



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Deferred Consideration Report

Summary	
Case Officer: Melvin Bowman	
Application ID: LA09/2017/0319/F	Target Date:
Proposal: <p>The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the retention of 4 further chimney stacks to facilitate spraying within existing approved building. All flues to discharge 6 metres above the existing ridge line. (Revised Odour Impact Assessment received)</p>	Location: <p>70m South of 177 Annagher Road Dungannon</p>
Applicant Name and Address: DMAC Engineering 204 Washing Bay Road, Dungannon	Agent name and Address: CMI Planners Ltd Unit 5 80/82 Rainey Street Magherafelt BT45 5AG
Summary of Issues: previous report to Committee identified concerns relating to amenity of nearby residents due to odour	
Summary of Consultee Responses: Latest Env Health response indicates no objections subject to conditions following a revised odour impact assessment report. Further local objection received.	

Characteristics of the Site and Area:

DMAC engineering site, Annagher Road, Dungannon.

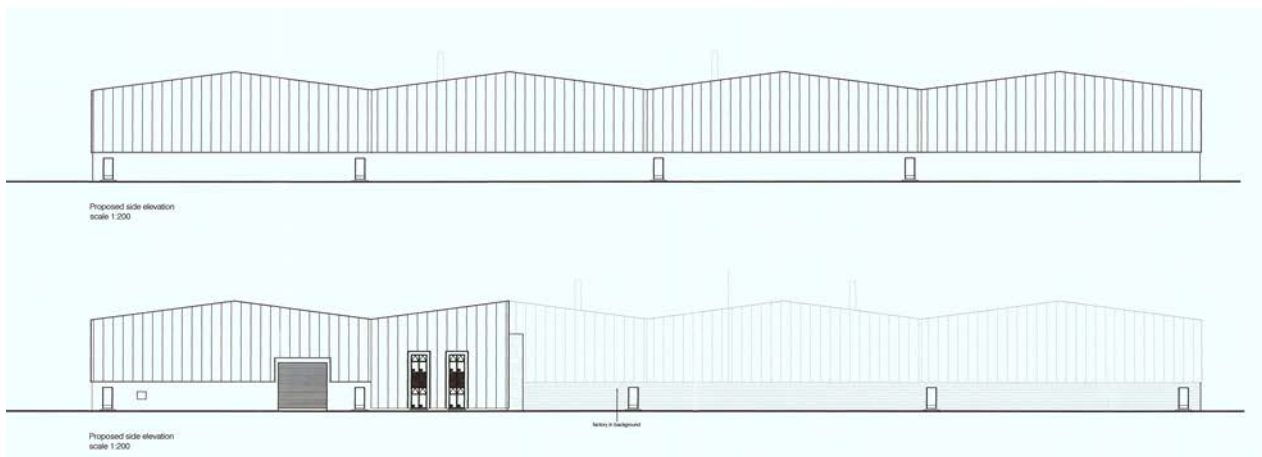
Description of Proposal

The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the retention of 4 further chimney stacks to facilitate spraying within existing approved building. All flues to discharge 6 metres above the existing ridge line

Deferred Consideration:

The original planning permission for DMAC on this site (M/2011/0126/F) was approved by Mid-Ulster District Council on the 15th April 2015. The approved elevations (below) show 2 small flues on the side elevation.

In the EIA summary which accompanied the application it was stated that, in relation to potential air pollution, the company had developed an air filtration and purification system which were to remove any pollutants from air output. As of 2011 the system was stated as being in the 'final stages of commissioning'. The decision notice does not contain any conditions relating to odour management from the development.

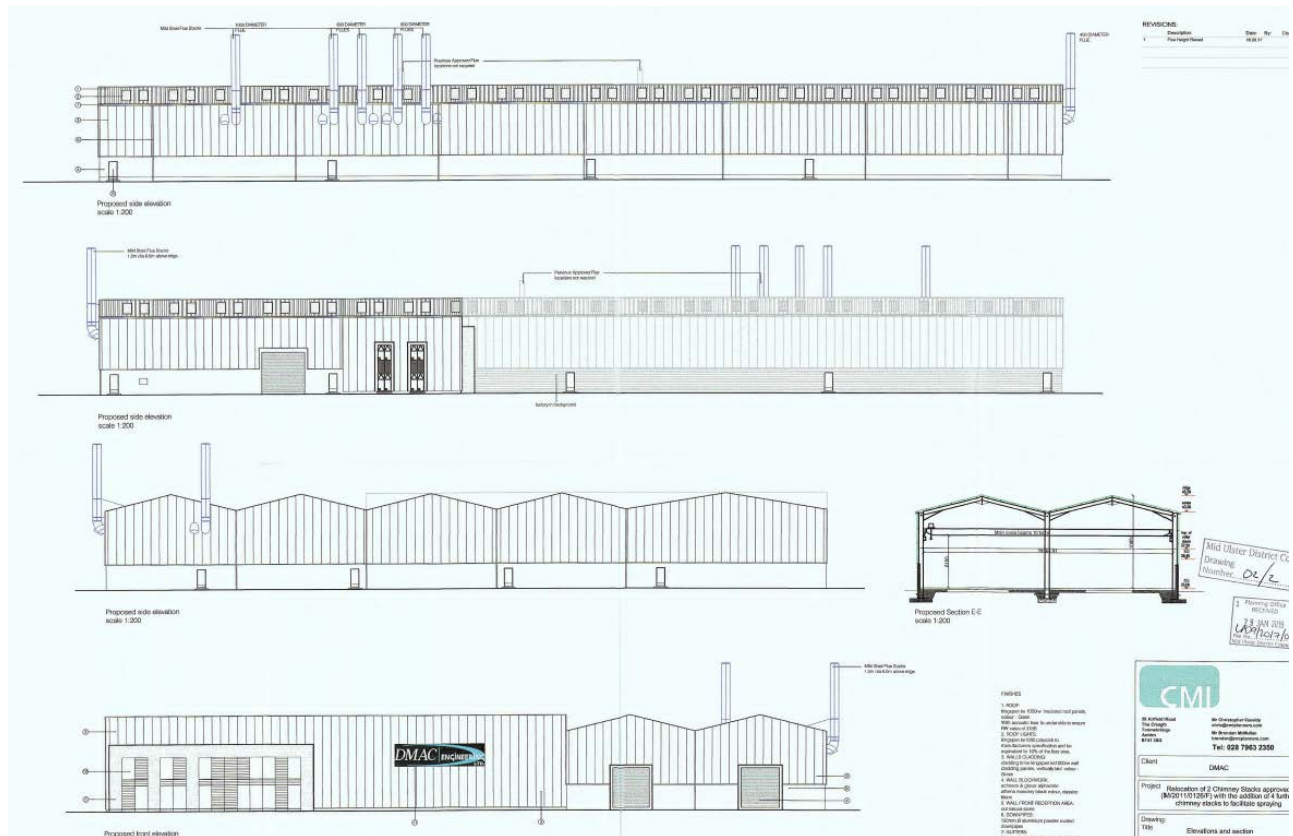
(approved elevations for DMAC showing 2 flues)

An application for a non material change was submitted in 2016 (LA09/2016/1761/NMC) proposing 4 external flues. The decision of the Council was not to accept these alterations as being non-material. The current planning application followed. There is also an open enforcement case on the issue.

This application was originally submitted on the 3 Mar 2017 and was a being to relocate 2 chimney stacks under planning reference M/2011/0126/F with the addition of 2 further chimney stacks to facilitate spraying. The agents supporting statement described this as being necessary for the most efficient system to be installed on site. This original spec for the extraction system

incorporated 4 extraction fans, double inlet centrifugal type. The exhaust stack was to terminate at a height of 3m above the apex of the building with an efflux velocity in excess of the minimum requirement of 15m/sec.

(Elevations to retain current stack arrangement)



At the time of writing the first report to Planning Committee the Environmental Health Department continued to receive odour complaints from nearby residential properties and officers had clearly observed these odours on a variety of occasions over the last few years.

A review of 2018 stack emissions testing undertaken by an independent company showed discharge velocities ranging from 9.4 – 1.2 m/s (3 of which returned discharge velocities <3 m/s) which are well below the 15 m/s discharge velocities used within Table 4 of the Irwin Carr report.

For this reason, it was requested that the odour assessment should be revisited using these measured inputs instead of theoretical values to establish if these produce figures more reflective of the situation witnessed at 3rd party receptors.

A refusal on the following basis was made previously to the Committee. The proposal is contrary to the SPPS and Policy PPS4 PED9 in that it has not been satisfactorily demonstrated that the development will not lead to an unacceptable loss of amenity to nearby residents by way of odour and fumes.

A revised Odour Impact assessment report was submitted on the 14th April 2021 and the views of EHD were sought. Third parties were also re-notified with 2 further letters of objection being received. I will summarise these later in this report.

EHD issued a consultation response on the 11 June 2021 stating:

'This updated odour impact assessment considers measured volume flow within the stacks at DMAC as opposed to the previously assumed 15 m/s in all six stacks at this site. Using a worst-case odour emission rate of 351 OU_E/m³ obtained from on-site measurements at this facility, AERMOD dispersion modelling shows that odour from the facility will be below 3 ou/s as a 98th percentile.

Environmental Health do not have access to AERMOD, nor any way of verifying inputs used within AERMOD. It should also be noted that Environmental Health continue to receive occasional complaints about odour from this facility and officers have detected odour at nearby receptors on occasions.

The paint spraying activity is currently regulated by Environmental Health under the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 and the applicant should be aware that they are required to comply with the requirements of these Regulations.

Whilst paint spraying activities are covered by the above legislation, we would request that the following conditions be attached to any planning approval. (see further below) We therefore have no objection to this proposal on planning grounds.

It was my view in the initial report to Committee that this proposal does not satisfy Criteria (b) and (f) of PED9 in that the present failure of the developer to demonstrate that this development will not lead to a loss of amenity has indicated that the DMAC facility is not capable of dealing satisfactorily with emissions. The chimney stacks discharge rates appeared well below the required standards which would assist with adequate dispersal. In light of the now acceptable Odour report received in April 2021 and the view of EHD I am more satisfied that the amenity concerns have been addressed.

In relation to integration into the landscape, given the level differences between the DMAC factory and the approaching roads, I didn't share some of the concerns raised by objectors in this case on the visual impact of the extended flues. Whilst extending well above the factory roof I still do not feel that these are excessive in relation to wider public aspect. On that basis I would adopt the view that the chimney stacks do not offend other rural policy, namely Policy CTY14 of PPS21 for example.

The 2 additional letters of objection were received from the occupants of No 36 Washingbay Road and No 181 Annagher Road. The issues raised are as follows:

1. Health and loss of amenity
2. Fumes are noticeable as early as 6am on occasion.
3. EHD is well aware and complaints are well documented / officials have personally experienced.
4. DMAC should be using the extraction system they claimed when permission was originally granted.
5. Enforcement action should commence asap to cease this toxic odour.

6. Impacts on livestock
7. What guarantees can the Council provide that the chimneys will not affect our health and that of our livestock.

Given that EHD are now content that the revised odour assessment achieves adequate volume flow, and that their worst case scenario produces a dispersion model below 3 ou/s as a 98th percentile it is in my view the case that subject to existing controls via the PPC regime and / or planning conditions listed that neighbouring amenity and health concerns should be able to be kept within recognised and accepted levels. In relation to amenity and nuisance at 6am the Council are in receipt of an application to extend the companies hours of operation, as yet no formal opinion has been formed on this application. DMAC have stated that they were not able to deliver on the initial means of dealing with extraction, whilst this is regrettable, the stance now taken by EHD shows that the current means of extraction can operate within acceptable limits.

An Enforcement Notice has recently been served given that the period for immunity was approaching. On the basis of impending enforcement appeal proceedings, members are asked to agree that the Council withdraws the recently served Enforcement Notice relating to the chimney stacks upon the decision to grant planning permission for this application.

Conditions:

1. Odour from each of the 6 stacks serving the building as annotated on Drawing Number 02/2 date stamped 29th January 2018 when measured during the bake and dump process shall not exceed 351 OU_E/m³ when measured in accordance with IS EN 13723 and analysed by a UKAS accredited test method.

Reason: To protect neighbouring property from excessive odour

2. Within 4 weeks of a written request by the Council following a reasonable odour complaint from the occupant of a residential dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess the level of odour from the development and/or check compliance with the odour limit listed in condition 1. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the odour monitoring and authorised officers may attend the development at any time during this monitoring. The results of all odour modelling shall be provided in writing to the council within 4 weeks from the date of the assessment having been undertaken.

Reason: To protect neighbouring property from excessive odour

3. Where odour is found to exceed the limits outlined within condition 1, the Council shall be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 8 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect neighbouring property from excessive odour

Signature(s): M.Bowman

Date: 21 June 2021



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: Feb 2021	Item Number:
Application ID: LA09/2017/0319/F	Target Date:
Proposal: The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the retention of 4 further chimney stacks to facilitate spraying within existing approved building. All flues to discharge 6 metres above the existing ridge line. (Amended description) (Revised Odour Impact Assessment received)	Location: 70m South of 177 Annagher Road Dungannon
Referral Route: Application recommended for refusal and objections received.	
Recommendation: Refusal.	
Applicant Name and Address: DMAC Engineering 204 Washing Bay Road Dungannon	Agent Name and Address: CMI Planners Ltd Unit 5 80/82 Rainey Street Magherafelt BT45 5AG
Executive Summary: Proposal fails to comply with policy in relation impacts on neighbouring amenity.	
Signature(s): M.Bowman	

Case Officer Report

Site Location Plan



Consultations:

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

Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

Representations:

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

Summary of Issues – failure to demonstrate that neighbouring amenity is protected from unacceptable levels of odour nuisance.

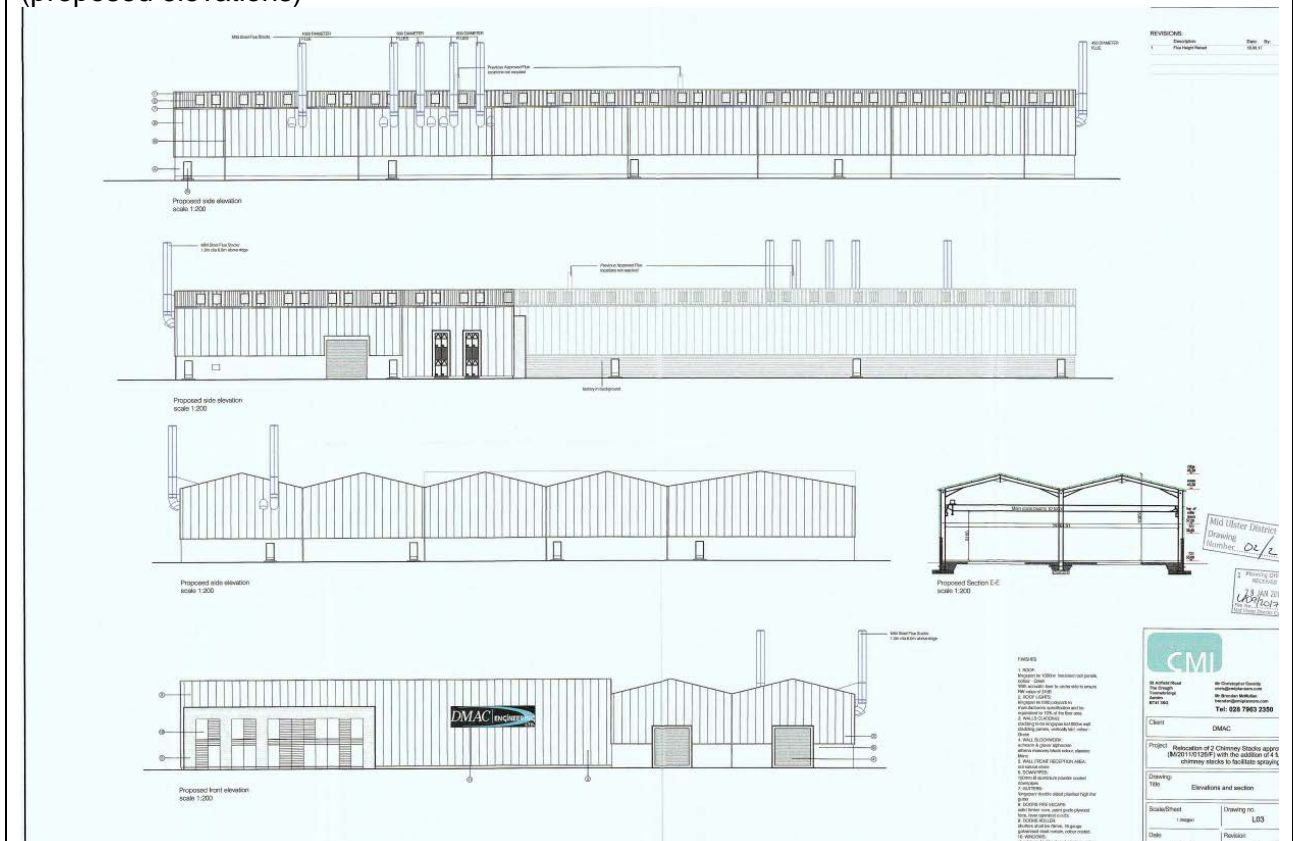
Characteristics of the Site and Area

Existing DMAC engineering site located on outskirts of Coalisland at Annagher Road. Rural area as defined by the Dungannon Area Plan with residential dwellings dispersed on all sides. Significant topographical differences with the DMAC facility being located well below Annagher Road but at a level where there are other private dwellings to the southern and SE boundaries of the site.

Description of Proposal

The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the retention of 4 further chimney stacks to facilitate spraying within existing approved building. All flues to discharge 6 metres above the existing ridge line. (Amended description) (Revised Odour Impact Assessment received)

(proposed elevations)

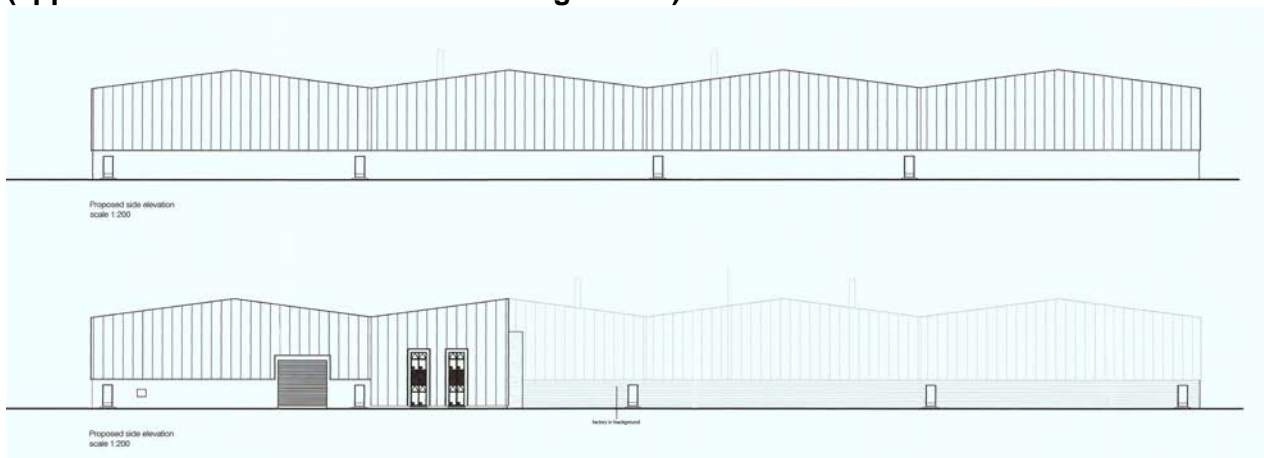


Planning Assessment of Policy and Other Material Considerations

The original planning permission for DMAC on this site (M/2011/0126/F) was approved by Mid-Ulster District Council on the 15th April 2015. The approved elevations (below) show 2 small flues on the side elevation.

In the EIA summary which accompanied the application it was stated that, in relation to potential air pollution, the company had developed an air filtration and purification system which were to remove any pollutants from air output. As of 2011 the system was stated as being in the 'final stages of commissioning'. The decision notice does not contain any conditions relating to odour management from the development.

(approved elevations for DMAC showing 2 flues)



An application for a non material change was submitted in 2016 (LA09/2016/1761/NMC) proposing 4 external flues. The decision of the Council was not to accept these alterations as being non-material. The current planning application followed. There is also an open enforcement case on the issue.

This application was originally submitted on the 3 Mar 2017 and was a being to relocate 2 chimney stacks under planning reference M/2011/0126/F with the addition of 2 further chimney stacks to facilitate spraying. The agents supporting statement described this as being necessary for the most efficient system to be installed on site. This original spec for the extraction system incorporated 4 extraction fans, double inlet centrifugal type. The exhaust stack was to terminate at a height of 3m above the apex of the building with an efflux velocity in excess of the minimum requirement of 15m/sec.

A consultation was issued to Environmental Heath (EHO) who returned a reply on the 3RD May 2017 seeking an odour assessment given a number of complaints which had already been received by the EHO department relating to odour and fumes. CMI planning indicated to the Council that this would be prepared by Irwin Carr and be submitted within 2 weeks.

A reminder was issued in Aug 2017 given the absence of the promised report. The report was received by the Council on the 14th Aug 2017 and issued to EHO for comments, as well as local objectors to the proposal. On the 18th Aug 2017 the case alerted CMI Planning that the flues were now extended and may not accord with the submitted application. CMI responded on the same day to state that the flues had indeed been extended to 3m above the ridge as opposed to 3m above the eaves of the building. CMI were further asked if this would have any bearing on

the recently submitted odour assessment report. In a reply on the 18th Aug 2017 CMI stated that the increased height would have no bearing on the results as 'it is the diameter of the pipe that gives the calculations. The increased height actually will reduce the area of turbulence'. Amended plans were uploaded to the portal on the 18th Aug 2017.

The EHO response to the above indicated that there may be anomalies between the inputs to the model and what is actually occurring on site. The response also indicated that odour complaints had been verified on site by members of EHO. In addition 2 further stacks had been identified on the building associated with an alleged additional spray booth.

In Jan 2018 CMI responded to amend the Odour assessment and alter the description of the proposal to refer to its present description, ie, proposing the retention of 4 additional stacks and the relocation of 2 originally approved with these discharging 6m above the buildings ridge line. A series of notification, further objection and re-consultation followed. I will go into detail on the nature of local objections later in this report. The EHO reply on 15/3/18 stated the odour report still indicates that the odour detected at the closest sensitive dwellings will be significantly below the 3ou/m³ target value set out in H4 Odour management. It also predicts that if the stacks were increased to 6m that this would lead to a decrease in odour levels from 0.93ou/m³ to 0.72. However, in continuing to receive complaints from spraying several officers from EHO are stated as having made visits and witnessed odour to be very strong on numerous occasions and that investigations have been carried out to eliminate any other source of odour (as claimed by CMI Planning), these investigations concluding that DMAC is the source of the odour. The EHO response concludes that as the odour model submitted predicts no odour impacts, and that given this is not the agreed on-site observation, that there are reservations as to the beneficial impact of only 3m in the stack heights. The applicant may therefore need to consider alternative means of odour abatement.

It is at this point the application has hit somewhat of a standstill. CMI planning it appears continues to question the EHO on-site observations and consequently the accuracy of their consultation replies. In early 2019, by which it is understood that the stack heights had been further extended to 6m, CMI was again asked to respond to the outstanding position outlined by EHO. In April and May 2019 CMI wrote asking EHO to provide their site visits records for the purposes of cross-checking. On the 16 May 2019 CMI again indicated that they required a full explanation from EHO on their visit and observation dates.

A further EHO consultation (see below) issued on the 15th Oct 2019 is again challenged by CMI and refers to a later Odour report sent to them in Aug 2019 but which it is claimed has not been considered. In engaging with EHO it appears the Aug 2019 odour report is unknown to them and I do not see a record of it on file. What the agent is referring to is possibly a stack monitoring report submitted to EHO which the DMAC company are required to do to satisfy the Council under the PPC regime. Whilst these 2019 results show higher discharge velocities than the 2018 results, the Council have not been presented with an odour assessment with updated odour assessment with the figures requested (as per the 2018 report) which were considerably lower than 15 m/s.

Comments on Planning Application

15th October 2019

Proposal: The relocation of 2 chimney stacks approved under ref.M/2011/0126/F and the addition of 4 further chimney stacks To facilitate spraying within existing approved building

Location: 70m South of 177 Annagher Road, Dungannon

This application for relocation of 2 chimney stacks and the addition of an additional 2 stacks has been considered along with the submitted Irwin Carr Odour Impact Assessment dated 16th January 2018.

The Irwin Carr report uses AERMOD dispersion modelling to predict overall average impact of emissions from the existing facility using site specific inputs on odour emission rates, stack diameter, exit velocities etc. along with meteorological data and considers the impact at nearby residential properties over the previous 5 years. They concluded that the odour levels at all nearby receptors were significantly below the 3 ou/m³ whilst an increase of stack height by 3 metres (to 6 metres in total above ridge height) resulting in a 13.5 -23.5% reduction in odour levels at these receptors.

It is our understanding that the current stack heights are 6 metres above ridge height. Planners should satisfy themselves that this is the case.

The Environmental Health Department continue to receive odour complaints from nearby residential properties and officers have clearly observed these odours on a variety of occasions over the last few years.

A review of 2018 stack emissions testing undertaken by an independent company showed discharge velocities ranging from 9.4 – 1.2 m/s (3 of which returned discharge velocities <3 m/s) which are well below the 15 m/s discharge velocities used within Table 4 of the Irwin Carr report.

For this reason, we request that the odour assessment should be revisited using these measured inputs instead of theoretical values to establish if these produce figures more reflective of the situation witnessed at 3rd party receptors.

We would also request that new or additional mitigation measures be considered which will reduce the odour impact at nearby residential properties to further progress this application.

Policy Considerations.

The site is located in the countryside, on the edge of the settlement of Coalisland as defined by the current Dungannon Area Plan. The DMAC engineering business is now established here. My consideration of this proposal is therefore only concerned with the reposition and addition of the chimney stacks now on the building retrospectively. I don't see this proposal so much as an expansion of the premises in Policy PPS4 PED3 terms, but rather more a Policy PED9 test.

The SPPS in referring to Economic Development, Industry and Commerce, whilst recognising that economic development in the countryside, states:

6.87 The guiding principle for policies and proposals for economic development in the countryside is to facilitate proposals likely to benefit the rural economy and support rural communities, while protecting or enhancing rural character and the environment, consistent with strategic policy elsewhere in the SPPS.

6.91 All applications for economic development must be assessed in accordance with normal planning criteria, relating to such considerations as access arrangements, design, environmental and amenity impacts, so as to ensure safe, high quality and otherwise satisfactory forms of development.

Policy PED9 of PPS4.

A proposal for economic development use, in addition to the other policy provisions of this Statement, will be required to meet a number of criteria. Amongst these are 2 in particular which I feel require specific consideration not, namely:

- (b) it does not harm the amenities of nearby residents;
- (f) it is capable of dealing satisfactorily with any emission or effluent;
- (m) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.

The Justification and Amplification of this Policy recognises that in making provision for economic development, and in considering proposals, the Department will seek to minimise adverse effects on the amenities of adjacent properties, particularly dwellings, and on natural and built heritage resources. Particular care will be taken to safeguard local, national and international natural heritage designations.

It is my view that this proposal does not satisfy Criteria (b) and (f) of PED9 in that the present failure of the developer to demonstrate that this development will not lead to a loss of amenity has indicated that the DMAC facility is not capable of dealing satisfactorily with emissions. The chimney stacks discharge rates appear well below the required standards which would assist with adequate dispersal. In relation to integration into the landscape, given the level differences between the DMAC factory and the approaching roads, I don't not share some of the concerns raised by objectors in this case on the visual impact of the extended flues. Whilst extending well above the factory roof I do not feel that these are excessive in relation to wider public aspect. On this basis I would adopt the view that the chimney stacks do not offend other rural policy, namely Policy CTY14 of PPS21 for example.

Consideration local objections.

There have been 8 objections received from properties at No 36 Washingbay Road, 181 Annagher Road, 160 Annagher Road, issues raised include:

1. The proposal, by transmitting air pollutants through the countryside including over arable lands / impacting on livestock / grazing, has been detrimentally impacting the air quality and residential amenity of nearby property
2. The previous permission for DMAC promised an air filtration system but to date this has failed to be delivered
3. The stacks have introduced a further visual impact and deterioration of rural character
4. The Council have a duty to protect / investigate nuisances including fumes emitted from premises under the Clean Neighbourhoods and Env Act (NI) 2011.
5. NI HSE are currently investigating the impacts and it is requested that the views of statutory bodies is sought.
6. That noise nuisance has increased from the factory
7. The proposal, by transmitting air pollutants through the countryside including over arable lands / impacting on livestock / grazing, has been detrimentally impacting the air quality and residential amenity of nearby property
8. The previous permission for DMAC promised an air filtration system but to date this has failed to be delivered
9. The stacks have introduced a further visual impact and deterioration of rural character

10. The Council have a duty to protect / investigate nuisances including fumes emitted from premises under the Clean Neighbourhoods and Env Act (NI) 2011.

11. The overall enjoyment of property is being effected on occasion by fumes by not being able to use my garden / relatives being unable to visit.

12. That to rely on computer generated modelling is of limited value. The presence of the 6 chimneys provides ample opportunity to use real air quality monitoring. A PAC decision, 2017/A0043 supports this view in terms of the weighting to be afforded to air dispersion modelling as opposed to real air samples.

I recognise and concur with many of the issues raised by residents. In reaching my recommendation I attach determining weight to these concerns when considered in conjunction with the on-site observations of EHO colleagues. The matter of noise concerns I feel relates to wider claimed issues associated with DMAC operations and not this specific proposal. I note that the HSENI in May 2017 advised the Council of an investigation into alleged paint fumes from the plant following a complaint from a member of the public and asked that the Council planning enforcement team further investigate and consider.

I fully appreciate that DMAC need a means of discharging emissions in the interests of the efficient and safe undertaking of the business, as stated within the agents supporting statement, this cannot however be at what appears to be the expense of the quality of residential amenity being experienced in the locality of the factory and as observed by EHO.

I refer back to the earlier promised means by which the company stated they would deal with emissions contained in the original approval for DMAC which it seems has not been incorporated into the factory. Given that the Council have not been presented with any other obvious alternative design solution or other means of demonstrating satisfactory compliance, and in considering the clear objections from EHO and local residents, my recommendation is to refuse permission for the reason set out below.

Neighbour Notification Checked

Yes

Summary of Recommendation: Refusal.

Reasons for Refusal: The proposal is contrary to the SPPS and Policy PPS4 PED9 in that it has not been satisfactorily demonstrated that the development will not lead to an unacceptable loss of amenity to nearby residents by way of odour and fumes.

Signature(s) M.Bowman

Date: 19th Jan 2021

ANNEX	
Date Valid	3rd March 2017
Date First Advertised	16th March 2017
Date Last Advertised	15th February 2018
Details of Neighbour Notification (all addresses) E Campbell 160 Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 4NF The Owner/Occupier, 177 Annagher Road Annagher Coalisland Martin and Kathleen Dooey 181 Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA Martin and Kathleen Dooey 181, Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA Martin Dooey 181, Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA J Campbell 183 Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA The Owner/Occupier, 185 Annagher Road Dernagh Coalisland Orlagh Campbell 197 Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA James Hughes 36 Washingbay Road, Coalisland, Tyrone, Northern Ireland, BT71 4PU James Hughes 36 Washingbay Road, Coalisland, Tyrone, Northern Ireland, BT71 4PU	
Date of Last Neighbour Notification	2nd February 2018
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2016/1761/NMC Proposal: Relocation of previously approved flue stacks Address: 70m South of 177 Annagher Road, Coalisland, Decision: CR Decision Date: Ref ID: LA09/2015/1278/NMC	

Proposal: Minor change to planning approval M/2011/0126/F: change of exterior cladding colour of the unit to green and change of roof pitch to accommodate overhead cranes

Address: 70m South of 177 Annagher Road, Coalisland,

Decision: CG

Decision Date:

Ref ID: LA09/2017/0319/F

Proposal: The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the addition of 2 further chimney stacks to facilitate spraying within existing approved building

Address: 70m South of 177 Annagher Road, Dungannon,

Decision:

Decision Date:

Ref ID: M/2014/0027/LDE

Proposal: The continued use of the land for the storage of industrial machinery, steel. portacabins and general industrial equipment

Address: Lands south of 177 Annagher Road, Coalisland,

Decision: PR

Decision Date:

Ref ID: M/2010/0631/Q

Proposal: Zoning of Industrial Lands

Address: Lands South of 177 Annagher Road, Coalisland

Decision:

Decision Date:

Ref ID: M/2011/0126/F

Proposal: Small rural industrial enterprise on land situated adjacent to existing settlement limit of Coalisland.

Address: 70m South of 177, Annagher Road, Coalisland,

Decision: PG

Decision Date: 29.04.2015

Ref ID: M/1986/0582

Proposal: EXTRACTION OF SAND

Address: ANNAGHER, COALISLAND

Decision:

Decision Date:

Ref ID: M/1987/0421

Proposal: SAND EXTRACTION

Address: ANNAGHER ROAD, ANNAGHER, COALISLAND

Decision:

Decision Date:

Ref ID: M/1989/0159

Proposal: Extraction of sand

Address: BEHIND 177 ANNAGHER ROAD ANNAGHER COALISLAND

Decision:

Decision Date:

Ref ID: M/2013/0464/LDE

Proposal: Works which were subject to conditions have not been carried out

Address: Lands south of 177 annagher Road, Coalisland,

Decision: PG

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

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Drawing No.

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Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No. 02

Type: Proposed Elevations

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: LA09/2017/0787/F	Target Date: <add date>
Proposal: Refurbishment of existing 3 storey house including demolition of rear return and new 3 storey extension to rear to provide kitchen, living, bedroom and ancillary space	Location: 33 Killyman Street Moy Dungannon
Applicant Name and Address: M & C McCallion 33 Killyman Street MOY Dungannon BT71 7SJ	Agent Name and Address:
Summary of Issues: The host property is a Grade B1 listed building and within the conservation area of MOY. The property was previously dilapidated with planning approval (M/2009/0248/F & M/2009/0378/LB) extant. The applicant purchased the property in 2016 and undertook renovation works with an objection being received in July 2017 from Mr John Curran of 55 Bovean Road who operates a business adjacent to 33 Killyman Street on the basis that works carried out did not match what was approved. Historic Environment Division (HED) have expressed concerns that the proposal fails to satisfy 6.12 and 6.13 of the Strategic Planning Policy statement with primary concerns over rear window finishes, rain water goods and quoin arrangement to the front elevation. At a site meeting on 24th January 2017 with HED, Mid Ulster District Council Enforcement Officer and applicant, it was agreed a new planning application and LBC application would be submitted to regularise the works (LA09/2017/0787/F and LA09/2017/0788/LBC)	
Summary of Consultee Responses: DFC - HED - HED commented that proposals may satisfy policies and have asked that the council/applicant considers the points raised in the explanatory notes of their response. HED recognise this was formerly a building at risk and welcomes its reuse as a family home.	

Characteristics of the Site and Area

33 Killyman Street is a 2 storey mid-terrace dwelling with a basement level, as the ground level falls away from the street. It has a slate roof and render walls, wooden sliding sash windows and painted wooden door to the street frontage. It also has ladder effect quoins at either end of the frontage with an arched carriageway at ground floor level providing shared access to the rear. At the rear is a 3 storey return with smooth render walls and slate roof. There are roof lights in the roof, 4 on the side facing into 33 and 1 on the side facing 31. The window frames are dark with single panes of glass and there is a 3 storey link stairway that has a flat roof on both sides.

The site slopes downwards from street level to a large garden area at the rear.



Front elevation



Rear views



Views from adjacent property

The dwelling is located on Killyman Street in the village of Moy, within Moy Conservation Area and located between 2 listed buildings, 31 and 37 Killyman Street. The street scene is predominately 2 storey buildings with a 3 storey building adjacent and other 3 storey properties towards the Square. The area is a mix of residential and commercial development and access to the rear of the properties

on this side of the street is through carriageway arches and on the opposite side by gaps between buildings.

Description of Proposal

This application is for retention of works to refurbish the existing three storey house including demolition of rear return, demolition of outhouse and new three storey extension to rear. The refurbishments include re-roofing, re-rendering, providing ladder effect quoins and replacing/repairing windows and doors. To the rear there is a 3 storey pitched roof return with smooth render walls and slated roof. A staircase connects the extension to the existing building, it is over 3 floors and is mostly glazing with a flat roof. The extension has a games room, bathroom and laundry room on the lower ground floor, kitchen/dining/family room at ground floor and a master bedroom with en-suite and dressing room to the 1st floor.

The windows to the front are wooden sliding sash and all windows to the rear are double glazed single sheet units within dark UPVC frames. All rain water goods are cast aluminium and a soil vent pipe at the rear is Upvc. The staircase has been re-moved from within the house and new doors, architrave, skirting's and mouldings have been provided.

The Design and Access statement dated 8th June 2017 indicates the proposal is to sympathetically restore the property to its original standard and character, repairing the visible fabric of the property with its original features that contribute to the improvement of the streetscape in its context as a Conservation Area, following a six year period of dereliction.

Deferred Consideration:

This application was before the Planning Committee in March 2021 and it was agreed to defer to allow a meeting between the Planning Manager, the Applicant and architects from Historic Environment Division of the Department for Communities. This meeting took place virtually on 11 March 2021.

Following the meeting HED were re-consulted to allow them to comment on the issues that were discussed at the meeting. HED commented that proposals may satisfy policies and have asked that the council/applicant considers the points raised in the explanatory notes of their response. HED recognise this was formerly a building at risk and welcomes its reuse as a family home. They had a number of concerns which were raised in previous responses and are broadly based on the following points:

1. Windows to the rear of the listed building to be opaque painted hardwood timber, sliding sash, putty fronted, 1 over 1 windows over archway and 2 over 2 to rear elevation).
2. Rainwater goods and drainage pipes to listed building to be cast iron or cast aluminium.
3. Quoins to the front elevation of the listed building to match original 'toothed' detailing.
4. External render to be lined
5. Stairs to be reinstated in the original position, as per existing stair to retain historic floor plan.
6. Details of doors, architraves, skirting and plaster mouldings to be provided to match existing.

Members are advised the policy context here is contained in BH8 of PPS6 and planning permission may be granted where all the following are met:

- a) the essential character of the building and its setting are retained and its features of special interest remain intact and unimpaired;
- b) the works proposed make use of traditional and/or sympathetic building materials and techniques which match or are in keeping with those found on the building; and
- c) the architectural details (e.g. doors, gutters, windows) match or are in keeping with the building.

1. Windows to the rear of the listed building to be opaque painted hardwood timber, sliding sash, putty fronted, 1 over 1 windows over archway and 2 over 2 to rear elevation).

HED request that drawings are resubmitted showing new windows to the rear elevation as hardwood sliding sash windows. Mr McCallion advised there are 2 windows at the rear of the property that have been changed, one over the stairwell which was stained glass and has the stained glass inserted into a double glazed uPVC window and one which also uPVC and is for emergency egress. These 2 windows are wholly to the rear of the building and as such have a very limited public view or appreciation of them. All other windows at the front of the property on Killyman Street are complaint with HED requirements as there has been no request to change or amend these. Members will be aware there have been circumstances in the past where uPVC windows have been accepted, particularly where they have no significant public viewpoint. It is also worthy of noting the window openings have not been changed, just that the frames within them are not what would be expected in a property of this age. In view of the limited public views of these windows and that it is quite possible replicas of the originals could be reinstated at some point in the future, I do not consider these 2 windows have caused an unaccepted and irreversible change to the property.

2. Rainwater goods and drainage pipes to listed building to be cast iron or cast aluminium.

This relates to the uPVC Sewage Vent Pipe and other pipework that feeds into it which is located to the rear of the property. HED have requested this is replaced with a profiled heavy duty cast iron pipe. The applicant has indicates that he is willing to replace this and it was discussed that this could be carried out by means of a time locked condition to require this to be done. In light of this willingness to reinstate this element I consider it appropriate to condition that Mr McCallion submits and agrees details of profiled heavy duty cast iron SVP within 3 months of the date of any decision and that these are installed within 12 months of the date of any decision.

3. Quoins to the front elevation of the listed building to match original 'toothed' detailing.

HED are mindful that the straight line quoin detail is not historically accurate for this property but they are an architectural feature of properties either side of the subject property and as such are of a similar age and style. HED are willing to accept these and there is no further amendments required to this element.

4. External render to be lined

HED advise the original plasterwork was lined and ruled and have requested this is re-instated and drawings are submitted that shows these. The applicant has advised they had to remove the plasterwork and re-render the property as the finish was in a poor state of repair when they purchased it. Essentially HED are asking for this work to be hacked off the building and be redone with lines in it to match the records they have of the building when it was listed. While this will make the building appear historically accurate in terms of the records, it is not retaining historic fabric. Members may wish to consider what conservation merit would be had by redoing this plaster work. The applicant has advised they have held off from painting the exterior of the building for fear of having to remove the existing render and then redoing it before painting the building. I consider if the building was painted in a colour scheme agreed with HED this would improve the appearance of the building. HED have not sought any painting of the building and the applicant could render the building with lined plaster as requested but not repaint the building, which is not typical of the listed buildings or other buildings that surround it. I propose a condition that requires a colour scheme to be agreed with HED and carried out within 6 months of the date of any approval would enhance the appearance of the property and the conservation area.

5. Stairs to be reinstated in the original position, as per existing stair to retain historic floor plan.

The applicant provided HED with photographic evidence of a large bust that has been placed in the position of the original staircase as a focal piece to acknowledge the significance of the staircase and the original plan form of the building. HED have advised they accept the stairs removed were a modern unsympathetic insertion. They would prefer the reinstatement of the original stairs in their original form but accept the plan form of the building remains legible and that an authentic replacement could be inserted in the future. HED have not asked for any further changes to this element of the building.

6. Details of doors, architraves, skirting and plaster mouldings to be provided to match existing.

The applicant advised that when they acquired the building the internal doors, architraves, skirting's and mouldings had been trashed. The doors that remained were pressed MDF panel doors and not particularly in keeping with the building. Mr McCallion has advised he researched period interiors to specify dies for the profiling of the skirting boards/architraves and has provided appropriate doors. HED accepts the original historic joinery work is no longer in place. They have requested the applicant furnishes them with drawings to reflect what has been provided and is in situ. As it has been accepted all original historic joinery work has been removed the information must surely only be for information purposes, as a record of the internal of the building now. I suggest this could be dealt with by way of a condition that Mr McCallion submits these profiles and details to HED for their information within 3 months of the date of any decision.

It is clear that not all the criteria has been fully met in this proposal, however members may set aside some elements of the policy where they feel there are other material considerations that outweigh the policy. In this case members may wish to take account of the fact the applicants have undertaken a significant amount of work to this property to

bring it back into use as a family home. The property had been granted permission for conversion to apartments which was itself not historically accurate. The works that have been done have resulted in the property being removed from the Buildings at Risk Register, which HED welcome. I consider this should be given weight in the determination of this application and in my view it is better to have the building in its current condition than falling further into disrepair.

HED have requested conditions that require:

- the walls to be lined and ruled render with toothed quoins (at odds with the commentary in the explanatory notes relating to the quoins) and
- Painted hardwood sliding sash windows to the listed building

Members are reminded that where the Council is proposing to go against HED advice and/or not attach suggested conditions then the Council must notify the Department for Infrastructure in accordance with Section 89 of the Planning Act (NI) 2011 and The Planning (Notification of Applications) Direction 2017 before it issues its decision.

My recommendation is that Listed Building Consent is granted for these works, subject to the proposed conditions attached and satisfactory notification to the Department.

Conditions/Reasons for Refusal:

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

Reason: This is a retrospective application.

2. Within 3 months of the date of this decision, details of profiled heavy duty cast iron SVP to replace the uPVC SVP at the rear of the property shall be submitted to the Council for agreement with Historic Environment Division. The agreed heavy duty cast iron SVP as agreed shall be installed within 12 months of the date of this decision.

Reason: To protect the integrity and character of this listed building

3. Within 3 months of the date of this decision, drawings at a scale of 1:20 and photographs showing the details and profiles of all skirting's, architraves and doors within the listed part of this building shall be provided to Council for forwarding to HED.

Reason: To ensure Historic Environment Division have an accurate record of the replacement joinery works within this listed building.

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: LA09/2017/0787/F	Target Date:
Proposal: Refurbishment of existing 3 storey house including demolition of rear return and new 3 storey extension to rear to provide kitchen, living, bedroom and ancillary space	Location: 33 Killyman Street Moy Dungannon
Referral Route: Application is being recommended for refusal Objections received from neighbour and Historic Environment Division have concerns.	
Recommendation:	Refusal
Applicant Name and Address: M & C McCallion 33 Killyman Street MOY Dungannon BT71 7SJ	Agent Name and Address: N/A
Executive Summary: The proposal is for the retention of works to a listed building and Historic Environment Division of the Department for Communities have advised they are not content with the works, both internally and externally. Additional plans have been requested to show internal features and these have not been submitted, despite a number of requests. An objection has been received from the neighbour raising a number of issues.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Fails to satisfy policy requirements of SPPS and BH8 & 11 in PPS6.

Representations:

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

Summary of Issues

HED have requested the following changes to the listed building: reinstatement of 3 wooden sliding sash windows to the rear (currently Upvc), reinstatement of the internal staircase (this has been removed), rainwater goods and drainage pipes to be cast iron or cast aluminium (SVP to the rear is Upvc), quoins to frontage sides of the property be toothed (currently ladder type), external render to be lined (currently smooth render), details of all internal doors, architraves, skirtings and plaster mouldings to match the original features.

The neighbour has raised concerns about the dominance of the extension, overlooking, overshadowing, loss of visual amenity and that what is proposed does not match what has been built.

Characteristics of the Site and Area

33 Killyman Street is a 2 storey mid-terrace dwelling with a basement level, as the ground level falls way from the street. It has a slate roof and render walls, wooden sliding sash windows and painted wooden door to the street frontage. It also has ladder effect quoins at either end of the frontage with an arched carriageway at ground floor level providing shared access to the rear. At the rear is a 3 storey return with smooth render walls and slate roof. There are roof lights in the

roof, 4 on the side facing into 33 and 1 on the side facing 31. The window frames are dark with single panes of glass and there is a 3 storey link stairway that has a flat roof on both sides. The site slopes downwards from street level to a large garden area at the rear.



Front elevation



Rear views



Views from adjacent property

The dwelling is located on Killyman Street in the village of Moy, within Moy Conservation Area and located between 2 listed buildings, 31 and 37 Killyman Street. The street scene is predominately 2 storey buildings with a 3 storey building adjacent and other 3 storey properties towards the Square. The area is a mix of residential and commercial development and access to the rear of the properties on this side of the street is through carriageway arches and on the opposite side by gaps between buildings.

Description of Proposal

This application is for retention of works to refurbish the existing three storey house including demolition of rear return, demolition of outhouse and new three storey extension to rear. The refurbishments include re-roofing, re-rendering, providing ladder effect quoins and replacing/repairing windows and doors. To the rear there is a 3 storey pitched roof return with smooth render walls and slated roof. A staircase connects the extension to the existing building, it is over 3 floors and is mostly glazing with a flat roof. The extension has a games room, bathroom and laundry room on the lower ground floor, kitchen/dining/family room at ground floor and a master bedroom with en-suite and dressing room to the 1st floor.

The windows to the front are wooden sliding sash and all windows to the rear are double glazed single sheet units within dark UPVC frames. All rain water goods are cast aluminium and a soil vent pipe at the rear is Upvc. The staircase has been re-moved from within the house and new doors, architrave, skirting's and mouldings have been provided.

The Design and Access statement dated 8th June 2017 indicates the proposal is to sympathetically restore the property to its original standard and character, repairing the visible fabric of the property with its original features that contribute to the improvement of the streetscape in its context as a Conservation Area, following a six year period of dereliction.

Planning Assessment of Policy and Other Material Considerations

The following planning publications and planning policy statements establish the policy context.

- Strategic Planning Policy Statement (SPPS)

- Dungannon and South Tyrone Area Plan 2010
- Planning Policy Statement 6 Planning Archaeology and the Built Heritage
- Planning Policy Statement 7 – Addendum – Residential Extensions and Alterations.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the Council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS.

Departmental publications cancelled by the introduction of the SPPS include PPS 1: General Principles, PPS 5: Retailing and Town Centres and PPS 9: The Enforcement of Planning Control.

Planning History

Members are advised the property was listed on 11th February 1982 and is Grade B1, this category is for good examples of particular period or style, a degree of alteration or imperfection may be acceptable and generally have a wide selection of attributes and usually include interior features where one or more features are of exceptional quality or interest.

Planning permission and listed building consent was granted under M/2009/0378/LB and M/2009/0248/F for the demolition of existing rear return proposed extension to rear and proposed refurbishment of existing listed building on 14 September 2010.

Previous to this an application reference M/2008/0679/F for proposed demolition of existing rear return, 3 storey rear office extension and refurbishment of existing property to include a change of use from dwelling to offices was granted at appeal. Members should note these have lapsed, however the policy context has not dramatically changed since they were approved and PPS6 is still the main consideration.

There is an on-going enforcement case for unauthorised works to a listed building. A conclusion of this planning application and the accompanying application for listed building consent is required in order to either resolve the breaches of planning control, or provide an opportunity for the Planning Department to further consider the merits of the enforcement case with a view to potential prosecution for unauthorised works to a Listed Building.

Representations

In line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015 an advert was placed in local newspapers together with neighbour notifications undertaken. Representations were sought from HED with comments received together with one objection received from No. 33 Killyman Street.

Considerations

Members are advised that 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

In accordance with the Strategic Planning Policy Statement Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and all other material considerations, unless the development will cause demonstrable harm to interests of acknowledged importance.

The Dungannon and South Tyrone Area Plan 2010 identifies 33 Killyman Street as within the village of Moy where favourable consideration is given to development, provided it meets with stated criteria in SETT1. I consider if the proposal meets with other regional policy contained within PPS6 and PPS7 - Addendum, it will accord with the Area Plan.

Members are asked to note the Department already took a view on the acceptability of an extension to this property and granted planning permission for a broadly similar scheme. The previous proposal did not include any significant alterations to either the interior or the exterior of the listed building.



Plans approved M/2009/0247LB and M/2009/0248/F -14 September 2010

The proposal must accord with EXT 1 of PPS7 addendum in terms of design and amenity considerations. In regards to satisfying Policy EXT 1, it is my view the overall siting, scale and design of the proposed extension still remains subordinate to the original host property with a width of 5.6 metres and length/depth of 15 metres being similar with the extant application M/2008/0681/LB and the retrospective application LA09/2017/0788/LBC. The increase of height of the chimney by 600mm to the coping level is a noticeable change in the applications yet I still view it as not detrimental to the character and appearance of the host property, given the restricted views of the property. I am persuaded the proposal is in general compliance with the Area Plan.

Taking on board the objection and comments received, I am not persuaded that the extension as built is overly dominant to either property No. 31 or No. 35, particularly as it is below the ridge level of the host property. The perceived invasion of privacy onto 31 Killyman Street from the Velux bathroom window of No. 33 is not significant given the difficulties of obtaining a view combined with the consideration that commercial activities are also undertaken at No. 31. In relation to concerns of how the applicant proposes to maintain the wall and roof as raised by the objector at No. 31, this was a similar issue in relation to the scheme approved by the Department and I consider this is a common situation with this type of backland development which requires some degree of mutual co-operation between the parties.

In assessing the perceived loss of visual amenity, planning approval was previously given under M/2009/0378/LB and M/2009/0248/F for a very similar proposal. It is noted the proposal extends almost 10 metres beyond the extension in the neighbouring property, however that extension is over 3 stories and this one only 2. Neither extension interrupts the streetscape and the rear elevations are not easily viewed from Killyman Street, or any other area of public resort.

In relation to overshadowing, the objectors property at No. 31 is south of the host property and the extension will over shadow it to some degree, however this will be mostly in the early morning, the extension to no 31 provides a much greater shadowing effect to the windows in the north facing elevation of No 31.

Initially the plans for the development did not reflect what has been built on the ground, amended plans received in June 2019 do, in my opinion, show the development as built on the ground. Neighbour notification was carried out in relation to these plans and no further comments were received.

The proposal will not cause the unacceptable loss of, or damage to, trees, or other landscape features with sufficient space remaining within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles. I am therefore satisfied the proposal does not unduly affect the privacy or amenity of neighbouring residents in proximity of 33 Killyman Street and accords with the policy requirements of EXT1 in PPS 7 (Addendum).

Consequently, I consider the principle of the extension is acceptable and the main issue to be resolved is the objection and comments raised by Historic Environment Division (HED) in respect of the works to the original building. Following the receipt of the plans that show the development as built, HED were consulted and consider the development as built fails to satisfy the policy requirements of the SPPS and BH8 and BH11 of PPS6.

Policy BH 8, extension or alteration of a Listed Building, states the Department will normally only grant consent for the extension or alteration of a listed buildings where all the following criteria are met:

1. the essential character of the building and its setting are retained and its features of special interest remain intact and unimpaired;
2. the works proposed make use of traditional and/or sympathetic building materials and techniques which match or are in keeping with those found on the building; and
3. the architectural details (e.g. doors, gutters, windows) match or are in keeping with the building.

Policy BH11 is similar to BH8, but it relates to the setting of the listed building.

The response dated 18 July 2019, identified 6 core areas of concern:

- 1) reinstatement of 3 wooden sliding sash windows to the rear (currently Upvc)
- 2) reinstatement of the internal staircase (this has been removed)
- 3) rainwater goods and drainage pipes to be cast iron or cast aluminium (SVP to the rear is Upvc)
- 4) quoins to frontage sides of the property to be toothed (currently ladder type)
- 5) external render to be lined (currently smooth render) and
- 6) details of all internal doors, architraves, skirting's and plaster mouldings should match the original features.

It is noted HED had previously requested the windows in the new extension to be changed to aluminium or wooden frames, they have not requested this in the most recent response and have solely concentrated on the works to the existing building.

HED provided photographs to show the property when it was inspected in 2000.



Front elevation with toothed quoins at sides and partially over archway



Lines in the plaster work to the front



Photographs of the internal features for the property

The applicant has advised they purchased the property in 2016 and at that time it had been vandalised with significant damage to the interior of the property and most of the internal joinery features stripped out and burned.



Extract from estate agents brochure

The applicants wished to retain the property as a family home and carried out extensive remedial works as the property had suffered defects due to the lack of maintenance. They have advised all works they carried out were without the benefit of any grant aid or other funding sources. The applicants advise the works they have carried out are not significantly different than those previously approved and that it was a matter of urgency the works were carried out to prevent the building falling into further disrepair. The applicant has submitted a statement that indicates they feel they have carried out the works in accordance with the guidance notes associated with the Historic Buildings Grant Aid Scheme and the 4 principles of conservation contained within the Burra Charter. These are: Minimum Intervention, Maximum Retention, Clarity and Reversibility.

In respect of the HED issues that have been raised the applicants wish the committee members and the planning officers to note:

- 1) reinstatement of 3 wooden sliding sash windows to the rear (currently Upvc) these are not visible from the public views and they match those in the extension, all windows to the front and the front door have been replaced like for like with high specification
- 2) reinstatement of the internal staircase (this has been removed)
The staircase had been removed by the previous owner, replacing it here would not meet current Building Regulations, it has been left that the stairs can be reinstated in the future so the change is reversible.
- 3) rainwater goods and drainage pipes to be cast iron or cast aluminium (SVP to the rear is uPVC)

only the SVP (Sewer Vent Pipe) is uPVC and this is due to the amount of pipes flowing into it , it would have required 2 pipes if this was not done.

4) quoins to frontage sides of the property to be toothed (currently ladder type)
the 'original' quoins were not original, when the plaster was removed it was noted the original cut stone quoins were ladder type and this has been replicated. This is the same as no 35.

5) external render to be lined (currently smooth render)
there were no lines obvious in the plaster work when the property was bought, there is a mix of different finishes in the area and this is in keeping with no 35.

6) details of all internal doors, architraves, skirting's and plaster mouldings should match the original features.

none of the original features were left when the house was bought as the majority of the interior was gone, anything that was left was not original. The replacements were replicated from other nearby properties of a similar era to try and find the correct match.

The applicants indicate they have gone to considerable expense to try to make the property as original as possible and have carried out extensive research to do this. They have brought the building back into use as a modern family home where otherwise it would have been lost.

Members should be aware that works to a listed building require the necessary consent before they are undertaken. It is a criminal offence to carry out works to a listed building without obtaining that consent. Planning permission and listed building consent were granted in 2010 for a similar scheme, but it is important to note they had a 5 year time limit and had lapsed before the applicants bought the property in 2016. The development that was carried out was similar to the approved scheme, but is not in accordance with it and these changes are the issues that have caused concerns with HED. The applicant was aware they were buying a listed building and they should have consulted with HED before they carried out the works that have been undertaken. The applicant advise they incurred expense in researching the materials and finishes for the property, however it is clear that contact with HED would have provided them with as much information as they needed to ensure they carried out the work in accordance with their standards. This could have resulted in the works being carried out to the necessary standard.

HED acknowledge this was a building at risk and welcomes its re-use as a family home. They have no issues with the principle of the extension and the alterations to the building, it is the manner and detailing that is at issue. They have identified 6 core elements that require attention, these will require significant investment to put right. It is commonly known that financial assistance from the Department is scarce for this type of work. That said HED have sought co-operation with the applicants to provide changes to respect the character of the building, these have not been forthcoming.

The most recent consultation response does not raise any issue with the windows or appearance of the extension. The amendments that have been requested are solely in relation to the fabric of the listed building. As it does not appear that HED have any further issues with the extension I do not considered BH11 is offended.

It is obvious that without the applicants intervention this building may have continued to deteriorate and what has been done is preferable to the previous derelict appearance of the property. However this is still a listed building and afforded statutory protection as such am bound by HED guidance that the proposal as built does not accord with policy and I am therefore recommending refusal of this application.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

The works that have been carried out to this building have adversely affected the character of this listed the building thought the use of inappropriate finishes, materials and detailing.

Members should note any decision on this application is dependant on the outcome of the Listed Building Consent and any possible notification to the Department.

Reasons for Refusal:

The development as constructed fails to meet with Policy BH11 of Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage in that:

- the essential character of the building has not been retained as its features of special interest do not remain intact and unimpaired;
- the works do not make use of traditional and/or sympathetic building materials and techniques which match or are in keeping with those found on the building; and
- the architectural details (e.g. doors, gutters, windows) do not match and are not in keeping with the building.

Signature(s)

Date:

ANNEX	
Date Valid	8th June 2017
Date First Advertised	22nd June 2017
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 31 Killyman Street Moy Tyrone The Owner/Occupier, 35 Killyman Street Moy Tyrone John Curran 55 Bovean Road Bovean Dungannon The Owner/Occupier, Flat A 31 Killyman Street Moy The Owner/Occupier, Flat B 31 Killyman Street Moy The Owner/Occupier, Flat C 31 Killyman Street Moy The Owner/Occupier, Flat D 31 Killyman Street Moy The Owner/Occupier, Flat E 31 Killyman Street Moy The Owner/Occupier, Flat F 31 Killyman Street Moy	
Date of Last Neighbour Notification	3rd July 2017
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2017/0788/LBC Proposal: Refurbishment of existing 3 storey house. Including demolition of rear return and new 3 storey extension to rear to provide kitchen ,living, bedroom and ancillary space. conversion from existing flats into residential house Address: 33 Killyman Street, Moy, Dungannon, Decision: Decision Date: Ref ID: LA09/2017/0787/F	

Proposal: Refurbishment of existing 3 storey house including demolition of rear return and new 3 storey extension to rear to provide kitchen, living, bedroom and ancillary space

Address: 33 Killyman Street, Moy, Dungannon,

Decision:

Decision Date:

Ref ID: M/2000/0330/DCA

Proposal: Demolition of 21A Killyman Street, Moy

Address: 21A Killyman Street, Moy, Dungannon

Decision:

Decision Date: 21.08.2000

Ref ID: M/2009/0248/F

Proposal: Demolition of existing rear return, proposed extension & refurbishment of ex dwelling

Address: 33 Killyman Street, Moy Dungannon

Decision:

Decision Date: 29.09.2010

Ref ID: M/2005/0879/Q

Proposal: 3 Detached Dwellings

Address: Rear of 33 Killyman Street, Moy

Decision:

Decision Date:

Ref ID: M/2009/0378/LB

Proposal: Demolition of existing rear return proposed extension to rear and proposed refurbishment of existing listed building

Address: 33 Killyman Street, Moy, Dungannon

Decision:

Decision Date: 08.10.2010

Ref ID: M/2008/0679/F

Proposal: Proposed demolition of existing rear return, proposed 3 storey rear office extension and refurbishment of existing property to include a change of use from dwelling to offices

Address: 33 Killyman Street, Moy, Dungannon

Decision:

Decision Date:

Ref ID: M/2008/0681/LB

Proposal: Proposed extension and refurbishment of existing property to include a change of use from dwelling to offices

Address: 33 Killyman Street, Moy, Dungannon

Decision:
Decision Date: 26.01.2009

Ref ID: M/1999/0058
Proposal: Proposed Extension and improvements to dwelling
Address: 33 KILLYMAN STREET MOY
Decision:
Decision Date:

Ref ID: M/1999/0054
Proposal: Proposed Improvements and Extension to Dwelling
Address: 33 KILYMAN STREET MOY
Decision:
Decision Date:

Ref ID: M/2000/1061/LB
Proposal: Proposed Improvements/Extension to Dwelling
Address: 33 Killyman Street, Dungannon
Decision:
Decision Date: 16.05.2001

Ref ID: M/2000/0835/F
Proposal: Improvements and extension to dwelling
Address: 33 Killyman Street Moy Dungannon
Decision:
Decision Date: 16.05.2001

Ref ID: M/1991/0380
Proposal: Conversion and extension to dwelling to 5 No units of accommodation
Address: 31 KILLYMAN STREET MOY
Decision:
Decision Date:

Ref ID: M/1986/0046
Proposal: IMPROVEMENTS TO DWELLING
Address: 33 KILLYMAN STREET, MOY
Decision:
Decision Date:

Ref ID: M/1986/0625
Proposal: ENLARGEMENT OF EXISTING SERVICES ACCESS TO SHOP AND YARD
Address: 31 KILLYMAN STREET, MOY
Decision:

Decision Date:

Ref ID: M/1988/0381

Proposal: NEW WINDOWS AND RE-RENDER FRONT OF DWELLING

Address: 35 KILLYMAN STREET, MOY, DUNGANNON

Decision:

Decision Date:

Summary of Consultee Responses

HED – the development as carried out does not meet with policies in SPPS and BH8 and BH11 of PPS6.

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Approved

Drawing No. 02Rev3

Type: Floor Plans

Status: Approved

Drawing No. 03Rev3

Type: Floor Plans

Status: Approved

Drawing No. 04Rev3

Type: Proposed Plans

Status: Approved

Drawing No. 05ev1

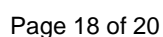
Type:

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: LA09/2017/0788/LBC	Target Date: <add date>
Proposal: Refurbishment of existing 3 storey house including demolition of rear return and new 3 storey extension to rear to provide kitchen, living, bedroom and ancillary space	Location: 33 Killyman Street Moy Dungannon
Applicant Name and Address: M & C McCallion 33 Killyman Street MOY Dungannon BT71 7SJ	Agent Name and Address:
Summary of Issues: The host property is a Grade B1 listed building and within the conservation area of MOY. The property was previously dilapidated with planning approval (M/2009/0248/F & M/2009/0378/LB) extant. The applicant purchased the property in 2016 and undertook renovation works with an objection being received in July 2017 from Mr John Curran of 55 Bovean Road who operates a business adjacent to 33 Killyman Street on the basis that works carried out did not match what was approved. Historic Environment Division (HED) have expressed concerns that the proposal fails to satisfy 6.12 and 6.13 of the Strategic Planning Policy statement with primary concerns over rear window finishes, rain water goods and quoin arrangement to the front elevation. At a site meeting on 24th January 2017 with HED, Mid Ulster District Council Enforcement Officer and applicant, it was agreed a new planning application and LBC application would be submitted to regularise the works (LA09/2017/0787/F and LA09/2017/0788/LBC	
Summary of Consultee Responses: DFC - HED - HED commented that proposals may satisfy policies and have asked that the council/applicant considers the points raised in the explanatory notes of their response. HED recognise this was formerly a building at risk and welcomes its reuse as a family home.	

Characteristics of the Site and Area

33 Killyman Street is a 2 storey mid-terrace dwelling with a basement level, as the ground level falls away from the street. It has a slate roof and render walls, wooden sliding sash windows and painted wooden door to the street frontage. It also has ladder effect quoins at either end of the frontage with an arched carriageway at ground floor level providing shared access to the rear. At the rear is a 3 storey return with smooth render walls and slate roof. There are roof lights in the roof, 4 on the side facing into 33 and 1 on the side facing 31. The window frames are dark with single panes of glass and there is a 3 storey link stairway that has a flat roof on both sides.

The site slopes downwards from street level to a large garden area at the rear.



Front elevation



Rear views



Views from adjacent property

The dwelling is located on Killyman Street in the village of Moy, within Moy Conservation Area and located between 2 listed buildings, 31 and 37 Killyman Street. The street scene is predominately 2 storey buildings with a 3 storey building adjacent and other 3 storey properties towards the Square. The area is a mix of residential and commercial development and access to the rear of the properties

on this side of the street is through carriageway arches and on the opposite side by gaps between buildings.

Description of Proposal

This application is for retention of works to refurbish the existing three storey house including demolition of rear return, demolition of outhouse and new three storey extension to rear. The refurbishments include re-roofing, re-rendering, providing ladder effect quoins and replacing/repairing windows and doors. To the rear there is a 3 storey pitched roof return with smooth render walls and slated roof. A staircase connects the extension to the existing building, it is over 3 floors and is mostly glazing with a flat roof. The extension has a games room, bathroom and laundry room on the lower ground floor, kitchen/dining/family room at ground floor and a master bedroom with en-suite and dressing room to the 1st floor.

The windows to the front are wooden sliding sash and all windows to the rear are double glazed single sheet units within dark UPVC frames. All rain water goods are cast aluminium and a soil vent pipe at the rear is Upvc. The staircase has been re-moved from within the house and new doors, architrave, skirting's and mouldings have been provided.

The Design and Access statement dated 8th June 2017 indicates the proposal is to sympathetically restore the property to its original standard and character, repairing the visible fabric of the property with its original features that contribute to the improvement of the streetscape in its context as a Conservation Area, following a six year period of dereliction.

Deferred Consideration:

This application was before the Planning Committee in March 2021 and it was agreed to defer to allow a meeting between the Planning Manager, the Applicant and architects from Historic Environment Division of the Department for Communities. This meeting took place virtually on 11 March 2021.

Following the meeting HED were re-consulted to allow them to comment on the issues that were discussed at the meeting. HED commented that proposals may satisfy policies and have asked that the council/applicant considers the points raised in the explanatory notes of their response. HED recognise this was formerly a building at risk and welcomes its reuse as a family home. They had a number of concerns which were raised in previous responses and are broadly based on the following points:

1. Windows to the rear of the listed building to be opaque painted hardwood timber, sliding sash, putty fronted, 1 over 1 windows over archway and 2 over 2 to rear elevation).
2. Rainwater goods and drainage pipes to listed building to be cast iron or cast aluminium.
3. Quoins to the front elevation of the listed building to match original 'toothed' detailing.
4. External render to be lined
5. Stairs to be reinstated in the original position, as per existing stair to retain historic floor plan.
6. Details of doors, architraves, skirting and plaster mouldings to be provided to match existing.

Members are advised the policy context here is contained in BH8 of PPS6 and planning permission may be granted where all the following are met:

- a) the essential character of the building and its setting are retained and its features of special interest remain intact and unimpaired;
- b) the works proposed make use of traditional and/or sympathetic building materials and techniques which match or are in keeping with those found on the building; and
- c) the architectural details (e.g. doors, gutters, windows) match or are in keeping with the building.

1. Windows to the rear of the listed building to be opaque painted hardwood timber, sliding sash, putty fronted, 1 over 1 windows over archway and 2 over 2 to rear elevation).

HED request that drawings are resubmitted showing new windows to the rear elevation as hardwood sliding sash windows. Mr McCallion advised there are 2 windows at the rear of the property that have been changed, one over the stairwell which was stained glass and has the stained glass inserted into a double glazed uPVC window and one which also uPVC and is for emergency egress. These 2 windows are wholly to the rear of the building and as such have a very limited public view or appreciation of them. All other windows at the front of the property on Killyman Street are complaint with HED requirements as there has been no request to change or amend these. Members will be aware there have been circumstances in the past where uPVC windows have been accepted, particularly where they have no significant public viewpoint. It is also worthy of noting the window openings have not been changed, just that the frames within them are not what would be expected in a property of this age. In view of the limited public views of these windows and that it is quite possible replicas of the originals could be reinstated at some point in the future, I do not consider these 2 windows have caused an unaccepted and irreversible change to the property.

2. Rainwater goods and drainage pipes to listed building to be cast iron or cast aluminium.

This relates to the uPVC Sewage Vent Pipe and other pipework that feeds into it which is located to the rear of the property. HED have requested this is replaced with a profiled heavy duty cast iron pipe. The applicant has indicates that he is willing to replace this and it was discussed that this could be carried out by means of a time locked condition to require this to be done. In light of this willingness to reinstate this element I consider it appropriate to condition that Mr McCallion submits and agrees details of profiled heavy duty cast iron SVP within 3 months of the date of any decision and that these are installed within 12 months of the date of any decision.

3. Quoins to the front elevation of the listed building to match original 'toothed' detailing.

HED are mindful that the straight line quoin detail is not historically accurate for this property but they are an architectural feature of properties either side of the subject property and as such are of a similar age and style. HED are willing to accept these and there is no further amendments required to this element.

4. External render to be lined

HED advise the original plasterwork was lined and ruled and have requested this is re-instated and drawings are submitted that shows these. The applicant has advised they had to remove the plasterwork and re-render the property as the finish was in a poor state of repair when they purchased it. Essentially HED are asking for this work to be hacked off the building and be redone with lines in it to match the records they have of the building when it was listed. While this will make the building appear historically accurate in terms of the records, it is not retaining historic fabric. Members may wish to consider what conservation merit would be had by redoing this plaster work. The applicant has advised they have held off from painting the exterior of the building for fear of having to remove the existing render and then redoing it before painting the building. I consider if the building was painted in a colour scheme agreed with HED this would improve the appearance of the building. HED have not sought any painting of the building and the applicant could render the building with lined plaster as requested but not repaint the building, which is not typical of the listed buildings or other buildings that surround it. I propose a condition that requires a colour scheme to be agreed with HED and carried out within 6 months of the date of any approval would enhance the appearance of the property and the conservation area.

5. Stairs to be reinstated in the original position, as per existing stair to retain historic floor plan.

The applicant provided HED with photographic evidence of a large bust that has been placed in the position of the original staircase as a focal piece to acknowledge the significance of the staircase and the original plan form of the building. HED have advised they accept the stairs removed were a modern unsympathetic insertion. They would prefer the reinstatement of the original stairs in their original form but accept the plan form of the building remains legible and that an authentic replacement could be inserted in the future. HED have not asked for any further changes to this element of the building.

6. Details of doors, architraves, skirting and plaster mouldings to be provided to match existing.

The applicant advised that when they acquired the building the internal doors, architraves, skirting's and mouldings had been trashed. The doors that remained were pressed MDF panel doors and not particularly in keeping with the building. Mr McCallion has advised he researched period interiors to specify dies for the profiling of the skirting boards/architraves and has provided appropriate doors. HED accepts the original historic joinery work is no longer in place. They have requested the applicant furnishes them with drawings to reflect what has been provided and is in situ. As it has been accepted all original historic joinery work has been removed the information must surely only be for information purposes, as a record of the internal of the building now. I suggest this could be dealt with by way of a condition that Mr McCallion submits these profiles and details to HED for their information within 3 months of the date of any decision.

It is clear that not all the criteria has been fully met in this proposal, however members may set aside some elements of the policy where they feel there are other material considerations that outweigh the policy. In this case members may wish to take account of the fact the applicants have undertaken a significant amount of work to this property to

bring it back into use as a family home. The property had been granted permission for conversion to apartments which was itself not historically accurate. The works that have been done have resulted in the property being removed from the Buildings at Risk Register, which HED welcome. I consider this should be given weight in the determination of this application and in my view it is better to have the building in its current condition than falling further into disrepair.

HED have requested conditions that require:

- the walls to be lined and ruled render with toothed quoins (at odds with the commentary in the explanatory notes relating to the quoins) and
- Painted hardwood sliding sash windows to the listed building

Members are reminded that where the Council is proposing to go against HED advice and/or not attach suggested conditions then the Council must notify the Department for Infrastructure in accordance with Section 89 of the Planning Act (NI) 2011 and The Planning (Notification of Applications) Direction 2017 before it issues its decision.

My recommendation is that Listed Building Consent is granted for these works, subject to the proposed conditions attached and satisfactory notification to the Department.

Conditions/Reasons for Refusal:

1. This decision notice is issued under Section 85(3) of The Planning Act (Northern Ireland) 2011.

Reason: This is a retrospective application.

2. Within 3 months of the date of this decision, details of profiled heavy duty cast iron SVP to replace the uPVC SVP at the rear of the property shall be submitted to the Council for agreement with Historic Environment Division. The agreed heavy duty cast iron SVP as agreed shall be installed within 12 months of the date of this decision.

Reason: To protect the integrity and character of this listed building

3. Within 3 months of the date of this decision, drawings at a scale of 1:20 and photographs showing the details and profiles of all skirting's, architraves and doors within the listed part of this building shall be provided to Council for forwarding to HED.

Reason: To ensure Historic Environment Division have an accurate record of the replacement joinery works within this listed building.

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 6E

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/0788/LBC	Target Date:
Proposal: Refurbishment of existing 3 storey house including demolition of rear return and new 3 storey extension to rear to provide kitchen, living, bedroom and ancillary space	Location: 33 Killyman Street Moy Dungannon
Referral Route: Application is being recommended for refusal.	
Recommendation:	Refusal
Applicant Name and Address: M & C McCallion 33 Killyman Street MOY Dungannon BT71 7SJ	Agent Name and Address: N/A
Executive Summary: The host property is a Grade B1 listed building and within the conservation area of MOY. The property was previously dilapidated with planning approval (M/2009/0248/F & M/2009/0378/LB) extant. The applicant purchased the property in 2016 and undertook renovation works with an objection being received in July 2017 from Mr John Curran of 55 Bovean Road who operates a business adjacent to 33 Killyman Street on the basis that works carried out did not match what was approved. Historic Environment Division (HED) have expressed concerns that the proposal fails to satisfy 6.12 and 6.13 of the Strategic Planning Policy statement with primary concerns over rear window finishes, rain water goods and quoin arrangement to the front elevation.	

At a site meeting on 24th January 2017 with HED, Mid Ulster District Council Enforcement Officer and applicant, it was agreed a new planning application and LBC application would be submitted to regularise the works (LA09/2017/0787/F and LA09/2017/0788/LBC).

Signature(s):

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Fails to satisfy policy requirements of SPPS and BH8 & 11 in PPS6.

Representations:

Letters of Support	None Received
Letters of Objection	0
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

HED have requested the following changes to the listed building: reinstatement of 3 wooden sliding sash windows to the rear (currently Upvc), reinstatement of the internal staircase (this has been removed), rainwater goods and drainage pipes to be cast iron or cast aluminium (SVP to the rear is Upvc), quoins to frontage sides of the property be toothed (currently ladder type), external render to be lined (currently smooth render), details of all internal doors, architraves, skirtings and plaster mouldings to match the original features.

Characteristics of the Site and Area

33 Killyman Street is a 2 storey mid-terrace dwelling with a basement level, as the ground level falls way from the street. It has a slate roof and render walls, wooden sliding sash windows and

painted wooden door to the street frontage. It also has ladder effect quoins at either end of the frontage with an arched carriageway at ground floor level providing shared access to the rear. At the rear is a 3 storey return with smooth render walls and slate roof. There are roof lights in the roof, 4 on the side facing into 33 and 1 on the side facing 31. The window frames are dark with single panes of glass and there is a 3 storey link stairway that has a flat roof on both sides. The site slopes downwards from street level to a large garden area at the rear.



Front elevation



Rear views



Views from adjacent property

The dwelling is located on Killyman Street in the village of Moy, within Moy Conservation Area and located between 2 listed buildings, 31 and 37 Killyman Street. The street scene is predominately 2 storey buildings with a 3 storey building adjacent and other 3 storey properties towards the Square. The area is a mix of residential and commercial development and access to the rear of the properties on this side of the street is through carriageway arches and on the opposite side by gaps between buildings.

Description of Proposal

This application is for retention of works to refurbish the existing three storey house including demolition of rear return, demolition of outhouse and new three storey extension to rear. The refurbishments include re-roofing, re-rendering, providing ladder effect quoins and replacing/repairing windows and doors. To the rear there is a 3 storey pitched roof return with smooth render walls and slated roof. A staircase connects the extension to the existing building, it is over 3 floors and is mostly glazing with a flat roof. The extension has a games room, bathroom and laundry room on the lower ground floor, kitchen/dining/family room at ground floor and a master bedroom with en-suite and dressing room to the 1st floor.

The windows to the front are wooden sliding sash and all windows to the rear are double glazed single sheet units within dark UPVC frames. All rain water goods are cast aluminium and a soil vent pipe at the rear is Upvc. The staircase has been re-moved from within the house and new doors, architrave, skirting's and mouldings have been provided.

The Design and Access statement dated 8th June 2017 indicates the proposal is to sympathetically restore the property to its original standard and character, repairing the visible fabric of the property with its original features that contribute to the improvement of the streetscape in its context as a Conservation Area, following a six year period of dereliction.

Planning Assessment of Policy and Other Material Considerations

The following planning publications and planning policy statements establish the policy context.

- Strategic Planning Policy Statement (SPPS)

- Dungannon and South Tyrone Area Plan 2010
- Planning Policy Statement 6 Planning Archaeology and the Built Heritage

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the Council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS.

Departmental publications cancelled by the introduction of the SPPS include PPS 1: General Principles, PPS 5: Retailing and Town Centres and PPS 9: The Enforcement of Planning Control.

Planning History

Members are advised the property was listed on 11th February 1982 and is Grade B1, this category is for good examples of particular period or style, a degree of alteration or imperfection may be acceptable and generally have a wide selection of attributes and usually include interior features where one or more features are of exceptional quality or interest.

Planning permission and listed building consent was granted under M/2009/0378/LB and M/2009/0248/F for the demolition of existing rear return proposed extension to rear and proposed refurbishment of existing listed building on 14 September 2010.

Previous to this an application reference M/2008/0679/F for proposed demolition of existing rear return, 3 storey rear office extension and refurbishment of existing property to include a change of use from dwelling to offices was granted at appeal. Members should note these have lapsed, however the policy context has not dramatically changed since they were approved and PPS6 is still the main consideration.

There is an on-going enforcement case for unauthorised works to a listed building. A conclusion of this planning application and the accompanying application for planning permission is required in order to either resolve the breaches of planning control, or provide an opportunity for the Planning Department to further consider the merits of the enforcement case with a view to potential prosecution for unauthorised works to a Listed Building.

Representations

In line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015 an advert was placed in local newspapers.

Considerations

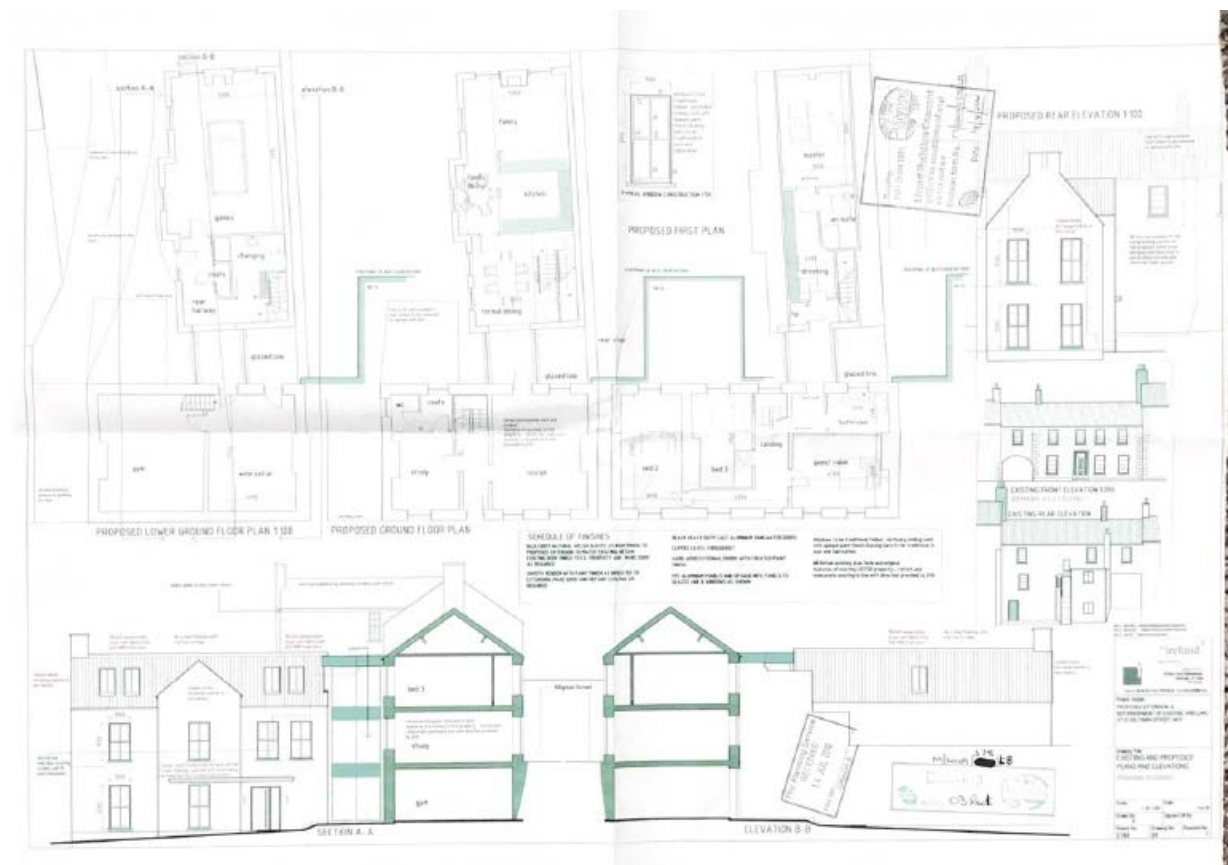
Members are advised that Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination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

In accordance with the Strategic Planning Policy Statement Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and all other material considerations, unless the development will cause demonstrable harm to interests of acknowledged importance.

The Dungannon and South Tyrone Area Plan 2010 identifies 33 Killyman Street as within the village of Moy where favourable consideration is given to development, provided it meets with stated criteria in SETT1. I consider if the proposal meets with other regional policy contained within PPS6, it will accord with the Area Plan.

Members are asked to note the Department already took a view on the acceptability of an extension to this property and granted planning permission for a broadly similar scheme. The previous proposal did not include any significant alterations to either the interior or the exterior of the listed building.



Plans approved M/2009/0247LB and M/2009/0248/F -14 September 2010

The main issue to be resolved is the comments raised by Historic Environment Division (HED) in respect of the works to the original building. Following the receipt of the plans

that show the development as built, HED were consulted and consider the development as built fails to satisfy the policy requirements of the SPPS and BH8 and BH11 of PPS6.

Policy BH 8, extension or alteration of a Listed Building, states the Department will normally only grant consent for the extension or alteration of a listed buildings where all the following criteria are met:

1. the essential character of the building and its setting are retained and its features of special interest remain intact and unimpaired;
2. the works proposed make use of traditional and/or sympathetic building materials and techniques which match or are in keeping with those found on the building; and
3. the architectural details (e.g. doors, gutters, windows) match or are in keeping with the building.

Policy BH11 is similar to BH8, but it relates to the setting of the listed building.

The response dated 18 July 2019, identified 6 core areas of concern:

- 1) reinstatement of 3 wooden sliding sash windows to the rear (currently Upvc)
- 2) reinstatement of the internal staircase (this has been removed)
- 3) rainwater goods and drainage pipes to be cast iron or cast aluminium (SVP to the rear is Upvc)
- 4) quoins to frontage sides of the property to be toothed (currently ladder type)
- 5) external render to be lined (currently smooth render) and
- 6) details of all internal doors, architraves, skirting's and plaster mouldings should match the original features.

It is noted HED had previously requested the windows in the new extension to be changed to aluminium or wooden frames, they have not requested this in the most recent response and have solely concentrated on the works to the existing building.

HED provided photographs to show the property when it was inspected in 2000.



Front elevation with toothed quoins at sides and partially over archway



Lines in the plaster work to the front



Photographs of the internal features for the property

The applicant has advised they purchased the property in 2016 and at that time it had been vandalised with significant damage to the interior of the property and most of the internal joinery features stripped out and burned.



Extract from estate agents brochure

The applicants wished to retain the property as a family home and carried out extensive remedial works as the property had suffered defects due to the lack of maintenance. They have advised all works they carried out were without the benefit of any grant aid or other funding sources. The applicants advise the works they have carried out are not significantly different than those previously approved and that it was a matter of urgency the works were carried out to prevent the building falling into further disrepair. The applicant has submitted a statement that indicates they feel they have carried out the works in accordance with the guidance notes associated with the Historic Buildings Grant Aid Scheme and the 4 principles of conservation contained within the Burra Charter. These are: Minimum Intervention, Maximum Retention, Clarity and Reversibility.

In respect of the HED issues that have been raised the applicants wish the committee members and the planning officers to note:

- 1) reinstatement of 3 wooden sliding sash windows to the rear (currently Upvc) these are not visible from the public views and they match those in the extension, all windows to the front and the front door have been replaced like for like with high specification
- 2) reinstatement of the internal staircase (this has been removed)
The staircase had been removed by the previous owner, replacing it here would not meet current Building Regulations, it has been left that the stairs can be reinstated in the future so the change is reversible.
- 3) rainwater goods and drainage pipes to be cast iron or cast aluminium (SVP to the rear is uPVC)

only the SVP (Sewer Vent Pipe) is uPVC and this is due to the amount of pipes flowing into it , it would have required 2 pipes if this was not done.

4) quoins to frontage sides of the property to be toothed (currently ladder type)
the 'original' quoins were not original, when the plaster was removed it was noted the original cut stone quoins were ladder type and this has been replicated. This is the same as no 35.

5) external render to be lined (currently smooth render)
there were no lines obvious in the plaster work when the property was bought, there is a mix of different finishes in the area and this is in keeping with no 35.

6) details of all internal doors, architraves, skirting's and plaster mouldings should match the original features.

none of the original features were left when the house was bought as the majority of the interior was gone, anything that was left was not original. The replacements were replicated from other nearby properties of a similar era to try and find the correct match.

The applicants indicate they have gone to considerable expense to try to make the property as original as possible and have carried out extensive research to do this. They have brought the building back into use as a modern family home where otherwise it would have been lost.

Members should be aware that works to a listed building require the necessary consent before they are undertaken. It is a criminal offence to carry out works to a listed building without obtaining that consent. Planning permission and listed building consent were granted in 2010 for a similar scheme, but it is important to note they had a 5 year time limit and had lapsed before the applicants bought the property in 2016. The development that was carried out was similar to the approved scheme, but is not in accordance with it and these changes are the issues that have caused concerns with HED. The applicant was aware they were buying a listed building and they should have consulted with HED before they carried out the works that have been undertaken. The applicant advise they incurred expense in researching the materials and finishes for the property, however it is clear that contact with HED would have provided them with as much information as they needed to ensure they carried out the work in accordance with their standards. This could have resulted in the works being carried out to the necessary standard.

HED acknowledge this was a building at risk and welcomes its re-use as a family home. They have no issues with the principle of the extension and the alterations to the building, it is the manner and detailing that is at issue. They have identified 6 core elements that require attention, these will require significant investment to put right. It is commonly known that financial assistance from the Department is scarce for this type of work. That said HED have sought co-operation with the applicants to provide changes to respect the character of the building, these have not been forthcoming.

The most recent consultation response does not raise any issue with the windows or appearance of the extension. The amendments that have been requested are solely in relation to the fabric of the listed building. As it does not appear that HED have any further issues with the extension I do not considered BH11 is offended.

It is obvious that without the applicants intervention this building may have continued to deteriorate and what has been done is preferable to the previous derelict appearance of the property. However this is still a listed building and afforded statutory protection as such am bound by HED guidance that the proposal as built does not accord with policy and I am therefore recommending refusal of this application.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

The works that have been carried out to this building have adversely affected the character of this listed the building thought the use of inappropriate finishes, materials and detailing.

Members should note any decision to approve this application for Listed Building Consent contrary to HED advice will require notification to the Department before the decision can issue.

Reasons for Refusal:

The development as constructed fails to meet with Policy BH11 of Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage in that:

- the essential character of the building has not been retained as its features of special interest have been removed;
- the works do not make use of traditional and/or sympathetic building materials and techniques which match or are in keeping with those found on the building; and
- the architectural details (e.g. doors, gutters, windows) do not match and are not in keeping with the building.

Signature(s)

Date:

ANNEX	
Date Valid	8th June 2017
Date First Advertised	22nd June 2017
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 31 Killyman Street Moy Tyrone The Owner/Occupier, 35 Killyman Street Moy Tyrone John Curran 55 Bovean Road Bovean Dungannon The Owner/Occupier, Flat A 31 Killyman Street Moy The Owner/Occupier, Flat B 31 Killyman Street Moy The Owner/Occupier, Flat C 31 Killyman Street Moy The Owner/Occupier, Flat D 31 Killyman Street Moy The Owner/Occupier, Flat E 31 Killyman Street Moy The Owner/Occupier, Flat F 31 Killyman Street Moy	
Date of Last Neighbour Notification	3rd July 2017
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2017/0788/LBC Proposal: Refurbishment of existing 3 storey house. Including demolition of rear return and new 3 storey extension to rear to provide kitchen ,living, bedroom and ancillary space. conversion from existing flats into residential house Address: 33 Killyman Street, Moy, Dungannon, Decision: Decision Date: Ref ID: LA09/2017/0787/F	

Proposal: Refurbishment of existing 3 storey house including demolition of rear return and new 3 storey extension to rear to provide kitchen, living, bedroom and ancillary space

Address: 33 Killyman Street, Moy, Dungannon,

Decision:

Decision Date:

Ref ID: M/2000/0330/DCA

Proposal: Demolition of 21A Killyman Street, Moy

Address: 21A Killyman Street, Moy, Dungannon

Decision:

Decision Date: 21.08.2000

Ref ID: M/2009/0248/F

Proposal: Demolition of existing rear return, proposed extension & refurbishment of ex dwelling

Address: 33 Killyman Street, Moy Dungannon

Decision:

Decision Date: 29.09.2010

Ref ID: M/2005/0879/Q

Proposal: 3 Detached Dwellings

Address: Rear of 33 Killyman Street, Moy

Decision:

Decision Date:

Ref ID: M/2009/0378/LB

Proposal: Demolition of existing rear return proposed extension to rear and proposed refurbishment of existing listed building

Address: 33 Killyman Street, Moy, Dungannon

Decision:

Decision Date: 08.10.2010

Ref ID: M/2008/0679/F

Proposal: Proposed demolition of existing rear return, proposed 3 storey rear office extension and refurbishment of existing property to include a change of use from dwelling to offices

Address: 33 Killyman Street, Moy, Dungannon

Decision:

Decision Date:

Ref ID: M/2008/0681/LB

Proposal: Proposed extension and refurbishment of existing property to include a change of use from dwelling to offices

Address: 33 Killyman Street, Moy, Dungannon

Decision:
Decision Date: 26.01.2009

Ref ID: M/1999/0058
Proposal: Proposed Extension and improvements to dwelling
Address: 33 KILLYMAN STREET MOY
Decision:
Decision Date:

Ref ID: M/1999/0054
Proposal: Proposed Improvements and Extension to Dwelling
Address: 33 KILYMAN STREET MOY
Decision:
Decision Date:

Ref ID: M/2000/1061/LB
Proposal: Proposed Improvements/Extension to Dwelling
Address: 33 Killyman Street, Dungannon
Decision:
Decision Date: 16.05.2001

Ref ID: M/2000/0835/F
Proposal: Improvements and extension to dwelling
Address: 33 Killyman Street Moy Dungannon
Decision:
Decision Date: 16.05.2001

Ref ID: M/1991/0380
Proposal: Conversion and extension to dwelling to 5 No units of accommodation
Address: 31 KILLYMAN STREET MOY
Decision:
Decision Date:

Ref ID: M/1986/0046
Proposal: IMPROVEMENTS TO DWELLING
Address: 33 KILLYMAN STREET, MOY
Decision:
Decision Date:

Ref ID: M/1986/0625
Proposal: ENLARGEMENT OF EXISTING SERVICES ACCESS TO SHOP AND YARD
Address: 31 KILLYMAN STREET, MOY
Decision:

Decision Date:

Ref ID: M/1988/0381

Proposal: NEW WINDOWS AND RE-RENDER FRONT OF DWELLING

Address: 35 KILLYMAN STREET, MOY, DUNGANNON

Decision:

Decision Date:

Summary of Consultee Responses

HED – the development as carried out does not meet with policies in SPPS and BH8 and BH11 of PPS6.

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Approved

Drawing No. 02Rev3

Type: Floor Plans

Status: Approved

Drawing No. 03Rev3

Type: Floor Plans

Status: Approved

Drawing No. 04Rev3

Type: Proposed Plans

Status: Approved

Drawing No. 05Rev1

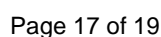
Type:

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:





Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2019/1262/O	Target Date:
Proposal: Proposed site for a dwelling and domestic garage based on policy CTY10 (dwelling on a farm)	Location: Approx 45m West of 140 Kilrea Road Upperlands Maghera
Applicant Name and Address: Daniel O'Kane 11 Keady Road Upperlands Maghera	Agent name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: Approval with conditions following additional information being submitted.	
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: The site is located approximately 1.73km north east of the development limits of Upperlands, in which the site is located within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as approx. 45m west of 140 Kilrea Road, Maghera, in which the red covers a small portion of a much larger agricultural field. I note the site is accessed via an existing shared laneway that serves four residential properties. Given the nature of the red line I note that a portion of the western boundary remains undefined with the remaining boundaries being defined by mix of mature hedging and trees and hedging. The surrounding land is defined by predominately agricultural land uses, interspersed with single dwellings.	

Representations

Five neighbour notifications were sent out however no representations were received in connection with this application.



Description of Proposal

This is an outline application for a proposed site for a dwelling and domestic garage based on policy CTY10 (dwelling on a farm). The site is located approx. 45m West of 140 Kilrea Road, Upperlands, Maghera.

Deferred Consideration:

This application was presented to Planning Committee in Jan 2020 as a refusal for 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 Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that there is an active farm business and that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

It was subsequently deferred for an office meeting, held with the Area Planning Manager on 17th January 2020.

The main issue was discussed at the meeting, that no information had been provided in relation to the ownership of nearby properties ,140b and 140a Kilrea Road to ascertain if they were farm buildings that could be associated with the site to meet CTY10.

After a number of requests to the agent, confirmation was received in May 2021 that the applicant Mr Daniel O’Kane who has worked on the farm all of his life, that the buildings (dwelling and shed) at 140b Kilrea Road are in his ownership and are now and always has been, used as part of the farm. DEARA had confirmed the farm business has been in existence for more than 6 years and the farm is currently active.

No.140b and its shed are therefore a group of farm buildings on the holding which do visually link with the site and the proposal now meets the criteria of policy CTY10. Approval with conditions is recommended. A ridge height of 5.7m should be added to ensure the dwelling is in keeping with the existing character of the area.

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

Conditions

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

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

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

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

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

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

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

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

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

Reason: In the interests of visual amenity.

6. The proposed dwelling shall have a ridge height of less than 5.7 metres above finished floor level.

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

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

Reason: In the interest of visual amenity.

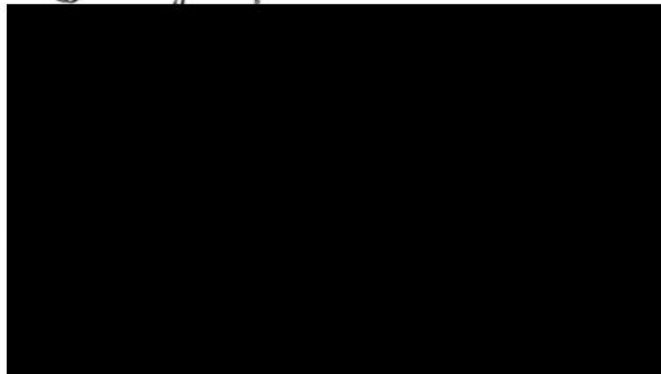
Signature(s):

Date

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1262/O	Target Date:
Proposal: Proposed site for a dwelling and domestic garage based on policy CTY10 (dwelling on a farm)	Location: Approx 45m West of 140 Kilrea Road Upperlands Maghera
Referral Route: To Committee – Refusal – Contrary to CTY 1 and 10 of PPS 21.	
Recommendation:	
Applicant Name and Address: Daniel O'Kane 11 Keady Road Upperlands Maghera	Agent Name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary: Refusal	
Signature(s): Peter Henry	

*And to the
Secretary to*



Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

To Committee – Refusal – Contrary to CTY 1 and 10 of PPS 21.

Characteristics of the Site and Area

The site is located approximately 1.73km north east of the development limits of Upperlands, in which the site is located within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as approx. 45m west of 140 Kilrea Road, Maghera, in which the red covers a small portion of a much larger agricultural field. I note the site is accessed via an existing shared laneway that serves four residential properties. Given the nature of the red line I note that a portion of the western boundary remains undefined with the remaining boundaries being defined by mix of

mature hedging and trees and hedging. The surrounding land is defined by predominately agricultural land uses, interspersed with single dwellings.

Relevant planning history

H/2010/0592/F - Retention of three detached kennel building two metal cladded and one timber framed and partial conversion of part of garage to a cattery - 140A Kilrea Road, Upperlands, Maghera. – Permission Granted 16.09.2011

Representations

Five neighbour notifications were sent out however no representations were received in connection with this application.

Description of Proposal

This is an outline application for a proposed site for a dwelling and domestic garage based on policy CTY10 (dwelling on a farm). The site is located approx. 45m West of 140 Kilrea Road, Upperlands, Maghera.

Planning Assessment of Policy and Other Material Considerations

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

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

Mid Ulster Local Development Plan 2030 – Draft Strategy

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 10 – Dwellings on Farms

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

CTY14 – Rural Character

PPS 3 - Access, Movement and Parking;

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

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

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

- (a) the farm business is currently active and has been established for at least 6 years;
 - (b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and
 - (c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane.
- Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-
- demonstrable health and safety reasons; or
 - verifiable plans to expand the farm business at the existing building group.

With respect to (a) a consultation was sent to DAERA with regards to the Farm Business, in their response confirmed that the farm business identified in the P1C was established in 1991 however that it had not made any claims in the previous six years. From such, additional information was requested to show some level of activity over the past six years. I note that the agent submitted a number of invoices over the last six years, these were discussed during group conversations but it was confirmed that by DAERA that the lands associated with another farm business. From which it has been contended that the lands remain in good agricultural condition and on balance it has been accepted at group that the initial tests in terms of active and established is met.

With respect to (b) and despite the issue over the farm business it appears that there does not appear to be any development opportunities approved or sold off the farm in the previous 10 years.

With respect to (c), I first must note that the registered address of the farm business is 11 Keady Road, Upperlands in which at this location there appears to be a dwelling and number of buildings, able to demonstrate as a group of farm buildings.(as shown below in blue)



In terms of the proposed site I note that it is located away from the registered address and within the submitted plans the agent has noted a number of buildings which he claims are associated with the farm business. There are a number of concerns with these identified buildings, the first is that they are not shown in blue showing to be at least under the control of the applicant. Secondly, all the buildings located at 140a Kilrea Road are being used as part of a kennels and cattery known as 'Lisgorgan Kennels and Cattery', confirmed in the previous approval H/2010/0592/F, in addition there does not appear to be any association between the owners of the kennels and applicant. With this in mind, I cannot constitute there to be any association with the farm business. I then note that at 140B Kilrea Road that there is only a detached dwelling and shed. Therefore I am of the opinion that any dwelling should be sited with the established group of farm buildings located at 11 Keady Road. From this, the agent was asked to justify his siting and determine as to why he could not locate at Keady Road, I note that after a number of attempts to get this information the agent did not respond on this and for this reason I am of the opinion that the application fails under CTY 10 due to siting and lack of evidence demonstrating an active farm business. A clear clarification to the relationship between Nos. 140a and 140b and the farm business which has not been forthcoming.

I note that no other policy considerations have been put forward by the agent but I note the following; the site is not located within a dispersed rural community. It is not located within an existing cluster that is associated with a focal or located at a cross-roads. There is no valid replacement opportunity on the site nor is there any conversion of an existing building. The application is not for social and affordable housing nor has there been any personal or domestic circumstances provided to justify the house. Finally, I am of the opinion that it cannot constitute compliance under CTY 8. From this, the application fails under CTY 1.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is an outline application in which the exact design and siting details have not been submitted, however I am content that an appropriately designed dwelling would not appear as a prominent feature in the landscape. I am of the opinion that as much of the existing landscaping should be retained where possible and supplemented with additional landscaping to aid integration, therefore a landscaping plan will be necessary. Due to the surrounding landform and surrounding development I feel it necessary to restrict any dwelling on the site to have a ridge height of no more than 6.0m above finish floor. However as noted it has been demonstrated that the site is not visually linked or clustered with an established group of buildings on the farm, from which it has failed under CTY 13 as a result.

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

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

I have no flooding, ecological or residential amenity concerns.

Other policy and material considerations

PPS 3 - Access, Movement and Parking;

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

I have no ecological, flooding or residential amenity concerns.

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

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal

Reasons for Refusal:

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

2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm.

3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

Signature(s)

Date:

ANNEX	
Date Valid	24th September 2019
Date First Advertised	8th October 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 138 Kilrea Road, Upperlands, Londonderry, BT46 5TB The Owner/Occupier, 139 Kilrea Road, Upperlands, Londonderry, BT46 5TB The Owner/Occupier, 140 Kilrea Road Upperlands Londonderry The Owner/Occupier, 140a Kilrea Road Upperlands The Owner/Occupier, 140b Kilrea Road Upperlands	
Date of Last Neighbour Notification	2nd October 2019
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2019/1262/O Proposal: Proposed site for a dwelling and domestic garage based on policy CTY10 (dwelling on a farm) Address: Approx 45m West of 140 Kilrea Road, Upperlands, Maghera, Decision: Decision Date: Ref ID: H/1996/0570 Proposal: BUNGALOW AND GARAGE Address: ADJACENT TO LANEWAY OF 138 DRUMAGARNER ROAD KILREA Decision: Decision Date: Ref ID: H/1996/0097 Proposal: SITE OF CHALET BUNGALOW Address: DRUMAGARNER ROAD KILREA Decision: Decision Date: Ref ID: H/2010/0592/F	

Proposal: Retention of three detached kennel building two metal cladded and one timber framed and partial conversion of part of garage to a cattery.

Address: 140A Kilrea Road, Upperlands, Maghera, BT46 5TB,

Decision:

Decision Date: 16.09.2011

Ref ID: H/1994/0286

Proposal: SITE OF REPLACEMENT DWELLING

Address: 257 KILREA ROAD UPPERLANDS

Decision:

Decision Date:

Ref ID: H/2003/0856/O

Proposal: Site of replacement dwelling and garage.

Address: Approx. 180m NW of 138 Kilrea Road, Upperlands, Maghera.

Decision:

Decision Date: 18.04.2004

Ref ID: H/2004/1054/F

Proposal: Erection of Proposed Replacement Dwelling and Garage.

Address: Land 180m North West of 138 Kilrea Road, Upperlands.

Decision:

Decision Date: 31.08.2005

Ref ID: H/1993/0383

Proposal: SITE OF BUNGALOW

Address: ADJ TO 138 KILREA ROAD UPPERLANDS

Decision:

Decision Date:

Ref ID: H/1995/0493

Proposal: ALTS AND ADDS TO DWELLING

Address: 138 KILREA ROAD UPPERLANDS

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2020/1080/F	Target Date:
Proposal: Proposed new Vehicular access	Location: Approx 200 m East of no 33 Oldtown Road Bellaghy
Applicant Name and Address: Mrs Emma McCoy 26 Castle Lodge Randalstown	Agent name and Address: CMI Planners Ltd 38 Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: No representations were received in relation to this proposed development. DFI Roads had initially objections, however amended plans were received and DFI now have provided a condition to be attached to any approval.	
Characteristics of the Site and Area: The site is located on the north western side of the Oldtown Road 0.75km from the centre of Bellaghy. The site is a small field adjacent to an existing bungalow on a long straight part of the Oldtown Road. There are a number of dwellings located along this stretch of the Oldtown Road, some of which have a road frontage and others which are set back from the road. The site is bounded by a post and rail fence to the rear of a 1.5m wide public footpath along the site frontage, a 1.2m high hedge and open drain along the north-eastern boundary, a 4m high conifer hedge along the south western boundary and tall semi-mature trees along the rear boundary. The public road rises gently for around 200m to the north east towards a crest before dropping towards Bellaghy. The proposed access is located in a dip in the road with a second crest located close to the entrance of no.35 approximately 40m to the south west.	

Description of Proposal

This is a full application for the creation of a new access into a site approved for a dwelling.

Deferred Consideration:

This application was originally presented as a refusal to March 2021 Planning Committee for the following reasons. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking Policy AMP2, in that it would if permitted, prejudice the safety and convenience of road users since adequate forward sight distance of 120 metres is not available, on the public road, at this proposed access in accordance with the standards contained in the Departments Development Control Advice note 15.

1. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking Policy AMP2, in that it would, if permitted, prejudice the safety and convenience of road users since a visibility splay of 2.4 x 120 metres cannot be provided in a South Western direction, in accordance with the standards contained in the Departments Development Control Advice Note 15.

It was subsequently deferred to allow agent to make amendments to DFI Roads satisfaction. DfI Roads had advised that the proposed access is unacceptable and unsafe due to the proximity to a crest on the road. The agent amended the access point and on 19th May 2021 DFI Roads replied with an approval subject to condition to ensure a satisfactory means of access in the interests of road safety and convenience of roads users.

There are no other planning issues with the proposed access and submitted landscaping plan will be conditioned. Approval is now therefore recommended.

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

Conditions

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

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

2. The vehicular access including visibility splays 2.4 x 120 metres and a 120 metre forward sight distance, shall be provided in accordance with Drawing No 02/01 bearing the date stamp 16 Apr 2021 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level

surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. The existing natural screenings of the site, as indicated on approved drawing ref 02/01 , date stamped received 16 April 2021, shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal. All new planting indicated on the same drawing shall be carried out during the first available planting season.

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

Informative

Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the DfI Roads consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Loughrey Campus, 49 Tullywiggan Road, Cookstown, BT80 8SG. A monetary deposit will be required to cover works on the public road.

It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site. This planning approval does not give authority to discharge any drainage into a DfI Roads drainage system.

Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

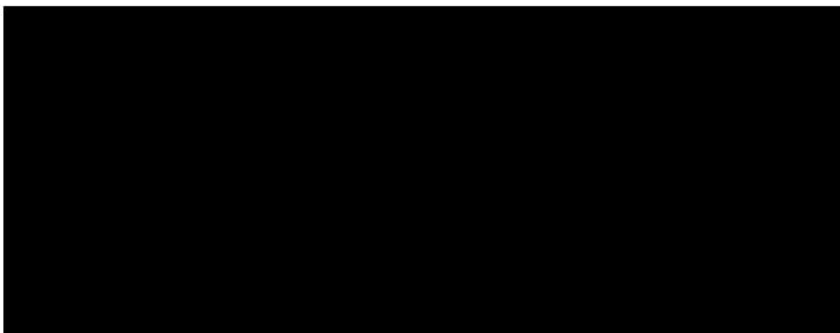
Signature(s):

Date

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1080/F	Target Date:
Proposal: Proposed new Vehicular access	Location: Approx 200 m East of no 33 Oldtown Road Bellaghy
Referral Route: This application is presented to Committee as it is being recommended for Refusal.	
Recommendation:	REFUSAL
Applicant Name and Address: Mrs Emma McCoy 26 Castle Lodge Randalstown	Agent Name and Address: CMI Planners Ltd 38 Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	
Signature(s):	

For committee decision



Case Officer Report

Site Location Plan

**Consultations:**

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

Representations:

Letters of Support	None Received
Letters of Objection	None Received

Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

No representations were received in relation to this proposed development.

Characteristics of the site and area

The site is located on the north western side of the Oldtown Road 0.75km from the centre of Bellaghy. The site is a small field adjacent to an existing bungalow on a long straight part of the Oldtown Road. There are a number of dwellings located along this stretch of the Oldtown Road, some of which have a road frontage and others which are set back from the road. The site is bounded by a post and rail fence to the rear of a 1.5m wide public footpath along the site frontage, a 1.2m high hedge and open drain along the north-eastern boundary, a 4m high conifer hedge along the south western boundary and tall semi-mature trees along the rear boundary. The public road rises gently for around 200m to the north east towards a crest before dropping towards Bellaghy. The proposed access is located in a dip in the road with a second crest located close to the entrance of no.35 approximately 40m to the south west. It was noticed during the site inspection that a car, on approach from the south west, was almost completely obscured from view by that crest when standing at the proposed site entrance.

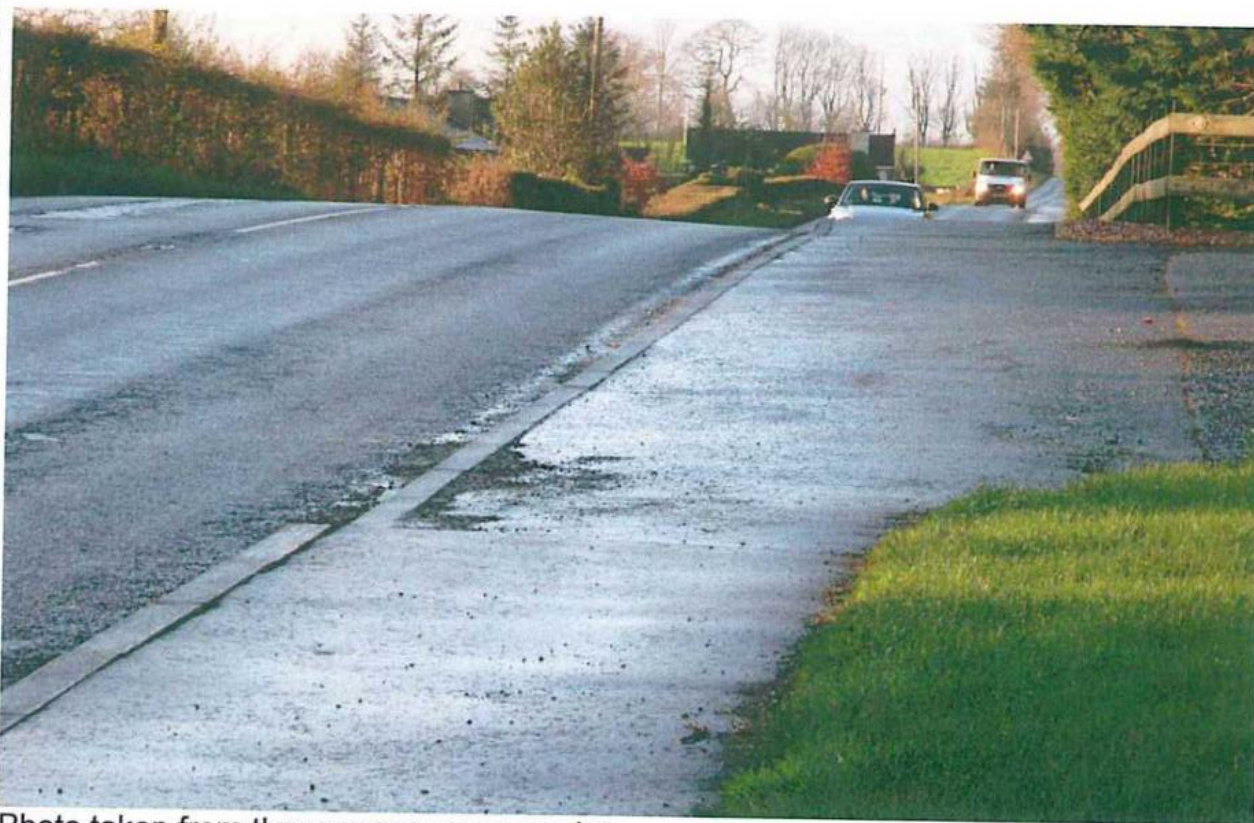


Photo taken from the propose access point

Description of Proposal

This is a full application for the creation of a new access into a site approved for a dwelling.

Planning Assessment of Policy and Other Material Considerations

The proposal accords with the Magherafelt Area Plan 2015 insofar as it is for an entrance for an approved dwelling in the rural area.

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

PPS 3 - Access, Movement and Parking

Policy AMP 2 Access to Public Roads states that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where, such access will not prejudice road safety or significantly inconvenience the flow of traffic.

DfI Roads were consulted on the proposal and advised that 'the access as outlined in application LA09/2020/1080/F will not provide a safe access unto the Oldtown Road due to a crest on the road in the South Western direction preventing an unobstructed 2.4 x 120 metre visibility splay and F.S.D. The agent / applicant should revert back to the access point as outlined on planning ref: LA09/2017/0387/O and LA09/2019/1192/RM for the acceptable access details.'

It is therefore clear that the proposed access point is unacceptable as it would lead to an unsafe access, contrary to policy AMP 2. The application is therefore being recommended for refusal for that reason.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refuse for the reason below:-

Refusal Reasons

1. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking Policy AMP2, in that it would if permitted, prejudice the safety and convenience of road users since adequate forward sight distance of 120 metres is not available, on the public road, at this proposed access in accordance with the standards contained in the Departments Development Control Advise note 15.
2. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking Policy AMP2, in that it would, if permitted, prejudice the safety and

convenience of road users since a visibility splay of 2.4 x 120 metres cannot be provided in a South Western direction, in accordance with the standards contained in the Departments Development Control Advice Note 15.

Signature(s)

Date:

ANNEX	
Date Valid	4th September 2020
Date First Advertised	22nd September 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 33 Oldtown Road, Bellaghy, Londonderry, BT45 8LQ The Owner/Occupier, 34 Oldtown Road, Bellaghy, Londonderry, BT45 8LQ The Owner/Occupier, 35 Oldtown Road Bellaghy Londonderry The Owner/Occupier, 36 Oldtown Road, Bellaghy, Londonderry, BT45 8LQ	
Date of Last Neighbour Notification	13th November 2020
Date of EIA Determination	N/A
ES Requested	No
Planning History Ref ID: LA09/2020/1080/F Proposal: Proposed new Vehicular access Address: Approx 200 m East of no 33 Oldtown Road, Bellaghy, Decision: Decision Date: Ref ID: H/1993/6054 Proposal: ELECTRICITY SUB-STATION AND 110 KV/33 KV OVERHEAD LINES NEAR BELLAGHY MAGHERAFELT Address: NEAR BELLAGHY Decision: Decision Date: Ref ID: H/2004/1067/O Proposal: Site of dwelling and garage Address: Site adjacent to 35 Oldtown Road, Bellaghy Decision: Decision Date: Ref ID: H/1980/0396 Proposal: SITE OF BUNGALOW Address: OLDTOWN ROAD, BELLAGHY	

Decision:
Decision Date:

Ref ID: H/1981/0300
Proposal: FARM BUNGALOW WITH GARAGE
Address: OLDPARK ROAD, BELLAGHY
Decision:
Decision Date:

Ref ID: LA09/2019/1192/RM
Proposal: Proposed new bungalow dwelling
Address: 20m North of 33 Oldtown Road, Bellaghy,
Decision: PG
Decision Date: 06.12.2019

Ref ID: LA09/2017/0387/O
Proposal: Proposed dwelling and domestic garage/store
Address: Approx 20m North of 33 Oldtown Road, Bellaghy,
Decision: PG
Decision Date: 05.10.2018

Summary of Consultee Responses

DfI Roads advised that the proposed access is unacceptable and unsafe due to the proximity to a crest on the road and that the applicant should revert back to the approved access.

Drawing Numbers and Title

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

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

Notification to Department (if relevant)

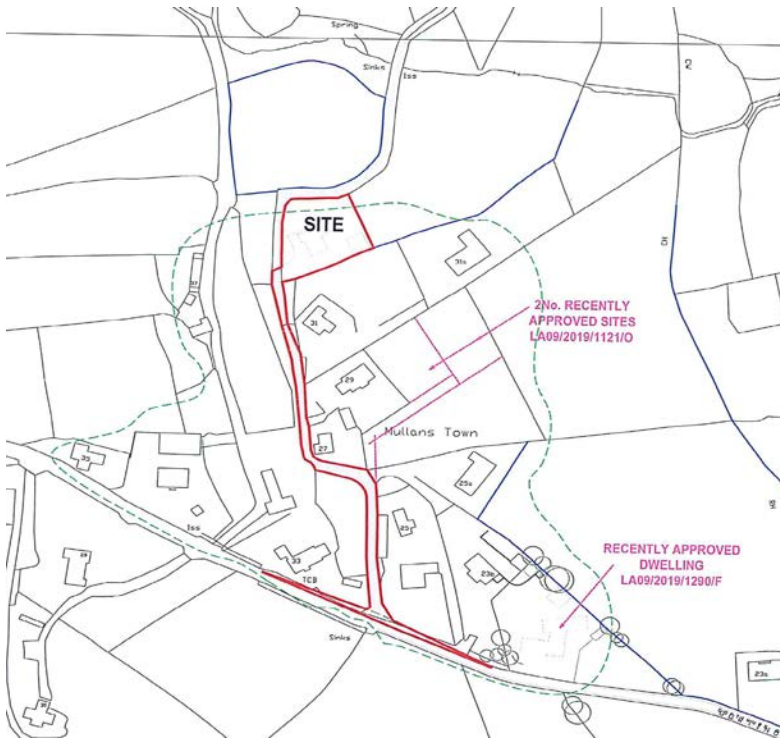
Date of Notification to Department:
Response of Department:



Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2020/1626/O	Target Date: <add date>
Proposal: Proposed Site for Dwelling & Garage	Location: Approx 30m North of No.31 Gortinure Road Maghera BT46 5PA
Applicant Name and Address: Mr S McEldowney 23a Gortinure Road Maghera BT46 5RB	Agent name and Address: D.M.Kearney Design 2a Coleraine Road Maghera BT46 5BN
Summary of Issues: No representations have been received in respect of this proposed development.	
Summary of Consultee Responses: All consultees responded positively.	
Characteristics of the Site and Area: The site is located in the rural area and within Carntogher Dispersed Rural Community as designated within the Magherafelt Area Plan 2015. It is accessed via an existing laneway located between existing road frontage buildings. The site is located to the western end of a small agricultural field which is accessed via a shared laneway service six other dwellings. The laneway extends along both the northern and western boundaries defined by mature trees with post and wire fencing on a stone embankment, whilst the southern boundary, which is shared with No.31 is defined by mature trees, with the eastern boundary being undefined. The site falls gently away from laneway towards the north. A separate and associated planning application (LA09/2019/1226/O) is sited on a small outcrop of gorse immediately to the north.	

The mature trees to the south and west ensure that there are limited views of the site from the public road in addition to the distance the site is set back and the intervening built form and vegetation along the laneways. A single wind turbine operates on a site around 600m to the North of the Site and which can be accessed from the existing farm lane which bounds the site.



Description of Proposal

The proposal is for a site for a dwelling and garage.

Deferred Consideration:

This application was presented as a refusal to Planning Committee in May 2021 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 CTY2 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal is for a single dwelling which is located within a Dispersed Rural Community (DRC) designated in a development plan but is not located at an identified focal point.
3. 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 nor is it located at a cross-roads; the proposed site is not bounded on at least two sides with other development in the cluster; and the proposed dwelling would if permitted significantly alter the existing character of the cluster and visually intrude into the open countryside.

4.The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the extension of ribbon development along this private lane.

5.The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:
a farm business is currently active or has been established for at least six years;
the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm.

6.The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would, if permitted add to a ribbon of development and would therefore result in a detrimental change to further erode the rural character of the countryside.

It was subsequently deferred for a virtual office meeting which was held on 13th May 2021 with the Area Planning Manager. It was agreed a re-assessment would be made by the senior planner. It was discussed if the farm case has been used and the agent confirmed it had been.

Although the site does not strictly meet the policy criteria for CTY2a, I would consider that this site could be viewed as rounding off and the dense vegetation to the north as shown below, would prevent any further development from extending and would act as 'natural' book end. This vegetation to the north of the site should be conditioned to be retained in order to protect the character of the area and enclose the extent of development. I would view the site as being an exception to policy, as a dwelling here would not significantly alter the rural character of this area and have no detrimental impact on surrounding area or any properties.



On balance, an approval with conditions is recommended.

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

Conditions-

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

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

2. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called

"the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.

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

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

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

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

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

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

Reason: In the interests of visual amenity.

6. The vegetation in the area shaded blue on stamped approved plan 01 dated 17 Dec 2020 should be permanently retained.

Reason: To protect the existing rural character of the area and enclose the extent of development.

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

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

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

Reason: In the interest of visual amenity.

Signature(s):

Date

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1626/O	Target Date:
Proposal: Proposed Site for Dwelling & Garage	Location: Approx 30m North of No.31 Gortinure Road Maghera BT46 5PA
Referral Route: This application is being presented to Committee as it is being recommended for refusal.	
Recommendation:	REFUSAL
Applicant Name and Address: Mr S McEldowney 23a Gortinure Road Maghera BT46 5RB	Agent Name and Address: D.M.Kearney Design 2a Coleraine Road Maghera BT46 5BN
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection

Representations:

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

Summary of Issues

No representations have been received in respect of this proposed development.

Characteristics of the Site and Area

The site is located in the rural area and within Carntogher Dispersed Rural Community as designated within the Magherafelt Area Plan 2015. It is accessed via an existing laneway located between existing road frontage buildings.

The site is located to the western end of a small agricultural field which is accessed via a shared laneway service six other dwellings. The laneway extends along both the northern and western boundaries defined by mature trees with post and wire fencing on a stone embankment, whilst the southern boundary, which is shared with No.31 is defined by mature trees, with the eastern boundary being undefined. The site falls gently away from laneway towards the north. A separate and associated planning application (LA09/2019/1226/O) is sited on a small outcrop of gorse immediately to the north.

The mature trees to the south and west ensure that there are limited views of the site from the public road in addition to the distance the site is set back and the intervening built form and vegetation along the laneways. A single wind turbine operates on a site around 600m to the North of the Site and which can be accessed from the existing farm lane which bounds the site.

Description of Proposal

The proposal is for a site for a dwelling and garage.

Planning Assessment of Policy and Other Material Considerations

Under the provision of Section 6 (4) of the Planning Act (NI) 2011 the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

The main planning policies in the assessment of this application are:-

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

CTY 1 - Development in the Countryside

CTY 2 - Development in Dispersed Rural Communities

CTY 2A - New Dwellings in Existing Clusters

CTY 10 - Dwelling on farms

CTY 13 - Integration and Design of Buildings in the Countryside; and

CTY 14 - Rural Character

PPS 3 - Access, Movement and Parking;

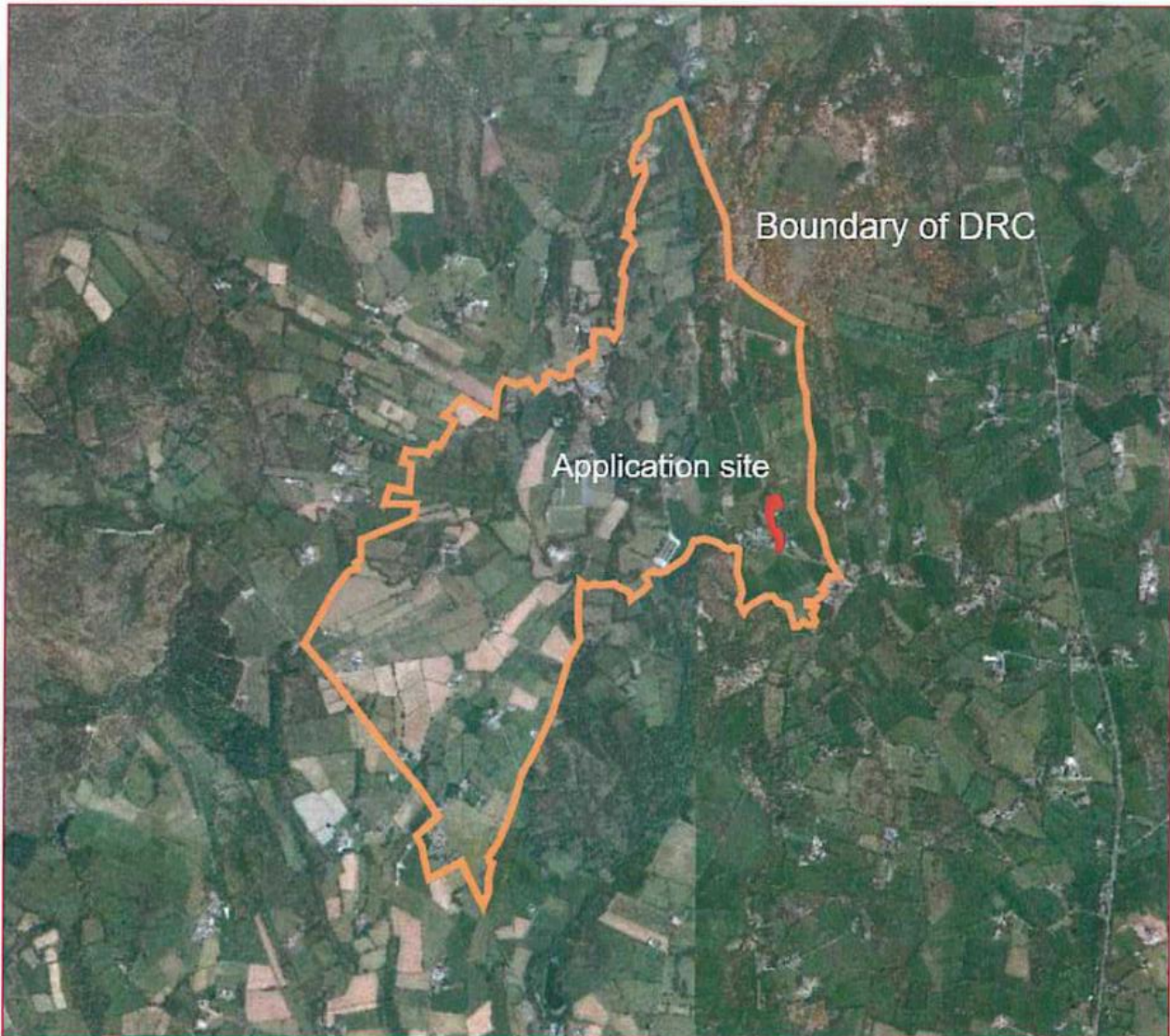
The Strategic Planning Policy Statement (SPPS) provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS.

The proposal accords with the Magherafelt Area Plan 2010 insofar as it is for a single dwelling in an area designated as a dispersed rural community.

PPS 21 Policy CTY 1 advises that 'there are a range of types of development which in principle are considered to be acceptable in the countryside' including a small group of houses in a Dispersed Rural

Community in accordance with Policy CTY 2A. Proposals for such development will continue to be considered in accordance with existing published planning policies.

The applicant has not submitted any supporting statement to justify the proposed development or to demonstrate how it should be considered acceptable under policy CTY 2 - Development in Dispersed Rural Communities.

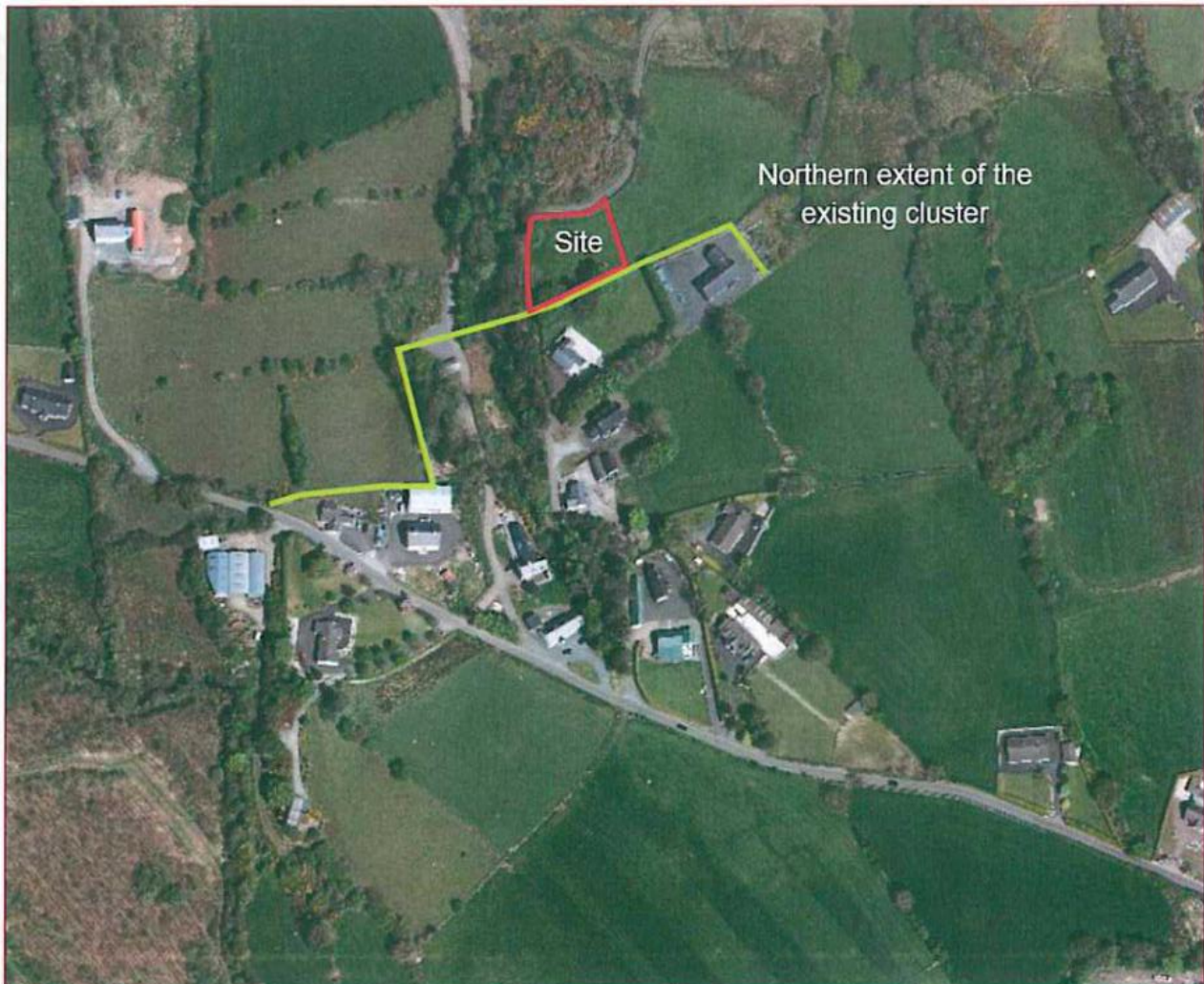


The proposed site in relation to the boundary of Carntogher DRC

Policy CTY 2 provides for developments of small cluster or 'clachan' style developments of up to 6 houses at an identified focal point, within a dispersed rural community designated in a development plan, with permission generally being limited to one cluster per focal point. The proposed site is within Carntogher Dispersed Rural Community as defined in the Magherafelt Area Plan 2015. Whilst it is accepted that there is a cluster of development around the point where the laneway meets the Gortinure Road and which extends partially up along the existing laneway, there is no focal point associated with this cluster. Although no supporting statement has been submitted with this application, the applicant suggested under the associated planning application (LA09/2019/1226/O) that 'the community is the focal point'.. however, as the community is not a fixed visual entity, it is cannot be accepted as being a focal point in that sense and therefore the proposal does not meet the policy test.

The policy goes on to state that 'Proposal for individual dwellings.... in DRCs will be assessed against the other policy provisions of this PPS'. Therefore the proposal must also be assessed against the other policies as listed above.

Para. 5.13 states 'The determining factors, on any proposal in a DRC, will be the scale of development proposed, visual impact, and its association or integration with the existing pattern of settlement'. The proposed site sits at the end of the existing cluster of development and extends that cluster further northwards. Consequently, it is my opinion that the site would not consolidate the cluster, but instead, it would only serve to expand and elongate the cluster away from the existing built form. The site clearly fails to satisfy the criteria of this policy and is therefore unacceptable.



The proposed site in relation to the boundary of the existing cluster

CTY 2A - New Dwellings in Existing Clusters

As the proposed site fails to meet the policy tests of Policy CTY 2, it was also assessed against the criteria of CTY 2A, however, it fails to meet the policy tests as follows:-

- The cluster of development lies outside of a farm and consists of four or more buildings, of which at least three are dwellings;
- The cluster does appear as a visual entity in the local landscape;
- The cluster is not associated with any focal point such as social/community building/facility, nor is it located at a cross-roads;

- Although the site does have a suitable degree of enclosure it is not bounded on two sides with other development in the cluster. The proposed site only has a single dwelling to the south with no development on the three other sides;
- As discussed above, due to the location of the proposed site in relation to the existing built development, it only serves to extend the built form away from the cluster. This is neither rounding off nor consolidation and if approved, would significantly alter the existing character and visually intrude into the open countryside.

Therefore the proposal is clearly contrary to Policy CTY 2A.

Policy CTY 8 – Ribbon Development states that permission will be refused for a building which creates or adds to a ribbon of development. The proposed site is located at the end of a laneway which serves around six other dwellings in addition to two approved sites. Therefore there is a public interest on this laneway and the proposed dwelling would only serve to extend the line of dwellings further in a northerly direction. This extension of ribbon development is contrary to this policy.

CTY 10 - Dwellings on farms provides the opportunity for sites to be approved where they are linked to an active and established farm business. In this case, while it would appear the applicant owns additional farmland, no supporting evidence has been submitted to support the application under this policy. In any event, if the necessary information was submitted, the site would still be unacceptable as it is not visually linked nor sited to cluster with existing buildings on the farm. At present the only buildings which would appear to be on the applicant's farm holding are their dwelling and detached garage. Consequently the proposed site is contrary to Policy CTY 10.

Policy CTY 13 - Integration and Design of Buildings in the Countryside is also relevant as the proposal is for a new dwelling in the countryside. Due to the location of the site and the extent of the existing vegetation both within and surrounding the site, a dwelling with a low ridge height of 5.5m maximum above finished floor level could achieve an acceptable degree of integration.

Policy CTY 14 - advises that the proposal will be granted approval provided it does not cause a detrimental change to or further erode rural character. The proposed dwelling will not be prominent due to being sited well back of the public road. However, any dwelling on this proposed site will be read with the existing dwellings to the south and will therefore result in a suburban style build-up of development when read with the existing buildings.

As the proposed site is located on a laneway serving six existing dwellings in addition to two extant approved sites, there is a public interest from the laneway. The proposed site is located at the very northern end of the existing built development and will extend the ribbon of development in that direction. The proposal is therefore contrary to this policy as it extends an existing ribbon of development.

PPS 3 - Access, Movement and Parking - DfI Roads advised that in terms of the proposed access the proposal is acceptable subject to the relevant condition.

Recommendation

Given the above assessment I am firmly of the opinion that the proposed development is contrary to Policies CTY 1 and CTY 2, CTY 2A, CTY 8, CTY10 and CTY 14.

Neighbour Notification Checked	Yes
Neighbour Notification Checked	Yes

Summary of Recommendation:

Refuse for the reasons listed below:-

Refusal Reasons:

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

2. The proposal is contrary to Policy CTY2 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal is for a single dwelling which is located within a Dispersed Rural Community (DRC) designated in a development plan but is not located at an identified focal point.

3. 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 nor is it located at a cross-roads;

the proposed site is not bounded on at least two sides with other development in the cluster; and

the proposed dwelling would if permitted significantly alter the existing character of the cluster and visually intrude into the open countryside.

4. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the extension of ribbon development along this private lane.

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

a farm business is currently active or has been established for at least six years;

the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm.

6. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would, if permitted add to a ribbon of development and would therefore result in a detrimental change to further erode the rural character of the countryside.

Signature(s)

Date:

ANNEX	
Date Valid	17th December 2020
Date First Advertised	12th January 2021
Date Last Advertised	
<p>Details of Neighbour Notification (all addresses)</p> <p>The Owner/Occupier, 23b Gortinure Road Maghera</p> <p>The Owner/Occupier, 25 Gortinure Road Maghera Londonderry</p> <p>The Owner/Occupier, 25a Gortinure Road Maghera</p> <p>The Owner/Occupier, 27 Gortinure Road Maghera Londonderry</p> <p>The Owner/Occupier, 29 Gortinure Road Maghera Londonderry</p> <p>The Owner/Occupier, 31 Gortinure Road Maghera Londonderry</p> <p>The Owner/Occupier, 31a Gortinure Road Maghera</p> <p>The Owner/Occupier, 33 Gortinure Road Maghera Londonderry</p>	
Date of Last Neighbour Notification	15th January 2021
Date of EIA Determination	N/A
ES Requested	No
<p>Planning History</p> <p>Ref ID: LA09/2020/1626/O Proposal: Proposed Site for Dwelling & Garage Address: Approx 30m North of No.31 Gortinure Road, Maghera, BT46 5PA, Decision: Decision Date:</p> <p>Ref ID: H/2012/0021/F Proposal: Replacement dwelling Address: No. 31 Gortinure Road, Maghera, Decision: Decision Date: 16.04.2012</p> <p>Ref ID: H/1981/0080 Proposal: EXTENSIONS TO BUNGALOW Address: 31 GORTINURE ROAD, MAGHERA</p>	

Decision: Decision Date:
Summary of Consultee Responses All consultees responded positively.
Drawing Numbers and Title
Drawing No. 01 Type: Site Location Plan Status: Submitted
Notification to Department (if relevant) Date of Notification to Department: Response of Department: