



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2019/0179/F	Target Date: <add date>
Proposal: To continue use of the land and factory without complying with condition 12 of planning approval (M/2011/0126/F) - seeking variation of opening hours condition Monday - Friday from 6am - 8pm (Amended Noise Impact Assessment)	Location: Lands 70m South of 177 Annagher Road Coalisland.
Applicant Name and Address: DMAC Engineering 177 Annagher Road Coalisland	Agent name and Address: CMI Planners Ltd 38 Airfiled Road Toomebridge
Summary of Issues: The proposed hours of operation extend into that is common night-time hours and result in nuisance to neighbouring residential properties.	
Summary of Consultee Responses: EHO – met with the applicants noise consultants on site and undertook visits to the site. Note that ambient noise levels can be affected by various factors at different times of the year, the proposal could affect residential amenity during quiet sleep hours (23:0 – 07:00)	
Characteristics of the Site and Area: This site is that which relates to the permission M/2011/0126/F, and incorporates the DMAC Factory building, associated circulation, parking and hardstand areas, finished product storage areas and an area to the south of the site (beyond the large earth bund) which is used to control and regulate site drainage. The sizable earth bund, approx 5-7m high, to the south of the site acts as a sound buffer to protect residential amenity further to the south. Beyond the earth bund to the south is the area of drainage	

which is relatively flat and defined by bare earth/soil.

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

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

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

Description of Proposal

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

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

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

Reason: In the interests of residential amenity.

Deferred Consideration:

This application was recommend as a refusal to the Planning Committee in September 2021 and was deferred to allow a meeting with the Planning Manager and Environmental Health Officers.

At the meeting a number of proposals were put forward by the applicants for ways to reduce the noise between 6 – 7 am and to provide constant monitoring equipment in the site. Following the meeting the applicant advise they have appointed a Compliance Manager whose role is to ensure doors are closed, forklifts do not operate outside and that noise generating activities are not carried out or impact on neighbours. A revised noise assessment was also submitted by Grainger Associates on 12 December 2021 and this indicated significantly lower levels of noise at the nearest properties than shown in the previous report in March 2021. Neighbours were notified of the revised report and there were 2 additional comments received objecting to the proposals as it will impact on sleeping times in the morning and peaceful times in the evening and that no regard has been had to the other application for the revised car park which will reduce the effect of the buffer mound.

Due to the significant differences Environmental Health Officers carried out their own survey between 06:45 – 07:30 on 18 January 2022 and noise measurements obtained by EH show noise levels similar to those outlined within the March 2021 report and noise from DMAC was clearly audible and noted to consist of constant fan noise, FLT movements, reverse alarms and banging & clanging of metal/steel.

A further report was submitted (24 March 2022) which outlined a number of Pre and post 07:00hrs activities along with a number of other noise management proposals and included a summary of joint monitoring visit which took place on 22 March 2022. EHO have noted the noise that was witnessed at the neighbouring property on 22 March 2022 would be unlikely to impact residential amenity.

EH carried out a further visit at 6:30am on 5th May 2022 and noted the environment was dominated by birdsong though occasional impulsive noises (bangs/clangs) were heard above the ambient noise.

In response to EHO comments the applicants have advised the was agreement at a site meeting on 22 March that noise heard could not impact residents, DMAC have a stringent monitoring plan and procedures to limit activity and ensure all doors are kept closed until 7:00am with no outdoor activity taking place. They note there may be noise from sources not associated with DMAC eg thunder, passing lorries which are occasional. They also set out there may be very occasional sounds from DMAC.

Mr Daniel McShane indicates that without the earlier opening hours DMAC may have problems retaining staff who may move to other organisations that can provide this 4 day week work pattern. This may have an impact on the continued operations of the business at this site.

Following the receipt of the additional noise reports, neighbours were notified and 2 additional letters of objection were received which raise the following points:

- Health Implications
 - World Health Organisation guidelines recommend night time (11pm to 7:00am) exposure to noise is limited to 40dB
 - research indicates that nighttime exposure above 55dB can raised blood pressure and lead to heart attacks, some residents have these conditions
- Noise coming from DMAC every day before they should, as early as 5:30am

In light of the Environmental Health Officers findings and following DMACs changes to the operations and employment of a Compliance Officer, there is the potential for the earlier opening hours to effect the amenity of nearby residents. In the opinion of the Environmental Health Officers, the operations could, at certain times of the year adversely impact on the amenity of the nearby residents. The applicants have indicated they have put in place stringent measures to control noise and activities, they also note there may be very occasional sounds from DMAC site. EH Department has noted noises from the site following these mitigation measures being put in place ss such I recommend the proposed extension to the hours of operation is refused.

Refusal Reasons:

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

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

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



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**Development Management Officer Report
Committee Application**

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

Case Officer Report

Site Location Plan: 01



Representations:

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

Summary of Issues

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

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

Description of proposal

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

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

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

Reason: In the interests of residential amenity.

Characteristics of site and area

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

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

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

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

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

Planning Assessment of Policy and Other Material Considerations

Planning Act 2011

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

Area Plan

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

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

Relevant Planning Policy

SPPS- Strategic Planning Policy Statement

PPS21- Sustainable Development in the Countryside

PPS4- Planning and Economic Development

Relevant Planning History

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

Condition 12 of this permission reads;

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

Reason: In the interests of residential amenity.

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

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

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

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

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

3rd Party Objections

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

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

Consideration

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) does not create a noise nuisance.

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

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

Neighbour Notification Checked

Yes

Summary of Recommendation:

That planning permission is refused for the following reasons;

Reasons for Refusal:

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

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

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

ANNEX

Date Valid	8th February 2019
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Date First Advertised	21st February 2019
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Date Last Advertised	
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Details of Neighbour Notification (all addresses)

The Owner/Occupier,
161 Annagher Road, Coalisland, Tyrone, BT71 4NF
The Owner/Occupier,
172 Annagher Road, Coalisland, Tyrone, BT71 4NF
The Owner/Occupier,
174 Annagher Road, Coalisland, Tyrone, BT71 5DA
The Owner/Occupier,
175 Annagher Road, Coalisland, Tyrone, BT71 5DA
The Owner/Occupier,
175a ,Annagher Road, Coalisland, Tyrone, BT71 5DA
The Owner/Occupier,
177 Annagher Road, Coalisland, Tyrone, BT71 5DA
Martin Dooey
181 Annagher Road, Coalisland, BT71 5DA
The Owner/Occupier,
181 Annagher Road, Coalisland, Tyrone, BT71 5DA
The Owner/Occupier,
32 Washingbay Road, Coalisland, Tyrone, BT71 4PU
The Owner/Occupier,
36 Washingbay Road Coalisland Tyrone
James Hughes

Date of Last Neighbour Notification	
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Date of EIA Determination	N/A
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ES Requested	No
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Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Comhairle Ceantair
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Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/1140/O	Target Date: <add date>
Proposal: Outline planning permission for a dwelling on a farm with a detached garage	Location: Between 104 Ballygawley Road and an agricultural building 100m North East of 104 Ballygawley Road, Glenadush
Applicant Name and Address: Bernard Mc Aleer 101 Ballygawley Road Dungannon BT71 6DA	Agent name and Address: Blackbird Architecture Ltd 4 Glenree Avenue Dungannon BT71 6XG
Summary of Issues: Is this for an active and established farmer Does the proposal meet with planning policy	
Summary of Consultee Responses: DFI Roads – Access in accordance with the RS1 form which require visibility splays of 2.4m by 90.0 m in both directions and a forward sight distance of 90.0m. DEARA – Farm has been established for over 6 years, no recent claims and claims associated with another business, business ID issued in 2019 but member has been The business number associated with planning application LA09/2020/1140/O was created on 12/06/2019 and was given a category 3 status. The member named in the business had an old Client reference number registered with DAERA that was created on 6/07/2011.	
Characteristics of the Site and Area: This site is located in the SE corner of a larger agricultural field, and is access via an existing gravel access which runs along the SW boundary of the field. The NE and NW boundaries of the site are not clearly defined, the boundary to the west to the access lane is defined by a mature tree lined hedgerow approx. 4-5m high while the SE boundary is defined by a 2m high maintained hawthorn hedge.	

The application site is located between number 102 Ballygawley Road to the west and a newly constructed shed which was granted permission under LA09/2018/1349/F to the west. Access to the shed runs along the western and southern boundaries of the site, this right of way is not shown on the site location map.

The red line of the site includes a narrow access along the Western boundary of the field, wraps around the rear and opens into a small rectangle in the East corner of the field. The field is bound on each of its sides by vegetation and hedgerows, however, the small red line of the rectangle is only bounded by vegetation on the NE side. The shed and the remained of the agricultural field are within the applicants ownership/control and are highlighted in blue. In terms of elevation the site is elevated in the landscape when viewed from the public road as land rises steadily from roadside up the lane towards the site to the top of a local drumlin. No land rises beyond the site and there is little or no backdrop.

Nos 102, 104, 106 Ballygawley Road are residential dwellings located to the west of the site. These dwellings are located along an existing laneway from Ballygawley Road and are accompanied by associated outhouses, garages and sheds. On the opposite side of the road there are 2 detached single dwellings separated by agricultural land.

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

Description of Proposal

This is an outline planning application for a dwelling on a farm with a detached garage

Deferred Consideration:

This application was removed from the schedule for discussion at the Planning Committee in November 2021 as the proposed development was assessed against a dwelling on a farm, however the proposal at that time referred to an infill dwelling. The Service Director was concerned there would be confusion caused by this and wished to have the description amended. The applicant submitted an amended description and the proposal under consideration is as currently described above. Following the receipt of the amended description the application was advertised and contributors and neighbours notified about the proposal. An additional 11 letters of objection were received.

Committee members will be well aware of the requirement of Policy CTY10 when considering dwellings on a farm. There are 3 criteria the policy says must be met and also there is an exception within the policy where there is no site beside existing buildings on the farm.

a) The farm business must be currently active and established for at least 6 years.

In support of this the applicant submitted a P1C – Dwelling on a Farm application form and advised the farm business was allocated on 13 June 2019. Additional information was also provided to set out what the applicant has been doing with the land and how long they have had the land.

DEARA have advised the business number associated with this planning application was created on 12/06/2019 and was given a category 3 status. The member named in the business had an old Client reference number registered with DAERA that was created on 6/07/2011, this client reference number was created for the purposes of land identification when DARD required proof of ownership of land before they would allocate a field number on their system. DAERA have also provided information about activities on the business:

- 13/08/2019 – 3 animals moved into the flock
- 05/10/2020 – 3 animals moved out of the flock
- 13/05/2021 – 8 animals moved into the flock (tags nos provided for 3 of them)
- 07/10/2021 – 5 animals moved out of the flock

I undertook a site inspection on 2 September 2021 and noted there were 8 sheep in the field as can be seen in fig 1 and 2 below, I consider this indicates the land was being used for agricultural purposes at that time.



Fig 1 view of application site from in front on Old Ballygawley Road



Fig 2 view of application site from in front and west on Old Ballygawley Road

Further information submitted indicates the applicant gained control of the land in 2007. In 2010, 2011 and 2012 Mr Cush rented the land and sowed potatoes. Mr Cush has passed away so this information cannot be verified by Mr Cush, however there are aerial photographs which OSNI have flown on 31 August 2010 (fig 3) and google streetview photographs from April 2011 (fig 4) that support the applicants version of events that crops

were being grown at those times.

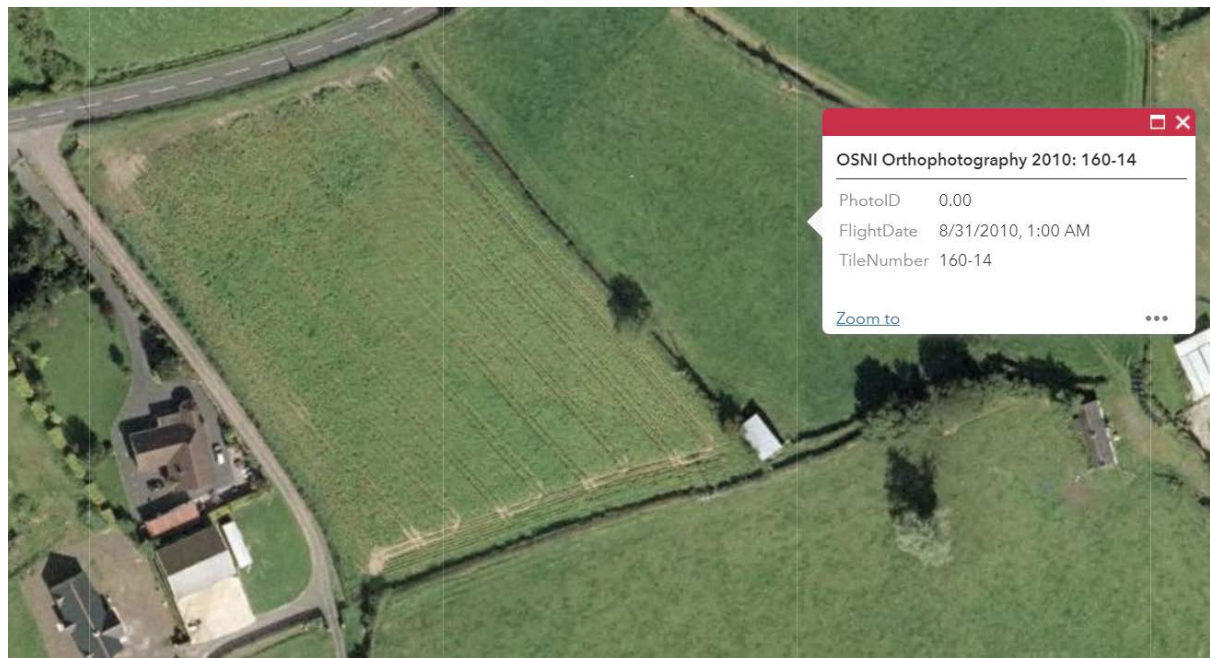


Fig 3 - OSNI aerial photograph of the land flown 31/08/20



Fig 4 – Google streetview image captured April 2011

The applicant advises they employed Mr Cush to sow out the land in grass seed in 2012 and from then until 2019 it was taken by Mrs Davidson who advises she only had to put her animals on the land and cut the silage as Mr McAleer carried out all other works to maintain the hedges, fences and drains in the field. An aerial photograph from OSNI flown on 7 June 2013 shows there has been some work done to the land as it is bare earth with clearly visible marks of machinery having been on the land (fig 5). Had this been sown in 2012 as advised then it should have been in grass, however it is evident that at this time work had been done to the land.

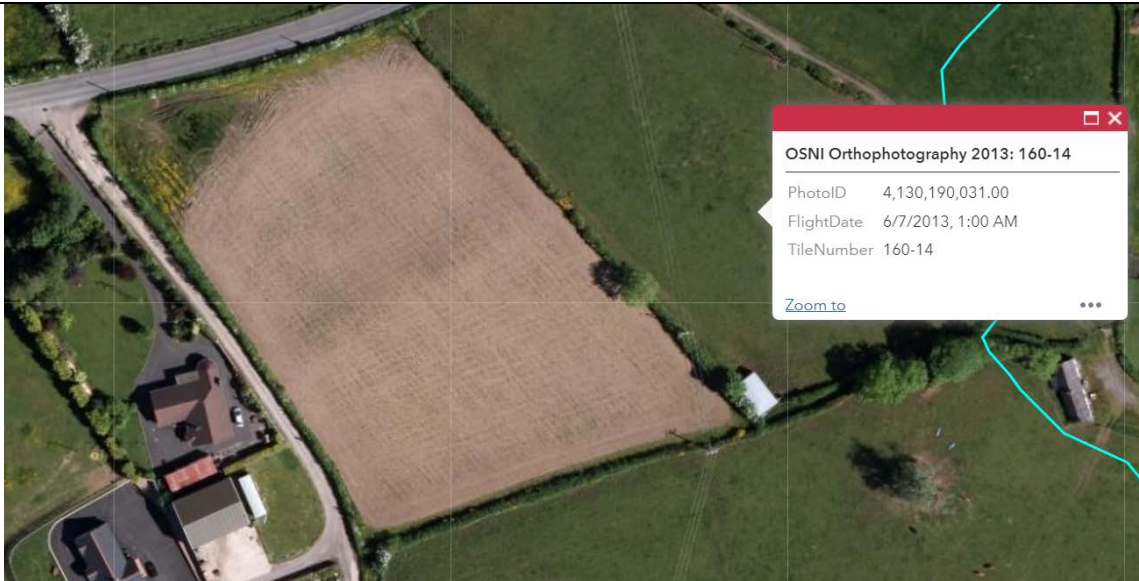


Fig 5 – OSNI aerial photograph of the land on 7 June 2013

Additional information provided in support of the application states:

- 1) the applicant engaged 3 different contractors between 2014 and 2020 to carry out works for the maintenance of the hedgerows. Invoices have been submitted which the applicant advises were written up recently from the contractors records and these are from:
 - S O'Neill for hedge cutting in July and October 2014,
 - K Quinn for hedge cutting in July and October 2015 and
 - D Dobson for hedge cutting in July and October 2016, 2017, 2018, 2019 and 2020
- 2) the applicant engaged Sean Rafferty to carry out works to the drains and fences in 2007-2008
- 3) Mr Ciaran O'Donnell carried out major works to the drains in 2017 where directional drilling was carried out and photographs are provided to show this. I consider the photographs are from the north west corner of this field as it is clear in the photographs there are trees and electricity poles in the south east corner that are still on site today. This can be seen below in the photograph provided by the applicant and in the google streetview image from June 2015 (Fig 7).



Fig 7 photograph of drainage work being undertaken and google streetview map, not trees and electric pole in middle of the pictures.

4) Mrs Davidson has advised that she took the land between 2012 and 2019 and claimed single farm payment on it. She also advised that Mr McAleer maintained the ground and she put her animals on it and took silage off it.

Members will be aware that while it would be helpful if the applicant has been registered with DAERA. In those cases that Department can confirm the farm is currently active and established and this is helpful to the consideration of applications for dwellings on farms. This is not the case here, DAERA have advised the business was registered with them on 12/06/2019, which is short of the 6 years required to demonstrate an established farm. That said the policy refers to the farm business having to be currently active and established and the policy advises 'farming activity' can take many different forms. The SPPS refers to Regulation (EU) No 1307/2013 for the definition of agricultural activity (see appendix 2) while amplification to Policy CTY10 para 5.39 indicates keeping the land in good agricultural and environmental condition is 'farming activity'. In this case, from the information submitted, it is clear Mr McAleer has been investing in the land and obtaining a return for that investment for a period in excess of 6 years. This is the common understanding of what a business is. There is no dispute that the land has been used for agricultural activities as it has been shown that it was used for growing potatoes and keeping animals on it, which, in my view, falls under the definition of agricultural activities and as it has been ongoing since before 2014 (6 years before the application was submitted), then I consider this is an established and currently active agricultural business.

In light of the above information, I am content that this is a currently active and established farm business and criteria a of CTY10 has been met.

b) no dwellings or development opportunities have been sold off ... within 10 years of the date of the application....

I have checked the land identified as being in Mr McAleers ownership here and there have not been any sites or dwellings sold off the farm in the 10 years before the application was submitted. Mr McAleer has moved to a dwelling on the opposite side of the road from the site which he has advised is rented accommodation..

c) new buildings should be sited to visually link or cluster with an established group of buildings on the farm and where practicable access should be from existing lanes.

It is quite clear there is no established group of buildings on this farm, Mr McAleer received planning permission for the farm building located in the south east corner of the field on 3rd October 2019.. The policy provides an exception that states an alternative site away from a group of buildings will be acceptable where it meets the requirement of Policies CTY13(a-f), CTY14 and CTY16, however this exception can only be considered where there are either demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group(s). The exception within the policy is clear that it only requires consideration of sites beside other groups of buildings on the farm and not other sites on the farm. Members could refuse the application on the basis that it does not cluster or visually link with a group of buildings on the farm and it cannot be considered as an exception within the policy as, with no group of building on the farm, the remainder of criteria c, including the exception cannot be relied upon to grant

permission.

This interpretation will prevent all farmers who only have one building or no buildings at all on their holding, from ever obtaining permission to build a dwelling on their farm. Members may feel this is unduly harsh and as such may wish to exercise an exception to the policy here.

Even though the proposal is contrary to CTY10 criteria c, as there are no building on the farm, I will consider the other aspects of the CTY13 and CTY14. The previous case officer report has considered the potential for a dwelling and garage to integrate on this site and has raised concerns about the potential visual impact of this. I agree that a dwelling would be visible on the site, but only when viewed from the public road immediately in front of the site and for approximately 200 metres on approach from Dungannon, as the vegetation to the west completely screens the site from view until the end of the laneway, identified in fig



6 with the red arrow.

Fig 6 – view from the west, access to the site identified by red arrow

The photograph below (fig 7) shows the view from the west, a dwelling as proposed (siting shown with the blue arrow) could break the skyline here, as it does not benefit from screening or clustering with the existing farm building (red arrow) or the other development to the west (black arrow). A dwelling here could be prominent in the landscape, when seen from this critical view.



Fig 6, siting proposed in blue, existing agricultural building in red and other buildings in black

This application is for outline planning permission and as such the members can consider if there are any conditions that would make this development acceptable. If there are no conditions that could make it acceptable then the development should be refused.

Conditions can be attached that deal with the size, scale, design and location of a dwelling on the site as well as landscaping conditions that can require new planting to be provided and allow existing planting to be retained at a certain height.

It is clear there are long established boundaries on the south and west of the identified site as well as within the applicants control to the north and east boundaries of the field. These can be conditioned to grow on to a height of 3 metres to assist the integration of any dwelling. Additional landscaping can be conditioned along the side of the lane and the curtilage of the proposed dwelling which will, in my opinion, also assist in the integration of a dwelling on the site, but is not solely relied upon to provide the screening.

Coupled with the above conditions I consider it would be appropriate to control the ridge height of any dwelling and reduce the ground levels to ensure the rising ground and hedges to the rear (south) can provide a suitable backdrop. In my assessment of the site, I consider siting the dwelling as proposed in the indicative site plan with the finished floor levels the same as the existing ground level at the NE curtilage of the proposed site and a ridge height of 5.5m above the finished floor levels would ensure that a dwelling here is not prominent in the landscape. I consider it would also be appropriate to limit the ridge height of any garage to 4m above finished floor levels and these should be the same as the dwelling.

Rural character is a visual assessment that takes into account the existing development and character of the surrounding area. This site is located beside a number of other dwellings and buildings. These are well screened from public view and set back from the public road. The workers cottage opposite the site has little in the way of vegetation around it and is the most obvious development in view. As can be seen in Fig 6 a dwelling in this site would not be critically viewed with other development as to give the impression that the area has reached a critical stage in terms of its character. As one moves along the Old Ballygawley Road from the east to the west the existing development is well screened and set back from the road, in my opinion, a dwelling of a suitably scale and design would also, in a short space of time be well screened and would not detract from the rural character. On approach from the west to the east, any one travelling along the road will not be aware on the dwelling until they are passed it. I do not consider a dwelling here would adversely impact on the rural character of the area.

The application form has indicated that any development here will be served by a septic tank. These can be a number of different types that could be acceptable here and the consent to discharge is a matter that is dealt with by the Environment Agency.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft

Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

Objections

There have been a number of objections to the proposed development, when it was proposed as infill dwelling and when the details of the farming case were presented, these are summarised in Appendix 1 and a number of the issues raised have been addressed in the above considerations.

Urban sprawl relates to the spreading of settlements into the surrounding countryside in an unplanned fashion. In this case the site is well away from any settlements and would not result in urban sprawl.

The proposed development is for a dwelling, noise from cattle trucks coming and going to the site would be in relation to the agricultural activity and not this dwelling.

The objector has raised issues in relation to Human Rights, these may only be considered in respect to the proposal for a dwelling that is being considered. Article 1 of Protocol 1 of the European Convention on Human Rights which covers the protection of property and the peaceful enjoyment of possessions. The Human Rights Act 1998 and the Convention refer to both Article 1 of the First Protocol, which provides for the protection of property and peaceful enjoyment of possessions and Article 8 of the Convention. These are qualified rights and the legislation clearly envisages that a balance be struck between the interests of individuals and those of society as a whole. The proposed dwelling can be located a suitable distance away from any other existing dwellings to ensure their right to enjoy their property is not adversely impacted. The final location of the dwelling will be subject to further consideration and as such anyone who has an interest may make further representations at that time. The European Convention, Article 6 also enshrines the right to a fair hearing. This application will be decided by the planning committee and any interested party may address the planning committee, provided they follow the published protocol. Therefore, it is my view there are no Human Rights grounds for refusal of this application.

The objector has raised Lamont Judicial Review case where planning permission was quashed due to the wrong interpretation of policy. In the Lamont Case the decision makers concluded the proposal met with CTY10 as it was sited beside a building on the farm. The Judge considered this was not a correct interpretation of the Policy and set out that the decision maker had reduced the policy requirement from a group of buildings to one single building. In this case, it is clearly set out there is one building and this proposal does not meet this part of the policy test. There is an exclusion within the policy that allows the siting away from buildings where there are health and safety concerns or verifiable plans to extend the farm. Again this is not be utilised as there have not been any details provided to justify the position away from a group of buildings on the farm.

In view of the above, it is my recommendation to the members that as there is no group of buildings on the farm, this application cannot meet with Policy CTY10 or the exception within policy CTY10 and as such should be refused.

APPENDIX 1

Objections/representations received raise the following points:

dated 29/10/2020 - objection

planners should apply guidance for development in the countryside

dated 10/11/2020 – objection

application form completion:

- not proposed for dwelling on farm,
- there were previous applications refused on this site for Mrs Gillen

a laneway has been created was supposed to be grass path

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- sight lines to right not in place
- not infill as it is a small gap site, buildings are not on the road frontage, does not have appearance of built up area, building 4 not a building, just cow shelter

dated 10/11/2021 - representation

no objections provided no impact on 102 or 104

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photos provided, map provided and neighbour notification letter provided

- vegetation removed
- not a gap site as accompanying development to the rear
- not a farmer
- M/2010/0554/O – application for 2 dwellings

dated 21/12/2020 – objection

Photos of cattle building provided

-same site previously refused for Mrs Gillen

- same site refused for 2 dwellings for applicant – (contrary to CTY1; CTY2a no focal point, no dev on 2 sides and no suitable degree of enclosure; CTY6 no special circumstances; CTY7 as no essential need for business; CTY13 as not suitable degree of enclosure; CTY14 – build up and does not respect character of the area)

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no planning issues raised in this representation

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- only farming since 12/6/2019, no reason to deviate from regulations
- agree with planning officer, any dwelling would be unsatisfactory as not able to integrate and would not be in character as required by CTY13 and CTY14

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- not supported by PPS21 paras 3.1, 3.2 CTY12 section 5.00, CTY13 section 5.57, CTY15 and CTY16

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includes extracts from previous report to planning committee recommending refusal

- only farming since 12/6/2019, no reason to deviate from regulations
- agree with planning officer, any dwelling would be unsatisfactory as not able to integrate and would not be in character as required by CTY13 and CTY14

date received by Planning Office 4 May 2021 - objection

- has not been farming for 6 years in sense of true farmer
- lacks integration and erodes rural character and would create urban sprawl

date received by Planning Office 5 May 2021 - objection

- not infill
- noise from cattle trucks entering and leaving the site
- loss of privacy

dated 12 May 2021 - representation

- support for the application, refers to previous support letter as not being uploaded,
- owns the lane and others only have a right of way
- the applicant assists with maintenance of the lane and hedges
- previous letter advises:
 - Mr McAleer has been farming the land since he purchased it, repairing fencing and drains on his land and on the writers land
 - the development will not impact the rural area and will not transform it into a suburban development

date received by Planning Office 19 May 2021- rebuttal of information submitted in support of farming case

Sean Rafferty letter Appendix I Drainage Works

- Mr McAleer did not own the land in 2007, land registry documents attached,
- query flooding issue as not declared on P1 form

Ciaran O'Donnell letter Appendix Major Drainage Works

- Mr McAleer did not own the land in 2017, land registry documents attached,
- query flooding issue as not declared on P1 form,
- photos not of the site as no buildings shown
- billheads not acceptable proof, no departmental proof

Blackbird Letter dated 1 December 2017

- applicant has stated he is not active and established as a farmer, does not claim single farm payment

Ann McNulty letter Appendix L – Letter of Support

- objector claims they own the lane as it was to his parents small farm
- query flooding issue as not declared on P1 form
- land farmed by Mrs Davidson until 2019

Shirley Davidson/David Davidson letter Appendix M Conacre letter

- Mr McAleer did not own the land in some of the years, passed to another owner on 12 June 2015, land registry documents enclosed
- Mrs Davidson was the sole farmer of the land

Received 25 May 2021 – objection

- the area has been the subject of a number of planning applications over the years
- development impacting on human rights
- the proposal is not an infill site, no frontage to road and accompanying development to the rear
- not an active farmer, previous application for shed states this and did not show that it farming was active for 6 years
- shed approved as an exception to planning policy as was not an active farmer
- only one building on the farm cannot cluster with buildings on the farm
- new laneway provided to the site, did not use existing as preferred by planning
- do not consider having 3 sheep constitutes being a farmer
- DEARA Legislation states active farmer is one who can claim for Basic Payment Scheme (BPS) Cat 3 farmers cannot
- to allow this would allow others to do the same thing

received 17/6/2021 - objection

- application form, enclosed, clearly indicates this is not for a dwelling on a farm

received 28/6/2021 – objection

- need to consider the viability of the farm
- brief history of the land: site has been refused planning for dwelling, was sold at the height of the market, around 2008, site put up for sale approx. 4 years ago and only attracted lower bids, owner applied for other development since
- proposal is contrary to CTY1, CTY2a, CTY6, CTY&, CTY13, CTY14, CTY12
- farmer never bought cattle

received 19/11/2021 – objection

- not an active farmer, only active when you get ID Number

received 19/11/2021 – objection

- DAERA response 29 March not correct, not established 6 years, should only be counted from when business id issued from 12/6/19
- Who instigated response from DAERA, why delays in querying information
- Site was refused 1999 and 2010
- Suburban sprawl

received 19/11/2021 – objection

- Applicant not a farmer and states so in original application form
- Client business number is not business number, can be a client without having a business
- Lands claimed under another business, that was the active farmer
- DAERA rules do not allow animals from another farm to be grazed on lands claimed by another business
- Previous application for farm building (LA09/2017/0899/F) did not demonstrate that was active farmer
- No evidence why cannot be sited on another part of the farm
- Contrary to CTY13 and CTY14

Dated 22/11/21 – objection

- Objections as previously stated

received 10/12/2021 – objection

- does not meet criteria in CTY10
- not a farmer by DAERA Minister Poots definition

received 18/01/2022 – objection

- DAERA response contradicts itself
- applicant is not a farmer, land used by other farmer

received 04/02/2022 – objection

- the assessment of the information presented does not go into detail compared to other cases for dwellings on farms in other Council areas
- no address for the contractors who carried out the work for contacting them
- bills/receipts not specific to this applicant

received 25/03/2022 – objection

- 8 sheep in the field during site inspection in September 2021, whose sheep, planners should ask DAERA to provide information about flock numbers/herd book
- other Councils carry out more detailed considerations of the information for farming activity

received 21/04/2022 – objection

- flock list provided on website not considered to be from DAERA

received 31/03/2022 – response from DAERA

- details of flock movements for this business, address changed, bought and sold 3 cattle

received 5/05/2022 – objection

- response to email correspondence with DAERA about flock/herd
- query numbers and locations
- do not consider Mr McAleer farms this field
- does not visually link or cluster with group of buildings on the farm, no information submitted about health and safety reasons or plans to extend the farm

received 22/08/2022 – objection

- PAC refused case in different Council area because they could not prove farming case, similar to here
- need to look into the farming evidence provided, no addresses on receipts to check who carried out the work
- similar case in Lamont Judicial Review, does not visually link or cluster with a group of buildings on the farm
- not for a long suffering small farmer
- this has been refused on CTY13 and CTY14

received 30/08/2022 – objection

- queried the 8 sheep in the field
- who farms the land

APPENDIX 2

Extract from Regulation (EU) No 1307/2013

c)

"agricultural activity" means:

- (i) production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes,
- (ii) maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries, based on criteria established by Member States on the basis of a framework established by the Commission, or
- (iii) carrying out a minimum activity, defined by Member States, on agricultural areas naturally kept in a state suitable for grazing or cultivation;

Reasons for Refusal:

1. The proposed development is contrary to Policy CTY1 of Planning Policy Statement 21 as it has not been demonstrated the proposed dwelling is necessary in the countryside and meets with one of the policies for a dwelling in the countryside.
2. The proposed development is contrary to Policy CTY10 of Planning Policy Statement 21 as there is no established group of buildings on the farm therefore the development cannot visually link or cluster with a group of buildings and as there are no buildings on the farm the exception within the policy to allow a site elsewhere on the farm cannot be considered.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/1140/O	Target Date: <add date>
Proposal: An infill dwelling and detached garage (farm case submitted)	Location: Between 104 Ballygawley Road and an agricultural building 100m North East of 104 Ballygawley Road, Glenadush
Applicant Name and Address: Bernard Mc Aleer 7 Glenree Avenue Dungannon	Agent name and Address: Blackbird Architecture Ltd 4 Glenree Avenue Dungannon BT71 6XG
Summary of Issues: Dwelling on a farm, number of buildings and length of time.	
Summary of Consultee Responses: DFI Roads – Access in accordance with the RS1 form which require visibility splays of 2.4m by 90.0 m in both directions and a forward sight distance of 90.0m. DEARA – Farm has been established for over 6 years, no recent claims and claims associated with another business, business ID issued in 2019 but member has been The business number associated with planning application LA09/2020/1140/O was created on 12/06/2019 and was given a category 3 status. The member named in the business had an old Client reference number registered with DAERA that was created on 6/07/2011.	
Characteristics of the Site and Area: This site is located in the SE corner of a larger agricultural field, and is access via an existing gravel access which runs along the SW boundary of the field. The NE and NW boundaries of the site are not clearly defined, the boundary to the west to the access lane is defined by a mature tree lined hedgerow approx. 4-5m high while the SE boundary is defined by a 2m high maintained hawthorn hedge.	

The application site is located between number 102 Ballygawley Road to the west and a newly constructed shed which was granted permission under LA09/2018/1349/F to the west. Access to the shed runs along the western and southern boundaries of the site, this right of way is not shown on the site location map.

The red line of the site includes a narrow access along the Western boundary of the field, wraps around the rear and opens into a small rectangle in the East corner of the field. The field is bound on each of its sides by vegetation and hedgerows, however, the small red line of the rectangle is only bounded by vegetation on the NE side. The shed and the remained of the agricultural field are within the applicants ownership/control and are highlighted in blue. In terms of elevation the site is elevated in the landscape when viewed from the public road as land rises steadily from roadside up the lane towards the site to the top of a local drumlin. No land rises beyond the site and there is little or no backdrop.

Nos 102, 104, 106 Ballygawley Road are residential dwellings located to the west of the site. These dwellings are located along an existing laneway from Ballygawley Road and are accompanied by associated outhouses, garages and sheds. On the opposite side of the road there are 2 detached single dwellings separated by agricultural land.

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

Description of Proposal

This is an outline planning application for an infill dwelling and detached garage (farm case submitted)

Deferred Consideration:

Members are advised this application was deferred at the planning committee on 11th January 2021 for a meeting with the Planning Manager to discuss the application and explore the case. At the meeting on 20 January 2021 it was made clear this does not meet the criteria for an infill opportunity under Policy CYTY8, it was noted that planning permission had been granted for an agricultural building on this land and information was requested on the farming case for consideration against Policy CTY10.

Committee members will be well aware of the requirement of Policy CTY10 when considering dwellings on a farm. There are 3 criteria the policy says must be met and also there is an exception within the policy where there is no site beside existing buildings on the farm.

a) The farm business must be currently active and established for at least 6 years.

In support of this the applicant submitted a P1C – Dwelling on a Farm application form and advised the farm business was allocated on 13 June 2019. Additional information was also provided to set out what the applicant has been doing with the land and how long they have had the land.

DEARA have advised the business number associated with this planning application was created on 12/06/2019 and was given a category 3 status. The member named in the business had an old Client reference number registered with DAERA that was created on 6/07/2011, this client reference number was created for the purposes of land identification when DARD required proof of ownership of land before they would allocate a field number on their system.

I undertook a site inspection on 2 September 2021 and noted there were 8 sheep in the field as can be seen in fig 1 and 2 below, I consider this illustrates that Mr McAleer is a farmer and the farm is currently active.



Fig 1 view of application site from in front on Old Ballygawley Road



Fig 2 view of application site from in front and west on Old Ballygawley Road

Further information submitted indicates the applicant gained control of the land in 2007. In 2010, 2011 and 2012 Mr Cush rented the land and sowed potatoes. Mr Cush has passed away so this information cannot be verified by Mr Cush, however there are aerial photographs which OSNI have flown on 31 August 2010 (fig 3) and google streetview photographs from April 2011 (fig 4) that support the applicants version of events that crops

were being grown at those times.

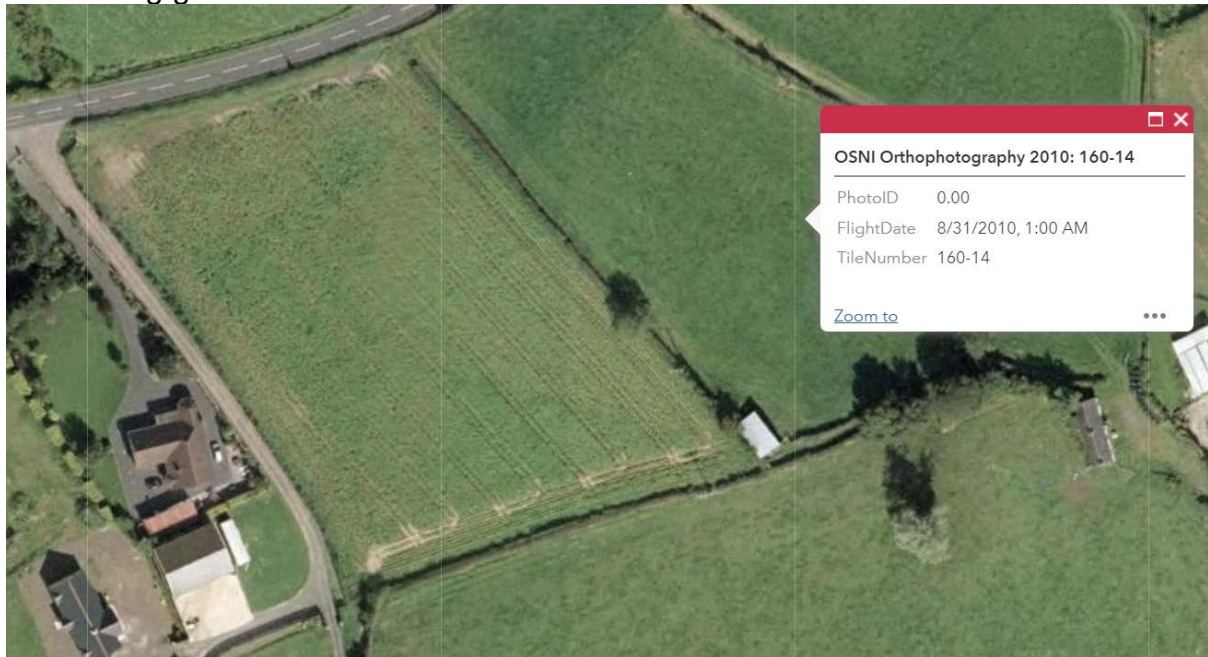


Fig 3 - OSNI aerial photograph of the land flown 31/08/20



Fig 4 – Google streetview image captured April 2011

The applicant advises they employed Mr Cush to sow out the land in grass seed in 2012 and from then until 2019 it was taken by Mrs Davidson who advises she only had to put her animals on the land and cut the silage as Mr McAleer carried out all other works to maintain the hedges, fences and drains in the field. An aerial photograph from OSNI flown on 7 June 2013 shows there has been some work done to the land as it is bare earth with clearly visible marks of machinery having been on the land (fig 5). Had this been sown in 2012 as advised then it should have been in grass, however it is evident that at this time work had been done to the land.

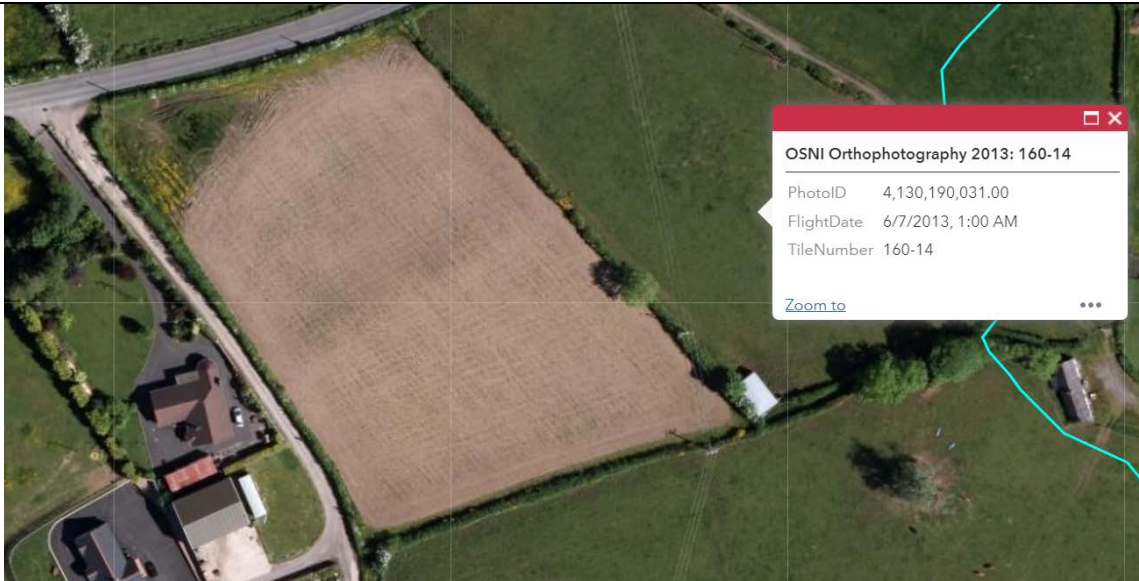


Fig 5 – OSNI aerial photograph of the land on 7 June 2013

Additional information provided in support of the application states:

- 1) the applicant engaged 3 different contractors between 2014 and 2020 to carry out works for the maintenance of the hedgerows. Invoices have been submitted which the applicant advises were written up recently from the contractors records and these are from:
 - S O'Neill for hedge cutting in July and October 2014,
 - K Quinn for hedge cutting in July and October 2015 and
 - D Dobson for hedge cutting in July and October 2016, 2017, 2018, 2019 and 2020
- 2) the applicant engaged Sean Rafferty to carry out works to the drains and fences in 2007-2008
- 3) Mr Ciaran O'Donnell carried out major works to the drains in 2017 where directional drilling was carried out and photographs are provided to show this. I consider the photographs are from the north west corner of this field as it is clear in the photographs there are trees and electricity poles in the south east corner that are still on site today. This can be seen below in the photograph provided by the applicant and in the google streetview image from June 2015 (Fig 7).



Fig 7 photograph of drainage work being undertaken and google streetview map, not trees and electric pole in middle of the pictures.

4) Mrs Davidson has advised that she took the land between 2012 and 2019 and claimed single farm payment on it. She also advised that Mr McAleer maintained the ground and she put her animals on it and took silage off it.

Members will be aware the policy refers to the farm business having to be active and established. Farming activity can take many different forms, the SPPS refers to Regulation (EU) No 1307/2013 for the definition of agricultural activity (see appendix 2). In this case it is clear Mr McAleer has been investing in the land and obtaining a return for that investment, and this is the common understanding of what a business is. There is no dispute that the land has been used for agricultural activities as it has been shown that it was used for growing potatoes and keeping animals on it, which, in my view, falls under the definition of agricultural activities and as it has been ongoing since before 2015 (6 years ago) then I consider this is an established agricultural business.

In light of the above information, I am content that this is an active and established farm business and criteria a of CTY10 has been met.

b) no dwellings or development opportunities have been sold off ... within 10 years of the date of the application....

I have checked the land identified as being in Mr McAleers ownership here and there have not been any sites or dwellings sold off the farm in the 10 years before the application was submitted. I am content that criteria b of CTY10 has been met.

c) new buildings should be sited to visually link or cluster with an established group of buildings on the farm and where practicable access should be from existing lanes.

It is quite clear there is no established group of buildings on this farm, Mr McAleer received planning permission for the farm building located in the south east corner of the field on 3rd October 2019. Members could refuse the application on the basis that it does not cluster or visually link with a group of buildings on the farm. That said, the policy provides an exception that states an alternative site away from a group of buildings will be acceptable where it meets the requirement of Policies CTY13(a-f), CTY14 and CTY16. As there is no group of buildings associated with this farm I consider it appropriate to assess the proposal under this exception in the policy.

The previous case officer report has considered the potential for a dwelling and garage to integrate on this site and has raised concerns about the potential visual impact of this. I agree that a dwelling would be visible on the site, but only when viewed from the public road immediately in front of the site and for approximately 200 metres on approach from Dungannon, as the vegetation to the west completely screens the site from view until the end of the laneway, identified in fig 6 with the red arrow.



Fig 6 – view from the west, access to the site identified by red arrow

The photograph below (fig 7) shows the view from the west, a dwelling as proposed (siting shown with the blue arrow) could break the skyline here, as it does not benefit from screening or clustering with the existing farm building (red arrow) or the other development to the west (black arrow). A dwelling here could be prominent in the landscape, when seen from this critical view.



Fig 6, siting proposed in blue, existing agricultural building in red and other buildings in black

This application is for outline planning permission and as such the members can consider if there are any conditions that would make this development acceptable. If there are no conditions that could make it acceptable then the development should be refused.

Conditions can be attached that deal with the size, scale, design and location of a dwelling on the site as well as landscaping conditions that can require new planting to be provided and allow existing planting to be retained at a certain height.

It is clear there are long established boundaries on the south and west of the identified site as well as within the applicants control to the north and east boundaries of the field. These can be conditioned to grow on to a height of 3 metres to assist the integration of any dwelling. Additional landscaping can be conditioned along the side of the lane and the curtilage of the proposed dwelling which will, in my opinion, also assist in the integration of

a dwelling on the site, but is not solely relied upon to provide the screening.

Coupled with the above conditions I consider it would be appropriate to control the ridge height of any dwelling and reduce the ground levels to ensure the rising ground and hedges to the rear (south) can provide a suitable backdrop. In my assessment of the site, I consider siting the dwelling as proposed in the indicative site plan with the finished floor levels the same as the existing ground level at the NE curtilage of the proposed site and a ridge height of 5.5m above the finished floor levels would ensure that a dwelling here is not prominent in the landscape. I consider it would also be appropriate to limit the ridge height of any garage to 4m above finished floor levels and these should be the same as the dwelling.

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In view of the above, it is my recommendation to the members that this proposal meets with the exception in CTY10 and that planning permission is granted with the conditions specified.

APPENDIX 1

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dated 10/11/2020 – objection

application form completion:

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- only farming since 12/6/2019, no reason to deviate from regulations
- agree with planning officer, any dwelling would be unsatisfactory as not able to integrate and would not be in character as required by CTY13 and CTY14

date received by Planning Office 4 May 2021 - objection

- has not been farming for 6 years in sense of true farmer
- lacks integration and erodes rural character and would create urban sprawl

date received by Planning Office 5 May 2021 - objection

- not infill
- noise from cattle trucks entering and leaving the site
- loss of privacy

dated 12 May 2021 - representation

-support for the application, refers to previous support letter as not being uploaded,

- owns the lane and others only have a right of way

- the applicant assists with maintenance of the lane and hedges

- previous letter advises:

- Mr McAleer has been farming the land since he purchased it, repairing fencing and drains on his land and on the writers land

- the development will not impact the rural area and will not transform it into a suburban development

date received by Planning Office 19 May 2021- rebuttal of information submitted in support of farming case

Sean Rafferty letter Appendix I Drainage Works

- Mr McAleer did not own the land in 2007, land registry documents attached,
- query flooding issue as not declared on P1 form

Ciaran O'Donnell letter Appendix Major Drainage Works

- Mr McAleer did not own the land in 2017, land registry documents attached,
- query flooding issue as not declared on P1 form,
- photos not of the site as no buildings shown
- billheads not acceptable proof, no departmental proof

Blackbird Letter dated 1 December 2017

- applicant has stated he is not active and established as a farmer, does not claim single farm payment

Ann McNulty letter Appendix L – Letter of Support

- objector claims they own the lane as it was to his parents small farm
- query flooding issue as not declared on P1 form
- land farmed by Mrs Davidson until 2019

Shirley Davidson/David Davidson letter Appendix M Conacre letter

- Mr McAleer did not own the land in some of the years, passed to another owner on 12 June 215, land registry documents enclosed
- Mrs Davidson was the sole farmer of the land

dated 24th May 2021 – objection

- the area has been the subject of a number of planning applications over the years
- development impacting on human rights
- the proposal is not an infill site, no frontage to road and accompanying development to the rear
- not an active farmer, previous application for shed states this and did not show that it farming was active for 6 years
- shed approved as an exception to planning policy as was not an active farmer
- only one building on the farm cannot cluster with buildings on the farm
- new laneway provided to the site, did not use existing as preferred by planning
- do not consider having 3 sheep constitutes being a farmer
- DEARA Legislation states active farmer is one who can claim for Basic Payment Scheme (BPS) Cat 3 farmers cannot
- to allow this would allow others to do the same thing

dated 15/6/2021 - objection

- application form, enclosed, clearly indicates this is not for a dwelling on a farm

dated 24/6/2021 – objection

- need to consider the viability of the farm
- brief history of the land: site has been refused planning for dwelling, was sold at the height of the market, around 2008, site put up for sale approx. 4 years ago and only attracted lower bids, owner applied for other development since
- proposal is contrary to CTY1, CTY2a, CTY6, CTY&, CTY13, CTY14, CTY12
- farmer never bought cattle

APPENDIX 2

Extract from Regulation (EU) No 1307/2013

c)

"agricultural activity" means:

- (i) production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes,
- (ii) maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries, based on criteria established by Member States on the basis of a framework established by the Commission, or
- (iii) carrying out a minimum activity, defined by Member States, on agricultural areas naturally kept in a state suitable for grazing or cultivation;

Conditions/Reasons for Refusal:

Conditions

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

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

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

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

3. The curtilage of the proposed dwelling, except for the access, shall be limited to the area identified 'proposed new boundary hedge' on the approved plan No. 02 which was date stamp received 21st September 2021.

Reason: To ensure that the development integrates into the landscape.

4. The dwelling hereby permitted shall have a ridge height not more than 5.0m above the finished floor level and the garage hereby approved shall not have a ridge height exceeding 4.0m above the finished floor level.

Reason: In the interests of visual amenity and to protect rural character.

5. The finished floor levels of the dwelling and garage hereby permitted shall not exceed the level of the existing ground level at point A as annotated on drawing number 01 bearing the stamp dated 21 SEP 2020.

Reason: So that the building integrates into the surrounding countryside.

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

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

7. A detailed landscaping plan shall be submitted and approved as part of the Reserved Matters application and shall identify the location, species and numbers of trees and hedges to be retained and planted. All existing boundaries shall be retained and augmented with trees and native species hedging. The north west, northeast and south east boundaries of the area identified in red and blue on drawing No 01 bearing the stamp dated 21 SEP 2020 shall be allowed to grow up to a height of at least 3 meters and shall be retained at that height. All new curtilage boundaries including both sides of any proposed access laneway shall also be identified by new planting, and shall include a mix of hedge and tree planting. The retained and proposed landscaping shall be indicated on a landscape plan, with details to be agreed at reserved matters stage.

During the first available planting season after the commencement of development on site, all proposed trees and hedges indicated in the approved landscaping plan at Reserved Matters stage, shall be planted as shown and permanently retained thereafter, unless otherwise agreed by Mid Ulster Council in writing.

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

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

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

9. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1 including sight lines of 2.4m by 90.0m in both directions and a forward sight distance of 90.0m. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

Informatives

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

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

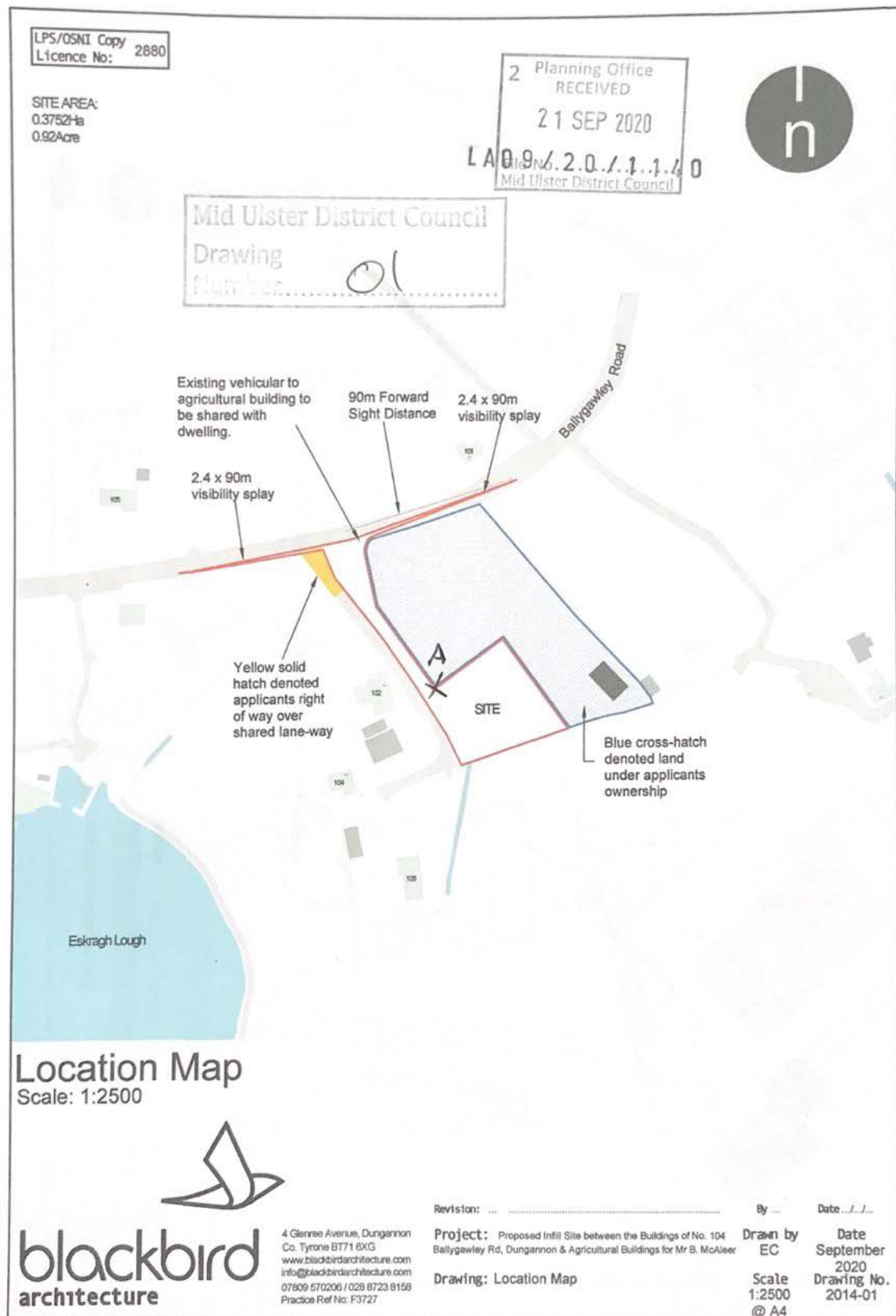
3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

4. The design of the proposal will be assessed at RM stage to ensure there will be no detrimental impacts on neighbouring residential amenity through over looking, over shadowing or over dominance.

Signature(s)

Date:

Location map with point A identified





Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1140/O	Target Date: 01/01/2020
Proposal: An infill dwelling and detached garage	Location: Between 104 Ballygawley Road and an agricultural building 100m North East of 104 Ballygawley Road Glenadush
Referral Route: Objections, recommendation to refuse	
Recommendation:	Refuse
Applicant Name and Address: Mr Bernard Mc Aleer 7 Glenree Avenue Dungannon	Agent Name and Address: Blackbird Architecture Ltd 4 Glenree Avenue Dungannon BT71 6XG
Executive Summary: Contrary to CTY1, 8, 13 and 14 of PPS21. The site does not meet the criteria for a gap site, is prominent, lacks integration and will further erode rural character.	
Signature(s):	

Case Officer Report

Site Location Plan



Representations:

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

Summary of Issues

A number of 3rd party representations have been received on this proposal. Issues raised are summarised below;

-One representation states that they have no objection to the proposal as long as it does not impinge on the properties of No. 102 and 104 and that all the existing planning regulations and laws are adhered to;

I am not treating this proposal as an objection as, with every case, I aim to process objectively in line with planning regulations and laws.

Another objection received from Joe McNulty is summarised as follows;

-The main body of the objection concentrates on how this proposal does not meet the planning criteria of an infill dwelling (policy CTY8 of PPS21) and is accompanied by a number of photographs to demonstrate this interpretation of policy;

I will consider these objections later in my report.

-some of the objection relates to a previously approved application LA09/2018/1349/F for an agricultural shed to the east of the site. These objections relate to how this application was granted permission. As a decision has been reached and no further challenge is outstanding on this decision it is my view that these points are not relevant

or material to my assessment as the decision has been made and the agricultural building in place.

The agent has provided an e-mail rebutting some of these objections. In his e-mail the agent states that Mr. McNulty's objection does not state any grounds for objection. Since this e-mail Mr McNulty has provided a further objection which does expand on his concerns and will be considered later. The agent also makes it clear that his Statement of Case clearly demonstrates how his site meets the criteria of CTY8 of PPS21.

Description of proposal

This is an outline planning application for an infill dwelling and detached garage in the countryside.

Characteristics of Site and Area

This site is located in the SE corner of a larger agricultural field, and is accessed via an existing gravel access which runs along the SW boundary of the field. The NE and NW boundaries of the site are not clearly defined, the boundary to the west to the access lane is defined by a mature tree lined hedgerow approx. 4-5m high while the SE boundary is defined by a 2m high maintained hawthorn hedge.

The application site is located between number 102 Ballygawley Road to the west and a newly constructed shed which was granted permission under LA09/2018/1349/F to the west. Access to the shed runs along the western and southern boundaries of the site, this right of way is not shown on the site location map.

The red line of the site includes a narrow access along the Western boundary of the field, wraps around the rear and opens into a small rectangle in the East corner of the field. The field is bound on each of its sides by vegetation and hedgerows, however, the small red line of the rectangle is only bounded by vegetation on the NE side. The shed and the remainder of the agricultural field are within the applicant's ownership/control and are highlighted in blue. In terms of elevation the site is elevated in the landscape when viewed from the public road as land rises steadily from roadside up the lane towards the site to the top of a local drumlin. No land rises beyond the site and there is little or no backdrop.

Nos 102, 104, 106 Ballygawley Road are residential dwellings located to the west of the site. These dwellings are located along an existing laneway from Ballygawley Road and are accompanied by associated outhouses, garages and sheds. On the opposite side of the road there are 2 detached single dwellings separated by agricultural land.

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

Planning Assessment of Policy and Other Material Considerations

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

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

The 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.

Dungannon and South Tyrone Area Plan 2010:

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

Key Planning Policy

SPPS

PPS21 Sustainable Development in the Countryside

PPS3 Access, Movement and Parking

Design Guidance: Building on Tradition

Relevant Planning History

LA09/2018/1349/F- full planning permission was granted for proposed cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard-standing area for a new hobby farm holding for raising rare cattle and sheep breeds. Granted 03.10.2019. At the time of my site visit this building and access was in place.

LA09/2017/0899/F- permission was refused for cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard-standing areas for a new hobby farm holding for raising rare cattle and sheep breeds on 11.09.2018 for the following reason;

1. The proposal is contrary to Policy CTY 12 of Planning Policy Statement 21, sustainable development in the countryside in that it has not been demonstrated that the farm business has been established for a period of at least 6 years and that the development, if permitted, would result in a detrimental impact on the amenity of nearby residential dwellings by reason of noise, odour and flies due to its close proximity. The decision was never appealed.

M/2010/0554/O- Proposed 2 dwellings (detached), Adjacent to 102 Ballygawley Road, Eskragh, Dungannon, Co Tyrone, for Bernard McAleer. This permission was refused on 09.11.2010 for the following reasons;

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

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point and / or is not located at a cross-roads; the proposed site is not bounded on at least two sides

with other development in the cluster and does not provide a suitable degree of enclosure; the dwellings would if permitted significantly alter the existing character of the cluster and visually intrude into the open countryside.

3.The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long term evidence that new dwellings are a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused and/ or it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.

4.The proposal is contrary to Policies CTY1 and CTY7 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 there is a site specific need for the proposed dwelling that makes it essential for an employee to live at the site of their work.

5.The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed buildings would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape.

6.The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to further erode the rural character of the countryside.

This site incorporated both LA09/2018/1349/F and this subject application site LA09/2020/1140/O. The decision was never appealed.

Representations

A number of 3rd party representations have been received on this proposal. Issues raised are summarised below;

-One representation states that they have no objection to the proposal as long as it does not impinge on the properties of No. 102 and 104 and that all the existing planning regulations and laws are adhered to;

I am not treating this proposal as an objection as, with every case, I aim to process objectively in line with planning regulations and laws.

Another objection received from Joe McNulty is summarised as follows;

-The main body of the objection concentrates on how this proposal does not meet the planning criteria of an infill dwelling (policy CTY8 of PPS21) and is accompanied by a number of photographs to demonstrate this interpretation of policy;

I will consider these objections later in my report.

-some of the objection relates to a previously approved application LA09/2018/1349/F for an agricultural shed to the east of the site. These objections relate to how this application was granted permission. As a decision has been reached and no further challenge is outstanding on this decision it is my view that these points are not relevant

or material to my assessment as the decision has been made and the agricultural building in place.

The agent has provided an e-mail rebutting some of these objections. In his e-mail the agent states that Mr. McNulty's objection does not state any grounds for objection. Since this e-mail Mr McNulty has provided a further objection which does expand on his concerns and will be considered later. The agent also makes it clear that his Statement of Case clearly demonstrates how his site meets the criteria of CTY8 of PPS21.

Consideration

SPPS Strategic Planning Policy Statement for Northern Ireland sets out a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulsters 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 and must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety.

Planning Policy Statement 21 Sustainable Development in the Countryside

Policy CTY 1 of PPS 21 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 of development which are considered to be acceptable in the countryside are set out in policy CTY 1, one of these being the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8.

Policy CTY 8 Ribbon Development allows for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental criteria. For the purposes of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

This site is located adjacent and west of an existing agricultural building. This building is set back approx. 120m from the public road, with the land between the building and the roadside being defined as an existing undeveloped agricultural field. The proposed site is also set back approx. 120m from the public road, and proposes to share the existing access to the agricultural shed. In my view neither the agricultural shed or proposed site represents road frontage development.

This proposed gap site also relies on buildings to the west for consideration as a gap site. No. 102 does not have a frontage to the road, as there is a small agricultural field

between its curtilage and the public road. Plus, No. 102 has accompanying development to the rear, including No 104 and 106 and accompanying sheds, outhouses and garages. The policy is clear that the frontage, which in my view this is not, cannot have accompanying development to the rear which this clearly does.

Given the setback from the public road, and the nature and context of other development in this area, it is my view that this site does not represent a gap within an otherwise continuous and built up frontage.

M/2010/0554/O was refused for 2 dwellings on this site, however, CTY8 did not seem to form part of the assessment and was not included as a reason for refusal in the decision notice. Policy CTY2a and other personal circumstances seemed to form the basis of the assessment. It is my view that this proposal does not meet that criteria of CTY2a in that the site is not associated with a focal point, does not provide a suitable degree of enclosure and the dwelling would if permitted significantly alter the existing character of this area of countryside.

No personal circumstances have been provided in this instance and no other case has been forwarded by the agent for consideration.

In the agents assessment of the gap, he relies on buildings that clearly do not have a road frontage or shared frontage, and are set behind existing development which the policy resists (see building 01 and 02 indicated on drawing No. 03). Plus, building No. 4 indicated on drawing No. 03 is not visible in the landscape and is not read as a visual entity in the landscape when assessing the built up frontage, as it cannot be clearly viewed from public vantage points and in my view is not road frontage.

In terms of policy CTY13 and 14, it is my view that a dwelling of any size or scale cannot satisfactorily integrate onto this site. The site is elevated from the public road, any dwelling will break the skyline and there is no backdrop when viewed from the public road. There is insufficient vegetation to assist with integration. Plus a dwelling will read with other dwellings and development in the area which will lead to a further erosion of rural character.

Previously on the site under M/2010/0554/O for 2 dwellings, it was considered by the then Department under the same policy PPS21, that development on this site would be contrary to;

- Policy CTY13 of Planning Policy Statement 21 in that the proposed buildings would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape.

- Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to further erode the rural character of the countryside.

This decision or reasons for refusal were never appealed by the applicant and I am of the same view that the proposal would be contrary to CTY13 and 14.

PPS3 Access, Movement and Parking

DfI Roads were consulted on the proposed vehicular access to this site and they raise no objections to the proposal subject to sight splays of 2.4m by 90m in both directions and a forward sight distance of 90m with no blind spots where the access is on the inside of a bend.

Other considerations

The site is not subject to flooding. No land contamination issues have been identified. The site is not located within a protected area, nor is it close to built heritage or archaeological interests.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That permission is refused for the following reasons;

Refusal Reasons

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

2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage. The proposal would not respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and as a result would have a detrimental impact on the character of this area of countryside.

3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for it to integrate into the landscape.

4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings and would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to, and further erode, the rural character of this area of countryside.

Signature(s)

Date:

ANNEX	
Date Valid	21st September 2020
Date First Advertised	6th October 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 101 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 102 Ballygawley Road Dungannon Tyrone Brian Quinn 102 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA Joe McNulty 104 Ballygawley Road, Dungannon, Tyrone, BT70 1TA Joe McNulty 104 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA The Owner/Occupier, 104 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 105 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 106 Ballygawley Road,Dungannon,Tyrone,BT70 1TA Brian Donoghue Carraig Na Moil, Glendadush, 105 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA Eamonn Cushnahan Email Address	
Date of Last Neighbour Notification	10th December 2020
Date of EIA Determination	No need to screen as not schedule 1 or 2 development, nor is the site located within a sensitive area
ES Requested	No



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/1615/F	Target Date: <add date>
Proposal: Proposed dwelling with integrated annex and garages	Location: Site Adjacent To 18 Lowertown Road Dungannon
Applicant Name and Address: Brian Wilson 17 Bush Road Dungannon	Agent Name and Address: CQ Architects 23 Dunamore Road Cookstown BT80 9NR
Summary of Issues: This application is for a dwelling in the countryside, it is on a gap site and the design of the previous application was not considered in keeping with the area or the policy direction.	
Summary of Consultee Responses: DFI Roads - access acceptable with conditions	
Characteristics of the Site and Area: The site is located adjacent to 18 Lowertown Road, Dungannon between two existing properties. The site sits outside any defined settlement limits as identified within the Dungannon and South Tyrone Area Plan 2010. The site incorporates a roadside plot of land which sits on a slightly elevated setting when travelling along Lowertown Road in an easterly direction, especially in comparison to no 16 Lowertown Road. The site has existing post and wire fencing along the roadside boundary and there is existing hedging providing the boundary between the application site and the two adjoining neighbouring properties. The surrounding area is rural in nature, largely made up with agricultural fields scattered with single dwellings and their associated outbuildings.	

Description of Proposal

Full planning permission is sought for a proposed dwelling with integrated annex and garages on an infill site.

Deferred Consideration:

This application was before the Planning Committee in May 2021 as the design proposed was not considered acceptable in the rural area or on this site. The principle of a dwelling on the site as a gap site, as provided for in CTY8, has already been accepted.

The revised proposal is for a large dwelling which has the appearance, from the front, of 3 pitched roof blocks, 2 appear to be single storey with 5.5m and 5.0m ridge heights and a taller 2 storey building with 8.5m ridge height. The 3 buildings are connected by single storey flat roofed elements, part of this is a roof terrace for the 2 storey building and all enclosed by zinc roofed mono pitched roofs between the buildings.

The buildings to the north, beside the existing single storey dwelling, are set back to reduce overlooking or overshadowing (fig 1). The closest part of the building to the neighbour is the garage with living accommodation behind it, this part of the building is single storey with a flat roof, it has a painted timber cladding to the front and part of the side. The 2 storey building is proposed in buff coloured brick and the remainder of the walls are either glazed or white render. The pitched roofs are slate finish. (Fig 2 & 3)

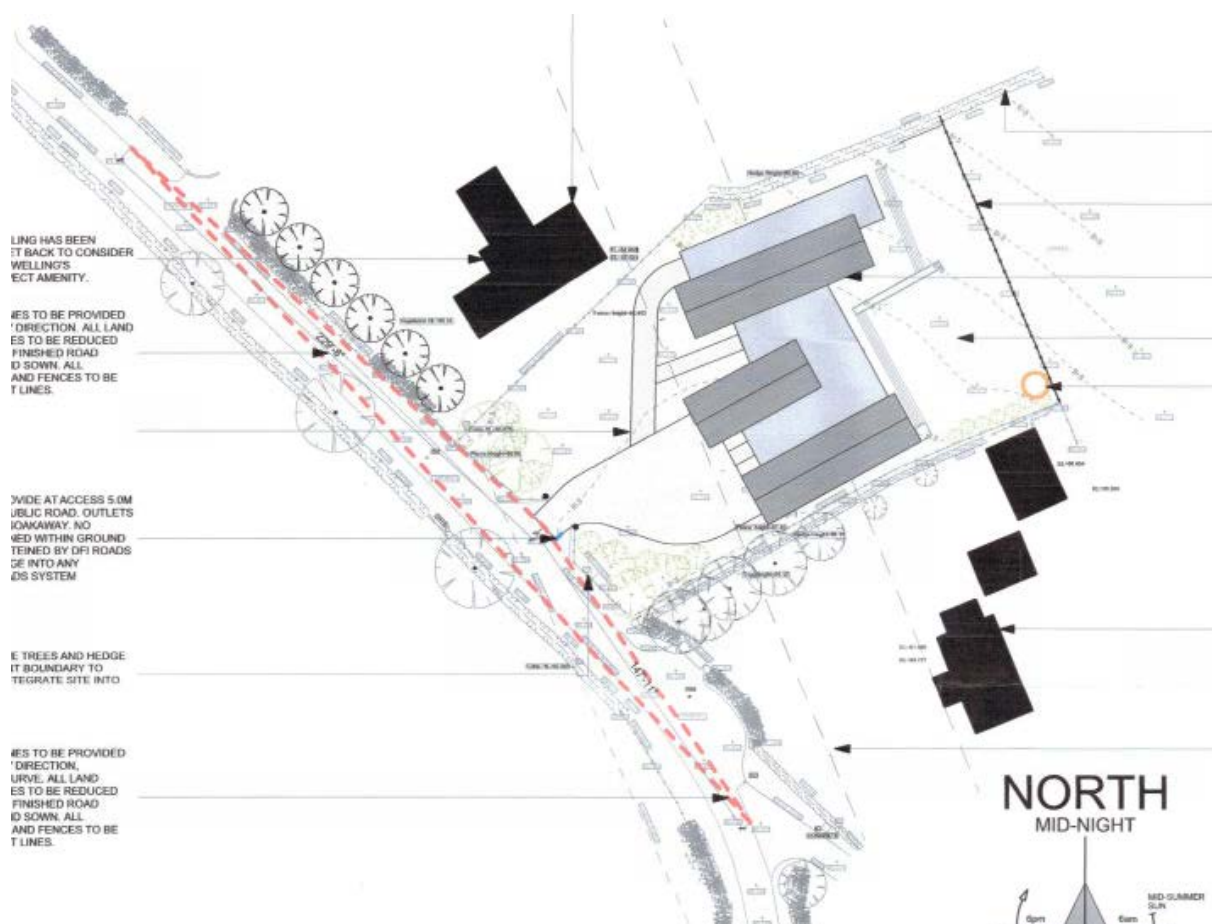


Fig 1 – site layout

Fig 2 - Front and rear elevations



including visibility splays of 2.4m x 70.0m to the north easterly direction and 2.4m x 45.0m to the south easterly direction shall be provided in accordance with the approved details as shown on drawing number 02/1 bearing the stamp dated 9 JUN 2022. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

3. All hard and soft landscape works as detailed on drawing no 02/1 bearing the stamp dated 9 JUN 2022 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

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

4. The dwelling hereby approved shall be used as a single family residence and shall not be subdivided or used as separate dwelling units without the written consent of the Council.

Reason: To protect the amenity of the proposed residents and adjoining properties.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1615/F	Target Date:
Proposal: Proposed dwelling with integrated annex and garages	Location: Site adjacent to 18 Lowertown Road Dungannon
Referral Route: Refusal – fails to comply with CTY 13 and CTY 14 of PPS 21. Objections received also.	
Recommendation:	REFUSAL
Applicant Name and Address: Brian Wilson 17 Bush Road Dungannon	Agent Name and Address: CQ Architects 23 Dunamore Road Cookstown BT80 9NR
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

Representations:

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

Summary of Issues

There were two objections received – the content of these objections will be discussed in detail later in the report but some of the main issues raised were:

- the design of the dwelling
- the impact on the character of the area
- loss of privacy
- noise disturbance

Group discussion – we also felt that the proposal was contrary to CTY 13 and CTY 14 of PPS 21.

Characteristics of the Site and Area

The site is located adjacent to 18 Lowertown Road, Dungannon between two existing properties. The site sits outside any defined settlement limits as identified within the Dungannon and South Tyrone Area Plan 2010. The site incorporates a roadside plot of land which sits of a slightly elevated setting when travelling along Lowertown Road in an easterly direction, especially in comparison to no 16 Lowertown Road. The site as existing post and wire fencing along the roadside boundary and there is existing hedging providing the boundary between the application site and the two adjoining neighbouring properties. The surrounding area is rural in nature, largely made up with agricultural fields scattered with single dwellings and their associated outbuildings.

Description of Proposal

Full planning permission is sought for a proposed dwelling with integrated annex and garages on an infill site.

Planning Assessment of Policy and Other Material Considerations

Planning History

LA09/2018/1583/O - Site adjacent to 18 Lowertown Road, Gortshalgan, Dungannon - Infill dwelling with detached double garage – PERMISSION GRANTED

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. There were two neighbours notified under this application, 16 and 18 Lowertown Road. At the time of writing, there were two objections received.

Assessment of Policy/Other material considerations

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

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

The proposal is located outside any defined Settlement Limits as identified in the Dungannon and South Tyrone Area Plan, located south of The Bush. The site has no other designations or zonings.

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. It notes the importance of sustainable development in the countryside which promotes high standards in the design, siting and landscaping.

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 meets the policy test in that there is a continuous built up frontage along this road frontage. This is reinforced by the planning history associated with the site that has already approved the principle of an infill site at this location. At present, there is a detached dwelling to the north and the south of the site. Both of these have buildings to the side that also have an obvious frontage with Lowertown Road. Therefore, taking into consideration what is on the ground at present, I am satisfied that there is a line of three or more buildings along this road frontage and therefore the proposal meets this policy requirement. I consider that the gap between existing dwellings and buildings would be sufficient to accommodate no more than two dwellings when taking into account the existing plot sizes and their frontages of the building this site is proposing to infill.

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.

The proposal is for a dwelling that has a design, which we feel, is inappropriate for this rural setting. The design has a modern appearance to it and is not something we would typically accept in the countryside. The footprint of the dwelling is significantly large on the proposed site and has an irregular shape, almost two "L" Shaped floor plans linked. Figure 1 below shows how the proposed floor plan and the overall size and scale of it is inappropriate for this setting, especially in relation to the scaling of the two dwellings at either side.

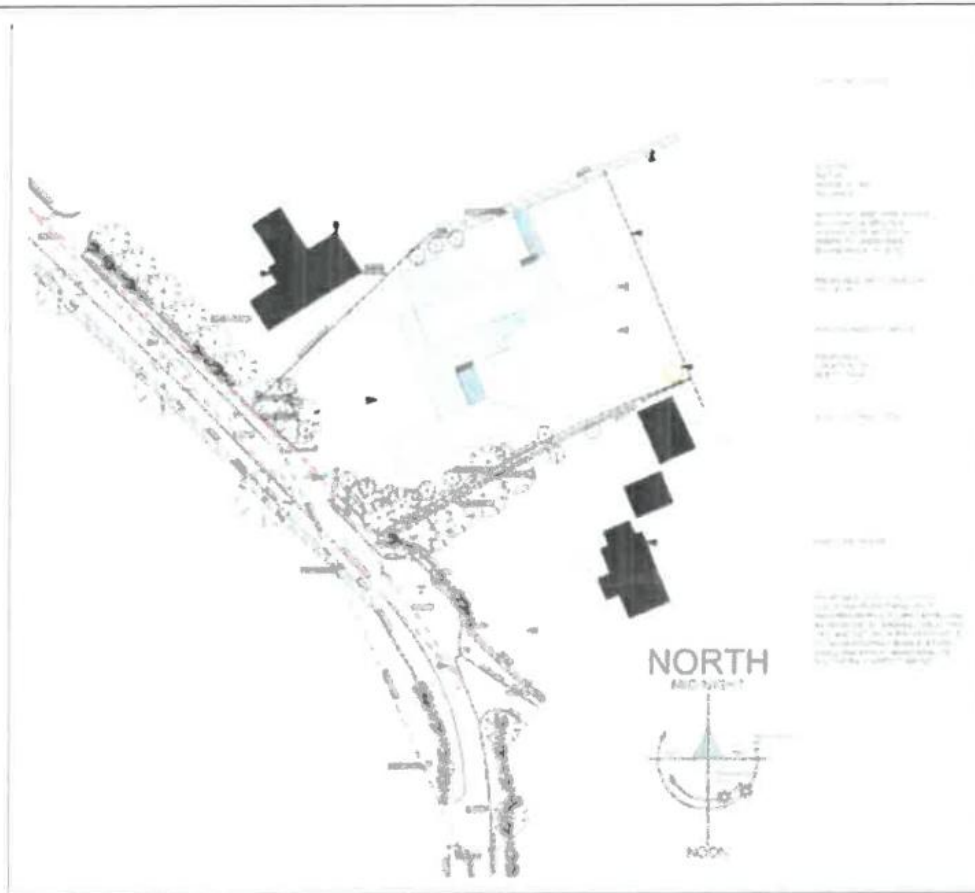


Figure 1

The views of the proposed front elevation are shown below in figure 2. This is the elevation that would have most impact from public viewpoints travelling along Lowertown Road. The front elevation included a significant amount of glazing and a single pitched roof along with two integral garages included in the design. It is considered that the front elevation is excessive and inappropriate for the siting with a design which may be much more suited to an urban setting. The rear elevation includes a balcony area to the first floor of the property and also has significant amounts of glazing across both the ground and first floor of the proposal.



Figure 2

The agent was asked to submit a complete redesign following group discussion about the design of the proposal, however instead they provided a supporting statement for the current design. I am not content that the supporting statement justifies the house type proposed and would still be of the opinion that it would appear unduly prominent and out of keeping with the surrounding area. There are concerns in relation to the design of the proposed dwelling and its overall prominence at this site. Overall, it is considered that the design, scale, size and massing of the dwelling proposed is unacceptable and inappropriate for the site and its locality and it does not respect the traditional pattern of settlement exhibited in this area, and as a result is contrary to the criterion held within CTY 13 and CTY 14 of PPS 21.

Representations

There were two objections received in relation to the proposal. One of these objections was received from the occupier of No 16 Lowertown Road and the other 44 Lowertown Road. The main issues raised include the design of the dwelling, the impact on the character of the area, loss of privacy and noise disturbance. In terms of the design and appearance of the dwelling, it has been outlined above how we feel the design proposed is not appropriate for the site or the surrounding area. I consider the proposal to be overly prominent for this site and agree that it would be dominant, especially in comparison to No.16 Lowertown Road, as their objection states. The overall ridge height of the proposal is not the concern, rather the overall massing and scale of the dwelling proposed. I also agree that the proposal would be out of keeping for the area and that the design would potentially be more suited to an urban setting. In terms of privacy concerns, given the siting of the dwelling and noting that most of the dwelling would actually be set behind No.16, we don't have major concern with overlooking or privacy issues. There also is much less glazing on the side elevations of the proposed dwelling. In terms of noise disturbance, we have no reason to believe that the noise which would be made as a result of this dwelling would be any greater than the normal day to day level of noise from any dwelling. The objector noted the link between the main body of the dwelling and the granny annex, however if a dwelling and granny annex were designed in a way at this site which was appropriate in terms of planning, noise disturbance shouldn't be a concern.

Neighbour Notification Checked	Yes
Summary of Recommendation:	
Refusal is recommended.	
Conditions/Reasons for Refusal:	
1. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling would be a prominent feature in the landscape and the design of the proposed dwelling is inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape.	

2. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, be unduly prominent in the landscape and the dwelling would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to the rural character of the countryside.

Signature(s)

Date:

ANNEX	
Date Valid	16th December 2020
Date First Advertised	29th December 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) Lavinia Mclvor 16 Lowertown Road, Dungannon, BT71 6QJ The Owner/Occupier, 16 Lowertown Road,Dungannon,Tyrone,BT71 6QJ The Owner/Occupier, 18 Lowertown Road,Dungannon,Tyrone,BT71 6QJ Harold Mclvor 44 Lowertown Road, Dungannon, BT71 6QJ	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2018/1583/O Proposal: Infill dwelling with detached double garage Address: Site adjacent to 18 Lowertown Road, Gortshalgan, Dungannon, Decision: PG Decision Date: 19.02.2019 Ref ID: LA09/2020/1615/F Proposal: Proposed dwelling with integrated annex and garages Address: Site adjacent to 18 Lowertown Road, Dungannon, Decision: Decision Date: Ref ID: M/1986/0164 Proposal: PRIVATE DWELLING Address: LOWERTOWN ROAD, DUNGANNON Decision: Decision Date: Ref ID: M/1990/0240	

Proposal: Chalet Bungalow
Address: ADJACENT TO NO 16 LOWERTOWN ROAD DUNGANNON
Decision:
Decision Date:

Ref ID: M/2007/1511/O
Proposal: New dwelling and detached garage.
Address: Site adjacent to 18 Lowertown Road, Gortshalgan, Dungannon
Decision:
Decision Date: 10.04.2009

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 04
Type: Proposed Elevations
Status: Submitted

Drawing No. 05
Type: Proposed Floor Plans
Status: Submitted

Drawing No. 03
Type: Proposed Elevations
Status: Submitted

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

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

Drawing No. 06
Type: Proposed Floor Plans
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:

Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2021/0860/O	Target Date: 2 August 2021
Proposal: Proposed dwelling and garage	Location: Site Adjacent To 27 Waterfoot Road Ballymaguigan Magherafelt
Applicant Name and Address: Jim O Neill 242 Shore Road Ballymaguigan Magherafel	Agent name and Address: MC Cartan Muldoon Architects Studio One Marina Centre 135A Shore Road Ballyronan Magherafelt BT45 6JA
Summary of Issues: The application was considered to be contrary to policy CTY 2A of PPS 21 in that the site was not associated with a focal point and was not bounded on at least 2 sides with other development.	
Summary of Consultee Responses: 	
Characteristics of the Site and Area The application site is located adjacent to 27 Waterfoot Road, Magherafelt and is outside any designated settlement defined in the Magherafelt Area Plan 2015. The site is a vacant plot of agricultural land located to the rear of no. 27 Waterfoot Road. The proposed access utilises an existing farm laneway. The surrounding area is predominantly rural in character.	
Description of Proposal The applicant seeks outline planning permission for a dwelling and garage under Policy CTY 2A (Dwelling in a Cluster)	

Deferred Consideration:

This application was before Planning Committee in July 2022 where it was deferred for an office meeting so that the applicant could provide additional information in respect of a focal point and boundary development.

In respect of the focal point which was identified as being the small roadside building to the front of number 27 Waterfoot Road the applicant provided a statement from Mrs May Devlin (TABBDA) who confirmed that this building served the local community years ago as a shop and post office. She also included an extract from a local historical book which referenced this shop. On the basis of this supporting information i am now satisfied that the said building can be considered as focal point for the purposes of Policy CTY 2A.

It was agreed at the office meeting that i carry out a site inspection to determine the curtilage/garden area of number 29 Waterfoot Road and to assess any potential impact on the residential amenity of numbers 28 and 29 Waterfoot Road. Having carried out a site inspection it was evident that the rear garden of number 29 extends to the Southern boundary of the site. As such, i am satisfied that the site is bounded by development on 2 sides - the Northern and the North East.

In terms of the impact of a dwelling on the residential amenity of adjacent dwellings, i am satisfied that a dwelling conditioned to have a 5.5m ridge height along with a condition for the erection of a closed board wooden fence and native species planting along the North East boundary would prevent any privacy and/or over looking issues.

DFI Roads are the only consultee and have no objections to the proposal subject to a 1:500 block plan being submitted with any Reserved Matters Application. Splays of 2.4m x 70m and a Forward Site Distance of 70m are required. No third party objections have been received.

In conclusion and having considered all new supporting information i recommend that this application be approved.

Conditions/Reasons for Refusal:**Approval Conditions****Condition 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.

Condition 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.

Condition 3

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the RS1 Form, including visibility splays of 2.4m x 70m in each direction and a forward sight distance of 70m prior to commencement of development.

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

Condition 4

The proposed dwelling shall have a ridge height of less than 5.5 metres above finished floor level

Reason: To protect adjacent residential amenity

Condition 5

The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity

Condition 6

The proposed dwelling shall be sited in the area shaded green on the approved plan date stamped 7th June 2021

Reason: To protect adjacent residential amenity

Condition 7

During the first available planting season after the occupation of the dwelling, a natural species hedge shall be planted in a double staggered row 200mm apart, at 450 mm spacing, 500 mm along the North East Boundary of the site along with a closed board wooden fence 1.8m in height

Reason: To protect adjacent residential amenity

Condition 8

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

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

Signature(s):Karla McKinless

Date: 20 September 2022



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Mid-Ulster

Local Planning Office

Mid-Ulster Council Offices

50 Ballyronan Road

Magherafelt

BT45 6EN

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: July 2022	Item Number:
Application ID: LA09/2021/0860/O	Target Date:
Proposal: Proposed dwelling and garage	Location: Site adjacent to 27 Waterfoot Road Ballymaguigan Magherafelt
Referral Route: Committee- REFUSAL	
Recommendation:	Refusal
Applicant Name and Address: Jim O'Neill 242 Shore Road Ballymaguigan Magherafel	Agent Name and Address: Mc Cartan Muldoon Architects Studio One Marina Centre 135a Shore Road Ballyronan Magherafelt BT45 6JA
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The application site is located adjacent to 27 Waterfoot Road, Magherafelt and is located outside the designated settlement limits as defined in the Magherafelt Area Plan, 2015. The site is currently a vacant plot of rectangular agricultural land located to the rear of No 27 Waterfoot Road, Magherafelt. The proposed access utilises an existing farm laneway on to the Waterfoot Road.

The surrounding area is predominantly rural in nature.

Description of Proposal

The applicant seeks outline permission for a dwelling and garage under Policy CTY 2A.

Planning Assessment of Policy and Other Material Considerations

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

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

Planning History

Reference	Location	Proposal/Complaint	Status	Date
LA09/2021/0860/O	Site adjacent to 27 Waterfoot Road, B.	Proposed dwelling and garage	VALID APPLICATION RECEIVED	
H/2004/1169/O	40m South West of 29 Waterfoot Road	Site of Dwelling and Garage.	PERMISSION REFUSED	12.05.2006
H/2004/0029/F	Adjacent to 29 Waterfoot Road, Castle	Dwelling and garage.	PERMISSION GRANTED	25.08.2004
H/2000/0454/O	50m (Approx) South West of 29 Waterfoot Road	Site of dwelling and garage	APPLICATION WITHDRAWN	15.12.2000
H/2000/0900/O	Adjacent To 29 Waterfoot Road, Castle	Site Of Dwelling And Garage	PERMISSION GRANTED	21.02.2001
H/2000/0194/Q	Adjacent to 29 Waterfoot Road, Castle	Housing Development	PRE APPLICATION ENQUIRY - RE	
H/2001/0436/O	Adjacent to 29 Waterfoot Road, Castle	Site of dwelling and garage	PERMISSION REFUSED	18.01.2002

Representations

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

Assessment

The Strategic Planning Policy Statement (SPPS) for Northern Ireland-Planning for Sustainable Development, is a material consideration. The SPPS sets out that planning authorities should be retained under transitional arrangements. The SPPS sets out that planning authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance. Until a Plan Strategy for the whole of the Council area has been adopted planning applications will be assessed against existing policy.

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.

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

Planning Assessment of Policy and Other Material Considerations:

The application is considered against the following:

SPSS

The Magherafelt Area Plan 2015,

PPS 21 Sustainable Development in the Countryside

PPS 3 Access, Movement and Parking.

Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. It goes on to state that planning permission will be granted for an individual dwelling house in the countryside in six cases. One of these is a dwelling sited within an existing cluster of buildings in accordance with Policy CTY2a.

The principle of the application is considered under PPS 21, CTY 2a, New Dwellings in Existing Clusters and all criteria must be met.

a) 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;

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

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

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

e) 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

f) Development would not adversely impact on residential amenity.

Whilst the proposed dwelling could be absorbed into the existing landscape, the proposal fails a number of the above criteria under PPS 21, CTY2a, namely b, c and d. The application site is too far removed from the crossroads to be used as a focal point. The crossroads junction of Waterfoot road with Ballyronan road is located approx. 300 m east of the site and the site is located behind an existing dwelling, No. 27. The site is not bounded on at least two sides with other development in the cluster. The agent has suggested that an existing stone vernacular roadside building was used as a shop/post office in the past (see photo 1 & 2 below). However, the building is vacant and appears to have been for many years as it is derelict. There is no evidence provided to confirm that this building was ever used as a shop or post office. The building has no significant features to suggest that it was once a shop/Post office and could potentially have been a dwelling house.

Photo 1 old stone building, which agent suggest as a focal point



Photo 2 Old stone building which Agent suggests as a focal point



PPS 3 Access, Movement and Parking

DFI Roads were consulted on this proposal and responded to say they had no objections subject to conditions being added.

Conclusion

In conclusion I consider the proposal to be unacceptable as it is contrary to PPS 21, Policy CTY2A and recommend permission is refused.

Neighbour Notification Checked	Yes
Summary of Recommendation: Refuse	
Refusal Reasons: 1. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point. 2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed site is not bounded on at least two sides with other development in the cluster.	
Signature(s) Date:	

ANNEX	
Date Valid	7th June 2021
Date First Advertised	22nd June 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 27 Waterfoot Road Magherafelt Londonderry The Owner/Occupier, 29 Waterfoot Road Magherafelt Londonderry The Owner/Occupier, 4 St. Treas Villas Magherafelt Londonderry The Owner/Occupier, 5 St. Treas Villas Magherafelt Londonderry The Owner/Occupier, 6 St. Treas Villas Magherafelt Londonderry	
Date of Last Neighbour Notification	29th June 2021
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2021/0860/O Proposal: Proposed dwelling and garage Address: Site adjacent to 27 Waterfoot Road, Ballymaguigan, Magherafelt, Decision: Decision Date: Ref ID: H/2004/1169/O Proposal: Site of Dwelling and Garage. Address: 40m South West of 29 Waterfoot Road, Ballymaguigan. Decision: Decision Date: 12.05.2006 Ref ID: H/2004/0029/F Proposal: Dwelling and garage. Address: Adjacent to 29 Waterfoot Road, Castledawson. Decision: Decision Date: 25.08.2004	

Ref ID: H/2000/0454/O

Proposal: Site of dwelling and garage

Address: 50m (Approx) South West of 29 Waterfoot Road, Castledawson

Decision:

Decision Date: 15.12.2000

Ref ID: H/2000/0900/O

Proposal: Site Of Dwelling And Garage

Address: Adjacent To 29 Waterfoot Road, Castledawson

Decision:

Decision Date: 21.02.2001

Ref ID: H/2000/0194/Q

Proposal: Housing Development

Address: Adjacent to 29 Waterfoot Road, Castledawson

Decision:

Decision Date:

Ref ID: H/2001/0436/O

Proposal: Site of dwelling and garage

Address: Adjacent to 29 Waterfoot Road, Castledawson

Decision:

Decision Date: 18.01.2002

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

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

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

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2021/0952/F	Target Date: <add date>
Proposal: Extension to existing curtilage & domestic storage shed.	Location: 45m South of 211a Washingbay Road Coalisland BT71 5EG.
Applicant Name and Address: Mr Tony McCuskey 211a Washingbay Road Coalisland BT71 5EG	Agent Name and Address: CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
Summary of Issues: This application is for an extension to the curtilage of the dwelling and new domestic storage building for the applicants personal belongings.	
Summary of Consultee Responses: GSNI - a search of the Geological Survey of Northern Ireland "Shafts and Adits Database" indicates that the proposed site is greater than 400m from the closest known abandoned mine working	
Characteristics of the Site and Area: The site is located in the rural countryside outside as depicted under the Dungannon and South Tyrone Area Plan 2010, approx. 4km east of Coalisland and 1.5km west of Lough Neagh. The site is located in the rural countryside outside as depicted under the Dungannon and South Tyrone Area Plan 2010, approx. 4km east of Coalisland and 1.5km west of Lough Neagh. and agricultural lands to the south of the aforementioned property's curtilage.	

The site is a long narrow plot containing no. 211a Washingbay Rd a chalet dormer dwelling and its curtilage including a detached sunroom to the rear / west of the dwelling; and agricultural lands to the south of the aforementioned property's curtilage. The dwelling has a simple rectangular shaped floor plan and pitch roof construction with a 1½ storey front porch and dormers on its front elevation and a dropped pitch rear return offset to its east gable. It has brick walls and dark roof tiles/slates. A garden runs right round but primarily to the front of the dwelling. A tarmac drive runs along the west side of the property's front garden providing access to tarmac area of parking immediately to the front of the property and a concrete amenity area immediately to the rear. A mature hedge and stone access pillars and walls define the roadside boundary of the site. A mature hedge also defines the eastern boundary of the site and the remaining boundaries are undefined.

Views of the site are just before and passing along the roadside frontage of no. 211a; and from an elevated point on the western approach to the site from the Washingbay Rd / Coole Rd junction, looking down towards the site.

The immediate area surrounding the site, comprising relatively flat open topography typical of the Loughshore Area, has come under considerable development pressure in recent years with a no. of dwellings and ancillary buildings lining stretches of the surrounding road network. The site is bound by a relatively newly constructed dwelling to its west and lands immediately to the southeast of the site contain a large shed and concrete yard, the shed is agricultural / commercial in appearance and occupies much of the site as identified

Description of Proposal

This is a full planning application to extend the curtilage of an existing single storey detached dwelling located at 211a Washingbay Rd Coalisland; and to erection a domestic storage shed within the extended curtilage.

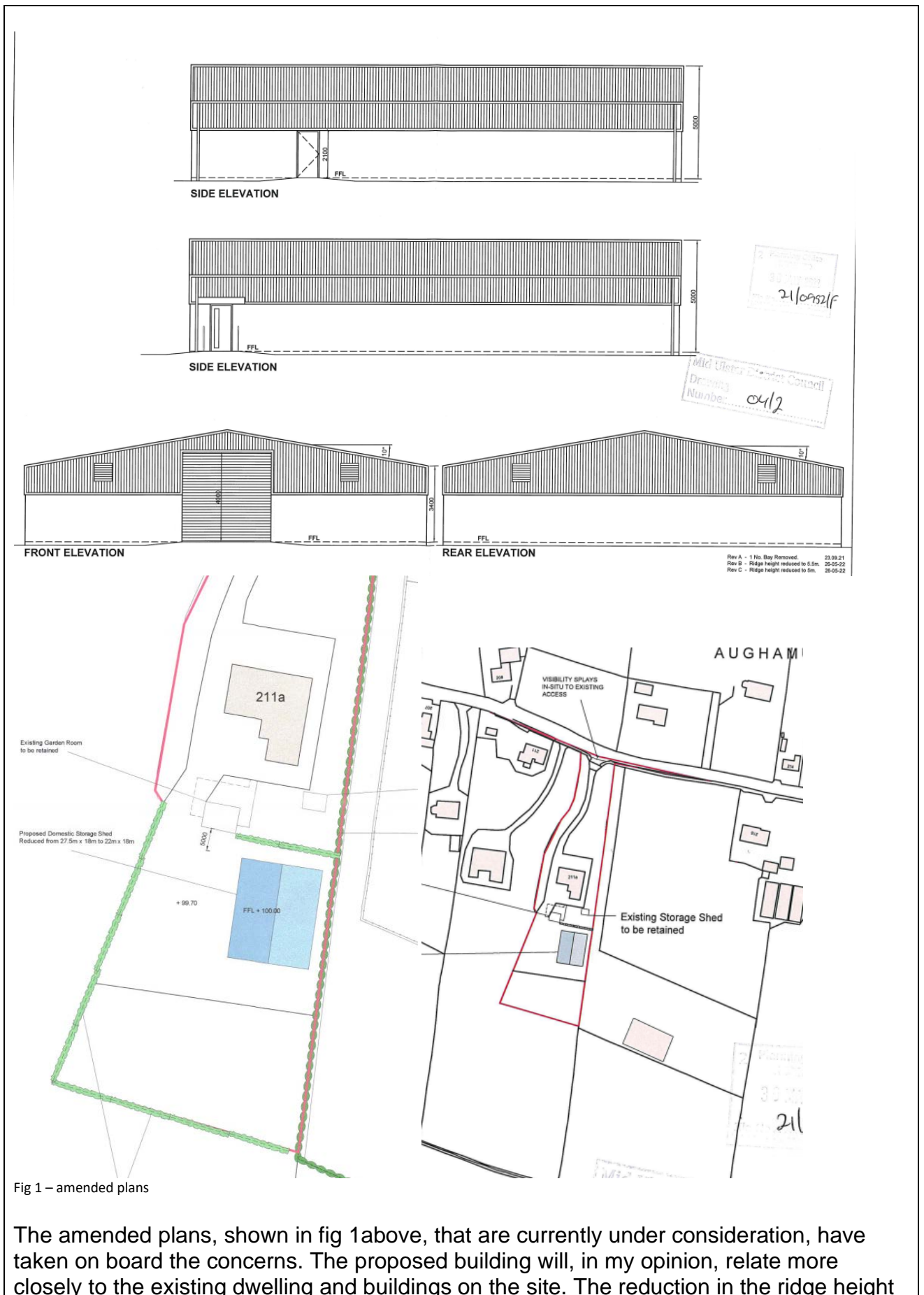
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Deferred Consideration:

This application was before the Planning Committee in January 2022 and it was agreed to defer to allow a meeting with the Service Director, a meeting was held on 20 January where it was agreed further assessment would be carried out of the proposal.

I visited the site and it was agreed amendments to show a smaller building and plans that reflect the existing buildings on the site would be submitted for consideration. Amended plans were submitted on 30 May 2022, these show the proposed storage shed located 11m closer to the existing dwelling, 10m closer to the existing hedge and a ridge height of 5.0m, a reduction of 1.3m from the previous scheme. The plans also show the proposed building is now located close to other existing domestic buildings on the site.

Members will be aware from the previous report that Policy EXT1 of PPS7 Addendum is the relevant policy for consideration of this type of development, with CTY1 of PPS21 advising that proposal which meet the Addendum to PPS7 will be acceptable. The proposal was recommended for refusal as it was not considered to be of a domestic scale, did not reflect a domestic building in its appearance and was removed from the existing property.



will also reduce the prominence of the proposed building. Critical views of the site are from Aughamullan direction (photo 1) and in my opinion, given the existing hedge to the east boundary and the backdrop to the rear, I consider the amended scheme will not result in a prominent or dominant development. I consider it appropriate to condition the retention of the existing hedge and to allow it to grow to at least 3m to ensure the continued screening provided by it. When seen with the other approved development in the locality, the appearance is, in my opinion reflective of these and does not appear out of character.



Photo 1 – view from east

The proposed building has a large footprint and the applicant has indicated this is to house a no. of valuable items and vehicles including a bay liner boat, motorhome and no. of vehicle's. As the building has been reduced in height and is reflective of the appearance of the other building around it, I am satisfied that it will integrate and am not overly concerned about the appearance. I do however feel it is necessary to attach a condition to reflect the domestic use of the building and the extended curtilage. I consider it necessary to tie this as ancillary accommodation to the dwelling at 211A Washingbay Road. Members will also be aware of permitted development rights for domestic properties, as bestowed under the Planning (General Permitted Development) Order (NI) 2015. This allows existing properties to extend without requiring the submission of a planning application, in certain circumstances. As this proposal extends the curtilage of the property, I consider it is appropriate to remove these rights for the extended curtilage and that any further development would require planning permission to allow assessment of its impacts on the rural character here.

Taking account of the above considerations and the recommended conditions it is my opinion 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. The storage shed hereby approved shall be used only for domestic purposes ancillary to the use of the dwelling known as 211A Washingbay Road.

Reason: To prohibit a change to an unacceptable use and in the interest of neighbouring amenity.

3. Notwithstanding the provisions of the Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revoking and/or re-enacting that Order, no buildings, other than that hereby approved shall be erected within the extended curtilage hereby permitted without the grant of a separate planning permission from the Council.

Reason: In the interests of the visual amenity of the surrounding area.

4. All hard and soft landscape works as detailed on drawing no 02/3 bearing the stamp dated 30-MAY-2022 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of the visual amenity of the surrounding area.

5. Following the commencement of the development hereby approved, the existing hedgerow between points A and B on drawing no 02/3 bearing the stamp dated 30-MAY-2022 shall be allowed to grow to at least 3m in height and be permanently retained at that height or higher.

Reason: In the interests of the visual amenity of the surrounding area.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

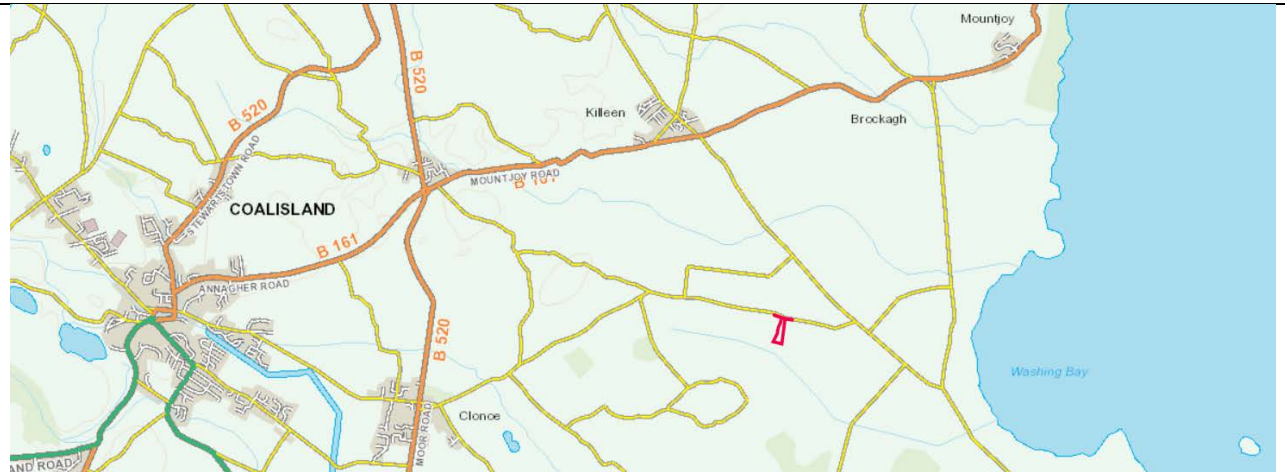
Mid-Ulster
Local Planning Office
Mid-Ulster Council Offices
50 Ballyronan Road
Magherafelt
BT45 6EN

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0952/F	Target Date:
Proposal: Extension to existing curtilage & domestic storage shed.	Location: 45m South of 211a Washingbay Road Coalisland BT71 5EG.
Referral Route: Contrary to Policies CTY1 of PPS 21 & EXT1 of the addendum to PPS7	
Recommendation: Refuse	
Applicant Name and Address: Mr Tony McCuskey 211a Washingbay Road Coalisland BT71 5EG	Agent Name and Address: CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:		
Consultation Type	Consultee	Response
Non Statutory	DETI - Geological Survey (NI)	No Objection

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

Description of Proposal
This is a full planning application to extend the curtilage of an existing single storey detached dwelling located at 211a Washingbay Rd Coalisland; and to erection a domestic storage shed within the extended curtilage.

The curtilage is proposed to be extended to the rear / south of the property and would almost double the existing curtilage. The proposed shed has a rectangular floor plan and pitched roof construction and measures approx. 18m in gable depth x 22m in length x 6.3m in height. Finishes include green cladding to the roof and upper half of the walls, grey fair facing block to the lower half of the walls and green cladding panel sliding doors.



Fig 1: Site Plan

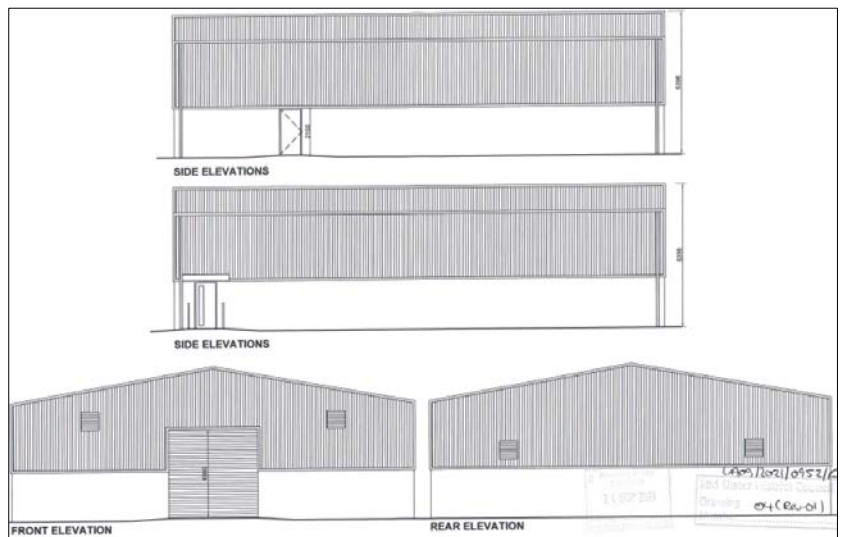


Fig 2: Elevations

Characteristics of the Site and Area
The site is located in the rural countryside outside as depicted under the Dungannon and South Tyrone Area Plan 2010, approx. 4km east of Coalisland and 1.5km west of Lough Neagh.

The site is a long narrow plot containing no. 211a Washingbay Rd a chalet dormer dwelling and its curtilage including a detached sunroom to the rear / west of the dwelling; and agricultural lands to the south of the aforementioned property's curtilage.

The site is a long narrow plot containing no. 211a Washingbay Rd a chalet dormer dwelling and its curtilage including a detached sunroom to the rear / west of the dwelling; and agricultural lands to the south of the aforementioned property's curtilage. The dwelling has a simple rectangular shaped floor plan and pitch roof construction with a 1½ storey front porch and dormers on its front elevation and a dropped pitch rear return offset to its east gable. It has brick walls and dark roof tiles/slates. A garden runs right round but primarily to the front of the dwelling. A tarmac drive runs along the west side of the property's front garden providing access to tarmac area of parking immediately to the front of the property and a concrete amenity area immediately to the rear. A mature hedge and stone access pillars and walls define the roadside boundary of the site. A mature hedge also defines the eastern boundary of the site and the remaining boundaries are undefined.

Views of the site are just before and passing along the roadside frontage of no. 211a; and from an elevated point on the western approach to the site from the Washingbay Rd / Coole Rd junction, looking down towards the site.

The immediate area surrounding the site, comprising relatively flat open topography typical of the Loughshore Area, has come under considerable development pressure in recent years with a no. of dwellings and ancillary buildings lining stretches of the surrounding road network. The site is bound by a relatively newly constructed dwelling to its west and lands immediately to the southeast of the site contain a large shed and concrete yard, the shed is agricultural / commercial in appearance and occupies much of the site as identified.

Planning Assessment of Policy and Other Material Considerations

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

Key Policy Context

Regional Development Strategy

Dungannon and South Tyrone Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 21: Sustainable Development in the Countryside

Addendum to Planning Policy Statement 7: Residential Extensions and Alterations

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

Representations

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

Relevant Planning History

On Site

- M/1997/0496 - Proposed dwelling - Granted 7th January 1998
- M/2005/2006/F - General purpose shed for 4 No vehicles (commercial), caravan, lawn mower two cars and other domestic items including bicycles, quads, ladders - Withdrawn 14th September 2006
- M/2011/0453/F - New double garage - Granted 16th August 2011

Adjacent Site

- M/2014/0471/F - Site for 2 no dwellings (Infilling gap site) - Granted 11th September 2015

The above application relates to lands located at the roadside between the property on site 211a Washingbay Rd and no. 215 Washingbay Rd.

- M/2012/0590/F - Proposed farm building - Coalisland - Granted 19th June 2013
- LA09/2016/1428/F - Relocation of laneway to service a farm shed approved under M/2012/0590/F with the shed relocated within the approved curtilage 35 m west of the approved location due to ground levels and amended site design - Granted 9th February 2017
- LA09/2017/0897/F - Part use of existing farm shed to provide internal dry storage of plastic bags and plastic wrapping covers in association with the applicants established horticultural business (Evergreen Peat) - Refused 6th February 2020 (Appeal in progress)
- LA09/2019/0489/F - Retention of the existing curtilage for the purposes of parking trailers associated with Evergreen Peat - Refused 7th February 2020

The above applications relate to lands immediately southeast of the current site comprising a large shed of agricultural / commercial appearance and yard.

Consultees

1. DETI - Geological Survey (NI) were consulted as the site is located within an area of constraint on abandoned mines. DETI responded, having assessed the planning proposal in view of stability issues relating to abandoned mine workings, that a search of the Geological Survey of Northern Ireland "Shafts and Adits Database" indicates that the proposed site is greater than 400m from the closest known abandoned mine working.

Dungannon and South Tyrone Area Plan 2010 – The site is located in the rural countryside outside any settlement limit identified within the Plan.

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.

Planning Policy Statement 21 Sustainable Development in the Countryside – Policy CTY1 of Planning Policy Statement 21 allows for extensions in the countryside where they meet with Policy EXT1 of the Addendum to Planning Policy Statement 7: Residential Extensions and Alterations.

Addendum to Planning Policy Statement 7 Residential Extensions and Alterations – Is the relevant policy for extensions and alterations to residential properties. Policy EXT 1 outlines permission will be granted for a proposal to extend or alter a residential property where all of the following criteria are met:

- (a) 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;

Para A11 of the Addendum to PPS7, Justification and Amplification relating to 'Garages and other associated outbuildings', outlines 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. Para. A13 of the Addendum adds that in the countryside, ancillary buildings should be designed as part of the overall layout to result in an integrated rural group of buildings.'

I am not content the proposed shed is domestic in scale, massing, design and external finish as such it is not sympathetic with the built form and appearance of the existing property and would detract from the appearance and character of the surrounding area. The proposed shed is not subordinate to the dwelling on site nor is it a similar in style including materials. It has a larger footprint than the property on site and an agricultural / commercial rather than domestic appearance. Furthermore, owing to the location of the shed set back on extended lands to the rear of the property, it does not form an integrated rural group of buildings from critical views detailed above in the Characteristics of the site and Area. In particular on the western approach to the site from the Washingbay Rd / Coole Rd junction, looking down towards the site.

- (b) the proposal does not unduly affect the privacy or amenity of neighbouring residents;

Owing to the location of this proposal to the rear of an existing dwelling and separation distances that that would be retained between the proposed domestic shed and neighbouring properties I am content the privacy or amenity of neighbouring residents should not be unduly affected.

- (c) the proposal will not cause the unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality;
and

As the proposal is to be located on improved grassland and existing vegetation bounding the site is to be retained it should not cause any loss of, or damage to, trees or other landscape features contributing significantly to local environmental quality.

- (d) sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.

As the proposal seeks to extend the curtilage of the property on site to accommodate the proposed shed existing space within the curtilage of the dwelling for recreational and domestic purposes, will be retained.

As detailed above whilst the proposal adheres to criteria (b), (c) and (d), it fails to comply with criteria (a) as such is contrary to Policy EXT of the Addendum to Planning Policy Statement 7 Residential Extensions and Alterations and subsequently Policy CTY 1 of Planning Policy Statement 21 Sustainable Development in the Countryside.

It is noted the agent advised during the processing of this application that the applicant did not have a garage and the size and scale of the shed is required to house a no. of valuable items and vehicles including a bay liner boat, motorhome and no. of vehicle's. The boat, currently in the water shortly to be stored up for winter, had previously been stored in a nephews shed but this is no longer available. The motor home is currently in Donegal and is also coming home for the winter months. These two items alone are large. The motor home is nearly 7 metres long and the boat and trailer similar in size. That to store such items externally would leave them vulnerable to theft. The agent also submitted revised drawing reducing the size and scale of the shed from the outset.

It is the aforementioned revised scheme that has been assessed further above under policy and on that assessment the agent was advised planning concerns remained, that the proposal was contrary to policy. According, on the 11th November 2021 the was offered the opportunity to submit registration documents for vehicles listed; reduce the size of the shed; and site the shed closer to house, for further consideration or the proposal would proceed to the next available Planning Committee on the basis of the information on file. To date no further information has been received.

Additional Considerations

In addition to checks on the planning portal Environment Map (NED) map viewers available online have been checked and identified no built heritage assets of interest on site or immediate vicinity.

Flood Maps NI indicate no flooding on site.

The proposal is under the 10.7m and 15.2m height thresholds in the area requiring consultation to Defence Estates relating to Met Office – Radar. Additionally, whilst the site is located within an area of constraint on wind turbines, this proposal is for the extension to the curtilage of a dwelling a domestic shed.

Case Officer recommendation: Approve

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refuse

Reasons for Refusal:

1. The proposal is contrary to Policies CTY1 of Planning Policy Statement 21 & EXT 1 of the addendum to Planning Policy Statement 7, in that the scale, massing,

design and external materials of the proposal are not sympathetic with the built form and appearance of the existing property and would detract from the appearance and character of the surrounding area.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2021/1497/F	Target Date: <add date>
Proposal: Retention of existing access, walls and pillars (amended plans)	Location: 22 Ballynagowan Road Stewartstown Dungannon
Applicant Name and Address: Devlin Enda & Nuala 22 Ballynagowan Road Stewartstown Dungannon	Agent Name and Address: Seamus Donnelly 80A Mountjoy Road Aughrimderg Coalisland BT71 5EF
Summary of Issues: This application is for retention of a new access, gates, piers and walls. Amended plans have been provided to show railings and the walls reduced in size to reflect other entrances in the immediate area.	
Summary of Consultee Responses: DFI Roads - advise conditions to be attached it the Council decide to approve	
Characteristics of the Site and Area: The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and predominantly characterised by agricultural fields, groups of farm buildings and single rural dwellings. The application site comprises a new access onto Ballynagowan Road and a gate constructed in timber close boards. There is also blockwork pillars with spacing between	

them for wrought iron railing. The gates and pillars are set back from the roadside boundary.

Alongside the new access is an existing lane to the dwelling and outbuildings at No. 22 which is the applicant's home address. At the site is a building which has the appearance of an agricultural shed which was approved under LA09/2019/0037/F.

Description of Proposal

This is a full application for the retention of existing access, walls and pillars at 22 Ballynagowan Road, Stewartstown, Dungannon.

Deferred Consideration:

This application was before the Planning Committee in January 2022 where it was agreed to defer it for a meeting with the Service Director. At the meeting the applicants advised they had been granted planning permission for the arts studio for their own use, the applicants are artists, and this is where they work. It is not open to the public as the art works are commissioned pieces. During the construction of the approved building there was a land dispute that has resulted in them not being able to use the front part of the existing lane to access their property. They have had to create a new access to serve their own dwelling as well as the arts studio. The entrance walls and piers are modelled on those to Stewart Hall, a locally important building in the area. The applicants advised they were willing to soften the impact of the development by planting trees and have already planted hedging to the rear of the

Following the meeting I visited the site where the applicants were able to show me the gates and railings that will be erected on the site. They also showed me the Carland Stone that will be used to face the walls and piers and accepted the piers were high but undertook to revise the plans to show these reduced in height. It was explained the wooden fences and gates are temporary and these are not what will be kept.

Amended plans were received on 8 July 2022 and these were advertised and neighbours and contributors were advised of the amendments. The proposal has reduced the piers at the roadside from 2.4m to 2.175m and indicates these will be dressed with Carland Stone. The walls will be broken up with wrought iron railings in them and the gates will also be wrought iron.



Fig 1 – impression of how gates and railing will appear.

Views of the gate and walls are limited to immediately in front of them and for a short distance to the west. (Fig 2 and 3).



Figs 2 & 3 – site from east and west

A new Portuguese laurel hedge has been planted to the rear of the wall here and this will screen the view off them from this direction. (Fig 4)



Fig 4 – Portuguese laurel hedge to rear of piers (piers to be reduced)



Fig 5 – trees planted behind the new wall

This type of development is assessed under CTY13 which notes that ornate walls and gates may be obtrusive. In this area there is a tendency to provide large access ways and walls at the entrances (Appendix A). Given that the proposal is only visible for a short stretch of the adjacent road and this type of access is abundant in the local area, I do not consider it is so out of character as to warrant refusal. I consider it is necessary to attach conditions to ensure the landscaping is carried out and maintained, the sight lines are kept clear and the piers at the roadside are reduced.

In light of the above I recommend this application is approved.

APPENDIX 1 – Other entrances in the locality



To the west along the same road



To the west along the same road



Roadway to the west



Road to the west



Farm access



Access to dwelling



Access to dwelling

Conditions:

1. This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011.

Reason: This is a retrospective application.

2. Within 6 weeks of the date of this decision the pillars shall be reduced to 2.175m in accordance with the details shown on drawing No 02 Rev 1 bearing the stamp dated 08 JUL 2022.

Reason: In the interests of visual amenity

3. All hard and soft landscape works as detailed on drawing no 02 Rev 1 bearing the stamp dated 08 JUL 2022 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following the date of this decision. 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

4. Within 6 weeks of the date of this decision, visibility splays of 2.4mx 60.0m in both directions shall be provided in accordance with the details as shown on drawing No 02 Rev 1 bearing the stamp dated 8 JUL 2022. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

Reason: In the interests of road safety and the convenience of road users.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 01/02/2022	Item Number:
Application ID: LA09/2021/1497/F	Target Date:
Proposal: Retention of existing access, walls and pillars	Location: 22 Ballynagowan Road Stewartstown Dungannon
Referral Route: 1. Contrary to CTY 1 – Development in the Countryside in PPS 21 Sustainable Development in the Countryside in that no justification has been provided for a new access to the building and the building is unauthorised. 2. Contrary to CTY 13 – Integration and Design of Buildings in the Countryside in PPS 21 Sustainable Development in the Countryside in that ancillary works do not integrate with their surroundings. 3. Contrary to CTY 14 – Rural Character in PPS 21 Sustainable Development in the Countryside in that the impact of ancillary works would damage rural character. 4. Contrary to AMP 2 – Access to Public Roads in PSP 3 – Access, Movement and Parking in that in that no justification has been provided for a new access to the building and the building is unauthorised.	
Recommendation:	Refusal
Applicant Name and Address: Enda & Nuala Devlin 22 Ballygowan Road Stewartstown	Agent Name and Address: Seamus Donnelly 80A Mountjoy Road Aughrimderg Coalisland BT71 5EF
Executive Summary: The proposal is for the retention of an access, walls and pillars onto the Ballynagowan Road. LA09/2019/0037/F granted planning permission for a building to serve as a garage and private art studio associated with the dwelling at No. 22 Ballynagowan Road. The new	

access serves this building. The building has been moved further forward on the site and the building is being used for commercial purposes. This is contrary to condition 4 of LA09/2019/0037/F which states the building shall not become a separate planning unit used as a commercial premises.

Signature(s):

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Characteristics of the Site and Area

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and predominantly characterised by agricultural fields, groups of farm buildings and single rural dwellings.

The application site comprises a new access onto Ballynagowan Road and a gate constructed in timber close boards. There is also blockwork pillars with spacing between them for wrought iron railing. The gates and pillars are set back from the roadside boundary. Alongside the new access is an existing lane to the dwelling and outbuildings at No. 22 which is the applicant's home address. At the site is a building which has the appearance of an agricultural shed which was approved under LA09/2019/0037/F.

Description of Proposal

This is a full application for the retention of existing access, walls and pillars at 22 Ballynagowan Road, Stewartstown, Dungannon.

Planning Assessment of Policy and Other Material Considerations

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

Representations

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, three third party objections were received.

The first objection was received on the 19th October 2021 and no address has been given, just the name James F. The second objection was received on the 17th November 2021 and the signature was unreadable. The third objection was received on the 20th December 2021 and again was anonymous, just signed concerned environmentalist. But all three letters raise similar issues which are summarised and rebutted below.

Road Safety Issues

The Ballynagowan Road is a minor road and there are now two lanes coming from this property and where is the need for another access at the site. The objector states there is the potential for two separate vehicles to be accessed off both lanes at the same time which will create a road safety issue. In addition, the road is not suitable for industrial use as there are already a number of farms along the road. In terms of road safety DFI Roads were consulted as were content subject to achieving visibility splays of 2.4m x 60m in both directions. I would agree with the objector and would have concerns about the need for another access from this site. The nature of the use of the building is discussed in the assessment.

The Prominence of the Walls and Pillars

The objectors states the walls and pillars are a prominent feature in the landscape. The objector states they do not meet the criteria in CTY1, CTY13 and CTY14 in PPS 21. It is stated the new access does not integrate well into the landscape and this is an agricultural area, and the height and style of the pillars is inappropriate for the landscape.

As discussed below I consider the walls and pillars are prominent and will have an unacceptable impact on rural character.

Use of the building for non-domestic uses

The objector states that it is clear the building at the application site is not a domestic property. In rebuttal this issue is discussed in the assessment below.

Administrative Issues with the P1 form

The applicant has ticked Q12 which is for the existing unaltered access to a public road and this is something which can be rectified by the applicant.

The objectors state Q25 has not been filled and it is claimed the use is operating as a commercial enterprise from the building. The objector also states a Transport Assessment is needed. The assessment whether the use at the building is commercial is considered below. DFI Roads were consulted and were content with the road safety of the new access subject to visibility splays.

Planning History

LA09/2019/0037/F - Proposed domestic garage and private art studio - 22 Ballynagowan Road, Stewartstown, Dungannon – Permission Granted 10.05.2019

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

Cookstown Area Plan 2010

The site is outside any settlement limits as defined in the Cookstown Area Plan 2010 and is not within any other designations or zonings in the Plan.

SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out that 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.

PPS 3 Access, Movement and Parking

Policy AMP 2 (Access to Public Roads) is the relevant policy test in this instance. AMP 2 states that planning permission will only be granted for a development involving direct access, or in the intensification of the use of an existing access, onto a public road where:

- It will not prejudice road safety or significantly inconvenience the flow of traffic
- The proposal does not conflict with Protected Routes policy

Ballynagowan Road is not a protected route so there is no conflict with this part of the policy.

Overall, I am content the proposal will not prejudice road safety or conflict with the Protected Routes policy but as discussed below consideration is also given to the number of access points along a road and the nature and scale of the development at the site. In this case the planning history for the building at the site is particularly relevant in the discussion.

[illegible]

In this application currently being assessed the applicant has shown the garage/studio further forward on site than what was approved. In an email dated 4th January 2022 the applicant acknowledges that the location of the building is not in the exact siting but still within the original red line. They state the ground level in the field from the dwelling at No. 22 falls away towards the roadside and it was more cost effective to build towards the roadside. In the assessment for LA09/2019/0037/F it was agreed the design similar to an agricultural shed and the proposed location in the corner of the shed would assist in integration in critical views of the building. So it was approved the building would be as close as possible to the existing group of buildings at No. 22 and use the existing laneway.

Condition 4 of LA09/2019/0037/F states the building shall not become a separate planning unit used as a commercial premises. In an email dated 4th January 2022 the applicants state the art studio and domestic garage is not used for commercial purposes. I have concerns that the studio is being used for a commercial business. The studio is registered as 22A Ballynagowan Road on Spatial NI as a separate address and as shown in figure 2 has a post box. There is a website Devlin in Design associated with this address as on the website the studio has this address as a contact point. The applicants argue the studio and

garage are not used for commercial purposes and only store art materials, work on large pieces and have delivery of materials to this building. The applicants also state they work irregular hours on a number of pieces and argue they are artists and not a commercial business with pieces of art on display and a shop that customers can come in and browse to buy. The website states they have been in business for over 15 years and work on private or commercial projects and list all the businesses they have done work for. The businesses include hotels, cruise ships, universities and restaurants. In a supporting statement for planning approval LA09/2019/0037/F the applicants stated they currently worked out of a unit at Castlebay Business Centre and they did not work regular 9 to 5 hours. They needed the flexibility of having a studio near to their dwelling to take on more contracts.



Figure 2 – Image from the site visit showing a separate address for the studio

I consider the retention of the new access is not acceptable as there is no need for an additional access to the site and no justification has been provided why an additional access is needed to the building if the use is only for domestic purposes. I am of the opinion an access that may serve a commercial enterprise would be detrimental to the rural character of the area. The main uses within the surrounding area are agricultural farm holdings and residential in single dwellings.

Overall I consider the proposal does not meet the criteria in AMP 2 in PPS 3.

PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. Policy CTY 13 deals with integration with particular reference to criterion (d) which states that a new building will be unacceptable where the ancillary works do not integrate with their surroundings. Para 5.72 of the justification and amplification text states that a new access drive should, as far as practicable, be run unobtrusively alongside existing hedgerows or wall lines and be accompanied by landscaping measures.

CTY 13 – Integration and CTY 14 – Rural Character

As shown in figure 3 below the new access runs along the boundary of the existing lane which I consider is acceptable.



Figure 3 – Image from Google Maps July 2021

Figure 4 shows an image of the walls and pillars on the site. The gate has external materials of close board wooden boards and the pillars are proposed sandstone walls/pillars with wrought iron railing between the walls and pillars.



Figure 4 – Image from the site visit of wooden gates and pillars

The concrete pillars are 2.4m in height and at the time of my site visit on the 12th November 2021 they were under construction and had blockwork finishes. The applicant has shown in submitted the pillars will be finished in sandstone and will have wrought iron railing in between the pillars. I am of the opinion the scale, massing and design of the pillars and walls is excessive for an entrance in the countryside. The walls and pillars sweep round in a large semi-circle and are set back from the road which is unacceptable for an access in a rural area. As stated in paragraph 5.71 in PPS 21 on occasion new accesses can be more obtrusive than the building itself, particularly if they include ornate walls, gates and fencing. Consequently the walls and pillars are detrimental to rural character and do not meet criteria e in CTY 14.

I consider the proposal does not meet CTY 13 and CTY 14 in PPS 21.

Neighbour Notification Checked Yes

Summary of Recommendation:

The proposal is recommended for refusal as the access, walls and pillars are detrimental to rural character and no justification has been provided why a separate access is needed to the building if it is for domestic use. The building approved under LA09/2019/0037/F has not been constructed in the approved location and is being used for commercial use.

Reasons for Refusal:

1. Contrary to CTY 1 – Development in the Countryside in PPS 21 Sustainable Development in the Countryside in that no justification has been provided for a new access to the building and the building is unauthorised.
2. Contrary to CTY 13 – Integration and Design of Buildings in the Countryside in PPS 21 Sustainable Development in the Countryside in that ancillary works do not integrate with their surroundings.
3. Contrary to CTY 14 – Rural Character in PPS 21 Sustainable Development in the Countryside in that the impact of ancillary works would damage rural character.
4. Contrary to AMP 2 – Access to Public Roads in PSP 3 – Access, Movement and Parking in that in that no justification has been provided for a new access to the building and the building is unauthorised.

Signature(s)

Date: