



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Deferred Consideration Report

Summary	
Case Officer: Malachy McCrystal	
Application ID: LA09/2016/0848/O	Target Date:
Proposal: Proposed Dwelling and Garage under CTY 2a	Location: 24M North of 93 Five Mile Straight Bracaghreilly Maghera
Applicant Name and Address: Colm Lynn 4 Orchard Way Portglenone	Agent name and Address: CMI Planners
<p>Summary of the issues raised in the objections are as follows:</p> <p>The only issue to be addressed is whether the proposed site can be considered to be located within a cluster as defined in PPS 21 – Policy CTY 2A.</p>	
<p>Summary of Consultee Responses:</p> <p>TransportNI advised that the proposed development was acceptable subject to condition. Environmental Health and NI Water provided informatives.</p>	
<p>Characteristics of the Site and Area:</p> <p>Description of Proposal This is an outline application for a proposed dwelling and garage under CTY 2a at 24m North of 93 Five Mile Straight, Maghera.</p> <p>Characteristics of the site and environs The site is located approximately 2.5km south west of Glen, in the open countryside in accordance with the Magherafelt Area Plan 2015. The site is identified as 24m North of 93 Five Mile Straight, the red line however has extended into two fields with a site marker identified above 93 Five Mile Straight. Both fields included in the red line are agricultural fields which are relatively flat and are bounded with post wire fencing with hedging and trees along the boundaries. An amended location plan was submitted prior to objection letters being received, stating that the previous plan was incorrect and the applicant did not have a right of way over the laneway. The amended plan therefore removed the laneway from the red line.</p>	

Representations

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

Description of the proposal:

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

Deferred Consideration:

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

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:
 - the identified cluster is not associated with a focal point such as a social or community building/facility or at a crossroads;
 - the identified site is not bounded on at least two sides with other development in the cluster;
3. The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in ribbon development along Five Mile Straight, and does not represent a gap site.

Following a discussion at that meeting the application was deferred for a meeting with the Planning Manager. Dr Boomer held a deferred office meeting on 16th February 2017 which was attended by Councillor McGuigan with C Cassidy and R Rafferty from CMI planners and M McCrystal – Planning officer.

At that meeting the following was discussed:-

- Dr Boomer advised that this is not an infill site.
- C Cassidy explained as to why he thought this site was associated with Lisnamuck Crossroads which is a focal point. He referred to and produced a PAC decision which he felt set the precedent for such a site.
- It was agreed that as the site is located 170m away from the crossroads the site is not visually linked with the crossroads and as such that there is no focal point. The example produced by C Cassidy was not accepted as being relevant as it is set within a completely different context than the application site. It was explained that an exception can be made if the proposal is in the spirit and intent of the policy. However, in this case, an approval on this site could result in a further 4-5 dwellings.
- C Cassidy proposed siting the dwelling across the road and in front of No.88A as he felt a dwelling at this location would be bounded by buildings on two sides and would not afford any further opportunities for development. However, it was explained that such a

proposal would not be acceptable due to the relationship with No.88A and it would also result in an extension of development to the west.

- It was agreed that the proposal would be reconsidered in light of the information presented and that a recommendation would be returned to Committee.

Following the deferred office meeting CMI planners provided additional information which contends that Policy CTY2A is not specific in stating how far a site can be located from a focal point. As the agent has pointed out, site is located 170m from the crossroads which is considered to be excessive and unacceptable in respect of this policy's requirement. There is no development between the site and the crossroads and given the intervening mature hedgerows and boundary vegetation, it cannot be considered that there is any visual linkage between both.

CMI also referred to two planning applications which were submitted to two Planning Authorities other than Mid Ulster District Council (LA08/2015/0056/F [ABC] and LA07/2015/0135/O [Newry, Mourne and Down]). However, on inspecting these proposed sites, they are both considered to be distinctly different from the proposed site and in any event, decisions taken by one planning authority are not binding on a separate planning authority. Therefore, these two cases raised by the agent are not considered to be relevant.

The additional appeal case referred to by the agent namely 2010/A0202 was stated by the Commissioner as being *'visually associated with the adjoining dwellings and has the appearance of domestic curtilage'* and *'given its size and relationship with adjoining dwellings, the site is unsuited to agriculture'*. The agent goes on to refer to planning appeal 2012/A0120 which was dismissed and in the Commissioner's consideration, stated that *'Whilst the appellant argued that the appeal site meets this criterion as it lies at a "staggered crossroads", the policy allows only for development where it is located **at** a crossroads (Commissioner's emphasis). The junction of Moyad Road with Dougans Road is located 80m north-west of its junction with Leitrim Road. As the latter junction sits on the crest of the hill and **given the considerable separation distance and intervening vegetation** (my emphasis) one is not aware of the Leitrim Road junction.....'* Given the degree of physical and visual separation I am not persuaded that the appeal site is in fact located at a crossroads. That appeal was duly dismissed as the Commissioner concluded that the appeal was not located at a crossroads and was contrary to Policy CTY2A.

Copies of the site location maps for the above applications referred to by the agent and the PAC decisions on the above appeal cases are attached at Appendix 1.

Conclusion

As detailed above, the Planning Appeals Commissioner considered a distance of 80m between a proposed site and a crossroads to be excessive and unacceptable. Therefore the site as proposed is equally located an excessive distance, ie. 170m, from Lisnamuck Crossroads, in order to be considered as being associated with such a focal point. Having considered all of this, the proposal is not within the spirit or intent of Policy CTY2A and is considered unacceptable. I therefore recommend that the proposed development be refused for the reasons as stated below:-.

Reasons for Refusal:

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:
 - the identified cluster is not associated with a focal point such as a social or community building/facility or at a crossroads;
 - the identified site is not bounded on at least two sides with other development in the cluster;
3. The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in ribbon development along Fivemile Straight, and does not represent a gap site.

Signature(s):

Date

APPENDIX 1

ACEmap® Single

Printed: 10/03/2015 Customer Ref:

Centre Point (Easting, Northing): 307394, 364453

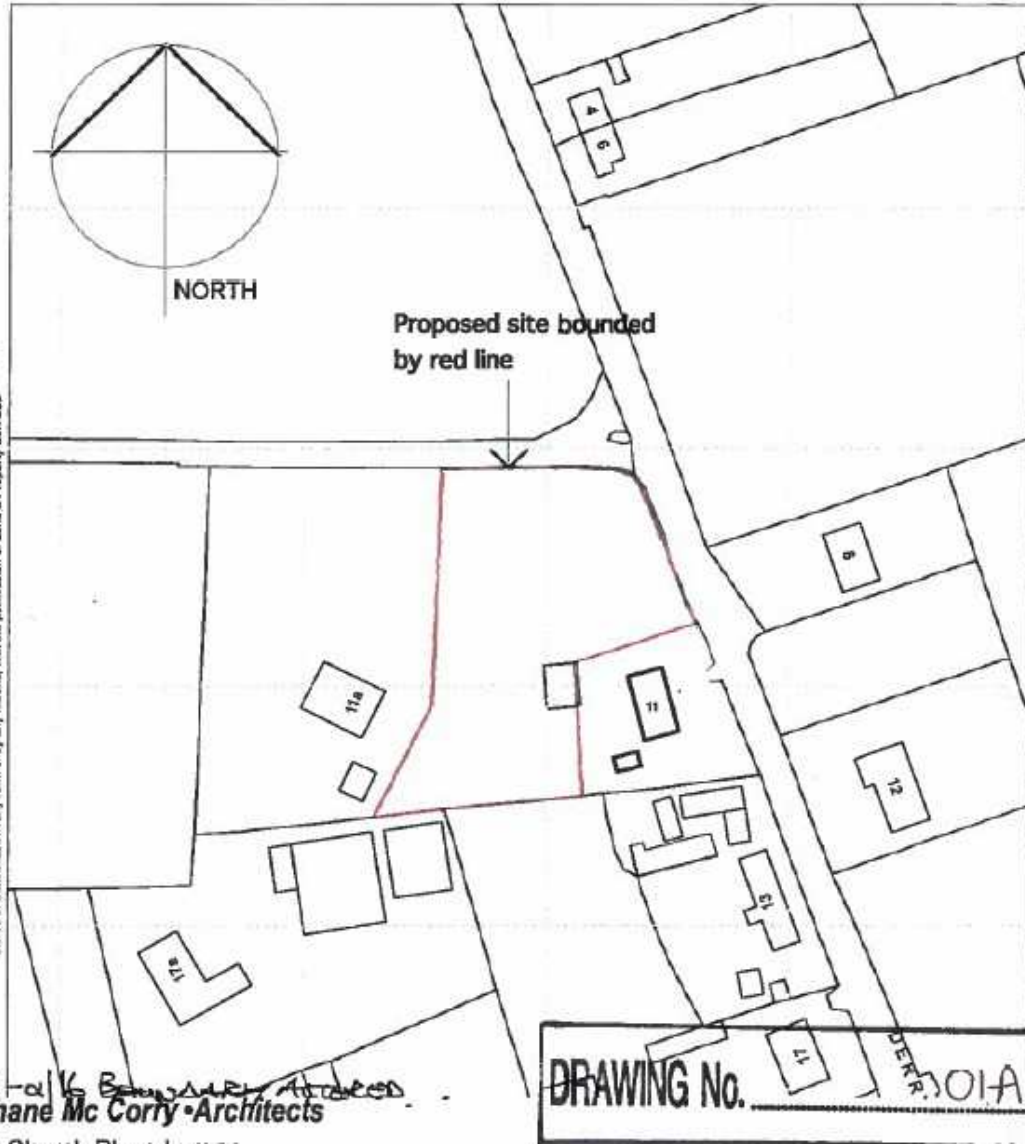
Scale: 1:1,250

Order no. ORD10705

Plan No. 16306SE



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01-016 Banbridge, Armagh
Shane Mc Corry Architects
 43 Church Place Lurgan
 Co. Armagh BT67 9EU
 tele 02838 322717 mob 07808003030
 e-mail mccorryshane@gmail.com

Mr J Mc Stravick
 Proposed dwelling & garage
 Adjacent & East of 11a Derrydone Rd

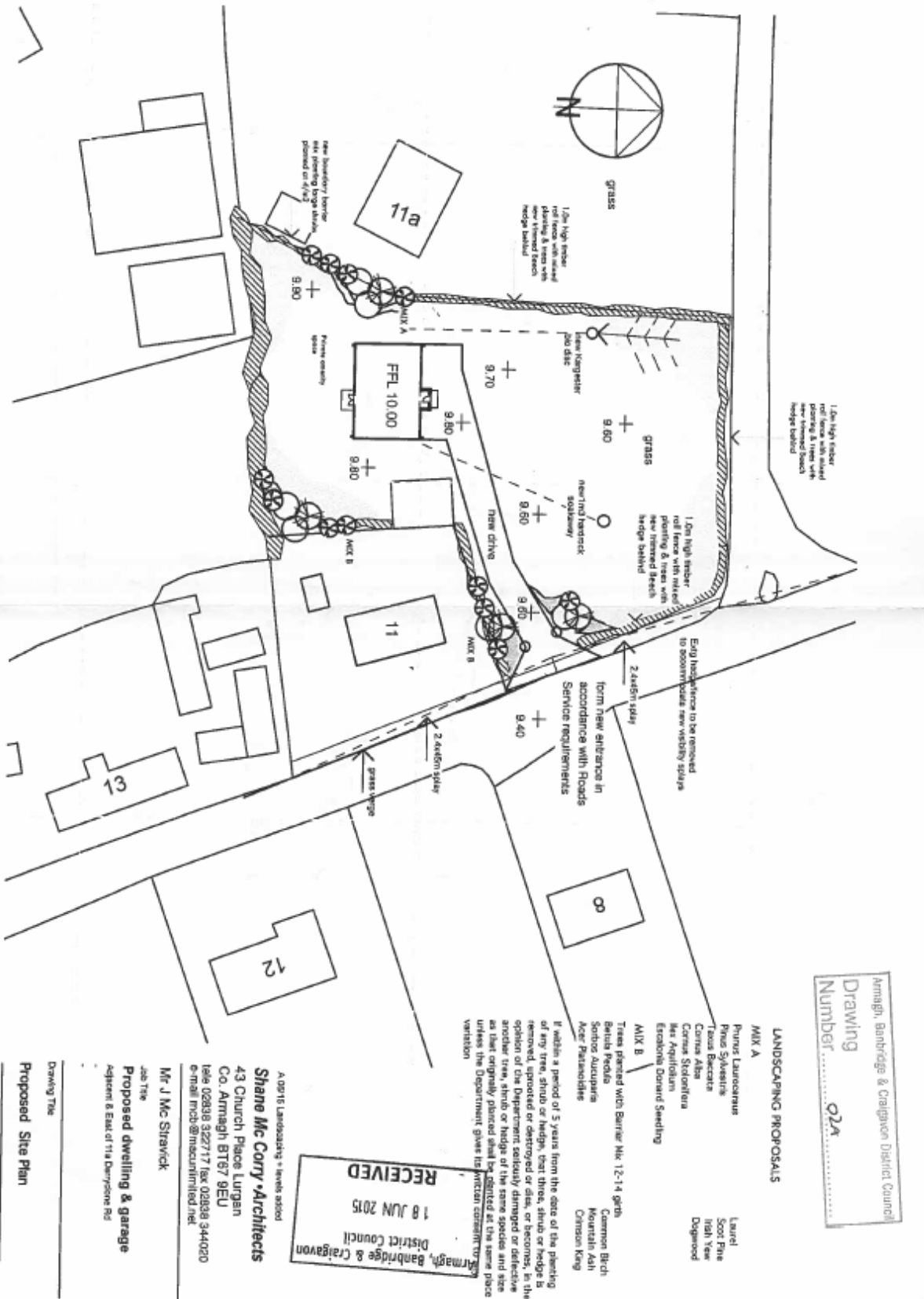
Drawing Title LOCATION MAP

SCALE 1:1250 DATE 01/16 DRAWING 01A.

DRAWING No. 01A

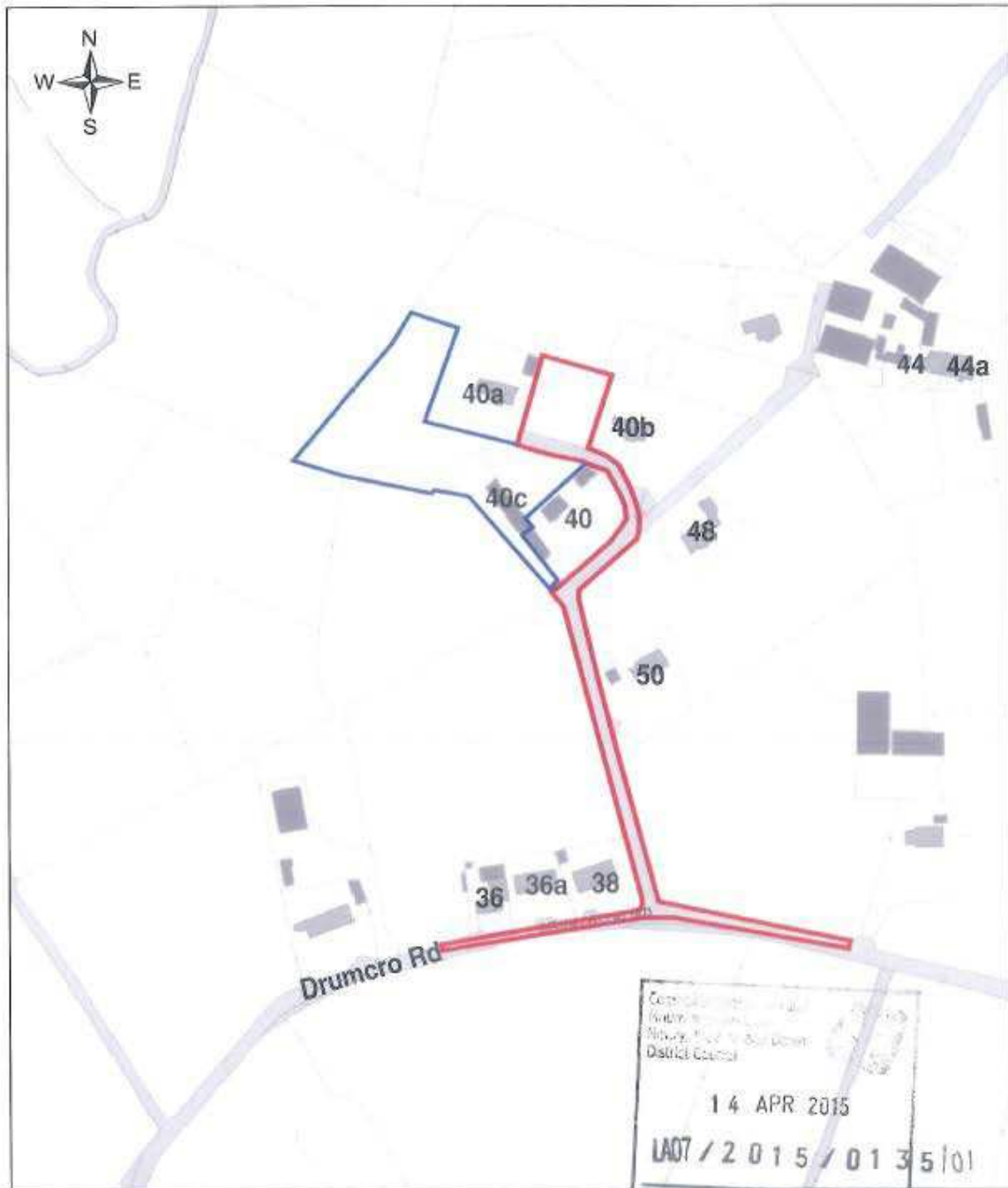
Armagh, Banbridge & Craigavon
 District Council
 LA08/2015/0056
 02 FEB 2016

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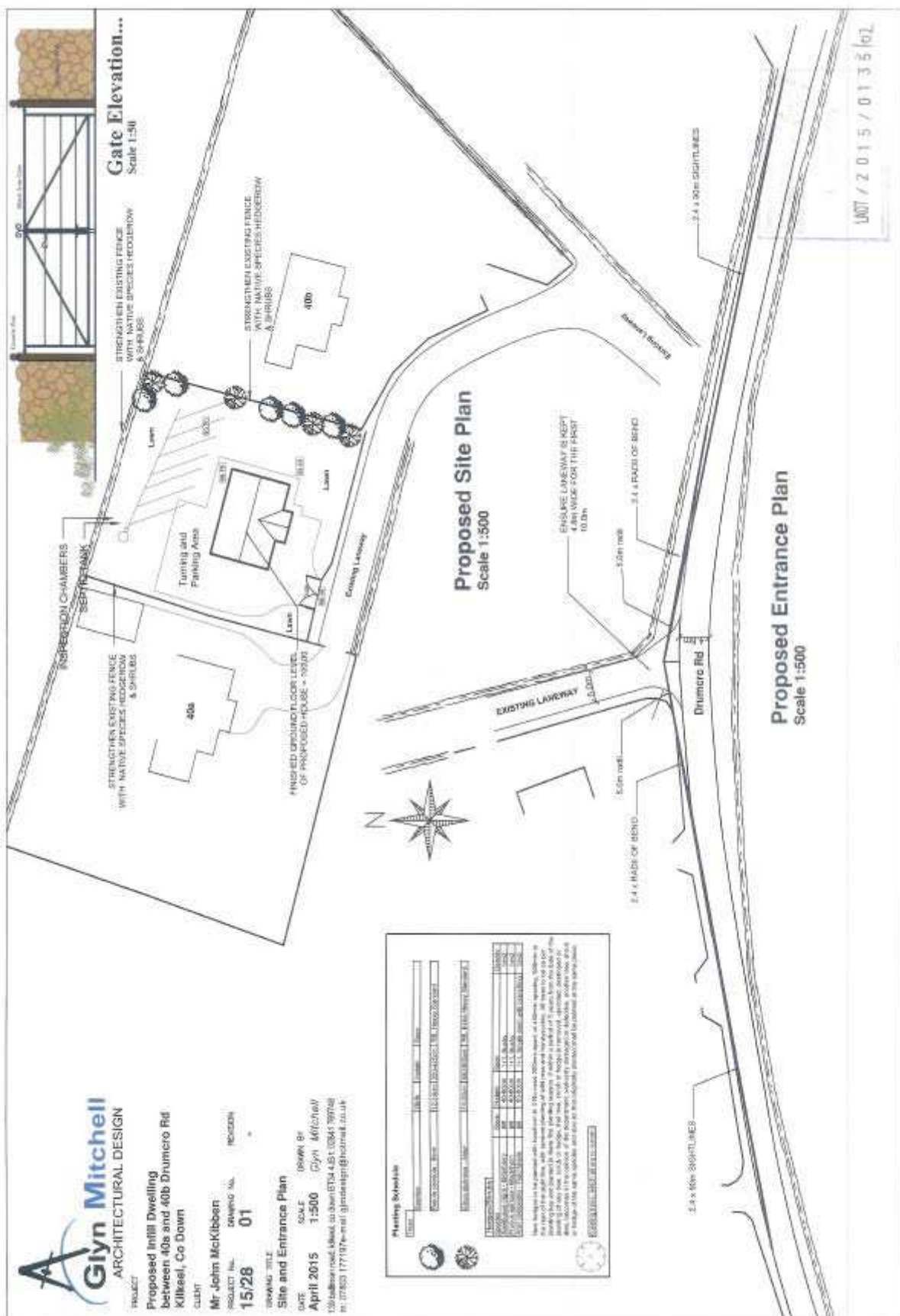


139 ballinran road, kilkeel, co down BT34
4JB t: 02841 769748
m: 07803 177197e-mail
gjmdesign@hotmail.co.uk



Site Location Plan
Scale: 1:2500 @ A4
Crown Copyright Reserved
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Site for Dwelling
Between 40a and 40b Drumcro Road
Kilkeel
Co. Down



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

Appeal Reference:	2010/A0202
Appeal by:	Billy Henderson Properties Limited against the refusal of full planning permission.
Development:	One and a half storey dwelling and detached garage.
Location:	20 metres south-east of 21 Curryfree Road, Creevedonnell, Londonderry.
Application Reference:	A/2009/0214/F
Procedure:	Written Representations and Accompanied Site Visit on 20 th April 2011.
Decision by:	Commissioner Julie de-Courcey, dated 27 th April 2011.

Decision

1. The appeal is allowed and full planning permission is granted subject to the conditions set out below.

Reasons

2. The main issues in this appeal are whether the proposed buildings are acceptable in principle in the countryside and their effect on the area's character, appearance and neighbours' residential amenity.
3. Policy CTY 1 of Planning Policy Statement 21 (PPS 21) identifies a dwelling sited within a cluster of buildings in accordance with Policy CTY 2a of that document as being one of the types of development that, in principle, are considered to be acceptable in the countryside. Policy CTY 2a sets out six criteria that a proposal must comply with in order for planning permission to be granted for a dwelling at an existing cluster of development. I note the appellants' Ordnance Survey evidence about the historical existence of a cluster at this location, that the alleged former forge (now within the curtilage of No.25 Curryfree Road) was a community facility that was a local focal point and that the T junction of public roads to the south of the appeal site was historically a cross-roads with a public right of way leading eastwards across the river valley to a ford, school, mill, cricket ground and farm holdings. However, whether the site comes within an existing cluster of development falls to be assessed in the contemporary context.
4. The appeal site adjoins three detached houses with their respective garages. It shares a party boundary with the house to the south-west and those to the north-west and north are separated from it by the shared drive that serves all three

dwelling. This drive would also serve the proposed buildings. To the south are detached bungalows at Nos. 22 and 24 Curryfree Road. To the south-west are a range of buildings associated with the two storey house at No. 25 Curryfree Road. There is a detached cottage to the east of the appeal site on the opposite side of the road. What appears to be a shed/outbuilding that the appellants identify as a dwelling/replacement, does not read as part of this loose cluster. Notwithstanding, the other buildings form a loose cluster around the T junction of the part of Curryfree Road running north-east to south-west and the branch that leads eastwards to Rushall Road. On this basis, the proposal satisfies the first and second criteria of Policy CTY 2a of PPS 21 as the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings) of which at least three are dwellings, and the cluster appears as a visual entity in the local landscape.

5. The proposed buildings would be seen when travelling in both directions on Curryfree Road. However, as they would be seen in the context of the three dwellings and garages that surround the site on two of its three sides, they would not be prominent from this vantage. Whilst there are trees on the party boundary with the dwelling to the south-west and behind the roadside fence, the site is not enclosed by long established natural boundaries. Notwithstanding, adjoining buildings, the shared drive and the site's existing boundary definition provide it with a suitable degree of enclosure so that it is not at odds with the second criterion of Policy CTY 13 of PPS 21. Imposition of a condition securing retention of existing vegetation in addition to the supplementary planting proposed would safeguard the current situation.
6. The proposed dwelling would present its rear elevation to the public road with its front elevation orientated north-westwards to take advantage of the panoramic views across the river valley. It would present a long ridge line to the road. However, as the ridge line would be broken up by changes in height, orientation and coping stones, it would not have a uniform appearance. In the context of the scale and design of the three adjoining dwellings, in terms of scale, form and massing. There would be a lower proportion of solid to void on the front elevation, an area of full height glazing and a variety of window sizes. However, this would not be seen from Curryfree Road and the Department did not identify a critical view from the shared drive. The view of the proposed buildings from the neighbouring dwellings is not a critical view as defined by paragraph 5.60 of PPS 21.
7. The Department directed me to longer range views from Killymallaght Road and Trench Road on the opposite side of the river valley, which it considered to be critical. From those vantages the proposed buildings would be seen in the context of the three immediately adjoining it with a backdrop of vegetation and topography. The wind turbines on the hill top to south-west dominate the landscape. From some stretches of those views, the proposed dwelling's front elevation would be partially obscured by the middle of the three new houses. Its context and distance would ensure that the amount and style of glazing on the front elevation would not be prominent or inappropriate. As the proposed buildings would integrate into the landscape in compliance with both the fourth

criterion of Policy CTY 2a and Policy CTY 13 of PPS 21, the Department's second reason for refusal is not sustained.

8. The disposition, design and boundary treatment associated with the three adjoining dwellings has resulted in a suburban style of build-up. Development of the site could be absorbed into the existing cluster through rounding off and consolidation and would not cause a detrimental change to or further erode the area's character. As already set out in the preceding paragraph, the proposed buildings would not be unduly prominent in the landscape. As such, the proposal is not at odds with Policy CTY 14 and would comply with the fifth criterion of Policy CTY 2a of PPS 21. Accordingly, the Department's third reason for refusal is not sustained.
9. No. 21 Curryfree Road presents its rear elevation to the shared drive. As it is set below the level of the public road there are views into its rear area. Vehicles going to/from the house to the south-west of the appeal site pass its point of access at a level 2.6m higher than No.21's finished floor level (FFL). Given the dwelling's orientation, its private amenity space is to the side and front. At their nearest point, the proposed dwelling's front elevation would be 19.5m from the rear elevation of No. 21. The existing dwelling's FFL would be 3.6m lower than that of the proposed house. No. 21 has a two storey projecting rear wing with two windows at ground floor level serving the utility room and kitchen respectively. Each of these rooms have a second window on the side elevation. There is one window at first floor level serving a bedroom. There would be three roof lights at first floor level on the front elevation of the proposed dwelling serving a family/games room. "Creating Places advocates a separation distance of around 20m or greater between opposing rear first floor windows but provides no guidance on a situation such as this where it is the front and rear elevations of dwellings that would be facing. Notwithstanding the dwellings' respective FFLs, given the separation distance, I am not persuaded that the residential amenity of the occupants of No.21 would be harmed to the extent that would merit dismissing the appeal on the basis of the Department's concerns about overbearing impact. Imposition of a condition removing permitted development rights for the extension or alteration of the proposed dwelling would give the Department control over any future additions as they might reduce the separation distance between it and No.21. On this basis, the proposal is not at odds with paragraph 52 of Planning Policy Statement 1 nor the sixth criterion of Policy CTY 2a of PPS 21.
10. The third criterion of Policy CTY 2a requires that the cluster is associated with a focal point such as a social/community building/facility or is located at a cross-roads. I have no evidence that what the appellants refer to as a "right of way" is a legally asserted public footpath/right of way. As such, the junction to the south of the appeal site is not a cross-roads. There is no social/community building/facility currently in the vicinity of the appeal site. There is merit in the appellants' point that the criterion is not exclusive in its definition of a focal point and that stated examples of such is not an exhaustive list. Notwithstanding, the term "focal point" suggests a single entity and not an existing cluster of development otherwise the third criterion would add nothing to the policy in the

round and be extraneous. The appeal decision referred to by the appellant was decided in a different policy context to this proposal and dealt with a reason for refusal that is not pertinent in this instance. Consequently, the proposal does not satisfy this third criterion of Policy CTY 2a.

11. Whilst the proposal fails the third criterion of Policy CTY 2a of PPS 21, it complies with the policy's broad overall intent in that it would round off and consolidate an existing cluster of development without changing to the area's character. In this respect, there are a number of site-specific characteristics that I find so compelling as to outweigh the fact that the cluster is not associated with a focal point. These are as follows:

- The site comprises a mown grassed area with a suburban style ranch fence marking its boundary with the public road. Fencing posts have been erected on top of the retaining wall along its boundary with the shared drive and there are stone pillars on either side of the entrance off the drive;
- It is visually associated with the adjoining dwellings and has the appearance of domestic curtilage;
- Given its size and relationship with adjoining dwellings, the site is unsuited to agriculture;
- It is bounded by residential development on two of its three sides; and
- It is a small gap site within an otherwise substantial and continuously built-up frontage that extends for 240m along this side of Curryfree Road.

As the proposal is not at odds with the spirit of Policy CTY 2a of PPS 21 in the round, it is one of the types of housing development that is acceptable in the countryside in accordance with Policy CTY 1 thereof. Accordingly, the Department's first and fourth reasons for refusal are not sustained and the appeal is allowed.

Conditions

1. The development shall be begun before the expiration of five years from the date of this permission.
2. Notwithstanding the provisions of Article 2(3)(a) and Schedule 1, Parts A, B and C of the Planning (General Development) (Amendment) Order (Northern Ireland) 2011 (or any legislation revoking that Order and re-enacting those provisions) the dwelling shall not be enlarged, improved or extended without the Department's prior permission.
3. Notwithstanding the landscaping details shown on Drawing Reference 0927 003 Revision A, existing vegetation on the site's roadside and south-western boundaries shall be retained.

This decision relates to Drawing Reference 0927 001 Location Map, Drawing Reference 0927 003 Revision A Site Layout Plan, Drawing Reference 0927 004 Proposed Elevations and Plans and Drawing Reference 0927 006 Proposed Garage Elevations and Plans.

COMMISSIONER JULIE DE-COURCEY



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

Appeal Reference:	2012/A0120
Appeal by:	John & James McKibben against the refusal of outline planning permission.
Development:	Proposed site for a cluster dwelling and garage.
Location:	70m south east of no 181 Moyad Road, Kilkeel.
Application Reference:	P/2011/0611/O
Procedure:	Written Representations and Commissioner's Site Visit on 26 April 2013.
Decision by:	Commissioner Pauline Boomer, dated 10 May 2013.

Decision

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

Reasons

2. The main issue in this appeal is whether the proposed development is acceptable in principle in the countryside.
3. Planning policy for the countryside is set out in Planning Policy Statement 21 - Sustainable Development in the Countryside (PPS 21). Policy CTY 1 of this document identifies a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of these is a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.
4. This policy states that planning permission will be granted for a dwelling at an existing cluster of development provided all of its six criteria are met. A cluster of development is not defined by the Policy, but its first three criteria give an indication of its intended meaning. The first criterion requires the cluster of development to lie outside of a farm and to consist of four or more buildings (excluding ancillary buildings such as garages) of which at least three are dwellings. The second criterion indicates that the cluster should appear as a visual entity in the local landscape. The third criterion indicates the cluster is to be associated with a focal point such as a social/community building/facility, or is located at a crossroads.

5. The appeal site comprises a triangular plot of land set back 25m from Moyad Road. It is accessed via an existing laneway which serves a detached one and a half storey dwelling at No.181, 6 disused mushroom houses and two partially built dwellings, one to the immediate north-east and another further to the south-west. Two detached one and a half storey dwellings, Nos 1 and 3, accessed off Dougans Road lie directly east-north-east of the appeal site. Development along both sides of the laneway is tiered with the appeal site lying at a lower level than No. 181, the mushroom houses and the partially constructed dwelling to the north-east and marginally below the level of those properties at Nos 1 and 3 Dougans Road.
6. The appellant argues that the appeal site is centrally located within a group of 11 buildings to the west of Dougans Road and south of Moyad Road. I agree that the appeal site is enclosed by the dwellings at No 181 and Nos 1 and 3 and by 6 mushroom houses. Whilst the two approved dwellings are currently under construction up to and beyond wall plate level, they must be taken into account but given the physical separation distance and intervening vegetation, I disagree that the partially built dwelling to the south-west reads as part of this group. I do not accept the appellant's argument that other development at 4 and 6 Dougans Road and 174, 175, 178 and 180 Moyad Road are associated with it. I am however satisfied that this grouping consists of four or more buildings including three dwellings.
7. However the appellant drew my attention to the planning history of the site to the south-west which was assessed and approved as "a dwelling and garage on a farm" at the same time as the planning application, the subject of this appeal, was being considered by the Department. I also note the existence of 6 mushroom houses within the ownership of the appellant and although annotated as "disused" on the site location plan, the appellant offered no clarification of their current use. I therefore have no evidence to confirm that the appeal site lies outside of a farm and the first criterion is therefore offended.
8. Whilst the Department considers that the appeal site fails to meet the 2nd and 3rd criteria and part of the 4th and 5th criteria set out in Policy CTY2a, they did not present any explanation or justification for the 1st Reason for Refusal in their Statement of Case, referring only to the 3rd criterion in their rebuttal.
9. I have indicated that the appeal site is enclosed by and reads with the 9 existing buildings and another partially completed as identified above. The appeal site nestles within the lowest point within the grouping which sits in a natural hollow. Whilst the Department have not identified any critical views, the photographs supplied by the appellant show that, when approaching in both directions along Moyad Road, one is looking down on the appeal site and the development enclosing it from where it does read as a visual entity in the landscape. When travelling along Dougans Road in an easterly direction, the appeal site is intervisible with all of those adjacent buildings which read as a particular and discrete unit rather than a loose collection of individual buildings. This strong visual linkage from the more elevated critical views is aided by the unusual tiered arrangement of development and the limited vegetation enclosing the appeal site and adjacent plots. I am satisfied that the development of the appeal site can be absorbed into the existing grouping through rounding off and consolidation,

without significantly altering the character of the area and the 2nd and 5th criterion are therefore met. With regard to the 4th criterion, the Department only raised concerns about enclosure by other development and as I have concluded that the appeal site is bounded on two and a half of its three sides by buildings, I find no conflict in this instance.

10. The 3rd criterion requires that the cluster is associated with a focal point such as a social/community building/facility or is located at a crossroads. Whilst the appellant argued that the appeal site meets this criterion as it lies at a "staggered crossroads", the policy allows only for development where it is located at a crossroads (my emphasis). The junction of Moyad Road with Dougans Road is located 80m north-west of its junction with Leitrim Road. As the latter junction sits on the crest of the hill and given the considerable separation distance and intervening vegetation, one is not aware of the Leitrim Road junction when exiting from Dougans Road or the shared laneway serving the appeal site. When travelling southwards along Moyad Road, there is no awareness of a crossroads and on the other approach, one is past the Leitrim Road junction before the existing grouping comes into view. Given the degree of physical and visual separation between the Dougans Road junction and the Leitrim Road junction, I am not persuaded that the appeal site is in fact located at a crossroads.
11. The appellant presented a number of cases where he contends that the Department assessed against Policy CTY2a and approved dwellings located at staggered crossroads. The Department in their rebuttal has indicated that planning applications P/011/0547/O and C/2010/0683/F were associated with social/community buildings and therefore met 3rd criterion on this basis. It appears from the site location plan attached that planning application D/2011/0130/F was assessed against Policy CTY 8 which has no requirement for location at a crossroads. No details other than the decision notice and site location map submitted by the appellant in regard to B/2010/0242/F were presented which makes it impossible to ascertain against which policies it was assessed and on what basis it was considered acceptable. In this evidential context, I am not persuaded that the Department has been inconsistent in their interpretation of the 3rd criterion of Policy CTY2a. Each appeal has to be assessed on its own merits and Appeal 2010/A0202 was decided on a particular set of site specific circumstances which are not replicated here. I conclude that the appeal proposal offends the 3rd criterion of Policy CTY 2a.
12. Policy CTY2a states that all criteria must be met and as the appeal proposal offends the 1st and 3rd criterion, the 1st reason for refusal is sustained.
13. Policy CTY14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character. I have concluded above that the development of the appeal site can be absorbed into the existing grouping through rounding off and consolidation, without significantly altering the character of the area. The introduction of a single dwelling enclosed by existing development would respect the traditional pattern of settlement in an area characterised by similar groupings and the 2nd reason for refusal is not sustained.

14. The appeal site is located in the Mourne Area of Outstanding Natural Beauty (AONB) and Policy DES 4 of the Planning Strategy for Rural Northern Ireland therefore applies. Whilst the appellant is correct in his assessment that the policies in PPS21 take precedence over the policy provisions for CPA designations in all existing and published draft plans, AONBs still fall to be considered against Policy DES 4 which was not superseded by PPS21 as outlined in its Preamble.
15. The headnote of Policy DES 4 requires development "to be sensitive to the distinctive character of the area and the quality of their landscape, heritage and wildlife". It also states that "new buildings should respect and may have to reflect the traditional architectural styles and settlement pattern". The appeal proposal would have limited visual impact given its low lying position and enclosure by existing buildings. The introduction of another dwelling at this location would reflect the character and settlement pattern of the area where other concentrations of development are apparent, without harming the scenic value of the area. Whilst there are a variety of different house styles and designs in the immediate vicinity, as this is an outline proposal, appropriate conditions could be attached to ensure that the development reflect the traditional styles of the area. I find no conflict with policy DES4 and the Department has not sustained its 3rd reason for refusal.

This decision relates to the 1:2500 site location plan date stamped refused by the Department on 4 July 2012.

COMMISSIONER PAULINE BOOMER



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Lorraine Moon	
Application ID: LA09/2016/0997/F	Target Date: <add date>
Proposal: Proposed relocation of existing approved storage shed (LA09/2015/0115) and Extension of site curtilage for the storage of plant machinery & Building materials	Location: 50m East of no 47 Ballymoyle Road Coagh
Applicant Name and Address: Mr Martin Loughran 47 Ballymoyle Road Coagh	Agent name and Address: CMI Planners Unit C5 80-82 Rainey Street Magherafelt BT45 5AJ
Summary of Issues: No objections were received in respect of this application. One letter of support has been received following the deferred office meeting. This letter was from the occupier of no.47 Ballymoyle Road, who is a sister/daughter of the applicant who owns the adjoining dwelling and site.	
Summary of Consultee Responses: TransportNI and Environmental Health responded with no objections subject to conditions.	
Characteristics of the Site and Area: The proposal site is located approx. 2miles NE of Coagh, in the open countryside in accordance with the Cookstown Area Plan 2010. The site is located to the rear of Nos 47 _ 49 Ballymoyle Road, Coagh. The site currently comprises an area of hardstanding used for the storage of building materials and machinery. The land to the rear of the proposal site is agricultural and undulating in nature. There is no existing boundary on the eastern side as shown in submitted drawing No 03 dated 15.07.16.	
Description of Proposal Proposed relocation of Ex Approved storage shed, Ref No: LA09/2015/0115 _ Extension of site curtilage for storage of plant machinery and building materials.	

Deferred Consideration:

This application was presented to Committee on 7th February 2017 with a recommendation to refuse for the following reasons:-

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Department's Planning Policy Statement 4, Industrial Development, in that it has not been demonstrated why this new building outside the curtilage of the established is required.

The Planning Committee agreed to defer the application for an office meeting with the Planning Manager and this took place on 16th February 2017. At that meeting the issues relating to the recommendation were discussed. The applicant works with heavy machinery ie. diggers/dozers/lorries etc. and he requires a shed to carry out repairs on the equipment/vehicles which are used on site. The extant approval was granted for similar shed which has not yet been constructed. This shed is now to be located within the new extended yard and will have an appearance similar to an agricultural building.

The correct policy under which to assess this proposal is PPS 4 PED 3 and the increase in the size of the site should be proportionate. Due to the size of the existing yard, if the extant approved shed were to be constructed, this would limit the extent of the remaining area. This would then cause difficulties in that if one vehicle entered the yard this would result in the yard being blocked and no other vehicles/equipment could enter the yard. The proposed extension to the yard and new shed would provide an extended area to accommodate additional vehicles and improve the circulation space around the yard.

The applicant was requested to provide a written explanation as to why the existing yard does not work and also confirmation from the occupiers of the adjacent dwelling that they have no objections to the siting of the shed and yard to the rear of their dwelling. Following receipt of this, the application will be reconsidered.

The existing use has been established and was accepted by way of an application for a lawful development certificated for 'Existing access laneway and hardcore yard for the storage of plant, machinery, vehicles and building materials' which was approved on 16th March 2015. It is accepted that the existing yard area is small in size and given the type of machinery/equipment used by the applicant it would be difficult to have any more than two machines in the yard at any one time and still have an adequate area remaining for turning, loading or off-loading of other machinery. Therefore it is my opinion that there is sufficient justification for an extension to the existing yard. A letter of confirmation has been received from the adjoining dwelling owner stating that they have no objections to the proposed development. Therefore, given that there is little, if any, visual impact of the development when viewed from the public road, the proposal would not be unacceptable in this respect. The development is considered to be acceptable and should 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 building hereby approved is in substitution for the building approved under LA09/2015/0115/F and only one building shall be constructed on this site.

Reason: To preserve the rural character of the area and to prevent an accumulation of buildings on the site.

3. The existing line of mature trees and hedgerows as indicated on the approved drawing no. 03 date stamped 15th July 2016 shall be permanently retained and allowed to grow on.

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

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

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

5. The building/shed hereby permitted shall not become operational until all new boundaries have been defined by a timber post and wire fence with a native species hedgerow with trees and shrubs of mixed woodland species planted on the inside as shown on the stamped approved drawing no. 03 date stamped 15th July 2016.

Reason: To ensure the proposal is in keeping with the character of the rural area and in the interests 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 Mid Ulster District Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless Mid Ulster District Council gives its written consent to any variation.

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

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Roisin McAllister	
Application ID: LA09/2016/1640/F	Target Date:
Proposal: Agricultural Shed	Location: 90m South of 54 Gortlenaghan Road Dungannon
Applicant Name and Address: Martin McCool 15 Ardglena Dungannon BT71 7TN	Agent name and Address: Clarman & Co Unit 1 33 Dungannon Road Coalisland BT71 4HP
Summary of Issues: No representations received.	
Summary of Consultee Responses: EH outstanding – await response. DFI Roads – No objection.	
Characteristics of the Site and Area: The application site is located 90m south of 54 Gortlenaghan Road, Dungannon. It is in an area largely characterised by agricultural land, farm holdings and dispersed settlement. The site extends 0.55Ha and is a roadside plot with a field gate to the public road. The site is elevated above lands to the east and is visible from the surrounding road network, particularly from Cabragh Road. The ground level falls steadily from the roadside in an easterly direction and site boundaries are marked by hedgerows. To the south on land adjacent is a neighbouring two storey dwelling, no. 71 Cabragh road.	
Description of Proposal Agricultural Shed	
Deferred Consideration: The application was presented to planning committee with a recommendation for refusal as it was considered contrary to Policy CTY 1, CTY 12, CTY 13 and CTY 14 of Planning Policy Statement 21, Sustainable development in the countryside. The applications was deferred for an office meeting which was held at Mid Ulster District Council.	

The first test of policy CTY 12 of PPS21, requires the farm business is currently active and has been established for at least 6 years. While evidence demonstrated the applicant leased his land to Mr Hughes, it had not been demonstrated that his farm was active and established. Further to the office meeting, information detailing the history of Mr McCools farm was provided. This included a herd record of Michael McCool (the applicant's father) from 1984, declaration of cattle movement from 1985 and a receipt for Mr Martin McCool's application for a business ID.

I am therefore satisfied that Mr McCool's farm business has been established for at least 6 years and while he does not draw a direct income, he obtains an income by leasing the land to Mr Hughes. Furthermore, the applicants notes that he cuts hedges, maintains drainage, cleans out shucks, installs post and wire fences and sprays rushes to maintain the land. I am satisfied the applicants farm business is active. Efforts to formalise this have been made through an application for a business ID.

In a supporting statement it notes – it is Mr McCool's intention to continue farming the land and he requires a shed for the storage of farm equipment, hay and silage. He also has no facility for animal testing and wishes to provide a cattle crush and two holding pens to the side of the shed. Considering there are no other farm sheds at present on these lands, the shed is therefore necessary for the efficient use of the agricultural holding.

Environmental Health were consulted and responded stating that they required more information regarding the intended use of the building. The use proposed is primarily for storage of machinery and silage along with a small animal testing facility. In order to avoid adverse impact on residential amenity, I recommend the use of the building is restricted to that explicitly stated – for the storage of farm machinery and silage. Environmental Health have been re-consulted and we await their response. Given the use proposed I recommend the application is progressed with a recommendation subject to a satisfactory response from Environmental Health.

Concerns were previously raised in relation to the siting of the shed on an elevated site. The shed has subsequently been moved eastwards to lower land and avoids a roadside frontage. The design of the proposal has also been amended and the ridge height reduced from 7m to 5.7m with a barrel vault design.

The proposal now intends to use an existing agricultural laneway as opposed to the dominant driveway previously presented. I am content the proposal will visually integrate with the landscape and recommend existing hedgerow boundaries are augmented by trees. Concerns relating to CTY 13 and CTY 14 are also therefore alleviated.

It has not been demonstrated that the proposal at this location is essential for the efficient functioning of the business.

It is noted that MrMcCools father Michael McCool (name of the farm map) resides a short distance away along Gortlenaghan Road. Questions were raised as to why the shed could not be sited beside this existing building on the farm. A drawing was submitted with the supporting statement showing consideration of the proposed shed adjacent to this existing building. The drawings demonstrate restrictions in siting the shed at this location. I am content that a shed sited on the farm holding is therefore required for the efficient functioning of the farm.

Transport NI were re-consulted and have no objection subject to conditions.

I recommend permission is granted with 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 existing hedgerows and trees located within the site outlined in red on drawing 01rev2 bearing the date stamp 18th December 2017 shall be retained and augmented with trees of indigenous species. No trees or vegetation shall be removed without prior consent in writing to the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given in writing at the earliest possible moment.

Reason: In the interests of visual amenity.

3. The agricultural shed hereby approved shall be used solely for the storage of farm equipment, hay and silage.

Reason: In the interests of residential amenity.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Melvin Bowman	
Application ID: LA09/2017/0629/O	Target Date: <add date>
Proposal: Off site replacement for a dwelling currently at 120m West of no.39 Bellshill Road, Castledawson to be relocated on lands 70m West of no. 47 Bellsill Road, Castledawson	Location: 70m West of no.47 Bellshill Road Castledawson Magherafelt
Applicant Name and Address: George McMillin 11 Bellshill Road Castledawson	Agent name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge Toome BT41 3SQ
Summary of Issues: Case previously recommended for refusal for off-site replacement dwelling.	
Summary of Consultee Responses: TNI concerns regarding future access location.	

**Characteristics of the Site and Area:**

The proposal site is located within the corner of a large agricultural field. The existing dwelling is a single storey detached traditional design building, the building still displays all the original characteristics of a dwelling with all external walls being substantially intact. The current location of the dwelling is affected by the new road development to the north and the land has been vested for gravel extraction thus the applicant has applied for an off site replacement. The proposed new location is currently an agricultural field and the dwelling is proposed to be sited in the corner of this. The site is elevated above the level of the existing site and in a prominent location on the sky line. There are a scattering of single storey properties within proximity but not adjacent to the proposal site. The site is unbounded on the northern and NE boundaries and only minimally on the SW and eastern boundaries by a very modest agricultural hedge.

The new road layout is underway and the existing dwelling has already been demolished, the new site proposed would site immediately south of the new road layout. The proposal site is surrounded by agricultural land which drops in levels below the proposed site.

Description of Proposal

Outline application for 'off site replacement for a dwelling currently at 120m West of no.39 Bellshill Road, Castledawson to be relocated on lands 70m West of no. 47 Bellshill Road, Castledawson'.

Deferred Consideration: This application was deferred for a site visit by members at the Planning Committee on the 4th Nov 2017. A site visit took place to the site on the 30th Nov of which the below is a summary:

In attendance: M.Bowman (Planning) Cllrs McKinney, Glasgow, Kearney, McPeake (2pm)

- Members visited the immediate location of the site on the Bellshill which at present is being heavily worked to facilitate the new road line, the basis for which is already in place along the frontage of the site. The precise location of the application site was identified and members noted the presence of surrounding dwellings on 2 sides of the site which some felt offered a degree of screening to a new dwelling on the site if it maintained a similar 5.5m ridge
- I asked members to observe the large embankment works on the proposed main dual carriageway when travelling to the next viewpoint on Annaghmore Road and how this prevented views of the proposed dwelling.
- Members visited an identified but more distant viewpoint from the Annaghmore Road to the west of the site. From this point the site could be viewed in the context of the road works, surrounding dwelling and falling topography. Views were expressed about limiting ridge height to a low elevation dwelling.
- On access – members noted a road line could be identified and sure if approval was to be forthcoming then a condition could be attached securing its precise location to tie into the road becoming operational.
- The visit concluded at 2.50pm.

Having visited the site before and again during the members site visit I have re-considered this case in light of Policy CTY3. There is no dispute here regards the applicants entitlement to a replacement dwelling and I am reasonably content that due to the engineering operations which are taking place on the original site preventing it being used for an on-site replacement dwelling.

Critical to the acceptance of any off-site replacement dwelling in policy terms is whether the new site will create a significantly greater visual impact than the existing dwelling would have. Having considered the genuine concerns of the officer in the original report, and having also been afforded the opportunity to examine all approaching public views, I am not overly concerned that a low elevation bungalow on the application site will be unduly prominent. When travelling along the main dual carriageway one will not be able to view the new dwelling site given the degree of significant embankment works which have now been put in place to the southern edge of the road line. From Bellshill a bungalow will nestle within a small grouping of existing dwellings.

All in all I consider that the proposal is acceptable and that outline planning permission should be granted subject to conditions:

- 5.5m ridge height
- Access location to be agreed with DFI upon the completion of the adjacent new road line.

Signature(s): M.Bowman

Date 18th Dec 2017.