



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2018/0176/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Retrospective shed for the storage of boats and working of nets.	<b>Location:</b> To the rear of 140 Kilmascully Road Dungannon Co Tyrone.
<b>Applicant Name and Address:</b> Martin O'Neill 9 Rossa Court Ardboe Dungannon BT71 5AR	<b>Agent name and Address:</b> CMI Planners 38 Airfield Road Toomebridge Antrim BT41 3SG
<b>Summary of Issues:</b> Objections have been received that alleges the building is used for servicing lorries, it questions the size of the building for the storage of boats and working nets and raises concerns about its appearance and that it overshadows and dominates the adjacent dwelling. Speaking rights have been used by the applicant at the Planning Committee in October 2018.	
<b>Summary of Consultee Responses:</b> Roads – no objection, condition provision of access	
<b>Characteristics of the Site and Area:</b>  The application site is located to the rear of 140 Kilmascully Road, Ardboe, Dungannon and is a plot of agricultural land. The site is located outside any designated settlement limits as defined in the Cookstown Area Plan, 2010. On site is a large agricultural type	

shed with grey block walls and green insulated cladding panels and green panels on the roof. To the front of the shed is a large roller shutter door. To the south eastern side of the shed is a Pvc door and a window and the rear of the opposite side of the shed on the north west is another Pvc type door. The boundary to the east and north of the site consists of post and wire fence, to the west to northwest there is mature hedgerows and vegetation. To the south west there is a small wooden fence which makes up the boundary between the application site and the property at 140 Kilmasally Road. Soil has been spread over the area adjacent to this boundary and a lorry trailer that was stored there has been moved. The boundary to the front of the site which adjoins the Kilmasally road consists of large wooden gates. The surrounding land is rural in nature with agricultural fields with a scattering of single dwellings along the roadside.

### **Description of Proposal**

The applicant seeks permission for a retrospective shed for the storage of boats and working nets.

### **Deferred Consideration:**

Members are advised this application has been before this committee on 3 previous occasions: 02/10/2018, 02/04/2019 and 02/07/2019. At the last meeting on 02/07/2019 that application was deferred to allow the submission of exceptional and special circumstances and that these could be considered.

Following the last meeting additional information was submitted that advised the building was being used for agricultural purposes associated with a farm owned and operated by Mr Seamus Quinn, 143 Drumeeny Road, Ardboe. Mr Quinn confirmed that he rents the land here from Mr O'Neill and uses the building to store farm machinery. DEARA have confirmed that Mr Quinn has claimed the adjoining land on his business. Mr Quinn has provided a letter of support for the proposed development.

This information is neither exceptional nor special and where development is for agricultural purposes it can be assessed against Policy CTY12 – Agricultural and Forestry Development. Members will be aware there are a number of criteria that this type of development must be considered against, once it has been demonstrated that it is on an active and established agricultural holding. An active and established business for the purposes of this policy is defined in CTY10 where it states the business has been operating for a period of 6 years. Mr O'Neill has not presented any information that he is a farmer, that he has a business ID issued by DEARA or that he has been farming for a period of 6 years. Mr Quinn has his own farm business and it is based on the opposite side of Ardboe. Mr Quinn states that he uses the building for storing some agricultural machinery, if this building was approved then it could be conditioned that it was only for storage and that no animals could be housed in it to prevent nuisance to the neighbouring property or cause pollution to nearby Lough Neagh. The farm maps provided for Mr Quinn show that he farms 108ha of land in total and 3 fields equating to 4.35ha are located at Kilmasally Road. Mr Quinn does not have any other farm buildings at Kilmasally Road

and as such the exception at the end to CTY12 is relevant for consideration. The land is set out in grass and appears to be used for cutting silage. The bulk of Mr Quinns land and buildings are on the Drumeeny Road with some other pockets around the old airfield, this is all on the north side of Ardboe. There has been no information presented to demonstrated why this building is essential for the efficient functioning of Mr Quinn's business. At my last inspection there appears to be a grey tractor in the building which is all that can be seen as the windows into the building have material screening any view into it.

I do not consider that it has been demonstrated the building is essential for Mr Quinns farming activities and as previously rehearsed there are no policies that may be relied upon to allow this development for a Lough Neagh fisherman.

Mid Ulster Development Plan 2030 Draft Plan Strategy was launched on the 22nd Feb 2019. It is currently going through a further consultation period which commenced on 25th March 2020. Due to the COVID19 Pandemic the consultation period has only recently ended and there is now a period for counter representations to be submitted. During the initial consultation period a number of objections to Policies contained in the Plan were received. In light of this the Draft Plan cannot be given any determining weight at this time.

**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**



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<b>Application ID:</b> LA09/2018/0176/F	<b>Target Date:</b> <add date>
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<b>Applicant Name and Address:</b> Martin O'Neill 9 Rossa Court Ardboe Dungannon BT71 5AR	<b>Agent name and Address:</b> CMI Planners 38 Airfield Road Toomebridge Antrim BT41 3SG
<b>Summary of Issues:</b> Objections have been received that alleges the building is used for servicing lorries, it questions the size of the building for the storage of boats and working nets and raises concerns about its appearance and that it overshadows and dominates the adjacent dwelling. Speaking rights have been used by the applicant at the Planning Committee in October 2018.	
<b>Summary of Consultee Responses:</b> Roads – no objection, condition provision of access	
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### **Description of Proposal**

The applicant seeks permission for a retrospective shed for the storage of boats and working nets.

### **Deferred Consideration:**

Members will be aware of this application for the retention of a building for the storing of boats and working nets which was before the Committee in October 2018 where it was deferred for an office meeting.

An office meeting was held with Dr Boomer where it was noted there is no policy for buildings in the countryside for fishermen and that Mid Ulster Council were considering a policy for fishermen in the review of the Local Development Plan. It was noted Mr O'Neill lives in Ardboe and does not have any room there for his boats. He bought this ground but is not a farmer and has not provided any evidence to suggest he meets the criteria for an active and established farmer. He has 2 boats and fishes for pollen and perch, which he supplies to the Fishery at Toome. Dr Boomer advised Mr O'Neill that if the Council were to approve this development it would be tightly conditioned for the storage of boats and working nets, if the building was used for any other purpose then there would be enforcement action taken and this could result in heavy fines. Discussions then revolved around the amenity of the neighbouring property, as the hard standing area extends up the rear boundary fence of the adjoining property. To remedy this it was agreed that an amended plan would be submitted to show this hard standing area removed and landscaped. These plans were submitted and the neighbour consulted.

Since the office meeting with Dr Boomer, this office has received a number of objections from the adjoining property. The objections relate to the use of the building for the maintenance of lorries and questions the size of the building for storing boats and working nets. The objector states the lorries are brought to the site at night time and worked on, then taken away again. A photograph of an articulated lorry was submitted, it is a Scania with a white cab and the name O'Neill on it, it is towing a green curtain side trailer. Further concerns are raised about the building overshadowing and dominating the dwelling beside it.

With regards to the overshadowing and dominating effect, the building is 7.5m in height, it is located 33m to the NE of the dwelling and is on more or less the same level as the objectors property. The objectors property has windows facing towards the building. Due to low elevation of the building and its 33m separation distance on a fairly flat site, I do not consider it has a significant dominating effect on the property. The building is NE of the objectors dwelling and it may affect them by casting a shadow at and after sunrise, during the summer months. This will be short lived and I do not consider it would be excessive or result in any significant detriment to the amenity of the property. I do not consider the shed unduly overshadows or dominates the objectors property.

The Draft Plan Strategy was published on 22 February 2019 and is a material consideration in the determination of this application. I consider Policies GP1 – General Principles, AFR1 – Agricultural and Forestry Development and development Ancillary to Commercial Fishing and TRAN 4 – Access onto Protected Routes and Other Routes are relevant to the consideration of this development. This shed is located within the area identified as a Policy Area of Holders of Commercial Fishing License in the District Proposals Map 1E. Mr O'Neill has provided details of his fishing interest as scale fisherman and I consider Policy AFR1 would support this development. Members should note the Draft Plan Strategy is currently undergoing an initial 8 week consultation period and as such cannot be given any great weight in the determination of this application and it must be determined on the basis of the extant regional policies.

Members are advised that the development before them is for the retention of the building for storage of boats and working nets. Policy CTY12 of PPS21 relates to agricultural and forestry development but does not support fishermen erecting buildings in the countryside. The Cookstown Area Plan refers to Agricultural, Forestry and Fishing under the same heading but again it does not provide any policy in support of this development. The building, in my opinion, does have the appearance of a typical modern agricultural building, it is 220sqm in floor area and has a 7.5m ridge height finished with green cladding to the upper walls and roof and sand cement render to the lower walls. To the front of it is a bungalow and barrel roofed agricultural shed and some other smaller buildings. Views of this building are limited to the minor, dead end, road to the east of the building and from the lough. While the building is readily viewed from the east, it is set back from the road and reads with the existing buildings to the front, it also has the benefit of vegetation to the rear of it. I consider all these factors mean the building has a reasonable degree of integration, does not dominate the landscape or adversely impact on the rural character of the area.

Members should be cautious about being sympathetic to the case, in light of the draft plan policy, as there is an objector who lives beside the development. The objector has brought to the Councils attention that it is being used for maintaining HGVs. The applicant bought this land and erected this building without applying for planning permission and as such carried out this development at his own risk. Members are advised that while this application is predicated on the basis of storing boats and working nets and if approved could have its use strictly conditioned, the default position is that there are currently no

policies that support the development. Given that there is dispute over the on-going uses within the building, I recommend that the application is refused.

Mid Ulster Development Plan 2030 Draft Plan Strategy was launched on the 22nd Feb 2019. It is currently going through a further consultation period which commenced on 25th March 2020. Due to the COVID19 Pandemic there is currently no end date or timetable for public events in relation to this re-consultation. During the initial consultation period a number of objections to Policies contained in the Plan were received. In light of this the Draft Plan cannot be given any determining weight at this time.

**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**



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### **Description of Proposal**

The applicant seeks permission for a retrospective shed for the storage of boats and working nets.

### **Deferred Consideration:**

Members will be aware of this application for the retention of a building for the storing of boats and working nets which was before the Committee in October 2018 where it was deferred for an office meeting.

An office meeting was held with Dr Boomer where it was noted there is no policy for buildings in the countryside for fishermen and that Mid Ulster Council were considering a policy for fishermen in the review of the Local Development Plan. It was noted Mr O'Neill lives in Ardboe and does not have any room there for his boats. He bought this ground but is not a farmer and has not provided any evidence to suggest he meets the criteria for an active and established farmer. He has 2 boats and fishes for pollen and perch, which he supplies to the Fishery at Toome. Dr Boomer advised Mr O'Neill that if the Council were to approve this development it would be tightly conditioned for the storage of boats and working nets, if the building was used for any other purpose then there would be enforcement action taken and this could result in heavy fines. Discussions then revolved around the amenity of the neighbouring property, as the hard standing area extends up the rear boundary fence of the adjoining property. To remedy this it was agreed that an amended plan would be submitted to show this hard standing area removed and landscaped. These plans were submitted and the neighbour consulted.

Since the office meeting with Dr Boomer, this office has received a number of objections from the adjoining property. The objections relate to the use of the building for the maintenance of lorries and questions the size of the building for storing boats and working nets. The objector states the lorries are brought to the site at night time and worked on, then taken away again. A photograph of an articulated lorry was submitted, it is a Scania with a white cab and the name O'Neill on it, it is towing a green curtain side trailer. Further concerns are raised about the building overshadowing and dominating the dwelling beside it.

With regards to the overshadowing and dominating effect, the building is 7.5m in height, it is located 33m to the NE of the dwelling and is on more or less the same level as the objectors property. The objectors property has windows facing towards the building. Due to low elevation of the building and its 33m separation distance on a fairly flat site, I do not consider it has a significant dominating effect on the property. The building is NE of the objectors dwelling and it may affect them by casting a shadow at and after sunrise, during the summer months. This will be short lived and I do not consider it would be excessive or result in any significant detriment to the amenity of the property. I do not consider the shed unduly overshadows or dominates the objectors property.

The Draft Plan Strategy was published on 22 February 2019 and is a material consideration in the determination of this application. I consider Policies GP1 – General Principles, AFR1 – Agricultural and Forestry Development and development Ancillary to Commercial Fishing and TRAN 4 – Access onto Protected Routes and Other Routes are relevant to the consideration of this development. This shed is located within the area identified as a Policy Area of Holders of Commercial Fishing License in the District Proposals Map 1E. Mr O'Neill has provided details of his fishing interest as scale fisherman and I consider Policy AFR1 would support this development. Members should note the Draft Plan Strategy is currently undergoing an initial 8 week consultation period and as such cannot be given any great weight in the determination of this application and it must be determined on the basis of the extant regional policies.

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Members should be cautious about being sympathetic to the case, in light of the draft plan policy, as there is an objector who lives beside the development. The objector has brought to the Councils attention that it is being used for maintaining HGVs. The applicant bought this land and erected this building without applying for planning permission and as such carried out this development at his own risk. Members are advised that while this application is predicated on the basis of storing boats and working nets and if approved could have its use strictly conditioned, the default position is that there are currently no

policies that support the development. Given that there is dispute over the on-going uses within the building, I recommend that the application is refused.

**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**



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District Council

## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b> 02.10.18	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0176/F	<b>Target Date:</b>
<b>Proposal:</b> Retrospective shed for the storage of boats and working of nets.	<b>Location:</b> To the rear of 140 Kilmascally Road Dungannon Co Tyrone.
<b>Referral Route:</b>  Refusal	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Martin O'Neill 9 Rossa Court Ardboe Dungannon BT71 5AR	<b>Agent Name and Address:</b> CMI Planners 38 Airfield Road Toomebridge Antrim BT41 3SG
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
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

Transport NI were consulted were consulted on this application and had no objection subject to conditions. The application is the result of an enforcement action and they have received several complaints about the site.

### Characteristics of the Site and Area

The application site is located to the rear of 140 Kilmascally Road, Ardboe, Dungannon and is a plot of agricultural land. The site is located outside any designated settlement limits as defined in the Cookstown Area Plan, 2010. On site is a large agricultural type shed with grey block walls and green insulated cladding panels and green panels on the roof. To the front of the shed is a large roller shutter door. To the south eastern side of the shed is a Pvc door and a window and the rear of the opposite side of the shed on the north west is another Pvc type door. The boundary to the east and north of the site consists of post and wire fence, to the west to northwest there is mature

hedgerows and vegetation. To the south west there is a small wooden fence which makes up the boundary between the application site and the property at 140 Kilmascally road. The boundary to the front of the site which adjoins the Kilmascally road consists of large wooden gates. There are some old lorry trailers, an old vehicles a small boat as well as empty diesel containers observed around the perimeter of the shed. The surrounding land is rural in nature with agricultural fields with a scattering of single dwellings along the roadside.

### **Description of Proposal**

The applicant seeks permission for a retrospective shed for the storage of boats and working nets.

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

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

- 1.Strategic Planning Policy Statement (SPPS)
- 2.Cookstown Area Plan 2010
- 3.Planning Policy Statement (PPS) 21 – Sustainable Development in the countryside
- 4.Planning Policy Statement (PPS) 3 – Access, Movement and Parking.

### **Planning History**

There is no planning history on the site which is of relevance to the determination of this application.

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

### **Assessment**

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

The Cookstown Area Plan, 2010, groups agriculture, forestry and fishing under the one category and while there appears to be a gap in the policy as there is no specific policy for assessing fishing related sheds for storage purposes, it would seem logical if assessing the principal of this application under the same policy as agricultural sheds set out in PPS 21: Sustainable development in the countryside.

This proposal is for a Retrospective shed for the storage of boats and working nets. The large shed is unauthorised development and has been erected without planning permission in close proximity to a third party dwelling (140 Kilmascally road). While there has been no official objection to this application, we have been made aware of the occupants concerns through the enforcement case on the site. Evidence has been provided to show the site being actively used for the movement of lorry trailers. Ariel photographs also show lorry trailers on the site. During my first site visit I was unable to access the site as the gates were locked, however lorry trailers could be seen on the site. A second site visit was carried out which was arranged through the agent. While there was two small boats ad nets in the shed there were various other items around the site including lorry trailers, old cars and large diesel drums.

The proposal considered to have a detrimental impact on the amenity of the occupants of the surrounding residential dwellings and it would create a nuisance in terms of noise and general disturbance to the occupants of these dwellings.

Also the applicant has changed the use of the land as it was previously an agricultural field and the land has been completely hard cored and the large shed erected on it. The shed is visually intrusive and dominant in the existing landscape.

#### **Conclusion**

In conclusion I consider the proposal to be unacceptable in this area as it would cause detrimental impact and harm to the amenity of the occupants of the surrounding residential dwellings by reason of noise, nuisance, general disturbance and visual intrusion and therefore recommend refusal.

#### **Neighbour Notification Checked**

**Yes**

#### **Summary of Recommendation:**

Refusal

Conditions/Reasons for Refusal:

This would cause detrimental impact and harm to the amenity of the occupants of the surrounding residential dwellings

I consider the proposal to be unacceptable in this area as it would cause detrimental impact and harm to the amenity of the occupants of the surrounding residential dwellings by reason of noise, nuisance, general disturbance and visual intrusion and therefore recommend refusal.

There has been a complete change of use of the land from an agricultural field to a hard core yard with a large, shed which is intrusive and dominant in the existing setting.

#### **Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	9th February 2018
<b>Date First Advertised</b>	22nd February 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 140 Kilmascully Road Dungannon Tyrone The Owner/Occupier, 146 Kilmascully Road,Dungannon,Tyrone,BT71 5BN,	
<b>Date of Last Neighbour Notification</b>	22nd February 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2018/0176/F Proposal: Retrospective shed for the storage of boats and working of nets. Address: To the rear of 140 Kilmascully Road , Dungannon, Co Tyrone., Decision: Decision Date:	
Ref ID: I/2001/0329/O Proposal: Proposed dwelling Address: 90m East of 140 Kilmascully Road Ardboe Decision: Decision Date: 23.08.2001	
Ref ID: I/1977/010401 Proposal: ERECTION OF DWELLING Address: KILMASCALLY, COAGH Decision: Decision Date:	
Ref ID: I/1977/0104 Proposal: REPLACEMENT BUNGALOW Address: KILMASCALLY, ARDBOE, DUNGANNON Decision: Decision Date:	



Ref ID: I/1975/0487  
Proposal: 11 KV O/H LINE  
Address: KILMASCALLY, 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. 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:



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<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2018/1458/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed dwelling	<b>Location:</b> 50m South West of 55 Kanes Rampart Derrylaughan Coalisland
<b>Applicant Name and Address:</b> Owen Campbell 55 Kanes Rampart Derrylaughan Coalisland	<b>Agent name and Address:</b> Sam Smyth Architecture Unit 45D Dungannon Enterprise Centre 2 Coalisland Road Dungannon BT71 6JT
<b>Summary of Issues:</b> The application is for a small holding, the applicant owns this field and an area of bog which he raises fowl for shooting clubs. The fowl rearing is not considered farming however low level activity is being carried out by cutting grass and selling bales.	
<b>Summary of Consultee Responses:</b> DFI Roads – access off private laneway	
<b>Characteristics of the Site and Area:</b>  The site comprises an 'L' shaped portion of a field located to the rear and the SW of No.55 Kanes Rampart, Derrylaughan. The site is currently used as agricultural grazing land. It is bounded along the dwelling by a post and wire fence, to the east and west by mature hedgerow and the remaining boundary to the south is undefined on the ground. The land is relatively flat.  The site lies within the open countryside outside all other areas of constraint as depicted in the Dungannon and South Tyrone Area Plan 2010. The surrounding land could be described as poor quality agricultural or peatland. The site is part of Kanes Rampart and is located a short distance	

to the East of the settlement limits of Clonoe. There is a scattering of single dwellings located mainly to the SE.

### **Description of Proposal**

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

### **Deferred Consideration:**

This application was at the planning committee meeting in February 2019 with a recommendation to refuse and it was deferred for an office meeting with the Planning Manager.

An office meeting was held, with the Planning Manager on 14 February 2019. A meeting was also held with the Head of Development Management, Francie Molloy MP and Cllr Niamh Doris on 19 December 2019.

At the meetings and since, additional information was presented in relation to the applicants farming interests and these are:

- the applicant owns 2.5ha of land here,
- 0.4ha is the applicants house, garage and grounds
- 1.3ha is in grass, the applicant has provided receipts to say that since 2013 the applicant has been paying a contractor to cut the grass and bale it, and that he has been selling the bales
- 0.80ha is bog and the applicant has pens here where it is stated he rears pheasants and partridges for the local gun club, this has been going on for the past 10 years and they have been providing over 250 birds annually for the gun club

Francie Molloy MP advised the cutting and selling of silage has been accepted as farming before by the Committee under application LA09/2016/1487/O for McCann. In that case the application was recommend for refusal as the applicant did not have a business ID and had provided information about hedge cutting, clearing drains and cutting grass. Following discussion at the planning committee it was accepted that it was an active farm and the application was approved. (see appendix 1 for extract of minutes of Committee Meeting 03.07.2017).

A dwelling on a farm is considered against Policy CTY10 in PPS21 and sets out 3 criteria that must be met:

- a) that the farm business is currently active and has been established for at least 6 years

The applicant does not have a business ID with DEARA. Agricultural activity is defined in the policy as the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, or maintaining the land in good agricultural and environmental condition.

The applicant has provided information to explain activities they carry out on the area of bog they own. The applicant has advised they raise game birds in pens on the bog and these can be seen in aerial photographs since 2010. They have provided information from

Derrylaughan Game Club that advises Mr Campbell and his son rears approx. 200 pheasants and 50 partridges for them annually and have done so since 2010. The rearing of the birds would not, in my opinion, constitute farming activity under the definition of the policy and would not itself constitute farming.

In support of this application they have presented receipts and a letter from an Agri and Ground Works Contractor that they say relates to the cutting and baling of grass on 3 acres at Kanes Rampart for S&O Campbell. The receipts indicate that annually they have yielded between 28 and 35 bales from the 3 acres. Other receipts are provided that state O & S Campbell have sold those bales on an annual basis. It is not in dispute that Mr Campbell owns the field and that it has been set out in grass. Aerial photograph attached in the appendix show that the land has been set out in grass since at least 2007 and it appears to be kept cut in the aerial photos dated 2010, 2013, 2016 and one provided by the applicant dated 2019. This appears consistent with the information that has been submitted.

It is noted in the members comments in consideration of application LA09/2016/1487/O that grass needs to be fertilised and that this constitutes farming. In view of the information submitted I am persuaded that an income is derived from farming with the sale of the baled grass. As such I consider this is an active and established farm for the purposes of the policy.

- 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.

I have checked the land that the applicants own here and I am content this part of the policy is met.

- 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.

The site is beside and behind the applicants dwelling and garage and there are a number of pens in the bog to the south of the site. The current access to the site is along the private lane to the north and I consider a dwelling beside the existing buildings would meet this policy in terms visually linking with existing buildings.

I consider a single storey low elevation dwelling on the site beside the existing dwelling will respect the character of the area and will use the existing single storey dwelling to integrate into the landscape. land has been let out to another farmer ( farming case where the potential for a farming case was discussed and additional information was sought.

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

3. The dwelling hereby approved shall have a ridge height not exceeding 6m above the level of the existing ground.

Reason~: To respect the character of the surrounding area and aid integration.

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

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

**Signature(s):**

**Date**

APPENDIX  
Land owned by the applicant





2007 Ortho



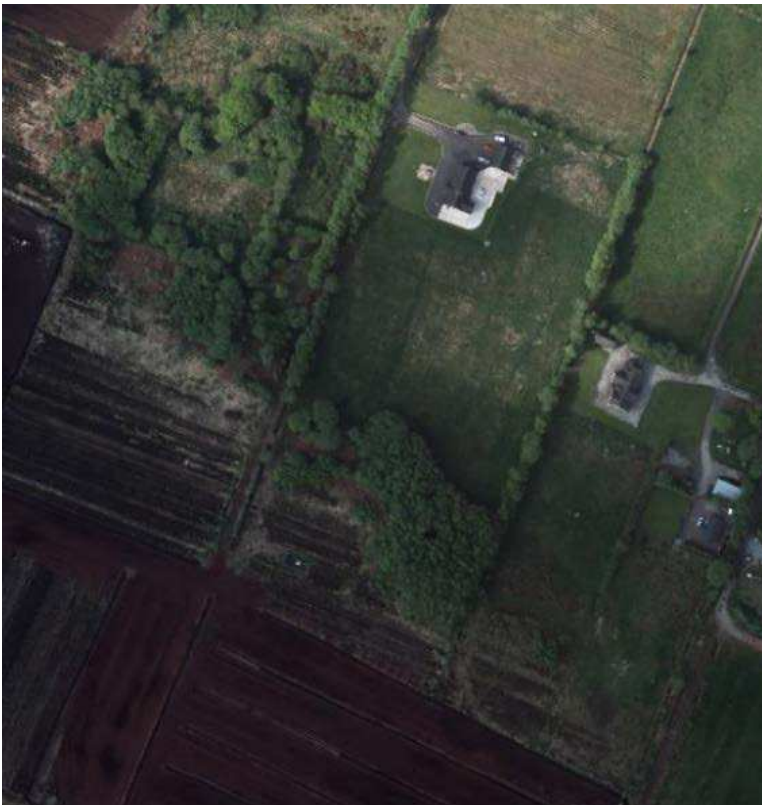
2010 ortho



2013 Ortho



Ortho 2016





Most recent ortho



## **Extract from Minutes of Planning Committee Meeting 07.03.2017**

### **LA09/2016/1487/O Dwelling and garage at 100m SE of 97a Derryloughan Road, Dungannon for Patrick McCann**

*Councillor Reid left at 8.17 pm*

The Head of Development Management presented a report on planning application LA09/2016/1487/O advising that it is recommended for refusal.

The Chair advised the committee that a request to speak on the application had been received and invited Councillor Molloy to address the committee.

Councillor Molloy advised that Mr McCann was seeking approval for a site and dwelling for his daughter and son-in-law as he has no sons. He said that the reasons for this was that his son-in-law could help on the farm and although he has a herd-book there was no stock as he was unable to have any due to health reasons.

Councillor Molloy said that this was a supplementary holding in the rural community and would be resourcing back into an income business again where Mr McCann's family intend to settle for the future.

Councillor Gildernew enquired if this was the Planners or DAERA who decided that this wasn't a farm.

The Planning Manager advised that when the Officer was looking at this application, they would have taken into consideration whether the farm was actively used or not i.e. keeping animals and maintaining the land etc. and there is evidence from the photographs provided that grass has been cut and hay baled which indicates it's active. Although there is no business number, there is a herd number until Mr McCann went into declining health. He said that he knows of cases where the Planning Department have accepted herd numbers in the past.

The Planning Manager felt that it would be reasonable for this application to be considered as there's still some extent of activity on the farm.

Councillor McPeake agreed with the Planning Manager and felt that there was enough evidence to prove that this was an active farm and that this application should be approved.

The Chair, also agreed that this was an active farm as he said that grass doesn't grow without fertiliser which indicates other types of farming taking place also.

Councillor Gildernew said that he was disheartened to be sitting here tonight discussing a farmer's right to a site and felt that things are hard enough for farmers as it was.

The Planning Manager advised members that the Planning Department's hands are tied by the rules of Stormont.

Proposed by Councillor McPeake

Seconded by Councillor Gildernew and

**Resolved:** That planning application LA09/2016/1487/O be approved subject to conditions set out by the Planning Manager.



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

## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1458/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling	<b>Location:</b> 50m South West of 55 Kanes Rampart Derrylaughan Coalisland
<b>Referral Route: Contrary to policy</b>	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Owen Campbell 55 Kanes Rampart Derrylaughan Coalisland	<b>Agent Name and Address:</b> Sam Smyth Architecture Unit 45D Dungannon Enterprise Centre 2 Coalisland Road Dungannon BT71 6JT
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice

#### Representations:

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

#### Summary of Issues

None

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

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

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

### **Description of Proposal**

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

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

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

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

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. With regards to this application. Planning permission

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

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

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

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

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

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

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

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

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

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

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

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

DFI Roads were consulted and responded;

"The proposed development directly adjoins a private laneway.

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

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

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

Refusal recommended

#### Neighbour Notification Checked

Yes

#### Refusal Reasons

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

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

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

**Signature(s)**

**Date:**



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





Comhairle Ceantair  
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District Council

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Melvin Bowman	
<b>Application ID:</b> LA09/2019/0423/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Retention of single storey domestic garage, storage and annex building, forming a garage, playroom, storage area, amenity/hobby space and utility and special circumstances annex to be used in association with the existing dwelling house. Proposal to include an increase in the curtilage of the site.	<b>Location:</b> 63a Ballymacombs Road Bellaghy BT45 8JW.
<b>Applicant Name and Address:</b> Donal O Cearnaigh 63a Ballymacombs Road Bellaghy	<b>Agent name and Address:</b> Newline Architect 48 Main Street Castledawson BT45 8AB
<b>Summary of Issues:</b> Design / scale of proposal and personal circumstances presented insufficient to satisfy case made of annex relating to personal circumstances.	
<b>Summary of Consultee Responses:</b>	
<b>Characteristics of the Site and Area:</b>  <p>The application site is located at 63a Ballymacombs Road and is approx. 3 miles SW of the village of Bellaghy. On the site at present is a modest bungalow and an unauthorised outbuilding which is currently being used for the storage of domestic items. The dwelling is located mid-way down an un-adopted laneway which comes directly off the Ballymacombs Road and is used to access several other dwellings. A band of mature trees and thick hedgerow defines the entire Western and Southern boundaries. The remaining site boundaries are void of any vegetation and are defined by wooden fencing.</p>	

This area is rural in character with an undulating topography and a dispersed settlement pattern. It is not subject to any area plan designations or zonings.

### **Description of Proposal**

This is a full application for the retention of a single storey domestic garage and storage building, forming a garage, playroom, storage area, amenity/hobby space and utility area to be used in association with the existing dwelling house. The proposal also includes an increase in the curtilage of the site. A recent amendment to the description in Mar 2020 introduces an intended use of part of the building as an annex (for dependent relative).

### **Deferred Consideration:**

Having been deferred in Sept 2019 an office meeting was held on the 12 Sept 2019 at which the applicant / applicants family members / agent and Cllr McGuigan were in attendance

The primary area of discussion was around why the structure had been built in the form / design that it had which replicated more a bungalow. Whilst no clear explanation was provided for this the discussion moved onto what the building was being used for. The applicant states that the building provided necessary domestic storage space along with area for fishing gear , camping equipment and an area for painting / artwork space. This appears to accord with photographs on file by the case officer and with my observations during my site visit on 21st Nov 2019. Discussions were had around the Council restricting future Permitted development rights should the application be approved and there was no issue with this, so long as the main dwelling was not affected. The applicant was clear in that there was no issue either with conditions limiting the use to ancillary / domestic purposes associated with No 63a. There were offers to further amend the design to make it look less like a dwelling. It was stated that some farm activity on lands here required the occasional storage of agricultural equipment within the building and that perhaps part agricultural storage could also be considered.

On the matter of objections, specifically the Air b&b claims made, the applicant indicated that yes the existing dwelling (63a) had been listed but this was before the family moved in. There was no intended accomodation of this nature for the adjoining building either.

Having visited the site in Nov 2019 i discussed the option of amending the material / external facades of the building as suggested on site by the applicant with the Planning Manager. The established position previously reiterated that the building should now (before a decision) be reduced to match the offer to do this earlier in 2019.

Having advised the applicant of this on the 9th Jan 2020 the applicant again raised other potential Policy options, again referencing agricuLtural use to which i referred to the key requirements of Policy CTY12 of PPS21. The applicant then suggested looking at using part of the building for residential use. I explained that a very clear case would be required to be made particularly if this involved an independant living unit in the countryside. If a case was to be made for a dependant relative to occupy even part of the building, it was explained that again a specific need would need to be set out for this and that the annex to PPS7 would apply. He also asked about the possibility of reusing self catering use of the main house and then moving the family into the new building as a separate dwelling. It was my view that this would not overcome Policy CTY1 requirements of PPS21.

On the 16 Mar 2020 the agent formally amended the proposal to include external alterations along with part use of the building as an annex for a dependant relative. The relative is the applicants father. Medical information is submitted to support this case (which due to medical confidence and personal nature of this) i cannot expand upon within my report. Members could choose to hear any

further expansion on this in close session. Having considered the content and specifics of the case the following initial concerns remain in my view.

- that the annex as a result of being retrospective in nature is separate from the dwelling. Current PPS7 guidance on this type of development states:

I have highlighted (in bold) the primary concern with the part solution presented by the applicant to utilise part of the building.

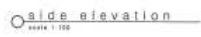
*Ancillary Accommodation (PPS7 addendum)*

2.8 There may be occasions when people wish to provide ancillary accommodation to provide additional living space for elderly relatives or to meet a variety of other personal and domestic circumstances.

2.9 To be ancillary, accommodation must be subordinate to the main dwelling and its function supplementary to the use of the existing residence. Such additional accommodation should normally be attached to the existing property and be internally accessible from it, although a separate doorway access will also be acceptable.

2.10 Where an extension to the existing house is not practicable and it is proposed to convert and extend an existing outbuilding, planning permission will normally depend on the development providing a modest scale of accommodation. The purpose of this is to ensure the use of the building as part of the main dwelling. **The construction of a separate building, as self contained accommodation, within the curtilage of an existing dwelling house will not be acceptable**, unless a separate dwelling would be granted permission in its own right. Other proposals for ancillary residential use which are clearly incidental to the enjoyment of the property, such as a garden room or a gazebo, will be treated on their merits within the terms of the policy.

2.11 In all cases the Department will need to be satisfied that the proposed accommodation will remain ancillary to the main residential property and careful consideration will be given to the impact of proposals on neighbouring dwellings. Where permission is granted it will be subject to a condition that the extension will only be used for ancillary residential purposes in connection with the main dwelling, and not as a separate unit



1. roof- flat profile stainless steel
2. rain goods- uPVC
3. windows- uPVC windows
4. garage walls- timber slats (vertical)
5. annex walls- smooth render painted
6. door- hardwood







Whilst i appreciate the case made deals with the ability to use the as built structure, It remains largely unaddressed why other options referred to in Part 2.9 / 2.10 in terms of a connection with No 63a aren't practicable to meets the needs presented. The external alterations include the introduction of timber cladding to the side and gable elevations.

I acknowledge that the level of public interest in terms of awareness of the development is low given its location, and that no further objections have been received beyond those considered in the original report to the Committee, nonetheless i have difficulty in reconciling the case made, the physical appearance and scale of the proposal with current policy and guidance.

Given this it is my view that permission is refused as previously recommended with the reasons adapted as below to reflect the annex for dependant relatives aspect.

### **Reasons for Refusal:**

1. The proposal fails to comply with Policy EXT 1 of the Addendum to PPS 7 in that its scale and massing are not subordinate to the main dwelling house at number 63a Ballymacombs Road, nor has the case made relating to dependant relative accommodation satisfies the requirements of this Policy. The design and appearance of the building reflects a dwelling rather than a domestic store/garage and therefore is additionally contrary to Policy EXT1 as it fails to provide the visual appearance of being an integral part of the property both functionally and visually.

2. 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): M.Bowman**

**Date 16th Oct 2020**



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 <sup>th</sup> August 2019	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0423/F	<b>Target Date:</b> 10 <sup>th</sup> July 2019
<b>Proposal:</b> Retention of single storey domestic garage and storage building, forming a garage, playroom, storage area, amenity/hobby space and utility area to be used in association with the existing dwelling house. Proposal to include an increase in the curtilage of the site.	<b>Location:</b> 63a Ballymacombs Road, Bellaghy, BT45 8JW.
<b>Referral Route:</b> 1 Objection received – signed off by 5 individuals	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Donal O Cearnaigh 63a Ballymacombs Road Bellaghy	<b>Agent Name and Address:</b> Newline Architect 48 Main Street Castledawson, BT45 8AB
<b>Executive Summary:</b> Despite the submission of a reduced scheme, which would require the demolition of a section of the existing unauthorised building, it is recommended that this application be refused as it fails to comply with policy EXT 1 of the Addendum to PPS 7. Its scale is not subordinate to the main dwelling and its design and appearance reflects a dwelling rather than a domestic store and garage. Furthermore, the proposal cannot be considered as a dwelling under PPS 21 as no justification has been provided in line with the provisions of Policy CTY 1 of PPS 21.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations

Consultation Type	Consultee	Response
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### Representation

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

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. 5 neighbouring properties have been notified of the proposal. To date there has been 1 objection received, signed off by 5 third parties.

Issues raised are summarised as follows:

- Concern about the scale of the building
- Concern that it will be used as 2 separate holidays lets
- Increased traffic
- Concern about family safety from strangers using the property
- No sightlines
- Inadequate sewers
- Proper Neighbour Notification not carried out
- Query as to whether the applicant owns all assets listed in supporting documentation

- Design concerns
- The building does not constitute permitted development
- Request that the building be demolished

The applicant has reduced the scale and massing of the building. Neighbours and objectors have been notified (by letter) of this reduced scheme. It can be conditioned that it be used for domestic purposes only. No intensification is proposed and as such there is no requirement for consultation with DFI Roads and there is no requirement for improved splays. Concern about family safety from strangers has not be substantiated. This proposal is for a domestic garage and given the nature of the proposal I have no concerns about sewer capacity. Neighbour notification letters should be issued to occupied properties which are within a 90m radius of the site boundary provided they adjoin the application site. I am satisfied that neighbour notification has been carried out correctly and in line with procedure. The owner of the assets listed is not a material planning consideration. Design is considered further in this report. This is a full planning application and is not a Certificate of Lawful Development therefore compliance with Permitted Development Legislation is not relevant in this assessment. There is current live enforcement case on this site and it is being held pending consideration of this application.

Having fully considered all material planning concerns raised in this objection letter it is my opinion that none of the issues raised would merit refusal of this application.

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

The application site is located at 63a Ballymacombs Road and is approx. 3 miles SW of the village of Bellaghy. On the site at present is a modest bungalow and an unauthorised outbuilding which is currently being used for the storage of domestic items. The dwelling is located mid-way down an un-adopted laneway which comes directly off the Ballymacombs Road and is used to access several other dwellings. A band of mature trees and thick hedgerow defines the entire Western and Southern boundaries. The remaining site boundaries are void of any vegetation and are defined by wooden fencing.

This area is rural in character with an undulating topography and a dispersed settlement pattern. It is not subject to any area plan designations or zonings.

### **Description of Proposal**

This is a full application for the retention of a single storey domestic garage and storage building, forming a garage, playroom, storage area, amenity/hobby space and utility area to be used in association with the existing dwelling house. The proposal also includes an increase in the curtilage of the site.

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

#### **Relevant Planning History/Enforcement History**

LA09/2018/0153/CA - 63a Ballymacombs Road, Bellaghy. Unauthorised extension of residential curtilage, infilling of the land and unauthorised development of a building within this area.

This proposal will be considered in line with the following Documents:

SPPS - Strategic Planning Policy Statement for Northern Ireland  
Magherafelt Area Plan 2015  
Mid Ulster District Council Draft Plan Strategy 2030  
Addendum to PPS 7 – Residential Extensions and Alterations  
PPS 21 – Sustainable Development in the Countryside

### **SPPS - Strategic Planning Policy Statement for Northern Ireland**

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. Having carried out a site inspection and a desk-top constraint search of this site and area, I am aware that this site is not an area of acknowledged importance in terms of archaeology and/or built heritage. The closest third party dwelling to the existing building is located approx. 40m to the SW. Given this separation distance and the presence of established boundary treatment running along the SW boundary of the site I am satisfied that there will be no negative impact on adjacent residential amenity.

### **Magherafelt Area Plan 2015**

This site is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015 and is not subject to any Area Plan designations or zonings. As such, existing and relevant planning policy must be applied in this assessment (ie) Addendum to PPS 7.

### **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 Feb 2019. Policy GP1 - General Principles Planning Policy is applicable to this application. Whilst little weight can be attributed to the Draft Plan Strategy, it should be noted that the proposal does not raise any conflict with the Policy GP1.

### **Addendum to PPS 7 – Residential Extensions and Alterations**

Policy EXT 1 permits extensions or alterations to a residential property where certain criteria are adhered to.

**The scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area.**

Annex A of EXT 1 (Paragraph A11) advises that Buildings within the residential curtilage, such as, garages, sheds and greenhouses can often require as much care in siting and design as works to the existing residential property. They should be subordinate in scale

and similar in style to the existing property, taking account of materials, the local character and the level of visibility of the building from surrounding views.

This proposal involves an extension to the residential curtilage. I have no concerns with this extension as it will not harm the rural character of this area.

The revised scheme submitted is an attempt to reduce the overall scale and massing of the existing building however it will not be subordinate in scale to the main dwelling house.

Its design gives it the appearance of a dwelling, mainly due to the glazed bay window and patio doors.







**The proposal does not unduly affect the privacy or amenity of neighbouring residents.**

The closest third party dwelling to the existing building is located approx. 40m to the SW. Given this separation distance and the presence of established boundary treatment running along the SW boundary of the site I am satisfied that there will be no negative impact on adjacent residential amenity in terms of overlooking, loss of light or overshadowing. The nature of the proposal will not give rise to any unacceptable noises or emissions.

**The proposal will not cause the unacceptable loss of, or damage to trees or other landscape features.**

The increase in domestic curtilage extends into an adjacent agricultural field and does not result in a loss of such features. Existing boundary treatment can be conditioned to be retained.

**Sufficient space remains within the curtilage of the property for the parking and manoeuvring of vehicles.**

The proposal involves an increase in the domestic curtilage. Adequate in-curtilage space remains for parking and manoeuvring. No intensification is expected given the nature of the proposal.

**PPS 21 – Sustainable Development in the Countryside**

As this building, based on its scale, massing and design, is a dwelling in the countryside it should be considered under this policy. No justification has been provided for it to be considered under Policy CTY 1 of PPS21.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Despite the submission of a reduced scheme, which would require the demolition of a section of the existing unauthorised building, it is recommended that this application be refused as it fails to comply with policy EXT 1 of the Addendum to PPS 7. Its scale is not subordinate to the main dwelling and its design and appearance reflects a dwelling rather than a domestic store and garage. Furthermore, the proposal cannot be considered as a dwelling under PPS 21 as no justification has been provided in line with the provisions of Policy CTY 1 of PPS 21.

**Refusal Reasons:**

1. The proposal fails to comply with Policy EXT 1 of the Addendum to PPS 7 in that its scale and massing are not subordinate to the main dwelling house at number

63a Ballymacombs Road. Its design and appearance reflect a dwelling rather than a domestic store/garage.

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

**Signature(s)**

**Date:**



<b>ANNEX</b>	
<b>Date Valid</b>	28th March 2019
<b>Date First Advertised</b>	11th April 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 57 Ballymacombs Road, Bellaghy, Londonderry, BT45 8JW The Owner/Occupier, 59 Ballymacombs Road, Bellaghy, Londonderry, BT45 8JW The Owner/Occupier, 63 Ballymacombs Road Bellaghy Londonderry The Owner/Occupier, 65 Ballymacombs Road,Bellaghy,Londonderry,BT45 8JW W Cassidy Ballymacombs Road,Bellaghy,BT45 8JW	
<b>Date of Last Neighbour Notification</b>	11th June 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2019/0423/F Proposal: Retention of single storey domestic garage and storage building, forming a garage, playroom, storage area, amenity/hobby space and utility area to be used in association with the existing dwelling house. Proposal to include an increase in the curtilage of the site. Address: 63a Ballymacombs Road, Bellaghy, BT45 8JW., Decision: Decision Date:  Ref ID: H/2002/0091/O Proposal: Site Of Dwelling Address: Approx 200 Metres North West Of 55 Ballymacombs Road, Bellaghy Decision: Decision Date: 14.05.2002  Ref ID: H/2002/1174/O Proposal: Site Of Dwelling And Garage Address: 155m North West of 55 Ballymacombs Road, Bellaghy.	

Decision:  
Decision Date:

Ref ID: H/2006/0528/F  
Proposal: Proposed extension and alterations to dwelling  
Address: 'The Barn' Sheephill Farm, 63 Ballymacombs Road, Bellaghy  
Decision:  
Decision Date: 09.04.2008

Ref ID: H/1998/0361  
Proposal: CONVERSION OF BARN TO HOLIDAY ACCOMMODATION  
Address: ADJACENT TO 63 BALLYMACOMBS ROAD BELLAGHY  
Decision:  
Decision Date:

Ref ID: H/1992/0299  
Proposal: 11 KV O/H LINE (BM 1302 91A)  
Address: BALLYMACOMBS MBS BELLAGHY  
Decision:  
Decision Date:

Ref ID: H/2001/0550/O  
Proposal: Proposed Site Of Private Dwelling  
Address: Approx. 200m NW of 55 Ballymacombs Road, Bellaghy  
Decision:  
Decision Date: 30.01.2002

Ref ID: H/2004/0918/RM  
Proposal: Dwelling and Garage.  
Address: 155m North West of 55 Ballymacombs Road, Bellaghy.  
Decision:  
Decision Date: 21.12.2004

Ref ID: H/2010/0597/F  
Proposal: Single Storey Rear Extension To Dwelling  
Address: 57 Ballymacombs Road, Bellaghy,  
Decision:  
Decision Date: 10.02.2011

Ref ID: H/1976/0117  
Proposal: REPLACEMENT FARM BUNGALOW  
Address: SHEEPHILL FARM, BALLYMACOMBE, BELLAGHY  
Decision:  
Decision Date:

Ref ID: H/1984/0256  
Proposal: MV O/H LINE (BM 6613)  
Address: BALLYMACOMBS, BELLAGHY, MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/1977/0035  
Proposal: M.V O/H LINES (BM 1283)  
Address: BALLYMACOMBS BEG, MAGHERAFELT  
Decision:  
Decision Date:

**Summary of Consultee Responses**

None carried out

**Drawing Numbers and Title**

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

Drawing No. 02 Revision 1  
Type: Site Layout or Block Plan  
Status: Submitted

Drawing No. 03 Revision 1  
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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Melvin Bowman	
<b>Application ID:</b> LA09/2019/0539/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed site for a dwelling and garage.	<b>Location:</b> 35m South of 98 Desertmartin Road Magherafelt
<b>Applicant Name and Address:</b> Mr John Tohill 61 Ballyronan Road Magherafelt	<b>Agent name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b> Whether the proposal satisfies Policy CTY8 (infill development)	
<b>Summary of Consultee Responses:</b> No objections	
<b>Characteristics of the Site and Area:</b>  <p>The site is located approximately 0.7km west of the development limits of Magherafelt from such the site is located within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as 35m South of 98 Desertmartin Road, Magherafelt, in which the red line covers an agricultural field in which appeared upon site visit to be overgrown and not well maintained. I note that all boundaries are a mix of mature trees and hedging along all boundaries. The surrounding land is defined by predominately agricultural land uses, interspersed with single dwellings.</p> <p>Relevant planning history  H/2004/0038/O - Site of retirement farm dwelling. - Mullaghboy Hill, Adjacent to 98 Desertmartin Road, Magherafelt. Appeal dismissed.</p> <p>2006/A0359 - Site of retirement farm dwelling. - Mullaghboy Hill, Adjacent to 98 Desertmartin Road, Magherafelt. Appeal dismissed.</p>	

**Representations**

Two neighbour notifications were issued. No objections were received in connection with this application.

**Description of Proposal**

This is an outline application for a proposed site for a dwelling and garage. The site is located 35m South of 98 Desertmartin Road, Magherafelt.

**Deferred Consideration:**

This application was presented to Committee as a refusal as a farm dwelling, in October 2019, and was subsequently deferred for an office meeting which was held with the Area Planning Manager. This office meeting was held on 10th October 2019. Further evidence was to be submitted in order to demonstrate there is an active and established business. Invoices were forwarded on 26 Nov 2019. These were not considered sufficient to prove an active and established farm business in line with CTY10.

The principle planner visited the site on 24th Jan 2020 to investigate the potential for an infill opportunity on the site. Policy CTY8 states 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. The issue with this site is there is no road frontage for the buildings on the corner on Roshure Road.

At the Feb 2020 Planning Committee members decided to visit the site. The site visit took place on the 27th Aug 2020 with Cllrs Mallaghan, Colvin, D McPeake, S McPeake and Cllr McKinney. What was observed was the degree to which the new 2st dwelling and garage and its front garden area in particular appear to abut both the Mullaghboy Hill road and Roshure Road. It was observed that this gave the appearance of the continuance of build development around the corner allowing the application site to be considered more favourably as being a gap on this frontage. Whilst the ability to clearly view 2 buildings within the curtilage of No 98 is lessened by roadside vegetation there nonetheless appears to be 2 buildings separated and having a frontage onto the road.

In considering how the new dwelling recently completed and now occupied at the junction displays its curtilage to part of the Roshure Road I am of the view that the application site can utilise it as

the third building. Allowing a dwelling will not erode rural character and the site, in accessing via the minor road, will be able to retain the roadside vegetation to its western edge

I recommend approval subject to conditions.

**Conditions.**

1. Ridge height of 7.5m from FFL.
2. Submission of plan showing existing and proposed level at RM stage.
3. Retention of existing boundary vegetation.
4. Access in accordance with RS1 form onto Mullaghboy Hill Road.

**Signature(s): M.Bowman**

**Date** 19th Oct 2020





### Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2019/0539/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> 35m South of 98 Desertmartin Road Magherafelt
<b>Applicant Name and Address:</b> Mr John Tohill 61 Ballyronan Road Magherafelt	<b>Agent name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b>  Refusal Contrary to CTY1, CTY 10 and CTY8 of PPS 21.	
<b>Summary of Consultee Responses:</b>  No objections	
<b>Characteristics of the Site and Area:</b>  The site is located approximately 0.7km west of the development limits of Magherafelt from such the site is located within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as 35m South of 98 Desertmartin Road, Magherafelt, in which the red line covers an agricultural field in which appeared upon site visit to be overgrown and not well maintained. I note that all boundaries are a mix of mature trees and hedging along all boundaries. The surrounding land is defined by predominately agricultural land uses, interspersed with single dwellings.  Relevant planning history	

H/2004/0038/O - Site of retirement farm dwelling. - Mullaghboy Hill, Adjacent to 98 Desertmartin Road, Magherafelt. Appeal dismissed.

2006/A0359 - Site of retirement farm dwelling. - Mullaghboy Hill, Adjacent to 98 Desertmartin Road, Magherafelt. Appeal dismissed.

### **Description of Proposal**

This is an outline application for a proposed site for a dwelling and garage. The site is located 35m South of 98 Desertmartin Road, Magherafelt.

### **Deferred Consideration:**

This application was presented to Committee as a refusal as a farm dwelling, in October 2019, and was subsequently deferred for an office meeting which was held with the Area Planning Manager. This office meeting was held on 10th October 2019. Further evidence was to be submitted in order to demonstrate there is an active and established business. Invoices were forwarded on 26<sup>th</sup> Nov 2019. These were not considered sufficient to prove an active and established farm business in line with CTY10 and so the policy criteria was still not being met.

The principle planner visited the site on 24th Jan 2020 to investigate the possibility of an infill opportunity on the site. CTY8 states 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.

The newly constructed dwelling, located at the junction of Mullaghboy Hill Road and Roshure Road, has a dual frontage on these two roads, but doesn't share a continuous frontage along with the others being relied on for the Desertmartin Road frontage and therefore this requirement of policy is not being met. The site does not meet the criteria for infill, in that there is not a substantial and continuously built up frontage

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.

Refusal is Recommended for the following reasons below.

### **Refusal Reasons**

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not a substantial and continuously built up frontage and the proposal would, if permitted, result in the extension of ribbon development along Desertmartin Road.

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



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0539/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for a dwelling and garage based on policy CTY10 (dwellings on a farm)	<b>Location:</b> 35m South of 98 Desertmartin Road Magherafelt
<b>Referral Route:</b>  To Committee – Refusal – Contrary to CTY 10 of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mr John Tohill 61 Ballyronan Road Magherafelt	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

To Committee – Refusal – Contrary to CTY 10 of PPS 21.

### Characteristics of the Site and Area

The site is located approximately 0.7km west of the development limits of Magherafelt from such the site is located within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as 35m South of 98 Desertmartin Road, Magherafelt, in which the red line covers an agricultural field in which appeared upon site visit to be

overgrown and not well maintained. I note that all boundaries are a mix of mature trees and hedging along all boundaries. The surrounding land is defined by predominately agricultural land uses, interspersed with single dwellings.

#### Relevant planning history

H/2004/0038/O - Site of retirement farm dwelling. - Mullaghboy Hill, Adjacent to 98 Desertmartin Road, Magherafelt. – Appeal dismissed.

2006/A0359 - Site of retirement farm dwelling. - Mullaghboy Hill, Adjacent to 98 Desertmartin Road, Magherafelt. – Appeal dismissed.

#### Representations

One neighbour notification was sent out however no representations were received in connection with this application.

### Description of Proposal

This is an outline application for a proposed site for a dwelling and garage based on policy CTY10 (dwellings on a farm). The site is located 35m South of 98 Desertmartin Road, Magherafelt.

### Planning Assessment of Policy and Other Material Considerations

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

#### Magherafelt Area Plan 2015

#### Strategic Planning Policy Statement (SPPS)

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

#### PPS 21: Sustainable Development in the Countryside

#### CTY 1- Development in the Countryside

#### CTY 10 – Dwellings on Farms

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

#### CTY14 – Rural Character

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

#### PPS 15 – Planning and Flood Risk

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

area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety’.

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

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

(a) the farm business is currently active and has been established for at least 6 years;  
 (b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and

(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane.

Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group.

With respect to (a) a consultation was sent to DAERA, in their response that the farm business identified in the P1C has been in existence for more than 6 years however went on to state that there has been no claims in any of the previous 6 years. It is noted within the P1C and accompanying plans that the entire holding is used as a golf course in that no additional lands at this location is available. This information was discussed at group and it was concluded that whilst it is acknowledged that there is income coming from the golf course that this is seen as commercial and not deemed to be agricultural activity therefore does not demonstrate as farm activity of the farm business. In addition to this, it was noted during group that the proposed site did not appear during the site visits to be well maintained as it appeared overgrown. From this it has been concluded that the farm business does not appear to be currently active and whilst it is established for the relevant period it fails under this criteria.

With respect to (b) and upon a review of the history of the farm business, I note that a refusal has been issued on the proposed site however it does appear that there are no development opportunities have been sold off in the previous ten years.

With respect to (c), I note that the proposed site is located some distance away from the registered address of the farm business and that there are no buildings associated with the farm business at the site. I note that all lands owned around the registered farm address is characterised by a golf course with all other buildings on the farm being associated with golf course business. From this, a site elsewhere would be best option and that an appropriately designed dwelling would only be accepted. The policy does state where practicable that access should be taken from an existing laneway, I note that given the location a new access is needed, in that the intention is to upgrade an existing agricultural access which is deemed acceptable. From this as the application has failed to demonstrate that there is an active farm business therefore it is deemed to fail under CTY 10.



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 an outline application in which the exact design and siting details have not been submitted, however I am content that an appropriately designed dwelling would not appear as a prominent feature in the landscape. I am of the opinion that as much of the existing landscaping should be retained where possible and supplemented with additional landscaping to aid integration. Therefore a landscaping plan will be necessary in any 'Reserved Matters' application. Due to the surrounding landform and surrounding development I feel it necessary to restrict any dwelling on the site to have a ridge height of no more than 6.5m above finish floor. From this I am content that the application is able to comply with CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As stated that an appropriately designed dwelling would not appear as visually prominent. I am of the opinion that the proposed dwelling would not result in a suburban style build-up of development when viewed with existing and approved buildings. I note that that a dwelling located within the site will not lead to future development through infilling. From all of this it has been agreed that the application is able to comply with CTY 14 on balance.

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.  
I have no flooding, ecological or residential amenity concerns.

#### Other policy and material considerations

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

DFI Roads were consulted and responded confirmed that DfI Roads do not offer an objection subject to the conditions as per attached RS1 Form being complied with at Reserved Matters Stage.

##### PPS 15 – Planning and Flood Risk

A consultation was sent to Rivers Agency as it was indicated that the site may be subject to flooding, in their response they stated that an undesignated watercourses lies adjacent to the southern and western boundaries of the site. Under 6.32 of the policy a minimum 5m maintenance strip is required. The maintenance strip should be level, marked up on all layout drawings and be protected from impediments (including tree planting), land raising or future unapproved development by way of a planning condition. Went on to say that DfI Rivers reservoir inundation map indicates that the application site lies within the Reservoir inundation zone of Mullaghboy Reservoir. Since March 2016, PPS15 FLD5 has applied to all NI Water Service Reservoirs as it was then that DfI Rivers, following receipt of information from NI Water on the capacity of Service Reservoirs for flood mapping purposes, considered them to be Controlled Reservoirs. NI Water has recently advised that it is reviewing the volume of water that its Service Reservoirs are capable of holding above the natural level of any part of the surrounding land. This review will take several months and, until it is completed, DfI Rivers has

decided that in the absence of this information, none of NI Water's Service Reservoirs are Controlled Reservoirs under policy. This information has been circulated to the Planning Authority. As a result of this new information I would advise that, as of 28/11/18, Revised PPS 15 – FLD 5 no longer applies to this Planning application.

I have no ecological, flooding or residential amenity concerns. I note that no other policy consideration was presented to the Council.

As the application has failed under CTY 10 of PPS 21 I must therefore recommend refusal for the application.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

To Committee – Refusal – Contrary to CTY 10 of PPS 21.

**Reasons for Refusal:**

1.The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	16th April 2019
<b>Date First Advertised</b>	2nd May 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 98 Desertmartin Road Magherafelt Londonderry	
<b>Date of Last Neighbour Notification</b>	30th April 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: H/1979/0177 Proposal: SITE OF BUNGALOW Address: MOTALEE, MAGHERAFELT Decision: Decision Date:  Ref ID: H/1988/0386 Proposal: SITE OF DWELLING Address: ADJ TO 98 DESERTMARTIN ROAD MAGHERAFELT Decision: Decision Date:  Ref ID: H/2004/0038/O Proposal: Site of retirement farm dwelling. Address: Mullaghboy Hill, Adjacent to 98 Desertmartin Road, Magherafelt. Decision: Decision Date:  Ref ID: LA09/2019/0539/O Proposal: Proposed site for a dwelling and garage based on policy CTY10 (dwellings on a farm) Address: 35m South of 98 Desertmartin Road, Magherafelt, Decision: Decision Date:	

<b>Summary of Consultee Responses</b>
<b>Drawing Numbers and Title</b>
Drawing No. 01 Type: Site Location Plan Status: Submitted  Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:



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District Council

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2019/1418/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Site for dwelling & domestic garage. Based on Policy CTY10 (dwelling on a farm)	<b>Location:</b> Approx 60m NW of 124 Lurgylea Road Dungannon
<b>Applicant Name and Address:</b> Mr Christopher Kelly 53 Glenenny Road Carrickmore BT79 9HJ	<b>Agent name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b> Whether the proposed site visually links with a group of buildings on the farm.	
<b>Summary of Consultee Responses:</b> DEARA – single farm payment claimed on land  DFI Roads – sight lines 2.4m x 70.0m to be provided at junction for safe access	
<b>Characteristics of the Site and Area:</b> The site is within 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 and is characterised predominantly by single detached dwellings, farm complexes and agricultural fields. There is minimal development pressure in the area from the development of single dwellings and there are relatively few dwellings under construction or recently built along this stretch of public road.	

The application site is a cut-out of an existing agricultural field and is 0.45ha in size, with a relatively flat topography. The site is accessed off an existing laneway and is set back from the public road by 190m. To the south of the site are four dwellings at No. 124, 126, 126a and 130, and a number of outbuildings. The farm dwelling is a single storey building at No. 124 which has finishes of grey pebbledash and slate roof. At the site itself there is a post and wire fence along the eastern boundary and a 1m high hedge along the northern and southern boundaries.

### **Description of Proposal**

This is a full application for a dwelling and domestic garage on a farm.

### **Deferred Consideration:**

Members are advised this application was deferred at the Planning Committee in August 2020 and an office meeting was held with the Planning Manager on 18 August 2020 to further explore the issues relating to the land ownership and farming interests of the applicant.

It has been set out that:

- the site and adjoining buildings at 124 Lurgylea Road are owned by Mr Patrick Kelly, the applicants father, with Mr John Coyle having a long term lease on the field and the buildings
- the buildings here are a semi detached bungalow and 3 outbuildings that are located in a courtyard and these are to the south of the proposed site
- Mr Kelly has claimed single farm payment for 41ha and is currently an active farmer
- there have not been any sites obtained or sold off from Mr Kelly's holding in the last 10 years

The issue is whether or not the proposed dwelling is visually linked or sited to cluster with a group of buildings on the farm. From the information presented it is clear that while Mr Coyle occupies the dwelling at No 124, he does so on a long term lease. The owner is Mr Kelly and as such this group of buildings is on his holding.

The site is located off a private lane that accesses 5 existing dwellings, farm buildings and farm land. The site is 200metres back from and below the level of the public road. Views of it and the farm buildings are very limited due to this as well as the land form and vegetation. The new dwelling is proposed 70 metres from the closest part of the group of buildings. The vegetation between the site and the group of buildings is scant with large trees, which have high crowns, that do not provide any significant visual break between them. On approach to the site along the private land the proposed dwelling will be readily seen with the group of buildings at 124. There will be no real appreciation of any physical separation between the proposed and the existing buildings and as such I consider the proposal meets the test of visual linkage.

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22<sup>nd</sup> February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at **10am on the 25th March** and was to run for 8 weeks. Due to

issues being faced with COVID19, this period was extended and closed at **5pm on 24<sup>th</sup> September 2020**. The representations received are now subject to a period of counter representation. In light of this the draft plan cannot currently be given any determining weight.

I consider the proposal does meet the tests in CTY10 and as such I recommend this application is approved.

**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 commencement of any development hereby permitted visibility splays of 2.4m x 70.0m shall be provided where the existing lane meets Lurgylea Road as shown on drawing no 02Rev2 bearing the stamp dated 4 FEB 2020. 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.

3. The existing natural screenings of the site, as indicated 'existing hedgerows and smaller trees' and 'existing trees retained' on drawing no 02 Rev 2 bearing the stamp dated 4 FEB 2020 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 and biodiversity.

4. All hard and soft landscape works shall be carried out in accordance with the details as set out on drawing No 02 Rev 2 bearing the stamp dated 4 FEB 2020 and the appropriate British Standard or other recognised Codes of Practice. 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 amenity and biodiversity.

**Signature(s):**

**Date**







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

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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 04/08/2020	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1418/F	<b>Target Date:</b>
<b>Proposal:</b> Site for dwelling & domestic garage. Based on Policy CTY10 (dwelling on a farm)	<b>Location:</b> Approx 60m NW of 124 Lurgylea Road Dungannon
<b>Referral Route:</b>  <ol style="list-style-type: none"><li>1. The proposal is contrary to criteria (c) in CTY 10 – Dwellings on Farms in PPS 21 – Sustainable Development in the Countryside in that the new building is not visually linked or sited to cluster with an established group of buildings on the active farm holding.</li><li>2. The proposal is contrary to criteria (g) in CTY13 - in PPS 21 – Sustainable Development in the Countryside in that the new building is not visually linked or sited to cluster with an established group of buildings on the active farm holding.</li></ol>	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Christopher Kelly 53 Glenenny Road Carrickmore BT79 9HJ	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b> In summary, I consider the owner of the active farm business is Mr Patrick Kelly who claims Single Farm Payment for field 5 which is the application site on the 2019 farm boundary maps. The applicant Mr Christopher Kelly is the son of the landowner Mr Sean Kelly. It is stated on the P1C form Mr John Coyle is the active farm business owner but he leases out the farm buildings and house at No. 124. A separate conacre agreement has been submitted which shows Mr Coyle leases out field 5 which is the application site. Mr Coyle	

has submitted receipts for the past 6 years for clearing out drains, maintaining farm buildings, spreading slurry. But the address shown on some of the receipts shows 124 Lurgylea Road and it is not clear if they relate specifically to the application site.

**Signature(s):**

### Case Officer Report

#### Site Location Plan



#### Consultations:

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

Statutory	DFI Roads - Enniskillen Office	Content
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Characteristics of the Site and Area</b> The site is within 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 and is characterised predominantly by single detached dwellings, farm complexes and agricultural fields. There is minimal development pressure in the area from the development of single dwellings and there are relatively few dwellings under construction or recently built along this stretch of public road.  The application site is a cut-out of an existing agricultural field and is 0.45ha in size, with a relatively flat topography. The site is accessed off an existing laneway and is set back from the public road by 190m. To the south of the site are four dwellings at No. 124, 126, 126a and 130, and a number of outbuildings. The farm dwelling is a single storey building at No. 124 which has finishes of grey pebbledash and slate roof. At the site itself there is a post and wire fence along the eastern boundary and a 1m high hedge along the northern and southern boundaries.		
<b>Description of Proposal</b> This is a full application for a dwelling and domestic garage on a farm.		
<b>Planning Assessment of Policy and Other Material Considerations</b> <b>Planning History</b> No recent planning history		
<b>Representations</b> The application was advertised in the local press and neighbour notified and at the time of writing no representations have been received.		
<b>Planning Policy Consideration</b> Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.		
<b>Mid Ulster Development Plan 2030 – Draft Plan Strategy</b> The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period gave rise to a number of objections to Policies contained in the Plan. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25 <sup>th</sup> March for 8 weeks. The re-consultation was due to close		

at 5pm on 21<sup>st</sup> May 2020. In light of this the draft plan cannot currently be given any 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:**

The SPPS provides a regional framework of planning policy that will be taken into account 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 10 – Dwellings on Farms**

No farm business ID was identified on the P1C form. DAERA confirmed there is no business ID which has been in existence for more than 6 years for the active farm business owner which was mentioned on the P1C form. DAERA also confirmed there have been no payments claimed through any DAERA scheme. However, DAERA did confirm that another farm business ID has claimed Single Farm Payment at the application site. The agent submitted a supporting statement by email dated 20<sup>th</sup> May 2020 where he explains the third party business ID mentioned by DAERA is owned by Mr Patrick Kelly of 51 Glenenny Road, Carrickmore. 2019 Farm Boundary maps were also submitted which show that Mr Patrick Kelly claims Single Farm Payment for a number of surrounding fields to and including the application site. Therefore, I consider Mr Patrick Kelly is the owner of the active farm business at the site and not Mr John Coyle as claimed on the P1C form.

The agent has submitted a letter dated 20<sup>th</sup> March 2020 where it states that Sean Kelly is the landowner and his son Christopher Kelly is the applicant. Neither the landowner or the applicant live at No. 124 Lurgylea Road. The farm dwelling and outbuildings at No. 124 has been leased to Mr John Coyle.

A copy of the lease agreement for Mr John Coyle has been submitted which is dated effective from 1<sup>st</sup> April 1992. This agreement shows signatures from 1992 for both Mr Sean Kelly and Mr John Coyle. As this agreement demonstrates Mr Coyle has leased the farm buildings and the house since 1992. There is no mention of the land in this lease agreement. On the site location plan drawing no 01 there is a field shown in blue immediately west of the application site and in an email dated 14<sup>th</sup> May 2020 the agent confirms the land outlined in blue is the only land owned by Mr Coyle. On the application form certificate C is signed to demonstrate Mr Sean Kelly owns the application site. A conacre agreement was also submitted demonstrating that from 1<sup>st</sup> April 2012 Mr John Coyle has taken field 5, application site, in conacre for farming purposes since 2012. There are signatures on this conacre agreement but there is no signed date to verify that Mr Coyle has taken field 5 in conacre since 1<sup>st</sup> April 2012.

Receipts have been submitted to substantiate claims that Mr John Coyle has been actively farming the application site for the past 6 years. There are invoices dated 15<sup>th</sup> August 2013 and 6<sup>th</sup> September 2017 for the spreading of slurry at Lurgylea Road; invoice dated 13<sup>th</sup> March 2014 for reposting land; invoices dated 10<sup>th</sup> July 2015 and 17<sup>th</sup> May 2016 for cutting and round bailing; invoice dated 19<sup>th</sup> November 2017 for reroofing farm buildings, and invoice dated 15<sup>th</sup> May 2019 for digger work and clearing out drains. Paragraph 5.39 in PPS 21 refers to what is classified as active farming and the applicant does not necessarily have to have animals, and also refers to maintaining the land in good agricultural condition. I have concerns about the validity of the receipts submitted as Mr Coyle states in the conacre agreement that he owns leases one field which is field 5 and he owns the field immediately to the west. However, on one receipt dated 23<sup>rd</sup> August 2016 it is claimed Mr Coyle billed a contractor for 20hrs of spreading slurry, another receipt shows cutting and round bailing for 54 bails, and another receipt dated 10<sup>th</sup> July 2015 shows 62 bails. Considering this the size and number of the fields i.e. 2 no. fields I am not content this is accurate.

The landowner submitted farm boundary maps from Mr Patrick Kelly's 2019 Single Farm Payment. I completed a history check on the farm maps and the DARD business ID and I am content no sites have been sold off from the farm holding in the past 10 years.

The application site is a portion of an existing field which is 60m north west of the farm holding at No. 124. No 124 comprises a single storey modest rural dwelling with a pitched roof. There are three outbuildings to the south of the farm dwelling. The agent submitted a map with the least agreement to confirm which buildings are part of the farm holding. It is stated on the P1C form that the owner of the active farm business lives at No 124 Lurgylea Road. I am not content these are a group of farm buildings on the active farm holding.

In summary, I consider the owner of the active farm business is Mr Patrick Kelly who claims Single Farm Payment for field 5 which is the application site on the 2019 farm boundary map. The applicant Mr Christopher Kelly is the son of the landowner Mr Sean Kelly. It is stated on the P1C form Mr John Coyle is the active farm business owner but he only leases out the farm buildings and house at No. 124. I am not satisfied the evidence provided is accurate to demonstrate that Mr Coyle has been actively farming the application site for the past 6 years and thus he is the active farm business owner on this claim. I consider the buildings at No. 124 are separate from the land at the application site which is part of someone else's active farm business.

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

The application site is set back from the public road by 190m and the topography of the land slopes downwards by 5m from the public road. The site itself is a cut-out of an existing agricultural field and has a slight undulating topography. There are no critical views of the site in both directions from the main Lurgylea Road. As the proposed dwelling and garage will have the backdrop of the farm holding at No. 124 and other dwellings at No. 126 and No 126a I am content the proposal will not be a prominent feature in the landscape and it is situated along a laneway with no roadside frontage.

There are existing hedgerows along the north and south boundaries which will be retained in the landscaping scheme. As shown on drawing No 02 Rev 2 date stamped 04 FEB 2020 new hedgerows are proposed along the east and west boundaries which will assist

in integration into the landscape. I am content the proposal will not rely on new landscaping for integration.

The proposal will use an existing laneway and a new access is proposed onto the site itself. DFI roads were consulted and had no objections subject to conditions.

The proposed dwelling is single storey with a long rectangular form. The dwelling has a front elevation of 27m in length, but the front living area and master bedroom are set back from the frontage which breaks up the elevation. There is a ridge height of 6.6m. I am content the scale and massing of the proposed dwelling is acceptable as it fits other dwellings along this laneway which are also single storey. The chimneys project from the ridge of the roof and the windows have a vertical emphasis. The proposal finishes are dark grey/black roof tiles, rendered external walls, and aluminium rainwater good. Overall, I consider the design of the dwelling is typical of a rural dwelling with a simple form. The single storey garage will have the same finishes as the dwelling and is modest in scale.

I consider the proposed dwelling will have the backdrop of the existing dwellings in the background which will allow it to blend into the landscape.

As stated previously in the assessment the proposal will not visually link with an established group of buildings on the farm at No. 124.

#### **CTY 14 Rural Character**

As stated previously the proposed dwelling will not be a prominent feature in the landscape. There is minimal development pressure along this stretch of road from public dwellings so it will not result in a suburban style build up of development. A one storey dwelling can be accommodated at the site. I am satisfied the proposal will not add or create a ribbon of development.

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

The proposal will use an existing laneway and DFI Roads had no objections subject to conditions and informatives.

#### **Other Considerations**

There are no HED, NED or flooding issues at the site.

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

The proposal is recommended for refusal as it does not comply with the relevant policies in PPS 21 – Sustainable Development in the Countryside.

#### **Reasons for Refusal**

1. The proposal is contrary to criteria (c) in CTY 10 – Dwellings on Farms in PPS 21 – Sustainable Development in the Countryside in that the new building is not visually linked or sited to cluster with an established group of buildings on the active farm holding.

2. The proposal is contrary to criteria (g) in CTY13 - in PPS 21 – Sustainable Development in the Countryside in that the new building is not visually linked or sited to cluster with an established group of buildings on the active farm holding.

**Signature(s)**

**Date:**







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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2020/0022/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling in an infill site	<b>Location:</b> Land adjacent to and South of 14 Drumkee Road Dungannon
<b>Applicant Name and Address:</b> Mr Noel Stephenson Homer House School Road Preston near Hull	<b>Agent Name and Address:</b> Darcon Architectural Services 23 Tobin Park Moortown BT80 0JL
<b>Summary of Issues:</b> No justification for a dwelling in the countryside.	
<b>Summary of Consultee Responses:</b> DFI Roads – access to be provided in accordance with RS1 form sight lines of 2.4m x 60.0m required	
<b>Characteristics of the Site and Area:</b> The site is located at lands approx. 14 Drumkee Road, Dungannon. The site is located within the countryside as designated within the Dungannon and South Tyrone Area Plan 2010. The red line of the site includes a roadside agricultural field. The site sits on an elevated position when travelling along the Drumkee Road in an easterly direction. The boundaries of the site range from post and wire fencing with some hedging in parts. The surrounding area is generally rural in nature with scattered dwellings and their associated outbuildings.	
<b>Description of Proposal</b> Outline planning permission is sought for a proposed dwelling in an infill site.	

### **Deferred Consideration:**

This application was before the Planning Committee in August 2020 and it was agreed to defer the application for a meeting with the Planning Manager to further discuss the proposal. This meeting took place on 18 August 2020 where other possibilities in relation to clustering under CTY2a and replacement dwelling under CTY3 were discussed. It was agreed the applicant would clear away existing vegetation to allow a further assessment of the existing building on the site and what impacts this would have on the proposal.

I visited the site on 11 September and noted that vegetation had been removed from the front of the site which exposed a low wall and threshold. This was most likely from an old dwelling and the Public Records Office Maps (Appendix 1) indicate there has been a building here for some considerably time. That said the building has more or less been demolished and removed with little more than 2 low walls remaining to the front and side of what may have been a dwelling, as can be seen in the photos below. I do not consider the existing structures on the site to be the substantially intact remains of a former dwelling and would not meet the criteria for a replacement dwelling.



The site is on an elevated location when viewed from the Coash Road to the west and from Drumkee Road to the east. To the rear and north of the site is a chalet bungalow with a detached garage and to the east is a bungalow with sheds to the rear that are accessed off a private lane. Other development located to the east is set back from the roadside with roadside fields that I consider provide a visual break from the proposed site and the development to the east. I consider the site and the immediate development around it can only be assessed for the purposes of Policy CTY2a. The proposed site is therefore located with a group of 6 buildings, 2 of these are dwellings, 2 are domestic garage and 2 are agricultural buildings. I do not consider the group of buildings meets the definition of a cluster in the first criteria of CTY2a as there are really only 4 buildings that can be counted and only two of them are dwellings. This group of buildings is not associated with any focal point or at a cross roads and while the site does have development on 2 sides, due to its hilltop location I do not consider that it benefits from a suitable degree of enclosure. I do not consider the site can be assessed against the policies in CTY2a.



Site behind and to the left of the bungalow above (Drumkee Road View)



Site to the right of the chalet bungalow above (Coash Road View)

As has been explained in the above considerations the proposed site is on an elevated site in the countryside and does not have vegetation or features that would integrate a dwelling. That said, integration can be achieved using vegetation, landform and other development. I do not consider a modest sized dwelling in the NE corner of the site would be so prominent as to result in a loss of rural character and that the existing buildings

could give it a reasonable degree of integration and grouping with them. This only relates to integration and the principle of a dwelling has not been established under any of the policies.

The planning history of this site is a material consideration that members should be aware of. Outline planning permission was granted for a dwelling on this site in 1988, at that time there were buildings on the site and a condition was attached requiring the removal of those buildings. I am unable to find any Reserved Matters application and as such the permission lapsed and I do not consider the planning history can be determining in this case. Members are advised they must consider the site as it currently is and not how it may have been.

Having taken into account additional information, I do not consider this application meets with any of the policies for a dwelling as provided in PPS21 and as such it is recommended for refusal.

**Reasons for Refusal:**

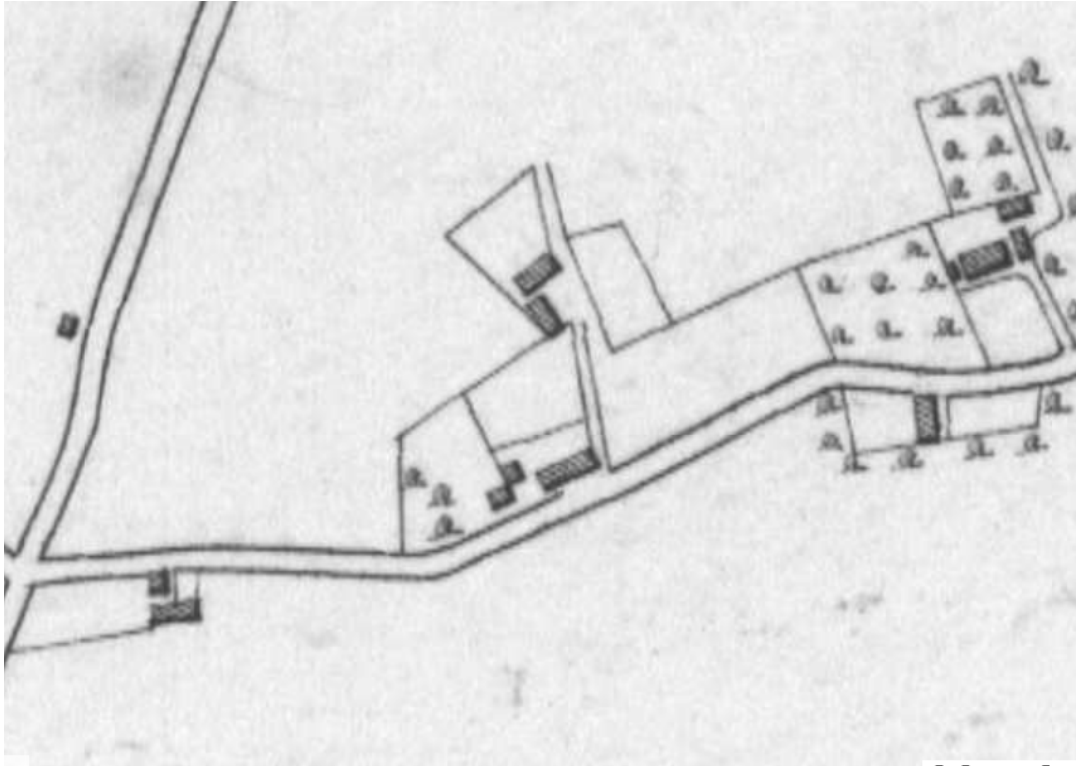
1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

**Signature(s)**

**Date:**



PRONI HISTORICAL MAPS  
First Edition 1832 - 1846



Second Edition 1846 - 1862



Third Edition 1900 – 1907



Forth Edition 1905 -1957



Fifth Edition 1919 – 1963





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0022/O	<b>Target Date:</b> 06/04/2020
<b>Proposal:</b> Proposed dwelling in an infill site	<b>Location:</b> Land adjacent to and South of 14 Drumkee Road Dungannon
<b>Referral Route:</b> Refusal - Contrary to PPS 21.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Noel Stephenson Homer House School Road Preston near Hull	<b>Agent Name and Address:</b> Darcon Architectural Services 23 Tobin Park Moortown BT80 0JL
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



*(Area shaded red highlighted to show preferred siting)*

### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

No representations received.

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

The site is located at lands approx. 14 Drumkee Road, Dungannon. The site is located within the countryside as designated within the Dungannon and South Tyrone Area Plan 2010. The red line of the site includes a roadside agricultural field. The site sits on a slightly elevated position when travelling along the Drumkee Road in an easterly direction. The boundaries of the site range from post and wire fencing with some hedging in parts. The surrounding area is generally rural in nature with scattered dwellings and their associated outbuildings.

## **Description of Proposal**

Outline planning permission is sought for a proposed dwelling in an infill site.

## **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. Neighbours notified include: 14 and 16 Drumkee Road. At the time of writing, no representations were received.

### Planning History

There is not considered to be any relevant planning history associated with the site.

### Planning Assessment of Policy and Other Material Considerations

- Dungannon and South Tyrone Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- Local Development Plan 2030 - Draft Plan Strategy

The Dungannon and South Tyrone Area Plan identify the site as being outside any defined settlement limits, located South of Coalisland Settlement Limit. There are no other specific designations or zonings.

Mid Ulster Development Plan 2030 Draft Plan Strategy was launched on the 22nd Feb 2019. It is currently going through a further consultation period which commenced on 25th March 2020. Due to the COVID19 Pandemic there is currently no end date or timetable for public events in relation to this re-consultation. During the initial consultation period a number of objections to Policies contained in the Plan were received. In light of this the Draft Plan cannot be given any determining weight at this time.

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.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A

range of examples are set out in CTY 1 detailing different cases which would allow for planning permission in the countryside, one of these being the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with CTY 8.

CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of the 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.

It is considered that the proposed site does not meet the policy tests in that there is not a continuous built up frontage along this stretch of Drumkee Road. At present, there is a dwelling and garage north of the site and a dwelling and associated outbuildings to the rear east of the site. The dwelling to the east of the site has a frontage to the road but none of the outbuildings to the rear have any further frontage. The dwelling to the north of the site is accessed via a laneway which runs east of the site and therefore does not have a frontage to Drumkee Road (**Shown above in Figure 1**). The site is relying on this dwelling (No.14) which is set back from the road and it is my view that this site would extend a ribbon of development rather than round off development. On the site location plan it appears there is a building within the site itself, however from the site visit conducted it noted that this was an overgrown area with minimal parts of the walls remaining and therefore cannot be considered as a building (**Shown in Figure 2**).



**Figure 1**





**Figure 2**

The agent referred to a previous application ref: H/2010/0303/O, which he felt was similar to this case however after taking a look at the drawings from the history file I did not find there was any correlation between the application site and the history file. It should also be noted that this application was recommended for refusal from the case officer originally and was later approved after a deferral where the site specific case was put forward. Therefore from the site visit, the maps and justification provided from the agent I am not satisfied that there is a line of three or more buildings along this road frontage and therefore the proposal does not meet the policy requirements of CTY 8.

Policies CTY 13 and CTY 14 are also applicable in relation to the proposal. 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. Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted however in this instance I feel the proposal fails on criterion (d) of CTY 14 in that it would add to a ribbon of development and thus is recommended for refusal.

DfI Roads were consulted and have no objection to the proposal subject to condition.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

It is considered that the proposal is contrary with the relevant planning policy and thus refusal is recommended.

**Conditions/Reasons for Refusal:****Refusal Reasons**

1.The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location 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 is not located within a small gap site within an otherwise substantial and continuously built up frontage.

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 add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

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

ANNEX	
<b>Date Valid</b>	24th December 2019
<b>Date First Advertised</b>	21st January 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 14 Drumkee Road Dungannon Tyrone The Owner/Occupier, 16 Drumkee Road Dungannon Tyrone	
<b>Date of Last Neighbour Notification</b>	20th January 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/0022/O Proposal: Proposed dwelling in an infill site Address: Land adjacent to and South of 14 Drumkee Road, Dungannon, Decision: Decision Date:  Ref ID: M/1988/0299 Proposal: DWELLING Address: 140 M WEST OF 23 DRUMKEE ROAD, DRUMKEE, DUNGANNON Decision: Decision Date:  Ref ID: M/2000/0382/F Proposal: Dwelling Address: Rear of 16 Drumkee Road, Coalisland. Decision: Decision Date: 26.07.2000  Ref ID: M/1992/4025 Proposal: Extension to Dwelling Address: M16 DRUMKEE ROAD DRUMKEE DUNGANNON Decision:	

Decision Date:  
Ref ID: M/1999/0703/O  
Proposal: Dwelling  
Address: Rear of 16 Drumkee Road Coalisland  
Decision:  
Decision Date: 17.11.1999

**Summary of Consultee Responses**

DfI Roads – No issue.

**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:





## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2020/0047/O	<b>Target Date:</b>
<b>Proposal:</b> Site of dwelling and garage (2 Storey)	<b>Location:</b> 60m approx. West of 121A Desertmartin Road Moneymore
<b>Applicant Name and Address:</b> Mr Henry And Mark Miller 121A Desertmartin Road Moneymore	<b>Agent name and Address:</b> Ivan Mc Clean 64 Old Portglenone Road Ahoghill BT42 1LQ
<b>Summary of Issues:</b>  The initial proposed access was contrary to PPS3 as it was a new access on to a protected route. At the deferred office meeting, an alternative existing access was discussed and DFI Roads were re-consulted on this amended proposal for comments.	
<b>Summary of Consultee Responses:</b>  DFI Roads are now content as an existing access is being used, so PPS3 is being met and they have offered no objection, providing a standard condition.	
<b>Characteristics of the Site and Area:</b>  The site is located approx. 2.19km from the settlement of Desertmartin, and is located within the open countryside and there are no further designations on the site, as designated by the Magherafelt Area Plan 2015. The site is located approx. 60m NW of 121a Desertmartin Road, Moneymore. Located on the site are a number of farm buildings. The site is located along the Desertmartin Road which is a protected route.  The immediate surrounding area is predominantly characterised by single dwellings and some agricultural uses.	

<p><b>Description of Proposal</b></p> <p>Outline planning permission is sought for a site of dwelling and garage (2 storey).</p>
<p><b>Deferred Consideration:</b></p> <p>This application was previously presented as a refusal to Planning Committee for the following reason;          ‘The proposal is contrary to SPPS and Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 3, in that it would, if permitted, result in the creation of a new vehicular access onto a Main Traffic Route / Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.’</p> <p>It was subsequently deferred for an office meeting with the Area Planning Manager. This was held on 13th August 2020. At the office meeting the protected route issue was discussed and the agent stated there may be an alternative access via an existing access. It was advised that amended plans and P1 forms were submitted to show this and DFI would be re-consulted.</p> <p>Amendments were received on 21st August 2020 and DFI Roads were re-consulted for comment. They replied on 30th September advising PPS3 of AMP3 Access is applicable. Access is now proposed via an existing vehicular access which is permissible under PPS3 subject to other planning policies being acceptable to Council, along with the standard DFI condition they provided.</p> <p>The site has not changed and there are no other planning policies issues, a dwelling would be acceptable under CTY10. As an existing access is now to be used, which is long established and was always traditionally used as a farm access, there will be no greater visual impact. As the Protected route issue, which had been the only reason for refusal, has now been resolved, approval is therefore recommended with relevant conditions.</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. 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.</p>
<p><b>Conditions</b></p>

1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-  
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. The proposed dwelling shall have a ridge height of less than 8.0 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 and with the adjacent residential dwellings.

6. 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.

**Signature(s):**

**Date**



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District Council

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

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0047/O	<b>Target Date:</b>
<b>Proposal:</b> Site of dwelling and garage (2 Storey)	<b>Location:</b> 60m approx. West of 121A Desertmartin Road Moneymore
<b>Referral Route:</b> Proposal contrary to SPPS and PPS3.	
<b>Recommendation:</b>	<b>REFUSAL</b>
<b>Applicant Name and Address:</b> Mr Henry And Mark Miller 121A Desertmartin Road Moneymore	<b>Agent Name and Address:</b> Ivan Mc Clean 64 Old Portglenone Road Ahoghill BT42 1LQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

None.

### Characteristics of the Site and Area

The site is located approx. 2.19km from the settlement of Desertmartin, and is located within the open countryside and there are no further designations on the site, as designated by the Magherafelt Area Plan 2015. The site is located approx. 60m NW of 121a Desertmartin Road, Moneymore. Located on the site are a number of farm buildings and an agricultural gate serves as the access onto the site. The site is located along the Desertmartin Road which is a protected route.

The immediate surrounding area is predominantly characterised by single dwellings and some agricultural uses.



**Description of Proposal**

Outline planning permission is sought for a site of dwelling and garage (2 storey).

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

There is no relevant planning history on the site.

**Neighbour Notification**

One neighbour was notified of this planning application which was 121a Desertmartin Road, Moneymore.

No letters of representation / objection were 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. There are no other designations on the site.

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March for 8 weeks. The re-consultation was due to close at 5pm on 21st May 2020.

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

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 CTY10 of PPS21 states that planning permission will be granted for a dwelling house on a farm where all of the following criteria are met:

- (a) The farm business is currently active and has been established for at least 6 years;
- (b) No dwellings or development 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 within an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane.

DAERA were consulted on this application and confirmed that the farm business has been active and established since 1991.



No dwellings or development opportunities have been sold off from the farm holding in the last 10 years.

The proposed dwelling will site to cluster with existing farm buildings already present on the site.

From this, I am content that the proposal complies with Policy CTY10 of PPS21.

### **Integration**

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.

From this, I am content that the application is able to comply with CTY 13.

### **Rural Character**

Policy CTY14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.

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.

### **Other Material Considerations**

I am content that this proposal will not cause any detrimental impact on neighbouring 3rd party amenity. DfI Roads were consulted and have objected to this proposal, stating that the result in the creation of a new vehicular access onto a Main Traffic Route / Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

**Neighbour Notification Checked**

**Yes**

### **Summary of Recommendation:**

Refusal.

### **Reasons for Refusal:**

1. The proposal is contrary to SPPS and Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 3, in that it would, if permitted, result in the creation of a new vehicular access onto a Main Traffic Route / Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

**Signature(s)**

**Date:**



ANNEX	
Date Valid	14th January 2020
Date First Advertised	28th January 2020
Date Last Advertised	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 121a Desertmartin Road, Moneymore, Magherafelt BT45 7RL	
Date of Last Neighbour Notification	16th January 2020
Date of EIA Determination	
ES Requested	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/0047/O Proposal: Site of dwelling and garage (2 Storey) Address: 60m approx. West of 121A Desertmartin Road, Moneymore, Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	
Drawing No. 01 Type: Site Location Plan Status: Submitted	
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:	



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District Council

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

## Deferred Consideration Report

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

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

**Description of Proposal**

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

**Deferred Consideration:**

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

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

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

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

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

Reasons for Refusal:

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

**Signature(s)**

**Date:**

## APPENDIX



Photograph 1



Photograph 2





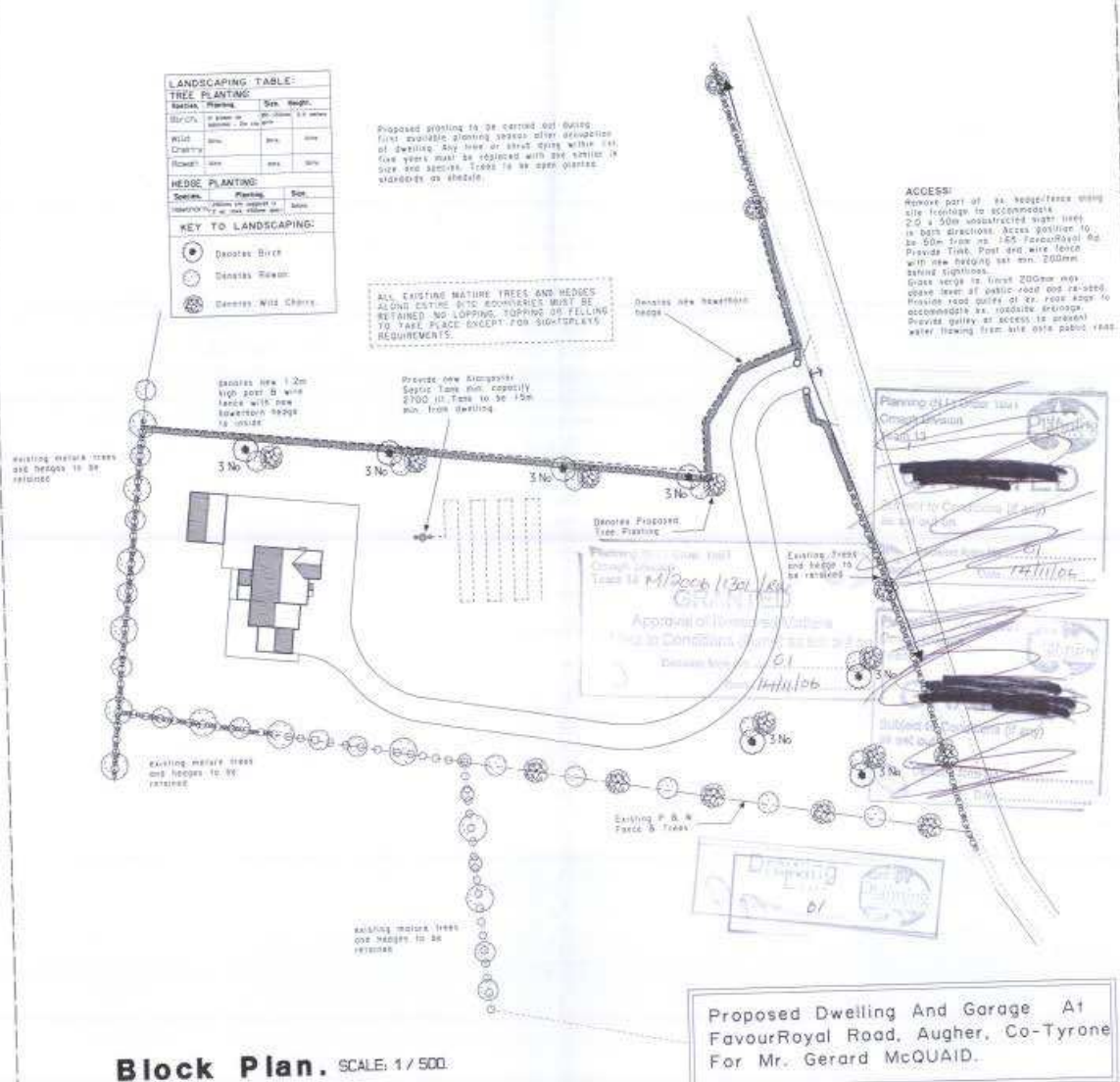
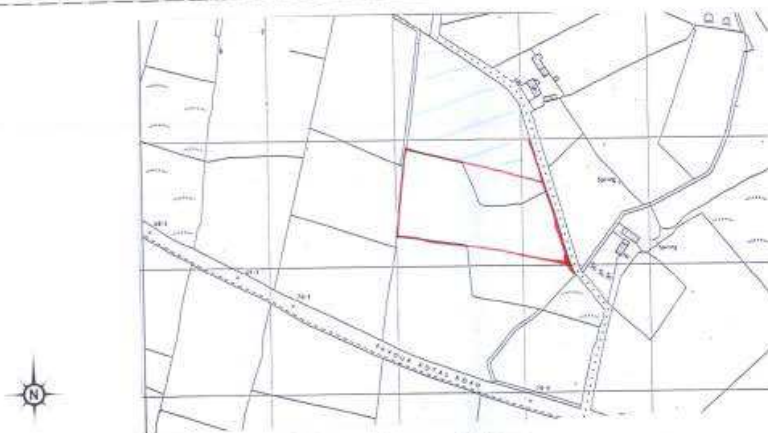
Photograph 3



Photograph 4



Photograph 5







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**Mid Ulster**  
 District Council

### Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



**Representations:** None Received

### Description of proposal

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

### Characteristics of Site and Area

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

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

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

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

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

#### **Planning Act 2011**

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

#### **Area Plan**

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

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

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

#### **Representations**

None received

#### **Relevant planning history**

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

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

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

#### **Key Planning Policy**

SPPS Strategic Planning Policy Statement

PPS21 Sustainable Development in the Countryside

PPS3 Access, Movement and Parking

#### **Planning Assessment**

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

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

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

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

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

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

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

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

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

**Other Policy and Material Considerations**

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

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

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



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

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