Notification Checked **Yes**

Summary of Recommendation:

That planning permission is granted subject to the following conditions;

Conditions

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

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

2. Prior to the occupation of each individual dwelling hereby approved, the boundary treatments defining each curtilage shall be constructed, completed and permanently retained, as detailed on drawing No. 08 date stamp received 09/08/2021, unless otherwise agreed by Council.

Reason: To assist in the provision of a quality residential environment and to safeguard existing and proposed residential amenity.

3. The development shall be carried out in accordance with levels indicated on drawing No. 08 date stamp received 09/08/2021, unless otherwise agreed in writing with Mid Ulster Council.

Reason: In the interest of residential and visual amenity.

4. During the first available planting season after the commencement of development on site, all trees and hedges indicated in drawing No 08 date stamp received 09/08/2021 shall be planted as shown and be permanently retained thereafter.

Reason: In the interest of visual amenity.

5. The existing natural screenings of this site, as indicated on drawing No 08 date stamp received 09/08/2021, shall be permanently retained unless otherwise agreed by Mid Ulster Council in writing. No tree shall be lopped or topped or removed without prior written consent from Council.

Reason: In the interest of visual amenity.

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

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

7. The maintenance strip indicated hatched orange on drawing No. 06 date stamp received 22/03/2021 shall be kept free from all development and impediments (including tree planting, hedges, permanent fencing and sheds), unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To allow access to the watercourse.

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

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

9. No works shall be carried out on the building to be removed until a NIEA Wildlife Licence has been obtained and evidence of this has been provided to the Planning Authority in writing.

Reason: To minimise the impact of the proposal on bats.

10. External lighting at the boundaries must not exceed 1lux as per the submitted Lighting Plan drawing No. 07 date stamp received 22/03/2021.

Reason: To ensure protection to bats and their roosts.

11. No vegetation clearance/removal of hedgerows, trees or shrubs/demolition of buildings or structures shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance/demolition and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds.

12. During construction phase a suitable buffer of at least 10 metres must be maintained between the locations of all refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and the watercourse adjacent to the proposal.

Reason: To ensure the project will not have an adverse effect on the integrity of any European site.

14. The visibility splays of 2.4 metres by 96.7 metres to the north west and 2.4metres by 81.4 metres to the south east at the junction of the proposed access road with the public road, shall be provided in accordance with Drawing No. 04 Rev 2 bearing the date stamp 9 August 2021, prior to the commencement of any other works or other development. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Private Street Conditions

PS01. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

The Department for infrastructure hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 04 Rev 2 bearing the date stamp 09 August 2021

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

PS02. No dwelling hereby approved shall be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of the development.

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

PS03. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number 04 Rev 2 bearing the date stamp 09 August 2021. The Department for Infrastructure hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

PS04. The access gradient(s) to the dwelling(s) hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

Informatives

1. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
4. Prior to the commencement of any dwelling hereby approved, you are advised to have all consents in place, statutory and otherwise, including a satisfactory means of sewage disposal, in the interest of public health and protection of amenity and to ensure the project will not have an adverse effect on the integrity of any European site.

Signature(s)

Date:

ANNEX	
Date Valid	22nd March 2021
Date First Advertised	6th April 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Chestnut Drive,Moy,Tyrone,BT71 7TB The Owner/Occupier, 37 Dungannon Road,Moy,Tyrone,BT71 7SP The Owner/Occupier, 38 Dungannon Road,Moy,Tyrone,BT71 7SP The Owner/Occupier, 42 Dungannon Road,Moy,Tyrone,BT71 7SP The Owner/Occupier, 44 Dungannon Road,Moy,Tyrone,BT71 7SP The Owner/Occupier, 45 Dungannon Road,Moy,Tyrone,BT71 7SP T McKearney 45, Dungannon Road, Moy, Tyrone, Northern Ireland, BT71 7SP S McCullough 46 Dungannon Road, Moy, Co Tyrone, BT71 7SP The Owner/Occupier, 46 Dungannon Road,Moy,Tyrone,BT71 7SP The Owner/Occupier, 58 Dungannon Road,Moy,Tyrone,BT71 7SP The Owner/Occupier, 60 Dungannon Road,Moy,Tyrone,BT71 7SP The Owner/Occupier, Flat 1,Ridgewood House,1 Ridgewood Avenue,Moy,Tyrone,BT71 7TE The Owner/Occupier, Flat 2,Ridgewood House,1 Ridgewood Avenue,Moy,Tyrone,BT71 7TE The Owner/Occupier, Flat 3,Ridgewood House,1 Ridgewood Avenue,Moy,Tyrone,BT71 7TE The Owner/Occupier, Flat 4,Ridgewood House,1 Ridgewood Avenue,Moy,Tyrone,BT71 7TE	
Date of Last Neighbour Notification	17th August 2021
Date of EIA Determination	
ES Requested	No



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0478/F	Target Date:
Proposal: Proposed dwelling (amended plans)	Location: 20m South East of 30 Moneyneany Road Moneyneany
Referral Route: 4no. Objections received	
Recommendation:	Approval
Applicant Name and Address: Mr F Mc Closkey 2 Fortview Moneyneana Road Moneyneana	Agent Name and Address: Diamond Architecture 77 Main Street Maghera BT46 5AB
Executive Summary: Proposal complies with relevant prevailing planning policy. 1No. objection letter received and considered below.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	Historic Environment Division	Content
Non Statutory	NI Water	No objection

Representations:

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

Characteristics of the Site and Area

The site is located within the settlement limits of Moneyneany as defined within the Magherafelt Area Plan 2015. The site is located within a designated site of Local Nature Conservation Importance within the extant area. The proposal site is located 20m south east of No 30 Moneyneany Road and consists of a triangular shape portion of a disused farmyard. The site fronts onto the public road with the residential development of Fort View located to the rear. The rear boundary (S) between the site and the residential properties to the rear of the site is currently defined by a line of mature trees. The front boundary is defined by metal security fencing and the northwest boundary is defined by

wooden fencing. The topography of the site is relatively flat. The surrounding area is characterised as a small rural village made up predominately of residential properties, with a shop, church and bar located a short distance northwest of the site.

Description of Proposal

This is a full application for a dwelling located on lands approximately 20m South East of 30 Moneyneany Road, Moneyneany.

Planning Assessment of Policy and Other Material Considerations

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

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Magherafelt Area Plan 2015
- PPS 7 - Quality Residential Environments
- PPS 2 – Natural Heritage
- PPS 3 - Access, Movement and Parking
- Addendum to PPS 7 - Safeguarding the Character of Established Residential Areas (APPS 7)
- DCAN 8 - Housing in Existing Urban Areas

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

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing 4no. Objection letters had been received. The letters of objection received repeat the same points and are from the properties of No.5 Fort View and No.7 Fort View. The concerns detailed in the objection letters are outlined and considered below.

1. Overlooking/loss of privacy
2. Visual Amenity
3. Loss of Light

The initial plans submitted proposed a two storey dwelling with 8.5m ridge height and a maximum 2m separation with the common boundary between the application site and No.5 and No.7 Fort View. It is noted that the previous outline planning approval on site included a condition restricting the ridge height to 6.5m to ensure no detrimental impact to the adjacent properties of No. 5 & 7. Whilst this is a full planning application, therefore the proposal is not required to full comply with all outline conditions, it was considered necessary to insist a maximum ridge height of 6.5m in this instance with no first floor windows facing on to neighbouring properties to the rear to ensure no unacceptable impact to residential amenity in terms of visual impact or loss of privacy or light. The agent has provided an amended design which has a greater separation distance, reduced ridge height and Velux windows only to the first floor rear elevation. It is noted that neighbour notification was carried out following the receipt of amended plans, including with the properties of the objectors, and no further letters of representation have been received.

History on Site

LA09/2016/1507/O – Proposed site for dwelling for residential purposes - 20m South East of 30 Moneyneany Road, Moneyneany – Permission Granted 08/02/17

Key Policy Considerations/Assessment

Magherafelt Area Plan 2015 is the statutory local development plan for the application site. It is considered that if the proposal meets all relevant, prevailing planning policy; it will meet the policy tests of Area Plan Policy SETT 2 – Development within Settlement Limits. It is noted that the application site is located within a designated site of Local Nature Conservation Importance (SLINCI). Policy CON 3 Sites of Local Nature Conservation Importance states within designated Sites of Local Nature Conservation Importance planning permission will not be granted to development proposals that would be liable to have a significantly adverse effect on the nature conservation interests of these sites. This is in accordance with PPS2 Policy NH 4. It is noted outline planning permission was previously granted for a dwelling on the site under Planning Approval LA09/2016/1507/O. Under the previous approval the impact of the proposal was considered against the nature conservation interests of the site and the case officer was satisfied that the proposal will have no significant adverse impact. It is considered the proposed dwelling on site complies with Policy CON 3 and Policy NH4.

The Strategic Planning Policy Statement for Northern Ireland introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. SPPS sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance. There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 7 in respect of the proposal. The policy provisions within PPS 7 Policy QD 1 remain applicable in terms of assessing the acceptability of the proposed dwelling.

Planning Policy Statement 7: Quality Residential Environments (PPS 7) is a retained policy document under the SPPS and provides the appropriate policy context. Policy QD

1 of PPS 7 sets out the policy framework under which applications of this nature should be assessed. The proposal has been considered against all criteria outlined under Policy QD1.

It is noted that planning permission LA09/2016/1507/O granted outline planning approval (on the 8th February 2021) for a dwelling on the application site. As stated previously Condition 3 of the outline planning approval restricted the ridge height to a maximum of 6.5 metres. The plans initially submitted proposed a dwelling with 8.5m ridge height, however during the processing of the planning application the plans have been revised and Drawing 03 Rev1 now proposes a 6.5m ridge height. The principle of development for one residential unit has been established on the site under the outline permission and the relevant prevailing planning policy criteria remains unchanged.

Policy QD1 of PPS7 states that planning permission will be granted for new residential development only where it is demonstrated that it will create a quality and sustainable residential environment. It indicates that housing will not be permitted in established residential areas where it would result in unacceptable damage to local character, environmental quality or residential amenity of these areas.

The surrounding context is predominantly residential in character with two storey detached and terrace properties along the roadside in the immediate vicinity and single storey and storey and a half dwellings present to the southeast and southwest of the site. The proposed storey and a half dwelling has a north-eastern orientation and is of a similar size and scale to that existing in the locality. It is noted that the plot size of the site is restricted, however it is considered that the proposed design and layout is acceptable and will not detract or impact upon the existing built form. Given the proposed siting, scale and existing landscaping, I do not consider the proposal will result in significant detrimental impact on neighbouring amenity. The separation distance from any neighbouring properties to the rear is approx. 16-19m and as previously stated having considered the specifics of the site and the proposed design and scale I have significant concerns with respect overlooking, loss of light and overshadowing. I consider the proposed design to be acceptable and reflective of built form in the locality and the location within a rural small settlement. The proposal includes fencing to all boundaries of the site for enclosure, however as was also previously conditioned under the outline planning application, it is considered the mature boundary along the south western boundary should be retained to help minimise any potential for overlooking. There is adequate private open space within the site with a garden area located to the rear of the proposed dwelling in excess of the 40m² recommended in Creating Places. It was noted there was an archaeological monument/site in proximity of the site, as well as St Eugene's Church which is a listed building, therefore HED were consulted. HED have provided consultation response and have not raised any objections. Thus it is not considered that the proposal would have a significant impact on any local landscape features of built/archaeological interests. As the proposal is for a single detached dwelling, it is considered to be inappropriate to ask the developer to provide additional neighbourhood facilities. The proposal would not significantly intensify or place unnecessary demands on the existing neighbourhood provisions and amenities within the area. The proposal seeks to access onto Moneyneany Road, DfI Roads have been consulted and have no objection to the proposal subject to conditions. DFI Roads have advised that the recommended sightlines in accordance with DCAN 15 are 2.4 x 60 metres with a relaxation permitted to 2.4 x 33 metre and the applicant is proposing 2.4 x

45 metres. The proposed sightlines provided and detailed on site layout plan have been discussed with the Senior Planner and are considered acceptable in this instance. An existing walkway runs along Moneyneany Road where local amenities and public transport facilities are available. I find that the proposed access to the site is adequate and provides a suitable motor/pedestrian link with local facilities and amenities. The proposal incorporates sufficient space around the curtilage of the dwelling for in-curtilage parking and turning of cars. The proposal seeks permission for a dwelling sited within the settlement limits with the predominant surrounding land use being residential. I consider that there will be no determining issues in relation to crime or health and safety at this location.

Further to that above Policy LC 1 of APPS 7 is a material consideration. It is considered the proposal complies with all the additional criteria set out within Policy LC 1 as the proposed plot and dwelling size and scale will be proportionate to that in the surrounding context and the proposal will not significantly alter the existing pattern of development or have a negative impact on the character and environmental quality of the established residential area.

Development Control Advice Note 8 (DCAN 8) establishes that new development in existing residential areas should respect the architectural, streetscape and landscape character of the area. It is considered the scale of the dwelling will not detract from the surrounding established character. The articulation of the roof, detailing and finishes, landscape and boundary treatment proposal will integrate effectively in order to maintain the established character of the area.

Neighbour Notification Checked

Yes

Summary of Recommendation:

I conclude that the proposal accords with the extant Area Plan and all prevailing planning policy provisions highlighted above therefore I recommend approval subject to the conditions outlined below.

Conditions:

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

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

2. The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 02 bearing the date stamp 24 March 2021 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. The existing natural screening along the south-western boundary of the site shall be permanently retained at not less than 2 metres and trees allowed to grow on, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing.

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity.

Informatives

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.
4. The applicant's attention is drawn to the contents of NI Water Consultation Response dated 15th April 2021.

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: LA09/2021/0539/O	Target Date:
Proposal: Proposed site for dwelling & garage.	Location: 180m NE of 83 Moneysharvan Road Maghera BT46 5PT.
Referral Route: This application is being presented to Committee as it is being recommended for refusal.	
Recommendation:	Refuse
Applicant Name and Address: Mrs Bridget Church 38 Hillside Road Maghera BT46 5PU	Agent Name and Address: Terry Murphy 4 Mid Ulster Business Park Sandholes Road Cookstown BT80 9LU
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

Letters of Support	None Received
Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
<p>Summary of Issues including representations</p> <p>No objections have been received in respect of this application.</p>	
<p>Characteristics of the Site and Area</p> <p>The site is located along the Moneysharvan Road approximately 5.5Km north of Maghera and 1.5Km south of Swatragh. The access is taken directly off the A29 Moneysharvan Road which is a Protected Route. The access to the site extends along a farm track leading through agricultural fields to the site of a dilapidated dwelling further west. The access laneway rises up steeply from the road towards the site which occupies a prominent position on the landscape and has panoramic views over the surrounding area.</p> <p>The site boundaries are defined as follows:- Northern - 3-4m high thorn hedgerow Southern - 1m high thorn hedgerow Eastern - mature hedgerow Western - undefined</p> <p>There are no other buildings either on the site or close to the site.</p>	
<p>Description of Proposal</p> <p>This is an outline application for dwelling and garage under PPS21 - CTY10 and associated with a farm holding.</p>	
<p>Planning Assessment of Policy and other Material Considerations</p> <p>Under the provision of Section 6 (4) of the Planning Act (NI) 2011 the determination must be made in accordance with the Plan unless material considerations indicate otherwise.</p> <p>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.</p> <p>The Strategic Planning Policy Statement (SPPS) provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore</p>	

transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS.

The proposal accords with the Magherafelt Area Plan 2015 insofar as it is for a site for a dwelling in the rural area and is linked to an established farm business.

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

CTY 10 - Dwellings on Farms

Planning permission will be granted for a dwelling house on a farm where all of the stated criteria are met:-

- DAERA's consultation response confirmed that the business has been in existence for more than 6 years and that the business has claimed single farm payment or agri environment payments within the last 6 years.

- A planning history check of the farm shows that no dwellings or development opportunities in the countryside have been sold off from the farm holding since 25th November 2008. Although two approvals have been granted on the farm holding, however, these were for the replacement of the dilapidated dwelling to the west of the site and therefore are not counted as development opportunities under this policy.

- Policy CTY 10 also requires any such new building to be visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access should be obtained from an existing lane.

There are no buildings located the proposed site, however the site is located around 1.1km from the applicants address at which there are a number of outbuildings.

Therefore the site is not visually linked nor is it sited to cluster with buildings on the farm.

The policy does however, allow for consideration to be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

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

No such health and safety reasons have been provided for the site to be located away from the main farm grouping, nor has any verifiable plans to expand the farm business at the existing farm grouping been provided. It is noted that there are a number of fields adjoin the applicant's existing dwelling and surrounding the farmyard which could potentially accommodate a site for a dwelling.



The aerial map above shows the proximity of the proposed site to the applicants dwelling and adjoining outbuildings.

Policy CTY 10 also states that - In such circumstances the proposed site must also meet the requirements of CTY 13(a-f), CTY 14 and CTY 16.

CTY 13 - Integration and Design of Buildings in the Countryside provide for buildings to be approved in the countryside where they can be visually integrated into the surrounding landscape and are if an appropriate design.

The proposed site occupies a prominent location in the local landscape with critical views of the site on approach from both the north and south. When viewed on approach from the south, even a low set dwelling with a 6.0m ridge height above existing ground level would appear to be sited on the crest of the hill and although there is a mature hedgerow along the eastern boundary, any dwelling would appear to be prominent in the landscape.



The photo shows the proposed access laneway rising from the existing farm gate to the site at the top of the hill.

A dwelling on this site would suffer from the lack of long established boundaries which are sufficient to provide an acceptable degree of screening and as such would result in a distinct lack of integration. Any dwelling would also suffer from the same issue on approach from the north, albeit to a slightly lesser degree.

Any dwelling on this site will rely heavily on substantial landscaping and planting to achieve an acceptable degree of integration due to the lack of existing mature boundaries and the elevated position in the local landscape.

As the access is to be taken off the Moneysharvan Road at the point of the existing farm access, which has the benefit of a wide grass verge and footpath, there would be little in the way of ancillary works around the access which would present an issue with integration.

As this is an outline application, details of the design have not been considered.

Given its prominent location, a dwelling on this site would fail to blend with the landform, existing trees, slope or other natural features which could provide an acceptable backdrop.

Furthermore, as a dwelling on the proposed site is neither visually linked nor sited to cluster with an established group of buildings on the farm, it would fail to integrate into the surrounding landscape and is therefore considered to be contrary to this policy.

Alternative sites are available to the applicant around the existing dwelling and associated outbuildings as this is on land within their ownership, access can be gained using the existing farm lane which is accessed from the minor Hillside Road and such

sites would both visually link and be sited to cluster with a group of established buildings on the farm.

CTY 14 - Rural Character

This is an application for a site for a dwelling on a farm holding that is sited away from the existing farm buildings. The site as discussed above, occupies a prominent location and will appear unduly prominent in the landscape. A dwelling on this site would not respect the traditional pattern of development in the area as existing dwellings on elevated sites are either set well back of the public road with little visual impact or are located low down in the landscape and at road level.

Due to the critical views of the proposal, any dwelling on this site will result in a detrimental change to rural character. The proposal is therefore contrary to this policy.

PPS 3 - Access, Movement and Parking

Policy AMP 3 Access to Protected Routes (Consequential Revision) allows for such developments to access onto a protected route in certain circumstances. This includes a dwelling on a farm which meets the requirements of Policy CTY 10. However, in such instances, approval will only be granted in cases where the access cannot reasonably be obtained from an adjacent minor road.

The proposal is to develop a dwelling on a site which accesses directly onto the A29 Protected Route. The applicant however, has alternative sites available which can be accessed from the minor Hillside Road.

DfI Roads recommend the application be refused as it is contrary to this policy in that it would result in the intensification of use of an existing access onto a Protected Route thereby prejudicing the free flow of traffic and conditions of general safety.

CTY 16 - Development relying on non-mains sewerage advises that planning permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem. As this is a rural site and P1 application form states that foul sewage will be disposed of via a septic tank, it is not envisaged that there will be an issue with pollution.

Recommendation

On consideration of the above, it is my opinion that the proposal fails to meet the requirements of Policies CTY 1, 10, 13 and 14 for the reasons as stated below:-

Neighbour Notification Checked	Yes
Summary of Recommendation:	
Refuse 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 and could not be located within a settlement.

2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:

the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm;

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

verifiable plans exist to expand the farm business at the existing building group to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.

3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:

a dwelling on the proposed site would be a prominent feature in the landscape;

the proposed site is unable to provide a suitable degree of enclosure for a dwelling to integrate into the landscape;

the proposed dwelling relies primarily on the use of new landscaping for integration;

the proposed dwelling fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop;

the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm,

and therefore would not visually integrate into the surrounding landscape.

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, be unduly prominent in the landscape;

it does not respect the traditional pattern of settlement in the area;

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

5. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 3, in that it would, if permitted, result in the intensification of use of an existing access unto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

Signature(s)

Date:

ANNEX	
Date Valid	7th April 2021
Date First Advertised	20th April 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier,	
Date of Last Neighbour Notification	N/A
Date of EIA Determination	N/A
ES Requested	No
Planning History Ref ID: LA09/2021/0539/O Proposal: Proposed site for dwelling & garage. Address: 180m NE of 83 Moneysharvan Road, Maghera BT46 5PT., Decision: Decision Date:	
Ref ID: H/2006/0226/F Proposal: Proposed replacement dwelling and garage Address: 71 Moneysharvan Road, Granaghan, Maghera Decision: Decision Date: 22.02.2007	
Ref ID: H/2000/0408/O Proposal: Site Of Replacement Dwelling Address: 71 Moneysharvin Road, Maghera Decision: Decision Date: 17.10.2000	
Ref ID: H/1999/0633/PA Proposal: Telecommunications installation Address: Greenfield Site 164m South Of 69 Moneysharvin Road, Swatragh Decision: Decision Date: 12.11.1999	

<p>Summary of Consultee Responses</p> <p>DfI Roads advised that the proposed site is contrary to PPS 3 as the site accesses directly onto a Protected Route and should therefore be refused.</p> <p>All other consultees responded positively.</p>
<p>Drawing Numbers and Title</p>
<p>Drawing No. 01 Type: Site Location Plan Status: Submitted</p>
<p>Notification to Department (if relevant)</p> <p>Date of Notification to Department: Response of Department:</p>



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

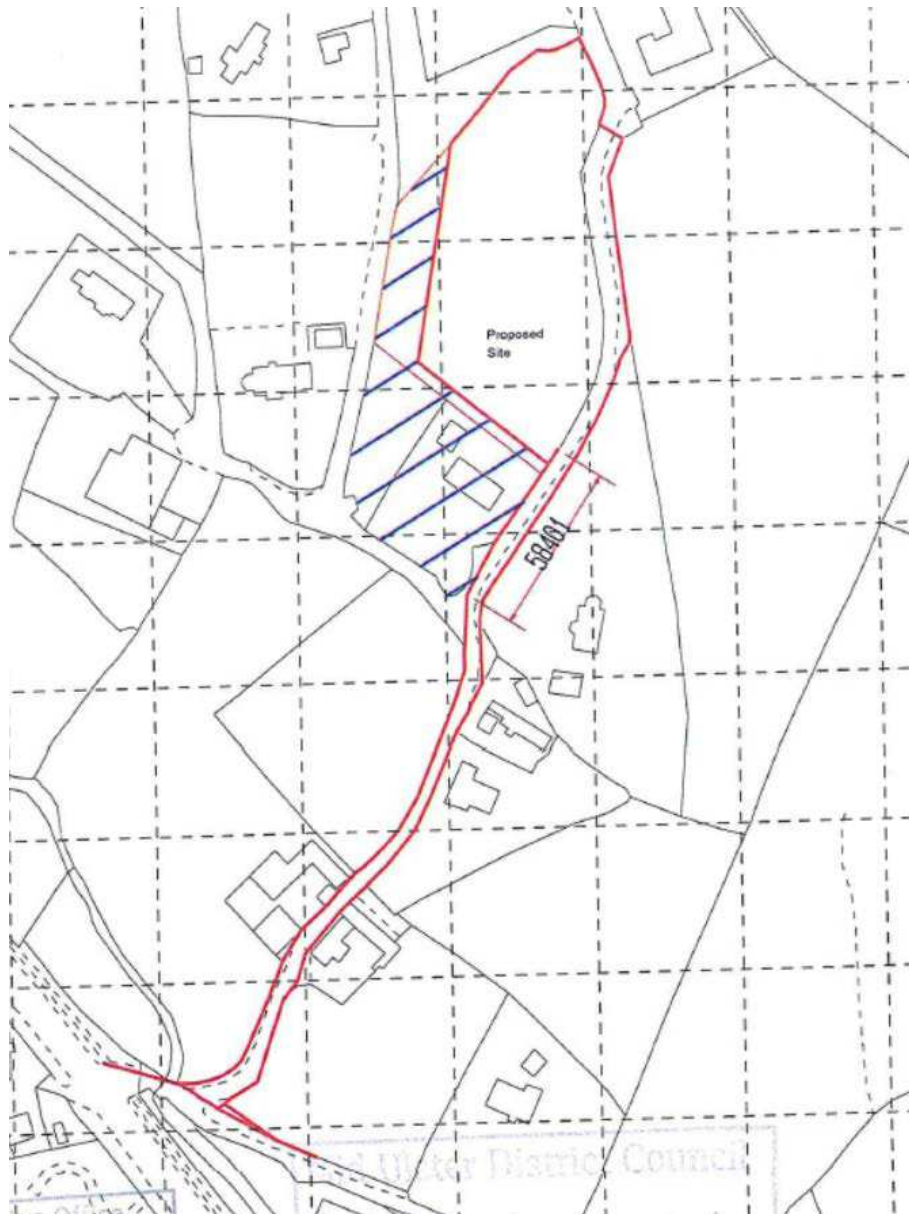
Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 07/09/2021	Item Number:
Application ID: LA09/2021/0635/O	Target Date:
Proposal: Dwelling & domestic garage in a gap site under CTY8 of PPS 21	Location: Land immediately North of No 43 Tullyglush Road & between No's 43 & 51a Tullyglush Road Ballygawley
Referral Route: <ol style="list-style-type: none">1. The proposal is contrary to CTY 1 of Planning Policy Statement 21 in that there is no overriding reason why the development cannot be located within a settlement.2. The proposal is contrary to CTY 8 – Ribbon Development of Planning Policy Statement 21 in that the development would create ribbon development.3. The proposal is contrary to CTY 13 – Integration and Design of Buildings of Planning Policy Statement 21 in that the development does not provide a suitable degree of enclosure to integrate into the landscape.4. The proposal is contrary to CTY 14 – Rural Character of Planning Policy Statement 21 in that the development would be detrimental to rural character.	
Recommendation:	Refusal
Applicant Name and Address: Gerard Quinn 43 Tullyglush Road Ballygawley	Agent Name and Address: Bernard J Donnelly 30 Lismore Road Ballygawley BT70 2ND
Executive Summary: The proposal is for a dwelling and garage in an infill site. I consider the application site does not meet the criteria for an infill as the gap is too large and could accommodate more than two dwellings which is contrary to policy in CTY 8. Also, the proposal does not respect the existing development pattern in terms of plot size.	

Signature(s):

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
<p>Characteristics of the Site and Area</p> <p>The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area 2010. The surrounding area is semi-rural in character and is predominantly agricultural fields, single rural dwellings and groups of farm buildings. There is moderate development pressure in the immediate area from the construction of single dwellings along this private lane and Tullyglush Road.</p> <p>This private lane is accessed off Tullyglush Road and there are 7no.other dwellings along this lane on both sides of the road. The topography of the lane rises up steeply from the junction with the main Tullyglush Road to the top of the lane where the land levels off.</p> <p>The application site is an agricultural field with a single storey dwelling along the southern boundary at No. 43 and another single storey dwelling to the north of the site at No. 51A. The topography at the site itself is undulating and slopes downwards from the east boundary at the roadside to the west boundary. There is higher ground to the north of the site and slopes to the south beside No. 43 where the land is flatter. Along the roadside boundary there is a post and wire fence and established hedging along the remaining boundaries.</p>	
<p>Description of Proposal</p> <p>This is an outline application for a proposed dwelling & domestic garage in a gap site under CTY8 of PPS 21 at lands immediately North of No 43 Tullyglush Road & between No's 43 & 51a Tullyglush Road, Ballygawley.</p>	
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.</p> <p>Representations</p> <p>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.</p> <p>Planning History</p> <p>No planning histories at the application site.</p> <p>Mid Ulster Development Plan 2030 – Draft Plan Strategy</p> <p>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</p>	

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

Dungannon and South Tyrone Area Plan 2010

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

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

Planning Policy Statement 21

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for one infill dwelling CTY 8 is the relevant policy in the assessment.

The proposal would not meet the criteria in CTY 2a for a new dwelling in an existing cluster.

The proposal would not meet the criteria in CTY3 for a replacement dwelling as there is no dwelling at the site to be replaced.

The agent has indicated there is no farming case at the site and there are no farm buildings within the site. In light of recent planning guidance there is only the dwelling and garage to the south of the site at No. 43.

CTY 8 – Ribbon Development

The application site is a portion of an agricultural field onto a lane at Tullyglush Road. To the south of the site is a dwelling and garage at No. 43. There is a garden area to the front of No. 43 and I am content the dwelling has a frontage onto Tullyglush Road. There is a garage at No. 43 but recent Planning Guidance states that for garages and outbuildings to be considered as buildings for infill they have to be substantial. Paragraph 22 states that a 'domestic garage' is not a substantial building for infill policy. The garage at No. 43 a small single storey building which is set back behind the dwelling so I do not consider the garage at No. 43 can be considered a building for infill policy in this case.

To the north of the site is a dwelling at No. 51A with a garden area to the roadside. I am content the dwelling at No. 51A has a frontage to the lane. Again there is a garage but I do not consider the garage is substantial in light of recent Planning Guidance on infill policy.

160m south of the application site is a farm shed with a concrete yard which has a frontage onto the lane as shown in figure 1a and 1b below. I am content this shed is a substantial building and can be considered as a building along a frontage. However I completed a check on the planning portal and there is no planning approval for the shed. A check on orthophotography shows the shed in place on 6th June 2013 which is over 5 years so would be immune from enforcement.



Figure 1a – Photograph of the shed at the entrance to the lane



Figure 1b – Ortho image of a building with a frontage along the lane on the same side of the road as the site.

Overall, I am content there are three buildings along this stretch of road with a frontage which are the dwelling at No. 43, the dwelling at No. 51A and the farm shed opposite No. 37 as shown in figure 1b above.

The application site has a frontage of 150m while No.43 has a frontage of 58m. No. 51A has a frontage of 42m and the shed opposite No. 37 has a frontage of 38m. There are varying frontages along this stretch of lane but I consider you could get more than 2 dwellings in this application site which is contrary to the policy in CTY8 which states the site should be a small gap site which can only accommodate a maximum of 2 dwellings. The applicant has stated the proposal is for a dwelling and domestic garage and I consider if 1no. dwelling was on the site it was definitely not respect the existing development pattern in terms of plot size. In addition, as this is an outline application there are no details about the scale and massing of the dwelling.



On balance, I do not consider the application site meets the criteria in CTY 8 for an infill site.

CTY 13 – Integration and Design of Buildings in the Countryside

Even-though the proposal is for an infill dwelling in light of recent planning guidance integration and rural character should be considered in all development within PPS 21. Therefore this assessment will consider if the proposed dwelling will integrate and the impact on rural character.

The application site is set back from the main Tullyglush Road by 258m and the topography of the road rises up steeply from the meeting point with the road. I am content the proposal will not be a prominent feature when viewed from both the Omagh Road and main Tullyglush Road as there will be no critical views.

Along the boundary with lane there is a post and wire fence and a hedgerow along the boundary with No. 43. The site will use a portion of the existing field and is not abutting the west boundary of the field, so this boundary is undefined. Along the boundary with No. 51a there is a post and wire fence. I am of the opinion the site is open and lacks natural boundaries to provide a suitable degree of enclosure to allow the proposed dwelling to integrate into the landscape.

As this is an outline application the design of the dwelling and garage is considered at the Reserved Matters Stage.

CTY 14 – Rural Character

I am of the opinion depending on where a proposed dwelling is sited on the application site there is the potential for it to be prominent. I consider the proposal will create a ribbon of

development and thus would have an unacceptable impact on rural character. Therefore, this proposal does not meet all the criteria in CTY 14 and fails this test.

PPS 3 – Access, Movement and Parking

I consulted DFI Roads as new accesses are proposed. In their consultation response, they stated they had no objections subject to conditions and informatives. However, Roads did state that there may be more than 5 houses along this lane and this may require a Private Streets Determination.

Other Considerations

I am satisfied there are no other ecological, historical or flooding issues at the site.

Neighbour Notification Checked Yes

Summary of Recommendation:

The proposal is recommended for refusal as it is contrary to CTY 8, CTY 13 and CTY 14 in PPS 21 – Sustainable Development in the Countryside.

Reasons for Refusal:

1. The proposal is contrary to CTY 1 of Planning Policy Statement 21 in that there is no overriding reason why the development cannot be located within a settlement.
2. The proposal is contrary to CTY 8 – Ribbon Development of Planning Policy Statement 21 in that the development would create ribbon development.
3. The proposal is contrary to CTY 13 – Integration and Design of Buildings of Planning Policy Statement 21 in that the development does not provide a suitable degree of enclosure to integrate into the landscape.
4. The proposal is contrary to CTY 14 – Rural Character of Planning Policy Statement 21 in that the development would be detrimental to rural character.

Signature(s)

Date:



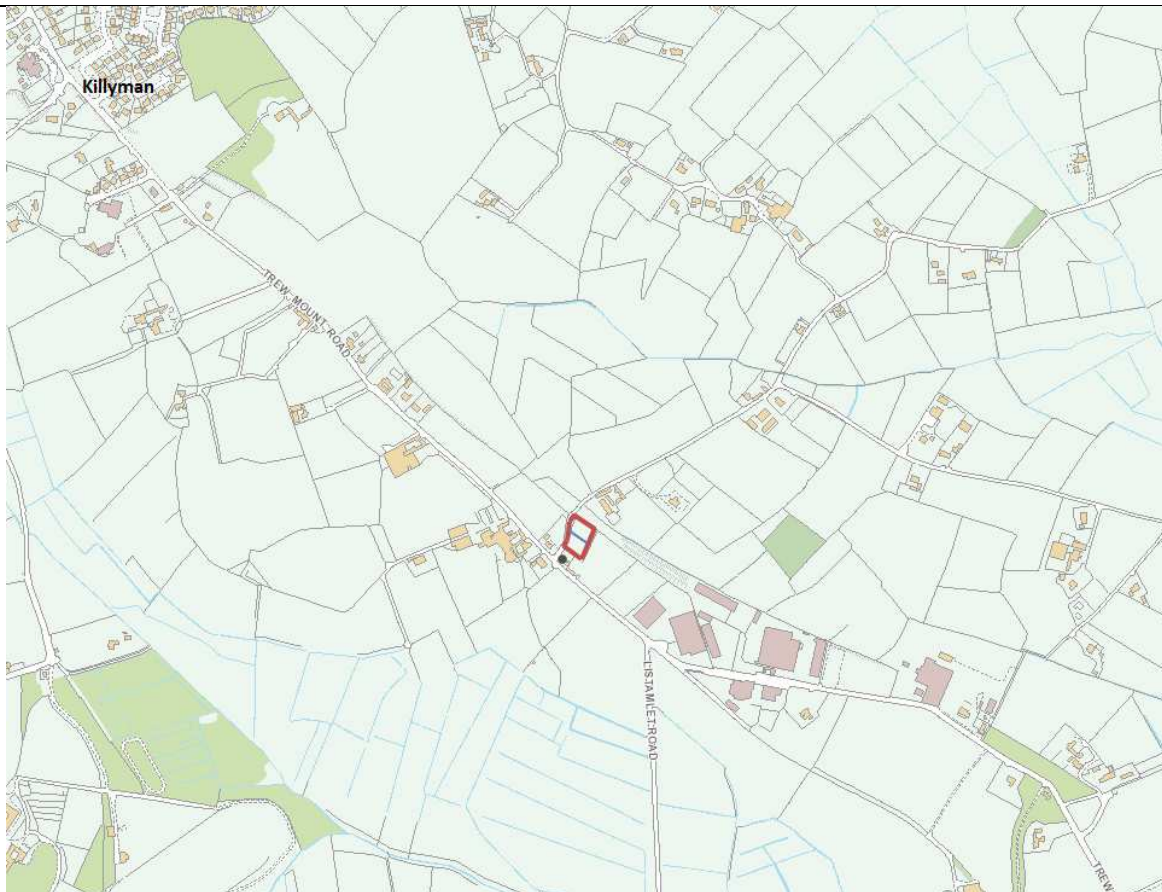
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0690/O	Target Date:
Proposal: 2 dwellings in an infill site	Location: Adjoining and North East of 100 Trewmount Road Killyman
Referral Route: Objections received	
Recommendation:	Refusal
Applicant Name and Address: Briege O'Donnell 184 Ardboe Road Moortown	Agent Name and Address: Darcon Architectural Services 6 Ardean Close Moortown BT80 0JN
Executive Summary:	
Signature(s):	

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

Summary of Issues

There have been two objections / comments received in relation to this proposal. They have been received from the owners of numbers 95 and 99 Trewmount road.

The main issues raised were:

- Gap size too large

- Elevated site, dwelling would be intrusive
- Out of character
- No visual link
- Increased traffic
- Setting precedent
- Impact on wildlife

Characteristics of the Site and Area

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

The site is located just off the main Trewmount road to the North of number 100, at the beginning of the smaller Drumardcross road. The area is predominantly rural in nature, however there are four dwellings located at the road junction just south west, with a large farm holding also close by. To the direct north east of the site there is the old railway line which is now overgrown in vegetation.

The red line of the site consists of a small agricultural field with a 60 metre road frontage of mature hedging, with mature native species hedgerow on all remain sides. The land begins level with the roadside and then falls to the rear east. Number 100 Trewmount is a two storey dwelling to the south of the site and to the north of the site and the break for the railway line there is a small farm holding including a dwelling and a number of sheds.



Description of Proposal

The proposal seeks outline planning permission for a double infill site.

Planning Assessment of Policy and Other Material Considerations

Regional Development Strategy
Dungannon and South Tyrone Area Plan (DSTAP) 2010
PPS3
PPS21

- Policy CTY 1 - Development in the Countryside
 - Policy CTY 8 - Ribbon development
 - Policy CTY 13 - Integration and Design
 - Policy CTY 14 - Rural character
- Strategic Planning Policy Statement (SPPS)

The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within retained policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. The SPPS retains PPS21: Sustainable Development in the Countryside and PPS 3: Access, Movement and Parking which are relevant policies under which the proposal should be considered

The 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

Objections / comment received from 3rd Parties;

There have been two objections / comments received in relation to this proposal. They have been received from the owners of numbers 95 and 99 Trewmount road. The mains issues raised were:

- Gap size too large
- Elevated site, dwelling would be intrusive
- Out of character
- No visual link
- Increased traffic
- Setting precedent
- Impact on wildlife

Consideration of objections.

The site does represent a 60 metre road frontage, however, in terms of the existing frontages of the dwellings in the surrounding areas, a 30 metre site would not be considered large.

The site is somewhat elevated when comparing to the Trewmount road, however, the siting is not overly elevated and the land does rise further as you travel past the site to the North.

The character of the area is predominantly rural agricultural land with a scattering of single dwellings or small farm holdings scattered along the roadside. A double infill at this position may cause a ribbon of development at the beginning of the Drumardcross road.

The objector also raises the issue of the visual break between the two buildings on each side of the site. It is my opinion that the objector is correct in this argument in that due to the existing vegetation, bend in the road and topography of the land, the site does represent a significant break and there is minimal if any visual link between the buildings to the north and south of the site.

The site if approved would mean more traffic to the site however it would not be anything uncommon or over the top, DFI Roads were consulted and had no issues.

It is my opinion that if approved the proposal could possibly set a precedent in allowing infill opportunities where there is minimal visual linkage.

Finally, on the issues of impact on wildlife. On site visit I did not witness any bats, badgers or other endangered species.

To the North of number 100, at the beginning of the Drumardcross road, there is a gap of approx. 115 metres building to building or 100 metres plot frontage. The red line of the site for this application includes the southernmost 60 metre portion of the gap. To the direct north of the site there is then a further break for the old railway line making up the rest of the gap. North of the railway line is an old dwelling at no.45 Drumardcross road and a number of farm buildings.

The site lies in the middle of a dwelling and farm holding to the NE, and a dwelling to the SW. In terms of the numbers of buildings the application may meet the required criteria for an infill site, however in my opinion this row does not constitute the definition of a substantially built up frontage as the old railway line represents a substantial break in the visual linkage between the two existing dwellings.

The site frontage may be 60 metres, however, when adding the extra distance of the railway line and the next field to the north the gap between developments is in my opinion a considerable visual break. It is also my opinion that the gap in this instance provides a relief and a visual break in the developed appearance of the locality that helps maintain the rural character. Building on tradition – as sustainable guide for the northern Ireland countryside also makes reference to the importance of visual breaks which would further add credence to the opinion that this gap provides relief and is important in maintaining the local character.

It is therefore my opinion that the proposal is contrary to PPS 21 - CTY 8.



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 two dwellings could blend in successfully with its immediate and wider surroundings if it were of a size and scale that is comparable to the dwellings in the vicinity. Furthermore as the site has existing buildings to the south and decent boundary vegetation it is considered that the site may have the capacity to absorb dwellings of a suitable size and scale.

In terms of policy CTY14 planning permission will only be granted for a building in the countryside where it is not a prominent feature, does not cause a detrimental change to, or further erode the rural character of an area. It is considered that a double infill at this particular site may cause a detrimental change to the character of the area causing a build-up of development at this rural area at the beginning of the Drumardcross road.

Recommendation Refusal.

Neighbour Notification Checked

Yes

Refusal Reasons

1. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along the Drumard Cross Road.
2. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwellings would, if permitted create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.
3. 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:**

ANNEX	
Date Valid	5th May 2021
Date First Advertised	18th May 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 100 Trewmount Road, Moy, Tyrone, BT71 6RN The Owner/Occupier, 95 Trewmount Road Moy Tyrone Catherine F McIlroy MBE 95 Trewmount Road, Moy, Co Tyrone, BT71 6RN The Owner/Occupier, 96 Trewmount Road Moy Tyrone The Owner/Occupier, 99 Trewmount Road Moy Tyrone Wm McIlroy 99 Trewmount Road, Moy, Co Tyrone, BT71 6RN	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2021/0689/O Proposal: Replacement dwelling Address: 100 Trewmount Road, Killyman, Decision: Decision Date: Ref ID: LA09/2021/0690/O Proposal: 2 dwellings in an infill site in accordance with CTY8 PPS21 Address: Adjoining and North East of 100 Trewmount Road, Killyman, Decision: Decision Date:	

Drawing Numbers and Title
Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted Drawing No. 01 Type: Site Location Plan Status: Submitted
Notification to Department (if relevant) Date of Notification to Department: Response of Department:



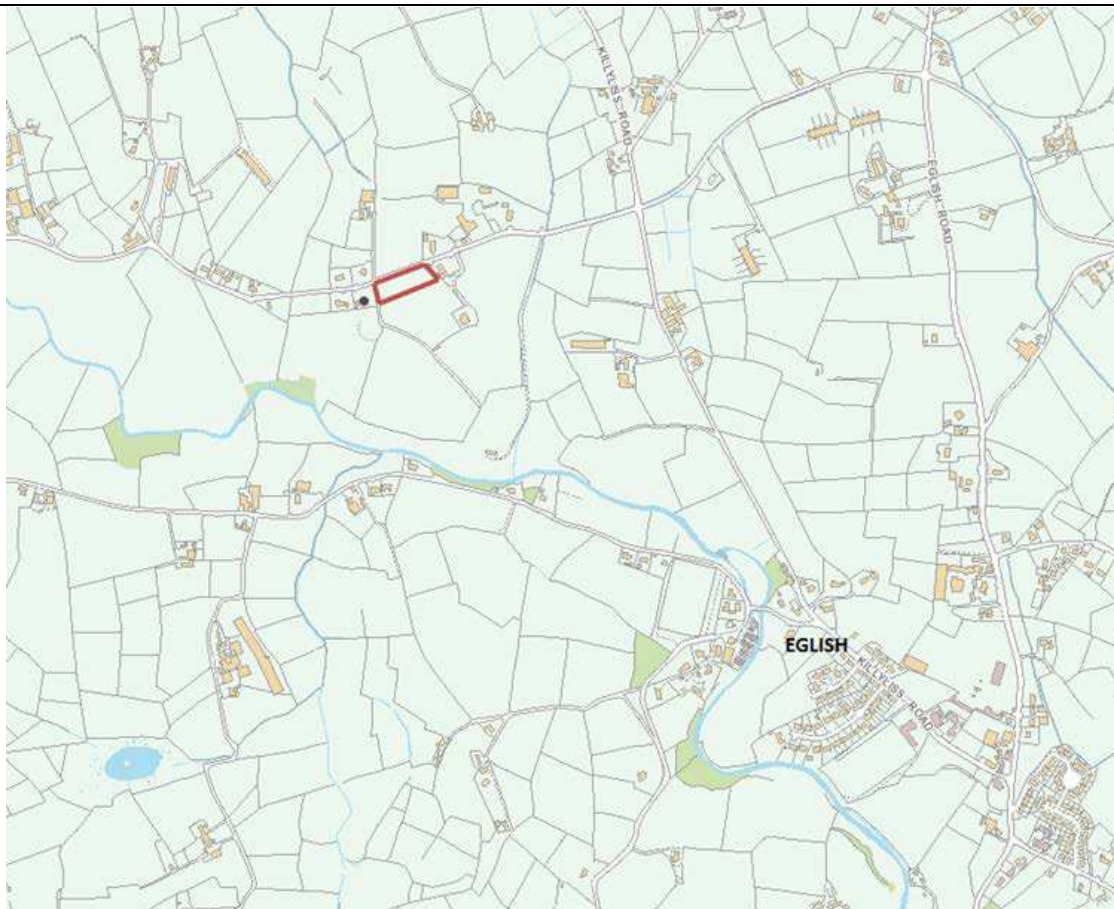
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0734/RM	Target Date:
Proposal: Proposed 2 dwellings and garages	Location: Lands between 61 and 65 Kilnacart Road Dungannon
Referral Route: Objection received	
Recommendation:	Approval
Applicant Name and Address: Mr Thomas Cassidy 102 Killyliss Road Eglis Dungannon	Agent Name and Address: Building Design Solutions 76 Main Street Pomeroy BT70 2QP
Executive Summary:	
Signature(s):	

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

Summary of Issues

One third party objection has been received from the neighbouring dwelling at no.65 Kilnacart Road.

The objector raised a number of concerns namely; absence of soakaways, storm water and sewerage from the site plans.

The agent was made aware of the concerns raised in the objection and has dealt with the issues via an amended block plan indicating a number of measures to deal with the surface run off, drainage and sewerage etc. The block plan identifies gulleys piped to soakaways, sub surface

irrigation drains, and a pair of treatment plants including adequate areas of soakaways to deal with the raw sewerage from each dwelling.

Characteristics of the Site and Area

The application site is located on Kilnacart Road, Dungannon, Co. Tyrone. The site is located within the countryside as designated within the Dungannon and South Tyrone Area Plan 2010. The application site is located on land between 61 and 65 Kilnacart Road, Dungannon, Co. Tyrone.

This site is currently in use as agricultural pasture which fronts onto the Kilnacart Road. The site is bound on its eastern side by an approx. 1.5m high wall which makes up its boundary with the laneway which separates the site from the dwelling at No.65. On the western side of the site the boundary is made up of a hedgerow, which includes some mature vegetation in places. Again, the western boundary is located next to a laneway which separates the site from the dwelling at No. 61. The northern boundary of the site includes a mature hedgerow where the site bounds the Kilnacart Road and the southern boundary is much less defined and includes a small 1m high hedgerow.



No. 61 Kilnacart Road to the west is a bungalow type dwelling and is located to the immediate south of No. 59 which is also a bungalow. Both dwellings front directly onto Kilnacart Road and both include detached garages to the side. No. 65, to the east of the site, also fronts onto Kilnacart Road albeit at an angle.

In terms of elevation the site is higher on its western side and the overall topography of the site gradually decreases in elevation towards the east. The wider area surrounding the site exhibits an undulating character.

Description of Proposal

The proposal seeks reserved matters permission for a double infill.

Planning Assessment of Policy and Other Material Considerations

Planning History

M/2013/0002/F - Proposed infill development of 2 no. dwellings, Site 80m SW of 65 Kilnacart Road Dungannon - Permission Refused 11.06.2013.

LA09/2018/0317/O Proposed infill development of 2 no. dwellings, Lands between 61 and 65 Kilnacart Road Dungannon - Permission Granted 05.07.2018.

Consultees

DFI Roads were consulted and responded with no objections subject to conditions.

Representations

Neighbour Notification and Press advertisement has been carried out in line with the Council's statutory duty.

One third party objection has been received from the neighbouring dwelling at no.65 Kilnacart Road.

Consideration of the objections.

The objector raised a number of concerns namely; absence of soakaways, storm water and sewerage from the site plans.

The agent was made aware of the concerns raised in the objection and has dealt with the issues via an amended block plan indicating a number of measures to deal with the surface run off, drainage and sewerage etc. The block plan identifies gulleys piped to soakaways, sub surface irrigation drains, and a pair of treatment plants including adequate areas of soakaways to deal with the raw sewerage from each dwelling.

Planning Policy Consideration

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

Mid Ulster Development Plan 2030 - Draft Plan Strategy

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

Dungannon and South Tyrone Area Plan 2010

The plan offers no specific policy relevant to this application as the site lies outside any settlement limit defined in the Dungannon and South Tyrone Area Plan 2010.

SPPS - Strategic Planning Policy Statement for Northern Ireland: sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been

adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety.

Planning Policy Statement 21 - Sustainable Development in the Countryside

Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. As this is an application for a pair of dwellings on an infill site CTY8 - Ribbon Development is the relevant policy, which will apply.

The principal of an infill site has already been approved through planning reference LA09/2018/0317/O. This proposal satisfies all the conditions attached to the previous Outline approval.

Overall I am content the proposed site is an infill site and meets the criteria in CTY 8 in PPS 21.

CTY 13 - Integration and Design of Buildings in the 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.

The application site sits along the Kilnacart road, Dungannon. As the site is located along the roadside it can be viewed in either directions along the public road. There are however, dwellings directly next to the site to the east and to the west, giving the site a sense of enclosure. There is also a native species hawthorn hedgerow along the roadside boundary of this field and a fence and laneway at the boundary with No. 61 and hedgerows along all the remaining boundaries, as shown in the site photographs. On balance, I consider the proposal will not be a prominent feature in the landscape.



The proposal consists of the whole field which is fully enclosed on all side as well as this landscaping is proposed to aid integration. I am content new planting will not be primarily relied on for the purposes of integration.

The design of the proposed dwellings were identical, however upon request the agent has changed the design of the windows on the front elevation to separate. They are of a simple nature, the finishes include dash and a natural stone sunroom and front porch. The single storey bodies is sited sensitively on the site and I do not feel it will be intrusive to the area. I am content the dwelling will integrate satisfactorily.



I am content the proposal will blend with the existing vegetation along the boundaries. There are no other buildings at this site but as there are other dwellings along this stretch of the Kilnacart, I am content the proposal will blend with the other development in the surrounding area.

I am content that the proposal is capable of complying with CTY 13.

CTY 14 - Rural Character

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 mentioned, the site benefits from existing vegetation on all boundaries and further landscaping is needed. The proposed dwelling is sited in a gap site in an otherwise substantially built up frontage I am content that this dwelling will not be a prominent feature in the landscape.

It has been already accepted this proposed development is within an area that has a substantial amount of development and it constitutes an infill opportunity site. As it is within the gap, it will not result in the creation of or extension to ribbon development. I do not consider this dwelling here will detract from the character of this area which already has a significant amount of development.

The creation of two new access at this site will not damage the rural character as there is proposed hedging to mitigate the impact of a new entrance onto a public road.

Planning Policy Statement 3 - Access, Movement and Parking

DFI Roads were consulted as there is a new access from the Kilnacart Road and responded with no objections subject to conditions.

Recommendation Approval

Neighbour Notification Checked	Y
<p>Conditions</p> <p>1.The development to which this approval relates must be begun by whichever is the later of the following dates:-</p> <p>i. The expiration of a period of 5 years from the grant of outline planning permission; or ii.The expiration of a period of 2 years from the date hereof.</p> <p>Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.</p> <p>2. Prior to commencement of any development hereby approved, the vehicular access as detailed in the attached form RS1, including visibility splays of 2.4mx 70.0m in both directions, shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter</p> <p>Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.</p> <p>3.The gradients 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.</p> <p>REASON: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road user</p> <p>4.All hard and soft landscape works shall be carried out in accordance with the approved details on drawing No.02/1 dated 8th June 2021 and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out prior to the occupation of any part of the dwelling.</p> <p>REASON: To ensure the provision, establishment and maintenance of a high standard of landscape.</p> <p>Informatives</p> <p>1.This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.</p> <p>2.This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.</p> <p>3. The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department for Infrastructure for which separate permissions and arrangements are required.</p> <p>Notwithstanding the terms and conditions of the Councils approval set out above, you are required under Article 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructures consent before any work is commenced which involves making or</p>	

altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the Roads Service Section Engineer whose address is Main Street, Moygashel, Dungannon. A monetary deposit will be required to cover works on the public road.

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

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

Signature(s)

Date:

ANNEX	
Date Valid	12th May 2021
Date First Advertised	25th May 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 60 Kilnacart Road Dungannon Tyrone The Owner/Occupier, 60a Kilnacart Road Dungannon The Owner/Occupier, 60b Kilnacart Road Dungannon The Owner/Occupier, 61 Kilnacart Road Dungannon Tyrone The Owner/Occupier, 62 Kilnacart Road Dungannon Tyrone The Owner/Occupier, 62a Kilnacart Road Dungannon The Owner/Occupier, 63 Kilnacart Road Dungannon Tyrone The Owner/Occupier, 65 Kilnacart Road Dungannon Tyrone Noel McCann 65 Kilnacart Road, Dungannon, BT70 1PD	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2021/0734/RM Proposal: Proposed 2 dwellings and garages Address: Lands between 61 and 65 Kilnacart Road, Dungannon, Decision: Decision Date: Ref ID: LA09/2018/0317/O Proposal: Proposed 2 dwellings in accordance with PPS21 policy CTY8 Address: Lands between 61 and 65 Kilnacart Road, Dungannon, Decision: PG Decision Date: 05.07.2018	

Ref ID: M/2004/1365/O

Proposal: Proposed dwelling house

Address: Between 66 & 60 Kilnacart Road, Dungannon

Decision:

Decision Date: 22.12.2004

Ref ID: M/2003/1516/O

Proposal: Proposed dwelling

Address: Adjacent to 61 Kilnacart Road Kilnacart Dungannon

Decision:

Decision Date: 13.02.2004

Ref ID: M/2001/0180/O

Proposal: Site for dwelling.

Address: Land approx. 100m west of 65 Kilnacart Road, Dungannon.

Decision:

Decision Date: 06.07.2001

Ref ID: M/2013/0002/F

Proposal: Proposed infill development of 2 no. dwellings

Address: Site 80m SW of 65 Kilnacart Road, Dungannon,

Decision: PR

Decision Date: 11.06.2013

Ref ID: M/2004/0611/Q

Proposal: proposed dwelling house

Address: Kilnacart Road, Dungannon

Decision:

Decision Date:

Ref ID: M/1994/0630

Proposal: Site for Dwelling

Address: APPROX 40M WEST OF 65 KILNACART ROAD KILNACART DUNGANNON

Decision:

Decision Date:

Ref ID: M/1990/0247

Proposal: Dwelling

Address: ADJACENT TO NO 66 KILNACART ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/1997/0626

Proposal: Site for dwelling

Address: ADJACENT TO 65 KILNACART ROAD EGLISH DUNGANNON

Decision:

Decision Date:

Drawing Numbers and Title

Drawing No. 04
Type: Garage Plans
Status: Submitted

Drawing No. 03
Type: Proposed Plans
Status: Submitted

Drawing No. 02/1
Type: Site Layout or Block Plan
Status: Submitted

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

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 07/09/2021	Item Number:
Application ID: LA09/2021/0739/F	Target Date:
Proposal: Proposed dwelling & Garage/Store	Location: 150m NE of 230 Coalisland Road Gortin Dungannon BT71 6EP
Referral Route: 1. The proposal is contrary to Policy CTY 15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined settlement limit of Edendork and the surrounding countryside. 2. The proposal is contrary to CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted be detrimental to rural character and would add to urban sprawl.	
Recommendation:	Refusal
Applicant Name and Address: Mr Cathal Keogh 232 Coalisland Road Dungannon BT71 6EP	Agent Name and Address: CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
Executive Summary: The application site is in the countryside and on the boundary of the settlement limit of Edendork as defined in the Dungannon and South Tyrone Area Plan 2010. Condition 4 of planning approval LA09/2019/0767/O is a siting condition where the curtilage of the site should be within a hatched area nearest the existing dwellings within the settlement. This siting condition was to prevent urban sprawl and round off the existing development. In this application the applicant has shown the curtilage outside the hatched area and further north within the red line. It is stated this is because there are overhead electricity power lines	

passing over the hatched area but I do not consider this is a reason to move the curtilage outside the hatched area.

Signature(s):

Case Officer Report

Site Location Plan



Consultations: None Required

Consultation Type	Consultee	Response
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Representations:

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

Characteristics of the Site and Area

The site abuts the northern boundary of the settlement limit of Edendork as defined in the Dungannon and South Tyrone Area Plan 2010. To the north west of the site is a factory and large yard area, while to the northeast are sprawling agricultural fields and single detached dwellings. Adjoining the remaining boundaries of the site is predominantly residential with single detached dwellings and there is a new housing development to the southwest with six dwellings. To the south and abutting the access lane is a Listed Building at 230 Coalisland Road.

The application site is a rectangular shaped plot with a topography that rises slightly from south to north. The site is set back from the public road by approximately 92m and is accessed via an existing lane that runs alongside the listed building at No.230. There are established trees along all boundaries of the site.

Description of Proposal

This is a full application for a proposed dwelling & Garage/Store at 150m NE of 230 Coalisland Road, Gortin, Dungannon.

Planning Assessment of Policy and Other Material Considerations

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

Representations

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

Planning History

LA09/2019/0767/O - Proposed dwelling and garage (Amended Access Position) - Approx 150m NE of 230 Coalisland Road, Gortin, Dungannon – Permission Granted 10th July 2020

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

Dungannon and South Tyrone Area Plan 2010

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

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

Planning Policy Statement 21

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will

only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement.

LA09/2019/0767/O granted outline approval at the application site on 10th July 2020. As this is a full application and has been submitted within 5 years from the date of the outline I am content there is a live approval at the site.

Policy CTY 2a – New Dwellings in Existing Clusters

As stated in the Preamble in PPS 21 the countryside is defined as land lying outside of settlements as defined in development plans. The application site is located on the northern boundary of the settlement limit of Edendork and as such, any development to the south of the site inside Edendork cannot be considered in the assessment of CTY 2a.

Policy CTY 15 – Setting of Settlements

The application site is abutting the northern boundary of the settlement limit of Edendork. There is a housing development of 6 houses and several detached dwellings immediately south of the site within the settlement limit. The site is an agricultural field and fields abut all other boundaries of the site.

LA09/2019/0767/O granted approval at the application site under the principle that the development would round off existing development to the south. Condition 4 of planning approval LA09/2019/0767/O stated the dwelling and its curtilage should be sited within the blue hatched area as shown in figure 1 below. In the drawings submitted with this application the applicant has sited the dwelling and garage further north towards the red line and outside the hatched area. The application site is on the boundary of the settlement limit and the hatched area was conditioned as it was felt that this area would round off the existing dwellings. I consider the siting on the drawings submitted is unacceptable as it is outside the conditioned hatched area. The proposed siting further north within the red line will not round off the existing development within the Edendork settlement limit and lead to further development on the settlement boundary. Therefore I would recommend refusal of this proposal as it would add to urban sprawl.

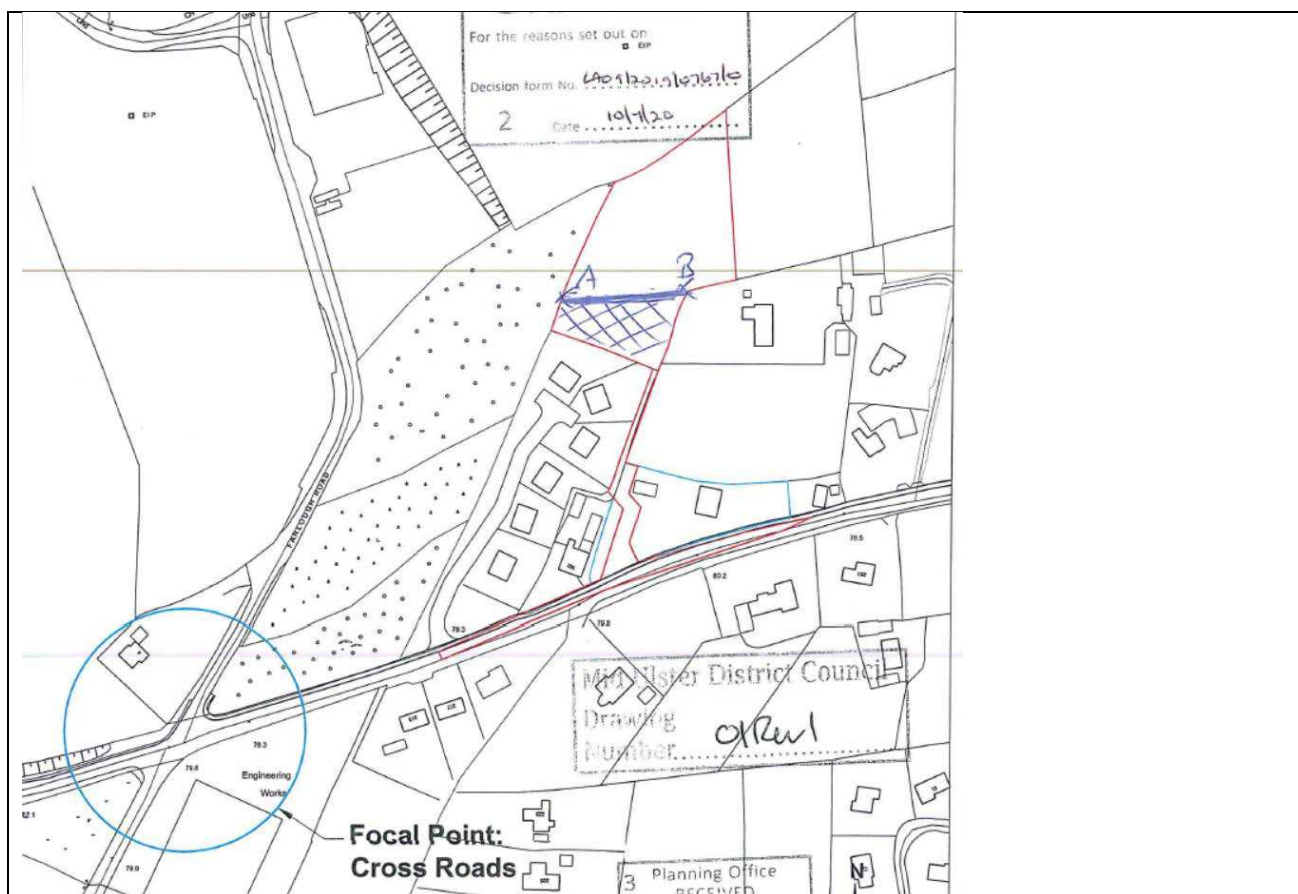


Figure 1 – Screenshot of the stamped approved site location plan from LA09/2019/0767/O

CTY 13 – Integration and Design of Buildings

I am content the dwelling will not be a prominent feature in the landscape. The site is set back from the public road by approximately 100m and is accessed via an existing laneway. There are no critical views in either direction from the public road due to established trees and hedgerow along the roadside frontage.

There are established trees and hedgerow along all boundaries of the site so I am content the proposal will integrate into the landscape. I am content new planting will not be primarily relied on for the purposes of integration.

The proposed dwelling is 6.8m to finished floor level and one and half storey. The dwelling has a long rectangular form and built in dormers on the front elevation. The windows have a vertical emphasis and the chimneys project from the ridge line of the dwelling. There is a small porch on the front elevation of the dwelling. I am content the scale and massing of the dwelling is acceptable and the design is in keeping with a rural dwelling.



Figure 2 – Screenshot of the proposed dwelling

The proposed garage is sited in the northern corner of the application site and as stated earlier in the assessment this is outside the conditioned hatched area in the outline planning approval. The garage has a rectangular form and a ridge height of 6m to finished floor level. The garage has external finishes of dark brown roof panels, grey blockwork walls and dark brown roller shutter doors. The garage has the appearance of an agricultural building but as the proposal is outside the settlement limit I have no concerns and the building is set back from the main road.

As shown on the block plan the applicant has proposed new landscaping and the retention of existing trees, therefore I have no concerns and I consider there is a suitable degree of enclosure to integrate into the landscape.

The proposal will use an existing laneway and the new access will extend along the east boundary. As the access will run for a short distance I am content the access will not have an unacceptable impact on the character of the site.

I am content the design of the proposed garage and dwelling is acceptable.

CTY 14 – Rural Character

I am content the proposal will not be unduly prominent in the landscape. I am of the opinion the revised siting further north will not round off the existing development and exacerbate urban sprawl. Therefore the proposal will be detrimental to the rural character of the surrounding area.

Neighbour Notification Checked	Yes
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Summary of Recommendation:

The proposal is recommended for refusal as it will create urban sprawl.

Reasons for Refusal:

1. The proposal is contrary to Policy CTY 15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined settlement limit of Edendork and the surrounding countryside.

2. The proposal is contrary to CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted be detrimental to rural character and would add to urban sprawl.

Signature(s)

Date:

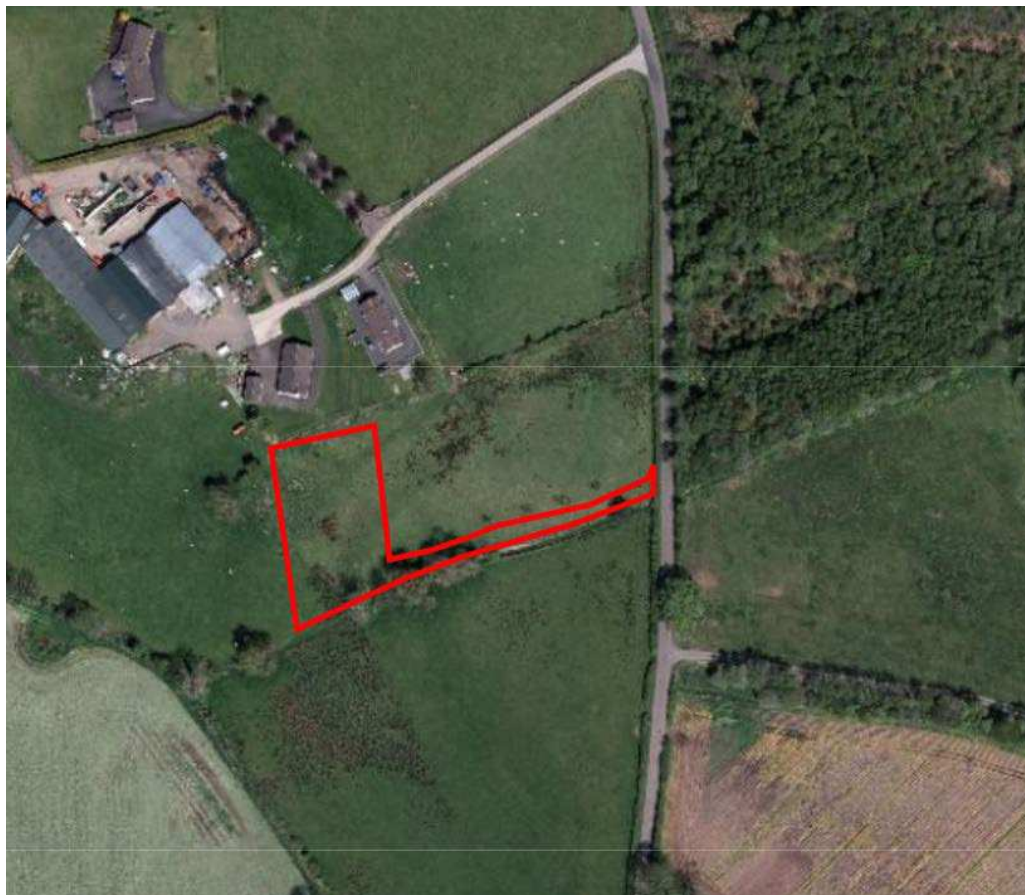


**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0822/O	Target Date:
Proposal: Infill site of dwelling & domestic garage	Location: 60m South of 88 Gulladuff Hill Magherafelt
Referral Route: Contrary to policy	
Recommendation:	Refusal
Applicant Name and Address: Mr Dan McCrystal 51 Hawthorne Road Maghera BT46 5FN	Agent Name and Address:
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

Contrary to PPS 21.

Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits or within any designated sites, as per the Magherafelt Area Plan. The red line of the application comprises of part of a larger agricultural field. The boundaries of the site are limited with the southern boundary the only one currently defined. The northern boundary is undefined but is in close

proximity to the existing boundary of the dwelling at No.88 Gulladuff hill. The surrounding area is mainly agricultural in nature, with two dwellings close to the northern boundary with associated outbuildings beyond this. There are no dwellings in close proximity to the southern boundary.

Representations

No third party representations have been received.

Description of Proposal

This is an outline planning application for an infill site of dwelling and domestic garage.

Planning Assessment of Policy and Other Material Considerations

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

PPS 3- Movement, Access and Parking

PPS 15 (Revised)- Planning and Flood Risk

PPS 21- Development in the Countryside

The application is for a dwelling to be considered under CTY 8. The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. The provisions of the SPPS and PPS 21 - Sustainable Development in the countryside, control development.

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'.

Policy CTY 8 states that planning permission will be refused for a building, which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided it respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

The first step in determining whether an infill opportunity exists is to identify whether there is an otherwise substantial and continuously built up frontage present. I note that Nos 90, 88a and 92 Gulladuff Hill are all located to the North of the site and form a substantial and continuously built up frontage. It is noted that all these dwellings are set back from the road but have a general uniform building line, all with agricultural fields in front of them. However, to the south of the application site, there are no other dwellings or outbuildings that represent a continuous or built up frontage. As a result, the application site does not represent a small gap site, within an otherwise substantial and continuously built up frontage.

However, the application site is a sufficient size in that it could only accommodate one dwelling and it respects the existing development pattern to the north in terms of siting and scale of the plot.

The proposed application site would add to the ribbon of development along the Gulladuff Hill, and as such, fails to comply with Policy CTY 8.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore, no design details has been submitted however I am of the opinion that an appropriately designed dwelling will not appear prominent in the landscape. The red line of the application site has limited established boundaries with the southern boundary defined by an existing hedgerow and part of the northern boundary defined a hedge. The roadside hedgerow and the fact the site sits at a level lower than the road would reduce any visual impact and allow for a building to integrate.

Policy CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of the area. I am content that a dwelling in this location would not be a prominent feature in the landscape and a well-designed dwelling would respect the pattern of development. However, as previously mentioned a dwelling in this location would result in ribbon development. Therefore, failing to meet the policy criteria set out in Policy CTY 14.

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.

PPS 15 (Revised)- Planning and flood risk

DfI Rivers were consulted as the site is located adjacent to an undesignated watercourse. DfI Rivers confirmed a 5m maintenance strip is required unless the watercourse can be maintained from the opposite bank by agreement with the landowner. It should be marked up on a drawing and protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development by the way of a planning condition.

Other Material Considerations

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

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refusal

Reasons for Refusal:

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

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a gap site within a substantial and continuously built up frontage and would if permitted, create a ribbon of development.

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted create a ribbon of development.

Signature(s)

Date:

ANNEX	
Date Valid	25th May 2021
Date First Advertised	8th June 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 88 Gulladuff Hill Gulladuff Londonderry The Owner/Occupier, 90 Gulladuff Hill Gulladuff Londonderry	
Date of Last Neighbour Notification	22nd June 2021
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2021/0822/O Proposal: Infill site of dwelling & domestic garage Address: 60m South of 88 Gulladuff Hill, Magherafelt, Decision: Decision Date: Ref ID: H/1994/0152 Proposal: 33 KV O/H LINE Address: MAGHERA NORTH S/S TO BELLAGHY S/S Decision: Decision Date: Ref ID: H/1990/0226 Proposal: SITE OF REPLACEMENT BUNGALOW AND GARAGE Address: 88 GULLADUFF HILL, GULLADUFF. Decision: Decision Date: Ref ID: H/1987/0521 Proposal: SITE OF REPLACEMENT DWELLING AND GARAGE Address: GULLADUFF HILL MAGHERAFELT Decision: Decision Date: Ref ID: H/1990/0477 Proposal: BUNGALOW AND GARAGE Address: GULLADUFF HILL GULLADUFF Decision: Decision Date:	

Summary of Consultee Responses
Drawing Numbers and Title
Drawing No. 01 Type: Site Location Plan Status: Submitted
Notification to Department (if relevant) Date of Notification to Department: Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Melvin Bowman	
Application ID: LA09/2017/0319/F	Target Date:
Proposal: The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the retention of 4 further chimney stacks to facilitate spraying within existing approved building. All flues to discharge 6 metres above the existing ridge line. (Revised Odour Impact Assessment received)	Location: 70m South of 177 Annagher Road Dungannon
Applicant Name and Address: DMAC Engineering 204 Washing Bay Road, Dungannon	Agent name and Address: CMI Planners Ltd Unit 5 80/82 Rainey Street Magherafelt BT45 5AG
Summary of Issues: previous report to Committee identified concerns relating to amenity of nearby residents due to odour. Members have since visited the site on the 23 July 2021.	
Summary of Consultee Responses: Latest Env Health response indicates no objections subject to conditions following a revised odour impact assessment report. Further local objection received and considered since the last report and subsequent site visit by members.	

Characteristics of the Site and Area:

DMAC engineering site, Annagher Road, Dungannon.

Description of Proposal

The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the retention of 4 further chimney stacks to facilitate spraying within existing approved building. All flues to discharge 6 metres above the existing ridge line

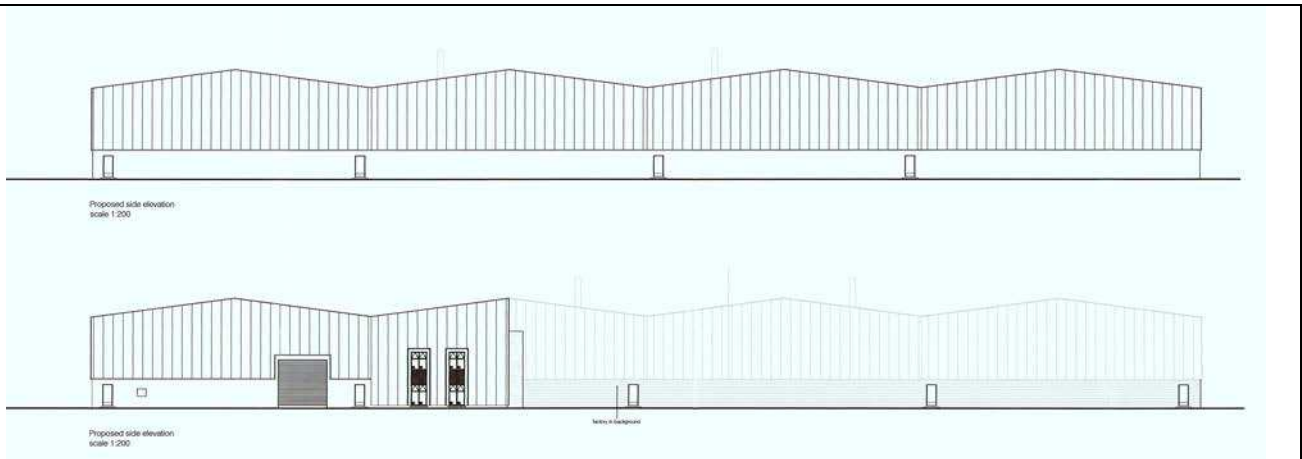
Deferred Consideration:

This report is an updated position on this application following the decision of members at the July 2021 meeting to visit the DMAC site and adjoining third party property. Members, with the assistance of the DMAC operators, viewed the plant and the entire process carried out there and witnessed the internal and external means of extraction and viewed the surrounding outdoor yard and other areas, including lands to the south containing the recently approved men's shed. Following this a visit was paid to Mr Dooley's dwelling at No 181 where the occupants, along with Mr and Mrs J Hughes (36 Washingbay Road) and Mr Campbell of No 183 were also present. This included a walk onto the Annagher road to view level similarities between the tops of the DMAC flue stacks and residential property. In addition lands to the rear of the farm yard were walked which abut the boundary of the DMAC site, in doing so residents also pointed out the cattle sheds and their close proximity to the DMAC site where livestock is overwintered and their concerns again about animal welfare.

As members will recall, the original planning permission for DMAC on this site (M/2011/0126/F) was approved by Mid-Ulster District Council on the 15th April 2015. The approved elevations (below) show 2 small flues on the side elevation.

In the EIA summary which accompanied the application it was stated that, in relation to potential air pollution, the company had developed an air filtration and purification system which were to remove any pollutants from air output. As of 2011 the system was stated as being in the 'final stages of commissioning'. The decision notice does not contain any conditions relating to odour management from the development.

(approved elevations for DMAC showing 2 flues)



An application for a non material change was submitted in 2016 (LA09/2016/1761/NMC) proposing 4 external flues. The decision of the Council was not to accept these alterations as being non-material. The current planning application followed. There is also an open enforcement case on the issue.

This application was originally submitted on the 3 Mar 2017 and was a being to relocate 2 chimney stacks under planning reference M/2011/0126/F with the addition of 2 further chimney stacks to facilitate spraying. The agents supporting statement described this as being necessary for the most efficient system to be installed on site. This original spec for the extraction system incorporated 4 extraction fans, double inlet centrifugal type. The exhaust stack was to terminate at a height of 3m above the apex of the building with an efflux velocity in excess of the minimum requirement of 15m/sec.

(Elevations to retain current stack arrangement)





(stacks with support braces on side elevation)



(Comparison with stack heights and Dwelling at No 181)

At the time of writing the first report to Planning Committee the Environmental Health Department continued to receive odour complaints from nearby residential properties and officers had clearly observed these odours on a variety of occasions over the last few years.

A review of 2018 stack emissions testing undertaken by an independent company showed discharge velocities ranging from 9.4 – 1.2 m/s (3 of which returned discharge velocities <3 m/s) which are well below the 15 m/s discharge velocities used within Table 4 of the Irwin Carr report.

For this reason, it was requested that the odour assessment should be revisited using these measured inputs instead of theoretical values to establish if these produce figures more reflective of the situation witnessed at 3rd party receptors.

A refusal on the following basis was made previously to the Committee. The proposal is contrary to the SPPS and Policy PPS4 PED9 in that it has not been satisfactorily demonstrated that the development will not lead to an unacceptable loss of amenity to nearby residents by way of odour and fumes.

A revised Odour Impact assessment report was submitted on the 14th April 2021 and the views of EHD were sought. Third parties were also re-notified with 2 further letters of objection being received. I will summarise these later in this report.

EHD issued a consultation response on the 11 June 2021 stating:

'This updated odour impact assessment considers measured volume flow within the stacks at DMAC as opposed to the previously assumed 15 m/s in all six stacks at this site. Using a worst-case odour emission rate of 351 OU_E/m³ obtained from on-site measurements at this facility, AERMOD dispersion modelling shows that odour from the facility will be below 3 ou/s as a 98th percentile.

Environmental Health do not have access to AERMOD, nor any way of verifying inputs used within AERMOD. It should also be noted that Environmental Health continue to receive occasional complaints about odour from this facility and officers have detected odour at nearby receptors on occasions.

The paint spraying activity is currently regulated by Environmental Health under the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 and the applicant should be aware that they are required to comply with the requirements of these Regulations.

Whilst paint spraying activities are covered by the above legislation, we would request that the following conditions be attached to any planning approval. (see further below) We therefore have no objection to this proposal on planning grounds.

It was my view in the initial report to Committee that this proposal does not satisfy Criteria (b) and (f) of PED9 in that the present failure of the developer to demonstrate that this development will not lead to a loss of amenity has indicated that the DMAC facility is not capable of dealing satisfactorily with emissions. The chimney stacks discharge rates appeared well below the required standards which would assist with adequate dispersal. In light of the now acceptable Odour report received in April 2021 and the view of EHD I am more satisfied that the amenity concerns have been addressed.

In relation to integration into the landscape, given the level differences between the DMAC factory and the approaching roads, I didn't share some of the concerns raised by objectors in this case on the visual impact of the extended flues. Whilst extending well above the factory roof I still do not feel that these are excessive in relation to wider public aspect. On that basis I would adopt the view that the chimney stacks do not offend other rural policy, namely Policy CTY14 of PPS21 for example.

The 2 additional letters of objection were received from the occupants of No 36 Washingbay Road and No 181 Annagher Road. The issues raised are as follows:

1. Health and loss of amenity
2. Fumes are noticeable as early as 6am on occasion.
3. EHD is well aware and complaints are well documented / officials have personally experienced.
4. DMAC should be using the extraction system they claimed when permission was originally granted.
5. Enforcement action should commence asap to cease this toxic odour.
6. Impacts on livestock
7. What guarantees can the Council provide that the chimneys will not affect our health and that of our livestock.

Given that EHD are now content that the revised odour assessment achieves adequate volume flow, and that their worst case scenario produces a dispersion model below 3 ou/s as a 98th

percentile it is in my view the case that subject to existing controls via the PPC regime and / or planning conditions listed that neighbouring amenity and health concerns should be able to be kept within recognised and accepted levels. In relation to amenity and nuisance at 6am the Council are in receipt of an application to extend the companies hours of operation, as yet no formal opinion has been formed on this application. DMAC have stated that they were not able to deliver on the initial means of dealing with extraction, whilst this is regrettable, the stance now taken by EHD shows that the current means of extraction can operate within acceptable limits.

Prior to the site visit on the 23 July 2021 a further objection was received from Mr Hughes at No 36 Washingbay Road raising the following points of concern:

1. The planned visit by members to DMAC is a pointless exercise.
2. The Council is well aware of the continual leaking of paint fumes from the site / there is nothing occasional about this as has been claimed by Council Officials / EHD have been repeatedly informed of the issues and have themselves smelled fumes during site visits.
3. Fumes cannot be physically seen on a site visit.
4. A smoke test should be carried out on the DMACs chimneys / this should cover its spray booth and the building in order to independently establish if there are any leaks or fumes, or if workers are opening factory or spray booth doors too soon after spraying. This should be carried out across several days during different wind conditions with documentary evidence including video taken to show the wind direction. There are various firms capable of carrying out such tests.
5. No approval should be given to the stacks until this test is conducted.
6. If the site visit does go ahead I would request that the relevant EHD official is present.

In considering these additional grounds of objection, I have asked EHD to comment on the matter of the need and or relevance of the smoke test. A response has been returned to the Consultation stating that 'EHD are of the opinion that the suggested smoke test would be of little benefit as they consider the majority of odour emissions are from the stacks serving the spray booths and not through leaks or poor working practices as discussed. Furthermore, the presence of smoke from the facility would not necessarily indicate an exceedance of the 3 ou/s odour limit as a 98th percentile'.

Whilst the site visit provided an opportunity for members to view the stack heights in relation and in particular to the dwelling occupied by Mr Dooey (No 181) shown in the image earlier in my report, these level comparisons will have been known to EHD in assessing the submitted Odour Impact Assessment. I am not aware of any specific evidence being provided in relation to livestock welfare caused as a direct result of fumes from the DMAC stacks.

An Enforcement Notice has recently been served given that the period for immunity was approaching. On the basis of impending enforcement appeal proceedings, members are asked to agree that the Council withdraws the recently served Enforcement Notice relating to the chimney stacks upon the decision to grant planning permission for this application.

Having visited the DMAC site and No 181, and in considering the position and lack of objection from EHD to the chimney stacks which after all are the subject of this particular application, my recommendation is that permission be granted with the below conditions.

Conditions:

1. Odour from each of the 6 stacks serving the building as annotated on Drawing Number 02/2 date stamped 29th January 2018 when measured during the bake and dump process shall not exceed 351 OU_E/m³ when measured in accordance with IS EN 13723 and analysed by a UKAS accredited test method.

Reason: To protect neighbouring property from excessive odour

2. Within 4 weeks of a written request by the Council following a reasonable odour complaint from the occupant of a residential dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess the level of odour from the development and/or check compliance with the odour limit listed in condition 1. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the odour monitoring and authorised officers may attend the development at any time during this monitoring. The results of all odour modelling shall be provided in writing to the council within 4 weeks from the date of the assessment having been undertaken.

Reason: To protect neighbouring property from excessive odour

3. Where odour is found to exceed the limits outlined within condition 1, the Council shall be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 8 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect neighbouring property from excessive odour

Signature(s): M.Bowman

Date: 24th Aug 2021



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Melvin Bowman	
Application ID: LA09/2017/0319/F	Target Date:
Proposal: The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the retention of 4 further chimney stacks to facilitate spraying within existing approved building. All flues to discharge 6 metres above the existing ridge line. (Revised Odour Impact Assessment received)	Location: 70m South of 177 Annagher Road Dungannon
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Characteristics of the Site and Area:

DMAC engineering site, Annagher Road, Dungannon.

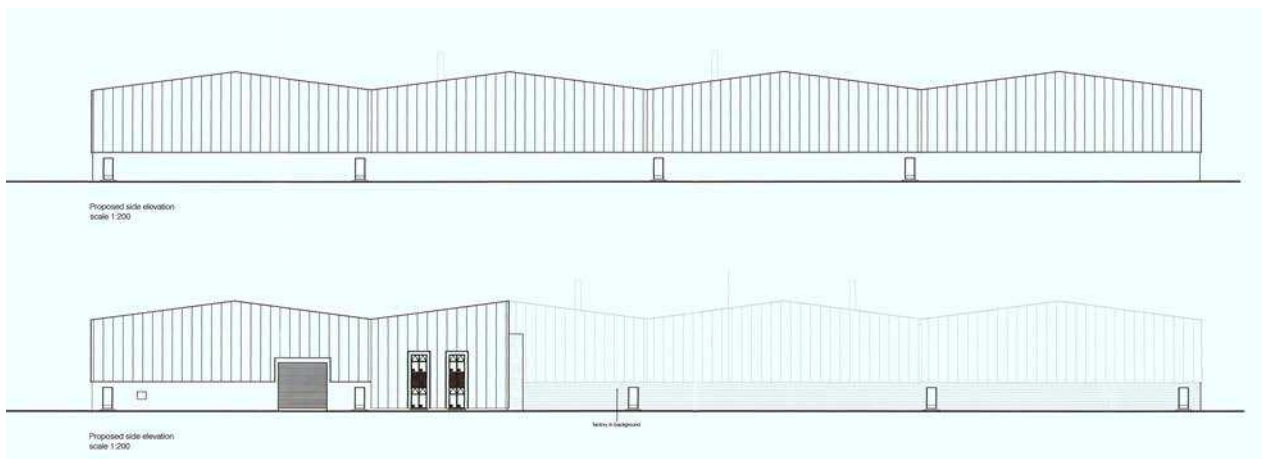
Description of Proposal

The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the retention of 4 further chimney stacks to facilitate spraying within existing approved building. All flues to discharge 6 metres above the existing ridge line

Deferred Consideration:

The original planning permission for DMAC on this site (M/2011/0126/F) was approved by Mid-Ulster District Council on the 15th April 2015. The approved elevations (below) show 2 small flues on the side elevation.

In the EIA summary which accompanied the application it was stated that, in relation to potential air pollution, the company had developed an air filtration and purification system which were to remove any pollutants from air output. As of 2011 the system was stated as being in the 'final stages of commissioning'. The decision notice does not contain any conditions relating to odour management from the development.

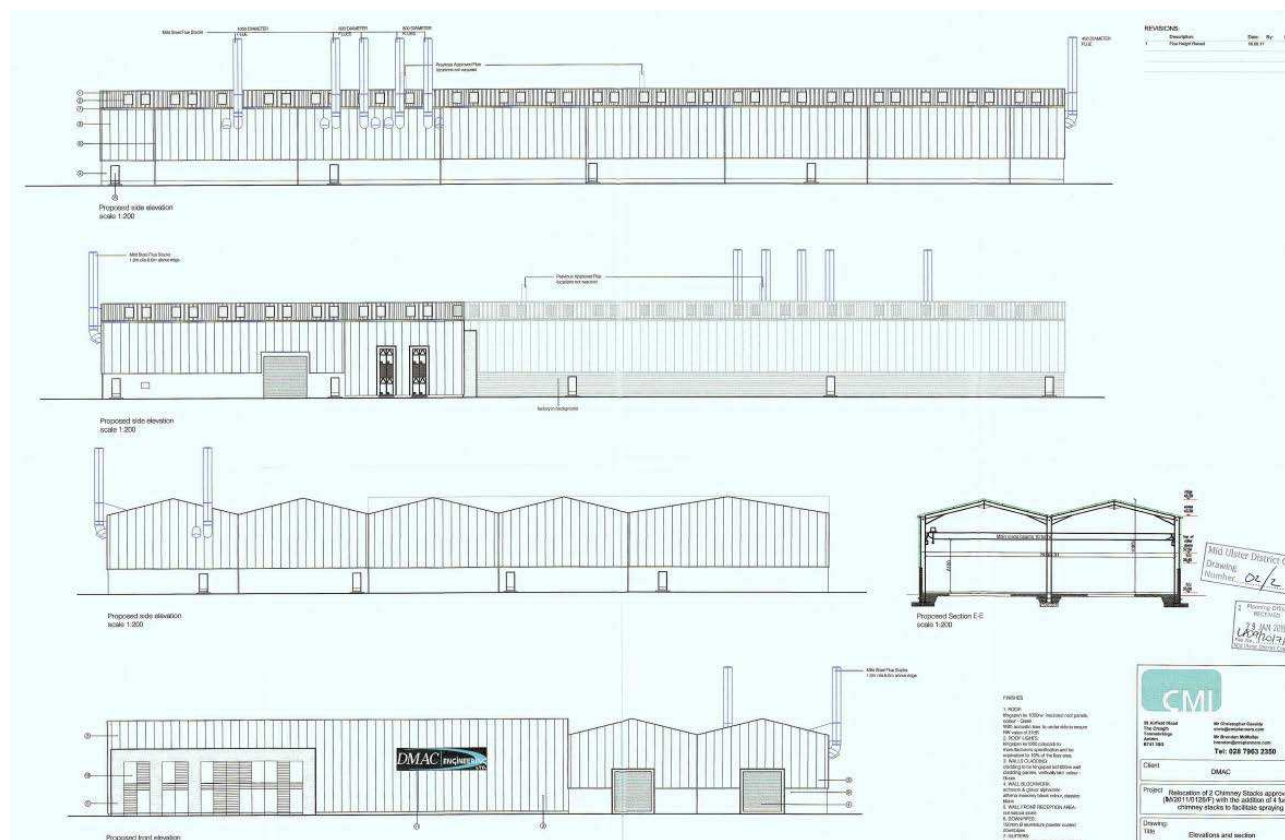
(approved elevations for DMAC showing 2 flues)

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incorporated 4 extraction fans, double inlet centrifugal type. The exhaust stack was to terminate at a height of 3m above the apex of the building with an efflux velocity in excess of the minimum requirement of 15m/sec.

(Elevations to retain current stack arrangement)



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A review of 2018 stack emissions testing undertaken by an independent company showed discharge velocities ranging from 9.4 – 1.2 m/s (3 of which returned discharge velocities <3 m/s) which are well below the 15 m/s discharge velocities used within Table 4 of the Irwin Carr report.

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7. What guarantees can the Council provide that the chimneys will not affect our health and that of our livestock.

Given that EHD are now content that the revised odour assessment achieves adequate volume flow, and that their worst case scenario produces a dispersion model below 3 ou/s as a 98th percentile it is in my view the case that subject to existing controls via the PPC regime and / or planning conditions listed that neighbouring amenity and health concerns should be able to be kept within recognised and accepted levels. In relation to amenity and nuisance at 6am the Council are in receipt of an application to extend the companies hours of operation, as yet no formal opinion has been formed on this application. DMAC have stated that they were not able to deliver on the initial means of dealing with extraction, whilst this is regrettable, the stance now taken by EHD shows that the current means of extraction can operate within acceptable limits.

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Reason: To protect neighbouring property from excessive odour

2. Within 4 weeks of a written request by the Council following a reasonable odour complaint from the occupant of a residential dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess the level of odour from the development and/or check compliance with the odour limit listed in condition 1. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the odour monitoring and authorised officers may attend the development at any time during this monitoring. The results of all odour modelling shall be provided in writing to the council within 4 weeks from the date of the assessment having been undertaken.

Reason: To protect neighbouring property from excessive odour

3. Where odour is found to exceed the limits outlined within condition 1, the Council shall be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 8 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect neighbouring property from excessive odour

Signature(s): M.Bowman

Date: 21 June 2021



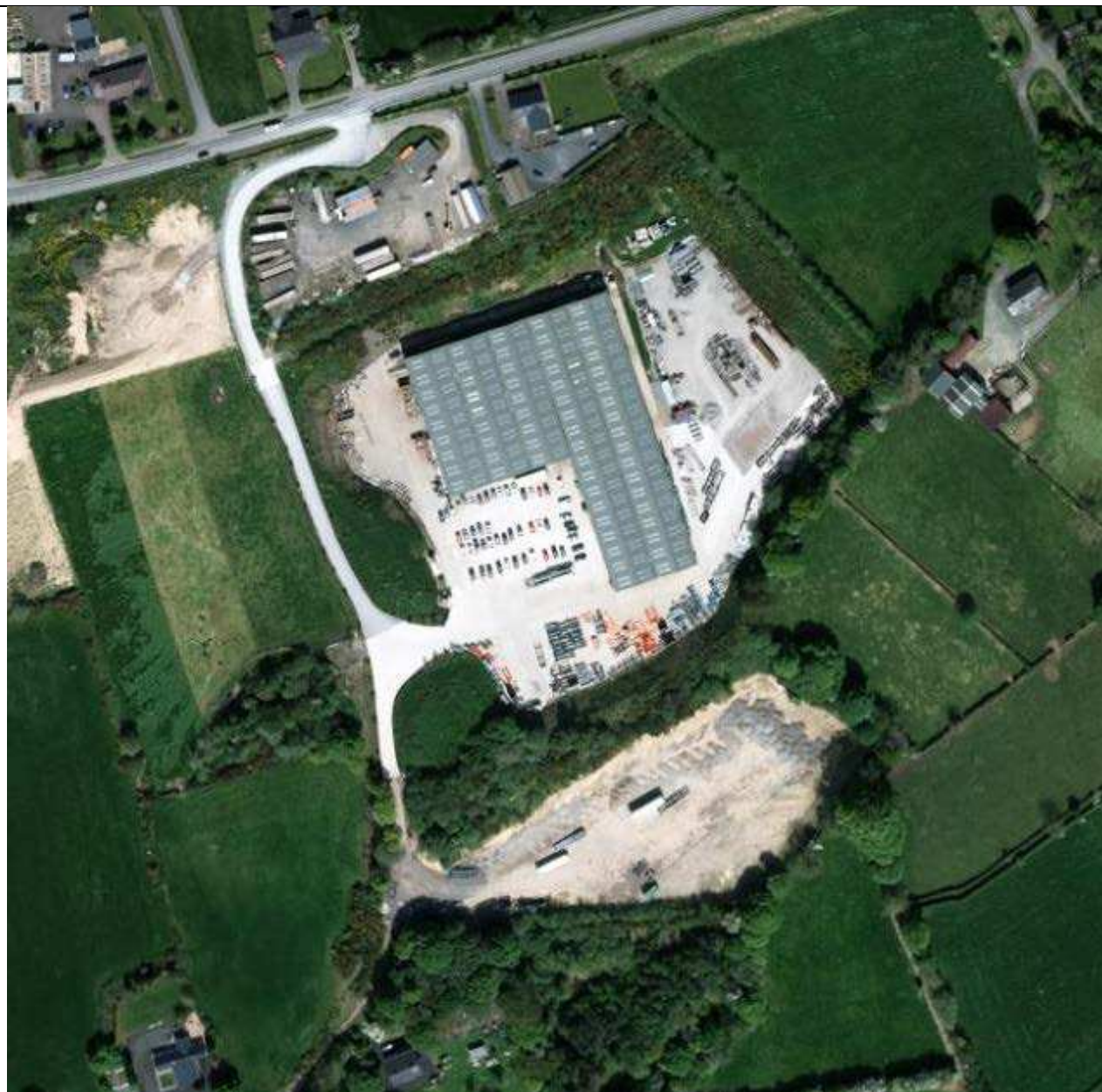
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: Feb 2021	Item Number:
Application ID: LA09/2017/0319/F	Target Date:
Proposal: The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the retention of 4 further chimney stacks to facilitate spraying within existing approved building. All flues to discharge 6 metres above the existing ridge line. (Amended description) (Revised Odour Impact Assessment received)	Location: 70m South of 177 Annagher Road Dungannon
Referral Route: Application recommended for refusal and objections received.	
Recommendation: Refusal.	
Applicant Name and Address: DMAC Engineering 204 Washing Bay Road Dungannon	Agent Name and Address: CMI Planners Ltd Unit 5 80/82 Rainey Street Magherafelt BT45 5AG
Executive Summary: Proposal fails to comply with policy in relation impacts on neighbouring amenity.	
Signature(s): M.Bowman	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested
Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

Representations:

Letters of Support	None Received
Letters of Objection	8
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues – failure to demonstrate that neighbouring amenity is protected from unacceptable levels of odour nuisance.

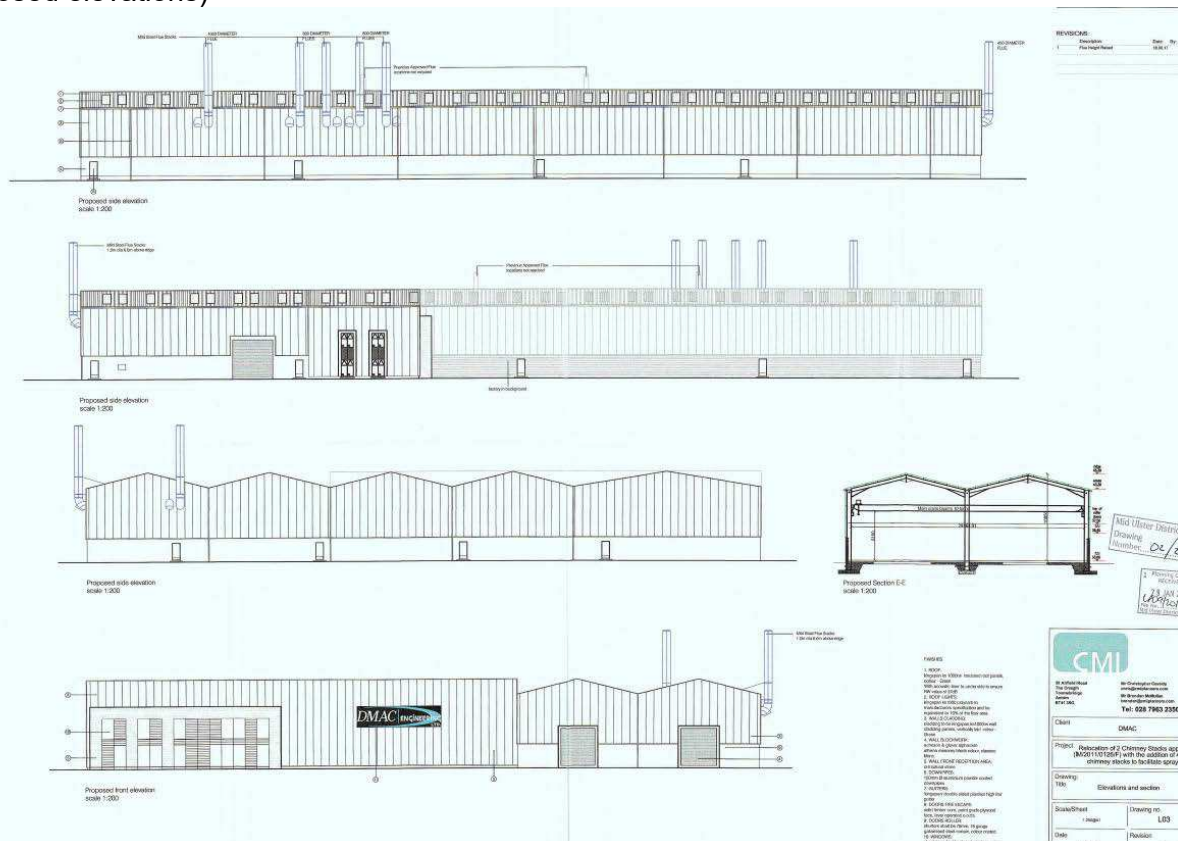
Characteristics of the Site and Area

Existing DMAC engineering site located on outskirts of Coalisland at Annagher Road. Rural area as defined by the Dungannon Area Plan with residential dwellings dispersed on all sides. Significant topographical differences with the DMAC facility being located well below Annagher Road but at a level where there are other private dwellings to the southern and SE boundaries of the site.

Description of Proposal

The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the retention of 4 further chimney stacks to facilitate spraying within existing approved building. All flues to discharge 6 metres above the existing ridge line. (Amended description) (Revised Odour Impact Assessment received)

(proposed elevations)

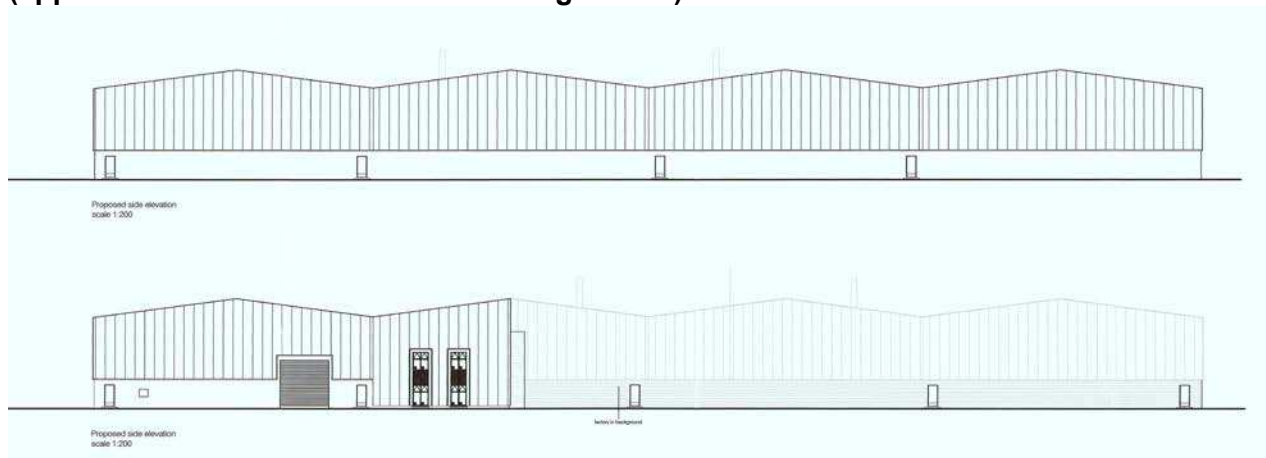


Planning Assessment of Policy and Other Material Considerations

The original planning permission for DMAC on this site (M/2011/0126/F) was approved by Mid-Ulster District Council on the 15th April 2015. The approved elevations (below) show 2 small flues on the side elevation.

In the EIA summary which accompanied the application it was stated that, in relation to potential air pollution, the company had developed an air filtration and purification system which were to remove any pollutants from air output. As of 2011 the system was stated as being in the 'final stages of commissioning'. The decision notice does not contain any conditions relating to odour management from the development.

(approved elevations for DMAC showing 2 flues)



An application for a non material change was submitted in 2016 (LA09/2016/1761/NMC) proposing 4 external flues. The decision of the Council was not to accept these alterations as being non-material. The current planning application followed. There is also an open enforcement case on the issue.

This application was originally submitted on the 3 Mar 2017 and was a being to relocate 2 chimney stacks under planning reference M/2011/0126/F with the addition of 2 further chimney stacks to facilitate spraying. The agents supporting statement described this as being necessary for the most efficient system to be installed on site. This original spec for the extraction system incorporated 4 extraction fans, double inlet centrifugal type. The exhaust stack was to terminate at a height of 3m above the apex of the building with an efflux velocity in excess of the minimum requirement of 15m/sec.

A consultation was issued to Environmental Heath (EHO) who returned a reply on the 3RD May 2017 seeking an odour assessment given a number of complaints which had already been received by the EHO department relating to odour and fumes. CMI planning indicated to the Council that this would be prepared by Irwin Carr and be submitted within 2 weeks.

A reminder was issued in Aug 2017 given the absence of the promised report. The report was received by the Council on the 14th Aug 2017 and issued to EHO for comments, as well as local objectors to the proposal. On the 18th Aug 2017 the case alerted CMI Planning that the flues were now extended and may not accord with the submitted application. CMI responded on the same day to state that the flues had indeed been extended to 3m above the ridge as opposed to 3m above the eaves of the building. CMI were further asked if this would have any bearing on

the recently submitted odour assessment report. In a reply on the 18th Aug 2017 CMI stated that the increased height would have no bearing on the results as 'it is the diameter of the pipe that gives the calculations. The increased height actually will reduce the area of turbulence'. Amended plans were uploaded to the portal on the 18th Aug 2017.

The EHO response to the above indicated that there may be anomalies between the inputs to the model and what is actually occurring on site. The response also indicated that odour complaints had been verified on site by members of EHO. In addition 2 further stacks had been identified on the building associated with an alleged additional spray booth.

In Jan 2018 CMI responded to amend the Odour assessment and alter the description of the proposal to refer to its present description, ie, proposing the retention of 4 additional stacks and the relocation of 2 originally approved with these discharging 6m above the buildings ridge line. A series of notification, further objection and re-consultation followed. I will go into detail on the nature of local objections later in this report. The EHO reply on 15/3/18 stated the odour report still indicates that the odour detected at the closest sensitive dwellings will be significantly below the 3ou/m³ target value set out in H4 Odour management. It also predicts that if the stacks were increased to 6m that this would lead to a decrease in odour levels from 0.93ou/m³ to 0.72. However, in continuing to receive complaints from spraying several officers from EHO are stated as having made visits and witnessed odour to be very strong on numerous occasions and that investigations have been carried out to eliminate any other source of odour (as claimed by CMI Planning), these investigations concluding that DMAC is the source of the odour. The EHO response concludes that as the odour model submitted predicts no odour impacts, and that given this is not the agreed on-site observation, that there are reservations as to the beneficial impact of only 3m in the stack heights. The applicant may therefore need to consider alternative means of odour abatement.

It is at this point the application has hit somewhat of a standstill. CMI planning it appears continues to question the EHO on-site observations and consequently the accuracy of their consultation replies. In early 2019, by which it is understood that the stack heights had been further extended to 6m, CMI was again asked to response to the outstanding position outlined by EHO. In April and May 2019 CMI wrote asking EHO to provide their site visits records for the purposes of cross-checking. On the 16 May 2019 CMI again indicated that they required a full explanation from EHO on their visit and observation dates.

A further EHO consultation (see below) issued on the 15th Oct 2019 is again challenged by CMI and refers to a later Odour report sent to them in Aug 2019 but which it is claimed has not been considered. In engaging with EHO it appears the Aug 2019 odour report is unknown to them and I do not see a record of it on file. What the agent is referring to is possibly a stack monitoring report submitted to EHO which the DMAC company are required to do to satisfy the Council under the PPC regime. Whilst these 2019 results show higher discharge velocities than the 2018 results, the Council have not been presented with an odour assessment with updated odour assessment with the figures requested (as per the 2018 report) which were considerably lower than 15 m/s.

Comments on Planning Application

15th October 2019

Proposal: The relocation of 2 chimney stacks approved under ref.M/2011/0126/F and the addition of 4 further chimney stacks To facilitate spraying within existing approved building

Location: 70m South of 177 Annagher Road, Dungannon

This application for relocation of 2 chimney stacks and the addition of an additional 2 stacks has been considered along with the submitted Irwin Carr Odour Impact Assessment dated 16th January 2018.

The Irwin Carr report uses AERMOD dispersion modelling to predict overall average impact of emissions from the existing facility using site specific inputs on odour emission rates, stack diameter, exit velocities etc. along with meteorological data and considers the impact at nearby residential properties over the previous 5 years. They concluded that the odour levels at all nearby receptors were significantly below the 3 ou/m³ whilst an increase of stack height by 3 metres (to 6 metres in total above ridge height) resulting in a 13.5 -23.5% reduction in odour levels at these receptors.

It is our understanding that the current stack heights are 6 metres above ridge height. Planners should satisfy themselves that this is the case.

The Environmental Health Department continue to receive odour complaints from nearby residential properties and officers have clearly observed these odours on a variety of occasions over the last few years.

A review of 2018 stack emissions testing undertaken by an independent company showed discharge velocities ranging from 9.4 – 1.2 m/s (3 of which returned discharge velocities <3 m/s) which are well below the 15 m/s discharge velocities used within Table 4 of the Irwin Carr report.

For this reason, we request that the odour assessment should be revisited using these measured inputs instead of theoretical values to establish if these produce figures more reflective of the situation witnessed at 3rd party receptors.

We would also request that new or additional mitigation measures be considered which will reduce the odour impact at nearby residential properties to further progress this application.

Policy Considerations.

The site is located in the countryside, on the edge of the settlement of Coalisland as defined by the current Dungannon Area Plan. The DMAC engineering business is now established here. My consideration of this proposal is therefore only concerned with the reposition and addition of the chimney stacks now on the building retrospectively. I don't see this proposal so much as an expansion of the premises in Policy PPS4 PED3 terms, but rather more a Policy PED9 test.

The SPPS in referring to Economic Development, Industry and Commerce, whilst recognising that economic development in the countryside, states:

6.87 The guiding principle for policies and proposals for economic development in the countryside is to facilitate proposals likely to benefit the rural economy and support rural communities, while protecting or enhancing rural character and the environment, consistent with strategic policy elsewhere in the SPPS.

6.91 All applications for economic development must be assessed in accordance with normal planning criteria, relating to such considerations as access arrangements, design, environmental and amenity impacts, so as to ensure safe, high quality and otherwise satisfactory forms of development.

Policy PED9 of PPS4.

A proposal for economic development use, in addition to the other policy provisions of this Statement, will be required to meet a number of criteria. Amongst these are 2 in particular which I feel require specific consideration not, namely:

(b) it does not harm the amenities of nearby residents;

(f) it is capable of dealing satisfactorily with any emission or effluent;

(m) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.

The Justification and Amplification of this Policy recognises that in making provision for economic development, and in considering proposals, the Department will seek to minimise adverse effects on the amenities of adjacent properties, particularly dwellings, and on natural and built heritage resources. Particular care will be taken to safeguard local, national and international natural heritage designations.

It is my view that this proposal does not satisfy Criteria (b) and (f) of PED9 in that the present failure of the developer to demonstrate that this development will not lead to a loss of amenity has indicated that the DMAC facility is not capable of dealing satisfactorily with emissions. The chimney stacks discharge rates appear well below the required standards which would assist with adequate dispersal. In relation to integration into the landscape, given the level differences between the DMAC factory and the approaching roads, I don't not share some of the concerns raised by objectors in this case on the visual impact of the extended flues. Whilst extending well above the factory roof I do not feel that these are excessive in relation to wider public aspect. On this basis I would adopt the view that the chimney stacks do not offend other rural policy, namely Policy CTY14 of PPS21 for example.

Consideration local objections.

There have been 8 objections received from properties at No 36 Washingbay Road, 181 Annagher Road, 160 Annagher Road, issues raised include:

1. The proposal, by transmitting air pollutants through the countryside including over arable lands / impacting on livestock / grazing, has been detrimentally impacting the air quality and residential amenity of nearby property
2. The previous permission for DMAC promised an air filtration system but to date this has failed to be delivered
3. The stacks have introduced a further visual impact and deterioration of rural character
4. The Council have a duty to protect / investigate nuisances including fumes emitted from premises under the Clean Neighbourhoods and Env Act (NI) 2011.
5. NI HSE are currently investigating the impacts and it is requested that the views of statutory bodies is sought.
6. That noise nuisance has increased from the factory
7. The proposal, by transmitting air pollutants through the countryside including over arable lands / impacting on livestock / grazing, has been detrimentally impacting the air quality and residential amenity of nearby property
8. The previous permission for DMAC promised an air filtration system but to date this has failed to be delivered
9. The stacks have introduced a further visual impact and deterioration of rural character

10. The Council have a duty to protect / investigate nuisances including fumes emitted from premises under the Clean Neighbourhoods and Env Act (NI) 2011.

11. The overall enjoyment of property is being effected on occasion by fumes by not being able to use my garden / relatives being unable to visit.

12. That to rely on computer generated modelling is of limited value. The presence of the 6 chimneys provides ample opportunity to use real air quality monitoring. A PAC decision, 2017/A0043 supports this view in terms of the weighting to be afforded to air dispersion modelling as opposed to real air samples.

I recognise and concur with many of the issues raised by residents. In reaching my recommendation I attach determining weight to these concerns when considered in conjunction with the on-site observations of EHO colleagues. The matter of noise concerns I feel relates to wider claimed issues associated with DMAC operations and not this specific proposal. I note that the HSENI in May 2017 advised the Council of an investigation into alleged paint fumes from the plant following a complaint from a member of the public and asked that the Council planning enforcement team further investigate and consider.

I fully appreciate that DMAC need a means of discharging emissions in the interests of the efficient and safe undertaking of the business, as stated within the agents supporting statement, this cannot however be at what appears to be the expense of the quality of residential amenity being experienced in the locality of the factory and as observed by EHO.

I refer back to the earlier promised means by which the company stated they would deal with emissions contained in the original approval for DMAC which it seems has not been incorporated into the factory. Given that the Council have not been presented with any other obvious alternative design solution or other means of demonstrating satisfactory compliance, and in considering the clear objections from EHO and local residents, my recommendation is to refuse permission for the reason set out below.

Neighbour Notification Checked

Yes

Summary of Recommendation: Refusal.

Reasons for Refusal: The proposal is contrary to the SPPS and Policy PPS4 PED9 in that it has not been satisfactorily demonstrated that the development will not lead to an unacceptable loss of amenity to nearby residents by way of odour and fumes.

Signature(s) M.Bowman

Date: 19th Jan 2021

ANNEX	
Date Valid	3rd March 2017
Date First Advertised	16th March 2017
Date Last Advertised	15th February 2018
Details of Neighbour Notification (all addresses) E Campbell 160 Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 4NF The Owner/Occupier, 177 Annagher Road Annagher Coalisland Martin and Kathleen Dooey 181 Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA Martin and Kathleen Dooey 181, Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA Martin Dooey 181, Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA J Campbell 183 Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA The Owner/Occupier, 185 Annagher Road Dernagh Coalisland Orlagh Campbell 197 Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA James Hughes 36 Washingbay Road, Coalisland, Tyrone, Northern Ireland, BT71 4PU James Hughes 36 Washingbay Road, Coalisland, Tyrone, Northern Ireland, BT71 4PU	
Date of Last Neighbour Notification	2nd February 2018
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2016/1761/NMC Proposal: Relocation of previously approved flue stacks Address: 70m South of 177 Annagher Road, Coalisland, Decision: CR Decision Date: Ref ID: LA09/2015/1278/NMC	

Proposal: Minor change to planning approval M/2011/0126/F: change of exterior cladding colour of the unit to green and change of roof pitch to accommodate overhead cranes

Address: 70m South of 177 Annagher Road, Coalisland,

Decision: CG

Decision Date:

Ref ID: LA09/2017/0319/F

Proposal: The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the addition of 2 further chimney stacks to facilitate spraying within existing approved building

Address: 70m South of 177 Annagher Road, Dungannon,

Decision:

Decision Date:

Ref ID: M/2014/0027/LDE

Proposal: The continued use of the land for the storage of industrial machinery, steel. portacabins and general industrial equipment

Address: Lands south of 177 Annagher Road, Coalisland,

Decision: PR

Decision Date:

Ref ID: M/2010/0631/Q

Proposal: Zoning of Industrial Lands

Address: Lands South of 177 Annagher Road, Coalisland

Decision:

Decision Date:

Ref ID: M/2011/0126/F

Proposal: Small rural industrial enterprise on land situated adjacent to existing settlement limit of Coalisland.

Address: 70m South of 177, Annagher Road, Coalisland,

Decision: PG

Decision Date: 29.04.2015

Ref ID: M/1986/0582

Proposal: EXTRACTION OF SAND

Address: ANNAGHER, COALISLAND

Decision:

Decision Date:

Ref ID: M/1987/0421

Proposal: SAND EXTRACTION

Address: ANNAGHER ROAD, ANNAGHER, COALISLAND

Decision:

Decision Date:

Ref ID: M/1989/0159

Proposal: Extraction of sand

Address: BEHIND 177 ANNAGHER ROAD ANNAGHER COALISLAND

Decision:

Decision Date:

Ref ID: M/2013/0464/LDE

Proposal: Works which were subject to conditions have not been carried out

Address: Lands south of 177 annagher Road, Coalisland,

Decision: PG

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
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Status: Submitted

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<p>Notification to Department (if relevant)</p> <p>Date of Notification to Department: Response of Department:</p>



Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2017/1366/F	Target Date:
Proposal: Residential Development for 52 units	Location: 20 Dungannon Road Cookstown
Applicant Name and Address: McKernan Construction Ltd Keenaghan Road Cookstown	Agent name and Address: Farran Architects 447 Ballyquin Road Dungiven BT47 4LX
Summary of Issues: <p>Further letters of objection and non-committal letters have been received since the application was last presented before the committee. The issues raised are as follows:</p> <ul style="list-style-type: none">- A procedurally incorrect approach to the Proposal of Application Notice.- Failure to have regard to the undecided planning appeal on a CLUD, which is a material consideration.- Failure to inform DfI Roads on the status of the planning history of the site.- Issue of Road Safety Audit.- Failure to address proliferation of accesses onto Dungannon Road.- Issues of natural heritage concern.- An approval will be prejudicial to an approved development for apartments on the opposite side of the road for I/2006/0760/F.- Questions if the previous approval on site has lawfully commenced.- Are there any concerns over the number of accesses on the Dungannon Road?- Questions the naming of the unlawful housing development.- Biodiversity concerns.- An objector states the P2C form was not served on the neighbouring landowners.- Capacity issues in the WWTW in Cookstown and the outdated response from NIW. <p>These will be addressed later in the report.</p>	

Summary of Consultee Responses:**DfI Roads:**

The layout and associated road improvement Works are subject to a Private Streets Determination. Conditions and informatives have been suggested for the inclusion in any planning approval

DfI Roads recommends prior to commencement of the development the stage 3 safety audit report is submitted to the Department for assessment/review.

NIEA:

NED find the proposal acceptable subject to a number of conditions seeking the retention of trees, hedgerows, submission of a lighting plan and no direct discharge of untreated surface water. They state in their consultation response in July 2021 that due to the particular circumstances of the case, an indicative plan for the site would be sufficient provided that the light spill on all boundaries were restricted to a 1.0 lux maximum.

Characteristics of the Site and Area:

The application site is within the development limits of Cookstown, as defined in the Cookstown Area Plan 2010. The site consists largely of agricultural fields with some old sheds still standing on the site. There is a mix of land uses around the site. To the northeast is Cookstown WWTW; to the north is Mid Ulster Cars. To the south is a petrol filling station, a builder's yard and agricultural fields. To the east lies the Ballinderry River and to the west is the Dungannon Road, with a mix of residential dwellings and businesses accessing off this road. The site falls away from the Dungannon Road.

Description of Proposal

This application is for a proposed residential development initially comprising of 84 units to supersede development approved under ref I/2006/1186/F. However, during the course of the application this has been reduced to and described only as a "Residential development for 52 units" with a significant reduction in the red line boundary of the site.

Deferred Consideration:

This application was deferred by the Planning Committee in July 2020 on account of a late objection received prior to the Committee meeting. It was agreed the issues in the letter should be addressed by the case officer before a decision could be reached on the application by Members.

A number of issues were raised in the letter by Inaultus which I shall address in turn.

1. A procedurally incorrect approach to the Proposal of Application Notice:

The Pre Application Community Consultation report included a copy of the advert placed in the Mid Ulster Mail and having considered the advert and both the

Planning Act (NI) 2011 (hereinafter “the Act”) and The Planning (Development Management) Regulations (NI) 2015 (hereinafter “the Regs”) I will now address the procedural issues. The Act places a statutory duty on applicants for planning permission to consult the community in advance of submitting a Major planning application.

The Act also requires the applicant to submit a “Proposal of Application Notice” (hereinafter “PAN”) at least 12 weeks in advance of submitting a planning application. A PAN (ref LA09/2017/0092/PAN) was submitted to MUDC on 23.01.2017. The PAN was deemed to be acceptable and confirmation was sent to the agent.

Subsequently the applicant submitted a full application under LA09/2017/1366/F on 3.10.2017 which is more than the requisite 12 weeks and a Pre Application Community consultation report was submitted with the application on 3.10.2017. “The Regs” state the prospective applicant must hold at least one public event in the locality of the proposed development where members of the public may make comments to the prospective applicant regarding the proposed development. The applicant must also publish a notice in a local newspaper circulating in the locality in which the proposed development is situated. Regulation 5 (2) (b) of “the Regs” state the notice must contain:

- i. A description of, and the location of, the proposed development;
- ii. Details as to where further information may be obtained concerning the proposed development;
- iii. The date, time and place of the public event;
- iv. A statement explaining how, and by when, persons wishing to make comments to the prospective applicant relating to the proposal may do so, and
- v. A statement that comments made to the prospective applicant are not representations to the Council or as the case may be the Department and if the prospective applicant submits an application there will be an opportunity to make representations on that application to the Council or as the case may be the Department at a later stage.

The advert placed in the Mid Ulster Mail did not address points (iv) and (v) above. Regulation 6 of “the Regs” prescribe a time period of 21 days for requesting additional information where s.27 of “the Act” may not have been complied with but we did not ask the applicant to address the anomaly in the advert.

Following the application being presented before the Committee in July 2020 legal advice was sought and the applicant was subsequently asked to submit a new PAN and carry out the necessary public consultation in accordance with the published Covid-19 Emergency Planning Guidance: Pre Application Community Consultation - Temporary Removal of Public Event Requirement. The applicant submitted a new PAN to MUDC, carried out community consultation and in my opinion has satisfied the Planning (Development Management) Regulations (NI) 2015.

2. Failure to have regard to the undecided planning appeal on a CLUD which is a material consideration:

I have addressed this in my previous report to the Committee. We are not giving any weight to the previous planning approval, which is on a larger site than that on which the current application sits. The PAC have issued a decision confirming the right turn lanes, indicated on an approved drawing, have not been marked out exactly in accordance with it. The Commissioner found the changes are de minimis and do not significantly affect the operation of the right turn lanes. The Commissioner found there was convincing documentary evidence that the road layout and markings were substantially completed within 5 years of the date of planning approval. The PAC have decided the requirements of condition 12 have been discharged and a CLEUD was attached to the decision.

3. Failure to properly inform DfI Roads on the status of the planning history of the site:

Representatives from DfI Roads who have been involved in the current planning application were present at the Planning Appeal in February this year and are fully appreciative of the planning history of the site.

4. Issue of Road Safety Audit

The objector has raised a concern that DfI Roads have requested a Road Safety Audit, which has not been sought. In the last response from DfI Roads, they have included a suggested condition, which requires the completion of a Stage 3 Safety Audit upon occupation of 26 units, and they require a Stage 4 Safety Audit included in the suggested condition.

5. Failure to address proliferation of accesses onto Dungannon Road.

At the CLUD appeal in February 2020 there was no dispute by any party that the right turn lanes close to the entrance to the subject housing development site have not been laid out exactly in accordance with the approved drawings. There are a number of access points along this part of the Dungannon Road and none have been provided in accordance with drawing 02K of I/2006/1186/F. However, the Planning Appeals commission has accepted this junction arrangement and issued a certificate of lawful development, which related to a larger development than what is now proposed.

The proposed access arrangements on Dungannon Road were not to the desired DRMB standard and DfI Roads agreed a Departure of Standards.

6. Issues of natural heritage concern.

We received a letter of objection from Dr James O'Neill in December, which raised issues of concern with surveys being required for bat, otter, lizard, badger and a Stage 2 HRA. Following consultation with Natural Environment Division of DAERA, they responded requesting additional information from the applicant.

Over the course of 6 months, we received additional information, which satisfied some of the concerns held by NED but not all of them.

Tetra Tech submitted a letter of objection in April 2021, which we forwarded to NIEA. Following several submissions from the applicant NED now find the proposal acceptable subject to a number of conditions seeking the retention of trees, hedgerows, submission of a lighting plan and no direct discharge of untreated surface water. They state in their consultation response in July 2021 that due to the particular circumstances of the case, an indicative plan for the site would be sufficient provided that the light spill on all boundaries were restricted to a 1.0 lux maximum.

The applicant and the neighbouring landowner are still in a dispute as to the ownership of some land within the red line of the site. The applicant has submitted a further P2 certificate and has served the requisite notice on neighbouring landowners. Any other matter of land ownership is a civil matter that is outside the remit of this planning application.

Additional letters of objection have been received to the application which raise the following issues:

- An approval will be prejudicial to an approved development for apartments on the opposite side of the road for I/2006/0760/F;
- Questions if the previous approval on site has lawfully commenced;
- Are there any concerns over the number of accesses on the Dungannon Road;
- Questions the naming of the housing development that is perhaps unlawful;
- NED issues
- The applicant did not serve a P2C form on the neighbouring landowners.

In response to the issues raised, Roads find the proposed access arrangements acceptable. The naming of a new street is outside the remit of the Planning application. Any issues with natural heritage and biodiversity have been address to the satisfaction of DfI Roads. The applicant says the neighbours were served with a P2C form and we take this at face value.

Following the PAC decision in which they decided the requirements of Condition 12 of I/2006/1186/F have been discharged the applicant laid foundations of two dwellings, which are currently under investigation, by the Enforcement team.

We received a further non-committal letter in August 2021 following neighbour notification from Inaultus. The letter refers to capacity issues in the WWTW in Cookstown and the outdated response from NIW on the issue. The letter assumes a position the response received from NI Water on 30 March 2020 is now outdated and a new consultation should be sent to NI Water to ascertain the current capacity for the proposed development.

I have contacted NI Water and following an exchange of emails they confirm the response is valid for 18 months though there may be room for extending this period depending on the circumstances. Therefore, there is currently capacity for the proposed development at the receiving WWTW.

Having considered all the additional information submitted and the objections raised since the deferral of the application in July 2020 there is no change in opinion and an approval is recommended subject to the conditions listed below.

Conditions:

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

Reason: As required by Section 61 of the Planning Act (NI) 2011

2. The structure of the proposed dwellings should be as specified on P.24 of the acoustic report as a minimum standard.

Reason: In the interests of residential amenity.

3. Prior to the occupation of any of the dwellings hereby permitted a suitable 1.8m acoustic barrier should be erected to the rear of dwellings numbers 40 to 52 as highlighted in drawing 02/6. Prior to the construction of the acoustic fencing full details shall be submitted to, and approved by the Council.

Reason: In the interests of residential amenity.

4. Prior to the occupation of any of the dwellings hereby permitted a second barrier of 2m height should be fitted to the rear of houses 1 to 4 to mitigate the noise from the filling station at these locations. Prior to the construction of the acoustic fencing full details shall be submitted to, and approved by the Council.

Reason: In the interests of residential amenity.

5. Dwellings 1 to 4 inclusive should be fitted with a whole house ventilation system to be specified by the acoustic consultant and agreed with planning to enable future residents to keep their windows closed in hot weather while maintaining requisite airflow and ventilation.

Reason: In the interests of residential amenity.

6. No development, with the exception of those portions of roads as shown on drawing number A1 02 Rev 6 "Proposed Layout", shall encroach upon lands

identified by NI Water and incorporated within NI Water's Cookstown Wastewater Treatment Works, Odour Assessment Based on On-site Monitoring, Feb 2018.

Reason: In the interests of residential amenity.

7. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by Mid Ulster District Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:

- The identification and evaluation of archaeological remains within the site;
- Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;
- Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and
- Preparation of the digital, documentary and material archive for deposition.

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

8. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 7.

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

9. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 7. These measures shall be implemented and a final archaeological report shall be submitted to Mid Ulster District Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Mid Ulster District Council.

Reason: To ensure that the results of archaeological works are appropriately analysed and disseminated and the excavation archive is prepared to a suitable standard for deposition.

10. All proposed works either temporary or permanent including fencing, drainage, private utilities or third party provisions should be kept within the site boundary as shown on drawing 17/6 date stamped 06 December 2019 ensuring all lands

required for the Cookstown By-Pass are not prejudiced by the proposed development.

Reason: To ensure protection of land required for the Cookstown By Pass as indicated on the area plan.

11. The vehicular access, including visibility splays of 2.4m x 90m at the junction of the proposed access road with the Dungannon Road, and any forward sight distance, shall be provided in accordance with Drawing No.17/6 bearing the date stamp 06 December 2019 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.

12. A stage 3 Safety Audit shall be carried out at the Right Turning Lane, 20 Dungannon Road, this should be completed to the approval of DFi Roads Authority in accordance with the Design Manual for Roads and Bridges, Standard GG119. Any recommendations/remedial works should be carried out prior to the erection of the dwellings hereby permitted.

Reason: In the interest of road safety.

13. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 17/6 bearing the date stamp 6 December 2019.

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

14. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number 17/6 bearing the date stamp 6 December 2019 The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

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

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

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

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

17. The vehicular access, including visibility splays of 2.4m x 33m at the access located at sites 30 and 31, and any forward sight distance, shall be provided in accordance with Drawing No. 17/6 bearing the date stamp 6 December 2019, 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.

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

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

19. No development activity shall commence until a Lighting Plan has been submitted to and approved in writing by the Planning Authority. The approved Plan shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority. The Plan shall include the following:

- a) Specifications of lighting to be used across the site.
- b) All measures to mitigate for the impacts of artificial lighting on bats and other wildlife, including low lighting levels to be used across the site.
- c) A map showing predicted light spillage across the site (isolux drawing).
- d) Boundary vegetation to be maintained free of illumination greater than 1.0 lux.

Reason: To minimise impacts on protected species, including bats and otters, and to preserve the biodiversity value of the adjacent habitat.

20. All existing trees and hedgerows, shall be retained and protected in accordance with British Standard 5837:2012 *Trees in relation to design, demolition and construction – Recommendations*. No retained tree or hedgerow shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree to be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Planning Authority. All works shall be carried out in accordance with British Standard 5837:2012 *Trees in relation to design, demolition and construction – Recommendations*.

Reason: To ensure the continuity of the biodiversity value afforded by existing trees and hedgerows.

21. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds.

22. There shall be no direct discharge of untreated surface water run-off during the construction and operational phases to the southern and/or eastern boundaries of the site.

Reason: To protect the Ballinderry river environment and downstream natural heritage interests including Lough Neagh Special Protection Area (SPA), Area of Special Scientific Interest (ASSI) and RAMSAR site.

Signature(s):

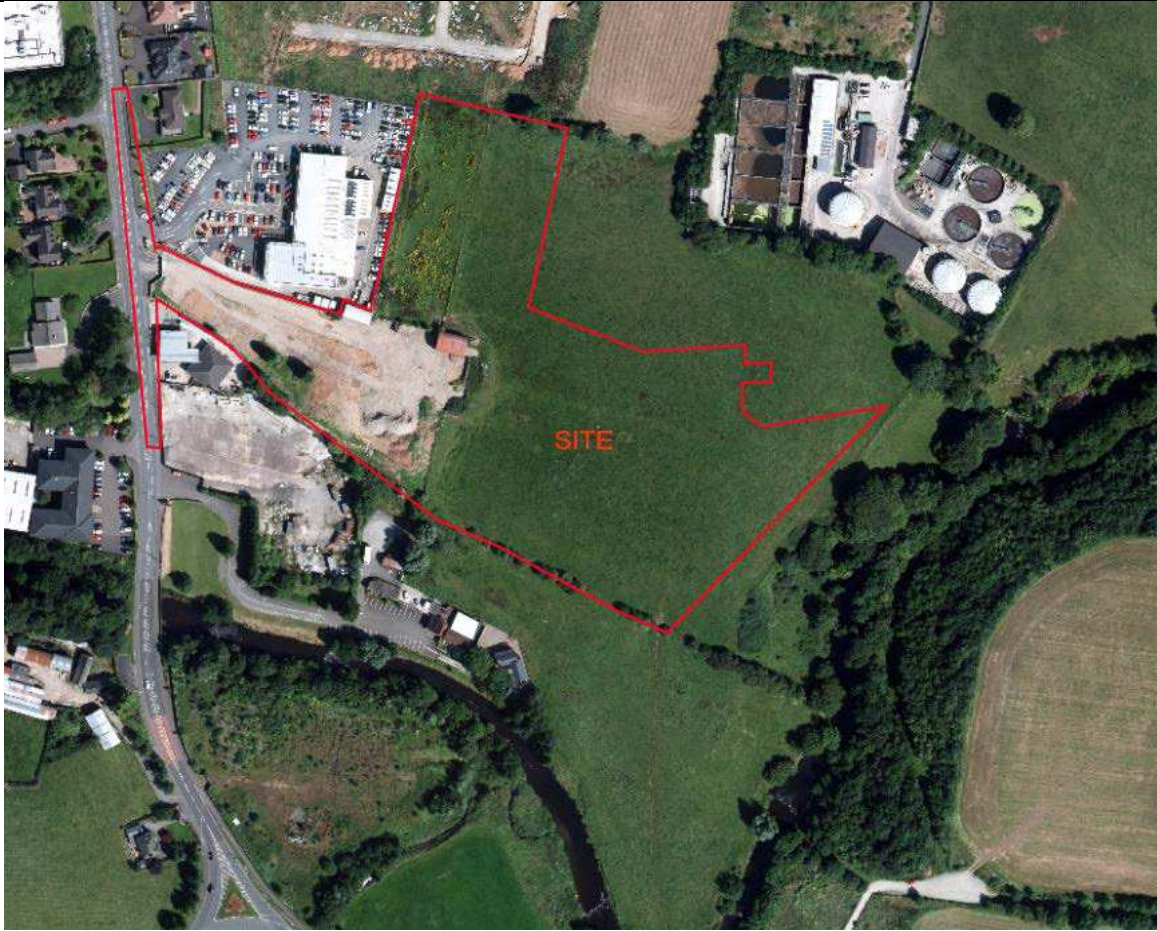
Date

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1366/F	Target Date:
Proposal: Residential development for 52 units	Location: 20 Dungannon Road, Cookstown
Referral Route: This is a Major planning application with objections.	
Recommendation: Approve	
Applicant Name and Address: McKernan Construction Ltd, Keenaghan Road, Cookstown	Agent Name and Address: Farran Architects, 447 Ballyquin Road, Dungiven, BT47 4LX
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Rivers Agency	Substantive Response Received
Statutory	NI Water - Multi Units West - Planning Consultations	Advice
Statutory	DFI Roads - Enniskillen Office	No Response
Statutory	NI Water - Multi Units West - Planning Consultations	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

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

Representations:

Letters of Support	None Received
Letters of Objection	8
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

There have been a number of objection letters received to this application which have raised the following issues:

- Potential for noise impact from the car sales and repairs at Mid Ulster Cars and the applicant has not submitted a noise impact assessment;
- There is a lack of reports for consideration of the application;
- Possible land contamination on the application site;
- The proposal of 84 dwellings will not result in a quality residential environment;
- The visibility splays are blocked by the totem pole;
- The internal road layout for the 84 units is not acceptable;
- There are issues and concerns with the TA;
- There is a potential odour nuisance for the 84 dwellings;
- The applicant does not own all the land within the red line and the P2 certificate is wrong;
- 3rd party land owners will not permit any rights or easements over their lands to facilitate the visibility splays or to facilitate any other aspect of the planning application;
- The access off the Dungannon Road is not suitable for a development of the proposed size and nature. An alternative access is available to the applicant off the Castle Road;
- The applicant has not submitted a biodiversity study and the application sits next to the Ballinderry River;
- The proposed site is within a WWTW consultation zone and will give rise to issues of odour nuisance;
- There is a potential impact on the existing petrol filling station from future noise complaints from the owners of the new dwellings;
- The applicant claims to have made a lawful start on I/2006/1186/F, however the access has not been constructed in accordance with planning conditions and therefore there is no "fallback" position;

- The access as constructed interferes with an approved access for a residential development to the south west of the application site which was approved under planning reference I/2006/0760/F for Mr J Anderson;
- There is a potential impact on natural heritage interests with a lack of necessary information;
- There are concerns with the completed biodiversity checklist.

Characteristics of the Site and Area

The application site is within the development limits of Cookstown, as defined in the Cookstown Area Plan 2010. The site consists largely of agricultural fields with some old sheds still standing on the site. There is a mix of land uses around the site. To the northeast is Cookstown WWTW; to the north is Mid Ulster Cars. To the south is a petrol filling station, a builder's yard and agricultural fields. To the east lies the Ballinderry River and to the west is the Dungannon Road, with a mix of residential dwellings and businesses accessing off this road. The site falls away from the Dungannon Road.

Description of Proposal

This application is for a proposed residential development initially comprising of 84 units to supersede development approved under ref I/2006/1186/F. However, during the course of the application this has been reduced to 52 units and a significant reduction in the red line boundary of the site.

Planning Assessment of Policy and Other Material Considerations

Regional Development Strategy
Cookstown Area Plan 2010
Strategic Planning Policy Statement
Mid Ulster District Council Local Development Plan 2030 Draft Strategy
Planning Policy Statement 2 - Natural Heritage
Planning Policy Statement 3 - Access, Movement and Parking
Planning Policy Statement 6 - Archaeology and the Built Environment
Planning Policy Statement 7 - Quality Residential Environments
Planning Policy Statement 15 - Planning and Flood Risk
Creating Places.

The applicant initially described the proposal as a residential development intended to supersede the approval under I/2006/1186/F for the demolition of existing dwelling and sheds and erection of a) 82 apartments b) 20 semi-detached dwellings and c) 47 terrace dwellings. We needed to consider the issue of whether this does indeed supersede the previous application needs as it implies that the previous development can still be erected on the basis that development has commenced.

The applicant responded by changing the description of the application to remove reference to superseding the previous permission and replacing it with "Proposed residential development of 52 units". As there is a dispute whether the previous permission could be implemented I would advise the Committee to consider the proposal

afresh taking into account the previous history and other material considerations but not to assume there is a fallback position with regards to the previous permission.

Planning permission was granted for the “Demolition of existing dwelling and sheds and erection of a) 82 apartments b) 20 semi detached dwellings _ c) 47 terrace dwellings” on 18 May 2012. However this cannot proceed because the applicant has not been able to provide the visibility splays as required under that permission and there are difficulties in the location and close proximity to the WWTW.

The Committee should note a Certificate of Lawful Development was submitted by the applicant to say that works required to comply with conditions 8, 9, 10 and 11 of LA09/2018/0305/LDE, which essentially comprised of engineering operations to provide the visibility splays and road access into the approved development. A subsequent application for a Certificate of Lawful Development was submitted by a third party under LA09/2019/0707/LDE on 23 May 2019 for the discharge of condition 12 of I/2006/1186/F. This prohibits this development from commencing until the works necessary for the improvement of a public road, including the provision of the right turning lane are in place. This is before the Planning Appeals Commission but the Council took the view at the hearing it could not be discharged as it could not be met with regards to the layout of the right turn lane. We are awaiting a decision from the PAC, however, as this is a new application the decision would have little bearing on the current application.

In relation to the issues raised by objectors these are dealt with in the consideration of the policy requirements.

Quality Residential Environment:

All proposals for residential development will be expected to conform to all of the following criteria listed in PPS 7, Policy QD 1:

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

The proposed site sits in an area comprised of a mixture of commercial and residential uses as well as agricultural. This is not zoned land in the area plan and is white land. The proposed development is for 52no. two and three storey dwelling houses, including detached, semi-detached and terraced dwellings with an area of open space centrally located. The houses are to be finished in either red brick or with a natural stone finish. The development proposed is a much lower density than that previously approved under I/2006/1186/F, which encompassed the red line of this current planning application. Mid Ulster Cars abuts a northern and western boundary of the site. The drawings show a 1.8m high acoustic fence along this boundary as well as additional tree planting. The landscaped green area is centrally located with at least 17 houses fronting onto the area so there will be good surveillance over the area of open space. There is also a proposed kick about

area in the northern part of the site, which is directly overlooked by 6 dwellings.

The proposal satisfies PPS 15. The Strategic Flood Map (NI) indicates that the site does not lie within the 1 in 100 year fluvial flood plain. Consequently, DfI Rivers have confirmed they cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective. Upon receipt of amended P2 form, P2A Form and confirmation of the application description for 52 residential dwellings I re-consulted Rivers Agency and they have responded stating their response of 25 February 2019 remains the same.

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

PPS 6 recognises archaeological remains as a limited, finite and non-renewable resource. Appropriate management is therefore essential to ensure that they survive in good condition. In particular, care must be taken to ensure that they survive in good condition and care must be taken to ensure that archaeological remains are not needlessly or thoughtlessly damaged or destroyed.

The application site is located on the edge of Cookstown, on land next to the Ballinderry River. It is also located in the historic demesne of Killymoon. The Ballinderry River is one of the main rivers that run towards Lough Neagh and there are a large number of archaeological sites and historic monuments recorded along the river particularly close to Cookstown and this application site. These include a Neolithic court tomb (TYP 38:32) and prehistoric standing stone (TYR 38:18) located to the north-east of the application site.

A Bronze Age occupation site was uncovered within the townland of Killymoon Demesne (TYR 29:66) in advance of development associated with the Killymoon golf course. This included the remarkable find of gold dress fastenings that are now on display in the Ulster museum. These sites suggest that the Ballinderry River was important to prehistoric people and further occupation evidence could be uncovered as development occurs close to the river. As such, archaeological mitigation is required in advance of site works at this location.

Should approval be granted for the proposed development HED: Historic Monuments request the agreement and implementation of a developer-funded programme of archaeological works. This is to identify and record any archaeological remains in advance of new construction, or to provide for their preservation in site, as per Policy BH 4 of PPS 6. Upon receipt of amended P2 form, P2A Form and confirmation of the application description for 52 residential dwellings, I re-consulted HED whose position remains the same.

c) Adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where

appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;

As I previously referred to the drawings show an area of centrally located public open space and a kick about area in the northern part of the proposed development. The site area now measures 3.5 hectares of which 10% open space measures at a requirement of 3,500 square metres. When the areas of the centrally located area of open space (excluding the pond) and the kick about area are added together they measure c.9% of the total revised site area. Creating places requires 10% open space areas of the overall site area. The average garden size is well in excess of the required 70 square metres with no garden less than 70 square metres. In this context, I am content to accept public open space provision that is less than that recommended in Creating Places. The proposed site plan shows new landscape boundary planting along the majority of the boundaries to the site.

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

It is not necessary for a development of this size to make provision for local neighbourhood facilities. In the immediate vicinity of the application site is a large Asda supermarket, fast food restaurants and other local shops.

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

The proposed development provides for a movement pattern that supports walking and cycling. There are no known public rights of way across the proposed application site. There are various pedestrian crossing points and traffic calming measures located throughout the site. There are two bus stops within a very short walking distance to the north of the site on the Dungannon Road.

f) Adequate and appropriate provision is made for parking;

DfI Roads have assessed the proposed layout including parking provision and are content with the proposal subject to a number of conditions. This also addresses the requirements of PPS 3.

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

The proposed dwellings are designed at either 2 or 2.5 storey in height and finished in a mix of either red brick or local sandstone. There is a mix of land uses in the area comprising both commercial and residential. There is also a mix of house types, styles and finishes. It is my opinion that the design of the proposed dwellings is not out of character with the local area.

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

I have no concerns with regards to overlooking, loss of light or overshadowing. There are some commercial uses abutting the proposed residential dwellings and the proposal has reduced in size to take account of the existing WWTW. The applicant submitted a noise report and consultation was carried out with EHD. Following an extensive exchange of reports and additional information, the agent was advised that concerns remained with the proximity of the WWTW and the possible undesirable environment for the future residents. Subsequently the applicant reduced the size of the proposed development.

NI Water has considered the revised housing layout. NIW previously held concerns regarding dis-amenity that might be experienced as a result of development in proximity to Cookstown WWTW and these are now removed following the submission of an amended layout and reduced site area. The revised housing layout complies with the limit of development encroachment upon the WWTW. This is confirmed through the accepted super-positioning of the agreed odour risk area upon the relevant development layout proposal. Upon receipt of amended P2 form, P2A Form and confirmation of the application description for 52 residential dwellings, I re-consulted NIW whose advice remains unchanged.

- i) The development is designed to deter crime and promote personal safety;**

The proposed development provides a high level of surveillance for the areas of open space. I have no concerns with regards to crime and personal safety.

Access

In looking at the access into the site the Committee's attention is drawn to the fact that the access is marginally different to that approved historically under I/2006/1186/F. The primary reason for this is to overcome the issue of visibility splays in that this current proposal requires a smaller visibility splay of 2.4m x 90m as advised by DfI Roads. This in effect means that the totem pole placed by the neighbouring petrol filling station no longer interferes with the now required visibility splay.

In relation to the other issues of access, DfI Roads have advised it is acceptable. Mid Ulster Cars sent in a report detailing how access to the site in a report entitled "Review of Developer Traffic and Transport Submission" will be made much more difficult for customers and delivery of vehicles. However, DfI Roads have advised the access, as shown, is acceptable subject to a number of conditions. A Private Street Determination was submitted by the applicant and DfI Roads have confirmed that under The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992 the road will be adopted subject to the conditions listed below.

Upon receipt of amended P2 form, P2A Form and confirmation of the application description for 52 residential dwellings I re-consulted DfI Roads. Their position largely remained unchanged from before. Further consideration was given to the need for Safety Audits both the stage of audit required and the timing of its submission. Included in the conditions listed below is the need for a Stage 3 Road Safety Audit upon the occupation of 26 units and a Stage 4 Audit is also listed under the conditions.

Natural Heritage

PPS 2 acknowledges that the public interest requires that all development is carried out in a way that would not cause demonstrable harm to interests of acknowledged importance, such as natural heritage.

Policy NH 1 of PPS 2 states that planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on a European Site or a listed or proposed Ramsar. The application site is in close proximity to Upper Ballinderry River Area of Special Scientific Interest (ASSI)/Special Area of Conservation (SAC) which is hydrologically connected to Lough Neagh Special Protection Area (SPA)/RAMSAR/ ASSI and Lough Beg SPA/RAMSAR (hereafter referred to as the designated sites) which are of international and national importance and are protected by Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and The Environment (Northern Ireland) Order 2002. Natural Environment Division (NED) has considered the impacts of the proposal on designated sites and other natural heritage interests and, based on the information provided, has no concerns subject to conditions.

Policy NH 5 states that planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to:

- Priority habitats;
- Priority species;
- Active peatland;
- Ancient and long-established woodland;
- Features of earth science conservation importance;
- Features of the landscape which are of major importance for wild flora and fauna;
- Rare or threatened native species;
- Wetlands (includes river corridors); or
- Other natural heritage features worthy of protection.

Given the close proximity to the Ballinderry River and the presence of extensive riparian habitat, the site provides optimal habitat for bats to forage and commute. NED recommends that the applicant utilise bat sensitive lighting across the site to minimise the impact of the proposal on bats.

From the information available to NED, they are content that the site is unlikely to contain any habitats that are considered a Northern Irish Priority Habitat. The adjacent river and the associated riparian habitat NED would advise that the applicant utilise native species of trees and shrubs as part of the proposed planting.

Shared Environmental Services concluded that having considered the nature, scale, timing, duration and location of the project further assessment is not required because it would not have a likely significant effect on the selection features, conservation objectives or status of any European site. The potential impact of this proposal on Special Protection areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (NI) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site.

Upon receipt of amended P2 form, P2A Form and confirmation of the application description for 52 residential dwellings, I re-consulted Shared Environmental Services and NIEA. Shared Environmental Services, having considered the nature, scale, timing, duration and location of the project concluded a further assessment was not required because it would not have a likely significant effect on the selection features, conservation objectives or status of any European Site. The proposed layout offers a natural land buffer of at least 30 metres from the red line boundary to the Ballinderry River as measured on GIS maps. This is in excess of the 10-metre land buffer required by NIEA in their consultation response in October 2019. NIEA stated they had no additional comment to make and reiterated their position in October 2019.

Consideration of objections

I outlined the objections at the top of this report and I advise the Members to consider all of these in light of my following observations on the issues raised as follows.

A number of the issues raised in the objection letters have been addressed through the submission of additional information and amended drawings. The site has been reduced in size, which has seen a reduction in the number of proposed dwellings down from 84 to 52 units. The houses sited within the odour zone have been removed and there are no longer any odour concerns with the proposed 52 dwellings. I will address the remaining issues below:

Ownership of land:

The applicant has submitted an amended P2 certificate together with P2A forms with notice served on DfI Roads Service, Mid Ulster Cars (T J Hamilton) and ES Cookstown 1719 petrol filling station. Any other matter of land ownership is a civil matter that is outside the remit of this planning application.

Noise:

An acoustic report was submitted on 13 November 2019 and EHD were consulted on this report.

Access and roads:

The access to the site with the reduced visibility splays has been assessed by DfI Roads who find the proposal acceptable in its current form. DfI Roads recommends a Stage 3 Road Safety Audit should be completed on occupation of 26 units and to the approval of DfI Roads. The totem pole is no longer in the line of the now shorter required visibility splays.

The layout and associated road improvement Works are subject to a Private Streets Determination. Conditions and informatives have been suggested for the inclusion in any planning approval.

Biodiversity:

The issue of fall back was addressed earlier in the report and members are advised planning history is a material consideration, but not to give it any determining weight to the argument that there is a fallback position for developing all of the approved houses on the site under I/2006/1186/F.

On 21 May 2020 NIEA were notified of a letter of objection received from a 3rd party, which raised concerns with regards to biodiversity and natural heritage. Their response was due on 11 June and despite a number of requests to speak to the case officer in NIEA and a reminder letter we have not received a response to the issues raised. It is considered reasonable to consider the previous responses from NIEA, which have not requested the submission of additional surveys. NIEA were previously made aware of the concerns of the 3rd party on behalf of an objector, which sought the submission of surveys for bats, otters, lizards, badgers and a Stage 2 Habitats Regulations Assessment.

Fallback position:

The right turn lane is not constructed as per the approved drawings of I/2006/1186/F. Given that no application was submitted for an amendment to the approved right turn lane, together with the fact that DfI Roads do not feel the condition can be discharged, the Council is of the view that it has not yet been demonstrated that the access is lawful and there is no fall back position.

Lack of information:

Where information was identified by either the Planning Department or any of the consultees the necessary reports were requested from, and submitted by, the applicant. I consider that all the required information has been submitted and assessed accordingly.

Contamination:

Environmental Health Department have not raised contamination as an area of concern.

Neighbour Notification Checked

Yes

Summary of Recommendation:

It is recommended to the Committee that this application be approved subject to the conditions listed below.

Conditions:

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

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

2. The structure of the proposed dwellings should be as specified on P.24 of the acoustic report as a minimum standard.

Reason: In the interests of residential amenity.

3. Prior to the occupation of any of the dwellings hereby permitted a suitable 1.8m acoustic barrier should be erected to the rear of dwellings numbers 40 to 52 as highlighted in drawing 02/6. Prior to the construction of the acoustic fencing full details shall be submitted to, and approved by the Council.

Reason: In the interests of residential amenity.

4. Prior to the occupation of any of the dwellings hereby permitted a second barrier of 2m height should be fitted to the rear of houses 1 to 4 to mitigate the noise from the filling station at these locations. Prior to the construction of the acoustic fencing full details shall be submitted to, and approved by the Council.

Reason: In the interests of residential amenity.

5. Dwellings 1 to 4 inclusive should be fitted with a whole house ventilation system to be specified by the acoustic consultant and agreed with planning to enable future residents to keep their windows closed in hot weather while maintaining requisite airflow and ventilation.

Reason: In the interests of residential amenity.

6. No development, with the exception of those portions of roads as shown on drawing number A1 02 Rev 6 "Proposed Layout", shall encroach upon lands identified by NI Water and incorporated within NI Water's Cookstown Wastewater Treatment Works, Odour Assessment Based on On-site Monitoring, Feb 2018.

Reason: In the interests of residential amenity.

7. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by Mid Ulster District Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:
 - The identification and evaluation of archaeological remains within the site;
 - Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;
 - Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and
 - Preparation of the digital, documentary and material archive for deposition.

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

8. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 7.

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

9. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 7. These measures shall be implemented and a final archaeological report shall be submitted to Mid Ulster District Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Mid Ulster District Council.

Reason: To ensure that the results of archaeological works are appropriately analysed and disseminated and the excavation archive is prepared to a suitable standard for deposition.

10. A suitable buffer of at least 10m must be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery.

Reason: To minimise the impact of the proposal on natural habitat.

11. There shall be no direct discharge of untreated surface water run-off during the construction and operational phase to the Ballinderry River.

Reason: To minimise the impact of the proposal on natural habitat.

12. All proposed works either temporary or permanent including fencing, drainage, private utilities or third party provisions should be kept within the site boundary as shown on drawing 17/6 date stamped 06 December 2019 ensuring all lands required for the Cookstown By-Pass are not prejudiced by the proposed development.

Reason: To ensure protection of land required for the Cookstown By Pass as indicated on the area plan.

13. The vehicular access, including visibility splays of 2.4m x 90m at the junction of the proposed access road with the Dungannon Road, and any forward sight distance, shall be provided in accordance with Drawing No.17/6 bearing the date stamp 06 December 2019 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.

14. A stage 3 Safety Audit shall be carried out at the Right Turning Lane, 20 Dungannon Road, this should be completed on occupation of 26 units and to the approval of DfI Roads Authority in accordance with the Design Manual for Roads and Bridges, Standard GG119. Any recommendations/remedial works should be carried out in agreement with DfI Roads Authority.

A stage 4 Safety Audit shall be carried out at the Right Turning Lane, 20 Dungannon Road, this should be completed to the approval of DfI Roads Authority in accordance with the Design Manual for Roads and Bridges, Standard GG119. Any recommendations/remedial works should be carried out in agreement with DfI Roads Authority.

Reason: In the interest of road safety.

15. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 17/6 bearing the date stamp 6 December 2019

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

16. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number 17/6 bearing the date stamp 6 December 2019 The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

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

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

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

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

19. The vehicular access, including visibility splays of 2.4m x 33m at the access located at sites 30 and 31, and any forward sight distance, shall be provided in accordance with Drawing No. 17/6 bearing the date stamp 6 December 2019, 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.

20. No dwellings shall be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of the development.

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

Signature(s)

Date:

ANNEX	
Date Valid	3rd October 2017
Date First Advertised	19th October 2017
Date Last Advertised	26 th November 2019
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Glenwood Crescent, Cookstown, BT80 8XU Michael G Rogers RIBA, 1, Mountsandel Road, Coleraine, Londonderry, Northern Ireland, BT52 1JB The Owner/Occupier, 12 Dungannon Road Cookstown Tyrone The Owner/Occupier, 14 Dungannon Road, Cookstown, Tyrone, BT80 8TL The Owner/Occupier, 15 Dungannon Road, Cookstown, Tyrone, BT80 8TL Inaltus Ltd, 15 Cleaver Park, Belfast, Antrim, Northern Ireland, BT9 5HX The Owner/Occupier, 17-19 Dungannon Road, Cookstown, Tyrone, BT80 8TL The Owner/Occupier, 18 Dungannon Rd, Cooktown, Tyrone, BT80 8TL The Owner/Occupier, 2 Glenwood Crescent, Cookstown, BT80 8XU The Owner/Occupier, 22 Dungannon Road, Cookstown, Tyrone, BT80 8TL The Owner/Occupier, 3 Glenwood Crescent, Cookstown, BT80 8XU Mervyn Keegan, Director, AONA Environmental Consulting Ltd, Unit 8a, Northwest Business Park, Sligo Nigel McGurk EMAIL Mervyn Keegan, ENVEST, AONA Environmental Consulting Ltd, Unit 8A, Northwest Business Park, Sligo, Ireland Eamonn Loughrey, Inaltus Ltd, 15a Cleaver Park, Malone Road, Belfast, BT9 5HX The Owner/Occupier, Maxol Filling Station, Dungannon Road, Cookstown, Co. Tyrone Emma Quinn, McAleer Contracts Ltd, 130A Drum Road, Cookstown, BT80 9DN	
Date of Last Neighbour Notification	25 February 2020
Date of EIA Determination	23/01/2020
ES Requested	No
Planning History Ref ID: LA09/2016/0643/NMC Proposal: Minor Alterations to Previously Approved Housing Development I/2008/0773/F Address: Adjacent to Castle Road and to the Rear of 1-13 Castle Road and 6-12 Dungannon Road, Cookstown, Decision: CG Decision Date: Ref ID: LA09/2017/0092/PAN Proposal: Residential Development Address: 20 Dungannon Road, Cookstown, Decision: PANACC	

Decision Date:

Ref ID: LA09/2017/0270/DC

Proposal: Removal of condition No.2 of Planning permission I/2006/1186/F

Address: Site at 20 Dungannon Road, (Brookmount House) Cookstown,

Decision: AL

Decision Date:

Ref ID: LA09/2016/1143/PAD

Proposal: Residential Development, with commercial, retail and office units and amended roads detail (amended description)

Address: Site at 20 Dungannon Road, Cookstown (Brookmount House) and adjacent Lands to the East,

Decision:

Decision Date:

Ref ID: LA09/2017/1366/F

Proposal: Proposed residential development comprising of 84 units to supersede development approved under ref I/2006/1186/F

Address: 20 Dungannon Road, Cookstown,

Decision:

Decision Date:

Ref ID: LA09/2016/0718/F

Proposal: Application to alter conditions No.7,8,9,10 and 14 of permission I/2008/0773/F

Address: Castle Road, Cookstown,

Decision: PG

Decision Date: 29.06.2016

Ref ID: LA09/2017/0255/NMC

Proposal: Minor change to site 1 dwelling and access moved to accommodate existing underground public storm water pipe

Address: Residential Development, adjacent to Castle Road and rear of 1-13 Castle Road and 6-12 Dungannon Road, Cookstown,

Decision: CG

Decision Date:

Ref ID: LA09/2017/1133/DC

Proposal: Discharge of condition 6 on I/2008/0773/F

Address: Site adjacent to Castle Road, Cookstown and to the rear of 1-13 Castle Road and 6-12 Dungannon Road,

Decision: AL

Decision Date:

Ref ID: I/2004/0781

Proposal: Housing development

Address: Land at Dungannon Road, Cookstown

Decision:

Decision Date:

Ref ID: I/2006/1186/F

Proposal: Demolition of existing dwelling and sheds and erection of a) 82 apartments b) 20 semi detached dwellings _ c) 47 terrace dwellings

Address: Site at 20 Dungannon Road, Cookstown (Brookmount House) and adjacent Lands to the East

Decision:

Decision Date: 18.05.2012

Ref ID: I/1999/0313

Proposal: Site for housing with provision of access road

Address: 20 Dungannon Road Cookstown

Decision:

Decision Date: 15.01.2001

Ref ID: I/2003/1165/CD

Proposal: Replacement Waste Water Treatment Works for Storm and Foul Sewage.

Address: Cookstown Wastewater Treatment Works, Castle Road, Cookstown.

Decision:

Decision Date: 04.05.2005

Ref ID: I/1997/0426

Proposal: Improvements to existing Sewage Disposal Works

Address: Cookstown Sewage Treatment Works, Castle Road, Cookstown

Decision:

Decision Date: 31.01.2001

Ref ID: I/2009/0417/F

Proposal: Construction of access road to link proposed housing development (Application Ref: I/2006/1186/F) with Castle Road and to include road improvements/road re-alignment across the Castle Road frontages of No's 2, 4, 6, 8, 10, 12, 13, 14, 16, 18, 20, 22, 24, 28, 28A, 30, 33, 35, 41, 41A, 51, 51A & 58 Castle Road. (Revised drawings and planning application form)

Address: Site at 20 Dungannon Road, Cookstown (Brookmount House) plus adjacent lands to the east and Castle Road, Cookstown.

Decision: PG

Decision Date: 06.06.2013

Ref ID: I/2008/0773/F

Proposal: Proposed residential development comprising detached dwellings, semi detached dwellings and townhouses, associated landscaping, site works and upgrading of Castle Road (as per previous approval I/2001/0862/F) (total 67 units).

Address: Site adjacent to Castle Road, Cookstown and to the rear of 1-13 Castle Road and 6-12 Dungannon Road

Decision: PG

Decision Date: 23.10.2014

Ref ID: I/2013/0170/F

Proposal: Proposed extension to car showroom

Address: 18 Dungannon Road, Cookstown,

Decision: PG

Decision Date: 20.08.2013

Ref ID: LA09/2015/1259/NMC

Proposal: Amendment to extent of area coloured red on private streets determination (PSD) drawing stamped approved drawing No98 (Lisbane consultants reference Dwg No 12-012-H10c)

Address: Site adjacent to Castle Road, Cookstown and to the rear of 1-13 Castle Road and 6-12 Dungannon Road, Cookstown,

Decision: CG

Decision Date:

Ref ID: LA09/2016/0266/O

Proposal: Bedroom and Ancillary Accommodation

Address: 26 Dungannon Road, Cookstown,

Decision: PG

Decision Date: 11.07.2016

Summary of Consultee Responses

HED Historic Monuments:

Has considered the impacts of the proposal and is content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. This is to identify and record any archaeological remains in advance of new construction, or to provide for their preservation in site, as per Policy BH 4 of PPS 6. They have attached conditions they wish to be included should approval be granted.

DAERA:

Natural Environment Division:

Has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to recommendations.

Rivers Agency:

The Drainage Assessment indicates the storm water system will be adopted by NIW, therefore NIW will be responsible for checking design calculations, adoption and maintenance of the system. Therefore DfI Rivers, while not being responsible for the preparation of the Drainage Assessment, accepts its logic and has no reasons to disagree with its conclusions. Consequently, DfI Rivers cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective. The Strategic Flood Map (NI) indicates that the site does not lie within the 1 in 100 year fluvial flood plain.

Shared Environmental Services:

Having considered the nature, scale, timing, duration and location of the project it is concluded that further assessment is not required because it would not have a likely significant effect on the selection features, conservation objectives or status of any European site. The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with

the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (NI) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site.

DfI Roads:

The layout and associated road improvement Works are subject to a Private Streets Determination. Conditions and informatives have been suggested for the inclusion in any planning approval

DfI Roads recommends prior to commencement of the development the stage 3 safety audit report is submitted to the Department for assessment/review.

NI Water:

NI Water has considered the revised housing layout and their previously held concerns regarding dis-amenity that might be experienced as a result of development in proximity to Cookstown WWTW are now largely removed. The revised housing layout complies with the limit of development encroachment upon the WWTW. This is confirmed through the accepted super-positioning of the agreed odour risk area upon the relevant development layout proposal.

NI Water is content to provide a qualified support to the application and is qualified on the following basis:

- The proposed layout of the dwellings is not amended;
- MUDC should satisfy itself as to the implications of the kick about space being located within the agreed odour risk areas;
- That all references, detailing or associations with previous proposal to develop within the agreed odour risk area have been expunged from all of the relevant approval documentation.

A condition has been suggested by NI Water as outlined in the conditions below. This is for the purpose of ensuring compatibility of the development with the operation of the existing and adjacent Cookstown Wastewater Treatment Works and its associated sludge processing activity. This is to ensure there is no detriment to residential amenity or constrain on public wastewater service provision.

Environmental Health Department:

A number of objections to this application were received relating to potential noise disturbance to occupants of the new dwellings. Since this date a noise assessment has been submitted in support of this application by Grainger Acoustics dated 13th November 2019.

Further to this report the Environmental Health Service would recommend the inclusion of a number of conditions. Upon receipt of amended P2 form, P2A Form and confirmation of the application description for 52 residential dwellings I re-consulted

Enivonmental Health. They have responded stating they have no additional comments to make and their recommendations outlined in their reply of 2 December 2019 remain.

Drawing Numbers and Title

Drawing No. 01/1

Type: Site Location Plan

Status: Submitted

Drawing No. 02/6

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03/1

Type: Site Appraisal or Analysis

Status: Submitted

Drawing No. 04/1

Type: Housing Concept Plan

Status: Submitted

Drawing No. 05

Type: Proposed Plans

Status: Submitted

Drawing No. 06

Type: Proposed Plans

Status: Submitted

Drawing No. 07

Type: Proposed Plans

Status: Submitted

Drawing No. 08

Type: Proposed Plans

Status: Submitted

Drawing No. 09

Type: Proposed Plans

Status: Submitted

Drawing No. 10

Type: Proposed Plans

Status: Submitted

Drawing No. 11

Type: Proposed Plans

Status: Submitted

Drawing No. 12/5

Type: Landscaping Plan

Status: Submitted

Drawing No. 13
Type: Existing Plans
Status: Submitted

Drawing No. 14/4
Type: Road Access Plan
Status: Submitted

Drawing No. 15/1
Type: Cross Sections
Status: Submitted

Drawing No. 16/1
Type: Cross Sections
Status: Submitted

Drawing No. 17/6
Type: Roads Details
Status: Submitted

Drawing No. 18
Type: Technical Details
Status: Submitted

Drawing No. 19
Type: Cross Sections
Status: Submitted

Drawing No. 20
Type: Drainage Layout
Status: Submitted

Notification to Department (if relevant)

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



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	
Case Officer: Phelim Marrion	
Application ID: LA09/2018/1648/F	Target Date: <add date>
Proposal: Retention of open-sided storage building	Location: Creagh Concrete Products Ltd Blackpark Road Toomebridge
Applicant Name and Address: Creagh Concrete Products Ltd Blackpark Road Toomebridge BT42 3SL	Agent Name and Address: Gemma Jobling JPE Planning 1 Inverary Valley Larne BT40 3BJ
Summary of Issues: <p>This application is for retention of an aggregate store associated with a larger industrial site. An objection has been received, on behalf of the Estate of Cassie Diamond which one of the Planning Officers in the Councils Planning Department has an interest in. The objection questions the ownership of the land, processing of the application in relation to the submission of land ownership certificates and advertising of the development as well as contravening the European Convention on Human Rights. Parties have been afforded the opportunity to submit views on the landownership issue and comment on each others views. Additional objections have been received from Mrs Teresa Brown and Ms Patricia Stuart which raise similar issues to those already raised. Solicitors acting for the objectors have been afforded the opportunity to comment on the submissions and have queried the impartiality of the case officer in dealing with the application. Concerns have been raised in relation to Council meetings during the Pandemic.</p>	
Summary of Consultee Responses: DFI Rivers - development not inside 1 in 100 year flood area	

Characteristics of the Site and Area:

The application site is part of the larger Creagh Concrete Products manufacturing site at the Creagh. The site contains a mono-pitched roof building which is 6.9m to the front and 5.3m to the rear. The roof is finished with a profiled metal finish, it is open to the north and has concrete panels to the side and partially to rear. The upper part of the rear elevation is open with netting at the top. The building is located close to the site boundary which is post and wire fencing with an agricultural field beyond. Access to the building is through the existing concrete works where there are a number of large buildings, cranes and open storage areas..

Description of Proposal

The proposal is for the retention of the open sided building, it is 33.7m long and 11.9m deep, it has a monopitched roof which is 6.9m to the front and 5.3m to the rear. The building is open to the front and has concrete panel walls to the sides and up to 3.3m at the rear. The remainder of the rear walling is black netting. The building is used to store aggregates.

Deferred Consideration:

This application was before the Planning Committee in November 2019 and it was agreed to defer to allow submissions from the applicant and the objector in relation to the completion of the correct Certificate and Section 42 – Notifications of application to certain persons.

Submissions have been received and the Council has sought legal advice. This has been summarised for member's attention.

TLT Solicitors provided a written submission dated 2 December 2019 on behalf of the applicant, it acknowledges the land ownership is in dispute and that it is appropriate to complete Certificate D and advertise in the newspaper. Stewarts Russell Solicitors & Notary Public provided a written response on 21 January 2020 and stated their client was entitled to be notified as owner and as this did not happen the applicant must start the process again. Additionally on 14 August 2020, the solicitors for the objectors have advised they wish to work to resolve the breach of planning control, they consider the case officer has been compromised by advising, in a letter dated 22 June 2020, that the application was valid. It further questions the Planning Manager's involvement in providing advice about the certificate (of land ownership) that should be completed.

TLT Solicitors have taken the opportunity to comment on the submission on behalf of the Estate of Cassie Diamond. They say the case law referred to by the objector did relate to land ownership queries, however the case law referred to by the objector relates to circumstances where the applicant stated they owned all the relevant land where in fact a 3rd party was in possession of part of it. They say the ruling makes it clear the purpose of the certificate is to ensure certain persons likely to have an interest in or are affected by the outcome ... are notified. The ruling does not say the application must be returned but that the planning authority may refuse to entertain the application further until the owner is notified. TLT acknowledge there is a question over land ownership and that notifications have been carried out in the local press. These advertisements must have had the desired effect as an objection has been received on behalf of the Estate of Cassie Diamond. TLT

say the case law actually favours the applicant and there is nothing to prevent the Council from making a decision on the application.

On 14 August 2020, the solicitors for the objectors provided a letter and a supporting statement on behalf of the Diamond family which they advise is in relation to the legislative requirements of Section 42 of the Planning Act. In the letter they have advised their clients wish to work to resolve the breach of planning control, they consider the case officer has been compromised by advising, in a letter dated 22 June 2020, that the application was valid. It further questions the Planning Manager's involvement in providing advice about the certificate (of land ownership) that should be completed. In relation to the suggestion that the case officer has been compromised, the letter was written taking into account information received by Counsel who had sight of the submissions from the parties. The case officer is providing a recommendation to the Planning Committee and it is a matter for the Planning Committee to reach a decision. Due to the opportunity for the Committee to decide and debate the application it is not considered there has been any prejudice or compromise here. The Planning Manager comments in relation to completing the ownership certificate relate to notes obtained from file ref LA09/2016/1090/F, an application for a new access that was withdrawn and did not have a decision taken on it, and are not in relation to this application.

The submission is in 4 broad headings and are summarised below:

- Advertisement published in the local paper was not the correct notice
This has been remedied and a notice which is generally in accordance with page 20 of the General Permitted Development Order (NI) 2015 was published in The Mid Ulster Mail on 14 March 2019.
- Land Ownership
The land is registered to Cassie Diamond who died in 1993 intestate. Her estate passed to her 4 siblings and a personal representative was appointed. Land registry deeds confirm the applicant does not own the lands. Creagh began negotiations with The Diamond Family to acquire the lands these negotiations broke down.
- Section 42 Planning Act (NI) 2011 and Article 9 (General Development Procedure) Order (NI) 2015.
Section 42 requires the applicants to serve notice on the land owner if they do not own the designated land. Certificate C or D require the applicant to serve notice on the owner or those who have a legal interest in the land to allow them to make representations if they so choose. The applicant should serve notification on the current personal representative who will contact those who have a legal interest in the land.
- Section 45 of the Planning Act (NI) 2011
Representation made by the landowner are material considerations that must be taken into account in the determination of the application. Previous representations not given any weight in the determination of the application and this is not a civil matter.

The statement concludes by placing the Council on notice that should planning permission be granted, if there are any subsequent decisions by the Judiciary that do not favour Creagh Concrete, the objectors will seek revocation of the planning permission and seek the Council to pay all costs for the building to be taken down and removed.

Counsel opinion is that:

- The purpose of the Certificate is to identify anyone with an interest in the land, the objector complains they were not notified however are clearly aware of the application and have made a formal objection.

- As long as the objection has been properly considered, failure to formally notify will not invalidate the application.
- The objector alludes to other persons having an interest in the land, though it is not clearly established, is a matter in dispute and one the Planning authority cannot resolve.
- A public notice was issued which invited interested parties to come forward.
- The Council sought further details from the objector about other interested parties whom the objector considered has an interest in the land.
- Counsel advice is that the purpose of Section 42 has been met and any subsequent decision will not necessarily be invalid. Council does however have the opportunity to ask the applicant to formally notify the personal representatives of the estate.
- As the application has not yet been decided upon, the Council does have the opportunity to ask the applicant to formally notify the personal representatives of the estate. This course of action would be in an abundance of caution and is not required.

Members can quite clearly see the objections that have been received in relation to the land ownership matters have been considered in this report for the determination of this application. However the application has been considered against the relevant planning policy and there is no dispute that it meets that policy. In light of this my recommendation is that the land ownership issues are not given determining weight in this application and the alleged trespass is a civil matter that may be pursued, by the representatives of the late Cassie Diamond.

The objector quotes Article 1 of Protocol 1 of the European Convention on Human Rights which covers the protection of property and the peaceful enjoyment of possessions. The Human Rights Act 1998 and the Convention refer to both Article 1 of the First Protocol, which provides for the protection of property and peaceful enjoyment of possessions and Article 8 of the Convention, which provides a right to respect for private and family life are engaged by this breach of planning. However, these are qualified rights and the legislation clearly envisages that a balance be struck between the interests of individuals and those of society as a whole. The retention of the unauthorised building is in accordance with extant planning policy and therefore I do not see any reason why the development should not be approved.

The European Convention, Article 6 also enshrines the right to a fair hearing. Both parties have been invited to provide their written evidence and are entitled to speak at the planning committee, provided they follow the published protocol.

Therefore, it is my view there are no Human Rights grounds for refusal of this application.

A letter of objection was received from Mrs Teresa Brown, who claimed she is the niece of the last surviving sibling of the late Cassie Diamond. The objection relates to the land ownership matters and validity of the application. Members will be aware these are the matters that further information has been sought on and fully considered in the report. The objection further raises questions about the processing of the enforcement cases and expresses disappointment at the Council holding public meetings during the Pandemic. These are not matters that now have any significant impact on the determination of the application at this stage as the Council has been adhering to the Executive Guidelines and the related enforcement case will be considered in light of any decision taken on this application

Ms Patricia Stuart also lodged an objection that raises issues relating to the validity of the application and Human Rights grounds. These matters have been considered in the report.

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.

As has already been concluded in the previous report to Committee, the proposed development meets with the published planning policies, as such is acceptable and is recommended for approval.

Conditions/Reasons for Refusal:

1. This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011.

Reason: This is a retrospective application.

Informatives:

1. This permission does not confer title.
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

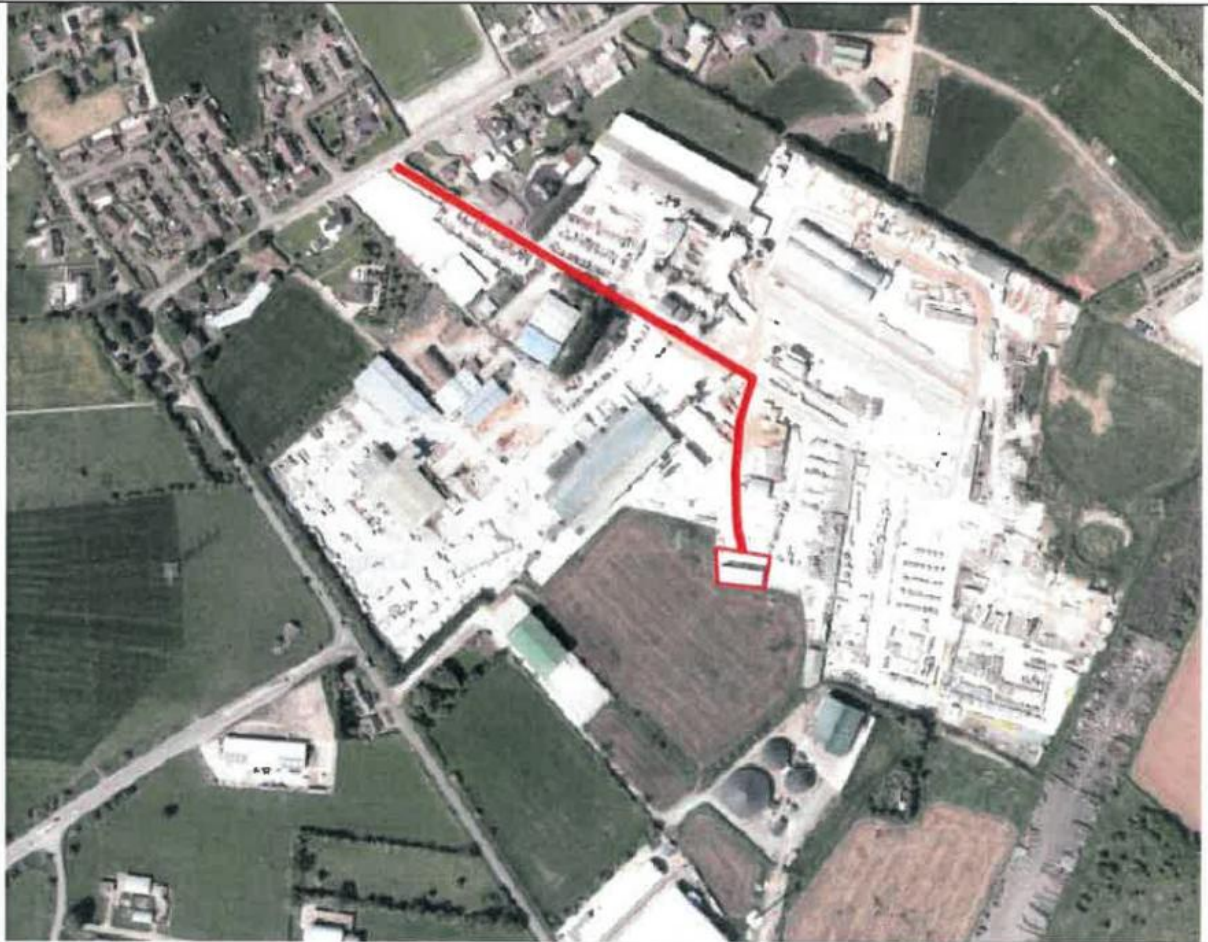
Mid-Ulster
Local Planning Office
Mid-Ulster Council Offices
50 Ballyronan Road
Magherafelt
BT45 6EN

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/1648/F	Target Date: 01/04/2019
Proposal: Retention of open-sided storage building	Location: Creagh Concrete Products Ltd Blackrock Road Toomebridge
Referral Route: An objection has been received to the application.	
Recommendation:	Approval
Applicant Name and Address: Creagh Concrete Products Ltd Blackrock Road Toomebridge BT42 3SL	Agent Name and Address: Gemma Jobling JPE Planning 1 Inverary Valley Larne BT40 3BJ
Executive Summary: This application is for retention of an aggregate store associated with a larger industrial site, an objection has been received that questions the ownership of the land, processing of the application in relation to the submission of land ownership certificates and advertising of the development.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Rivers Agency	Advice

Representations:

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

Summary of Issues

The land is not owned by the applicant, land registry records show who owns the land, the application has been accompanied by the wrong certificate under Section 42 of the Planning Act (NI) 2011.

Characteristics of the Site and Area

The application site is part of the larger Creagh Concrete Products manufacturing site at the Creagh. The site contains a mono-pitched roof building which is 6.9m to the front and 5.3m to the rear. The roof is finished with a profiled metal finish, it is open to the north and has concrete

panels to the side and partially to rear. The upper part of the rear elevation is open with netting at the top. The building is located close to the site boundary which is post and wire fencing with an agricultural field beyond. Access to the building is through the existing concrete works where there are a number of large buildings, cranes and open storage areas.

Description of Proposal

The proposal is for the retention of the open sided building, it is 33.7m long and 11.9m deep, it has a monopitched roof which is 6.9m to the front and 5.3m to the rear. The building is open to the front and has concrete panel walls to the sides and up to 3.3m at the rear. The remainder of the rear walling is black netting. The building is used to store aggregates.

Planning Assessment of Policy and Other Material Considerations

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Magherafelt Area Plan 2015

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 4: Planning and Economic Development

Planning Policy Statement 15: (Revised) Planning and Flood Risk

Planning Policy Statement 21: Sustainable Development in the Countryside

Relevant Histories

LA09/2018/0826/F - Erection of new gantry crane for loading / unloading of pre cast concrete products and retention of extension to concrete yard for storage of pre cast concrete products.- Ongoing

LA09/2016/1446/F - Proposed development of a 500 Kw Centralised Anaerobic Digestion (CAD) plant, Combined Heat and Power (CHP) plant, access (part of link road) and ancillary site works - Lands approx. 365 m south east of no. 20 Blackpark Road and to the rear of Creagh Concrete, Toomebridge – Withdrawn 13.03.2017

LA09/2016/1090/F - New Access into Creagh Concrete Products Ltd site from Creagh Industrial park (off Hillhead Road) including the construction of a 24m length extension of the Creagh Industrial park road leading to an internal roadway within the Creagh Concrete Products site - Withdrawn 05.10.2018

LA09/2016/0692/F Erection of new building for washing/ drying of precast concrete products (retrospective). Erection of new gantry crane for loading /unloading of precast concrete products. extension of existing production factory TF5 to facilitate to production of larger precast concrete – Granted 05.10.2017

LA09/2015/1239/F - Removal and alteration of Conditions 2, 3 and 6 of previous approval H/2007/0546/F relating to noise and operating hours – Granted 07/09/2017

H/2013/0296/F - Reinstatement and extension of previously approved storage area, lorry and trailer park to facilitate reorganisation of precast products and increased variety of stock products, colour and size with no increase in existing site production area. Relocation of existing external block and brick production area (5200m²) to proposed new area (4320m²) with original being reused for product display, product finishing, product and plant storage, vehicle storage and recyclable material waste and storage. Retention of existing product display, product finishing, product and plant storage, vehicle storage and recyclable material waste storage. (Amended Noise report received) – Granted 05.10.2017

H/2010/0159/F - Erection of a 250kw wind turbine with a tower height of 40m | Creagh Concrete Factory, Blackpark Road, Toomebridge (approx 40m West of main office building) - Withdrawn 05.08.2010

H/2007/0546/F - Removal of existing metal single skin, and roof cladding on existing concrete products factory, and replacement with new insulated metal cladding. Extension of existing concrete products factory to encompass storage yard. Demolition of existing single skin corrugated tin factory and replacement with new factory building - Granted 12.05.2008

H/2007/0077/F - Demolition of existing uninsulated staff canteen & garage building & construction of new staff canteen & offices building, with staff toilets, locker room & showers – Granted 09/05/2007

H/2006/0703/F - Lean-to extension, along approx 1/2 length of existing building, for the curing of Concrete Products produced in the existing building - Withdrawn 26.05.2008

H/2006/0279/O - Easterly extension to existing precast concrete works to facilitate the reconfiguration of existing plant and building units, and to provide new manufacturing facility and additional hardstanding areas to permit vehicle turning areas and storage. Provision of a new access is proposed via Creagh Buisness Park, Estate Road, egressing at Creagh Roundabout, Hillhead Road – Appeal Upheld 13.06.2008

H/2005/1118/F - Retrospective change of use from agricultural field to a proposed extension of storage yard and lorry park (trailers) – Granted 05.2008

H/2005/0739/F - 1 No. Building for storage of items necessary for existing factory production. 1 No. Building for the tying and cutting of reinforcement bars used in factory products – Granted 07/09/2006

H/2000/0178/F - Extension of Offices – Granted 12/05/2000

H/1998/0307 - mixing plant and workshop for the production of concrete products and associated office and canteen – Granted (historical)

H/1998/0071 - site of industrial park to include new roads layout - S.E of junction of Hillhead Road and Blackpark Road the Creagh Magherafelt - Withdrawn 05.06.1998

H/1996/0227 - precast concrete casting factory – Granted (historical)

Relevant Enforcement History on Site

LA09/2018/0078/CA - Unauthorised building - this case is on hold pending the outcome of the current planning application.

Representations

Neighbour notification and press advertisement have been carried out in line with the Council's statutory duty. Copies of letters were hand delivered on 5 April 2019, at the time of the site inspection, to Conor Morgan Cars; John H Place (Steels); 36c Black Park Road and Moyola/Toome Credit Union.

Due to an administrative error, the address for this site was initially input as Blackrock Road. Following the discovery of this error the application was re-advertised and the neighbours notified

One objection to the proposal has been received which relates to the ownership of the land and the address that was used for advertising purposes.

Section 42(1) of the Planning Act (NI) 2011- The Act - states that the Council must not entertain an application unless it is accompanied by a one of the Certificates (a) – (d), these relate to statements of land ownership. Section 42 (6) sets out the circumstances where it is an offence in relation to the completion of these certificates. The application has been accompanied by Certificate D of Section 42, it is stated on the certificate ' Without prejudice to its opinions that the applicant is in actual possession of all the lands to which the application relates, the applicant cannot at this time certify clear title to the entire extent of the application albeit that no other part has identified any established rights over the same land.' The applicant advertised this in the Mid Ulster Mail on 13 December 2018, however the advertisement did not specify that it was under Section 42 of the Planning Act. The applicant advertised an amended notification in the Mid Ulster Mail on 14th March 2019. I am content that the application has been accompanied by one of the required certificates and as such this is a valid planning application. The advertisement clearly specifies that anyone who has an interest in the land is entitled to make a representation to the Council. The objection has been submitted on behalf of the Estate of Cassie Diamond and is accompanied by land registry maps and extracts that were searched on 27 July 2019 and identify the owner of folio 18850 in the County of Londonderry as last registered in the name of Cassie Diamond of Annahorish, Castledawson and it was registered on 8th May 1962. Part 5 of the folio includes the application site. The matter of whether or not there is an offence committed in the completion of the certificate pursuant to Section 42 is not, in my opinion, a matter for the Planning Committee to decide upon. Members will be aware that planning permission does not grant title and an informative can be added to any decision to reinforce that point.

Article 3 (2) (b) of the Planning (General Development Procedure) Order (NI) 2015 – GDPO – sets out what an application for planning permission shall contain the postal address of the land to which the development relates or, if the land in question has no postal address, a description of the location of the land'. Royal Mail Post Code search identifies the postal address for Creagh Concrete Ltd, as Creagh Concrete Ltd, 38

Blackpark Road Toomebridge Antrim BT41 3SL. Creagh Concrete Ltd occupy a large site at Blackpark Road, however I am content that a postal address has been used and if residents or interested parties had sight of the advertisement in the local papers, they would know where the site is and could make further inquiries to satisfy themselves of the exact location. I am of the opinion that the application meets with the requirements of the GDPO and has been advertised correctly.

Magherafelt Area Plan 2015

The site lies outside any settlement limit defined in the Magherafelt Area Plan 2015, it is close to Creagh (a designated small settlement), Creagh Business Park and Zoned Industrial Lands (COU10) and a Transportation Scheme for a new Road Link between A6 and Aughrim Road (COU8). I do not consider the proposal impacts on the identified road line and I do not consider there any policies within the plan that deal with industrial development in the countryside.

Mid Ulster District Council Draft Plan Strategy 2030

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

SPPS – Strategic Planning Policy Statement for Northern Ireland

The Strategic Planning Policy Statement for Northern Ireland sets out the Departments Regional Planning Policies and provides guidance for the Councils to take into account in their Local Development Frameworks. Until the Council has adopted its own LDP, current regional policy as set out in the suite of Published Planning Policy Statement provides the planning policies for consideration unless the SPPS provides a different policy direction or offers clarification, then the policy in the SPPS is given determining weight. I do not consider the SPPS has changed any policies in relation to the expansion of an existing business in the countryside.

Planning Policy Statement 21 Sustainable Development in the Countryside

Policy CTY 1 of PPS21 allows a number of types of development in the countryside, where it relates to business development if the policies contained within PPS4 are met then the proposal will meet with CTY1.

Policy PED2 of PPS4 allows economic development in the countryside where it meets with other specified criteria in policies PED3 – PED6 and the general criteria in PED9 is relevant to the consideration of all economic development proposals.

I consider PED3 – Expansion of an Existing Industrial Development in the Countryside

This proposal is for the retention of a building associated with a well established business 'Creagh Concrete Ltd' and as such I consider this is the expansion of an established economic development use, as such the provisions of Policy PED 3 apply.

Policy PED 3 states the expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise.

Aerial photographs of the site from 13 May 2005 indicate the area the building is on was within the existing industrial site and as such there is no increase in the site area because of this development. (Annex A) The proposal is for the retention of a building with a floorspace of approx.. 400sqm in area. Views of the building from the surrounding public road network are limited and the building is seen with the much larger buildings in the vicinity. I consider the building integrates into its surroundings.

In addition to Policy PED 3, this proposal is required to meet the requirements of Policy PED 9 - General Criteria for Economic Development, which for the following reasons I consider it does:

- this proposal is considered compatible with the surrounding land uses given the existing similar economic uses in the vicinity including those at Creagh Business Park to the northeast of the site.
- The building is located within the existing yard, there may be issues relating to noise and dust due to this building, however I do not think, given the existing development and uses around it, as well as the distance from existing and approved residential properties, that this building will unduly exacerbate any existing issues.
- It will not adversely affect features of the natural or built heritage as there are no features of built heritage on site or in the immediate vicinity.
- Whilst information in the DEARA Flood Maps indicate this is an area at risk from flooding, a Flood Risk Assessment has been provided that indicates the ground level of the building is above the 1:100 year fluvial flood plain. This report has been considered by Rivers Agency and they have advised they do not have any reason to disagree with the information. As the development is not in an area that floods, it is not at risk from flooding and will not cause displacement of flood water that would put other properties at risk.
- There will be no effluent and no concerns regarding emissions have been raised.
- This proposal does not involve the creation of a new access unto a public road or intensification of the existing site access.
- This building is for storage of aggregates and as such is unlikely to result in the need to provide an additional links to footways or alternative modes of transport
- The building does not include any new landscaping or infrastructure, it is of an appearance that is not out of place in this type of industrial environment, where there is little in the way of landscaping and as such, I do not consider it is necessary to request additional landscaping. It does not propose any outdoor storage and encloses an area that was previously outdoor storage

- The proposal does not involve any new fences, as the site is self-contained and well secured, it is generally designed to deter crime and promotes personal safety.

Taking account if all of the above, I consider this proposed development can be considered to meet PED3 of PPS4 and can be approved.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approve

Conditions/Reasons for Refusal:

1. This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011.

Reason: This is a retrospective application.

Signature(s)

Date:

ANNEX	
Date Valid	17th December 2018
Date First Advertised	10th January 2019
Date Last Advertised	01 st October 2019
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Homelands, Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3TA The Owner/Occupier, 36c Blackpark Road Toomebridge The Owner/Occupier, Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3SL The Owner/Occupier, Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3SL The Owner/Occupier, John H Place (Steels), 44 Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3SL The Owner/Occupier, Moyola _ Toome Credit Union, 35 Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3SL The Owner/Occupier, Newbridge Youth Centre, 40 Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3SL James L Russel & Son Solicitors & Notary Public, "Maine-Lea", 55 High Street, Ballymena, BT43 6DT	
Date of Last Neighbour Notification	20 th September 2019
Date of EIA Determination	18 October 2019
ES Requested	No
Planning History Ref ID: LA09/2017/0054/RM Proposal: Two Storey House Address: 40m SE of 34 Blackpark Road, The Creagh, Toomebridge, Decision: PG Decision Date: 28.02.2017 Ref ID: LA09/2018/1648/F Proposal: Retention of open-sided storage building Address: Creagh Concrete Products Ltd, Blackrock Road, Toomebridge, Decision: Decision Date:	

Ref ID: H/2007/0546/F

Proposal: Removal of existing metal single skin, and roof cladding on existing concrete products factory, and replacement with new insulated metal cladding. Extension of existing concrete products factory to encompass storage yard. Demolition of existing single skin corrugated tin factory and replacement with new factory building

Address: Creagh Concrete, Blackpark Road, Toomebridge

Decision:

Decision Date: 13.05.2008

Ref ID: H/2006/0279/O

Proposal: Easterly extension to existing precast concrete works to facilitate the reconfiguration of existing plant and building units, and to provide new manufacturing facility and additional hardstanding areas to permit vehicle turning areas and storage. Provision of a new access is proposed via Creagh Buisness Park, Estate Road, egressing at Creagh Roundabout, Hillhead Road.

Address: Creagh concrete site, Blackpark Road, Toomebridge, with additional access onto Hillhead Road, via the Estate Road through Creagh Buisness Estate.

Decision:

Decision Date:

Ref ID: H/1998/0307

Proposal: MIXING PLANT AND WORKSHOP FOR THE PRODUCTION OF CONCRETE

PRODUCTS AND ASSOCIATED OFFICE AND CANTEEN

Address: ADJACENT TO CREAGH CONCRETE PRODUCTS 40 BLACKPARK ROAD TOOMEBRIDGE

Decision:

Decision Date:

Ref ID: H/2003/0062/F

Proposal: Extension to existing offices to increase existing office/storage space, additional toilet facilities and to facilitate the introduction of a disabled lift with provision for ramped access to conform with DDA regulations.

Address: Blackpark Road, Toomebridge.

Decision:

Decision Date: 19.03.2003

Ref ID: H/1996/0227

Proposal: PRECAST CONCRETE CASTING FACTORY

Address: CREAGH CONCRETE PRODUCTS BLACKPARK ROAD TOOMEBRIDGE

Decision:

Decision Date:

Ref ID: H/2005/0739/F

Proposal: 1 No. Building for storage of items necessary for existing factory production. 1
No. Building for the tying and cutting of reinforcement bars used in factory products.
Address: Creagh Concrete Products, Blackpark Road, Toomebridge, Co. Antrim.
Decision:
Decision Date: 25.09.2006

Ref ID: H/1993/0533
Proposal: EXTENSION TO WORKSHOP
Address: 44 BLACKPARK ROAD TOOMEBRIDGE
Decision:
Decision Date:

Ref ID: H/1978/0076
Proposal: OFFICES AND WEIGHBRIDGE
Address: CREAGH INDUSTRIAL ESTATE, TOOMEBRIDGE
Decision:
Decision Date:

Ref ID: H/1990/0181
Proposal: ALTS AND ADDS TO OFFICES
Address: BLACKPARK ROAD TOOMEBRIDGE
Decision:
Decision Date:

Ref ID: H/2007/0077/F
Proposal: Demolition of existing uninsulated staff canteen & garage building &
construction of new staff canteen & offices building, with staff toilets, locker room &
showers
Address: Creagh Concrete Products Ltd, 34 Blackpark Road, Toomebridge
Decision:
Decision Date: 11.05.2007

Ref ID: H/2006/0703/F
Proposal: Lean-to extension, along approx 1/2 length of existing building, for the curing of
Concrete Products produced in the existing building
Address: Bradstone Factory Building, Creagh Concrete Products Ltd, 34 Blackpark
Road, Toomebridge, Co. Antrim, BT41 3SL
Decision:
Decision Date: 26.05.2008

Ref ID: LA09/2016/0692/F
Proposal: Erection of new building for washing/ drying of precast concrete products
(retrospective). Erection of new gantry crane for loading /unloading of precast concrete
products. extension of existing production factory TF5 to facilitate to production of larger
precast concrete units

<p>Address: Creagh Concrete Products Ltd, Blackpark Road, Toomebridge, Decision: PG Decision Date: 06.10.2017</p> <p>Ref ID: LA09/2015/1239/F Proposal: Removal and alteration of Conditions 2, 3 and 6 of previous approval H/2007/0546/F relating to noise and operating hours Address: Creagh Concrete Products Ltd, Blackpark Road, Toomebridge, Decision: PG Decision Date: 07.09.2017</p> <p>Ref ID: LA09/2016/0519/O Proposal: Two Storey House Address: 40m SE of No 34 Blackpark Road, The Creagh, Toomebridge, Decision: PG Decision Date: 13.01.2017</p> <p>Ref ID: H/2014/0071/F Proposal: Proposed extension to existing industrial premises for the storage of steel Address: 44 Blackpark Road, Toomebridge, Decision: PG Decision Date: 01.07.2014</p>
<p>Summary of Consultee Responses Rivers Agency -</p>
<p>Drawing Numbers and Title</p>
<p>Drawing No. 03 Type: Proposed Plans Status: Submitted</p> <p>Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted</p> <p>Drawing No. 01 Type: Site Location Plan Status: Submitted</p>
<p>Notification to Department (if relevant)</p> <p>Date of Notification to Department: Response of Department:</p>

ANNEX A – Aerial Photograph of site dated 13 May 2005



Aerial Photograph 23 May 2018





Deferred Consideration Report

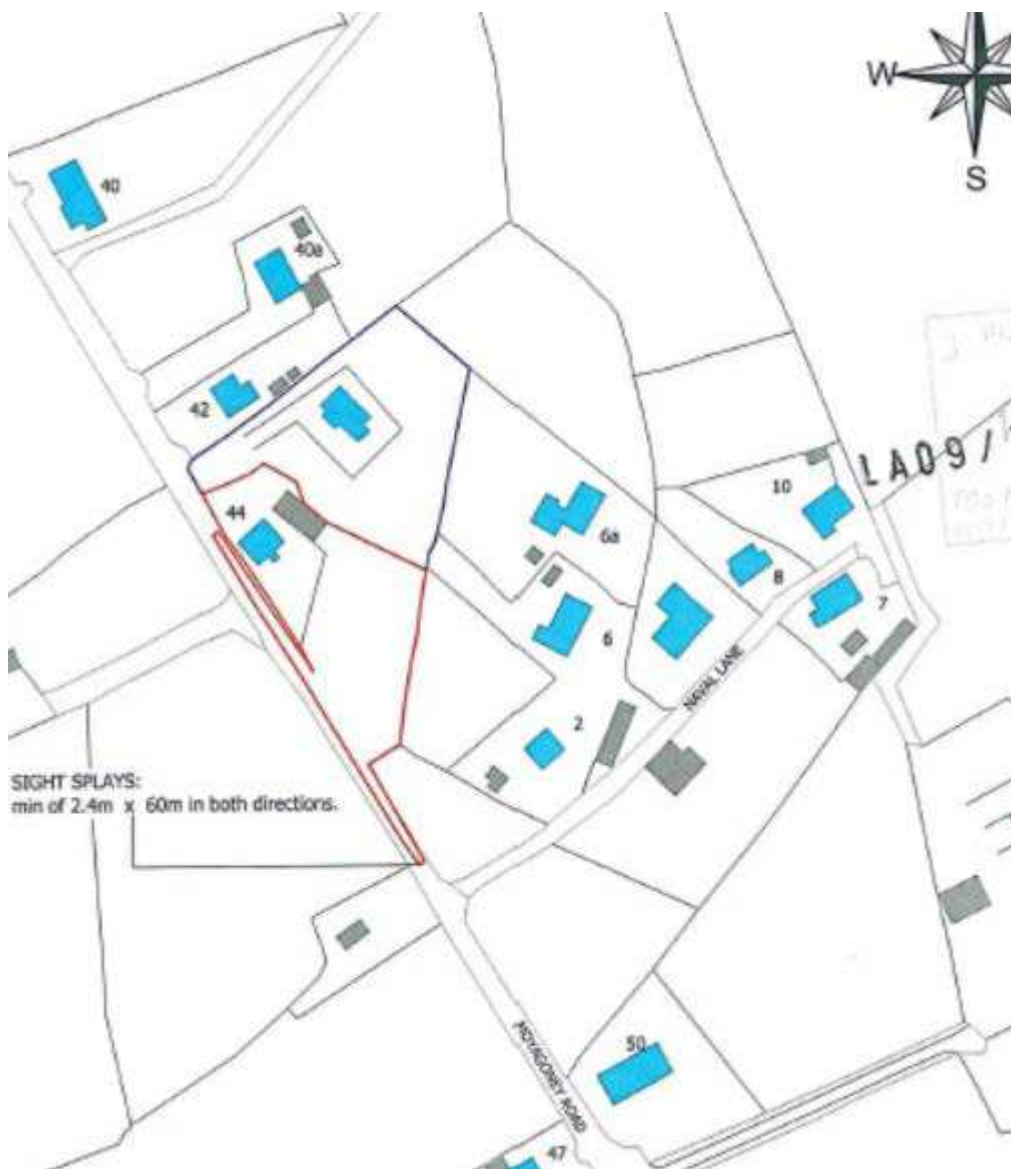
Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2019/0787/O	Target Date:
Proposal: Proposed site for a dwelling and garage based on policy CTY10 (Dwelling on a farm)	Location: 40m South West of 44 Moyagoney Road Portglenone
Applicant Name and Address: Mr Paul Madden 44 Moyagoney Road Portglenone	Agent name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: Following the first deferral of the above application, it was deemed the information submitted to prove an active and established farm business was not sufficient. Also if approved, a dwelling would on the site would create a ribbon of development. However following a re-assessment and additional information from the agent, an approval with conditions is now recommended.	
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: The site is situated within the open countryside and there are no further designations on the site as designated by the Magherafelt Area Plan 2015. The site is situated 40m SW of 44 Moyagoney Road, Portglenone. The site is currently used as an agricultural field. There is currently an agricultural gate on the western boundary which allows access onto the	

site. The boundaries of the site are currently defined by mature hedging. The site slopes upwards in an easterly direction. There are currently overhead lines located along the western boundary and associated poles. There are agricultural buildings and a farm house located to the north of the site.

The surrounding area is largely characterised by residential and agricultural uses.

Description of Proposal

The applicant seeks outline planning approval for a dwelling and garage based on policy CTY10 (Dwelling on a farm)



Deferred Consideration:

This application was presented as a refusal to Planning Committee in Nov 2019 as inadequate evidence was submitted to prove an active and established farm business under criteria (a) of CTY10. Criteria (b) and (c) have been met if the farm case can be proven.

It was deferred for an office meeting with the Area Planning Manager on 14/11/19. No Farm Bus ID has been provided so it is up to the applicant to demonstrate the farm business has been active and established for at least 6 years. The transactions were limited and appeared occasional, one has been submitted for each of years 2015 to 2019. The occasional sale of it would not constitute an active and established farm business in the sense of CTY10.

This application was then presented to Committee in April 2020 as a refusal under CTY10 and CTY8, but was granted a second deferral to consider further invoices and receipts which were submitted prior to the planning committee meeting. The agent was advised the information submitted was still not deemed sufficient to demonstrate a 'business' existed, a business case was then to be submitted to support this. After a number of requests for this information a lease agreement was submitted in March 2021.

The agent submitted a con acre agreement that shows the applicant has an agreement to rent to land since May 2016. This on its own would not equate to 6 years of a farm business and falls short by almost a year as it would not be the required 6 years until May 2022.

However a previous signed lease of the same parties was then submitted, showing a continuous business from May 2010 until 2016 as per the agreement in the lease. I am content there has been in existence a farm business for at least the requisite 6 years in terms of policy requirement, and as stated, the other parts of the criteria for CTY10 have also been met.

A dwelling on this site would not have any detrimental impact on the existing built up character in this area, and if limited to a ridge height of 6m it will integrate into the surrounding area.

Approval with conditions is now recommended.

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.

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 6.0 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.

Signature(s):

Date

Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2019/0787/O	Target Date:
Proposal: Proposed site for a dwelling and garage based on policy CTY10 (Dwelling on a farm)	Location: 40m South West of 44 Moyagoney Road Portglenone
Applicant Name and Address: Mr Paul Madden 44 Moyagoney Road Portglenone	Agent name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: Following the deferral of the above application, it was deemed the information submitted to prove an active and established farm business was not sufficient. Also if approved, a dwelling would on the site would create a ribbon of development.	
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: The site is situated within the open countryside and there are no further designations on the site as designated by the Magherafelt Area Plan 2015. The site is situated 40m SW of 44 Moyagoney Road, Portglenone. The site is currently used as an agricultural field. There is currently an agricultural gate on the western boundary which allows access onto the site. The boundaries of the site are currently defined by mature hedging. The site slopes upwards in an easterly direction. There are currently overhead lines located along the western boundary and associated poles. There are agricultural buildings and a farm house located to the north of the site. The surrounding area is largely characterised by residential and agricultural uses.	
Description of Proposal The applicant seeks outline planning approval for a dwelling and garage based on policy CTY10 (Dwelling on a farm)	

Deferred Consideration:

This application was presented as a refusal to Planning Committee in Nov 2019 as inadequate evidence was submitted to prove an active and established farm business under criteria (a) of CTY10.

It was subsequently deferred for an office meeting with the Area Planning Manager and a meeting was held on 14/11/19. The agent stated in the meeting this application was not relying on a horse case for the farming criteria. The applicant was asked to forward details to support a farm business case in line with CTY10. No Farm Bus ID has been provided so it is up to the applicant to demonstrate the farm business has been active and established for at least 6 years. In Jan 2020 the agent forwarded receipts for bales of hay produced, dated 2015- 2019. These transactions are limited and appear occasional, one has been submitted for each of years 2015 to 2019. The occasional sale of it would not constitute an active and established farm business in the sense of CTY10.

The agent submitted an appeal decision 2018/A0194 to try and support their case. The appeal states "criteria (a) is not whether the applicant is an active farmer but whether the farm business is active and established". The evidence submitted shows there has been some level of agricultural activity for the last 6 years but this doesn't not prove a farm business. The appeal goes on the state the land is leased, and the landowner and farmer share responsibility, which was accepted by the PAC. This lease in itself shows there is a business agreement on the farmland, which is not the case with the current application and therefore is not directly comparable in establishing a farm business case.

For information there is a current application for a 'stable to house a pony' within the same red line of the site, which is still under consideration.

In relation to CTY8, ribbon development, it states that planning permission will be refused for a building which creates or adds to a ribbon of development. In this case, No.40, 42 and 44 front on the road, with 40a and 42a set back. If a dwelling were approved here, it could create a ribbon of development along with the dwellings and No.42 and 44, and would therefore be contrary to policy as it does not meet the exception test.

This site acts as an important visual break in the countryside and should be protected. Those dwellings down Naval Lane cannot be viewed with the site due to strong boundary vegetation and their location on the laneway. It would not be considered a rural cluster of development.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019.

The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan.

In light of this the Draft Plan cannot be given any determining weight at this time.

As the proposal does not meet the policy requirements of PPS21, Refusal is recommended for the following reasons;

Refusal Reasons <ol style="list-style-type: none">1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the countryside, and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business has been established and active for at least 6 years.2. The proposal is contrary to Policy CTY8 of PPS21 in that the proposal, would if permitted, result in the creation of ribbon development along Moyagoney Road.
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	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0787/O	Target Date:
Proposal: Proposed site for a dwelling and garage based on policy CTY10 (Dwelling on a farm)	Location: 40m South West of 44 Moyagoney Road Portglenone
Referral Route: Proposal does not comply with criterion (a) of Policy CTY10 of PPS21 – Sustainable Development in the Countryside.	
Recommendation:	
Applicant Name and Address: Mr Paul Madden 44 Moyagoney Road Portglenone	Agent Name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	
Signature(s):	

For the committee decision



24/10/19

Case Officer Report

Site Location Plan



Consultations:

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

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

Proposal does not comply with criterion (a) of Policy CTY10 of PPS21 – Sustainable Development in the Countryside.

Characteristics of the Site and Area

The site is situated within the open countryside and there are no further designations on the site as designated by the Magherafelt Area Plan 2015. The site is situated 40m SW of 44 Moyagoney Road, Portglenone. The site is currently used as an agricultural field. There is currently an agricultural gate on the western boundary which allows access onto the site. The boundaries of the site are currently defined by mature hedging. The site slopes upwards in an easterly direction. There are currently overhead lines located along

the western boundary and associated poles. There are agricultural buildings and a farm house located to the north of the site.

The surrounding area is largely characterised by residential and agricultural uses.

Description of Proposal

The applicant seeks outline planning approval for a dwelling and garage based on policy CTY10 (Dwelling on a farm)

Planning Assessment of Policy and Other Material Considerations

Planning History

There is currently a live application on the site (application reference number LA09/2017/0844) for a stable on the site which is a deferred application.

Neighbour Notification

Two neighbours were notified of this planning application including nos. 42a and 44 Moyagoney Road, Portglenone.

No letters of objection / representation have been received at time of writing this report.

Development Plan and Key Policy Consideration

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

Magherafelt Area Plan 2015: The site is located in the open countryside and there are no further designations on the site.

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this, the Draft Plan cannot be given any determining weight at this time.

PPS3: Access, Movement and Parking (Revised 2005) and PPS3 (Clarification 2006): sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking.

PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. Policies CTY1, CTY10, CTY13 and CTY14 are applicable.

Policy CTY1 of PPS21 states that planning permission will be granted for a dwelling on a farm in accordance with Policy CTY10.

Policy CTY10 states that planning permission will be granted for a dwelling house on a farm where all of the criteria below can be met. Policy CTY10 also states that for a dwelling by those involved in the keeping and breeding of horses for commercial purposes will be assessed under the same criteria:

(a) The farm business is currently active and has been established for at least 6 years.

This is normally assessed by the applicant providing a farm business ID number and consultation with DAERA. No ID number was provided in this case. Paragraph 5.43 of the Justification and Amplification of CTY10 states that an equine business is to be afforded the same benefits as an established and active farm, which is relevant to this application as the applicant keeps horses. Such businesses will include horse breeding and training and the operating of livery yards, trekking centres and riding schools. Applicants will have to provide sufficient information to demonstrate a level of involvement commensurate with commercial activity over the requisite period of 6 years. Such information should include:

- a statement of commercial rateable history for the business;
- copies of appropriate insurances;
- copies of 'Horse Passports' (if applicable); and
- any other information considered relevant to the particular case.

Paragraph 5.44 of CTY10 goes on to explain that those keeping horses and / or ponies for hobby purposes will not satisfy the requirements of this policy.

It is clear from the information submitted with this application that the applicant does not have an active and established equine business as none of the information required as per paragraph 5.44 was submitted. The application does not comply with criterion (a) of CTY10 as inadequate information was submitted.

(b) No dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. There have been no sell offs within the last 10 years of this application, therefore the application complies with criterion (b) of CTY10.

(c) The new building is visually linked with or sited to cluster with an established group of buildings on the farm where practicable. The associated agricultural buildings with this application are situated to the north west of the site and a dwelling on the proposed site would be visually linked with the farm buildings. The application complies with criterion (c) of CTY10.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore no design details has been submitted however I am of the opinion that an appropriately designed dwelling will not appear prominent in the landscape. I am of the opinion that as much of the existing landscaping should be retained as much as possible with additional landscaping to further aid integration, therefore a landscaping plan will be required in any 'Reserved Matters' application.

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 noted an appropriately designed dwelling will not appear prominent in the landscape wherein it will be able 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. On a whole I am content that the proposed development complies with CTY 14.

Neighbour Notification Checked	Yes
Summary of Recommendation: Refusal	
Refusal Reasons 1. Proposal does not comply with criteria (a) of Policy CTY10 of PPS21 - Sustainable Development in the Countryside, as inadequate information was provided.	
Signature(s) Date:	

ANNEX	
Date Valid	10th June 2019
Date First Advertised	27th June 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 42a ,Moyagoney Road,Portglenone,Londonderry,BT44 8JG The Owner/Occupier, 44 Moyagoney Road,Portglenone,Londonderry,BT44 8JG	
Date of Last Neighbour Notification	24th June 2019
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2017/0844/F Proposal: Stable to house pony Address: 44 Moyagoney Road, Clady, Portglenone, Decision: DEF Decision Date: Ref ID: LA09/2019/0787/O Proposal: Proposed site for a dwelling and garage based on policy CTY10 (Dwelling on a farm) Address: 40m South West of 44 Moyagoney Road, Portglenone, Decision: Decision Date: Ref ID: H/1992/0458 Proposal: BUNGALOW Address: NAVAL LANE PORTGLENONE Decision: Decision Date:	

Ref ID: H/2002/0426/F
Proposal: Bungalow & Detached Garage.
Address: Adjacent to No.8 Naval Lane, Portglenone.
Decision:
Decision Date: 22.07.2002

Ref ID: H/1991/0398
Proposal: SITE OF DWELLING
Address: ADJ TO 8 NAVAL LANE PORTGLENONE
Decision:
Decision Date:

Ref ID: H/1997/4026
Proposal: RENOVATIONS TO DWELLING (DISABLED)
Address: 2 NAVAL LANE PORTGLENONE
Decision:
Decision Date:

Ref ID: H/1976/0188
Proposal: ALTERATIONS AND ADDITIONS TO BUNGALOW
Address: 2 NAVAL LANE, TYANEE, PORTGLENONE
Decision:
Decision Date:

Ref ID: H/1992/0617
Proposal: SITE OF DWELLING
Address: R/O 44 MOYAGNEY RD PORTGLENONE
Decision:
Decision Date:

Ref ID: H/1997/0007
Proposal: TWO STOREY KITCHEN, UTILITY AREA WITH BEDROOM AND
BATHROOM FACILITIES
Address: 44 MOYAGONEY ROAD PORTGLENONE
Decision:
Decision Date:

Ref ID: H/1982/0026
Proposal: ALTERATIONS AND ADDITIONS TO HOUSE
Address: 44 MOYAGONEY ROAD, PORTGLENONE
Decision:
Decision Date:

Ref ID: H/1989/0393

Proposal: DOUBLE GARAGE AND STORE AND UTILITY ROOM

Address: 44 MOYAGONEY ROAD CLADY PORTGLENONE

Decision:

Decision Date:

Ref ID: H/2010/0494/F

Proposal: Proposed 1.5 Storey Infill Dwelling and Garage

Address: Adjacent to 42 Moyagoney Road, Portglenone, Co.Antrim,

Decision:

Decision Date: 24.02.2011

Ref ID: H/1977/0157

Proposal: BUNGALOW WITH GARAGE

Address: TYANEE, PORTGLENONE

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



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	
Case Officer: Phelim Marrion	
Application ID: LA09/2019/1305/F	Target Date: <add date>
Proposal: 8 No. two storey apartments within 2 blocks (additional parking added - 12 spaces instead of 8)	Location: 63 Thomas Street Dungannon
Applicant Name and Address: Farasha Properties Ltd 34 Culrevog Road Dungannon	Agent Name and Address: J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
Summary of Issues: The objections were received in two waves, the first 10 objections raised the following; <ul style="list-style-type: none">- Loss of privacy, overlooking- Out of character with the area- Additional traffic congestion on Castlefields- Overdevelopment of site- Lack of open space- Refuge collection point- Inadequate parking- Lack of integration- Red line incorporating part of Castlefields road outside of the natural boundary- The P.A.P on to Castlefields- Lack of proper boundary along Castlefields - in turn leading to increased noise, - residents using Castlefields as through road etc parking After numerous amended drawings the new scheme the neighbours were re-notified and a further 7 objections were received, these letters raised some of the previous concerns but additionally; <ul style="list-style-type: none">- Lack of on site parking, reduction to 8 spaces not adequate.	

- Further increase in railings and extend area covered
- Waste water treatment plant concerns e.g maintenance smells..

No further comments have been received to the notification in relation to the amended plans showing additional car parking provided on site.

Summary of Consultee Responses:

DFI Roads – conditions provided to ensure safe access

NI Water – no capacity in Dungannon WWTW

Mid Ulster Council EHO – advise conditions to ensure WWTW does not cause odours

Characteristics of the Site and Area:

The site lies within the settlement limits and the town centre boundary of Dungannon, the small triangular south eastern corner lies within zoned housing land, it lies outside all other areas of constraint as depicted by the DSTAP 2010.

The red line of the site sits between a multi use education centre to the north east and a line of residential buildings to the south west. The immediate dwelling to the south west is a mix use residential home and dental practice. At the time of site visit there were two buildings on the site, a two storey building towards the front of the site and a smaller single storey building toward the rear which is currently disused but was previously a doctors surgery. The larger building sits centrally o the site and has a large two storey front projection, it is finished in white dash and a tarred driveway. There is also a small low cropped hedgerow along the roadside. The single storey building to the rear is a mix of cream dash and red brick and sits gable ended to the road. There is also a small garage type building on the very rear corner of the site with two roller shutter doors. The land rises gradually from the roadside west to the east rear of the site.

Description of Proposal

The proposal seeks full planning permission for 8 No. two storey apartments within 2 blocks

Deferred Consideration:

This application was before the Planning Committee in January 2021 where it was deferred for a members site visit. The site visit was carried out on 23 June 2021 where members were able to see the site and the planned car parking and amenity space. Observation in relation to the amount of car parking being provided were relayed back to the agent and amended plans were submitted on 24 June 2021 showing 12 car parking spaces, an increase in 4 for the overall scheme. Neighbours were notified about these amended plans by letter dated 25 June 2021, there have been no comments received in relation to these amendments.



Members will be aware that Creating Places and the Department Parking Standards sets out sets out guidance in relation to the number of car parking spaces that may be required for new developments. This application proposes to have communal car parking for the 8no, 2 bedroom apartments. The guidance seeks to have 1.5 car parking spaces per unit where there is unassigned communal parking and as such this application is now fully meeting the guidance. The proposal still provides a good level of amenity space for the residents in communal areas.

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

As had already been concluded in the previous report to Committee, the proposed development meets with the published planning policies and the revised parking is now in full compliance with guidance for car parking. In light of the above it is my recommendation that planning permission is granted with the conditions as set out below attached.

Conditions/Reasons for Refusal:

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

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

2. The waste water treatment plant shall be located as per Drawing Site Layout Rev 06B date stamped 24 JUN 2021 and shall be installed and fully operational prior to the occupation of any dwellings hereby approved.

Reason: To safeguard public health and in the interest of safeguarding residential amenity.

3. A maintenance programme for the waste water treatment plant, along with signed contract of those that will be responsible for its maintenance, shall be agreed in writing with Mid Ulster District Council prior to the occupation of any dwelling hereby approved. The agreed maintenance programme shall be carried out for the lifetime of the waste water treatment plant, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To safeguard public health and in the interest of safeguarding residential amenity.

4. Within 4 weeks of a written request by Mid Ulster District Council, following odour complaint from the occupant of a dwelling, which lawfully exists or has planning permission at the date of this consent, the operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of immissions from the plant.

Reason: To safeguard residential amenity.

5. Any works required to resolve odour issues shall be carried out by an approved operator. The works shall be completed within a reasonable timeframe to the agreement of Mid Ulster District Council on identification of a nuisance. On completion of the works, the operator shall provide details of a monitoring survey to Mid Ulster District Council for written approval.

Reason: To safeguard residential amenity.

6. Prior to commencement of the development hereby permitted, visibility splays of 2.0 metres by 60.0 metres at the junction of the proposed access with the public road, shall be provided in accordance with the approved drawing No. 6B bearing the date stamp 24 JUN 2021, or as may otherwise be agreed in writing with the Council. The area within the visibility splays shall be cleared of all obstructions to a height of 250mm above the adjacent carriage and be permanently retained clear thereafter.

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

7. All hard and soft landscape works shall be carried out in accordance with the approved details on drawing No.6B dated 24 JUN 2021 and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any part of the dwelling.

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

8. A maintenance programme for the communal area of open space within the development, along with signed contract of those that will be responsible for its maintenance, shall be agreed in writing with Mid Ulster District Council prior to the occupation of any dwelling hereby approved. The agreed maintenance programme shall be carried out in perpetuity.

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

Informatives

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

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

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

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

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

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

Signature(s)

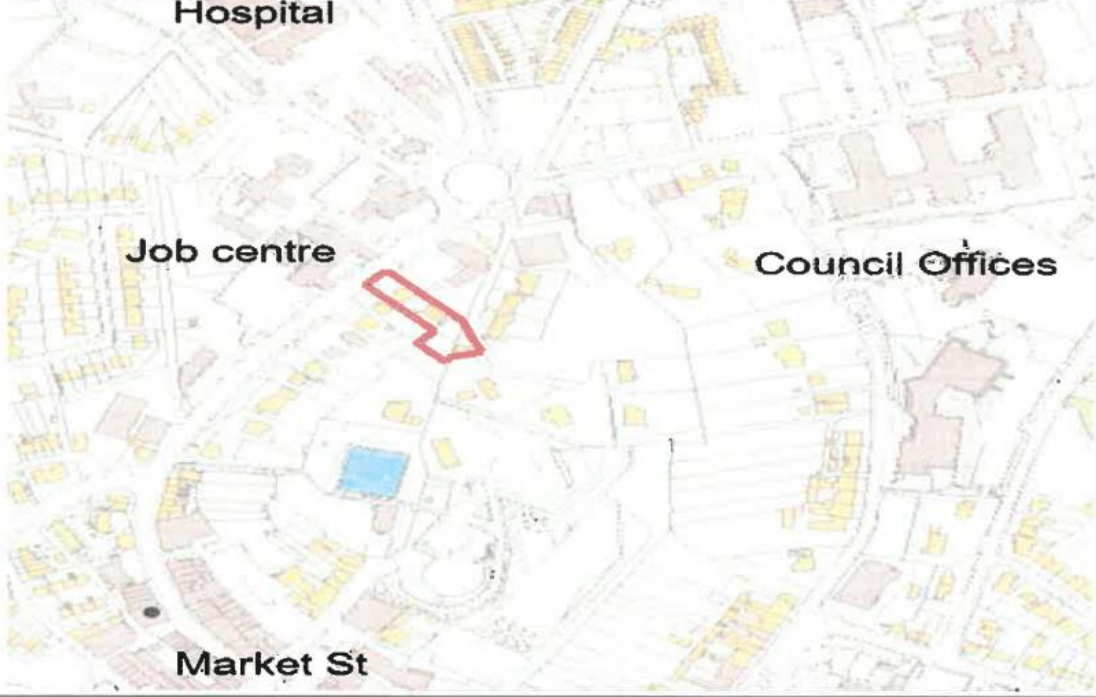
Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1305/F	Target Date:
Proposal: 8 No. two storey apartments within 2 blocks (amended drawings)	Location: 63 Thomas Street Dungannon
Referral Route: Objections received	
Recommendation:	Approval
Applicant Name and Address: Farasha Properties Ltd 34 Culrevog Road Dungannon	Agent Name and Address: J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
Executive Summary:	
Signature(s):	

Case Officer Report		
Site Location Plan		
		
Consultations:		
Consultation Type	Consultee	Response
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	Environmental Health Mid Ulster Council	Advice
Representations:		
Letters of Support	None Received	
Letters of Objection	17	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	

Summary of Issues

The objections were received in two waves, the first 10 objections raised the following;

- Loss of privacy, overlooking
- Out of character with the area
- Additional traffic congestion on Castlefields
- Overdevelopment of site
- Lack of open space
- Refuge collection point
- Inadequate parking
- Lack of integration
- Red line incorporating part of Castlefields road outside of the natural boundary
- The P.A.P on to Castlefields
- Lack of proper boundary along Castlefields
- in turn leading to increased noise,
- residents using Castlefields as through road etc parking

After numerous amended drawings the new scheme the neighbours were re-notified and a further 7 objections were received, these letters raised some of the previous concerns but additionally;

- Lack of on site parking, reduction to 8 spaces not adequate.
- Further increase in railings and extend area covered
- Waste water treatment plant concerns e.g maintenance smells.

Characteristics of the Site and Area

The site lies within the settlement limits and the town centre boundary of Dungannon, the small triangular south eastern corner lies within zoned housing land, it lies outside all other areas of constraint as depicted by the DSTAP 2010.

The red line of the site sits between a multi use education centre to the north east and a line of residential buildings to the south west. The immediate dwelling to the south west is a mix use residential home and dental practice. At the time of site visit there were two buildings on the site, a two storey building towards the front of the site and a smaller single storey building toward the rear which is currently disused but was previously a doctors surgery. The larger building sits centrally o the site and has a large two storey front projection, it is finished in white dash and a tarred driveway. There is also a small low cropped hedgerow along the roadside. The single storey building to the rear is a mix of cream dash and red brick and sits gable ended to the road. There is also a small garage type building on the very rear corner of the site with two roller shutter doors. The land rises gradually from the roadside west to the east rear of the site.



Description of Proposal

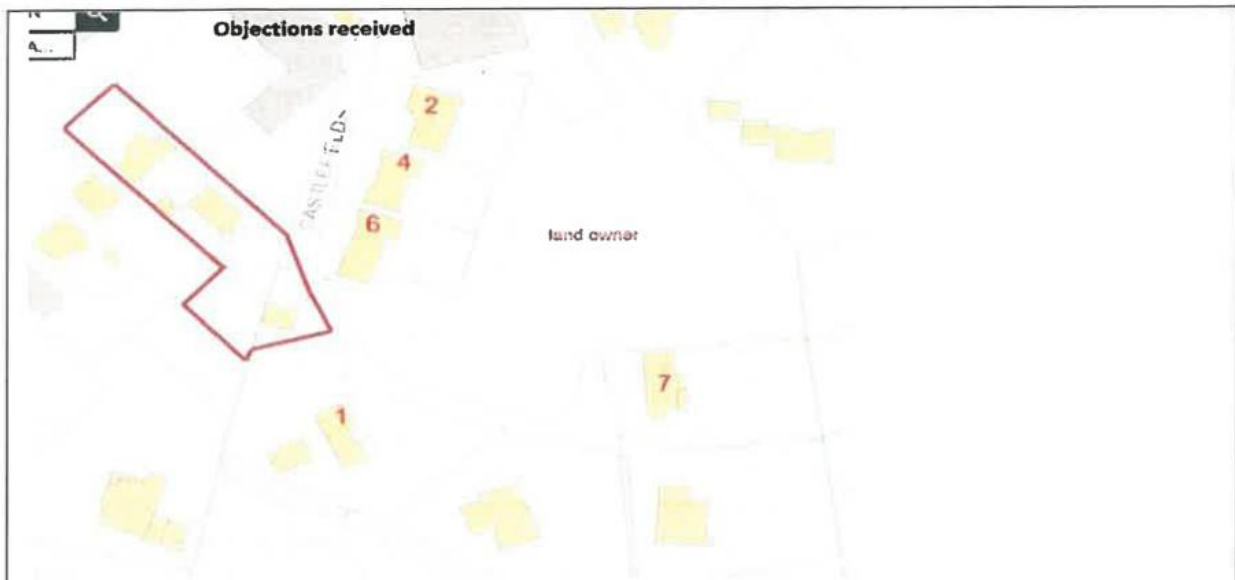
The proposal seeks full planning permission for 8 No. two storey apartments within 2 blocks



Planning Assessment of Policy and Other Material Considerations

Representations.

17 Objections have been received in total.
 Numbers 1(x2), 2(x2), 4(x2), 6(x3), 7 Castlefields.
 The owner of the land behind Castlefields (x2).
 There were two other objections giving their address as Castlefields Only.
 There were 3 objections from 71 The Grange.



Objectors concerns;

The objections were received in two waves, the first 10 objections raised the following;

- Loss of privacy, overlooking
- Out of character with the area
- Additional traffic congestion on Castlefields
- Overdevelopment of site
- Lack of open space
- Refuge collection point
- Inadequate parking
- Lack of integration
- Red line incorporating part of Castlefields road outside of the natural boundary
- The P.A.P on to Castlefields
- Lack of proper boundary along Castlefields
 - in turn leading to increased noise,
 - residents using Castlefields as through road etc parking

After numerous amended drawings the new scheme the neighbours were re-notified and a further 7 objections were received, these letters raised some of the previous concerns but additionally;

- Lack of onsite parking, reduction to 8 spaces not adequate.
- Further increase in railings and extend area covered
- Waste water treatment plant concerns e.g maintenance smells.

Consideration of objections.

-With regards overlooking, loss of privacy issues, - an amended scheme has been received with a lower ridge height, also the apartments have been orientated and designed so as to only have small narrow bedroom window overlooking Castlefields at first floor level. In addition the applicant has proposed a higher boundary along the rear to ease overlooking fears.

-With regards to the character of the area, the site lies within the TCB and many other examples of apartments are evident. I also feel that in this case the blocks of 4 apartments have been styled and designed so as to appear similar to the large detached properties along Thomas St.

-With regards to the objectors concerns relating to additional traffic on Castlefields, the applicant has an existing right of way onto Castlefields which they have chosen to keep closed up to avoid any outflow

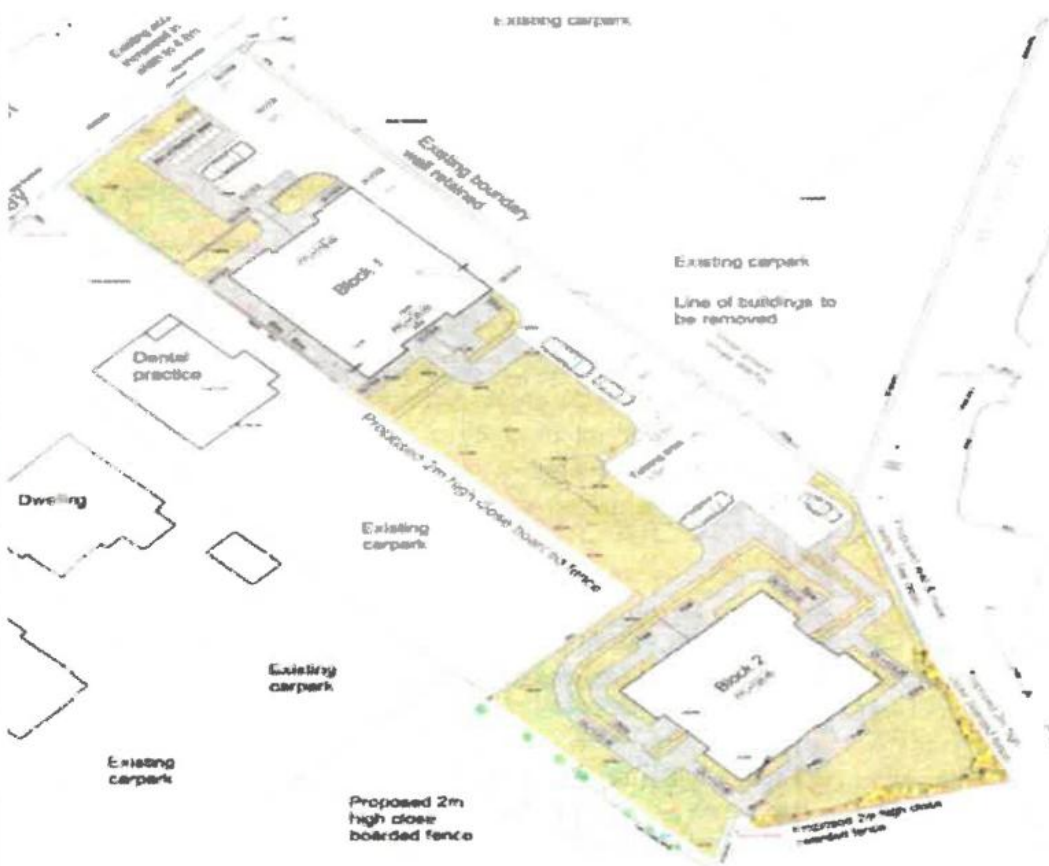
onto that small development. Furthermore since receiving the objections they have closed up the pedestrian access point and increase the boundary at the rear from 1.2 metres to 2 metres to further discourage anyone from hopping over that wall as per the concerns, in addition after the most recent meeting with the objectors, it was agreed to increase the 2 metre railing around the side boundary as well to further deter this movement.

-With regards to overdevelopment of the site, lack of open space and parking. The most recent layout has redone the parking to allow for a greater area of open space which meets the current required standards, including individual areas per apartment, as well as this DFI roads have been consulted and have no objections to the new scheme.

-With regards to the concerns over the bin collection point in close proximity to the houses at Castlefield, the recent layout has shown this to be moved to the front of the site at the furthest point from the objectors.

-With regards to the lack of integration, boundary definition, red line queries and P.A.P. The applicant has proposed to remove the P.A.P and increase the rear east boundary to a 2 metre high wall with railings to ease any fears of through flow on foot. In addition the scheme also proposes to retain the exiting vegetation and erect a 2 metre high closed board fence along the south and west boundaries. The applicant also provided land registry maps to prove ownership of all the land within the red line, this appears to include a small portion of the private lane to the rear.

-And finally with regards to the WWTP, as Dungannon WWTW are at capacity, the applicant has proposed a high quality Vitra Oxcrete sewerage treatment plant and has submitted all details pertaining to it. The Environmental health Department were consulted with these details and had no objections. The WWTP also comes with a 24 hour breakdown service in the case of emergency. This proposal is a viable alternative when connection to the mains sewers is not available.



Most recent scheme above



Original scheme above.

History

LA09/2019/0811/PAD - Proposed apartments - 63 Thomas Street, Dungannon.

Assessment

The following policy documents will be considered in this assessment:

- Strategic Planning Policy Statement (SPPS)
- Dungannon and South Tyrone Area Plan 2010 (DSTAP)
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Planning Policy Statement 3 - Access, Movement and Parking.
- Planning Policy Statement 7 ? Quality Residential Environments.
- Addendum to PPS 7 - Safeguarding the Character of Established Residential Area
- Planning Strategy for Rural NI
- DCAN 9 Residential and Nursing Homes
- Parking Standards

Strategic Planning Policy Statement (SPPS)

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The site is in an area of archaeological importance. Historic Environment

Division (HED) have been consulted and have advised that the proposal will not have a negative impact on archaeology in the area. The proposal will not impact on any priority habitat or designated sites. The proposal will not impact on residential amenity by way of overlooking, loss of light or unacceptable noise levels.

Dungannon and South Tyrone Area Plan 2010

The site is within the development limits of Dungannon as defined in the DSTAP 2010 and is outside the defined Town Centre Boundary. It is not subject to any Area Plan Designations or Zonings. As such, existing planning policy should be applied.

Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy

The Mid Ulster District Council Local Development Plan 2030 ? Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. However 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. It should be noted that the proposal does not raise any conflict with either of these policies. Policy GP1 - General Principles Planning Policy and Policy COY1 - Community Uses is applicable to this application

Planning Policy Statement 3 - Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves the use of an existing unaltered access to a public road. DFI Roads have been consulted and have raised no concerns in relation to road safety or traffic flow.

Policy AMP 7 deals with Car Parking and Servicing Arrangements. It advises that development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the Departments published standards or any reduction provided for in an area of parking restraint designated in a development plan. Proposals should not prejudice road safety or significantly inconvenience the flow of traffic. This site is not in an area of parking restraint and DFI Roads have not raised any concerns in relation to Parking. The TAF submitted with the application. 8 new spaces are being provided within the red line of the site which equates to over 1 space per unit which may be under the requirements. The original scheme provided 14 parking spaces, however, in order to accommodate a turning area for service vehicles a total of 6 spaces were dropped, however, it is my opinion that due to the town centre location, the availability of on street parking, existing car parks in the surrounding area as well as the style of development being apartments, a lower end of onsite parking standards can be accepted.

Planning Strategy for Rural NI (PSRNI)

Policy DES 2 (Townscape) is relevant to this assessment. This proposal will not have a negative impact on the character of this area. It will not detract from any existing streetscape or architectural interest.

Planning policy Statement 7 - Quality residential Environments

Policy QD1 - Quality in New Residential Development in PPS7 - Quality Residential Environments states all proposals for residential development will be expected to conform to all of the following criteria:

rendered walls on the ground floor and a red brick first floor drawing from the best local traditions of the surrounding area.

h) I am content this proposal should not have a significant detrimental impact on the adjacent land uses. I am content there will be no impact on the neighbouring property at Castlefields to the rear, or to the properties along Thomas Street in terms of noise disturbance and loss of privacy as the existing boundary wall is being retained and enhanced with fence and railings. I am satisfied there will be no issues with overlooking, overshadowing or loss of privacy at the neighbouring properties as previously discussed in the consideration of objections.

i) There are no concerns regarding crime and personal safety with this proposal.

Policy LC 1 - Protecting Local Character, Environmental Quality and Residential Amenity of the Addendum to PPS 7 - Safeguarding the Character of Established Residential Areas states planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria set out below are met:

(a) This proposed development would increase the density of the development with the previous use, however, I would not have any concerns this would considerably alter the character of this established area.

(b) The pattern of development in the immediate area is a mix of large two and three storey buildings and I consider the type of building proposed, would not have an impact on the overall character and environmental quality of this area.

(c) the units are built to a size not less than those set out in Annex A

Other considerations

The site is not subject to flooding and neighbouring land use will not be detrimentally impacted. There are no land contamination or public health issues to consider. The building is not listed therefore LBC is not required.

Environmental Health have been consulted with regard to smells/fumes, refuse and litter and have raised no objections. Based on this I am satisfied that the proposal is adequately designed to avoid a significant adverse impact on neighbouring amenity.

Neighbour Notification Checked

Yes

Conditions

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

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

2. The waste water treatment plant shall be located as per Drawing Site Layout Rev 06 date stamped 11th August 2020 and shall be installed and fully operational prior to the occupation of any dwellings hereby approved.

Reason: To safeguard public health and in the interest of safeguarding residential amenity.

3. An adequate maintenance programme for the waste water treatment plant, along with signed contract of those that will be responsible for its maintenance, shall be agreed in writing with Mid Ulster District Council prior to the occupation of any dwelling hereby approved. The agreed maintenance programme shall be carried out for the lifetime of the waste water treatment plant, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To safeguard public health and in the interest of safeguarding residential amenity.

4. Within 4 weeks of a written request by Mid Ulster District Council, following odour complaint from the occupant of a dwelling, which lawfully exists or has planning permission at the date of this consent, the operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of emissions from the plant.

Reason: To safeguard residential amenity.

5. Any works required to resolve odour issues shall be carried out by an approved operator. The works shall be completed within a reasonable timeframe to the agreement of Mid Ulster District Council on identification of a nuisance. On completion of the works, the operator shall provide details of a monitoring survey to Mid Ulster District Council for written approval.

Reason: To safeguard residential amenity.

6. Prior to commencement of the development hereby permitted, visibility splays of 2.0 metres by 60.0 metres at the junction of the proposed access with the public road, shall be provided in accordance with the approved drawing No. 6 bearing the date stamp 11 August 2020, or as may otherwise be agreed in writing with the Council. The area within the visibility splays shall be cleared of all obstructions to a height of 250mm above the adjacent carriage and be permanently retained clear thereafter.

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

7. All hard and soft landscape works shall be carried out in accordance with the approved details on drawing No.6A dated 25th November 2020 and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out prior to the occupation of any part of the dwelling.

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

Informatives

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

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

3. The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land

owned or managed by the Department for Infrastructure for which separate permissions and arrangements are required.

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

A monetary deposit will be required to cover works on the public road.

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

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

Signature(s)

Date:

ANNEX	
Date Valid	7th October 2019
Date First Advertised	22nd October 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) Aileen McMorrow "Knocknarea", 4 Castlefields, Dungannon, BT71 6DZ The Owner/Occupier, 1 Castlefields Dungannon Tyrone Mary Watkins 1 Castlefields, Dungannon, Tyrone, Northern Ireland, BT71 6DZ . The Occupier 1 Castlefields, Dungannon, Tyrone, Northern Ireland, BT71 6DZ Veronica Knox 117 Drumnasoo Road, Portadown, BT62 4EX The Owner/Occupier, 2 Castlefields Dungannon Tyrone Charlotte McCaughan 2 Castlefields, Dungannon, Co Tyrone, BT71 6DZ Charlotte McCaughan 2 Castlefields, Dungannon, Tyrone, Northern Ireland, BT71 6DZ P Marshall 3 The Cairn, Bush Road, Dungannon, Co Tyrone, BT71 6QB P Marshall 3 The Cairn, Bush Road, Dungannon,BT71 6QB The Owner/Occupier, 4 Castlefields Dungannon Tyrone A McMorrow 4 Castlefields,Dungannon,BT71 6DZ The Owner/Occupier, 59 Thomas Street,Dungannon,Tyrone,BT70 1HW The Owner/Occupier, 6 Castlefields Dungannon Tyrone Mary McElroy 6 Castlefields, Dungannon, BT71 6DZ Mary McElroy 6 Castlefields, Dungannon, Tyrone, Northern Ireland, BT71 6DZ Mary McElroy 6 Castlefields,Dungannon,BT71 6DZ The Owner/Occupier, 61 Thomas Street,Dungannon,Tyrone,BT70 1HW The Owner/Occupier, 63 Thomas Street,Dungannon,Tyrone,BT70 1HW Steven White 7 Castlefields,Dungannon,BT71 6DZ	

Veronica Knox
 71 The Grange,Lurgan,BT67 9BU
 Veronica Knox
 71 The Grange,Lurgan,BT67 9BU
 D. Hanna
 Castlefield, Dungannon, BT71 6DZ
 D Hanna
 Castlefields,Dungannon,Co Tyrone,BT71 6DZ
 The Owner/Occupier,
 Crown Buildings Thomas Street Dungannon
 The Owner/Occupier,
 Crown Buildings,Thomas Street,Dungannon,Tyrone,BT70 1EN
 The Owner/Occupier,
 Multi Purpose Centre 65 Thomas Street Dungannon

Date of Last Neighbour Notification

18th November 2020

Date of EIA Determination**ES Requested**

No

Planning History

Ref ID: LA09/2019/0811/PAD
 Proposal: Proposed apartments
 Address: Thomas Street, Dungannon,
 Decision:
 Decision Date:

Ref ID: LA09/2019/1305/F
 Proposal: 8No. two storey apartments within 2 blocks
 Address: 63 Thomas Street, Dungannon,
 Decision:
 Decision Date:

Ref ID: M/1976/0435
 Proposal: MULTI-PURPOSE EDUCATION CENTRE
 Address: DRUNGLASS PRIMARY SCHOOL, THOMAS STREET, DUNGANNON
 Decision:
 Decision Date:

Ref ID: M/1991/6043
 Proposal: Bank Thomas Street
 Address: Thomas Street
 Decision:
 Decision Date:

Ref ID: M/2000/0541/F
 Proposal: Conversion and extension of dwelling to create dental surgery with provision of car parking

Address: 61 Thomas Street Dungannon

Decision:

Decision Date: 17.01.2001

Ref ID: M/2000/1314/F

Proposal: Erection of replacement dwelling.

Address: 1 Castlefields, Dungannon.

Decision:

Decision Date: 04.09.2001

Ref ID: M/1978/0781

Proposal: REPLACEMENT (MOBILE) WAITING-ROOM AND RECEPTION FOR SURGERY

Address: 63 THOMAS STREET, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1976/043503

Proposal: CHANGE OF USE TO MULTI PURPOSE EDUCATION CENTRE

Address: DRUMGLASS PRIMARY SCHOOL THOMAS STREET, DUNGANNON

Decision:

Decision Date:

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 04

Type: Proposed Plans

Status: Submitted

Drawing No. 05

Type: Proposed Plans

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2019/1432/O	Target Date:
Proposal: Proposed site for dwelling and domestic garage. Based on Policy CTY10 (Dwelling on a farm)	Location: Approx 100m North-West of No84 Loup Road Moneymore
Applicant Name and Address: Mr Michael O'Boyle 97b Loup Road Moneymore BT45 7st	Agent name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Characteristics of the Site and Area: This application relates to an outline permission for the provision of a farm dwelling located on farm lands approximately 100 northwest of No 84 Loup Road, Moneymore. The site is situated outside any designated zonings or settlement limits. The area is classified as open countryside as defined within the Magherafelt Area Plan 2015. The site comprises the top northeast corner of a grass field. The field is identified as No 9 on the DEARA farm map. The fields topography raises in a steep elevation from the Moneymore Road towards the site in northerly direction. The northeast boundary consists of various indigenous hedgerow species with a good mixture of semi-mature trees. The eastern boundary abuts an adjacent laneway that defines the eastern boundary. The northern boundary is defined by intermittent tress with hedgerow supported with post and wire fencing. The west and south boundaries are undefined. The surrounding area is characterised by an undulating landscape. The predominant land use is of an agricultural nature, with single dwellings and associated outbuildings also visible in local area.	



Description of Proposal

The applicant is seeking outline planning for a farm dwelling.

Deferred Consideration:

The application was presented to August 2020 Planning Committee for the following reasons;

The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm.

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building is a prominent feature in the landscape and lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. The proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building would, if permitted, be unduly prominent in the landscape and that the impact of ancillary works would damage rural character.

It was subsequently deferred for a virtual meeting with the Area Planning Manager which was held on 13th August 2020.

Following the deferral of the application a site visit was carried out by a senior officer to carry out a re-assessment.

DEARA have confirmed the farm is active and established and no development opportunities have been sold off, the issue with CTY10 related only to criteria c. The two

structures measuring approx. 3m in width and depth by 3m in height located within the vicinity of the site cannot be relied on as 'farm buildings' to group with. The structures appeared to have been constructed of timber frames with corrugated sheeting and there was no evidence of these structures being permanently secured to the ground or having any planning permission. (see image below). The structures do not represent permanent buildings on the farm and therefore cannot be taken for the purposes of CTY10 to justify the site.



Structures on site

The main farm house at 97 Loup Road, is located within the development limits of the Loup with no other buildings surrounding it. There are no other farm buildings on the submitted farm maps within the countryside, except for the structures mentioned above.



Applicants house

Therefore this site would be regarded as an exception to CTY10 because there are no farm buildings to visually link or cluster with. An existing access is to be used and an existing field pattern is being followed, preventing any suburban style of development. The agent mentioned at the office meeting 3 trees which would aid with integration of a dwelling on the site. These were viewed on the site visit and when on Loup Road looking up at the elevated site, a dwelling with a ridge height of 5.7m, along with the retention of the existing trees, would provide a suitable degree of integration for a dwelling of this

height. A block plan has been submitted showing the existing trees on the site and will they be conditioned to be retained as such.



An Approval is therefore recommended with conditions.

Conditions-

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

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

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

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

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

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

4. 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.

6. The trees as indicated on plan 02 date stamped 9 August 2021 should be permanently retained as shown.

Reason - In the interests of visual amenity.

7. The proposed dwelling shall have a ridge height of less than 5.7m 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.

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	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1432/O	Target Date:
Proposal: Proposed site for dwelling and domestic garage. Based on Policy CTY10 (Dwelling on a farm)	Location: Approx 100m North-West of No84 Loup Road Moneymore
Referral Route: Proposal fails to comply with criteria c contained within Policy CTY 10 and CTY 13, CTY 14 of PPS 21. No third party representations received and all other material considerations have been taken into consideration.	
Recommendation:	
Applicant Name and Address: Mr Michael O'Boyle 97b Loup Road Moneymore BT45 7st	Agent Name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	
Signature(s):	

For committee



13/5/20

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	DAERA - Coleraine	Substantive Response Received

Representations:

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

Summary of Issues

No third party representations received and all other material considerations have been taken into consideration.

Characteristics of the Site and Area

This application relates to an outline permission for the provision of a farm dwelling located on farm lands approximately 100 northwest of No 84 Loup Road, Moneymore. The site is situated outside any designated zonings or settlement limits. The area is classified as open countryside as defined within the Magherafelt Area Plan 2015. The site comprises the top northeast corner of a grass field. The field is identified as No 9 on the DEARA farm map. The field's topography raises in a steep elevation from the Moneymore Road towards the site in northerly direction. The northeast boundary consists of various indigenous hedgerow species with a good mixture of semi-mature trees. The eastern boundary abuts an adjacent laneway that defines the eastern

boundary. The northern boundary is defined by intermittent tress with hedgerow supported with post and wire fencing. The west and south boundaries are undefined.

Located approximately 30m to the northeast of the site is a small paddock which is heavily screened with thick vegetation. I observed two structures measuring approx. 3m in width and depth by 3m in height located within this small area. The structures appeared to have been constructed of timber and corrugated sheeting. I did not see any evidence of these structures being permanently secured to the ground. I noted one of the structures was laying on its roof and the other was laying on its side I could not see any evidence of foundations or hard-standing (floor) around the area or the vicinity of the two structures.

Characteristics of the site and area.

The surrounding area is characterised by an undulating landscape. The predominant land use is of an agricultural nature, with single dwellings and associated outbuildings also visible in local area.

Description of Proposal

The applicant is seeking outline planning for a farm dwelling.

No details surrounding design or landscaping associated with the proposal have been submitted with this application which relates to outline planning consent only. The proposal involves the construction of a new access to a public road and therefore DFI Roads were consulted in the processing of the application.

All planning application forms, drawings, letters etc. relating to this planning application are available to view on www.planningni.gov.uk.

Relevant Site History:

MUDC records indicate no planning history relating to this site.

Constraints:

DFI: Roads no objection apply standard conditions;
DAERA confirmation of an active farm business;
NIW: No objections standard Informatives

Representations.

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. At the time of writing no objections or representations were received. This application was initially advertised in the local press on w/c 11th November 2019 (publication 12th November 2019. Four (4) neighbouring properties were notified on 7 November 2019; all processes were in accordance with the Development Management Practice Note 14 (April 2015).

EIA Determination.

The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015; the proposal has been considered and does not fit within any categories or threshold identified in Schedule 2 of Environment Impact Assessment.

HRA Determination - (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2015, there is no watercourse directly abutting this site, therefore it is unlikely that there will be any adverse effects from development works on integrity of any National or European site or any water stream by way of a hydrological link to the site. Checks carried out indicate there is no flooding issues on this site.

Planning Assessment of Policy and Other Material Considerations

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The Magherafelt Area Plan 2015 does not contain provided by PPS 21 and the SPPS.

1. Magherafelt Area Plan 2015.
2. Strategic Planning Policy Statement (SPPS).
3. PPS 3 Planning Policy Statement 3 Access, Movement and Parking. (DCAN 15)
4. PPS 21 - Sustainable Development in the Countryside.
5. Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside

The Magherafelt Area Plan 2015 (MAP) operates as the statutory local development plan for the area the site lies in. The Magherafelt Area Plan 2015 does not contain any specific policies relevant to the application. The principal planning policies are therefore provided by PPS 21 and the SPPS.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

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

Assessment**PPS 21**

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

- (a) The farm business is currently active and has been established for at least 6 years.
- (b) No dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.

(c) The new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

- Demonstrable health and safety reasons; or
- Verifiable plans to expand the farm business at the existing building group(s).
-

In addition to the criteria above, applications of this nature must also demonstrate that they meet the policy requirements of policies CTY 13, CTY 14 and CTY 16 of PPS 21.

With respect to (a) it is considered that this policy criteria is met as the applicant has provided an Agricultural Business Identification number and claims Single Farm Payments. DAERA have been consulted and have confirmed that the farm business has been in existence and active for a period of more than 6 years established (11/03/2008). I am content that the consultation response from DAERA, coupled with observations made on-site and evidence demonstrates the farm is actively farm business.

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

In terms of criteria (c) it is clear from my observations made from my site visit that there were no existing farm buildings with the exception of two temporary mobile structures. The small shelter temporary structures constructed from timber frame corrugated roof and sides are in my opinion do not have a great visual presence on the site either to be counted as buildings to be linked or clustered with in line with relevant policy CTY 10 criteria c.



Fig.1 temporary structures constructed of timber and corrugated sheeting

Therefore this category c has not been complied with.

The proposal for a farm dwelling must also demonstrate that they meet the policy requirements of policies CTY 13, CTY 14 Policy.

CTY 13 stipulates that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The proposal fails both CTY 13 and CTY 14 given the steep topography of the site a new dwelling with a modest ridge height of 5m would become a prominent feature and would adversely impact on the local landscape. I am also not persuaded the proposed dwelling would benefit from any additional landscaping thereby aiding to restrict the level of prominence including the level of associated impact on the surrounding landscape.

In terms of Policy CTY14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.

In terms of the associated ancillary works involved to construct the new access I have concerns over the degree of land manipulation that will be required to facilitate this development.

Access Consideration.

DFI Roads were consulted on 05/11/2019 on this application and responded with no objections subject to standard condition namely the vehicular access, including visibility splays of 2.4m x 90m in both directions

Recommendation.

I recommend refusal on the grounds that the site is not visually linked to an existing farm group of buildings and given the steep topography a dwelling would, if permitted, adversely impact on the rural character of the surrounding area. That said, given that the applicant's extensive farm holding it would be worth exploring other alternative sites.

Contrary to CTY1, CTY10, CTY13, CTY14

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal

Reasons for Refusal:

1.The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that The proposed building is a prominent feature in the landscape and lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. The proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape and that the impact of ancillary works would damage rural character.

Signature(s)

Date:

29.4.22.



Handwritten signature and scribbles.

ANNEX	
Date Valid	31st October 2019
Date First Advertised	12th November 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 79 Loup Road, Moneymore, Londonderry, BT45 7ST The Owner/Occupier, 82 Loup Road Moneymore Londonderry The Owner/Occupier, 84 Loup Road Moneymore Londonderry The Owner/Occupier, 86 Loup Road Moneymore Londonderry	
Date of Last Neighbour Notification	7th November 2019
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2019/1432/O Proposal: Proposed site for dwelling and domestic garage. Based on Policy CTY10 (Dwelling on a farm) Address: Approx. 100m North-West of No84 Loup Road Moneymore, 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. 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	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/0452/F	Target Date: <add date>
Proposal: Replacement of Dwelling with New Dwelling and Garages (amended description)	Location: 20 Reaskcor Road Dungannon
Applicant Name and Address: Mr & Mrs G Burrows 51 Terrennew Road Dungannon BT70 3AB	Agent Name and Address: ACA Architecture Ltd Cottage Studios Gortrush Great Northern Road Omagh BT78 5EJ
Summary of Issues: The application seeks permission for a replacement dwelling and garage. The building to be replaced exhibits the essential characteristics of a dwelling and all external structural walls are substantially intact as per the requirements of PPS 21 CTY3. The proposed replacement dwelling is not sited within the established curtilage of the existing building and the application seeks to retain the existing building as an agricultural store. There are concerns and a number of objections have been received which specifically relate to the retention of the existing building as an agricultural store given the recent renovations and high standard of finishes to the existing subject building. However, overall it is considered the proposal complies with the relevant, prevailing planning policy. 13No. objections have been received and are considered below.	
Summary of Consultee Responses: DFI Roads - close existing access, new access to have 2.4m x 45.0m sight lines NIEA – NED has no concerns and provides advice Historic Environment Division - does not consider that the proposed development will have any adverse impacts upon the settings of the historic monuments and designed landscape assets	

Characteristics of the Site and Area:

The application site comprises an existing two storey roadside dwelling with a farm holding comprising a number of farm buildings to the rear; a small triangular roadside field; and a portion of a large field which has a mixture of topsoil and an area of hardstanding/rubble. The site is located in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan 2010. The surrounding context is largely rural with agricultural land predominantly surrounding the site. However, the site is located immediately outside and adjacent to the settlement limits of Castlecaufield. The settlement of Castlecaufield is to the NE and encompasses the agricultural field adjacent to the red line. The land within the red line is relatively flat however the ground level inclines significantly when travelling in a south-westerly direction along Reaskor Road, therefore the proposal site is on elevated land when compared to the ground level of the adjacent Parkanaur Road.

The two-storey replacement opportunity subject to this application site is in good condition and appears to have underwent recent interior and exterior renovations. There has been recent front kerbing and evidence of a rear garden wall under construction providing a boundary between the farm holding and the existing building. The existing dwelling and farmyard are currently accessed via an existing access to the southern corner of the site, whilst the proposed access to the dwelling does not appear to be formalised however it was noted on the date of the site inspection that the boundary treatment to the northeast may have recently been removed. The south and east boundaries are defined by existing vegetation with the remaining boundaries relatively undefined. The existing farm buildings and partial hedging will provide some screening of the proposal site when travelling north-easterly on Reaskor Road. Public views will be more open when travelling south-westerly on Reaskor Road and also when travelling on the Terrenure Road and Parkanaur Road, particularly in a south-westerly direction.

Description of Proposal

This application seeks full planning permission for an offsite replacement dwelling with garage. It is proposed to demolish the existing dwelling.

Deferred Consideration:

This application was before the Planning Committee on 12 April 2021 and was deferred to allow the Planning Manager to meet, separately, with the applicant and the objectors. These meetings were held virtually on 22 April 2021.

The objectors reiterated the issues that have already been discussed in the previous report and did not provide any information to demonstrate there would be any harm to them if the application was approved, concerns were in relation to the proposal not meeting the policy for replacement dwellings and that in other cases where replacement dwellings were proposed these were required to be demolished.

The applicants advised they have a large dairy farm nearby and are unable to get a site on it. They bought this land and removed some of the buildings on the site as they were in a poor state of repair. They propose to site away from an approved and under construction pig unit, which is on the opposite side of Reaskor Road from the existing dwelling, it is not in their ownership.

Following the meetings on 22 April 2021 the scheme was amended to include demolition of the existing dwelling. Neighbours were notified about this change on 14 July 2021 and it was advertised in the newspapers on 20 and 22 July 2021. There have been no further representations to the application.

Members are advised that Policy CTY3 for Replacement Dwellings seeks that any replacement dwelling should be in the curtilage of the existing dwelling unless the curtilage is too restrictive or there are other benefits to having it sited away. The applicants have advised the existing house is sited in close proximity to an approved and under construction pig unit. See Photo A below, pig unit in green, existing dwelling in blue and proposed site in red (behind the existing buildings)



Photo A – Reaskcor Road from North

The applicants are asking to be sited on the other side of their buildings to provide some degree of separation from the pig unit. I would agree that this will improve the situation for them specially as they are on the SW side of the pig unit and the prevailing winds are usually from this direction which will generally move odours to the NE. While this will not completely resolve any possible issues, it is likely to provide some benefits for the applicants. Member will be aware of the other objections received to this application, these have already been discussed in the previous report, however it should be noted the applicants have agreed to remove the existing dwelling. The proposed dwelling is 1 ½ storey with a ridge height of 7.5m above the finished floor level and dormer windows projecting from the wall plate, this replaces a full 2 storey dwelling which has a ridge height of 8m above the adjoining lands. In my opinion the removal of the existing dwelling will reduce the visual impact of the overall scheme as the existing dwelling is prominent and on the skyline in views from Castlecaulfield. I consider the proposed dwelling, while larger in its massing, will have less visual impact as it has mature trees to the rear, the ridge height is approx. 0.8m below the height of the existing dwelling and it is sited to the

rear of the existing agricultural building which all aid its integration into the landscape— see Photo B below.



Photo B – View from Castlecaulfield - site identified in red in front of the trees, existing dwelling to left hand side with new pig shed under construction.

Other views of the site from the local area, except on approaches on Reaskcor Road are limited. The dwelling will be sited behind the existing vegetation on the south boundary which will screen it in views from the south west, See Photo C below.



Photo C – View from Terrenure Road to SW

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.

Taking into account all the information above, I would advise members that in my view the proposed dwelling sited here will provide amenity benefits to the applicant and with the removal of the existing dwelling and retention of the existing vegetation and buildings, will result in the removal of the dwelling from the skyline and better integration into the landscape. I recommend this application is approved with the conditions set out below.

Conditions/Reasons for Refusal:

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

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

2. The existing dwelling, coloured green on the approved drawing No 01Rev1 bearing the date stamped 28 JUN 2021, shall be demolished within 6 weeks of the date of the occupation of the dwelling hereby approved.

Reason: In the interests of visual amenity.

3. The existing access annotated 'EXISTING ACCESS TO BE PERMANENTLY CLOSED UP' on Drawing No. 02 Rev 3 bearing the date stamp 128 JUN 2021 shall be permanently closed and the verge properly reinstated to DfI Roads satisfaction, within 6 weeks of the occupation of the dwelling hereby approved.

Reason: In order to minimize the number of access points on to the public road in the interests of road safety and the convenience of road users.

4. The vehicular access, including visibility splays of 2.4 x 45m in both directions, shall be provided in accordance with Drawing No. 02 Rev 3 bearing the date stamp 28 JUN 2021 prior to the commencement of any other works or other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250 mm above the level of the adjoining carriageway before the development hereby permitted is commenced and such splays shall be retained and kept clear thereafter.

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

5. The access gradient shall not exceed 8% (1 in 12.5) over the first 5.0m outside the road boundary. Where the vehicular access crosses footway or verge, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

6. The gradients and levels of the site, and, the finished floor levels of the development hereby permitted shall be as shown on drawing No 02 Rev 3 bearing the date stamp received 28 JUN 2021, unless otherwise agreed in writing by Council.

Reason: To ensure the development integrates into the surroundings.

7. The existing mature trees and vegetation along the southern boundary of the site, as identified in yellow on drawing No 01 Rev 1 bearing the stamp dated 28 JUN 2021, 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. The scheme as agreed shall be carried out within the next available planting season.

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

8. The existing buildings hatched and annotated 'EXISTING BUILDINGS TO BE RETAINED' on drawing no 02Rev3 bearing the stamp dated 28 JUN 2021 shall be permanently retained.

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

All proposed planting as indicated on approved Drawing No. 02 Rev 3 date stamped 28 JUN 2021 shall be carried out in the first available planting season following the occupation of the dwelling hereby approved and any trees or shrubs which, within a period of 5 years from the occupation of the building, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity.

9. The curtilage of the dwelling hereby approved shall not extend outside the area enclosed by the new hedging as identified in the legend as 'Proposed hedge planting as scheduled on drawing No 02 Rev 3, bearing the stamp dated 28 JUN 2021.

Reason: In the interests of visual amenity and to control the number of new buildings in the countryside.

Informatives

1. 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 Mid Ulster District Council or other statutory authority.
2. The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department Infrastructure for which separate permissions and arrangements are required.
3. It is the responsibility of the developer to ensure that Surface water does not flow from the site onto the public road. The existing roadside drainage is accommodated and no water flows from the public road onto the site. The developer should note that this

planning approval does not give consent to discharge water into a DfI Roads NI drainage system.

4. Notwithstanding the terms and conditions of the Mid Ulster District Council's approval set out above, you are required under Article 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Moygashel Depot, Main Street, Moygashel, BT71 7QR. A monetary deposit will be required to cover works on the public road.
5. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:
kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*);
damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection;
damage or destroy anything which conceals or protects any such structure; disturb a badger while it is occupying a structure or place which it uses for shelter or protection. Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.
6. If there is evidence of badger on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.
7. The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:
 - a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;
 - b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
 - c) Deliberately to disturb such an animal in such a way as to be likely to -
 - i. affect the local distribution or abundance of the species to which it belongs;
 - ii. Impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - iii. Impair its ability to hibernate or migrate;
 - d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
 - e) To damage or destroy a breeding site or resting place of such an animal.
8. 8. If there is evidence of bat activity / roosts on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.
9. The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

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

done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

It is therefore advised that any tree or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season (e.g. between 1st March and 31st August).

- 10.** The applicant's attention is drawn to the HED document Guidance on Setting and the Historic Environment, which provides advice on the analysis of the settings of heritage assets in Northern Ireland, and how the potential effects of development proposals may be assessed.

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: LA09/2020/0452/F	Target Date: 15/07/20
Proposal: Replacement of Dwelling with New Dwelling and Garages (existing dwelling retained as agricultural store)	Location: 20 Reaskcor Road Dungannon
Referral Route: 13no. Objection letters received	
Recommendation:	Approval
Applicant Name and Address: Mr & Mrs G Burrows 51 Terrennew Road Dungannon BT70 3AB	Agent Name and Address: ACA Architecture Ltd Cottage Studios Gortrush Great Northern Road Omagh
Executive Summary: <p>The application seeks permission for a replacement dwelling and garage. The building to be replaced exhibits the essential characteristics of a dwelling and all external structural walls are substantially intact as per the requirements of PPS 21 CTY3. The proposed replacement dwelling is not sited within the established curtilage of the existing building and the application seeks to retain the existing building as an agricultural store. There are concerns and a number of objections have been received which specifically relate to the retention of the existing building as an agricultural store given the recent renovations and high standard of finishes to the existing subject building. However, overall it is considered the proposal complies with the relevant, prevailing planning policy. 13No. objections have been received and are considered below.</p>	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen	Advice
Statutory	DFI Roads - Enniskillen	Content
Non Statutory	NIEA	Substantive Response
Non Statutory	NIEA	No Objection
Statutory	Historic Environment Division	Content

Representations:

Letters of Support	None Received
Letters of Objection	13
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 comprises an existing two storey roadside dwelling with a farm holding comprising a number of farm buildings to the rear; a small triangular roadside field; and a portion of a large field which has a mixture of topsoil and an area of hardstanding/rubble. The site is located in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan 2010. The surrounding context is largely rural with agricultural land predominantly surrounding the site. However, the site is located immediately outside and adjacent to the settlement limits of Castlecaufield. The settlement of Castlecaufield is to the NE and encompasses the agricultural field adjacent to the red line. The land within the red line is relatively flat however the ground level inclines significantly when travelling in a south-westerly direction along Reaskor Road, therefore the proposal site is on elevated land when compared to the ground level of the adjacent Parkanaur Road.

The two-storey replacement opportunity subject to this application site is in good condition and appears to have underwent recent interior and exterior renovations. On

the date of the site inspection it was noted recent front kerbing and evidence of a rear garden wall under construction providing a boundary between the farm holding and the existing building. The existing dwelling and farmyard are currently accessed via an existing access to the southern corner of the site, whilst the proposed access to the dwelling does not appear to be formalised however it was noted on the date of the site inspection that the boundary treatment to the northeast may have recently been removed. The south and east boundaries are defined by exiting vegetation with the remaining boundaries relatively undefined. The existing farm buildings and partial hedging will provide some screening of the proposal site when travelling north-easterly on Reaskcor Road. Public views will be more open when travelling south-westerly on Reaskcor Road and also when travelling on the Terrenure Road and Parkanure Road, particularly in a south-westerly direction.

Description of Proposal

This application seeks full planning permission for an offsite replacement dwelling with garage and retention of existing dwelling as an agricultural store at 20 Reaskcor Road, Dungannon.

Planning Assessment of Policy and Other Material Considerations

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

The 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
PPS 2: Natural Heritage
PPS 3: Access, Movement and Parking
PPS 6: Planning, Archaeology and the Built Heritage
PPS 21: Sustainable Development in the Countryside
Building on Tradition - A Sustainable Design Guide for Northern Ireland

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, 13 No. Objection letters have been received.

Seven identical objection letters were received in respect of the proposed development and relate to the following concerns:

- The existing dwelling is habitable and no justification has been provided to replace it or information as to why it cannot be retained or extended;
- The proposed site is approximately 3 metres higher than the ground level of the existing dwelling and the proposed dwelling is excessively large approximately 4 times larger than the existing dwelling;
- The siting and design fail to comply with planning policy and guidance. The siting is out of character with the traditional settlement pattern and the design is at odds with Building on Tradition in terms of excessive scale, glazed area, projections and roof planes.

Three objection letters were also received from Mr Robert Carson and three further letters from Manor Architects and William Orbinson QC on behalf of Mr Robert Carson. These objection letters repeat the issues outlined above and also raise further concerns which I have aimed to summarise below:

- The existing dwelling is modern, does not have the characteristics of an agricultural building, does not readily lend itself to agricultural function and ample agricultural storage on site already. The dwelling has recently been refurbished and the proposal appears to be an attempt to have two dwellings on the holding;
- Retention should not be allowed rather conditioned to be demolished and removed otherwise this sets a worrying precedent, allows for a floundering of policy with potential for retention through five year rule; or a future change in policy may allow the conversion of the building back to dwelling status;
- No justification for off site location which offers no amenity or siting benefits;
- Residential amenity will be hampered due to access arrangements and proximity to farm buildings; acoustic reports, odours and other contamination reports which satisfy environmental health should be completed as house may at some stage be sold;
- Proposal significantly and grossly greater than the existing dwelling and the double garage attached to the dwelling emphasises the dwelling is too large and bears no relationship to the scale of site, building to be replaced or adjacent buildings;
- The description on the submitted drawings do not reference replacement dwelling and the floor plans are not fully detailing making it impossible to establish the scale of the structure;
- The proposal will fail to integrate, appear prominent from approaching vantage points and relies entirely on new planting and retention of the farm buildings to achieve any level of integration;
- Scale, massing, mix and match of styles are non-compliant with policy. Fenestration has disproportional solid to void ratio;
- Badgers often appear crossing the Reaskcor Road and the field boundary which runs west of the site is an ideal habitat for badgers which should be investigated;
- This is archaeologically sensitive area – 100m south of the proposed dwelling is a tree ring rath, evidence of ancient field systems in the wider area, north west is Lough Aughlish and an ancient Crannog therefore in accordance with Policy BH1 the proposal should be refused or HED should be consulted;
- Should Council consider Policy BH1 inapplicable having consulted HED, the objector contends the archaeological assets are of local importance and the proposal is contrary to Policy BH2 and permission should be refused if the setting of assets are not preserved by the proposal, as per paragraph 3.10 of PPS6;

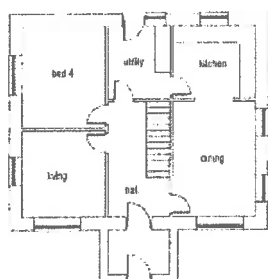
- Objector suspects there could be some archaeological materials on site given the archaeological context of the site and elevated nature within that context therefore Policy BH3 is engaged and HED should be consulted and the Applicant should be requested to provide an archaeological evaluation involving ground surveys and targeted licensed excavation;

Consideration of concerns

- Retention of existing building – The application has sought retention of the existing building for agricultural storage. Further information regarding how the existing building will be adapted for agricultural use have been provided on Drawing 04 (pasted below). The members should consider the objectors' comments with respect the retention of the existing building. The extant Area Plan, as well as the emerging Local Development Plan and prevailing planning policy are the relevant policy context to be considered, it is not possible to consider future policy that does not or may not exist as referred to in an objection letter. Policy CTY3 does not include criteria on retention criteria including characteristics of the building or justification for retention. Should permission be granted, a condition will be attached to any forthcoming approval restricting the use to agricultural only and not for human habitation. Should the applicant be found to breach this planning condition, this will be a matter for the planning enforcement team.



First Floor Plan

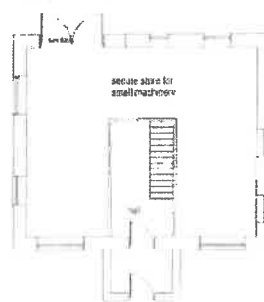


Ground Floor Plan

Existing Floor Plans 1:100



First Floor Plan



Ground Floor Plan

Proposed Floor Plans 1:100

- Siting of the proposed dwelling – The proposal seeks an offsite replacement dwelling, justification was sought for the proposed siting which was received on 13/01/21. It is not considered the proposed siting is out of character with the traditional settlement pattern as stated in objection letters, the proposed dwelling is sited behind an existing large agricultural shed which will assist with integration. However the siting of the proposed dwelling outside the established curtilage of the existing building is considered in greater detail in the assessment of policy criteria later in this report.

- Scale, massing and design of proposed dwelling – It is not agreed that the design is at odds with Building on Tradition guidance document. Whilst it is accepted there is a large amount of glazing which may in other instances be considered unacceptable, in this case the large glazed window features are to the northwest elevation where there will be limited public views of this elevation given the topography of the site and surrounding landform. The remaining elevations have an acceptable solid to void ratio with predominantly vertical emphasis fenestration, the front elevation includes dormer windows from the wall which it was noted are present in other dwellings in the surrounding area. There is a mix of house designs in the locality, the design and finishes which include natural sandstone feature to a portion of the dwelling and garage are considered appropriate to the rural setting and will not significantly impact local distinctiveness. The drawings submitted are all to scale and provide the size of the proposed dwelling. It is noted the objectors' comparisons with respect ridge height and scale of the existing and proposed dwellings are inaccurate. Drawing 02 Rev 2 provides site levels which indicates a ground level of the existing building broadly similar to that of the ground level of the proposed dwelling. It is noted that the proposed dwelling is significantly larger than the existing building, almost double in size with the existing building approximately 1873sqft, whilst the proposed building is approximately 3700sqft with a proposed double garage at 600sqft. However, it is noted that the building to be replaced is a large dwelling and in this instance it is considered the scale, size and design to be appropriate to the setting and the replacement opportunity. The policy test within Policy CTY3 is 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, this is considered in more detail in the assessment of policy later in this report.
- Residential amenity – An objector has questioned have acoustic reports, odours and other contamination reports been completed and Environmental Health consulted given proximity to farm buildings. The existing farm buildings are within the red line of the application site and are in the applicant's ownership as detailed on the signed Certificate A of the P1 Form. Given that the farm buildings are in the applicant's control, it is not considered necessary to request the applicant to go the time or expense to provide these reports and consultation with Environmental Health is not considered necessary in this instance. Should the proposed replacement dwelling be sold in the future, the proximity to existing farm building will be a matter of consideration for the buyer to consider in that instance/scenario and therefore does not form part of the assessment of this planning application.
- Badgers – Following receipt of the letter of representation raising concerns there may be badgers on site, the agent provided a Biodiversity Checklist which states there was no evidence of badger setts or usage within the site during the walkover assessment. NIEA were consulted as the relevant statutory consultee under The Planning (General Development Procedure) Order (Northern Ireland) 2015 (as amended). NIEA required clarification from the ecologist that the required 25m buffer zone, outside the Red Line Boundary was surveyed for badgers and further information in relation to the bat roosting potential should the existing building be removed. Clarification was received from Willow Environmental dated 29th September 2020 that the site within the red line boundary was checked for presence of badger and this was extended to 25-

30m beyond the development boundary and no evidence of badger was found and the existing building is to be retained as part of this proposal. Following this, NIEA have advised they have considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, have no concerns. It is therefore considered the proposal will not significantly impact natural heritage interests.

- Archaeologically sensitivity – Following receipt of the letters of representations raising concerns with regard potential impact to archaeological remains, assets and their setting, Historical Environment Division were consulted as the relevant statutory consultee under The Planning (General Development Procedure) Order (Northern Ireland) 2015 (as amended). HED advised in their response dated 11/02/21 that they had considered the application, letters of representation and conducted a site inspection to the site as well as a number of the archaeological monuments and historical landscapes in the surrounding area to assess the impact of the proposed development upon the setting of these monuments. They provided a detailed assessment and concluded HED does not consider that the proposed development will have any adverse impacts upon the settings of the historic monuments and designed landscape assets within the surrounding landscape. Due to the relatively small-scale development area and considering that it is not close to any of the recorded sites or monuments in the surrounding area, on the basis of current evidence the potential for buried archaeological remains within the proposed development area is considered to be low. Archaeological mitigation in advance of development is unnecessary in this case. Given that HED have carried out a detailed assessment, I am content that the proposal does not offend Policy BH1, Policy BH2 and Policy BH3 and do not consider refusal could be sustained on this basis.

History on Site

LA09/2017/0987/LDP - 1 Proposed pig house to include 4 working pens, 5 fattening pens and 3 holding pens. Access to be through existing field gate from Reaskcor Road, 1m high fence to perimeter of concrete yard - 25m South East of 20 Reaskcor Road, Dungannon – Certificate of Lawfulness 29/08/17

M/2002/0740/F - Replacement of fire damaged dwelling - Forthill Farm, 20 Reaskcor Road, Castlecaulfield – Permission Granted 27/08/02

Key Policy Considerations/Assessment

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

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

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. In this instance the application is for a replacement dwelling and as a result it must be considered under CTY3 of PPS21.

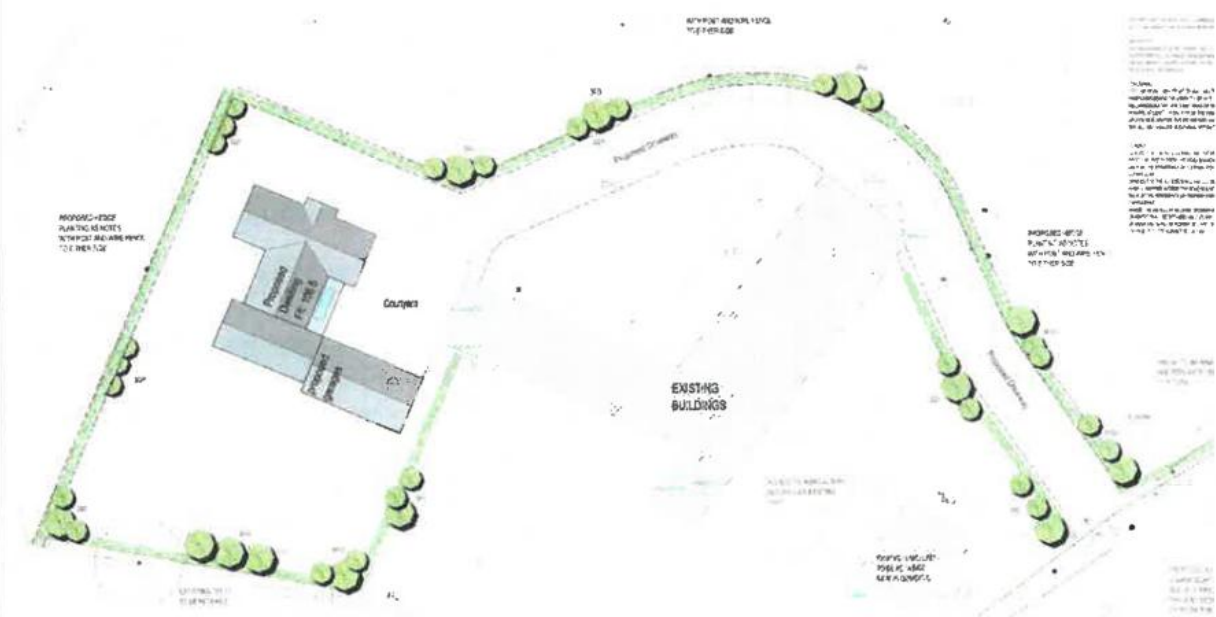
The building to be replaced is a two storey, rectangular shaped roadside dwelling. It was noted on the date of the site inspection that the dwelling appears to be recently refurbished. I am satisfied the building exhibits all the essential characteristics of a dwelling for the purposes of policy and whilst does not appear to be currently occupied, is finished to a high standard and could be lived in its current state. It was noted from a history search that the dwelling was granted permission for a replacement of a fire damaged dwelling in August 2002, prior to the adoption of PPS 21. The dwelling is not considered a non-listed vernacular building.

The proposed replacement dwelling is not sited with the curtilage of the existing dwelling and is located approximately 53 metres northwest of the existing dwelling, behind existing farm buildings. Policy CTY3 states the proposed replacement dwelling should be sited within the established curtilage of the existing building, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. It is not considered the existing curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling therefore further information was sought from the applicant to justify the replacement dwelling being located offsite. A Supporting Statement was received on 13/01/21 which argues the following:

- the proposed siting provides demonstrable benefits including greater integration from the public vantage points;
- given the retention of the existing dwelling for agricultural use, the remaining curtilage would significantly limit the size and amenity space and the proposal site is the next available site which can provide amenity and integration;
- the shed currently under construction opposite the existing dwelling is outside the applicants ownership and has the potential to impact residential amenity.

It is accepted that the proposed siting provides an acceptable degree of integration given the existing farm buildings and trees will assist in screening public views and will ensure the proposal will not have a visual impact significantly greater than the existing building. However, it is not accepted the alternative position would result in demonstrable landscape benefits given the existing building is sought to be retained therefore will still be present in the landscape. As stated above, there are concerns with the retention of the existing dwelling as an agricultural store given the recent renovations to an extremely high standard observed on the date of the site inspection and noted in objection letters. However, following internal discussion with regard the prevailing policy it was agreed Policy CTY3 does not provide any policy tests with respect seeking to retain replacement opportunities and the proposed use as agricultural only will be conditioned to any forthcoming approval should permission be granted. It is accepted that there is not reasonable space to accommodate a dwelling within the remaining area of the curtilage as the existing dwelling is retained for agricultural storage as stated in the agents supporting argument above. The agent has also argued amenity grounds given there is an agricultural shed under construction opposite the existing dwelling which is outside the applicants control, located southeast and opposite the existing dwelling. Members should note a proposed Certificate of Lawful Development was granted for a Pig house to include 4 working pens, 5 fattening pens and 3 holding pens on this site, 25m South

East of 20 Reaskor Road on 29/08/17. However, it should also be noted this structure under construction is currently the subject to an ongoing enforcement investigation. The agent argues justification for the offsite replacement dwelling given proximity to this shed, however the proposed siting is located a mere 4.4 metres from an existing agricultural shed. Having considered this in internal group meetings, it is accepted that the existing sheds on site are within the applicants control whilst the shed currently under construction in proximity of the site is outside the applicants control and could potentially give rise to residential amenity issues in the future. Therefore, it is accepted the proposed siting could provide amenity benefits. As stated previously in this report, the siting of the proposed dwelling to the rear of existing large farm buildings will allow the application to integrate into the surrounding landscape. The land rises significantly when travelling from the settlement of Castlecaufield, southerly along Reaskor Road therefore the application site is elevated and appears on much higher ground and susceptible to public views particularly when travelling on Parkanaur Road and Terrenure Road. Having considered the siting of the proposed development in relation to the existing built form and vegetation on the site and the extent of public views of the site, it is not considered the proposal will detrimentally impact on rural character and the proposal will cluster with the existing farm buildings. The design is considered to be high quality, appropriate to a rural setting and although there is a modern elements with a large extent of glazing, this feature is to the northwest elevation where public views will be limited. It is noted there may be some views of this elevation on approach to Reaskor Road from the village of Castlecaufield, however given the proposed dwelling is sited in close proximity to the existing farm buildings, as well as existing trees, which will be conditioned to be retained, views of this modern feature will be filtered and short-term so this will not appear overbearing or unacceptable in this instance. It appears all necessary services are available without significant adverse impact on the environment or character of the locality.



On balance, following internal discussions with the Senior Planner it is considered the proposal meets the policy requirements of Policy CTY3 and therefore no refusal reasons on relevant prevailing policy grounds could be sustained. The retention of the existing dwelling will be conditioned for agricultural purposes only and a statutory charge will be

registered to ensure the existing dwelling is no longer used for human habitation. Should the existing dwelling be used for purposes other than agricultural, this will be a matter for Mid Ulster District Council Planning Enforcement to investigate.

CTY 13 Design and Integration and CTY 14 Rural Character under PPS 21 are also relevant to this proposal. The proposal site is relatively flat however it is noted the ground level is significantly higher than the ground level of the adjacent public road network. When travelling in either direction along Parkanaur Road, the application site appears at a significantly higher level. The proposed dwelling is a large two storey dwelling with attached large double garage. The design is considered acceptable and will not detract from the surrounding rural character. Given the siting in close proximity to existing large buildings, I do not consider the proposal will appear overly prominent and the existing built form will assist in providing a suitable degree of enclosure. It is considered the proposal will cluster with existing farm buildings and there is some degree of trees and existing vegetation to ensure acceptable visual integration into the surrounding landscape. Drawing 02 Rev 2 provides a landscaping plan which details the existing vegetation to the southern boundary to be retained with new planting along the remaining boundaries including the new proposed access. I do not consider the proposal will create a ribbon of development or significantly impact rural character. Overall, I consider the proposal is in accordance with CTY13 and CTY14

Access Considerations

The proposal seeks to create a new access onto Reaskcor Road. DfI Roads were consulted and have responded offering no objection subject to conditions ensuring the necessary vehicular access, including the permeant closure of the existing access to the replacement opportunity and the provision of visibility splays of 2.4m x 45m in both directions. I am satisfied that there is an adequate means of access to and from the site and that the proposal therefore complies with the requirements of PPS 3 AMP 2.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Having weighted up the above policy and material considerations, approval is recommended subject to the following conditions.

Conditions

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

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

2. Following the occupation of the dwelling hereby approved, the dwelling to be replaced, coloured green on the approved drawing No 01 bearing the date stamped 1st April 2020, shall only be used as an agricultural store and not for human habitation.

Reason: To ensure that the proposed development does not result in the creation of an additional dwelling in the countryside.

3. The dwelling hereby permitted shall not be occupied until the existing access indicated on Drawing No. 02 Rev 2 bearing the date stamp 12/11/2021 has been permanently closed and the verge properly reinstated to DfI Roads satisfaction.

Reason: In order to minimize the number of access points on to the public road in the interests of road safety and the convenience of road users.

4. The vehicular access, including visibility splays of 2.4 x 45m in both directions, shall be provided in accordance with Drawing No. 02 Rev 2 bearing the date stamp 12/11/2021 prior to the commencement of any other works or other development hereby permitted.

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

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

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

6. The access gradient shall not exceed 8% (1 in 12.5) over the first 5.0m outside the road boundary. Where the vehicular access crosses footway or verge, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

7. The gradients and levels of the site, and, the finished floor levels of the development hereby permitted shall be as shown on drawing No 02 Rev 2 bearing the date stamp received 12/11/2021, unless otherwise agreed in writing by Council.

Reason: To ensure the development integrates into the surroundings.

8. The existing mature trees and vegetation along the eastern and southern boundaries shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: In the interests of visual amenity.

9. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall

be planted at the same place, unless the Council gives written consent to any variation.

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

10. All proposed planting as indicated on approved Drawing No. 02 Rev 2 date stamped 12/11/2021 shall be carried out in the first available planting season and any trees or shrubs which, within a period of 5 years from the occupation of the building, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity.

Informatives

1. 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 Mid Ulster District Council or other statutory authority.
2. The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department Infrastructure for which separate permissions and arrangements are required.
3. It is the responsibility of the developer to ensure that Surface water does not flow from the site onto the public road. The existing roadside drainage is accommodated and no water flows from the public road onto the site. The developer should note that this planning approval does not give consent to discharge water into a DfI Roads NI drainage system.
4. Notwithstanding the terms and conditions of the Mid Ulster District Council's approval set out above, you are required under Article 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Moygashel Depot, Main Street, Moygashel, BT71 7QR. A monetary deposit will be required to cover works on the public road.
5. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:
kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*);
damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection;

damage or destroy anything which conceals or protects any such structure; disturb a badger while it is occupying a structure or place which it uses for shelter or protection.

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

6. If there is evidence of badger on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.
7. The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:
 - a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;
 - b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
 - c) Deliberately to disturb such an animal in such a way as to be likely to -
 - i. affect the local distribution or abundance of the species to which it belongs;
 - ii. Impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - iii. Impair its ability to hibernate or migrate;
 - d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
 - e) To damage or destroy a breeding site or resting place of such an animal.
8. If there is evidence of bat activity / roosts on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.
9. The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

kill, injure or take any wild bird; or take, damage or destroy the nest of any wild bird while that nest is in use or being built; or at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or obstruct or prevent any wild bird from using its nest; or take or destroy an egg of any wild bird; or disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or disturb dependent young of such a bird. Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

It is therefore advised that any tree or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season (e.g. between 1st March and 31st August).
10. The applicant's attention is drawn to the HED document Guidance on Setting and the Historic Environment, which provides advice on the analysis of the settings of heritage assets in Northern Ireland, and how the potential effects of development proposals may be assessed.

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	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/0657/O	Target Date: <add date>
Proposal: Proposed Dwelling	Location: Between 66 & 66a Derryoghill Road Dungannon Co.Tyrone
Applicant Name and Address: Eugene Daly 88 Derryfubble Road Dungannon BT71 7PW	Agent name and Address: J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
Summary of Issues: The proposed dwelling does not fully meet the infill exception in the ribbon development policy, policy for a dwelling on a farm or the clustering policy. A dwelling on the site is bounded on 3 sides by development and a low elevation dwelling sensitively sited would have limited impacts on the appearance of the area and the amenity of the surrounding development. An exception may be made here as the policy meets the spirit of the policy for clustering.	
Summary of Consultee Responses: DFI Roads – content if conditions are attached to provide a safe access. DEARA – active and established farm, site is on the business	
Characteristics of the Site and Area: The application site lies within the rural area outside any defined settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site comprises a roadside plot of land to the side and rear of No.66 Derryoghill Road with the red line also including a portion of the existing curtilage of No.66. The adjacent road network is a minor, single-track winding road. The settlement of the Moy is located in proximity to the northeast. The immediate surrounding context is rural characterised predominantly by agricultural fields, however there is moderate development pressure in the immediate context. The site is relatively open to the front with gravel and hard core present particularly around the entrance where there is a metal gate for enclosure. The southern boundary is well defined with established trees. The eastern boundary is currently defined with	

scattered trees and wooden fencing enclosing the neighbouring property, No.66a. The western boundary of the proposal site is currently undefined however beyond the red line behind the existing outbuildings, which are located in the western corner of the field, established trees and hedging define the western boundary of the land. There is a gradual incline from north east to south west, with the proposal site on slight elevated ground from that of the adjacent road.

Description of Proposal

This is an outline planning application for a dwelling on a gap site under Planning Policy Statement 21, Policy CTY 8, Ribbon Development.

Deferred Consideration:

This application was before the committee in September 2020 where it was deferred for an office meeting with the Planning Manager. The office meeting took place on 10th September and it was raised that there was a new dwelling under construction that had not been factored into the considerations for the infill.

The image below is a relatively recent aerial photograph showing dwellings in blue, other buildings in orange and a large garage currently nearing completion in yellow.



Fig 1 – development around the site

The dwelling and garage to the south east of the site are relatively new as they were approved Outline Planning Permission under reference M/2003/0996/O on 17 October 2003 and Reserved Matters were approved under M/2006/1788/RM on 12 December

2006. That dwelling and garage are located around a blind corner and cannot be read with the existing development at 66 and 66a Derryoghill Road. I do not consider these assist in making the case for an exception to the ribbon development policy.

The case officer has previously assessed the buildings at 66 and 66a along with the buildings that are offset to the rear of No 66. There is a large chalet bungalow at 66a, a modest bungalow at 66 and 2 large sheds offset and to the rear of no 66.



Site from road directly in front

The sheds to the rear of No 66 are fairly substantial as can be seen below.



Buildings behind no 66 Derryoghill Road

These buildings are visible on approach to the site from the north as there is no vegetation to the rear of or around no 66, as can be seen in the photograph below.



Approach to site from north, H shaped dwelling in the foreground and no 6 with large shed to rear in centre

Members are aware that Policy CTY8 is to prevent Ribbon Development as it is detrimental to the character, appearance and amenity of the countryside. There is an exception within the policy which is generally referred to as infill opportunities. This exception allows development of a small gap site sufficient only to accommodate a maximum of 2 dwellings within a line of 3 or more buildings along a road frontage without accompanying development to the rear. It must respect the pattern of development along the frontage in terms of size, scale siting and plot size and meet all other planning and environmental considerations. It does not necessarily have to be served by individual accesses nor have a continuous or uniform building line, buildings sited back, staggered or at angles with gaps between them can represent ribbon development if they have a common frontage **or** are visually linked.

The main issue with the infill opportunity relates to the number of buildings along the frontage and whether or not the buildings at the rear of No 66 are accompanying development. Members will be aware the ribbon development policy refers to buildings and not dwellings, indeed there have been cases where detached domestic garages located at the side of a dwelling have been considered as a building for the purposes of ribbon development and site have been allowed on that basis. Recent guidance from the Department for Infrastructure seeks to clarify this position as it seems to be excluding unsubstantial ancillary buildings such as domestic garages or small outbuildings from the definition of a building for the purposes of this policy. In this case it is not so clear, there are 3 buildings that are to the rear of No66, albeit they are partially off set and not directly behind No66. The curtilage of No66 is not well defined on the ground, there was a high hedge around it which has been cleared away and it is difficult to determine if the buildings were within the curtilage of No66. It is obvious these buildings had their own access, separate from No66 however I cannot be certain they are not accompanying development to No 66. In view of this I am unable to consider these buildings for the purposes of the definition of a substantial and built up frontage.



Google StreetView image captured Apr 2009

While the application has been proposed as an infill dwelling other opportunities in PPS21 will be considered.

CTY10 – Dwelling on a farm

The applicant's brother, Brian Daly has a farm at Derryfubble Road to the east of Eglish and as such the applicant has asked that a farming case is taken into account. The

applicant has advised his brother uses these buildings in association with his farming activities. DEARA have confirmed the farm business is currently active and has been established for over 6 years, they have also advised the site is located on the business.

The main farm is approx. 5kms from the site and the farmer also takes some ground at Gorestown Road, approx. 2.5kms from the site between Eglis and The Moy. The farm at Derryfubble Road is in 2 parts,

- the west part of the farm is comprised of a large field, 2 dwellings and farm buildings. Planning permission for one of the dwellings was granted under M/2010/0259/O and M/2010/0571/RM beside 88 Derryfubble Road for Mr Eugene Daly. This permission was granted over 10 years ago however land registry checks indicate that this land, the adjoining farm buildings and dwelling at 88 Derryfubble Road was registered to Margaret Daly on 22 June 2012. This may count against this business ID as it would appear to be a development opportunity that has been transferred off the farm.
- the east part of the farm is comprised of 2 fields, mushroom houses and the sub floor of a dwelling that appears to have been granted permission under M/1994/0168. This land was registered to Eion Daly in January 2009, over 10 years ago. This does not count against the farm for the purposes of a dwelling once in 10 years as provided for in CTY10.

Other lands farmed are at Gorestown Road, these are taken in con acre and are not owned by the applicants brother. A dwelling for a farmer was approved on them in 2017 and as such that business ID cannot be used for another dwelling on the farm until 2027.

The site is behind the applicants house and beside the existing buildings that have an agricultural appearance. Given that DEARA have advised the site is located on the farm business, I consider these are buildings on the farm and a dwelling here would be sited to cluster with them. I consider this would meet with the recent advice issued by the Department for buildings on farms.

Due to the registration of the land in 2012, I am not content there have not been development opportunities transferred off the farm in the last 10 years and as such I do not consider it meets all the requirements of policy CTY10.

CTY2a – Dwelling in a cluster

From the bend in the road to the northeast of the application site I was aware of the buildings at the rear of 66, no66 and no 66a as well as large H shaped dwelling on the opposite side of the road. When at the entrance to the site I was also aware of the above development as well as another dwelling further to the north. This site is bounded by the chalet dwelling to the east, the bungalow to the north east and the 3 buildings which have an agricultural appearance to the west. Opposite there is a large H shaped bungalow and a large chalet type dwelling further north, that while separate, is visible within the group. I consider this meets four of the criteria for a dwelling in a cluster as set out in CTY2a; first, second, fourth and fifth criteria as is apparent in fig 1 above.

I am aware there has been objections from the neighbouring property in relation to loss of amenity due to loss of privacy, overlooking, dominance and overshadowing. As this is for outline planning permission, the details of a dwelling have not been submitted for

assessment. The applicant submitted an indicative layout to show how a dwelling could be located on this site, taking account of the neighbouring property.



Indicative layout to illustrate how a dwelling could be located on the site taking account of amenity of the neighbouring property.

It is accepted there is a higher threshold for amenity in the countryside than in the towns or villages, as buildings would be more spread out, though the overall thrust of the policy is to cluster development. In this case the applicant has indicated they propose to set the new dwelling behind the rear wall of the objectors dwelling with ground levels reasonably similar between the existing dwelling and the proposed site. Whilst the front of the proposed dwelling is behind the existing dwellings rear wall, if sited as proposed I do not consider it would have the potential to look into the rear windows or the rear amenity space due to the oblique angle of the windows in the front wall of the proposed dwelling. Conditions to prevent any windows in the elevation facing south and a ridge height restriction would, in my opinion limit the potential for any overlooking or overshadowing of the existing dwelling or its private amenity space to an unreasonable degree. The dwelling immediately in front of the site is the applicants dwelling, it sits at a lower level than the proposed site and its amenity space and windows face towards the site. Aerial photographs and streetview images indicate that the area to the rear has been separated from the dwelling and had, until recently, a mature hedge around it. I consider a new hedge would be able to provide the necessary screening of the applicants dwelling and it is in their interest to provide this. An appropriately designed and sited dwelling with hard and soft landscaping could mitigate against any concerns about amenity and I consider it

may be appropriate to attach conditions in relation to the size and location of any dwelling if one were approved which would ensure the sixth criteria of CTY2a could be met.

In relation to the third criteria, the site is not associated with a focal point or at a cross roads. To the north west is the disused Ulster Canal, which I do not consider would meet this criteria and also it is removed from the cluster and not associated with it. Members will be aware the Department has published recent guidance about dwellings in clusters and that all the criteria should be met unless there are other overriding material considerations for not doing so. I do not consider the proposal meets all the criteria for a dwelling in a cluster as it is not associated with a focal point.

That said a low elevation dwelling sited as indicated on the indicative plan will be well enclosed by buildings on 3 sides and screened from any substantive public views. A suitably located and dimensioned dwelling here, while not meeting the strict letter of the clustering policy, would albeit in my opinion, respect the general thrust of and spirit of the clustering policy given the number of houses around it and its enclosure on 3 sides by built development. In light of these site specific and in my view limiting circumstances, I do not believe if the members were to allow this dwelling as an exception to policy, that it would set a far reaching precedent.

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.

While I am unable to advise members that the proposal meets the criteria for a dwelling in accordance with Policies CTY2a, CTY8 or CTY10, I do consider that an exception may be made and that a dwelling could be approved here which is in the spirit of the clustering policy but does not meet it. My recommendation is to approve with the conditions set out below that consider are necessary to ensure the site specific features are retained and that visual and residential amenity are maintained.

Conditions/Reasons for Refusal:

Conditions:

1. Approval of the details of the design and external appearance of the buildings, site levels, the means of access thereto, landscaping of the site and sewage treatment works (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.

2. 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.

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

Reason: To ensure resident's privacy is not adversely affected.

4. The proposed dwelling shall be sited as shown on drawing No 02/1 bearing the stamp dated 22 MAR 2021.

Reason: In the interests of rural character and to protect residential amenity.

5. The proposed dwelling shall have a ridge height of not more than 6.0 metres above the existing ground level.

Reason: To ensure that the development is in character with the surrounding area and to protect residential amenity.

6. Prior to the commencement of any development hereby approved the vehicular access, including visibility splays of 2.4m x 45.0m and forward sight distance of 45.0m shall be provided in accordance with the RS1 form and details to be approved at Reserved Matters with the access generally in the location shown on drawing No 02/1 bearing the stamp dated 22 MAR 2021. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

7. The existing natural screenings of the site shall be retained in accordance with details to be submitted and approved at Reserved Matters stage. These 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 biodiversity.

8. All hard and soft landscape works shall be carried out in accordance with the plans as may be approved at Reserved Matters stage and the appropriate British Standard or other recognised Codes of Practice. All proposed landscaping shall be native species and new hedges shall be planted along the boundaries of the site between points A-B and C-

D as shown on drawing no 01 bearing the stamp dated 11 JUN 2020. The landscaping shall be carried out within 6 months of the date of occupation of the development hereby approved and any tree shrub or plant dying within 5 years of planting shall be replaced in the same position with a similar size, species and type.

REASON: In the interests of visual and residential amenity and biodiversity.

9. The existing buildings identified in green on drawing number 01 bearing the stamp dated 11 JUN 2021 shall be retained in accordance with details to be submitted and approved at Reserved Matters stage. These shall be retained unless necessary to prevent danger to the public.

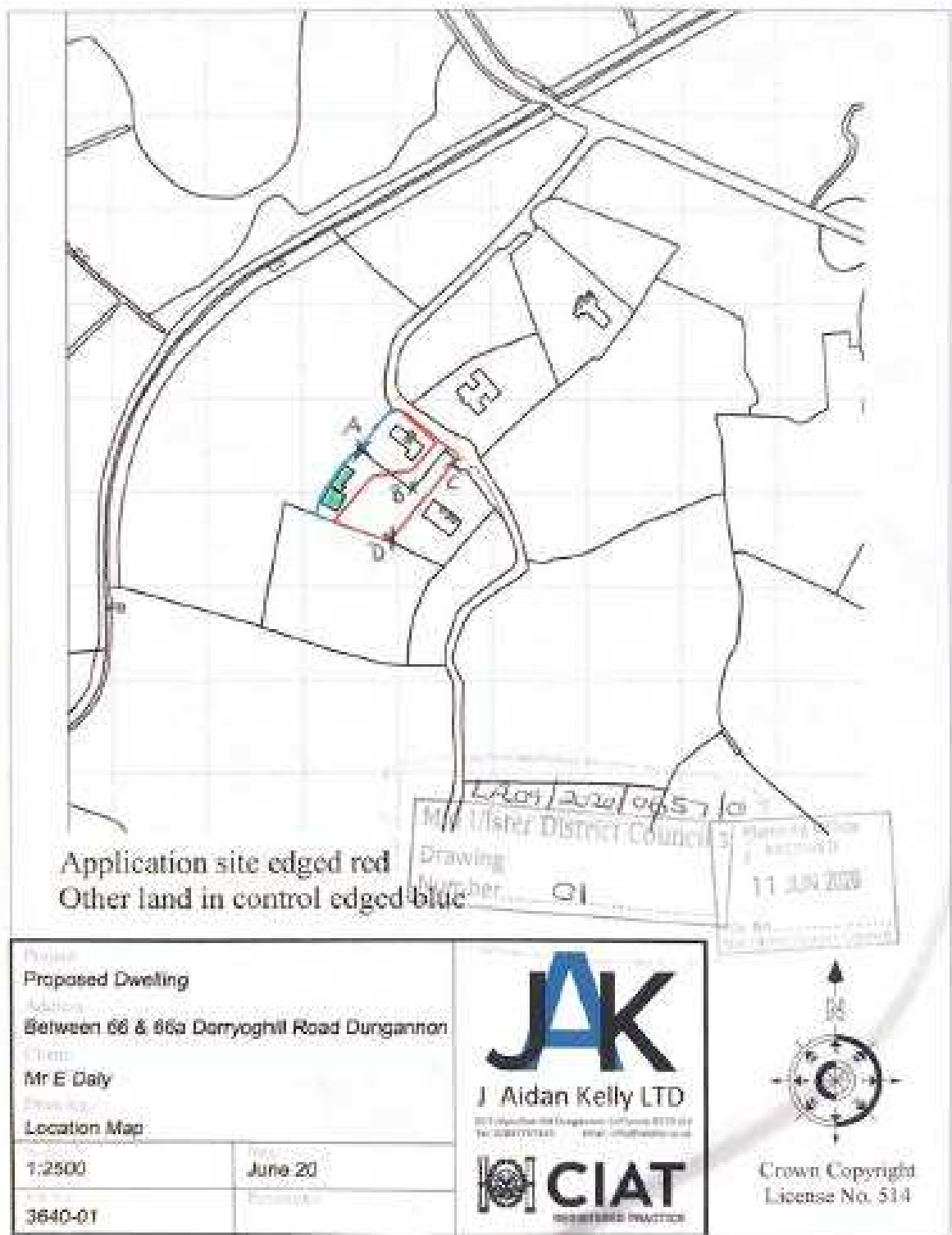
Reason: This development is granted solely on the basis these buildings provide enclosure to the proposed development.

Informative:

1. Planning permission does not provide title and the applicant must satisfy himself that he controls all the land necessary to carry out this development in full.

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: LA09/2020/0657/O	Target Date: 24/09/20
Proposal: Proposed Dwelling	Location: Between 66 & 66a Derryoghill Road Dungannon Co.Tyrone
Referral Route: Recommended refusal – contrary to PPS21 Policy CTY8 2no. Objections received – summarised and considered below	
Recommendation:	Refusal
Applicant Name and Address: Eugene Daly 88 Derryfubble Road Dungannon BT71 7PW	Agent Name and Address: J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
Executive Summary:	
Signature(s):	

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	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 within the rural area outside any defined settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site comprises a roadside plot of land to the side and rear of No.66 Derryoghill Road with the red line also including a portion of the existing curtilage of No.66. The adjacent road network is a minor, single-track winding road. The settlement of the Moy is located in proximity to the northeast. The immediate surrounding context is rural characterised predominantly by agricultural fields, however there is moderate development pressure in the immediate context. The site is relatively open to the front with gravel and hard core present particularly around the entrance where there is a metal gate for enclosure. The southern boundary is well defined with established trees. The eastern boundary is currently defined with scattered trees and wooden fencing enclosing the neighbouring property, No.66a. The western boundary of the proposal site is currently undefined however

beyond the red line behind the existing outbuildings, which are located in the western corner of the field, established trees and hedging define the western boundary of the land. There is a gradual incline from north east to south west, with the proposal site on slight elevated ground from that of the adjacent road.

Description of Proposal

This is an outline planning application for a dwelling on lands between 66 & 66a Derryoghill Road, Dungannon.

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
Dungannon and South Tyrone Area Plan 2010
PPS 21: Sustainable Development in the Countryside
PPS 3: Access, Movement and Parking

Mid Ulster Development Plan 2030 Draft Plan Strategy was launched on the 22nd February 2019. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March for 8 weeks. The re-consultation period will close on 5pm on 24th September 2020. In light of this the draft plan cannot currently be given any determining weight.

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, 2 objection letters were received, the details of which are outlined and considered below.

Objection Letter One – Josefa Anderson received 7th July 2020

- The proposal will have an adverse impact on the residential amenity of No.66a in terms of overlooking/loss of privacy; dominance; overshadowing/loss of light.

The proposal is for outline planning permission for a dwelling. The siting and design of the dwelling would be a matter for any forthcoming full or reserved matters applications should outline permission be granted. I consider that the issues and concerns outlined could be resolved or addressed at this stage through an appropriate design, siting and scale to ensure no detrimental impact to neighbouring properties.

- The proposal site will create a ribbon of development and should not be considered as a continuously built up frontage as No.66, 66a and the dwelling south of No.66a do not read together and cannot be viewed together at any point when travelling on Derryoghill Road. The accompanying development to the rear should not be included as a substantial built up frontage as stated in Policy CTY8.

The proposal is considered against the relevant prevailing planning policy in detail below. It is considered below that the proposal is contrary to Policy CTY8.

- The existing road network cannot cope with more vehicles.

The proposal has been considered against the prevailing planning policy PPS3 Access, Movement and Parking below. DfI Roads have been consulted and have offered no objections to the proposed access for dwelling.

- The proposal may impact the environment as two properties have underground electric cables and the objectors property has a sewer pipe which runs into soakaway on family land.

The environmental impacts of the principle of a development on the site have been considered. It should be noted Natural Environment Division map viewers have been assessed and there is no natural heritage interests of significance on the site or in close proximity. Should outline planning permission be granted, the concerns with regard underground cables and pipes could be addressed through the siting of the proposal.

Objection Letter Two - Paul Haughey (P Haughey & Co. Solicitors) on behalf of Adrian Anderson received 11th July 2020

- Dispute over ownership of the vast majority of the lands subject to the planning application. Objection letter advises his client has legal ownership of the land.

The agent has completed Section 27 of the P1 Form and signed Certificate A on behalf of the applicant. It was not considered necessary to seek clarification as to land ownership in response to this objection given I do not consider the principle of development is acceptable regardless. In the case that it is considered planning permission should be granted, this may need to be further considered. However, it should be noted that land ownership is a civil matter that is outside the remit of planning.

History on Site

M/2003/0996/O – Proposed dwelling - 80m South of 66 Derryoghill Road, Dungannon – Permission Granted 17/10/03

Key Policy Considerations/Assessment

Dungannon and South Tyrone 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. PPS21 - CTY 8 states planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

In this case, it is my opinion that the proposal does not constitute a gap site within an otherwise substantial and continuously built up frontage.

In order to assess whether or not an infill opportunity exists, it is first necessary to identify if a substantial and continuously built up frontage, containing a gap is present. The proposal site comprises a section of the driveway of No.66 Derryoghill Road, a detached single storey dwelling, and a parcel of land immediately adjacent which appears to be currently unused for any purpose. Within the field subject to the application but outside the red line, there are two outbuildings located in the western corner approximately 26 metres from No.66. The outbuildings appear to be associated with the property of No.66. On the date of the site inspection it was noted one outbuilding was secured with a garage design and the other outbuilding is decrepit with a barn like design. Immediately adjacent on the southeastern boundary of the site is a detached storey and a half dwelling, No.66a Derryoghill Road. Adjacent to No.66a to the southeast there is a field with road frontage which is densely populated with established trees. In this case, there are only two buildings in a line along this part of the Derryoghill Road which has a frontage to the public road. The outbuildings to the rear of No.66 do not have a frontage to the road, Policy CTY8 specifically states "without accompanying development to the rear". The proposal site is not located within a substantial and continuously built up frontage in that there are not three buildings in a line which share a common frontage therefore the proposal is considered to be contrary to Policy CTY 8. I consider that if approved the proposal would reinforce a built-up appearance to Derryoghill Road and would be detrimental to the character, appearance and amenity of the countryside by adding to ribbon development.

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 is of an appropriate design. The application site is located along the roadside however given the existing, established vegetation to the rear which provides a backdrop, I consider the proposal site could accommodate a single storey dwelling with a suitable degree of enclosure without appearing as an overly prominent feature in the landscape. The topography of the site rises therefore the proposed dwelling would be on higher ground than that of the road and adjacent dwelling of No.66 Derryoghill Road. I consider the

principle of development is unacceptable as it does not meet the criteria within Policy CTY1 and CTY8, however should planning permission be granted, the design of the proposed dwelling would be a matter for consideration at the Reserved Matters stage. I consider it would be necessary to condition a maximum ridge height of 5.5 metres to ensure integration into the setting. It is considered a dwelling could visually integrate into the surrounding landscape, however the site would require further landscaping and vegetation to the northeast and southeast boundary but would not rely primarily on this for 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 the existing and established boundary treatment to the northwest and southwest of the site would assist in integrating a dwelling. However, as stated above I do not consider the proposal is located in a continuous and built up frontage therefore the proposal would add to a ribbon of development and results in a suburban style build-up of development when viewed with existing and approved buildings. Therefore I consider the proposal is contrary to Policy CTY14.

PPS 3: Access, Movement and Parking

DfI Roads have been consulted and have raised no objections to the proposal subject to conditions. Therefore, it is not consider a dwelling on the site satisfying Policy AMP2 of PPS3 and would not prejudice road safety or significantly inconvenience the flow of traffic.

Additional considerations

In addition to checks on the planning portal online, environmental map viewers have been checked and identified no natural or built heritage interests of significance on site.

Neighbour Notification Checked

Yes

Summary of Recommendation:

The proposal is recommended for refusal, as it does not comply with CTY8 and CTY 14 of Planning Policy Statement 21.

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 CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal site does not constitute a small gap site within an otherwise substantial and continuously built up frontage and would, if permitted, result in the creation of ribbon development along Derryoghill Road.

3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in a suburban style build-up of development when viewed with existing and approved buildings and add to a ribbon of development.

Signature(s)

Date:



Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2020/0707/F	Target Date:
Proposal: New infill dwelling and garage	Location: 20m East of 15 Lisgorgan Lane Maghera
Applicant Name and Address: William Drennan 24 Lisgorgan Lane Upperlands Maghera	Agent name and Address: OJQ Architecture 89 Main Street Garvagh Coleraine BT51 5AB
Summary of Issues: Application had been previously refused under CTY1, CTY2a, CTY8 and CTY14. Following a deferred meeting and site visit the recommendation is now an approval with conditions.	
Characteristics of the Site and Area: The site is located in the rural countryside. The sites boundary runs along a shared laneway, identified as a public right of way and is currently an agricultural field. There are a large number of residential properties located in the vicinity.	
Description of Proposal Full application for an Infill dwelling and garage	
Deferred Consideration: The application was initially presented to Committee in Feb 2021 as a refusal under CTy1, CTY2a, CTY8 and CTY14 and was subsequently deferred for an virtual office meeting which was held on 11 th Feb 2021 with the Area Planning Manager. It was agreed at the meeting that the site was re-visited and re-assessed on the basis of CTY8 and CTY2a.	

Following a site visit, in terms of CTY8 I would be in agreement with the original case officer that the gap does not represent a gap in an otherwise substantial and continuously built up frontage.

The agent put forward the argument of the existing business being a focal point under policy CTY2, new dwellings in existing clusters. There are a number of other criteria which also needs to be met for a dwelling to be permitted under this policy.

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. After visiting the site, I would be of the opinion that the existing business- 'Mol Tools and Abrasives Ltd' - wholesale supplier of power tools and accessories, could be viewed with the site as a focal point.

There must also be a cluster of development which lies outside a farm and consist of 4 of more buildings, of which at least 3 are dwellings. This excludes garages and outbuildings. I would consider this cluster has at least 3 dwellings and a Business premises which would constitute at least the required number. The existing cluster appears as a visual entity in the local landscape. It is bound with development within the cluster on at least two sides.

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. I would consider the existing business 'Mol Tools and Abrasives Ltd', who have been established for approx. 20 years, would fall under this (see image below, blue star indicates the Business) and therefore meeting the criteria of CTY2a.



Site in red, showing cluster of development

In terms of the impact of nearby dwellings, design and siting changes made to ensure minimal impact on amenity of neighbours, and in particular has moved away from N0.15 to the far edge of the site as shown below. Objections had been received on the original scheme regarding a right of way and the siting of the dwelling. Neighbours were re-notified and at the time of writing this report the neighbour notification expiry date had passed on 13th August 2021 and no further objections were received. Design is acceptable and in keeping with the rural design guide, and the proposed dwelling would not have any detrimental impact on the existing character of this rural area. Landscaping proposed is sufficient to provide adequate integration.



Re- siting of dwelling in relation to No.15

Approval is recommended on this basis with conditions.

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

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. All landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 02/04 Date stamped 8 July 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. The vehicular access including visibility splays 2.4 x 120 metres and any forward sight distance, shall be provided in accordance with Drawing No 01 rev 03 bearing the date stamp 19 May 2021 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Signature(s):

Date

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0707/F	Target Date:
Proposal: New infill dwelling and garage	Location: 20m East of 15 Lisgorgan Lane Maghera
Referral Route: Recommended for refusal Objections received	
Recommendation:	Refusal
Applicant Name and Address: William Drennan 24 Lisgorgan Lane Upperlands Maghera	Agent Name and Address: OJQ Architecture 89 Main Street Garvagh Coleraine BT51 5AB
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	NIEA	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Content

Representations:

Letters of Support	None Received
Letters of Objection	2
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

Objections have been received regarding the access to the site and the extent of the location of the dwelling proposed on the site. The objections have been considered as part of this planning report.

Characteristics of the Site and Area

The site is located within the open countryside as per the Magherafelt Area Plan 2015. The red line of the site runs along a shared laneway, identified as a public right of way and includes a small portion of an agricultural field located adjacent to 15 Lisgorgan Lane, Kilrea. The area is mainly agricultural however, there is a high number of dwellings for a rural location with a cluster of development visible.

Description of Proposal

This is a full planning application for a new infill dwelling and garage on lands 20m East of Lisgorgan Lane, Maghera.

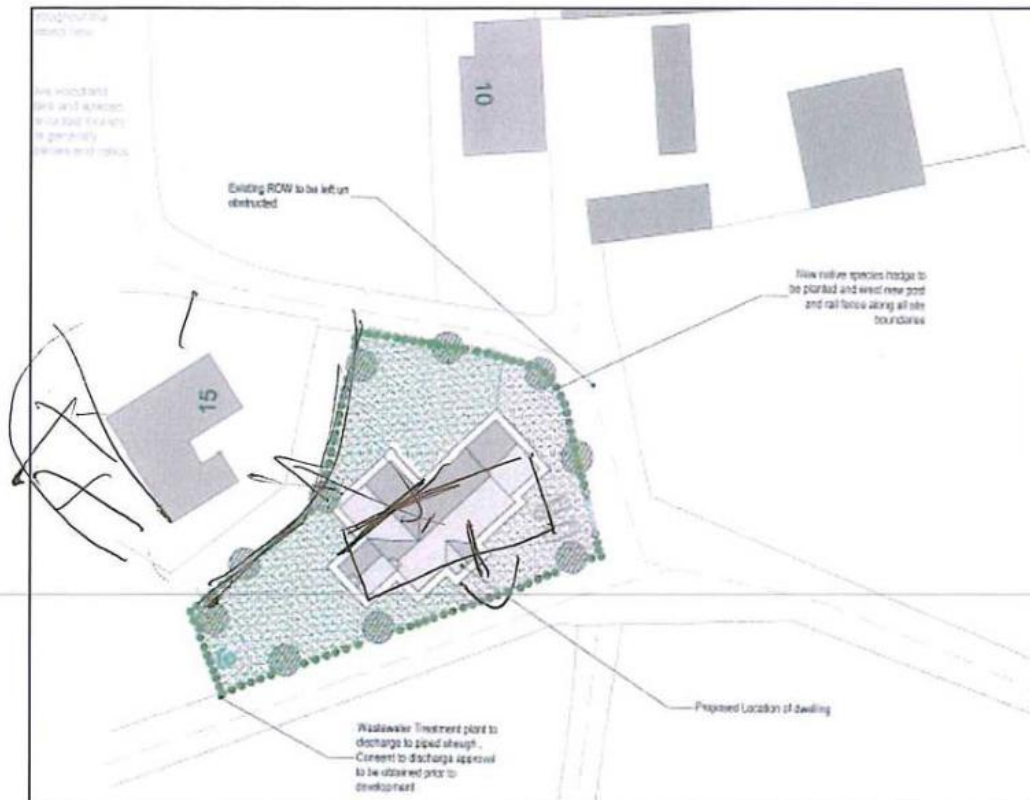


Image 1: Site block plan

Planning Assessment of Policy and Other Material Considerations

Magherafelt Area Plan 2015

Mid Ulster District Council 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 site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21- Sustainable Development in the Countryside. The application is for a dwelling to be considered under Policy CTY8.

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

CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

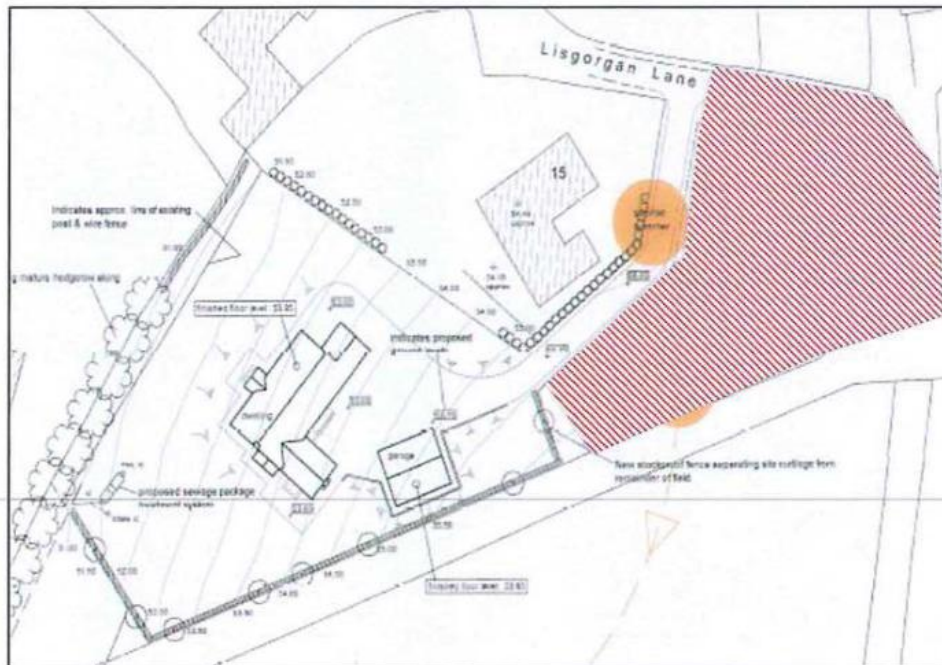


Image 2: Approval adjacent

The proposed site is located along a shared laneway, identified as a public right of way and is located at the end of this lane, where it joins another laneway. I am content that the size of the proposed site is sufficient to accommodate a dwelling. However, given the pattern of development along the laneway, the site does not represent a gap site as it is at the end of a continuously built up frontage. The proposed site does not have development to the east or south of the site and therefore cannot be considered a gap site as there is no gap to be filled. No.15 Lisgorgan lane is accessed to the North of the site, with a new dwelling under construction to the South West of No.15 Lisgorgan Lane that is also accessed via a new access point between this application site and No.15. This dwelling under construction faces in a North Westerly direction towards the Kilrea Road and is shown above in image 2, with the current application site hatched in red.

It can be considered that the two dwellings mentioned and the application site share a common road frontage as they are all accessed via Lisgorgan lane, however they all have different frontages, with the application site proposing to front in a south eastern direction, No.15 facing easterly and the dwelling under construction facing in a north westerly direction. I do not believe the application site shares a common frontage but I would agree they are visually linked within the character of the area. I do not believe the site represents a gap in an otherwise substantial and continuously built up frontage therefore, fails to meet the policy criteria of CTY 8.

Although the application description states the proposal is for an infill, the application can also be assessed under Policy CTY2a- New dwellings in existing clusters. However, the site does not

meet all the policy criteria required. I am content there is a cluster of development at this location, which consists of four or more buildings, of which at least three are dwellings.

I am content that the cluster appears as a visual entity in the landscape. However, the cluster of development is not associated with a focal point such as a social or community building/facility or at a cross roads, so fails to meet this policy criteria.

I am content that the site provides a suitable degree of enclosure and is bounded on the east and north with existing development within the cluster and that the site can be absorbed into the existing cluster through rounding off.

I would have some concerns surrounding the location of the proposed dwelling on the site and its proximity to No.15 Lisgorgan Lane. The proposed siting of the dwelling sits close to the boundary of the site and within close proximity to No.15, although a new laneway separates the two sites. The rear elevation contains many windows at ground floor level and may give rise to concerns surrounding residential amenity particularly to No.15. It is noted that the site is relatively small and that proposed planting is to take place at this boundary to screen the site, which would reduce any negative impacts on residential amenity.

However, as the proposal does not meet all the criteria listed above, it fails to meet the policy requirements of CTY2a.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I am content that the dwelling proposed would not be a prominent feature in the landscape. The site does lack established boundaries at some sides, particularly the south and western boundaries but will not rely solely on new landscaping for integration. I am content that the proposal meets the criteria of CTY 13, as it would blend in with the existing character of the area given the number of dwellings at this location.

Policy CTY 14 states planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I believe the proposal would result in a suburban style build-up of development when viewed with existing and approved buildings, as there is no gap site to fill, it would also add to a ribbon of development in the area. As a result, this would erode the rural character of the area, as the proposal cannot be considered as part of a cluster or an infill opportunity. I do not believe the impact of ancillary works would damage the rural character of the area.

Other material considerations

Two objections have been received in relation to this application with the crux of the issues relating to the impact the development would have on the existing right of way. The objector also brought it to the attention of the planning department that the application form was not correct and the maps did not identify the right of way. Since this the applicant has submitted amended plans showing the right of way and revised plans showing that no development will be taking place on the right of way. From this I am content the objectors concerns have been resolved.

DfI Roads were also consulted and requested amended drawings to show visibility splays of 2.4 x 120 metres, which the applicant provided. DfI also noted the objections on file and states that Lisgorgan Lane is not adopted by DfI Roads and provided no further comments or objections subject to conditions and informative being applied.

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 proposal is not located within an existing cluster of development that is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a gap site within a substantial and continuously built up frontage and would if permitted; create a ribbon of development along Lisgorgan Lane.

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	22nd June 2020
Date First Advertised	7th July 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) John Stewart . The Owner/Occupier, 10 Lisgorgan Lane Upperlands Maghera The Owner/Occupier, 141 Kilrea Road Upperlands Londonderry The Owner/Occupier, 15 Lisgorgan Lane Upperlands Maghera The Owner/Occupier, 17 Lisgorgan Lane, Upperlands, Maghera, Londonderry, The Owner/Occupier, 2 Lisgorgan Lane, Upperlands, Maghera, Londonderry, BT46 5TE The Owner/Occupier, 4 Lisgorgan Lane, Upperlands, Maghera, Londonderry, BT46 5TE The Owner/Occupier, 9 Lisgorgan Lane, Upperlands, Maghera, Londonderry, BT46 5TE John Stewart Email Address	
Date of Last Neighbour Notification	27th November 2020
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2020/0721/F Proposal: 1No. Industrial Unit to provide storage, office, and ancillary facilities Address: 202m S.E. of 24 Lisgorgan Lane, Upperlands, Decision: Decision Date: Ref ID: LA09/2020/0332/F Proposal: Retrospective planning application for 2 industrial units and retrospective change of use of 2 agricultural sheds to industrial units Address: 245m East of 24 Lisgorgan Lane, Upperlands, Decision:	

Decision Date:

Ref ID: LA09/2020/0707/F

Proposal: New infill dwelling and garage

Address: 20m East of 15 Lisgorgan Lane, Maghera,

Decision:

Decision Date:

Ref ID: LA09/2019/0525/F

Proposal: Proposed change of house type with detached garage and extension to site curtilage from that approved under approval LA09/2017/1773/F

Address: Lisgorgan Lane 5 Metres South of 141 Kilrea Road, Upperlands, Maghera,

Decision: PG

Decision Date: 01.07.2019

Ref ID: LA09/2017/1773/F

Proposal: Proposed infill dwelling

Address: 5m South of 141 Kilrea Road, Upperlands, Maghera,

Decision: PG

Decision Date: 17.08.2018

Ref ID: LA09/2018/0751/F

Proposal: Replacement of foundations and associated works under approval H/2008/0398/RM for alternative site located at 20m North of Lisgorgan Lane, Upperlands, for new dwelling and garage in substitution for previously approved dwelling.

(amended description)

Address: 20M North of 2 Lisgorgan Lane Upperlands Maghera,

Decision: PG

Decision Date: 10.01.2019

Ref ID: H/2008/0154/F

Proposal: Retention of private access and laneway

Address: Adjacent to 139 Kilrea Road, Upperlands

Decision:

Decision Date: 12.12.2008

Ref ID: H/2004/1123/O

Proposal: Site for Bungalow.

Address: Adjacent to 2 Lisgorgan Lane, Upperlands, Maghera.

Decision:

Decision Date: 26.07.2005

Ref ID: H/2005/1111/F

Proposal: Extension to dwelling and conversion of barn to living accommodation.

Address: 10 Lisnagoran Lane, Lisgorgan Glebe, Maghera

Decision:

Decision Date: 03.07.2006

Ref ID: H/2010/0183/O

Proposal: Site of proposed single dwelling as infill

Address: 5m South of No.141 Kilrea Road, Upperlands, Maghera

Decision:

Decision Date: 28.09.2010

Ref ID: H/2004/1019/O

Proposal: Site of 1no Dwelling and 1no Garage.

Address: Adjacent to no 10 Lisgrogan Lane, Upperlands, Kilrea.

Decision:

Decision Date: 24.10.2005

Ref ID: H/2008/0053/F

Proposal: Proposed change of house type & new domestic garage to supersede existing approval H/2007/0273/RM

Address: Opposite No.4 Lisgrogan Lane, Upperlands

Decision:

Decision Date: 16.10.2008

Ref ID: H/2008/0155/RM

Proposal: Dwelling and garage

Address: Adjacent to No.10 Lisgrogan Lane, Upperlands

Decision:

Decision Date: 16.07.2008

Ref ID: H/1999/0275

Proposal: BUNGALOW

Address: ADJ TO 10 LISGORGAN LANE UPPERLANDS MAGHERA

Decision:

Decision Date:

Ref ID: H/1999/0065

Proposal: SITE OF BUNGALOW

Address: OPPOSITE 10 LISGORGAN LANE UPPERLANDS

Decision:

Decision Date:

Ref ID: H/1994/0237

Proposal: SITE OF DWELLING

Address: ADJ TO 6 LISGORGAN LANE KILREA ROAD UPPERLANDS

Decision:

Decision Date:

Ref ID: H/2004/0821/F

Proposal: Extension to Back of House Connecting Garage.

Address: 4 Lisgrogan Lane, Upperlands, Maghera.

Decision:

Decision Date: 22.12.2004

Ref ID: H/1996/0134

Proposal: BUNGALOW AND GARAGE

Address: ADJ TO 6 LISGORGAN LANE UPPERLANDS

Decision:

Decision Date:

Ref ID: H/2007/0273/RM

Proposal: Proposed dwelling

Address: Opposite No.4 Lisgrogan Lane, Upperlands

Decision:

Decision Date: 02.08.2007

Ref ID: H/2003/0661/O

Proposal: Site of bungalow.

Address: Opposite no.4 Lisgorgan Lane, Upperlands.

Decision:

Decision Date: 18.08.2004

Ref ID: H/2008/0398/RM

Proposal: New dwelling and garage adjacent to No. 2 Lisgorgan lane, Upperlands, Maghera.

Address: Adjacent to No. 2 Lisgorgan Lane, Upperlands, Maghera

Decision:

Decision Date: 19.02.2009

Ref ID: H/2013/0360/RM

Proposal: Infill dwelling with attached garage

Address: 5m South of 141 Kilrea Road, Upperlands,

Decision: PG

Decision Date: 13.11.2013

Ref ID: LA09/2017/0837/F

Proposal: Proposed industrial unit to include display area, storage, office and ancillary facilities

Address: 24 Lisgorgan Lane, Upperlands, Maghera,

Decision: PG

Decision Date: 04.01.2018

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 06
Type: Proposed Elevations
Status: Submitted

Drawing No. 05
Type: Proposed Elevations
Status: Submitted

Drawing No. 04
Type: Floor Plans
Status: Submitted

Drawing No. 03
Type: Floor Plans
Status: Submitted

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

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

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/0840/F	Target Date: <add date>
Proposal: Proposed dwelling and garage - infill site	Location: Adjacent to 55 and opposite 59 Coole Road Bogside Aughamullan Coalisland BT71 5DP
Applicant Name and Address: Fionntan Cullen & Niamh Carberry 200 Washingbay Road Aughamullan Coalisland BT71 4QE	Agent name and Address: Seamus Donnelly 80a Mountjoy Road Aughrimderg Coalisland BT71 5EF
Summary of Issues: Contrary to Policy CTY 8, CTY 13 and CTY 14 of PPS 21. No representations received.	
Summary of Consultee Responses: Dfi Roads – approve with conditions	
Characteristics of the Site and Area: The site is located approximately two and a half miles east of Coalisland, adjacent to 55 and opposite 59 Coole Road. Access to the site is gained from the Coole Road, a minor rural road within proximity of the settlement of Aughamullan. The Coole Road defines the northern boundary and the eastern and western boundaries are defined by quality hedge lines. The southern boundary is undefined, opening to the remainder of the agricultural field hatched in blue indicating ownership. The site is flat throughout and there was a dwelling undergoing construction directly west of the application site. The immediate area surrounding the site appears to be quite built up in	

recent years however beyond that is rural in nature, scattered with single dwellings and associated outbuildings.

Description of Proposal

Full planning permission is sought for proposed dwelling and garage on an approved infill site.

Deferred Consideration:

This application was deferred at the planning committee in February 2021 to allow an amended design to be agreed so the dwelling is in keeping with the requirements for infill development as set out in CTY8 of PPS21 and The Rural Design Guide.

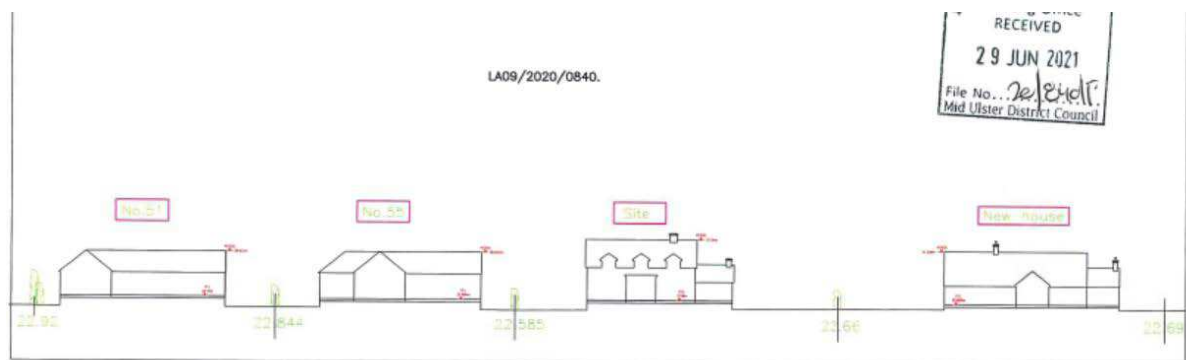
Members will be aware that infill development should respect the character of the development around it and should be in keeping in terms of size and scale. In this case there are bungalows to either side of the development and initially it was proposed to erect a 2 storey dwelling with a ridge height of 8.5m above the finished floor level of the dwelling.



This meant the new dwelling had a ridge height of over 2 metres higher than the surrounding development. The applicant has reduced the ridge height by 1 metre to 7.5m and is now proposing a 1 $\frac{3}{4}$ storey dwelling which has dormer windows protruding into the roof from the wall plate.



The dwelling is proposed to be sited behind the line of the existing bungalows. A section through the site and the adjoining development shows the proposal.



The new dwelling will still have a higher ridge than the adjacent development, however due to its set back and that it will only be 1m above the ridge height of the adjoining development, I consider it meets with the provision for infill development as set out in CTY3.

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.

I recommend to the members that planning permission is granted with the conditions as set out below.

Conditions/Reasons for Refusal:

Conditions

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

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

2. The development hereby approved shall not commence until the vehicular access, including visibility splays of 2.0m x 60.0m to the west and 2.0m x 33.0m to the east have been provided in accordance with Drawing No. 01/1 bearing the date stamp 29 JUN 2021. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. The existing mature vegetation on east and west boundaries of the site shall be permanently retained.

Reason: In the interests of visual amenity and to preserve residential amenity.

4. All hard and soft landscape works as detailed on drawing no 01/1 bearing the stamp dated 29 JUN 2021 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity.

5. One dwelling only shall be constructed within the area of the site outlined in red on the approved drawing no 01/1 bearing the stamp dated 29 JUN 2021.

Reason: To control the number of dwelling on the site as this permission is in substitution for planning approval LA09/2016/0007/O and is not for an additional dwelling on this site.

Signature(s):

Date



Development Management Officer Report
Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0840/F	Target Date:
Proposal: Proposed dwelling and garage - infill site	Location: Adjacent to 55 and opposite 59 Coole Road Bogside Aughamullan Coalisland BT71 5DP
Referral Route: Refusal – Contrary to Policies held within PPS 21.	
Recommendation:	Refusal
Applicant Name and Address: Fionntan Cullen & Niamh Carberry 200 Washingbay Road Aughamullan Coalisland BT71 4QE	Agent Name and Address: Seamus Donnelly 80a Mountjoy Road Aughrimderg Coalisland BT71 5EF
Executive Summary:	
Signature(s):	

Planning Assessment of Policy and Other Material Considerations

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. There were a number of neighbours notified under this application including: 55, 57, 57A and 59 Coole Road. 61A Coole Road was hand delivered at the site visit. At the time of writing, no third party representations have been received.

Planning History

LA09/2016/0007/O - Adjacent to 55 and opposite 59 Coole Road, Bogside, Aughamullan, Coalisland, - Dwelling and garage - PERMISSION GRANTED

Planning Assessment of Policy and Other Material Considerations

- Cookstown Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- The Local Development Plan 2030 - Draft Plan Strategy
- Building on Tradition: A Sustainable Design Guide for the Rural Northern Ireland

The Cookstown Area Plan 2010 identifies the site as being in the rural countryside, located East of Coalisland.

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

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. It notes the importance of sustainable development in the countryside which promotes high standards in the design, siting and landscaping.

Outline planning permission was granted for a dwelling on this infill site on 23rd February 2016 under LA09/2016/0007/O and therefore I am content that this application remains live in terms of receiving a full planning application. The principle of development on this site has already been agreed and all that remains to assess under this application is the design of the proposed dwelling and garage given that the time frame to submit a Reserved Matters application has lapsed. This proposal also would not have met the conditions on the previous planning application, which had a 6.5m ridge height condition attached to it.

The proposed dwelling is a two storey dwelling with a ridge height of approx. 8.5m and frontage of approx. 17.6m. The design of the dwelling proposed is simple and typical of that found in the countryside, however it is considered that the proposal is contrary to Policy CTY 8 of PPS 21 due to the size and scale proposed. Policy CTY 8 notes that an infill opportunity must "respect the existing pattern along the frontage in terms of size



Photograph 2 – The site shown along with the roof of the bungalow East of the site.

The Design Guide for Rural NI also refers to the importance of a suitably designed dwelling in gap sites or infill sites and notes that proposals should respect the existing houses in the ribbon otherwise they may relate poorly to them. The agent submitted supporting information including an overview of existing house types in the area and examples that he felt created a precedent to allow this proposal (shown below in figure 2). From group discussion, we felt that many of the examples shown are too far removed from the application site and it still doesn't negate the need to meet the policy requirements of CTY 8 as noted before. The map highlights again that the frontage which this infill opportunity would be read with are all bungalow dwellings. Numerous opportunities were afforded to the agent to submit an amended design, however at time of writing, no further amendments have been received.

1. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not respect the existing pattern along the frontage in terms of size and scale.

2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the proposed building is inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape.

3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, would not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to the rural character of the countryside.

Signature(s)

Date:

Ref ID: LA09/2020/0840/F

Proposal: Proposed dwelling and garage - infill site

Address: Adjacent to 55 and opposite 59 Coole Road, Bogside, Aughamullan, Coalisland, BT71 5DP,

Decision:

Decision Date:

Ref ID: M/2005/0444/O

Proposal: Proposed two storey dwelling

Address: 80m South of 59 Coole Road, Bogside, Aughamullan, Coalisland

Decision:

Decision Date: 23.09.2005

Ref ID: M/1991/0568

Proposal: Erection of dwelling

Address: ADJACENT TO 55 COOLE ROAD COALISLAND

Decision:

Decision Date:

Ref ID: M/2002/1001/F

Proposal: Improvements/Extension to dwelling

Address: 55 Coole Road, Coalisland

Decision:

Decision Date: 16.10.2002

Ref ID: M/1984/0165

Proposal: DWELLING AND GARAGE

Address: BOGSIDE, AUGHAMULLAN, COALISLAND

Decision:

Decision Date:

Ref ID: M/1982/0149

Proposal: ERECTION OF DWELLING

Address: BOGSIDE, AUGHAMULLAN, COALISLAND

Decision:

Decision Date:

Summary of Consultee Responses

Dfl Roads: Content.

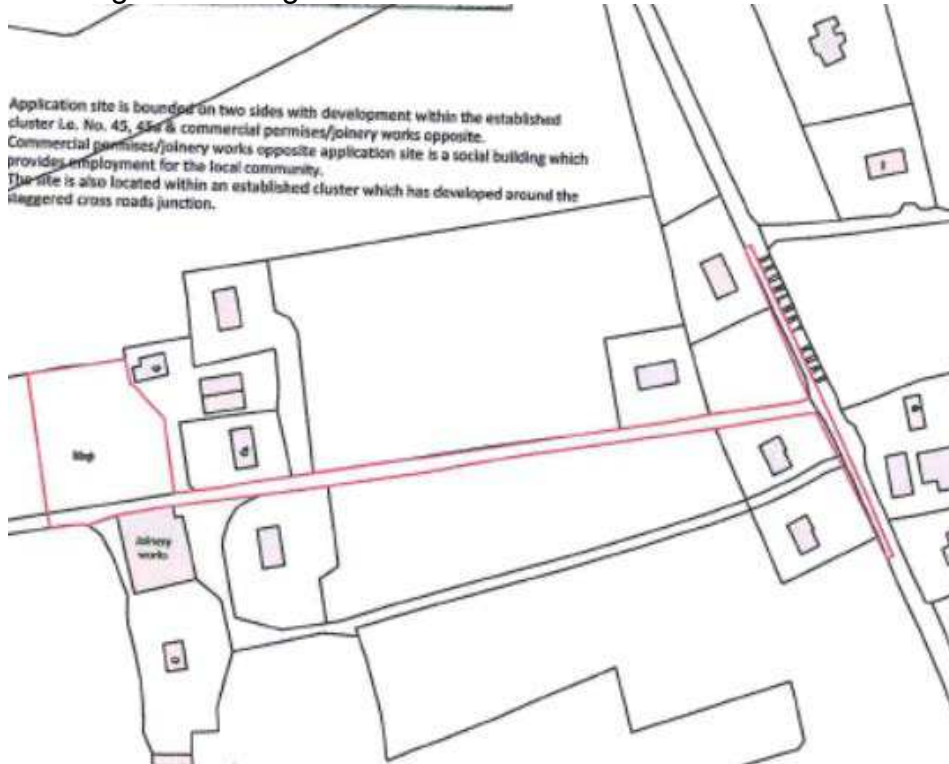
Drawing Numbers and Title



Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2020/1337/O	Target Date:
Proposal: Proposed dwelling and garage under PPS 21 CTY2a	Location: 10m West of 45 Drumenny Road Ballinderry.
Applicant Name and Address: Gavin Mc Geehan 34 Munalohug Road Dungiven	Agent name and Address: C Mc Ilvar Ltd Cookstown Enterprise Centre Unit 7 Sandholes Road Cookstown
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: The site is located within the open countryside, approximately 0.3km southwest of the settlement limits of Ballinderry as defined in the Cookstown Area Plan 2010. The immediate locality has come under some significant development pressure in recent years and the surrounding area is predominantly characterised by residential properties with agricultural land and holdings also present in the wider area. The site comprises a portion of an agricultural field set back considerably from the public road with a relatively flat topography. The application seeks to utilise an existing concrete laneway on to the Drumenny Road which currently serves a number of existing dwellings and is approximately 280 metres long. Immediately south of the application site is an existing joinery business. The north, east and south boundaries of the site are defined by established trees and hedging whilst the western boundary is currently undefined. There is a small front lawn and a larger rear lawn, enclosed by a mixture of timber fence, hedgerow and mature trees.	
Description of Proposal This is an outline planning application for a dwelling and garage on lands 10m West of 45 Drumenny Road, Ballinderry.	

The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 2a New Dwellings in Existing Clusters.



Deferred Consideration:

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

Refusal Reasons

1. The proposal is contrary to the SPPS ad 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 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; and it has not been demonstrated the development would not adversely impact on residential amenity.

It was subsequently deferred for a virtual office meeting with the Area Planning Manager and a meeting was held on 11th March 2021.

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 of more buildings, of which at least 3 are dwellings. This excludes garages and outbuildings. I would consider this cluster has at least 3 dwellings and a Joinery works which would constitute the required number. The existing cluster appears as a visual entity in the local landscape. It is bound be development within the cluster on at least two sides.

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. I would consider the Existing Joinery workshop would fall under this (see photos of building below).



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.

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 alter the character of the area and therefore I feel complies with this policy.

In terms of the amenity issues, Env Health were consulted due to the sites close proximity to the amenity works. A noise impact assessment was then submitted and following a re-consultation Env Health, they have no objection to the development on noise grounds.

Approval with condition is therefore recommended in this case.

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.

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.

Signature(s):

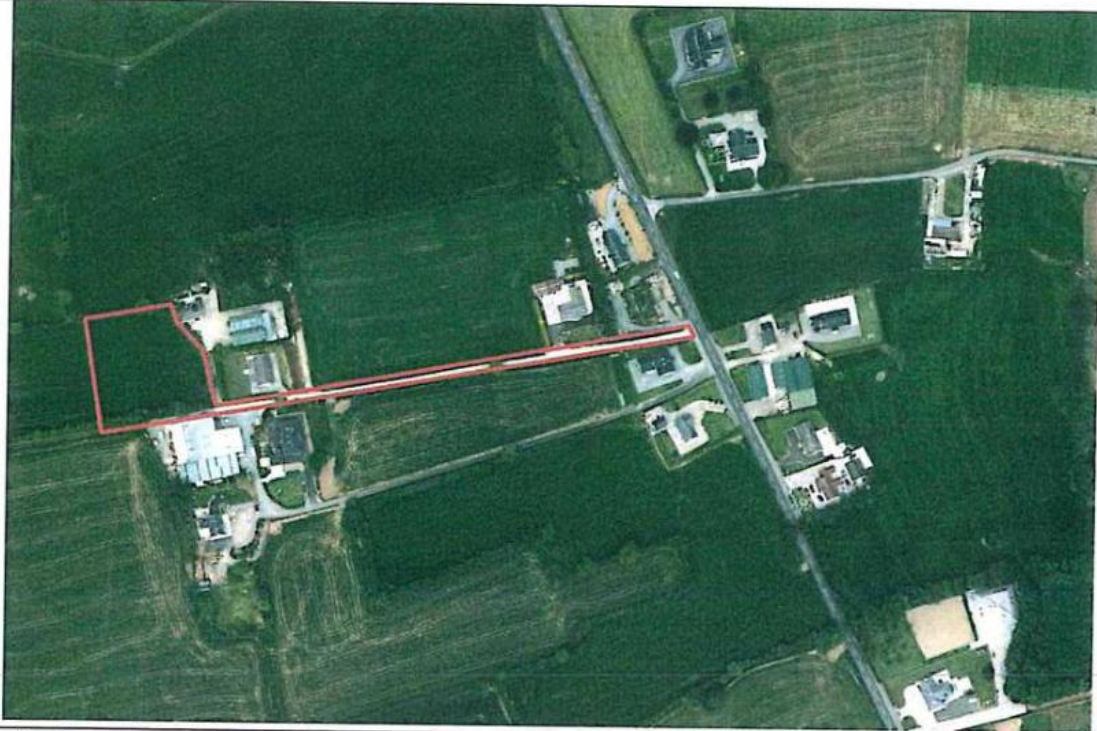
Date

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1337/O	Target Date: 09/02/21
Proposal: Proposed dwelling and garage	Location: 10m West of 45 Drumenny Road Ballinderry
Referral Route: Recommended refusal	
Recommendation:	Refusal
Applicant Name and Address: Gavin Mc Geehan 34 Munalohug Road Dungiven	Agent Name and Address: C Mc Ilvar Ltd Cookstown Enterprise Centre Unit 7 Sandholes Road Cookstown
Executive Summary: Proposal considered against prevailing planning policy – considered the proposal fails to comply with Policy CTY2a of PPS21. No letters of representation received.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Environmental Health	Additional Info Required

Representations:

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

Characteristics of the Site and Area

The site is located within the open countryside, approximately 0.3km southwest of the settlement limits of Ballinderry as defined in the Cookstown Area Plan 2010. The immediate locality has come under some significant development pressure in recent years and the surrounding area is predominantly characterised by residential properties with agricultural land and holdings also present in the wider area. The site comprises a portion of an agricultural field set back considerably from the public road with a relatively flat topography. The application seeks to utilise an existing concrete laneway on to the Drumenny Road which currently serves a number of existing dwellings and is approximately 280 metres long. Immediately south of the application site is an existing joinery business. The north, east and south boundaries of the site are defined by established trees and hedging whilst the western boundary is currently undefined. There is a small front lawn and a larger rear lawn, enclosed by a mixture of timber fence, hedgerow and mature trees.

Description of Proposal

This is an outline planning application for a dwelling and garage on lands 10m West of 45 Drumenny Road, Ballinderry.

The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 2a New Dwellings in Existing Clusters.

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

LA09/2016/1478/F – Extension to dwelling including addition of a single storey granny annex - 45a Drumenny Road, Coagh, BT80 0BY – Permission Granted 27/01/17

I/2007/0915/F - Proposed dwelling - Adjacent to 45 Drumenny Road, Derrychrin, Coagh – Permission Granted 14/04/08

Key Policy Considerations/Assessment

Cookstown Area Plan 2010 – the site is located in the rural countryside outside any designated settlement. The site lies within the designated Lough Neagh Shore Countryside Policy Area. Plan Policy CTY 2 Countryside Policy Areas states development proposals will be determined in accordance with the provisions of prevailing regional planning policy. The plan identifies there has been significant pressure for individual dwellings in the countryside beyond the several small villages located within the area. This has resulted in the erosion of rural character through the build-up of clusters of suburban-style dwellings. The Plan considers that further ribbon development along these roads will further erode the rural character and landscape

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

The site is bound on the necessary two sides by development. To the east, the site is bound by other detached dwellings within the cluster. South of the site, a joinery works business is located which although is separated by a laneway, I consider acceptable in this occasion as it visually reads as bounding given the minimal separation distance.

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

In my opinion, the proposed dwelling is sited within the centre of an existing cluster. The application site is set back considerably from the public road therefore views will be limited. The existing buildings within the cluster will assist in screening the proposed development and I am satisfied that the development can be absorbed into this existing cluster through consolidation of the grouping of building. I do not consider the development would significantly alter the existing character or visually intrude into the rural landscape.

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

Given the existing screening, I do not consider a dwelling on the proposal site would have an adverse impact on residential amenity of the neighbouring properties, subject to appropriate design and siting. Council Environmental Health Department were consulted to ensure no residential impact from the adjacent factory given the proximity. Environmental Health have responded advising that having considered the proximity to an existing joinery works, there is potential for residential amenity to be adversely impacted due to the elevated levels of noise from plant and machinery associated with the business.*Environmental Health requested a noise impact assessment at the development site to determine the suitability of the site for residential development. Given that I consider the proposal already fails to meet all Criteria under Policy 2a, it was not considered appropriate to request the applicant go to the expense of commissioning a noise assessment. However, should the Planning Committee consider the proposed development is acceptable and planning permission should be granted, it will be necessary to consider Environmental Health concerns further.

I do not consider that the proposed development meets all the criteria outlined under CTY2a to merit the granting of permission under this policy.

Policy CTY13 states that planning permission will be granted of a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. The site has a good degree of enclosure being bound on three sides by existing mature hedging. It is considered the existing vegetation would assist in integrating a dwelling on this site and I therefore consider it appropriate to condition that the retention of existing vegetation. New landscaping will be required to the rear boundary however this is not being primarily relied upon for integration. It is noted that land rises gradually from the public road to the application site, however given the site is

quality of the area, as well as having unacceptable adverse effects on the important nature conservation interests of the Lough and its shoreline.

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 CTY2a of PPS21 provides an opportunity for a new dwelling at an existing cluster of development provided all of the following criteria are met.

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

The proposal site is located outside settlement limits; however there is a high degree of development pressure in the surrounding locality. I am content that the site lies outside of a farm and there are at the required buildings and dwellings to satisfy the policy criterion. In the immediate context, to the east of the proposal site there are two dwellings, No.45 and No.45a, and south of the site there is an established joinery business and 2 further dwellings, No.47 and No.47a.

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

The site is set back approximately 270 metres from public road, however given the build-up of development in the immediate locality, directly east and south of the site, I consider when travelling on the Drumenny Road in either direction the cluster of development, which surrounds the proposal site, 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 applicant has relied on the Joinery Works business located 10 metres from the application site as the “focal point” for the purposes of meeting Policy CTY2a. It is not considered a small scale, privately owned joinery business represents a social/community building/facility. The site is not located at a cross-roads, the agent has referred to a staggered cross-roads junction east of the application site. Private laneways to residential dwellings are not considered a cross-roads. It is noted that the junction with the Gort Road is located some 270 metres from the application site but this is not a staggered cross-roads, nor is this where the application site is located.

considerably set back in my opinion a dwelling and garage would successfully 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 detrimental change to, or further erode the rural character of an area. The proposal site has an adequate degree of enclosure and natural screening and I do not consider the addition of a single dwelling on the site will detrimentally alter the rural character of this area. The surrounding area already has a significant degree of development pressure and suburban style of development, the granting of planning permission on the site would not adversely change the rural character of the area or provide further development opportunities through infilling therefore I consider it complies with CTY14.

PPS 3: Access, Movement and Parking - The application site seeks to use an existing access on to Drumenny Road. DfI Roads have been consulted and have raised no objections to the proposal subject to conditions. Therefore, 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.

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 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 cluster is not associated with a focal point or it is not located at a cross-roads; and it has not been demonstrated the development would not adversely impact on residential amenity.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Melvin Bowman	
Application ID: LA09/2020/1549/F	Target Date:
Proposal: Football stand to cover existing stepped terrace.	Location: Eglish GAC 108 Killyliss Road Eglish Dungannon BT70 1NB.
Applicant Name and Address: Eglish GAC 108 Killyliss Road Eglish Dungannon BT70 1NB	Agent name and Address: Michael Jordan 16 Albert Street Aberdeen AB25 1XQ
Summary of Issues: local objection to proposal / reconsideration following member's site visit.	
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: Open raised spectator terrace within ground of Eglish GAC. Residential dwellings abutting rear boundary of the proposal. Existing concrete wall forming the shared boundary between the 2 land uses and rear private garden areas.	
Description of Proposal Football stand to cover existing stepped terrace.	



Deferred Consideration:

Members at the July 2021 meeting of the Planning Committee decided to visit the site with both the applicant and objectors present. This meeting took place on Fri 23rd July 2021.

Members along with a number of residents and a representative of the Club were provided with the opportunity to examine the precise location of the covered stand, to see the relationship between the stand and adjoining property and to visit the alternative position that has been referred to in written objection received so far to the application.

The position of the proposed covered stand was identified on the terrace and in relation to concerns expressed by some present about the consequences of any stand becoming larger or built in a different location, I clarified that this would require a further planning permission which would involve the inclusion of neighboring property as notifiable residents. Residents raised the attraction of the covered area for increased anti-social behavior and stated it was not local youths which were gathering. This led to wider discussion on anti-social behavior within the context of the wider village and the attempts made to address this. Some discussion took place about the accessibility of the stand for disabled visitors and its remoteness from the other more easily accessible side of the pitch where the alternative location has been promoted by residents. It was clarified by Mr Daly (Club) that the sides of the covered area would remain open and residents felt this permitted too easy access for antisocial gatherings. When discussion turned to how youths gained entry to the pitch and terrace residents stated that some of this occurred from behind the existing wall along the back of the terrace – it emerged that these were abutted by private gardens and it was also agreed that we would visit these to look at this. There is no other public access along the rear of the terrace.

We agreed to visit the rear of Nos 13 /14 Roan Close with just those residents whilst the remaining residents waited in the club grounds. To the rear of No 14 it was argued that youths on occasion gain entry to the grounds via their rear garden and scale the wall. I put it to the residents that this appeared to me to be a matter of trespass and it wasn't an unreasonable point to make that there could be measures taken to prevent this. I wasn't able to answer any queries on liability should a person scaling the wall become injured.

It was claimed that Bats are using the tree in the corner of the garden. A further written objection has since been received relating to this specific issue which I will address later in this report. We all agreed that the tree was itself was not at risk from the covered area.

The purpose of entering No 13 was less about unauthorized access which doesn't tend to occur due to the side garage but more the outlook and loss of view. Members were reminded at this point about the overall increase of the stand above the concrete wall and its span away from these gardens towards the pitch.

We returned to the grounds to visit the location of the alternative site. Mr Daly referred to the ROW enjoyed by Barratt's concrete to a water source running along the recently concreted access between this piece of ground and the pitch. Some disagreement followed about the need for heavy vehicular access using this with residents claiming this wasn't required. Mr Daly indicated that a WTW was below the plot and this was a further impediment to this side. It has been and was claimed that this could be addressed by those offering to fund this alternative location. Members asked about how a stand here would affect crowd capacity / it would facilitate up to approx 1500 according to Mr Daly.

Before concluding residents emphasized that the Club had not engaged with them and thanked planning for making this happen. I explained how the request for a site visit by members had been agreed. I asked if everyone present was content that we had covered the issues of concern to which there was general agreement.

Having viewed for myself the situation and shared boundary relationship between the pitch and the terrace and the position of adjoining residential property I do not find that the proposal is likely to increase or cause any loss of amenity to the extent that this application should be refused. It is an improvement over an earlier proposal and I therefore have no reason to adopt a different view that the case officer set out in his original report to the planning committee.

In addition, a formal consultation was sought from our Environmental Health Dept in response to concerns raised by residents to which a reply issued on 7 July 2021 stating the following:

This application for a football stand to cover existing stepped terracing has been considered along with the letters of objection and we would comment as follows;

The proposal seeks to erect an additional precast concrete wall between the stand and adjacent residential properties located to the rear of the stand at Roan Close. This wall,

along with the attached Kingspan roof, will offer increased mitigation of noise compared to the existing open terrace.

Provided the proposed terrace is built to current standards then we do not see any reason for noise or vibration due to wind.

In relation to the additional objection referring to bat activity around what appears to be an isolated tree along the rear boundary of No 14, it is my view that the proposed development will not impact on the canopy given its position relative to this tree and its crown spread. The tree does not represent a typical linear feature associated with a flight path more associated with bat activity.

The objection received on the 22 July from Roan residents requests that a Bat Survey be undertaken / that a mitigation plan be compiled/ that these are incorporated into the planning application and that monitoring take place.

In dealing with previous applications where bat activity has been required to be assessed it is my understanding that bats use woodland edges, hedgerows, rivers and other linear features like tree-lined footpaths as corridors to commute from one area of countryside to another. These features act as navigational landmarks and can also provide some protection from predators. As bats fly through the night, their echolocation calls bounce off these landscape features, helping the bats find their way to and from their roosts and foraging habitats. In this instance I do not feel that a formal consultation with NIEA is necessary.

Conditions: Development to commence within 5yrs of the date of permission.

Signature(s): M.Bowman

Date: 23 Aug 2021



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1549/F	Target Date:
Proposal: Football stand to cover existing stepped terrace.	Location: Eglish GAC 108 Killyliss Road Eglish Dungannon BT70 1NB.
Referral Route: Objections received	
Recommendation:	Approval
Applicant Name and Address: Eglish GAC 108 Killyliss Road Eglish Dungannon BT70 1NB	Agent Name and Address: Michael Jordan 16 Albert Street Aberdeen AB25 1XQ
Executive Summary:	
Signature(s):	

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	34
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

Objector concerns

- Visually intrusive impact.
- Eye sore/loss of views.
- Blocking natural light
- Loss of privacy
- Noise nuisance/vibrations
- Health and safety concerns
- Encourage gathering of youth/anti-social behaviour
- Devaluation of property
- Alternative viable option
- Draw larger crowds
- Increased traffic congestion
- Parking issues/emergency service vehicles hindered

- Road safety issues

Characteristics of the Site and Area

The site lies within the settlement limits of Eglish and outside all other areas of constraint as depicted by the DSTAP 2010. It is located at number 108 Eglish Road and forms part of Eglish GAC grounds.

The red line of the site is a long narrow L shaped plot which includes an access from the main entrance, follows the roadside eastern boundary and then runs along the rear of Roan Close taking in the terraced standing area along the Northern part of the GAC grounds.



There is a 2metre wall all along the northern boundary of the site separating it from the dwellings in Roan Close. The main body of the site comprises the concrete steps used by spectators for watching games. The playing field is to the south and the club house and car parking is to the east. The Oona River is to the south west of the site and the St Patricks Church to the south east. The local primary school is just a short distance to the East.

Description of Proposal

The proposal seeks full planning permission for the erection of a football stand to cover the existing terrace.



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
- PPS8 - Open Space, Sport and Outdoor Recreation

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.

Until a Plan Strategy for the whole of the Mid Ulster Council Area has been adopted, planning applications will be assessed against existing policy (other than PPS 1, 5 & 9) together with the Strategic Planning Policy Statement (SPPS). This overarching policy sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

The SPPS states that planning authorities should carefully consider development proposals for all sport and outdoor recreational activities, considerations will include: location, design, hours of operation, noise, impact upon visual and residential amenity, access and links to public transport; floodlighting; landscaping, public safety (including road safety); nature conservation, biodiversity, archaeology or built heritage.

Representations

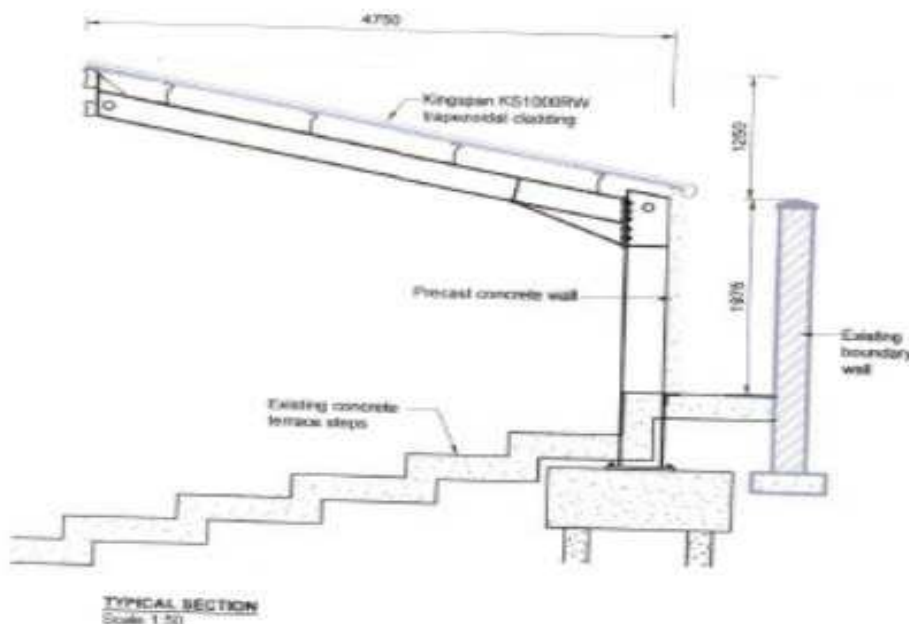
Press advertisement and neighbour notification has been carried out in line with the Council's statutory duty. At the time of writing, there have been 34 objections from neighbouring residents of Roan Close, Roan Park, Killyliss Manor and Killyliss Villas.

Objector concerns

- Visually intrusive impact.
- Eye sore/loss of views.
- Blocking natural light
- Loss of privacy
- Noise nuisance/vibrations
- Health and safety concerns
- Encourage gathering of youth/anti-social behaviour
- Devaluation of property
- Alternative viable option
- Draw larger crowds
- Increased traffic congestion
- Parking issues/emergency service vehicles hindered
- Road safety issues

Consideration of objections.

To consider the first concern regarding the visual impact of the stand, eye sore and loss of views it is important to look at the position and size of the proposed stand. The proposed stand at its closest point is 1metre from the boundary wall to the rear gardens of the dwellings in Roan Close. The stand measures 2 metres at the low point and rises another metre over the 5 metre span of terrace it is proposed to cover. The rear wall existing is 1.975 metres high therefore there will be very minimal visual impact or intrusion of views.



From the above drawing it is also clear there will be little or no impact on natural light, the stand will not raise the standing platform for spectators so there should be very minimal impact on loss of privacy.

With regards to noise or vibrations nuisance, after the initial period of construction there should be no greater noise, the terrace area will not be any larger, therefore no greater crowd can be facilitated and in fact the stand should act as a barrier for noise travelling toward the residents to the rear.

The next concern raised is over the possibility the stand may encourage anti-social behaviour through acting as a gathering spot for youths, also the possibility of health and safety concerns via attempting to climb the structure. It must be noted that there are no measures preventing climbing of the existing wall, or buildings on the grounds and there is no reason to suggest that the new stand would be any different. The existing grounds have suffered with some issues with anti-social behaviour in recent times, however we must assess the application at face value and in doing so, I find no reason why a relatively stand to cover existing terrace would have any negative impact on the area. Matters of any potential for anti-social behaviour arising from the development is a matter for the management of the Football Club to resolve.

Devaluation of house prices is not a material consideration for planning.

The alternative viable option has also been raised whereby the objectors feel that a stand on the other side of the pitch would be a solution, however, if the proposal complies with policy the council cannot force an alternative siting, in addition the red line does not include the whole of the grounds. Also the main reasoning for the proposal is to cover the existing terraced area at this position. There is no existing terrace on the other side.

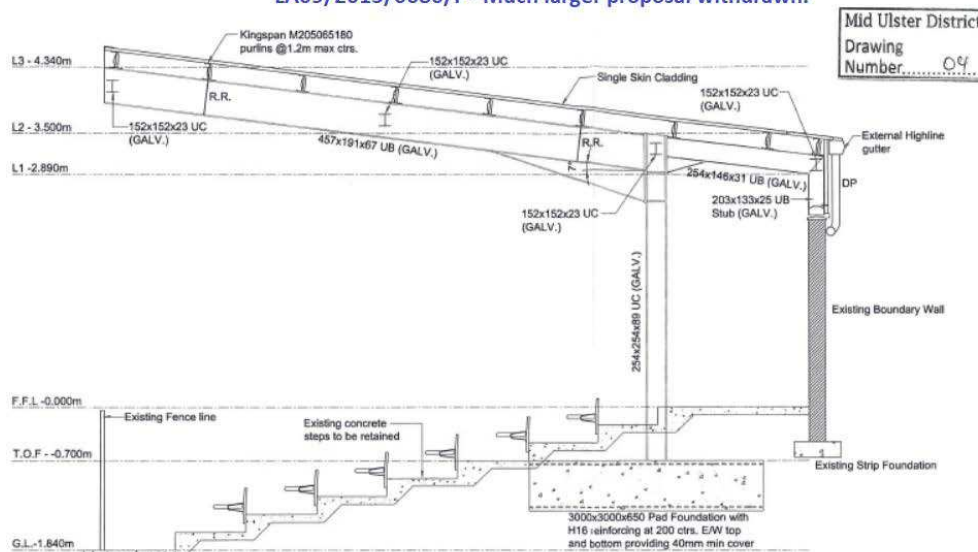
The last four points can be covered in one discussion, potentially drawing a larger crowd, increase traffic, parking issues, road safety issues and hindrances to emergency vehicles. It is essential to note that this proposal is for a stand to cover the existing terrace, the terrace cannot hold any more spectators as the terrace is not increasing in size, therefore there will be no impact on traffic, parking or road safety. DFI Roads were consulted and concurred, they responded 'the proposed works are all internal and don't seem to impact on current in curtilage parking / servicing arrangements. DFI Roads are therefore content with the proposal.'

Planning History

LA09/2015/0644/F - Opposite no 144 Killyliss Road - Refurbishment and extension to existing community sports and arts centre to provide additional storage and toilet accommodation – GRANTED - 12.10.2015

LA09/2015/0680/F - Opposite 144 Killyliss Road, Eglishe - Provision of covered spectator accommodation – WITHDRAWN - 23.06.2016

LA09/2015/0680/F - Much larger proposal withdrawn.



This application site lies within the settlement limits of Eglish as defined in the Dungannon and South Tyrone Area Plan (DSTAP) and development is therefore to be considered under SETT 1. In DSTAP 2010 the site is zoned as an area of Existing Recreation and Open Space which means it will be safeguarded for open space and outdoor recreational use in accordance with PPS 8 - Open Space, Sport and Outdoor Recreation.

PPS 8 Open space Sport and Outdoor Recreation

It is the view of the Council that there is no exact fit policy for assessing this application however, this is a 'larger scale' development within the settlement limits in an area designated as open space and it would amount to an 'intensive sports facility' and effectively a 'sports stand'; both of which are referred to in policy OS4.

The justification to this policy explains that intensive sports facilities include stadia, sports halls, etc. It suggests that such facilities often serve as a focus for the community and experience would suggest that football clubs often do just that.

As such the application has been assessed most appropriately against Policy OS 4.

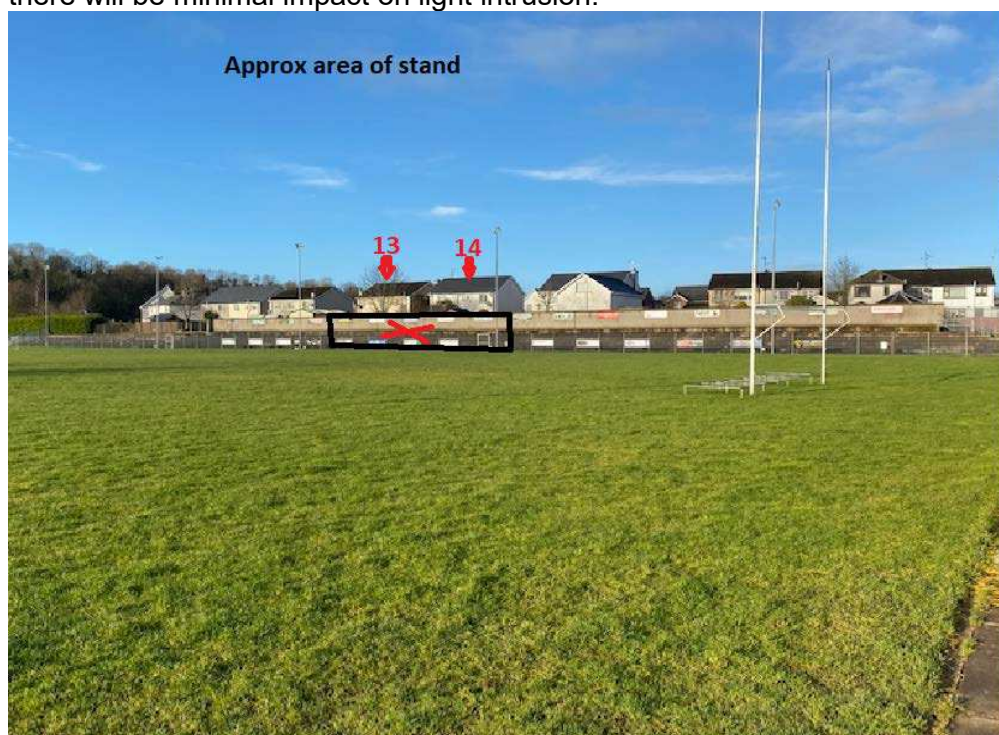
Policy OS 4 Intensive Sports Facilities

The Mid Ulster Council will only permit the development of intensive sports facilities including stadia, where these are located within settlements.

In all cases the development of intensive sports facilities will be required to meet all the following criteria:

- there is no unacceptable impact on the amenities of people living nearby by reason of the siting, scale, extent, frequency or timing of the sporting activities proposed, including any noise or light pollution likely to be generated;

Policy requires no unacceptable impact on the amenities of people living nearby. Objectors have raised issue with the potential of noise from the proposed stand. The nearest properties at numbers 13 and 14 Roan Close back directly onto the proposed site and the distance between the proposed structure and the nearest part of the dwelling would be 14 metres, and the nearest part of the stand will be same height as the rear boundary wall of these properties therefore there will be minimal impact on light intrusion.



In addition the proposal is to cover the existing terraced area, there will be no increase in area or capacity therefore minimal increase in noise is expected. The noise resulting from the football grounds existing is not be continuous but rather limited to mostly evening and weekends and this taken together with the existing background noise of the Killyliss road and surrounding land uses will limit any potential increase in noise levels having an adverse impact on neighbouring residential amenity. The proposal will also have no impact on frequency or timing of the sporting activities. There may be some noise nuisance during the construction phase, however, this can be conditioned to working hours and is expected to take a short period of time. Matters of any potential for anti-social behaviour arising from the development is a matter for the management of the Football Club to resolve.

- there is no adverse impact on features of importance to nature conservation, archaeology or built heritage;

The proposal involves covering an area which consists of a hardstanding stepped terrace. There are no natural features or hedgerows to be removed or altered, there will be minimal views from the main road due to positioning of the existing facilities,

There is minimal potential for adverse effects on natural environment and all works can be accommodated without detriment to the character of the area. There are no features of Arch or built heritage in the vicinity of the site.

- buildings or structures are designed to a high standard, are of a scale appropriate to the local area or townscape and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment;

Policy requires ancillary buildings or structures to be of a scale appropriate to the local area and sympathetic to the surrounding environment. The existing layout shows a clubhouse, car park, football pitch and 140 metre long terrace area. The proposal is to cover a 35 metre portion of the terrace with a 5 metre deep stand to protect spectators from the elements. The stand will be composed of Kingspan Metal cladding which is common in these types of development and would not look out of place at any football ground. It is important to note that there was a much large proposal sought in 2015 which was subsequently withdrawn. The scale of this stand is not excessive for the site and can be accommodated without detriment to the surrounding rural environment. The position is to the North of the pitch and the nearest part of the stand will be over 100metres from the main road to the east.

- the proposed facility takes into account the needs of people with disabilities and is located so as to be accessible to the catchment population giving priority to walking, cycling and public transport;

The proposal is located within easy reach of public transport and bus stops are located nearby. This proposal is for a cover only and will have no significant impact on the needs of disabled people.

- the road network can safely handle the extra vehicular traffic the proposal will generate and satisfactory arrangements are provided for site access, car parking, drainage and waste disposal.

Objectors have raised issue regarding possibility for increased traffic congestion, however, this proposal does not involve increasing the capacity of the grounds nor will it allow more people to attend events or games, as such there is no expected increase in car users and therefore no impact on the areas ability to cope with the existing traffic generated by this GAC facility. Also road safety issues were raised. There is no evidence to suggest that public safety could be prejudiced by this proposal and the nature, scale, extent and frequency of use proposed do not

render the development incompatible with the surrounding character. DfI Roads are the responsible authority for roads safety and they have been consulted and they have responded stating that they have no roads safety concerns.

Plan Policy SETT 1 states favourable consideration will be given to development proposals within settlement limits including zoned sites provided the following criteria are met;

- The proposal is sensitive to the size, character and function of the settlement in terms of scale, form, design and use of materials;

The proposal is for a small stand is sensitive to the existing grounds of Eglis GAC in terms of its size and scale, and compliments the function of the facility.

- The proposal respects the opportunities and constraints of the specific site and its surroundings and, where appropriate, considers the potential for the creation of a new sense of place through sensitive design;

The site is zoned for open space and this proposal compliments that in that it provides protection from the elements for spectators availing of the facilities.

- There is no significant detrimental effect on amenities;

This has been covered in depth in the above report, it is my opinion that there will be minimal impact on the amenities.

- There is no significant conflict with recognised conservation interests;

There are no conservation issues or concerns.

- There are satisfactory arrangements for access, parking and sewage disposal;

Satisfactory access parking and sewerage arrangements are in place and this proposal for a stand will have no impact on this. DFI were consulted and had no concerns.

- Where appropriate, any additional infrastructure necessary to accommodate the proposal is provided by the developer;

No additional infrastructure is necessary.

- the proposal is in accordance with prevailing regional planning policy and policies, requirements and guidance contained in Part 3 of the Plan.

The proposal is in compliance with the overarching regional planning policies and guidance.

Conclusion

Taking into account the Area Plan, planning policy, consultee responses and representations received on the application and all other material planning considerations approval is recommended subject to conditions. Approval subject to conditions

Neighbour Notification Checked

Yes

Conditions

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

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

Informatives

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

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

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

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

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

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

Signature(s)

Date:

ANNEX	
Date Valid	4th December 2020
Date First Advertised	15th December 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Roan Close, Dungannon, BT70 1NE The Owner/Occupier, 1 Roan Park Dungannon Tyrone C Murtagh 10 Roan Park, Dungannon, BT70 1NB The Owner/Occupier, 10 Roan Park,Dungannon, BT70 1NB Bronagh Murtagh 11 Roan Park, Dungannon, BT70 1NB The Owner/Occupier, 11a ,Roan Close,Dungannon,Tyrone,BT70 1NE Stephen and Sandra McMenemy 11a Roan Close, Dungannon, BT70 1NE Stephen and Sandra McMenemy 11a Roan Close, Dungannon, BT70 1NE The Owner/Occupier, 11b ,Roan Close,Dungannon,Tyrone,BT70 1NE Eithne Nugent 11b Roan Close, Dungannon, BT70 1NE AnneMarie & Benny Donnelly 12 Roan Close, Dungannon, BT70 1NE The Owner/Occupier, 12 Roan Close,Dungannon,Tyrone,BT70 1NE D Barclay 12 Roan Park, Dungannon, BT70 1NB Brian & Tracey Goodfellow 13 Roan Close, Dungannon, BT70 1NE The Owner/Occupier, 13 Roan Close,Dungannon,Tyrone,BT70 1NE Martin & Brenda Gallen 14 Roan Close, Dungannon, BT70 1NE The Owner/Occupier, 14 Roan Close,Dungannon,Tyrone,BT70 1NE L, Gallagher 14 Roan Park, Dungannon, BT70 1NB Terry & Brenda Horsfield 15 Roan Close, Dungannon, BT70 1NE The Owner/Occupier, 15 Roan Close,Dungannon,Tyrone,BT70 1NE	

Erin & Niall Hanratty
 16 Roan Park, Dungannon, BT70 1NB
 Jack Burns
 17 Roan Park, Dungannon, BT70 1NB
 Paula Nicholl
 1a Roan Close, Dungannon, BT70 1NE
 P Hegarty
 2 Killyliss Manor, Eglish, Dungannon, BT70 1UP
 Corey Murtagh
 2 Killyliss Villas, Dungannon, BT70 1LE
 Maureen Gildernew
 2 Roan Close, Dungannon, BT70 1NE
 The Owner/Occupier,
 2 Roan Park Dungannon Tyrone
 Shane Goodfellow
 2 Roan Park, Dungannon, BT70 1NB
 S. Murtagh
 3 Killyliss Manor, Eglish, Dungannon, BT70 1UP
 Gael Bradley
 3 Killyliss Villas, Dungannon, BT70 1LE
 The Owner/Occupier,
 3 Roan Park Dungannon Tyrone
 P Fox
 3 Roan Park, Dungannon, BT70 1NB
 Aine Kelly
 4 Roan Close, Dungannon, BT70 1NE
 The Owner/Occupier,
 4 Roan Park Dungannon Tyrone
 Mary T & F Goodfellow
 4 Roan Park, Dungannon, BT70 1NB
 The Owner/Occupier,
 5 Roan Park Dungannon Tyrone
 Owner/ Occupier
 5 Roan Park, Dungannon, BT70 1NB
 Kelley Cuddy
 5a Roan Close, Dungannon, BT70 1NE
 . McVeigh
 6 Roan Close, Eglish, Dungannon, BT70 1NE
 The Owner/Occupier,
 6 Roan Park Dungannon Tyrone
 Ciara Corrigan
 7 Roan Close, Dungannon, BT70 1NE
 The Owner/Occupier,
 7 Roan Park Dungannon Tyrone
 Edel Teye
 8 Roan Close, Dungannon, BT70 1NE
 Imelda Fay
 8 Roan Park, Dungannon, BT70 1NB
 The Owner/Occupier,
 8 Roan Park,Dungannon, BT70 1NB

The Owner/Occupier, 9 Roan Park Dungannon Tyrone C Murtagh 9 Roan Park, Dungannon, BT70 1NB The Owner/Occupier, Eglish Parochial Hall, Killyliss Road, Dungannon, Tyrone, BT70 1LE Brenda Gallen & Tracey Goodfellow No Address The Owner/Occupier, No Email/address Given The Owner/Occupier, No Email/address Given	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2020/1549/F Proposal: Football stand to cover existing stepped terrace. Address: Eglish GAC 108 Killyliss Road, Eglish, Dungannon BT70 1NB., Decision: Decision Date: Ref ID: M/1997/0368 Proposal: Extension to Sports Complex to provide 2 No. Changing Rooms and a Fitness Suite Address: 109 KILLYLISS ROAD EGLISH DUNGANNON Decision: Decision Date: Ref ID: M/1997/0503 Proposal: Proposed Spectator Canopy at Fr. Connolly Park Address: 109 KILLYLISS ROAD EGLISH DUNGANNON Decision: Decision Date: Ref ID: M/1974/0243 Proposal: EXTENSION TO EXISTING FOOTBALL PAVILION, PROVISION OF GAMES HALL Address: ROAN, EGLISH, DUNGANNON Decision: Decision Date: Ref ID: M/1974/024301 Proposal: ERECTION OF SOCIAL AND COMMUNITY CENTRE Address: ROAN, EGLISH	

Decision:

Decision Date:

Ref ID: LA09/2015/0644/F

Proposal: Refurbishment and extension to existing community sports and arts centre to provide additional storage and toilet accommodation

Address: Opposite no 144 Killyliss Road, Eglish, Dungannon,

Decision: PG

Decision Date: 12.10.2015

Ref ID: M/2007/0861/O

Proposal: Proposed Housing Development including roads improvements to Killyliss Road, Killyliss/Eglish Road junction and proposed private foul water treatment plant.

Address: Land immediately east of and adjoining Roan Park & Roan Close, Killyliss Road, Eglish Dungannon

Decision:

Decision Date: 23.11.2007

Ref ID: LA09/2015/0680/F

Proposal: Provision of covered spectator accommodation

Address: Opposite 144 Killyliss Road, Eglish, Dungannon,

Decision: WITHDR

Decision Date: 23.06.2016

Drawing Numbers and Title

Drawing No. 02

Type: Proposed Plans

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 03

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	
Case Officer: Emma McCullagh	
Application ID: LA09/2021/0053/F	Target Date:
Proposal: Change of house type from approved under I/2008/0439/F	Location: Approx 120m East of 24 Muntober Road Cookstown
Applicant Name and Address: Mr Daniel Ward 60 Blackrock Road Cookstown BT80 9PA	Agent name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: This is an application for a proposed change of house type from planning application I/2008/0439/F. However, it was deemed development had not commenced on site in line with the approval and the previous approval subsequently expired on the 14th November 2010. Following a further site visit and submission of evidence by the agent, approval is now recommended as it is accepted that development commenced in line with the approval.	
Characteristics of the Site and Area: The site is located within the open countryside, outside any defined settlement limits as per the Cookstown Area Plan 2010. The site is located approximately 90m east of the Muntober Road, with the site siting at a lower level than that of the road. The site is currently an agricultural field, at the time of the site visit there were horses within the site. The surrounding area is agricultural in nature, with a limited number of single dwellings within the countryside. At the location where the dwelling is to be sited there is currently overgrown vegetation and what appears to be a small, derelict agricultural building. Representations No third party representations have been received in relation to this planning application	

Description of Proposal

This is a full planning application for a change of house type from approval I/2008/0439/F.

Site History

I/2004/0900/O- Approx 120m East of 24 Muntober Road, Cookstown. Dwelling & garage.
PG 10.11.2004

I/2008/0439/F- Approx 120m East of 24 Muntober Road, Cookstown. Proposed erection of single private dwelling & garage. PG 14.11.2008.

LA09/2020/0123/CA- Approx. 120m East Of 24 Muntober Road, Cookstown. Fence not built in accordance with approved plans. Negotiate to resolve.

Deferred Consideration:

This application was presented as a refusal to Committee in April 2021 for the following reason;

‘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’.

It was subsequently deferred for a virtual office meeting held with the Area planning Manager on 22nd April 2021 and it was agreed the senior officer would re-visit the site.

The issue was that the site access was never implemented at the site as required nor was a material start made on the approval. Also when the previous case officer carried out the site visit it was in snowy conditions making the access and foundations even more difficult to uncover.

Following a further site visit by the senior officer, it was clear the site was very overgrown and foundations were not easily to be found, the agent ensured the vegetation was then cut back and the foundations and concrete exposed to show that the approval has been implemented in line with approval and the pre-commencement conditions. The sight lines and access were in place on site in accordance with the previous approval.



There had been no issues with the COHT application, except for establishing if development had commenced. As this has now been proven I recommend approval.

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.

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 permission granted is solely as a substitute for the permission for a dwelling previously granted on the site under the reference: I/2008/0439/F and only one dwelling shall be constructed on site.

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

3. All landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 02 date stamped 14TH June 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

4. The permission hereby Approved should be read in conjunction with conditions No. 2 and 3 of decision notice I/2008/0439/F

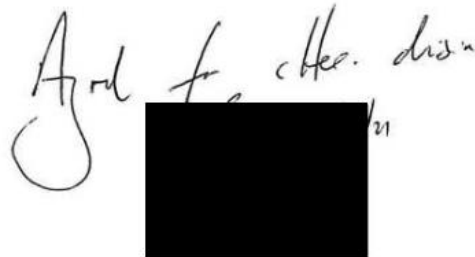
Reason: To ensure that all other conditions of the previous approval are adhered to.

Signature(s):

Date

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0053/F	Target Date:
Proposal: Change of house type from approved under I/2008/0439/F	Location: Approx 120m East of 24 Muntober Road Cookstown
Referral Route: Refusal- contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21.	
Recommendation:	Refusal
Applicant Name and Address: Mr Daniel Ward 60 Blackrock Road , Cookstown BT80 9PA	Agent Name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	
Signature(s):	



Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	

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

This is an application for a proposed change of house type from planning application I/2008/0439/F. However, the site access was never implemented at the site as required nor was a material start made on the approval. The previous approval subsequently expired on the 14th November 2010.

Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the Cookstown Area Plan 2010. The site is located approximately 90m east of the Muntober Road, with the site sitting at a lower level than that of the road. The site is currently an agricultural field, at the time of the site visit there were horses within the site. The surrounding area is agricultural in nature, with a limited number of single dwellings within the countryside. At the location where the dwelling is to be sited there is currently overgrown vegetation and what appears to be a small, derelict agricultural building.

Representations

No third party representations have been received in relation to this planning application

Description of Proposal

This is a full planning application for a change of house type from approval I/2008/0439/F.

Site History

I/2004/0900/O- Approx 120m East of 24 Muntober Road, Cookstown. Dwelling & garage. PG 10.11.2004

I/2008/0439/F- Approx 120m East of 24 Muntober Road, Cookstown. Proposed erection of single private dwelling & garage. PG 14.11.2008.

LA09/2020/0123/CA- Approx. 120m East Of 24 Muntober Road, Cookstown. Fence not built in accordance with approved plans. Negotiate to resolve.

Planning Assessment of Policy and Other Material Considerations

Cookstown Area Plan 2010

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

Local Development Plan 2030 - Draft Plan Strategy

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. It notes the importance of sustainable development in the countryside which promotes high standards in the design, siting and landscaping.

The principle of development was agreed under the previous application. Permission was granted for a dwelling and garage on 14th November 2008. This approval had a condition attached which required the development hereby permitted shall be begun before the expiration of 2 years from the date of this permission. Therefore, the previous approval granted required development to have commenced on site before 14th November 2010.

The second condition attached required the vehicular access, including visibility splays and any forward sight lines to be provided in accordance with approved plans, prior to the commencement of any works or other development hereby permitted.

Following a site visit, it was unclear if foundations had been put in place, to indicate a material start of the planning approval. Following a discussion with the agent, a document from Building Control was submitted indicating a number of site visits, with the first being 10th November 2010 where partial works to excavate foundations had begun, but had been rejected by building control. No further information or evidence has been provided to show foundations had been poured on site to indicate a material start on the planning approval.

It was clear that the access was not provided in accordance with the approved plans and appears to have not been implemented at any stage. Where the access should be located there is a post and wire fence separating the agricultural field and the public road. Therefore, the previous approval I/2008/0439/F has lapsed as condition 1 and 2 have not be complied with and this application cannot be considered as a change of house type.

For completeness, the design of the proposed change of house type will be also be assessed.

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. I am content that the proposed dwelling would not be a prominent feature in the landscape as it has established mature boundaries that will allow it to be adequately screened. I am content the design of the dwelling is appropriate for the site and its locality.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content the proposed change of design would not cause a detrimental change to, or further erode the rural character of the area. It is considered that the proposal would not create or add to a ribbon of development.

Other Material Considerations

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

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refusal

Reasons for Refusal:

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:

ANNEX	
Date Valid	14th January 2021
Date First Advertised	26th January 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier,	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2021/0053/F Proposal: Change of house type from approved under I/2008/0439/F Address: Approx 120m East of 24 Muntober Road, Cookstown, Decision: Decision Date:	
Ref ID: I/2008/0439/F Proposal: Proposed erection of single private dwelling & garage Address: Approx 120 metres east of 24 Muntober Road, Cookstown BT80 9LW Decision: Decision Date: 18.11.2008	
Ref ID: I/2004/0900/O Proposal: Dwelling & garage Address: Approx 120m East of 24 Muntober Road, Cookstown Decision: Decision Date: 10.11.2004	
Summary of Consultee Responses	

Drawing Numbers and Title
Drawing No. 01 Type: Site Location Plan Status: Submitted
Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted
Drawing No. 03 Type: Proposed Plans Status: Submitted
Notification to Department (if relevant)
Date of Notification to Department: Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2021/0116/O	Target Date: <add date>
Proposal: Outline planning permission for a dwelling & garage.	Location: Lands East of 91 Creagh Road Castledawson BT45 8EY.
Applicant Name and Address: Ciaran Devlin 93 Creagh Road Castledawson BT45 8EY	Agent name and Address:
Summary of Issues: The application is from a member of staff in the planning department of Mid Ulster District Council. Issues for consideration relate to the siting of a dwelling and any impacts on the setting of Creagh.	
Summary of Consultee Responses: DFI Roads – Access in accordance with the RS1 form which require visibility splays of 2.4m by 45m in both directions and a forward sight distance of 45m. DEARA – Farm has been established for over 6 years, no recent claims	
Characteristics of the Site and Area: Description of proposal Outline planning application for a dwelling and garage. The applicant has provided information in support for a dwelling on a farm and this information will be considered later in my report. Characteristics of Site and Area An irregular shaped site consisting of two rectangular plots connected by a narrow strip of land between properties 87 and 89 Creagh Road. The western rectangular plot is located adjacent to Creagh Road and is located between No. 93 Creagh Road and the residential development of Meadowlands to the south. This land is relatively flat and is in agricultural use. To the east, indicated as the preferred site on drawing No. 01, the site is located within the western corner of a	

larger agricultural field. Along the NW boundary is a post and wire fence and sparse hedgerow. There is a fence defining the SW boundary with the remaining boundaries not defined.

Between the eastern plot of the site and the public road there are 4 dwellings with associated ancillary buildings, outhouses and sheds. The small settlement of Creagh lies to the south and west of the site (approx. 50m) with the site located on unzoned land in the countryside. Land in the area is relatively flat with land outside Creagh being defined mostly by detached single dwellings, farm holdings and agricultural land. There is also industrial development in the area including Creagh Concrete. The Moyola River is located approx. 500m west.

Description of Proposal

Outline planning permission for a dwelling & garage.

Deferred Consideration:

Members are advised this application was deferred at the planning committee on 4th May to allow further consideration of the siting of the proposed dwelling. Following further discussion with the applicant, they have advised they would like consideration of a dwelling to the rear (east) part of the site with a new access lane to serve the dwelling and the existing agricultural fields. The applicants have confirmed the amount of land owned and this is shown in red and blue on the attached aerial photograph. For the avoidance of doubt they do not own the lands identified in yellow.



The previous report has considered and accepted the principal of a dwelling on a farm here as the site is on an active and established farm and there have not been any

development opportunities sold off from the farm in the last 10 years. The planning history shows adjacent and west of the site:

LA09/2021/0075/F Proposed change of house type from previously approved planning application LA09/2015/0173/F for Ciaran and Roisin Higgins (under consideration)

LA09/2015/0173/F- Proposed change of house type from previously approved planning application ref: H/2008/0592/F, 95 Creagh Road, Castledawson, Magherafelt for Ciaran Higgins and Roisin Devlin (permission granted 12.08.2015). (Roisin is the applicant's sister).

H/2008/0592/F- Proposed off-site replacement dwelling, for Liam & Geraldine Devlin, permission granted 11.12.2008 (Liam is the applicant's father).

Issues for consideration relate to the Part c of CTY10 which requires the new dwelling to visually link or be sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane.

CTY15 is also a consideration for this application as the settlement limit of Creagh is along the south boundary of the lands owned by the applicant.

The applicant does not own the new dwelling and garage at 91 or the dwelling at 89 Creagh Road, these properties have been notified of the proposed development through the neighbour notification scheme. In the previous report the case officer had accepted that a dwelling in the rear part of the site would visually link with buildings on the farm. I agree with this assessment, there are no buildings on the applicants land between the proposed site and the existing dwelling and 3 outbuildings, I consider these area a group of buildings on the farm and a dwelling in the proposed site will be visually linked with them when seen from the existing laneway. I consider the lane to be a public view as it provides access to 2 other dwellings. There is a new modern dwelling and garage that is to the south east of the existing group of buildings, these are not within the ownership of the applicant and are not buildings on his farm, I am not assessing the proposed development as clustering or visually linking with them to meet the policy. I do not consider a dwelling here would have any significant detrimental impacts on the amenity of this dwelling or the dwelling at no 89, as these both face towards the field, are separated by the lane which is a right of way and any dwelling can be located with a suitable degree of separation from them. Planning Advice Note entitled 'Implementation of Strategic Planning Policy on Development in the Countryside' issued August 2021 is relevant but does not change the considerations on this application as the existing buildings on the farm are more than just a dwelling and a garage.

CTY10 requires a new dwelling to use an existing access lane where practicable. In this case the existing lane serves 4 existing dwellings and there is another long standing permission for another dwelling. The lane is narrow with 2no 90degree bends to get to the rear field and another 90degree bend to access the 2 other houses on the lane. The applicant has advised that due to the narrowness of the lane, it is difficult to serve the rear field with modern farm machinery. A new lane would facilitate this as well as provide a safer access for the other dwellings here. On site I observed marks on the walls of the existing buildings on the lane, consistent with being struck by vehicles. I would agree that modern farm machinery would have difficulty using this lane to access the lands at the rear. There is no other alternative access that is available to the applicant through his land. I conclude that it is not practicable for health and safety reasons to use the existing lane to serve the dwelling and the farm lands at the rear. I consider a new lane, with native

species hedging on both sides, would satisfactorily integrate here as there is only a short stretch, approx. 40m to the front that does not have at least one boundary hedge.

Policy CTY15 is to prevent urban sprawl and prevent development that mars the distinction between the settlement and the countryside. I consider a dwelling in the rear part of the site would cluster with the existing development, it would be screened from Creagh Road and from the settlement by the existing development around it and a modest size dwelling would, in my opinion, be virtually invisible from the public roads. I do not consider a dwelling here would mar the distinction between the settlement and the countryside. As the proposed dwelling is not contiguous with the settlement limit, I do not consider if approved that it would result in urban sprawl.

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 view of the above, it is my recommendation to the members that planning permission is granted with the conditions specified.

Conditions/Reasons for Refusal:

Conditions

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

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

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

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

3. The curtilage of the proposed dwelling, except for the access, shall limited to the area identified in green on the approved plan No. 01 which was date stamp received 28th January 2021.

Reason: To ensure that the development integrates into the landscape.

4. The dwelling hereby permitted shall have a ridge height not more than 7.5m above the finished floor level.

Reason: To safeguard existing and proposed residential amenity.

5. The under build of the proposed dwelling shall not exceed 0.45m at any point within its proposed footprint.

Reason: So that the building integrates into the surrounding countryside.

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

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

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

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

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

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

9. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1 including sight lines of 2.4m by 45m in both directions and a forward sight distance of 45m. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

Informatives

1. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.

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

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

4. The design of the proposal will be assessed at RM stage to ensure there will be no detrimental impacts on neighbouring residential amenity through over looking, over shadowing or over dominance.

Signature(s)

Date:

Location map with siting identified





Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0116/O	Target Date:
Proposal: Outline planning permission for a dwelling & garage.	Location: Lands East of 91 Creagh Road Castledawson BT45 8EY.
Referral Route: The applicant is a Planning Officer for Mid Ulster District Council.	
Recommendation:	Approve
Applicant Name and Address: Ciaran Devlin 93 Creagh Road Castledawson BT45 8EY	Agent Name and Address:
Executive Summary:	
Signature(s):	

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

Development Plan

Magherafelt Area Plan 2015- land located in the Countryside just outside and north of the small settlement of Creagh, with Magherafelt located approx. 5 mile west. Land is not zoned. The policy provisions of SPPS and PPS21 apply.

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

Adjacent and west of the site;

LA09/2021/0075/F Proposed change of house type from previously approved planning application LA09/2015/0173/F for Ciaran and Roisin Higgins (under consideration)

LA09/2015/0173/F- Proposed change of house type from previously approved planning application ref: H/2008/0592/F, 95 Creagh Road, Castledawson, Magherafelt for Ciaran Higgins and Roisin Devlin (permission granted 12.08.2015). (Roisin is the applicant's sister).

H/2008/0592/F- Proposed off-site replacement dwelling, for Liam & Geraldine Devlin, permission granted 11.12.2008 (Liam is the applicant's father).

Representations

No 3rd Party Planning Objections have been received.

Key Planning Policy

SPPS- Strategic Planning Policy Statement for NI

PPS21- Sustainable Development in the Countryside

PPS3- Access, Movement and Parking

Design Guidance- Building on Tradition, a Sustainable Design Guide for the Northern Ireland Countryside.

Consideration

The applicant, Ciaran Devlin, is a Planning Officer for Mid Ulster District Council Planning Department, therefore the proposal is being presented to Members as per MUDC Scheme of Delegation on Planning Matters policy.

The proposal is for a dwelling on a farm in the countryside. Planning Policy Statement 21 is the overarching document for assessing development proposals in the countryside. Policy CTY1 of PPS 21 lists development proposals that are considered to be acceptable forms of development in the countryside, including dwellings on farms, subject to policy criteria within CTY10 being met.

I am satisfied that the proposal will integrate into the landscape as it will group with existing development. While CTY13 is the policy context, this site reads as being associated with Creagh, as surrounding development which is adjacent to Creagh also reads with existing development within the settlement. To me, a dwelling on this site will not have a detrimental impact on rural character as it has development on 3 sides. I find that a 7.5m ridge dwelling will satisfactorily integrate onto this site. There is also a 2 storey dwelling to the east of the site.

There are already a number of dwellings and buildings surrounding the site, some in the countryside, some within the village. In my view the proposal will not detract from the rural character of this area through build up of development, as it will consolidate development and will not extend further into the countryside. The proposal will not offend policy CTY14 of PPS21.

There is ample space within this site to provide septic tank provision. The onus is on the landowner/developer to ensure there are appropriate consents in place for any private septic tank provision. No objections have been raised by Environmental Health re septic tank provision or potential impacts on neighbouring properties. In my view the proposal does not offend policy CTY16 of PPS21.

PPS3 Access, Movement and Parking

DfI roads have provided comment on the proposed access to the site and raise no objections on road safety grounds subject to the access being in accordance with the RS1 form which require visibility splays of 2.4m by 45m in both directions and a forward sight distance of 45m. The proposal does not offend any policies contained within PPS3.

Other considerations

From the strategic flood maps NI the site is not affected by pluvial or surface water flooding. There is a flood plain on the opposite side of Creagh Road to the Moyola River but the site is not impacted by this.

As this proposal is outline, impacts on neighbouring amenity can be addressed at Reserved Matters stage to ensure there will be no detrimental impacts of overlooking or overshadowing of neighbouring property, as can the design of the dwelling. I am satisfied that a dwelling can be sited on this site with an acceptable design that will not have a detrimental impact on surrounding residential amenity.

There are no nearby streams or ditches to connect the development to any nearby protected sites. No contamination, human health or ecology issues have been indicated or raised. The site is on flat, stable agricultural land of low biodiversity value. In my view the proposal is of sufficient distance and is of a size, scale and nature that it will not have any conceivable impacts on protected sites including Moyola River or Lough Neagh.

There are no identified historic monuments or buildings nearby.

NIE was identified as a constraint on the Hazard and Constraints section of the planning computer system (Uniform). I consulted NIE for comment and they responded with no objection to the proposal.

7. A detailed landscaping plan shall be submitted and approved as part of the Reserved Matters application and shall identify the location, species and numbers of trees and hedges to be retained and planted. All new curtilage boundaries shall also be identified by new planting, and shall include a mix of hedge and tree planting, to be indicated on the landscape plan, with details to be agreed at reserved matters stage.

During the first available planting season after the commencement of development on site, all proposed trees and hedges indicated in the approved landscaping plan at Reserved Matters stage, shall be planted as shown and permanently retained thereafter, unless otherwise agreed by Mid Ulster Council in writing.

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

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

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

9. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1 including sight lines of 2.4m by 45m in both directions and a forward sight distance of 45m. 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.

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	
Case Officer: Phelim Marrion	
Application ID: LA09/2021/0381/F	Target Date: <add date>
Proposal: Change of house type	Location: Approx 110m S.W. of 125 Killycolpy Road Ardboe Dungannon
Applicant Name and Address: Mr R O'Neill And Ms L Donnelly 25 Battery Road Cookstown	Agent Name and Address: APS Architects LLP 4 Mid Ulster Business Park Sandholes Road Cookstown BT80 9LU
Summary of Issues: This application is for a change of house type in the rural area, The proposed dwelling was considered to be excessive in terms of height scale and massing and would be prominent in the landscape. Amended plans have been received that are more in keeping with the scale of the originally approved scheme.	
Summary of Consultee Responses: DFI Roads - approve with conditions for safe access	
Characteristics of the Site and Area: The proposed site is located in the rural countryside outside any defined settlement limit as designated under Cookstown Area Plan 2010. The site is a relatively flat, irregular parcel of agricultural land, cut out of a larger agricultural field. The field sits adjacent a junction in the Killycolpy Rd. The field is bound to its east via the main Killycolpy Rd and to its south by minor dead end road off the Killycolpy Rd.	

The site contains the foundations of a dwelling set back on the site. An existing access off the minor Killycolpy Rd and sweeping gravelled driveway through the site leads up to the foundations.

The western boundary of the site is relatively open defined only by some light, scattered vegetation / scrub. A low approx. 1.2m high hedge defines the northern boundary of the site. An approx. 1.2m high post and wire fence defines the southern / minor roadside boundary of the site to the outside of the access. A mature hedgerow approx. 1.8m high defines the eastern boundary of the site's host field adjacent the main Killycolpy Rd.

Critical views of the site are from the main Killycolpy Rd over a short distance on the south and north approach to the junction of the minor road the site sits adjacent and when travelling along the southern minor roadside frontage of the site's host field. Long distance views of the site also exist from the northeast, from the Ballymaquire Rd when travelling west to east on the approach to the Ballymaquire / Killycolpy crossroads.

The area surrounding the site is rural, characterised by generally flat or gently sloping agricultural landscape. An existing 1 ½ storey dwelling, no. 122a Killycolpy Rd, bounds the site to the west. A small ribbon of development is evident further east/southeast of the site along the Killycolpy Rd. A dispersed settlement pattern defines the wider area.

Description of Proposal

This is a full planning application for a proposed change of house type to that previously approved and deemed to have commenced on site under application I/2012/0098/F. I/2012/0098/F on the 17th July 2012 granted permission for the re-siting of a dwelling approved under previous application I/2010/0309/F; and a proposed new garage (including storage and incidental residential use ancillary to main dwelling) on lands approx. 110m SW of 125 Killycolpy Rd Ardboe. Works under this permission were to have commenced prior to 1st September 2012.

Works on site would appear to have commenced in accordance with I/2012/0098/F. The access into the site and foundations of the dwelling approved appear to be place; and building control (via email received 7th April 2021) confirmed they carried out an inspection of the foundations on the 1st August 2012.

Deferred Consideration:

This application was before the Planning Committee in June 2021 and it was agreed to defer to allow discussions about the design with the Planning Manager. A meeting was held on 17 June 2021 and at that meeting the applicants advised they had provided an amended scheme that reduced the height of the proposed dwelling and removed some of the ornate detailing to try and provide a simple design.

The agent provided a comparison of the dwelling as approved versus the now proposed dwelling. Attached shows the approved dwelling that may be constructed on the site as the black outline and the proposed dwelling superimposed in blue.



The roof has been reduced from 9.5m above finished floor level to 8.2m above ffl. From the above submission it is clear the roof of the now proposed dwelling will have less of a visual impact as it does not have the same massing as the originally approved. The rear return and the front porch are larger than the previously approved scheme, which may still be constructed, however I do not consider this will have a significantly greater visual impact given that it is to the rear and has a filtered view from the south and limited views from the north. The applicants have advised they own and control the hedges along the east boundary of the site, these have been allowed to grow and it is their intention to keep these to screen the site from views from the road. On site it was evident these have matured and do screen the proposed site and I consider, as provided for in Section 52 (1) (a) of the Planning Act (NI 2011, it is appropriate and necessary to attached a condition to retain this hedge to screen this development. While the footprint of the proposed dwelling has increased with the rear return getting larger, in my opinion, the critical views of this will not be so wide ranging and achievable as to make the development an obvious and prominent feature in the landscape. I consider the reduction in the roof height has significantly reduced the visual impact of the dwelling and the simplification of the design without the ornate detailing is in keeping with the area. I note there are hipped roofs in the vicinity and as such accept this is a feature in the area.

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

In light of the existing extant permission on the site, the revisions that have been put forward as well as the proposed mitigation to reduce visual impact, I recommend this application is approved.

Conditions/Reasons for Refusal:

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

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

2. The development hereby approved shall not commence until the vehicular access, including visibility splays of 2.0m x 4.0m in both directions have been provided in accordance with Drawing No. 05 bearing the date stamp 09 MAR 2021. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. The existing vegetation along Killycolpy Road to the east, as identified in yellow on drawing No 01 bearing the stamp dated 09 MAR 2021 shall not be cut any lower than 3.0m in height above the existing ground level.

Reason: In the interests of visual amenity.

4. All hard and soft landscape works as detailed on drawing no 05 bearing the stamp dated 09 MAR 2021 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practise. 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 with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity.

5. One dwelling only shall be constructed within the area of the site outlined in red on the approved drawing no 01 bearing the stamp dated 09 MAR 2021.

Reason: To control the number of dwelling on the site as this permission is in substitution for planning approval I/2012/0098/F and is not for an additional dwelling 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

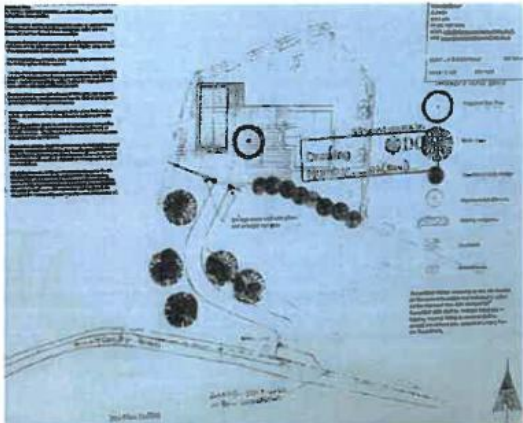
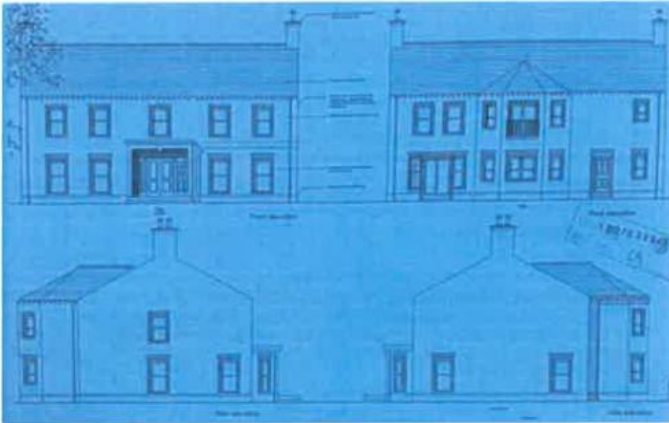
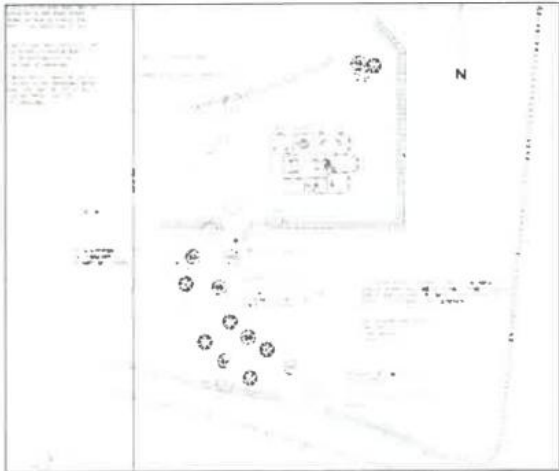
**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0381/F	Target Date:
Proposal: Change of house type	Location: Approx 110m S.W. of 125 Killycolpy Road Ardboe Dungannon
Referral Route: Refusal	
Recommendation: Refuse	
Applicant Name and Address: Mr R O'Neill And Ms L Donnelly 25 Battery Road Cookstown	Agent Name and Address: APS Architects LLP 4 Mid Ulster Business Park Sandholes Road Cookstown BT80 9LU
Executive Summary:	
Signature(s):	

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
Description of Proposal		
<p>This is a full planning application for a proposed change of house type to that previously approved and deemed to have commenced on site under application I/2012/0098/F.</p> <p>I/2012/0098/F on the 17th July 2012 granted permission for the re-siting of a dwelling approved under previous application I/2010/0309/F; and a proposed new garage (including storage and incidental residential use ancillary to main dwelling) on lands approx. 110m SW of 125 Killycolpy Rd Ardboe. Works under this permission were to have commenced prior to 1st September 2012.</p> <p>Works on site would appear to have commenced in accordance with I/2012/0098/F. The access into the site and foundations of the dwelling approved appear to be place; and building control (via email received 7th April 2021) confirmed they carried out an inspection of the foundations on the 1st August 2012.</p>		
<div>   </div>		
<p>Fig 1: Block Plan (I/2012/0098/F) Fig 2: Elevations (I/2012/0098/F)</p>		
<div>  </div>		
Fig 3: Proposed Block Plan		



Figs 4 & 5: Proposed Elevations

Characteristics of the Site and Area

The proposed site is located in the rural countryside outside any defined settlement limit as designated under Cookstown Area Plan 2010.

The site is a relatively flat, irregular parcel of agricultural land, cut out of a larger agricultural field. The field sits adjacent a junction in the Killycolpy Rd. The field is bound to its east via the main Killycolpy Rd and to its south by minor dead end road off the Killycolpy Rd.

The site contains the foundations of a dwelling set back on the site. An existing access off the minor Killycolpy Rd and sweeping gravelled driveway through the site leads up to the foundations.

The western boundary of the site is relatively open defined only by some light, scattered vegetation / scrub. A low approx. 1.2m high hedge defines the northern boundary of the site. An approx. 1.2m high post and wire fence defines the southern / minor roadside boundary of the site to the outside of the access. A mature hedgerow approx. 1.8m high defines the eastern boundary of the site's host field adjacent the main Killycolpy Rd.

Critical views of the site are from the main Killycolpy Rd over a short distance on the south and north approach to the junction of the minor road the site sits adjacent and when travelling along the southern minor roadside frontage of the site's host field. Long distance views of the site also exist from the northeast, from the Ballymaguire Rd when travelling west to east on the approach to the Ballymaguire / Killycolpy crossroads.

The area surrounding the site is rural, characterised by generally flat or gently sloping agricultural landscape. An existing 1 ½ storey dwelling, no. 122a Killycolpy Rd, bounds the site to the west. A small ribbon of development is evident further east/southeast of the site along the Killycolpy Rd. A dispersed settlement pattern defines the wider area.

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 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. All valid representations received have been subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

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

On Site

- I/2004/1070/O – 1 ½ storey domestic dwelling with twin domestic garages – Withdrawn 2nd December 2004
- I/2004/1336/O – 1 ½ storey domestic dwelling with twin garage – Granted 12th January 2005
- I/2008/0011/RM – 1 ½ storey domestic dwelling with twin domestic garages – Granted 2nd July 2008
- I/2009/0449/F – Change of access to that approved under I/2008/0011/RM relocated 45m SE of previously approved – Granted 29th September 2009
- I/2010/0013/F – Proposed change of house type and resiting from that approved under I/08/0011/RM using access as approved under I/09/0449/F – Granted 10th March 2010
- I/2010/0309/F – Proposed change of house type to that previously approved under I/2010/0013/F – Granted 15th September 2010
- I/2012/0098/F – Resiting of approved dwelling (under I/2010/0309/F) and proposed new garage (including storage and Incidental residential use ancillary to main dwelling) – Granted 17th July 2012

Adjacent

- I/2005/0347/O – Proposed dwelling house – Granted 20th May 2005

- I/2009/0256/F – Proposed dwelling house – Granted 15th October 2009
- I/2011/0494/F – Proposed one and a half storey dwelling with garage - change of house – Granted 8th February 2012

The above application relate to the lands immediately west of the current site containing no. 122a Kilycolpy Rd

Consultees

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

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 Planning Policy Statement 21: Sustainable Development in the Countryside.

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.

I am content the principle of this development has been established on site through the previous approval I/2012/0098/F and the subsequent commencement of development. As detailed in 'Description of Proposal' further above works on site would appear to have commenced in accordance with I/2012/0098/F. The access into the site and foundations of the dwelling approved appear to be place; and building control (via email received 7th April 2021) confirmed they carried out an inspection of the foundations on the 1st August 2012.

The above said with respect to the design of the dwelling and garage proposed it must still comply with Policies 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 do not believe the site has the capacity to absorb the proposed dwelling in accordance with Policy CTY13 and 14. The size, scale, and design of the dwelling is inappropriate for the site and locality and if permitted would be a prominent feature in the landscape when viewed from the surrounding vantage points (see 'Characteristics of the Site and Area') leading to a detrimental change to the rural character of the area.

Whilst the previous dwelling was a substantial size and scale with a ridge height approx. 8.2m above FFL, I believe the proposed dwelling, which has an increased footprint, ridge height approx. 9.5m above FFL and hipped roof design would have a significantly

greater visual impact when viewed from surrounding vantage points. I would also note that the previously approved scheme/(s) on site would appear to have benefitted from mature vegetation along the western boundary of the site, no longer present. Whilst it would not enclose this relatively open site to critical views, it would have provided a backdrop to soften the proposal. I would also note whilst there is one low ridge hipped roof bungalow, no. 144 Kilycolpy Rd located just to the northeast of the site adjacent the main Kilycolpy Rd, it would appear to have been approved in the 1990's, and pitched roofs would be typical of the vicinity.

Accordingly, the agent was contacted via email on the 19th April 2021 and advised that Planning did not consider the proposed dwelling acceptable for the site and locality by reason of its' size, scale and design and offer him the opportunity to submit an amended house type for further consideration.

The agent subsequently emailed on the 27th April 2021 to advise:

- His clients have put time into travelling around Mid Ulster to get an idea of houses currently being built and recently approved to imagine their ideal home. That they have referred to a house on Deerpark Rd approved (LA09/2019/1228/F – picture included) as something they based their design on, that in their opinion their house is much more compact, and that they did not think the overall scale and density of their dwelling presented any issues on a like for like comparison. In fact, the Deerpark Rd house has a 10m ridge height, hipped roof and a garage with an 8m ridge height.
- In any event, his clients are willing to reduce the dwelling from a 9.5m to 8.34m ridge height. (Previously approved dwelling had an 8.2m ridge height from FFL with a standard gable type roof). In his opinion, the revised height with a hipped roof would reduce the overall scale and massing considerably and it should blend into the surroundings especially with a hipped roof adjacent and so many more in the local area (for evidential purposes he has attached a few hipped roof houses in the local area).
- His clients intend, over time, to have good mature planting on site and over the past few years have allowed the hedge adjacent the main Kilycolpy Rd to grow from approx. 4 to 12ft meaning the house cannot be seen from directly in front.
- The house is to be located on a very minor road used only by locals who live in this area so the traffic count is very low.

Whilst the additional information above, including reduced ridge height has been taken into consideration, the opinion has not changed the dwelling is still considered inappropriate for the site and its locality, and if permitted it would be a prominent feature in the landscape leading to a detrimental change to the rural character of the area. In relation to the approval at Deerpark Rd and hipped roofed houses referenced in the evidence provided, I would note that every site is assessed on its individual merit and that of its surrounding area / context. With the exception of no. 144 Kilycolpy Rd the dwellings referenced would not be viewed within the surrounding area / context of the site. No. 144 Kilycolpy Rd, a low ridge, hipped roof bungalow as stated above is not a recent approval nor is its hipped roof construction typical of the area. The assessment of integration is judged from critical views along stretches of the public road. This proposed dwelling will be viewed from the minor dead-end road it sits adjacent, the main Kilycolpy over a short distance on the south and north approach to the junction of the aforementioned minor road; and the Ballymaguire Rd to the northeast of the site.

Other Policy/Considerations

The only property in close proximity to the site is no. 122a Kilycolpy Rd, located immediately to the west. I have no concerns regarding the newly proposed dwelling impacting the amenity of no. 122a to an unreasonable degree given previous separation distances are to be retained and a previously approved garage is to be erected along the western boundary of the site between the two properties, helping enclose / screen both private amenity areas.

In addition to checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available, online have been checked and identified no built heritage assets or natural heritage interests of significance on site or within the immediate vicinity.

Checks of the Planning portal and Flood Maps NI indicate the site is not subject to flooding

The site is located within SG Defence Estates relating to Met Office Radar however the proposal would be under the height threshold (10.7m) for consultation to Defence Estates. The site is also located within an area of constraint on wind turbines however proposal is for a dwelling and garage.

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

Neighbour Notification Checked	Yes
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Summary of Recommendation:	Refuse
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Reasons for Refusal:

1. The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the dwelling is inappropriate for the site and its locality, and if permitted it would be a prominent feature in the landscape.
2. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

Signature(s)**Date:**

Report on	Mid Ulster District Council's response to a consultation request from Fermanagh & Omagh District Council for planning application LA10/2021/0806/F for Extension to existing factory to provide additional manufacturing, storage and office space at 185 Omagh Road Ballygawley for Mr Donal Hackett (Classic Marble Ltd).
Date of Meeting	7 th September 2021
Reporting Officer	Phelim Marrion
Contact Officer	Dr Chris Boomer

Is this report restricted for confidential business?	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	X

1.0	Purpose of Report
1.1	To seek members agreement to respond to a consultation on a planning application that Fermanagh & Omagh District Council) are considering.
2.0	Background
2.1	<p>Fermanagh & Omagh District Council have consulted Mid Ulster District Council on planning application LA10/2021/0806/F for Extension to existing factory to provide additional manufacturing, storage and office space at 185 Omagh Road Ballygawley for Mr Donal Hackett (Classic Marble Ltd. The planning application site has a boundary with Mid Ulster District Councils jurisdiction and the development is proposed to be accessed off a laneway off the A5, Protected Route. FODC have asked MUDC to comment on the access to the development.</p> <p>The proposal involves a 1818sqm extension to the existing 1850sqm factory building. The extension is to house 605sqm of production area, 84sqm offices, 845sqm of storage and 284 sqm of ancillary accommodation. The extension is perpendicular to the rear of the existing building and is finished in similar colour and types of materials to the existing factory.</p>
3.0	Main Report
3.1	Members are advised the site is an existing industrial development which is accessed off a private laneway that opens onto the A5 Protected Route. The existing lane serves an existing electrical substation as well as Classic Marble.
3.2	FODC have asked for MUDC view on the access which runs through MUDC area. The access is onto the A5, a Protected Route where Policy AMP3 applies. This

	<p>policy allows an existing access to be used where access cannot reasonably be taken from an adjacent minor road. There is the possibility of an access onto Garvaghy Bridge Road, however that road is a single vehicle width, it is undulating and has a poor surface and horizontal alignment. Traffic generation will be at a peak during the construction phase of the development with heavy machinery and equipment being brought to the site.</p>
3.3	<p>The application has been accompanied by a Traffic Impact Assessment which indicates the existing factory has 56 cars, 8 passengers and 6 HGV vehicles to the site each day and the peak periods for traffic accessing the site will be weekday am peak hour 08:00-09:00 and weekday pm peak hour 17:00-18:00. It is stated that once built and operational the proposed development will have an additional 4 employees and attract an additional 2 cars, 4 passengers and 1 HGV per day. This does not seem to be a reasonable assumption given the amount of traffic generated by the existing factory. While primarily a matter for DFI Roads and FODC, given the Protected Status of the road, it may be prudent for FODC to seek improvements to the junction of the private lane and A5 by providing a right hand turning lane into the site.</p>
3.4	<p>The site is well integrated in the local landscape with views from the main road limited to close to the access position due to the landform. It will be seen with the existing factory, the power lines and substation which gives the area quite an industrial appearance. I consider a landscaping scheme should be requested and implemented around the compound to help reduce the visual impact on what can be an open exposed landscape.</p>
4.0	Other Considerations
4.1	Financial, Human Resources & Risk Implications
	<p>Financial: Not relevant</p>
	<p>Human: Construction may cause issues of noise and dust during the construction period. Noise may be an issue during operation, from the equipment, however this is a matter for FODC to consider in consultation with their Environmental Health Officers. The nearest residential development, in Mid Ulster District Council Area is approx. 450 metres south of the develop on the opposite side of the main road, twice the distance from the nearest property in FODC.</p>
	<p>Risk Management: Unlikely to be any risk to Mid Ulster District Council</p>
4.2	Screening & Impact Assessments
	<p>Equality & Good Relations Implications: No implications anticipated</p>

	Rural Needs Implications: No likely to be applicable
5.0	Recommendation(s)
5.1	<p>That members agree to the following response to be issued to OFDC Planning Department:</p> <ol style="list-style-type: none"> 1. FODC in consultation with DFI Roads may wish to consider upgrading the access into this site. 2. Mid Ulster District Council have no concerns in relation to long term visual impacts of this development provided a robust and properly detailed landscaping scheme and maintenance proposals are agreed prior to commencement of development and properly condition for implementation.
6.0	Documents Attached & References
6.1	Location map/Proposed site plan/elevations

KEY PLAN

scale: 1/2500

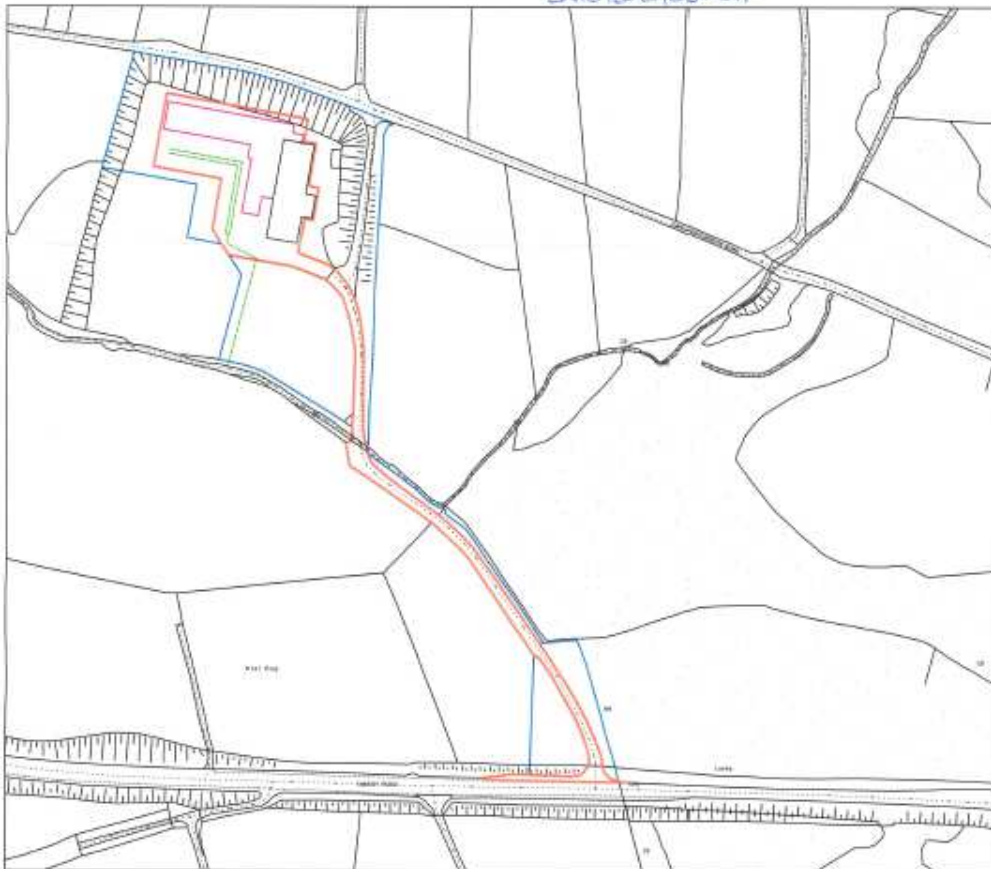
from: I.G. 177-01 SE/NE
& 177-02 SW/NW.
c.c.r.

Site Area = 0.977 Ha.
(Site edged red: additional land edged blue).

Fermagh and Omagh District Council
Drawing
Number 01
LA10/2021/08061F

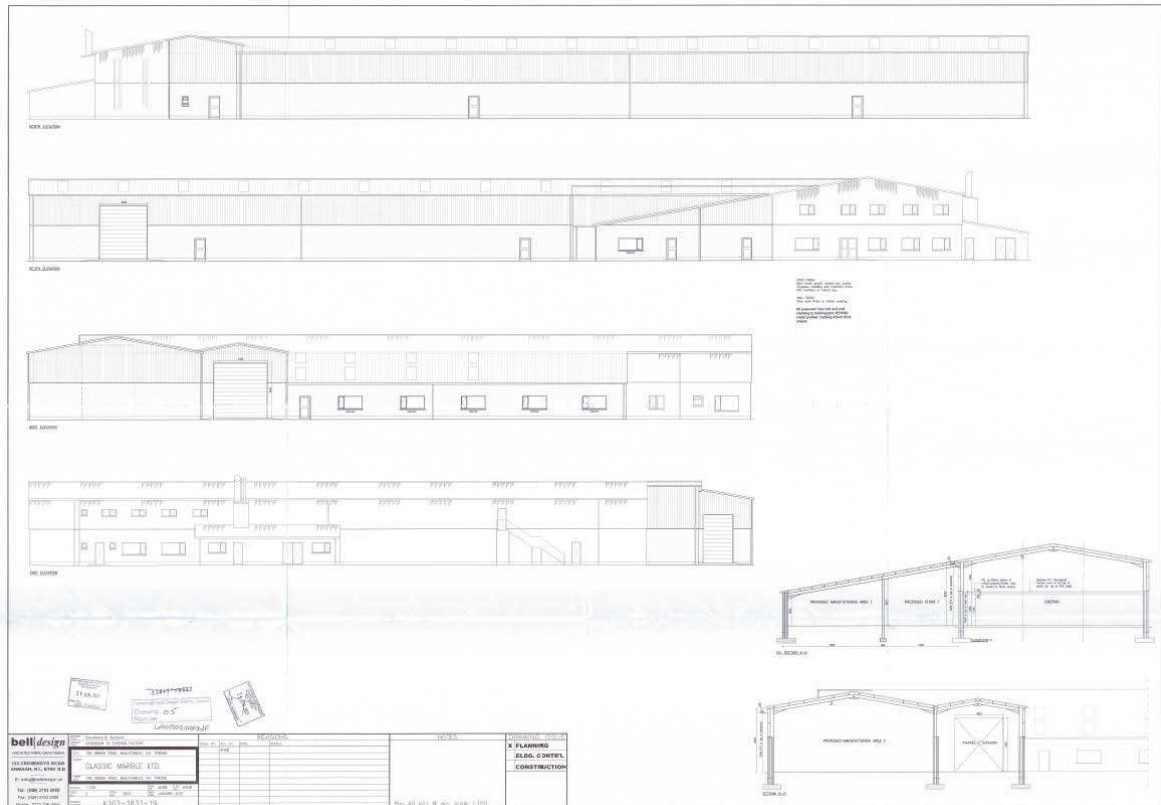
Fermagh and Omagh
District Council
RECEIVED
29 JUN 2021
File No. LOCAL PLANNING

0 25 50 100
SCALE BAR (metres) 1:2500



PLOT A3 @ SCALE 1:2500

bell design ARCHITECTURAL DRAFTSMEN 123 CROSSKEYS ROAD ARMACH, N.I., BT60 3LD E: info@bell-design.co.uk Tel: (028) 3753 2000 Fax: (028) 3753 2001 Mob: 0771 236 1945	PROJECT TITLE: PROPOSED EXTENSION TO FACTORY.			DWN BY: AHDB	CHK BY: AHDB	REVISIONS:		
	SITE:	185 OMAGH ROAD, BALLYGAWLEY, CO TYRONE.			PROJ NO: 3833	SHEET NO: 1	BOS	AHDB 24.06.21 Site drainage updated.
	CLIENT:	CLASSIC MARBLE LTD.			SCALE: 1:2500.			
	PHONE NO: 185 OMAGH ROAD, BALLYGAWLEY, CO TYRONE.	DATE DWN: JANUARY 2021.						
	AXD:	DWG NO: K163-3833-19.						
	DRAWING TITLE: Key plan.							



Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 3 August 2021 in Council Offices, Ballyronan Road, Magherafelt and by virtual means

Members Present

Councillor S McPeake, Chair

Councillors Black*, Bell, Brown, Clarke, Colvin, Corry, Cuthbertson, Glasgow, Hughes, Mallaghan, McKinney*, D McPeake, Quinn, Robinson

Officers in Attendance

Dr Boomer, Planning Manager
Ms Donnelly, Council Solicitor
Mr Marrion, Senior Planning Officer
Mr McClean, Senior Planning Officer
Ms McCullagh, Senior Planning Officer
Ms Grogan, Democratic Services Officer

Others in Attendance

LA09/2020/0641/F - Spokesperson for Stop Clunty MX Group
LA09/2020/1375/F –Francisco & Teresa Martin
LA09/2020/1375/F –Trevor Hutton
LA09/2019/0944/F - Damien Murray
LA09/2019/0944/F - Paul Bradley

Councillor Gildernew**
Councillor Wilson**

* Denotes members and members of the public present in remote attendance

** Denotes Officers present by remote means

*** Denotes others present by remote means

The meeting commenced at 7 pm.

In the absence of the Chair, Councillor Black, the Vice-Chair, Councillor S McPeake took the Chair.

P100/21 Apologies

Councillor McFlynn.

P101/21 Declarations of Interest

The Chair reminded members of their responsibility with regard to declarations of interest.

Councillor Hughes declared an interest in Agenda Item 4.4 – LA09/2020/0641/F - Retention of Motocross Racetrack comprising earthworks forming jumps and tracks,

portacabin office, parking and access via existing laneway at land approx. 600m NW of 54 Drumearn Road, Cluntyganny, Cookstown for Clunty Cookstown MX Track.

Councillor Clarke declared an interest in Agenda Item 4.4 – LA09/2020/0641/F - Retention of Motocross Racetrack comprising earthworks forming jumps and tracks, portacabin office, parking and access via existing laneway at land approx. 600m NW of 54 Drumearn Road, Cluntyganny, Cookstown for Clunty Cookstown MX Track.

Councillor Bell declared an interest in Agenda Item 4.6 – LA09/2020/1375/F – Dwelling (in substitution for I/2009/0372/F) and retention of existing mobile home for a temporary period of 3 years at 27a Drumconvis Road, Coagh, Cookstown for Mr and Mrs Cotton.

Councillor Hughes declared an interest in Agenda Item 4.6 – LA09/2020/1375/F – Dwelling (in substitution for I/2009/0372/F) and retention of existing mobile home for a temporary period of 3 years at 27a Drumconvis Road, Coagh, Cookstown for Mr and Mrs Cotton.

Councillor Black declared an interest in Agenda Item 5.1 – LA09/2019/0944/O – Infill dwelling and garage between 90 and 92 Iniscarn Road, Desertmartin for Mr Paul Bradley.

P102/21 Chair's Business

The Planning Manager said he wished to bring members attention the fact that there would be two planning committee meetings to deal with a backlog of business. He was proposing to bring the first time items which included approvals and non- contentious matters to meeting on Tuesday 7th September and then any deferrals, refusals, speakers etc. being brought to meeting on Tuesday 28th September. He said the purpose of this was to make sure that members and officers were not here until midnight trying to get through potentially a huge agenda. If it comes to the point of sitting down and creating the agenda, which may not look to difficult then the meeting on 28th could be cancelled but he was not anticipating that to happen. He felt that this was the time to catch up as everything was kept going over Covid and 1½ years over lockdown was a long time.

He said another thing he wished to bring to the committee's agenda was an appeals decision and sometimes there was a need to go to enforcement in the event of the applicant not carrying out what was promised when building so in that event an enforcement notice is served. He stated that there was an old water maintenance building next to the lough at Washingbay area of Coalisland and obviously there has been a long dispute as the gentleman has been doing some industry cutting up metal amongst other things and in front of that there was a dwelling and the occupants felt their immunity was being harmed. He advised that a lot of events have happened over a number of years and at one stage a certificate for lawful development was obtained for the use he was doing, with an appeal decision being sought or a decision he ended up with a condition which meant he could do that use but couldn't store his materials outside or do anything that intensified the use at that property. He said that he took great note on that appeal decision, due to the fact that whilst it was a minor extension it does actually recognise that this gentleman could facilitate his rights under planning policy to extend his business in some shape or form albeit minor. A planning application was received after the appeal decision which put the condition on, but where the planning

appeals commission imposes a condition, planning department do not have to entertain that planning application so that application was still in abeyance for the last 2 to 3 years otherwise could end up on the constant cycle and the planning appeals would be the last place to go.

The Planning Manager stated that his own view would be that planning appeals decision means that consideration be given to that application and although the outcome couldn't be predicted, it does say that there could be a change in circumstance and if this was the case, then further consideration should be given. He advised members that he had asked officers to go and consider that application and bring it back to committee. He also has instructed the solicitor that if the person before the courts asks for the prosecution to be deferred and if the judge was willing, then we would have no objection to it being deferred whilst that application was being considered.

The Chair felt that the Planning Manager had indicated a very sensible approach as members had to learn from all previous decisions, especially when it impacts on applications pending.

The Chair said that he wished to raise one issue and asked for some views from Planning Manager or officers. He advised that everyone was eagerly anticipating the rollout of Project Stratum throughout Mid Ulster and thankfully it started at pace in Maghera/Magherafelt area in recent weeks with a lot of activity regarding cabling along the roads and new poles being erected where they were needed. He stated that members received huge amount of calls about the erection of poles where they were not placed previously and poles appearing up overnight and in many cases residents living nearby at the end of their laneways and impacting on visibility splays and disappointing that there has been no consultation with landowners. He stated that he had 2 or 3 different representations made to him on the matter in recent times and was aware of other Councillors also and felt that there was a need to get a ruling, especially when it was impacting on the householders and also visibility splays. He said that it was his understanding that the requirement for visibility splays were quite rigid and onerous and ordinary landowners would not be permitted to build pillars due to obstruction. He advised that he was made aware of legislation to allow and permit Telecoms to erect poles wherever they wish and felt that it would be useful for members to get a ruling on it and stated that if it hadn't reached a certain area, it certainly would it eventually. He said that everyone wished to work with Telecom providers and was fantastic to see the work being rolled out but felt that clarity was needed on whether this type of work can happen and what impact it could have on landowners in terms of visibility splays and access.

The Planning Manager advised that this situation was very complex as there were a wide range of powers relating to poles with lines on them without needing any planning permission as it was granted by a general permitted development order. He said that the same criteria does not apply to masts and telecom poles can be erected in many instances without permission unless they require another consent. He said as this was someone's land, then this would be moving out of planning law and into the area of land law and whilst poles may be able to be erected and if potentially developing on someone else's land, then consent was needed from that person and this was where it got complex as these things tend to go in the verge, up against someone's land. Land registry showed land ownership up to the road edge and often there would be a hedgerow or fence, but when there was that gap, it was his understanding that there was

a long established case law that if someone gives up a bit of land (erection of fence or hedgerow) basically means that the landowner has given up their land and given control to Roads Service who may cut the verge once or twice a year. The point here was that in terms of planning control, there was not a lot we can do, but in terms of land ownership, then this would result in people having to take their own advice as Planning Officers cannot intervene. In the past people may have moved the pole, but this may not be the case now as everything seems to be off monetary value to do anything and if a planning application was received and was in a visibility splay, like reserved matters for instance, Officers would then investigate if it had prejudiced the visibility splay and only way to investigate would be to visit the site to see if there was an obstruction and this could only be assessed while going out to investigate.

Councillor Quinn said that there were similar complaints in Coalisland regarding Project Stratum and felt that the only way the company could deliver the project financially viable was to erect overhead cables instead of under the ground. He advised that he also had received several complaints from the Torrent area and in fairness to Fibrus they did come out and move the poles to a different location along the road. He said that he wasn't au fait with planning laws but felt that there could be problems regarding the delivery of Project Stratum to the areas especially out in the countryside, but agreed with the Chair that work needed to be done with Fibrus, possibly a weekly or monthly conversation on where these poles were going. In this incidence the poles have been erected where people intended to build a house and a pole set right in the middle of the entrance, but thankfully this was moved to allow access and may be a case of local Councillors meeting with Fibrus to make sure the poles were erected where they were accessible.

The Chair said that if this was the case of blocking an entrance, then it was right and proper that they be moved, but was aware of incidents where poles were not moved and contractors saying that they have legislation to place poles wherever they feel fit.

He asked if it would be possible for Planning Department to get a ruling from Roads Service through an email to steer them as this was a Roads Service issue.

The Planning Manager said that he would be happy to write to Roads Service to ask for their view intake and report back to committee on impact of poles and visibility splays.

Councillor Cuthbertson advised that he was just coming from a site meeting in Dungannon where Openreach and Virgin Media were both working this last three weeks in one housing estate, competing against each other down the same footpath and was a nightmare for residents. He felt that this may not be the correct committee to discuss this matter and maybe better bringing it to the attention of the Environment Committee, but in relation to DfI placing poles in the wrong place, we have a location in Dungannon where the Public Realm placed a street light column in front of a window opening, although the window was of a derelict building it was hoped that this building may come back to life in Dungannon. He said that Developers had been approached numerous times to get it moved which was difficult due to circumstances relating to liquidation etc. He said that going forward that this should not be permitted to happen.

The Council Solicitor advised that Officers on the ground were continuing to work with Fibrus.

The Planning Manager referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred from tonight's meeting schedule for an office meeting –

Agenda Item 4.7 - LA09/2020/1524/O - Dwelling and domestic garage, adjacent to SW boundary of 43 Glengomna Road, Draperstown for James Kelly

Agenda Item 4.11 – LA09/2021/0657/O – Dwelling and garage in a gap site at 40m S of 28 Ballynafeagh Road, Stewartstown for Gary Miller

Proposed by Councillor Bell
Seconded by Councillor Corry and

Resolved That the above planning applications be deferred for an office meeting.

Matters for Decision

P103/21 Planning Applications for Determination

LA09/2019/0229/F Housing development along with right hand turning lane & associated site works & private treatment plant at S & adjacent to Abbeyvale, Mullinahoe Road, Ardboe, for Farasha Properties Ltd

Members considered previously circulated report on planning application LA09/2019/0229/F which had a recommendation for approval.

Councillor McKinney advised that when he sees 'private treatment plant' he has concerns as the committee passed something similar in Cookstown which hasn't been a very good success and asked whoever was dealing with this could guarantee that this application wasn't going to end up the same scenario. He said that this wasn't a planning problem anymore and was NIEA issue whenever the treatment plant wasn't working and not fit for purpose. He felt now was the time to tackle this problem as sewage is now a huge problem.

The Planning Manager said that we all knew the issue and the issue related to sewage infrastructure as well as sewage works i.e. pipes from across streets to the treatment works. Water Service were very much adopting the line in a lot of developments that they were not prepared to provide for any more houses unless they are provided the money to upgrade the infrastructure so the Council were left in this very unenviable position of whether refusing any further development on that basis. His view was that the Council can't refuse an application as there was nothing to stop somebody putting in their own works. Planning consult to see if this would be an acceptable standard with both Environmental Health and Water Service and if no issues were raised by them, then this would be approved. He advised that he wouldn't be in a position to provide a guarantee as he wasn't in control of it as this was down to the developer and carrying out the work in accordance with specifications in which he was given along the line. The Council were not a sewage works authority and if work was not carried out accordingly, then this could raise all sorts of issues and problems. He said that the Council had no other option but

to approve these type of developments as it would be absurd to stop development from proceeding.

Councillor Colvin advised that he did comment on this in the past and at the end of the day the people who suffer most was the people buying houses. He said that these people end up in financial difficulties and issues with mortgages amongst other things and felt that this was just kicking the can down the road and leaving it for someone else to deal with and was not the way forward. He said that he would like to see a report being brought with some legal opinions on what the Council's duty of care and obligations were towards the people who were ultimately the citizens of this borough and although it may look ok on paper it was not sufficient, particularly when we know there are live issues at the minute. He felt that the citizens just fall in between the cracks of public authorities and which was unacceptable and should be at the forefront of the committee's minds as well.

The Planning Manager said although he agreed with Councillor Colvin's comments to some extent, this Council was not a sewage water authority and although consultation takes place with the relevant authorities and no planning permission granted without having done so. Rivers and Water Agencies would say that their works are up to capacity, consultation takes place with Environmental Health to see if they felt there were odours and any issue with discharge, then discharge consent was needed with NIEA and any issues close to water courses then this was consulted with NIEA. He advised that this was all planning could do and could not refuse something on the basis of suspicion of what they might do or say. He stated that the Council could not make a decision on fears and if we cannot substantiate that the proposed works wasn't going to work especially when all the rest of the relevant authorities are saying it was ok.

The Chair agreed with the Planning Manager's comments and whilst there was no issue with looking at the stuff in the longer term and reports being brought back, there was thinking of cusp of approval here tonight for committee to query what might happen, but if they are meeting all their statutory obligations, it would be unwise otherwise.

Proposed by Councillor S McPeake
Seconded by Councillor Mallaghan and

Resolved That planning application LA09/2019/0229/F be approved subject to conditions as per the officer's report.

Councillor Glasgow referred to temporary treatment plant and enquired what exactly was the timeframe and if commitment was given.

Mr McClean (SPO) advised that there were two conditions – 8 and 9 within the report:

8. *No dwelling hereby approved shall be occupied until the private sewerage treatment plant has been put in place and is in working order with the appropriate statutory consents.*

Reason: To ensure a proper means of waste water disposal to serve the development and ensure environmental protection.

9. *The private sewerage treatment plant shall be managed and maintained in accordance with arrangements to be agreed with the Council in writing prior to occupation of any dwelling hereby approved.*

Reason: To ensure a proper means of waste water disposal to serve the development and ensure environmental protection.

He said that the description of the proposal does state that it was a private treatment plant and although it was referred to within the report as a temporary waste water treatment plant, it was because it wasn't a permanent means in terms of connection to main sewage.

The Planning Manager stated that the developer applied for a private treatment plant and this was what planning was allowing for and no condition on it to say that once pipework was available it would connect to pipework.

LA09/2019/0597/O Mixed use development to include Community Centre and Multi Use Games Area, Fuel Filling Station and Shop, Small Business Units and Residential Development at lands to the rear of 114 Bush Road, Dungannon for Silverford Properties Ltd

Members considered previously circulated report on planning application LA09/2019/0597/O which had a recommendation for approval.

The Planning Manager commended the Developer on bringing forward this proposal as the original site was considered for a huge development of houses. He said that it was great to see that something was now being put in place to enhance the community in Bush with a range of facilities being made available which in turn would bring employment.

Proposed by Councillor Cuthbertson
Seconded by Councillor Brown and

Resolved That planning application LA09/2019/0597/O be approved subject to conditions as per the officer's report.

LA09/2020/0459/RM Dwelling and garage at 72m NW of 21 Whitetown Road, Newmills Dungannon for David Weir

Members considered previously circulated report on planning application LA09/2020/0459/RM which had a recommendation for approval.

Proposed by Councillor Colvin
Seconded by Councillor Quinn and

Resolved That planning application LA09/2020/0459/RM be approved subject to conditions as per the officer's report.

LA09/2020/0641/F Retention of Motocross Racetrack comprising earthworks forming jumps and tracks, portacabin office, parking and access via existing laneway at land approx. 600m NW of 54 Drumearn Road, Cluntyganny, Cookstown for Clunty Cookstown MX Track

Mr McClean (SPO) presented a report on planning application LA09/2020/0641/F advising that it was recommended for refusal.

Councillor Hughes declared an interest in planning application LA09/2020/0641/F.

The Chair advised that a request to speak against the application had been received and invited the Spokesperson for Stop Clunty MX Group to address the committee.

The Spokesperson stated that they were speaking on behalf of the 'Stop Clunty MX Track' group, a collective of concerned residents and neighbours who are firmly opposed to the unauthorised development and operation of this track.

Since May 2019, the formerly peaceful and quiet nature of this neighbourhood has been all but destroyed by the intrusive noise, disruption, and detrimental impact caused by the operation of this motocross track – operating, without permission or authorisation to do so.

As regards local residents, Clunty MX Track was forced upon them - no communications were entered into nor consideration given to the detrimental impact this was having on residents.

The Spokesperson said that the group, like the Planners at Council, were not consulted, their opinions were not sought, their comments, livelihoods, peace, quiet, family lives, mental health and wellbeing were not considered for an instant, and they were left to 'like it or lump it' and persevere with an eye and ear sore.

It was stated that the group were all of the firm opinion that Clunty motocross track is an unwanted blot on the landscape. It is not aesthetically pleasing to the eye, not in keeping with the local architecture or landscape of the area. Its unpermitted construction has seen 3 hectares of land stripped of vegetation and replaced with imported soil and gravel – much of which regularly washes into Clunty River as can be seen in submitted objections.

When operational, the noise generated on the course is unbearable, it is intrusive, distracting, and disruptive. Outdoor activities at our homes are impossible due to the constant noise of the bikes. Readings taken by Environment Health were found to have a detrimental impact on nearby properties and prompted their recommendation for planning refusal and a noise abatement order.

Indoors, there is little respite or escape from the noise. It permeates through the walls of our homes and resonates in every room. Televisions must be turned up to drown out the background drone and it still persists. It echoes through children's bedrooms while they are trying to sleep and follows us around every room.

For those of them that work from home, workplaces are marred by the distracting drone of motocross engines.

By way of context, in late May 2019, residents were greeted by a motocross track business that invites users from near and far to attend multiple times per week.

Since then, there have been 87 sessions held at the track. These have run on mornings, afternoons and evenings and have included large-scale Championship events complete with overnight camping, caterers and more than 100 competitors, not to mention spectators.

Even a global pandemic and its associated regulations have failed to stop bikes running on the track, with sessions running from March of this year.

The last Championship event at the track attracted over 150 vehicles to the site and exposed the inadequacies of the infrastructure and the track to accommodate these numbers.

This resulted in vehicles blocking the only entrance and exit to the track, parking over essential access gates to fields and parking in necessary passing areas along the Drumearn Road.

The Spokesperson stated that residents now believe the Planning Committee was now being asked to consider approval for an application that has:

- ignored strict planning legislation at every stage,
- ignored the concerns of those living in the area
- contravened numerous Planning Policy Statements,
- currently been subject to enforcement cases and court proceedings, and
- destroyed the natural beauty and tranquillity of a rural area.

Like the residents, the group feel the opinion of the Planning Committee has not mattered to the applicant:

- it didn't matter when the track was being built,
- it didn't matter when rural lands were being destroyed
- it didn't matter when the track operated on almost 100 occasions over 2 years
- it didn't matter when the incessant noise of motorbikes was making life hell for those living in the area

The group understood that the committee is now to make a decision on how this nuisance of a track is to progress: We would implore you to listen to the local residents and wider community and -

- uphold planning regulations that stop unauthorised development
- not permit the construction of major developments as and where individuals and companies see fit, regardless of the wider impact

Councillor Clarke advised that he had declared an interest in this application as he had been in contact with residents and was aware of the ongoing issues that they have when he visited the scene when activity was going on. He concurred with everything the Spokesperson had told the committee and said that the noise was horrendous and depending on which way the wind was blowing, the noise carried as it was surrounded by four roads, Lough Fea Road, Creevagh Road, Feegarron Road and Drumearn Road which totally enclosed it. It is a quiet area and very well wooded and work which had been done has left it a very open site which was very visible from a lot of locations and because it was so open, the sound definitely travelled long distances. He referred to farm diversification and in his opinion this was not typical or anything to do with farm diversification, as this would be something to add value from the product of the land or manufacturing something that was produced on the land like meat, but this application had nothing to do with farm diversification. He stated that there were two other motocross racetracks not far away in Desertmartin which was only cross-country from this site. He said that he would agree with the case officer and with residents that this was not a project suitable for the location which it is in.

Councillor Hughes wished to double check on making a Declaration of Interest as she was new to the committee. She advised that she hadn't been out to see the site or speaking to residents about it, but she helped to facilitate a meeting between her employer and local residents and was not sure in terms of what her position was regarding declaring an interest. She advised that she declared an interest to keep herself right but sought clarification in terms of voting.

The Planning Manager advised that declaring an interest was quite tricky and obviously if a member had a vested interest in an application like i.e. owning a piece of land, commercial interest, family member or a close friend then this would be crystal clear, but when someone approaches you it becomes a little bit more complicated. He give an example of when the Tories went into alliance with the Liberal Democrats and the Liberal Democrat was the Business Minister and arguments ensued over Sky, in that instance the Minister said he would oppose the development prior to looking at the case, this he was perceived to have an interest because he had a predefined position. He advised the member that only she knew what her employer had done and whether a commitment was given. Councillor Clarke had indicated that he had visited the site and was already persuaded before he came to committee and therefore was arguing for the residents on that basis, resulting in him losing his vote as he has taken that interest.

The Chair said that there was obviously a strong case here tonight against the proposal with evidence from the residents regarding noise pollution etc. and as there was no representation for the applicant he sought members views.

Councillor Brown said that he knew the application site as it was in his DEA, advised that he hadn't met with the residents or the applicant, but by reading through and looking at it, in his opinion it didn't fit in this part of the countryside as it was totally out of character. The noise issue which would be endured by the residents would be horrendous and it may be alright for this committee to say it needed approved but we are not the ones living beside it day and daily. He said that where the site lies there was a valley resulting in the noise travelling down it and if approved the residents would have to live with this for the rest of their lives and with all things considered would be happy to go with the case officer's recommendation of refusal.

Councillor Mallaghan advised that by looking at the proposal it looked like a very success venture with a surrounding campsite etc. but it was in the wrong location and if the applicant had to come first for an approval, then they would have found out very quickly that it was in the wrong place and would be happy to second Councillor Brown's recommendation of refusal.

Proposed by Councillor Brown
Seconded by Councillor Mallaghan and

Councillor Wilson advised that he had visited the site at the invitation of the residents and concurred with Councillor Mallaghan's comment regarding it being an ideal event but in the wrong place. He stated that there were additional problems coming in from that general area also as he was led to believe that the track at Desertmartin was now closed therefore increasing additional traffic onto that track. The Saturday in which he visited the site was fairly windy and the noise levels were very high and very loud and would agree with the decision which was being recommended by the case officer here tonight. He advised that there were a number of issues relating to access and where additional traffic was able to go and he would be speaking in support of the residents as well.

Councillor Glasgow referred to the document in the addendum from DfI and assumed that this was their response back that they were not content and recording their objection.

The Planning Manager advised what DfI basically said was that the person would need to do some works and provide lay-bys etc. before any events happened and whether this could be done and the land controlled, there was no evidence to say that we can or cannot, but the point was that this was all beforehand whereas the applicant had ploughed on regardless.

Councillor Glasgow advised that this was his thinking also and referred to the overhead map and enquired if the access was the only proposed access which they were currently using was out onto the Drumearn Road and on that note would be happy to support what was being recommended by the committee tonight.

Resolved That planning application LA09/2020/0641/F be refused.

**LA09/2020/1039/O Dwelling and garage adjacent to 16 Woodhouse Road
Killwoolaghan Ardboe for Martin Teague**

Members considered previously circulated report on planning application LA09/2020/1039/O which had a recommendation for approval.

Proposed by Councillor Colvin
Seconded by Councillor Quinn and

Resolved That planning application LA09/2020/1039/O be approved subject to conditions as per the officer's report.

LA09/2020/1375/F Dwelling (in substitution for I/2009/0372/F) and retention of existing mobile home for a temporary period of 3 years at 27a Drumconvis Road, Coagh, Cookstown for Mr and Mrs Cotton

Ms McCullagh (SPO) previously circulated report on planning application LA09/2020/1375/F which had a recommendation for approval.

The Chair drew members' attention to the addendum where representation was circulated on behalf of the objector and listening to presentation tonight it would be important that members have regards to that.

The Chair advised that a request to speak against the application had been received and invited Mr Martin to address the committee.

Mr Martin stated that in the case officer's report it was stated that the boundary line was defined by a fence along the eastern boundary, this was not the case as this was shown on the maps sent in to planners, this shows a clear gap between the fence line and the boundary line. These applications being put in with the building being built on the boundary line there was no room in between the boundary line and the building. He said that it was in dispute and would be going to Court on who was in ownership of this and advised that a solicitor's letter was sent to this committee from him and his wife to say that where this was going. All LPS plans have been put forward and set forward, LPS letters stating that the land was in their name and has been as part of this property since 1998. It was also stated within the report that the caravan that was cited on the site was there for a number of years, with no planning permission for the caravan as yet. A temporary planning application for a mobile home was made so therefore this was still going against the existing approved, which should not have been approved in the first place. The first approval was put in 2009 also used this strip of land which was not owned by the occupier and over the years that strip of land and wasn't owned by them and the plans having changed. The report also refers to the timeframe of the application being lawfully started and as shown in documents provided, Building Control allowed this to go on for almost five years and after three years they issued a letter to Mr Paine stating that it was an administrative error because of the amalgamation of the Councils in 2013, but this wasn't the case as amalgamation didn't happen until 2014-15, therefore allowing another 14 days and this still went outside this window. Satellite imagery shows the date the Building Control Officer was cited on site stating that he had seen partial foundations that it wasn't there and no partial foundations on that date and several months later when the foundations were created. The foundations are still partially created and open and part of MUDC requirements was that all foundations be completed prior to site visit. Therefore, there has been a number of misleading and errors being made between Building Control and Planning. Also within the report it doesn't give any implementation to the fact for best practice for this being built for his autistic children which were already referred to in several letters and emails to the Council, which has not being referred to at all. He was aware that the land was not owned by the occupier, and it seems that the occupier and the applicant were two different people and has been requested several times to who actually owns the site and has been rectified twice by the Council's own briefings.

The Planning Manager enquired when Mr Martin became aware of when the gentleman was building on his land.

Mr Martin advised that they had always known that they had owned that land and when they bought the property in 2012 a request and a phone call was put into MUDC asking if there was any planning applications for next door. From 2012 they were aware that there were no applications. He said that he first became aware of a planning application on the site when the Cotton's purchased the land and arrived on site.

Ms Martin advised that she witnessed them digging the foundation and whenever she phoned the Council she was told that there were no plans and everything had lapsed because it was outside of building control. She said that she was content knowing that although something was being dug she wasn't concerned due to Building Control not being aware. Ms Martin said that they became aware of the situation when the Cotton's moved in and when they went over to introduce themselves were told that they were building right beside them and were taking their land. They then raised the issue with the Council's Planning and Building Control sections and have subsequently taken their own legal advice as a portion of the development is on their land.

The Planning Manager advised that Building Control does not determine when a start has occurred, it could be used as evidence to submit to Planning, but what Building Control would see as being a start and what Planning would see as a start can be two different things.

Ms McCullagh (SPO) in response to the Planning Manager's query advised that the original planning permission was issued on 12 February 2010 to Mr Paine.

The Planning Manager advised that the planning permission goes with the land rather than with the applicant unless there was a condition to basically say who should occupy it.

The Planning Manager advised members there were two things that had to be taken into consideration, firstly where the Case Officer had said that the planning application was live and if what the objectors were saying was correct, then this could be disputed if permission was granted in 2015 therefore that permission had passed but asked if this would change how we work through material considerations. He said if this had been started and there was no change in policy or material circumstances, then the committee would be pretty much bound to reissue the same decision unless a very clear change in policy or circumstance. In this instance it may be out of time but the planning policy which allows for an infill between buildings still remains so in relation to planning policy, it was quite clear that this was an infill site so the policy context hasn't changed. He stated that ownership was difficult and some the questions he sought was to find out how long the objectors had known about the issue because as a planning authority we do not pass judgement on who owns or doesn't own a bit of land. He said that in this instance from what was submitted that the objectors can lay claim to that bit of land but also know that in law possession can be 9/10 of the law and the planning department cannot resolve that. He said he was curious to know if the objectors had time to lodge a dispute and defend themselves and was confident that they did have time as they had indicated that they were going to represent themselves in a Court of Law or the Land's Tribunal resulting in

Planning Commission not having any bearing on that as this would be between the parties concerned.

The Planning Manager advised that planning permission could still be granted on land not owned by the applicant even when the land owner objects. He felt that objectors were not being prejudiced as they had known about this for long enough to take action and if someone proceeded to build it could be very expensive if they don't own the land.

Councillor Hughes stated that similar to the previous circumstances she wished to declare an interest in the above application.

The Chair advised that a request to speak in favour of the application had been received and invited Mr Hutton to address the committee.

Mr Hutton stated what he was going to say initially had changed slightly as the conversation had diverged into the issue of ownership of the disputed portion of land which he wasn't going to discuss as it wasn't a material consideration of planning, however some comments have been made and he had a lot of sympathy for the objectors in terms of where they were coming from in correspondence they had received from Land and Property Services as they received misleading information initially. Comments have been made that Mr Paine had lodged an application for the boundary rectification between these two properties, but in fact it had been Land Registry which had lodged this application in Mr Paine's name. He advised that all Land Registry maps come out with a disclaimer in the left-hand corner stating that this was for location purposes only and not definitive boundaries and any dispute it had to revert back to the deed map that produced the instrument in the first place which dated back to October 1997 and at that time Mr Paine owned both properties. The fence was erected, measured and the map produced to create the two folios or two individual boundaries. He advised that there was a land registry map dated 2009 that indicated the boundary as it was today, the fence line, albeit one small discrepancy of one small portion towards the rear. Another land registry map was produced in 2020 that indicated that the boundary being moved into Mr Paine's current property which was the disputed area. Following correspondence between the objector and Land Registry, it was himself that got Land Registry to look at the original deed map and they lodged on the basis of that an application for boundary rectification in the name of Raymond Paine and stressed that Mr Paine did not lodge this. Land Registry had indicated that they cannot unilaterally change a correction as it goes through an electronic system that moves folio boundaries in conjunction with OSNI maps. He advised the committee that this was the underlying issues relating to the boundary dispute and when the application was lodged, the objectors objected as they felt that they own the land and now basically it will have to go to Court. He said that this was a civil matter and should not be involved in planning and felt that this be moved forward for a decision this evening on the basis of planning policy.

In response to the Planning Manager's query, Mr Hutton advised that the fence line hadn't move from it was first erected prior to initial planning application being lodged in 2009.

The Planning Manager said that his view everyone should enjoy their own home and any disputes goes against that. In relation to the disputed land, it struck him that part of the

upset was the close nature of the building to the boundary and enquired if Mr Hutton would consider moving it away a few metres from the boundary.

Mr Hutton referred to the amended design to date which reduced the windows to a bare minimum which was now a kitchen window looking into a 2 metre high fence and didn't think a 2 metre move would make much of a difference.

The Planning Manager enquired if the dwelling was to be built directly onto the foundation which was laid.

Mr Hutton advised that it would be an amended foundation.

The Planning Manager stated that he noted the revisions which were made as they were requested by the planning department. He asked Mr Hutton to go back and ask his client if the dwelling could be moved back a few metres from the boundary as it would be them living there and would be more beneficial if neighbours got on for the long term future.

The Planning Manager said that it was Mr Hutton's view that a 2 metre distance would make a difference but asked him to go and ask his client whether they would be satisfied to move the dwelling a metre or two and would like to have their answer.

Councillor Bell said that he would be happy to make the proposal to defer this application as this was very helpful advice from the Planning Manager and may help resolve this dispute and may possibly mean a resolution could be brought about for the land disputed also.

The Planning Manager said his reasons for doing this was because it helped protect both parties and may help solve the problem.

Councillor McPeake said that he would be happy to second Councillor Bell's proposal.

Councillor Cuthbertson enquired if the applicant could be penalised on something like this and whether it was a planning issue. If he comes back here and says that he wasn't willing to move the few metres would this change the recommendation from the planners on the application.

The Planning Manager advised that there would be an issue on whether there was enough space between the boundary and the wall to maintain it properly and by giving that bit of separation it would give room to maintain it.

In response to a query from Councillor Cuthbertson, he stated that the case officer had looked at it and it was permitted to build against somebody and none of this was black and white and down to maintenance. This was when a person asked another person if they could go on their land to maintain it, but in this instance where there was a dispute between the parties, all this just escalates and gets worse over time.

The Chair commended the Planning Manager as he always tried to find a favourable solution to these types of issues.

Councillor Mallaghan said that he hoped that there could be some negotiation in this particular context. He sought clarity in regards to the previous application and approvals and asked if he was right in thinking that regardless of what had happened before on the site, that criteria had been met for an infill dwelling.

The Planning Manager advised that a dwelling was acceptable on this site in policy terms and what fits the bill of an infill development.

Mr Martin said that he couldn't commit to something that he hasn't seen yet.

Councillor Glasgow said that by listening and reading through the report and understood what Dr Boomer was trying to achieve here. He advised that he had picked up seven other issues and was always bearing in mind and always trying to solve these problems, but said if he was being very honest, he foresees this application just coming back to committee on numerous occasions. He felt that this was a huge civil matter and was nothing to do with this committee and was content what the case officer had actually done and proposed to accept the officer's recommendation to approve the application.

Councillor Cuthbertson seconded Councillor Glasgow's to approve the recommendation.

Councillor McKinney advised that we were a Planning Committee not a legal committee and this was not the platform for this kind of thing, defer it for an office meeting was fair enough, but felt that there was a lot of time wasted as there was no movement. He said that the application was up for an approval and can't see why this can't be the case, but was aware of private issues and Dr Boomer had tried his best but felt that this was going nowhere. He said that there was a protocol to follow and sought clarification on the reason why he wasn't legally bound to make a proposal, second or vote on an application while joining the meeting remotely.

The Council Solicitor advised that it wasn't recommended at present due to the legislation not being in place to make a vote online and everyone had been asked to attend in person if they could.

Councillor McKinney stated that he couldn't attend the meeting tonight due to isolation reasons and enquired if the legislation had changed.

The Planning Manager advised that the legislation which facilitated the remote meetings expired, but there was new legislation coming on and been through the Assembly and it was his understanding that it was currently waiting on Royal consent.

The Council Solicitor advised that it wasn't the case that a member remoting in virtually couldn't comment, but was just recommended that they didn't exercise their right to vote at present virtually.

The Planning Manager advised members that he felt that his suggestion was sensible as this could save a lot of time and expense for the person wishing to build in the long run.

The Chair said that a lot of time had been given tonight discussing this application and as it was the first time that it had been brought, he felt that it wouldn't be unreasonable to

defer the application for a wider discussion as there were a huge amount of issues and felt it would be prudent to have these thrashed out a bit further.

He advised that there was two proposals being brought forward tonight, one for deferral and one for approval of the application.

Councillor Bell's proposal was put to the vote -

For	7
Against	5

Councillor Bell advised that he had previously declared an interest in the application and withdrew his voting rights.

Councillor Clarke proposed to defer the application to replace Councillor Bell's proposal.

The recommendation to defer the application was put to the vote again –

For	6
Against	5

Resolved That planning application LA09/2020/1375/F be deferred.

The Planning Manager reminded everyone in the room that Speaking Rights only existed once so when the planning application comes back to committee, the parties do not have an opportunity to come back to speak.

LA09/2020/1524/O Dwelling and domestic garage, adjacent to SW boundary of 43 Glengomna Road, Draperstown, for James Kelly

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2020/1591/F Variation of Condition 3 and Removal of Condition 4 of M/2015/0082/F to accommodate class B4 Storage and Distribution Use and facilitate more flexible operating hours at 199 Killyman Road, Dungannon, for SCL Exhausts Ltd

Mr McClean (SPO) presented a report on planning application LA09/2020/1591/F advising that it was previously recommended for refusal. However, since the agenda was sent out, additional information has been received from the agent and Environmental Health has had a chance to consider this additional information (on attached e-mail and images on the presentation). He presented the change in recommendation to members, from refusal to approval for their consideration.

In the original planning report to the Planning Committee, the Case Officer recommended that condition 3 of M/2015/0082/F could be amended to include a B4 storage and distribution use, but that Condition 4 could not be removed as it was not demonstrated by the agent that the removal of this condition for the hours of operation would not cause

detrimental impact to nearby residential amenity. The closest resident to this site is 50m away.

The agent has indicated that the building, instead of being used as one unit, will be subdivided into between 30 to 70 self-contained storage units (on attached e-mail and photos). From the time Members received the Agenda until now, Environmental Health have had time to consider this additional information and are of the view that, should the proposal be used for self-contained storage units, that the hours of operation can be amended to 7am to 11pm 7 days a week, as the proposed self-contained units would be of a size, scale and nature that would mean that it is highly unlikely that the development would attract large volumes of people or HGV's, therefore impacts on nearby amenity would not be detrimental between these hours.

The proposal requests the removal of condition 4. The Planning Department contacted the agent to advise that while condition 4 would be removed, that it will be substituted with the revised hours of operation as suggested by Environmental Health. The agent has agreed and accepted this approach and the revised hours of operation. To fully remove the hours of operation would allow unfettered access to this proposed facility 24/7 which, in his view, may cause potential detriment to nearby residential amenity, therefore he advised members that he found these revised hours of operation to be reasonable.

As the original application, M/2015/0082/F, had no reference to self-contained storage units, it may be possible to use the facility as one unit for a class B2, B3 or B4 use, which could pose a potential detrimental impact to nearby residential development if the hours of operation were to be 7am to 11pm 7 days a week.

Mr McClean (SPO) advised Members to consider the following varied conditions to substitute conditions 3 and 4 of M/2015/0082/F;

Condition 3 should be revised to include a Class B4 storage and distribution use, therefore amended to:

The premises shall be used only for Class B2 Light Industry, Class B3 General Industrial Use, or, Class B4 Storage and Distribution of the Schedule to the Planning (Use Classes) Order (NI) 2015.

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

Condition 4 should be revised to the following;

The development hereby permitted shall not remain open for business prior to 07:00hrs nor after 20:00hrs Monday to Friday, prior to 08:00hrs nor after 14:00hrs on Saturdays nor at any time on a Sunday. Should the premises be subdivided to 30 or more self-contained storage units, then the hours of operation shall be between 07:00hrs and 23:00hrs only, 7 days a week, and no business or other ancillary activities shall occur outside these hours, unless otherwise agreed with Council.

Reason: In order to safeguard the living conditions of residents in adjoining and nearby properties.

Councillor Cuthbertson said that he was aware that no objections had been received from neighbouring properties and in that instance would be happy to support the recommendation to approve.

Proposed by Councillor Cuthbertson
Seconded by Councillor Glasgow and

Resolved That planning application LA09/2020/1591/F be approved.

LA09/2021/0231/O Off site replacement dwelling and garage at lands immediately adjacent to 19A Kilmascally Road Ardboe for Noelle Wylie

Members considered previously circulated report on planning application LA09/2021/0231/O which had a recommendation for approval.

Proposed by Councillor Robinson
Seconded by Councillor Quinn and

Resolved That planning application LA09/2021/0231/O be approved subject to conditions as per the officer's report.

LA09/2021/0458/F 1 sheep shed and 1 general agricultural storage shed and associated site works at lands 85m NE of 8 Macknagh Lane, Upperlands for Mr Anthony Mc Guckin

Members considered previously circulated report on planning application LA09/2021/0458/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor Corry and

Resolved That planning application LA09/2021/0458/F be approved subject to conditions as per the officer's report.

LA09/2021/0657/O Dwelling and garage in a gap site at 40m S of 28 Ballynafeagh Road Stewartstown for Gary Miller

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2021/0707/O Site for dwelling and garage at 20m E of 9A Moss Road, Coagh for Mark Cassidy

Members considered previously circulated report on planning application LA09/2021/0707/O which had a recommendation for approval.

Proposed by Councillor Bell
Seconded by Councillor D McPeake and

Resolved That planning application LA09/2021/0707/O be approved subject to conditions as per the officer's report.

LA09/2021/0730/F Dwelling and garage (substitute to LA09/2020/0920/RM) at land adjacent to 17 Carricklongfield Road Aughnacloy for Mr John Burton

Members considered previously circulated report on planning application LA09/2021/0730/F which had a recommendation for approval.

Proposed by Councillor Robinson
Seconded by Councillor Colvin and

Resolved That planning application LA09/2021/0730/F be approved subject to conditions as per the officer's report.

LA09/2019/0944/O Infill dwelling and garage between 90 and 92 Iniscarn Road, Desertmartin for Mr Paul Bradley

Ms McCullagh (SPO) presented a report on planning application LA09/2021/0944/O advising that it was recommended for refusal.

The Chair advised that a request to speak against the application had been received and invited Mr Murray to address the committee.

Mr Murray advised that on 5 December 2018 the Enforcement team brought a report to the Planning Committee listing numerous breaches relating to this site, with the decision on the evening that it wasn't expedient to carry out any further enforcement action. However, 13 days later on 18 December, for a second time there was extensive flood damage caused to his property because of this unauthorised development. After a revisit from the Case Officer it was discovered more unauthorised works had been carried out on site. The then committee made the decision to give the applicant a chance to regulate this. He chose not to, therefore leaving the Council with no other option but to serve him with an Enforcement Notice on 25 June 2019.

He said that over the past 2 years the applicant had been afforded ample opportunities by the Planning Department to rectify these multiple breaches of planning control. However, the applicant still had chosen not to co-operate fully and thus the need for this to be brought back again to committee this evening.

The main issue in this case relates to flooding and the detrimental impact to his property. He said that a decision must be taken on whether it was deemed acceptable to be in clear breach of PPS 15 Planning and Flood Risk Policy FLD4 whilst significant flood damage was occurring to neighbouring properties.

The applicant had submitted numerous Flood Risk reports attempting to prove that the unauthorised pipework and alternations to his site would not cause further damage to site would not prove further future flooding. He said that in his opinion, these reports were only an interpretation of what was predicted to happen during a flooding event, whereas

the photos and videos that he had submitted showed the reality of what was actually happening.

He said that he wished to make it clear and put it on record that as neighbours of the applicant his family did not want to see his house being demolished. However, he could not stand by and watch his property continuing to be at risk of extensive damage from flooding. He felt that it was the unwillingness of the applicant to adhere to policy, remove the unauthorised pipework and lower his site back to predevelopment levels that was putting his property at risk from this enforcement action.

Mr Bradley said that as a parent, it was his responsibility to provide a safe and secure home for his family, not only for the present but for the future of his children. The ongoing action and indeed inaction of the applicant was making this very difficult. As a family, they wish to live peacefully in their home of over 20 years and not have to worry every time there was a forecast of heavy rain.

He asked the committee to agree to the Case Officer's recommendation of refusal. He said that not to do so would set a very dangerous precedent in that it was deemed acceptable to carry out unauthorised development, to be in clear breach of planning policy and doing so to flood a family home.

The Chair advised that a request to speak in support of the application had been received and invited Mr Bradley to address the committee.

Mr Bradley said that the main issue and the only one not to be approved in the case officer's report was the culvert and the small sheugh at the side of his house. He stated that the sheugh was covered as it entered his site and also covered where it exits with a road access covered in between. There has always been issues in the past with the sheugh backing up and causing surface water flooding to the neighbouring properties and this was a case long before he developed the site and the objective No. 90 has evidence of surface water flooding in 2018 during very heavy rainfall, approximately 25ml of surface water on the objectors site. Rivers, Planning and various other agencies had studied the information along with flood risk assessments from his specialist consultant and they had no issues regarding flooding with this application before members tonight. The flood risk model showed a flood vent and the pipe running 15% of its current capacity. Both houses at No.s 90 and 92 were both built on flood plains and he could not guarantee that they wouldn't flood in the future but any work which approves this application does not increase the risk of flooding to them. Any information supplied by the objector regarding the flooding was not relevant to the culvert water course as this related to the previous open sheugh and no problems with the sheugh since it was completely covered on 23 December 2018. It was decided to cover the sheugh due to health and safety risk which posed to his family and when his family decided on a site to live they did not realise the rat infestation and the smell of sewers coming from the open sheugh, with rat droppings all around the play area and the smell of rats urine being unbearable. He said that due to this it was impossible to monitor children playing at all times with the water course only being 7 metres away from the house as the kids play area runs up to the edge of the water and was impossible to enjoy normal family life. In June 2021 NIEA Pollution Officer confirmed that sewage pollution in the water course again coming downstream and the objector alluded to the smell in 2019 in one of his

objections and the culverts do not allow the smell to escape or make contact with the water.

He advised that Rivers Agency had indicated that this was a matter for the planning authority and to quote the Planning Manager from another application that it didn't comply with FLD4 of PPS15 and when this was discussed between Case Officers and the Planning Manager it was agreed to approve it and when he queried why this was approved for a local businessman 30 metres away the reason which was given was it was for access, but it was for 8 metres behind. He referred to 6.53 of PPS15 states that when there are health and safety concerns arising from open access to a watercourse alternatives to piping should be considered and his engineer Dr Andrew McCluskey stated that other means do not provide adequate health and safety.

Councillor McKinney advised that this had been on the cards for a long time and due to the circumstances beyond his control tonight he was unable to make any proposals or vote tonight. He stated that he had been past the site just a week ago and was aware that a lot of things had changed and the application had been brought very close to the mark and was aware of the case officer working towards a few small details at present and felt it would be unwise to remove what had been done. He said that there had been a pipe installed which held up to seven times the amount of water which suggested to take at any one time and this was something that even Roads Service and Water Service didn't even carry out. He said that he wasn't in a position to make a proposal but felt that under the circumstances, which both the objector and applicant had been said that this had been bandied about for quite some time and would be nice to see a conclusion and recommended approval here tonight. He was aware that the application had not completely met the required criteria, but in his opinion it would be unwise to remove any pipework due to the conversation tonight on sewage coming down and both families on either side of the hedge had related to their childrens safety and felt that this would be unwise. He concluded by saying that he was aware of issues between the adults but hoped that this could be resolved for their children living there going forward whether relating to odour, rats urine or sewage and felt that a lot of money had been spent and would be happy to support the recommendation of approval and was unfortunate he couldn't make a proposal here tonight.

The Planning Manager said he wished to clarify an issue and said if he understood correctly, that the applicant indicated that the NIEA had confirmed that there had been pollution in the drain and didn't think he had said sewage and could be different as there were different types of pollution.

Councillor McKinney said that he apologised for making that assumption or picking it up incorrectly but felt that any substance of any kind was still harmful to young people or children.

In response to Councillor Glasgow's query, the Planning Manager said that this related to a filled in sheugh and not a designated water course and not maintained by any statutory agency. He felt that there must have been some issue at some point when a pipe was put in and he had no reason to dispute what the objector had said that the lands became inundated with water and videos presented which provided evidence of that and this had been the key worry and quite understandably so. The applicant has indicated that this was now rectified and the pipe was working and Rivers Agency had said that they didn't

have a reason to dispute this on technical grounds although this could be disputed as no information there to back it up. He said if something was refused on a technical ground, then this would need to be backed up, but the Rivers Agency went on to say that although it went against policy, there was still get out clauses, but this was a matter for the planning authority. He said that this was up to the committee to treat this application as an exception or not, whether to except the safety argument or not and advised that it was difficult relating to the safety argument in the countryside as everyone lives next to ditches and fences etc. He said that this needed to be considered carefully as there was a policy contravention being recommended against the application, but there was also a need to look at the consequences if this was to be refused; there was an enforcement notice against the property and officers have been blocked into a corner to refuse the dwelling whereby the Councillors had said that the dwelling should be demolished and was confident that this wasn't the objector's intention and planning wouldn't be supportive of the demolition either. He said that he felt uneasy outright refusing the application and not 100% comfortable because of that approving it and was up to committee to decide as they had been provided with an argument from the applicant. He advised that there was a third view which deserved thinking about and not one he had seen before and grant planning approval subject to a condition that the drain be reinstated within the next three months and what that means is that it's the right cure and the applicant's content and keeps his dwelling or if he was dissatisfied with that condition, he would equally have a right to planning appeal and could go for planning appeal against that condition and if he justified his position to planning appeals commission he could enjoy it, but if he cannot justify it, then he must put in that ditch otherwise action would be taken against him.

Councillor Glasgow said that he would be in support of option 3 as this application had been brought back and forwards for some time and the planning department has carried out a tremendous amount of work and would be of the mindset would propose to approve the recommendation subject to condition of the drain as this was the best out of a bad situation but the option was still there that we keep everything safe.

The Planning Manager said that other conditions were needed on closing off of the access as there were issues relating to road safety and would be beneficial if members left these conditions to the discretion of himself.

Proposed by Councillor Glasgow
Seconded by Councillor Colvin and

In response to Councillor Mallaghan's request regarding conditions to be attached to the application, the Planning Manager advised that there were a few key issues relating to this:

- Drain being reinstated and fence erected along it
- Access along Iniscarn Road which shows it being closed off by fencing or planting, condition to be that it would be closed off due to road safety concerns – in exchange there would be an access to the rear, required to be completed within a set amount of time and landscaping done

Councillor Bell advised that before members heard from the objector and the applicant, but during the meeting tonight there has been no come back from either party.

The Planning Manager stated that the objector was very clear that his worry has always been the flooding and the point that these ditches were not filled in for no reason and his thinking was that it was easier to maintain and would help encourage wildlife and biodiversity and everything else that was wonderful in the countryside and this was something that planning was asking for. During his presentation the objector was not asking for this house to be demolished.

Mr Bradley advised that he had an application in from Lisburn Borough Council where it stated that the culvert was for natural health and safety reasons to pipe the boundary and earth of the watercourse and was felt to be acceptable in this instance. He said that there were numerous other applications in this area which had been approved also by this Council and just because there has been an objector to his application it doesn't mean that this should be a reason for refusal.

The Planning Manager stated that the reason for refusal would be that it contravenes the stated policy and this would be the reason for refusal. He said that it was no longer suggested that the application be refused and what was being suggested was that a planning permission be sought subject to a condition and he previously pointed out what the applicant could do if he was dissatisfied with that.

Mr Murray referred to the other work primarily on FLD3 that the applicant has to carry out work and his concern would be who was going to oversee that this work was carried out. He stated that DfI had gave a timeframe of 3 months from planning approval to get that sorted out and did appreciate Dr Boomer's comments about the conditions and timeline, but his concern would be who would monitor this as DfI Rivers advised that this was not up to them but may consider if asked. He asked that this be monitored accordingly.

The Planning Manager advised that there were two issues; firstly if the pipe was to remain then officers would walk away as planning had no obligation as it was on private land and between the two parties as it was not an adopted watercourse. If the applicant was to cause a flooding event then clearly a claim could possibly be made against him in a court of civil law. If the ditch was required to be a condition and not within three months he would be surprised to be not being made aware of this and if inspections were carried out and not done then action could be taken.

The Planning Manager sought members' approval to withdraw enforcement notice against Mr Bradley for his dwelling and wendy house to be removed.

Resolved That planning application LA09/2021/0944/O be approved subject to conditions being drawn up at the Planning Manager's discretion.
Enforcement Notice against the applicant to also be removed.

Councillor Bell left the meeting at 9.21 pm.

**LA09/2020/1536/O Dwelling & Garage between 74 & 76 Hillhead Road,
Toomebridge, for Mr J Nugent**

Members considered previously circulated report on planning application LA09/2020/1536/O which had a recommendation for approval.

Proposed by Councillor D McPeake
Seconded by Councillor Colvin and

Resolved That planning application LA09/2020/1536/O be approved subject to conditions as per the officer's report.

Councillor Bell returned to the meeting at 9.26 pm.

**P104/21 Receive report on planning application LA10/2017/1249/F –
Dalradian Gold**

The Planning Manager presented previously circulated report to advise members of the planning application that is currently under consideration by the Department for Infrastructure. The report will also advise on the position of MUDC in relation to the issues of concern with the proposed use.

Solicitor left the meeting at 9.27 pm and returned at 9.30 pm.

Councillor Quinn said that he would be happy to propose what was on the paper as he had spent the last couple of weeks and months trying to get his head around the different aspects of the whole debate and had spoken at a rally on Saturday in Coalisland against mining in general. He advised that an article had come towards him today and although not the subject of the report he found it interesting that they were claiming that this was going to be carbon neutral but they forgot to add in that they proposed to use 3.3 million litres of diesel, they proposed to take out all the bogland and peatland that was beside the sight line and remove all the water out of the bogland/peatland and felt that there were a lot of things that didn't add up in this. He advised this this was still being pushed on to Fermanagh & Omagh Council over this last few months and this was their issue to deal with but this was an area of natural beauty and this was the land we want to protect and retain for generations to come and we cannot let people come in and destroy it and remove our natural resources and move it on for profit which was the company's incentive. He felt a public enquiry was the way to go and he would agree completely with this as a lot of things will become evident and agreed with the Planning Manager's suggestion of having representation at that table and have a say and although it may not come into our Council area, we can certainly see it and we look at Co. Tyrone and Co. Derry as one Council area and we all embrace taking our trips out on a Sunday to see the mountains and use the walks and would be very happy to propose to object to this mine.

Councillor Glasgow advised that he was a bit uncomfortable with this report tonight and although he did not dispute what was being said, he felt uncomfortable what was going to be seen as a decision and when he looks at the very last line it talks about '*additional or amended information being received*' and didn't feel content and was not saying that this should be ignored but asked if there was not an option for the committee to move this on down and get a bit more breathing space for the information to come forward. He said that at the end of the day there was going to be a public enquiry and proposed to put this issue on hold until these statutory consultees come back.

The Planning Manager stated that this was put in as anyone which had been to a public enquiry or examination will realise that information keeps coming right up until the day

and whilst in the hearing and would like the ability to respond to what's before us. He said what he felt this was fair and correct to do as it reserves the right to have the ability to ask the right questions and challenge any unjustified statements by the QCs.

Councillor Mallaghan said that he would be happy to second the proposal to object to this planning application and stated that the real gold which exists within the Sperrins was its natural beauty and when people visit the Gortin Glens Forest Park or Davagh and see what this Council and Fermanagh & Omagh Council have been doing in order to boost the tourism product which was happening within this area. He said that day by day and particularly under the current circumstances we see visitor numbers grow and grow to potentially what we see now was a global product in terms of selling the Dark Skies and Stones Circles and all those different things. He advised that as long he has been in Council and years before that, people were always very upset that this area didn't get the recognition that it duly deserved and was great to see it getting there with the statutory bodies like Tourism NI and Tourism Ireland etc advertising the Sperrins on a global platform and anything that would jeopardise or do harm to that was definitely not good for this area.

He said that on the same token he would like to include a remark and stated that sometimes proposals like this could muddy the water with traditional quarrying which goes on right across this Council area. Quarry was a traditional industry which had been here for decades and provided thousands of jobs which was done most of the time in a sustainable way and although sometimes there were breaches and encounter different breaches, generally they were world leaders in what they do. He felt the Council needed to be careful in that we may disagree with in this type of extraction as it was not white-washed and not all painted with the same brush and to protect what was there and what was sustainable and what delivers well for this Council area.

The Planning Manager said that it would be useful for members to realise that Fermanagh & Omagh and Mid Ulster Councils had done different things in the Sperrins. Fermanagh & Omagh had put a line around the map indicating that there should be no mineral extraction and totally protected everywhere, whereas Mid Ulster were much less discriminatory in the fact that we protected the most important areas as we recognised a lot of our industries and this continue and if there was some sort of expansion in exchange for some reinstatement of the land once they done that bit which was going to be a good thing. He said that the bottom line was that people need to make money and provide employment and we try to balance and sustainable as there was a need to do this as there was a place for everything. He advised members that the report was balanced and haven't claimed that all the water was going to be taken, rivers were going to be polluted or people were going to get cancer etc and focused on the key issues as we share the area with Fermanagh & Omagh and that joint custodianship was what we were interested in and to make sure things were looked at and dealt with properly.

Councillor Clarke said that he wished to say a few words in support of what was said previously regarding the report. He advised that whilst the proposed site was not within Mid Ulster, the site was interlinking and when the area/development plans were eventually adopted the new ASAI which was a very significant element and will go right to the boundary of where that site was and very important as ASAI was very important to Mid Ulster, but the half of it would be Fermanagh & Omagh which cannot be split as this proposal was right on the edge and overlooking that ASAI.

He referred to quarrying and the fact that Dalradian stated that they were not going to use cyanide, but when you go into the bowels of the earth and going a few miles below sea level and when you get into scenes where gold, silver and copper, you also happen to find other dangerous natural products which would naturally seep out and seep into rivers and waterways. While Dalradian may not be using cyanide, they might release equally as dangerous materials and whilst he agrees with the normal quarrying which happens for rock, sand and gravel, they are basically in the earth products which were clean and no substances seeping out to cause any serious pollution and this was another difference between traditional quarrying and mining.

Councillor Colvin said that he was all for the environment like everyone here present and felt that some traditional quarrying can destroy the environment which he can see everytime he drives from Moneymore to Magherafelt. He enquired if the Council had defined a policy here and in the instance of Dalradian submitting an application then there wouldn't be the competency assessment as a prior decision had already been made and could undermine this committee like some sort of legal thing and enquired if this committee were tying their hands here for any future things.

The Planning Manager advised that a policy was proposed but policies with the public domain to make sense of the draft Area Plan which has been submitted to the Department and awaiting the outcome. He said that this was not on the back of our policy as Mid Ulster did not cover Fermanagh & Omagh, but they have their own policy and only a few months away from a public enquiry and waiting on a date. He stated that Mid Ulster's policy does not oppose as a mining blanket but opposes mining in particular places like the Sperrins where they could be carving away things of natural beauty. He stated that this was more to do with the scale and intent and the potential for possible damage to the environment and due to the changing matters to the application he feels that there were issues here that needed addressing and the best place for this was the public domain and the only way he could guarantee that they were asked was to table some items for the agenda. He clarified that no applications would be refused in Mid Ulster because they were contrary to the Fermanagh & Omagh Area Plan, it would be the Mid Ulster Plan if they were.

Councillor Mallaghan wanted to apologise to Councillor Quinn in advance of his next statement, but wished to make sure that this Council's objection if approved here tonight was sound and referred to Councillor Quinn's comments regarding speaking at a rally on Saturday in Coalisland against gold mining and was now wondering if a QC was looking into this would this cause a difficulty for this Council down the line.

The Planning Manager advised that if a person had already given their position it could be an assumption that this person didn't look at this application unbiasedly as they already set out their position before proceeding and this could be considered as an interest.

Councillor Quinn said that under the circumstances that he would be happy for another member to propose the recommendation to keep everything above board.

Councillor McKinney said he wished to make a few observations regarding this and stated that in previous Council meetings there were a number of parties who always said that they were opposed to gold mining and if a party made that statement at a Council

meeting from a party representation, said he didn't know how this would fare out coming to a planning committee. He said that he would be concerned regarding the legal aspect regarding the comments which were made and Councillor Clarke's comment indicating that the goldmining was not even in Mid Ulster Council area which was correct regarding the one which was talked about. He stated that he had been contacted during the week about large sums of money being offered to landowners within his own area for drilling and wasn't talking about a few hundred pounds but more like thousands of pounds. In felt that in the future there could representation by some mining companies and was careful not to mention any particular names and as previously stated, a lot of people were tying themselves up with pre-decisions and pre-statements of planning committee and when members had been well taught on what to say and how to conduct themselves. He said that he would be concerned about the legal aspect and when it runs its course and the possibly of this Council falling down a legal loophole as the ball was already rolling within our area as was the case in his area and although the application may not be submitted it was only a matter of time before one was received. He stated that he was very concerned regarding comments and statements made all along and throughout in previous meetings and also a Councillor addressing a rally making a determination before it has already come and would also be concerned as it seemed that things were being rushed and would like everything to be right and concurred with Councillor Mallaghan's comment regarding tarring everyone with the one brush as there was a lot of industry involved with mineral extraction and although it was known as quarrying, it all came under the mineral policy and felt there was a need to go slow and get this one right.

Councillor Cuthbertson said within his lifetime within the Council there was one if not two motions brought to Council relating to topics such as this, although he could not recall the wording or date and may be worthwhile looking into. He remembered on one occasion highlighting the fact that this could compromise Mid Ulster Council or Councillors proposing and seconding supporting this going forward if an issue was brought to Mid Ulster District Council and felt that this needed to be looked at. He advised that he wasn't an expert on mining and presumed that members which spoke earlier were not experts either and also comments made by the Planning Manager regarding removing a top of a mountain and took this as a literal comment, but he has seen no evidence of what they were going to do and would be confident that they were not going to destroy a mountain like that and felt that the committee should hold off as it wasn't within our Council area and seconded Councillor Glasgow's proposal earlier in the meeting.

The Planning Manager advised that his comments relating to the mountain was about the general protection of the Sperrins. He stated that this was not a planning decision and was only setting out comments for consideration and all that was being brought forward was an argument to be considered.

Councillor Corry proposed to the recommendation in place of Councillor Quinn.

Councillor Corry's proposal was put to the vote:

For	8
Against	5

The Chair advised that Councillor Corry's proposal was carried.

Proposed by Councillor Corry
Seconded by Councillor Mallaghan

Resolved That it be agreed –

- 1) Based on the information currently available and without the advice of all consultees, to object to the planning application as proposed based on both the long term visual impact and issues of concern relating to volumes of traffic both during the construction stage of the proposal and the operational phase of the proposal as these will have a significantly detrimental impact on the amenity of the residents in the area.
- 2) As the application is premature to the Fermanagh and Omagh Draft Plan Strategy public examination by reason of its scale that it would prejudice future decision making.
- 3) To reserve the right to raise further issues of concern at the public inquiry or at any time preceding the date of the inquiry should additional or amended information be received.

Matters for Information

P105/21 Minutes of Planning Committee held on 6 July 2021

Members noted minutes of Planning Committee held on 6 July 2021.

Live broadcast ended at 9.55 pm.

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Corry
Seconded by Councillor Brown and

Resolved In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P106/21 to P110/21.

Matters for Decision

- P106/21 Receive report on commencement of preparatory work for Local Policies Plan
P107/21 Receive Enforcement Report

Matters for Information

- P108/21 Confidential Minutes of Planning Committee held on 6 July 2021
P109/21 Enforcement Cases Opened
P110/21 Enforcement Cases Closed

P111/21 Duration of Meeting

The meeting was called for 7 pm and concluded at 10.30 pm.

Chair _____

Date _____

Annex A – Introductory Remarks from the Chairperson

Good evening and welcome to the meeting of Mid Ulster District Council's Planning Committee in the Chamber, Magherafelt and virtually.

I specifically welcome the public watching us through the Live Broadcast feed. The Live Broadcast will run for the period of our Open Business but will end just before we move into Confidential Business. I will let you know before this happens.

Just some housekeeping before we commence. Can I remind you:-

- If you have joined the meeting remotely please keep your audio on mute unless invited to speak and then turn it off when finished speaking
- Keep your video on at all times, unless you have bandwidth or internet connection issues, where you are advised to try turning your video off
- If you wish to speak please raise your hand in the meeting or on screen and keep raised until observed by an Officer or myself
- Should we need to take a vote this evening, I will ask each member to confirm whether you are for or against the proposal or abstaining from voting
- For members attending remotely, note that by voting on any application, you are confirming that you were in attendance for the duration of, and that you heard and saw all relevant information in connection with the application you vote on
- When invited to speak please introduce yourself by name to the meeting. When finished please put your audio to mute
- For any member attending remotely, if you declare an interest in an item, please turn off your video and keep your audio on mute for the duration of the item
- An Addendum was emailed to all Committee Members at 5pm today. There is also a hard copy on each desk in the Chamber. Can all members attending remotely please confirm that they received the Addendum and that have had sufficient time to review it?
- If referring to a specific report please reference the report, page or slide being referred to so everyone has a clear understanding
- For members of the public that are exercising a right to speak by remote means, please ensure that you are able to hear and be heard by councillors, officers and any others requesting speaking rights on the particular application. If this isn't the case you must advise the Chair immediately. Please note that once your application has been decided, you will be removed from the meeting. If you wish to view the rest of the meeting, please join the live link.
- Can I remind the public and press that taking photographs of proceedings or the use of any other means to enable persons not present to see or hear any proceedings

(whether now or later), or making a contemporaneous oral report of any of the proceedings are all prohibited acts.

Thank you and we will now move to the first item on the agenda - apologies and then roll call of all other Members in attendance.



ADDENDUM TO PLANNING COMMITTEE AGENDA

FOR PLANNING COMMITTEE MEETING ON: 3rd August 2021

Additional information has been received on the following items since the agenda was issued.

Chairs Business – Appeal decision 2020/E0038

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
4.4	Consultation response from DfI Roads.	Members to note the response and the 3 rd reason for refusal pertaining to PPS 3 is hereby withdrawn.
4.6	Further objection letter	Members to note and consider
4.8	Agent has advised they would like hours of operation from 7 am to 11pm, EHO consulted and offer no objections to this.	Members to note and consider

