



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Melvin Bowman	
Application ID: H/2014/0399/F	
Proposal: Proposed pig fattening shed with feed bin (to contain 900 pork pigs)	Location: Land off Cahore Road approx. 100m East of 11A Tonaght Road Draperstown
Applicant Name and Address: Mr Michael McErlean 11A Tonaght Road Draperstown BT45 7JD	Agent name and Address: Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
Summary of Issues: <p>Two petitions and four objections have been received in respect of this application. The two petitions contain 65 names and 697 names respectively. However, while these petitions are stated as being 'Petition against pig fattening shed/pig farm' neither petition states what the objectors actual concerns are regarding the proposed development. It should also be noted that of the 697 names contained within the on-line petition, in excess of 470 of these are from outside the Draperstown area and while the remaining names, approximately 220 are from the Draperstown area, some of these objectors are located in excess of 5 miles from the site and therefore will not be affected either by the visual impact, noise or odour.</p> <p>The four objections relate to the following issues:-</p> <ul style="list-style-type: none"> • Timing of the neighbour notification letters; • Odour; • Little evidence that a low protein diet will be fed; • Increase in traffic; • Existing road unsuitable for heavy vehicles; • The utilisation of the pig maure; • Increase in rates and vermin; • Devaluation of property; • Proximity to an existing dwelling; • Risk to human life and environmental pollution; • Animal cruelty; • Waste product run-off; surface run-off and consequential flood risk. • Noise 	

Summary of Consultee Responses:

Summary of consultee responses

Transport NI – advised that the proposal is acceptable subject to conditions

Environmental Health – have now advised that the noise is acceptable subject to conditions.

It was also requested that 'a worst case scenario be modelled ie. Use full odour emission factor as based on pigs being fed a 'normal' diet.

NIEA: Water Management Unit – considered the impacts of the proposal on the surface water environment and on the basis of the information provided is content subject to relevant conditions.

NIEA: Industrial Pollution and Radiochemical Inspectorate – advised that as the pig unit will have a capacity below the threshold which requires a permit the proposal will not be subject to regulation by the inspectorate.

NIEA: Natural Environment Division considered the impacts of the proposed unit on designated sites and other Natural Heritage interests and on the basis of the information is content subject to relevant conditions.

Shared Environmental Services considered the nature, scale timing duration and location of the proposed unit and is content subject to relevant conditions.

DARD – No objections.

NI Water – No Objections.

Characteristics of the Site and Area:

Description of Proposal

The proposal is for the erection of a pig unit measuring 72.5m by 16.46m and having a ridge height of 5.5m. The pig unit will have a capacity of 900 pigs. The external finishes are:

Walls – Green GRP to upper part with smooth concrete finish to lower part. Walls to have galvanised ventilation/air intake grills;

Roof – 'Big Six' fibre cement profiled cladding with 6 no. roof extract fans positioned along the ridge.

The entire unit is constructed over a slurry tank with a depth of 1.45m below finished floor level.

The pig unit is equally separated into 30 pens, each measuring 7.0m x 4.9m with a central passage extending along the entire length of the unit. Each pen accesses onto the central passage which has a single loading bay at one end. A 3.0m diameter feed bin with an overall height of 9.2m is to be positioned close to the loading bay. This feed bin is a fully galvanised tower bin and is completely enclosed to the ground with a single pedestrian access door at ground level. The bin has a single fill pipe which extends from approximately 1.2m above ground level to the top of the bin and can be filled directly from a supply lorry/trailer.

The proposed pig unit is to be located in the north-western corner of a 1.9ha roadside field with a new access laneway proposed immediately adjacent to the existing lane leading to no.11A (the applicant's dwelling). The unit is to be sited approximately 110m back from the public road, includes a large concrete yard to the front and provides for a 25.0m diameter turning circle for articulated vehicles.

The existing mature hedges and screening along both the north-western and south-western boundaries are to be retained with presumably a post and wire fence along the south/south-eastern boundary although this is not annotated as such. No additional landscaping has been proposed.

The top of the tank which is finished floor level is stated as being 57.25 with the level of the concrete path along the southern side of the building being in the region of 55.8.

Characteristics of the site and area

The site is set within the rural area and approximately 2.3km south of the centre of Draperstown in an elevated landscape and set at an elevation of around 165m. The site is located within a roadside field which slopes from north west to the south east and while the site outline extends from the road frontage back to the western boundary, the turning area and pig unit are set back 80m and 110m respectively, from the public road. The site is to be accessed via a new proposed laneway which runs adjacent to the existing laneway leading to the applicants dwelling, with the intervening area retained as part of the existing field.

The north-western boundary is partially defined by a mature hedge which extends along the south western boundary. The remainder of the north western boundary alongside the existing laneway is defined by a post and wire fence with a tall gorse hedge along the public road frontage. The boundary of a third party dwelling, occupied by an objector, is located only 85m from the site of the proposed shed, with the dwelling itself being located approximately 120m from the proposed pig unit.

Description of Proposal

Proposed pig fattening shed with feed bin (to contain 900 pork pigs)

Deferred Consideration:

Members will recall that this application was deferred at the committee meeting held in Aug 2017 to permit members to visit the site and an existing similar pig unit located outside Broughshane, Co.Antrim.

The meeting visit took place on Tues 15th Aug 2017 and a record of the visit is outlined as below:

In attendance

M.Bowman / M.McCrystal (Council Planning Officials)
Cllrs Kearney/ Mallaghan/ McKinney
H.Marshall (agent)
Mr D Warke (rep M.Kees – operator of the facility)

- An external and internal inspection of the building took place. H.Marshall informed members that the subject building proposed at Cahore Road would be built in a similar way and with the same degree of noise / odour prevention measures.
- Members were surprised by the low level of both noise and odour at distances right up to within 10m of the unit.
- It was noted that there is provision via small window openings for ventilation purposes and this did permit some noise spill
- Clarification was provided by the operator on the fan system / temp control system installed in the unit
- Members were also explained how food records are kept enabling, if required, an inspection of food stuff to be carried out at any time. It was explained by me to those present that this was an important aspect to be clear on given the need to potentially condition food stuff.

Members then visited the location of the proposed unit, those who attended were as above other than Mr Warke. The applicant, Mr McErlean also attended on this occasion.

- I pointed out the location of the objector's property and how this related in terms of distance to the proposed unit.
- The applicant explained that the proposal was located here due to the sub-division of his father's farm. It was noted that a dwelling was approved in the field to the NE of the existing farm buildings
- Some discussion took place around how far the proposed unit was from the objectors property
- I explained the policy requirement of CTY12 in relation to siting – the agent indicated that the location provided an ability to comply with bio-security requirements and that this could be supported by additional information.
- An inspection of the degree of visual linkage was made after the meeting concluded – it was my view that due to the roadside vegetation and topography that the visual linkage test was difficult to perceive in this case.

The proposed site is located within the Sperrin's Area of Outstanding Natural Beauty as identified within the Magherafelt Area Plan. There is no previous planning history on the site.

PPS 2 – Natural Heritage sets out the relevant planning policies for the conservation, protection and enhancement of our natural heritage. For the purpose of this Planning Policy Statement, natural heritage is defined as “the diversity of our habitats, species, landscapes and earth science features”.

Policy NH1 – European and Ramsar Sites – International, allows planning permission to be granted where the proposal will not have a significant effect on European Sites including Special Areas of Conservation. In this instance, the proposed development has the potential to have a significant effect on Teal Lough SAC (5.2km from the site), Ballynahone Bog SAC (8.75km from the site) and Carn-Glenishane Pass SAC (9.8km from the site). Consequently Shared Environmental Services were consulted and following due consideration, it was concluded that the proposal will not be likely to have a significant effect on the features or conservation objectives of any European Site subject to the inclusion of certain conditions.

Policy NH 5 – Habitats, Species or Features of Natural Heritage Importance, allows for planning approval to be granted to a development provided that it does not result in an unacceptable adverse impact on, or damage to habitats, species or features which includes Teal Lough and Slaghtfreeden Bogs ASSI, Teal Lough Part II ASSI, Crockahole Wood ASSI, Drumbally Wood ASSI, in addition to the aforementioned SAC's. NIEA: Natural Environment Division considered the potential impact of the development in addition to the proposed land spreading locations associated with the proposal which are within 7.5 km of the site. As part of this process NED gave consideration to the emissions from intensive livestock installations which can have significant impacts on plant species and the supporting habitats of designated faunal species as well as dirty water generated from activities on site which may contain organic material as it can be detrimental to aquatic life if it enters a watercourse. On that basis it was concluded that the proposal would not have an adverse effect on designated sites or other natural heritage interests subject to the imposition of suggested conditions.

Policy NH 6 – Areas of Outstanding Natural Beauty, allows for approval to be granted subject to appropriate design, size and scale for the locality and where the proposal satisfies all the stated criteria. These criteria include:-

- The siting and scale are sympathetic to the special character of the AONB and the particular locality;

As the site is set on low part of the rural landscape with the landform falling to the south and continuing to rise to the north, there will be little views of the proposal apart from the dead-end road leading to no.65 and from private farm lands to the south. From these restricted views, the building which is typically agricultural would appear appropriate for the area.

- The building respects or conserves features of importance to the character, appearance or heritage of the landscape;

The building is sited within the corner of a field and provides for the retention of the existing field boundaries which are characteristic of the area.

- The proposal respects local style/patterns, traditional boundary details and local materials/design;

As discussed above, the proposal is of traditional agricultural design and being located within the corner of a field allows for the retention of the existing boundary hedgerows.

PPS 21 – Policy CTY 1 identifies a range of types of development that are, in principle, considered to be acceptable in the countryside and which will contribute to the aims of sustainable development. One of these is an agricultural building in accordance with Policy CTY 12.

Policy CTY 12 – Agricultural and Forestry Development supports proposals for this type of development provided that it is demonstrated that it meets the criteria listed within the policy. A letter from the agent, received 2nd November 2016, provides some justification at paragraph 7 and states that cattle/sheep farming in the uplands areas around Draperstown is not the most profitable and the applicant is trying to diversify into the more profitable line of pig farming.

Policy CTY 12 requires amongst other things, that proposals be located on an active and established farm holding. DAERA have advised that the farm holding is active and has been established for more than 6 years. Policy CTY 12 also requires it to be demonstrated that:-

- **is necessary for the efficient use of the agricultural holding.**

The applicant is diversifying into pig farming which is more profitable than cattle/sheep farming in this area and would therefore presumably safeguard the future of the holding.

- **is of appropriate character and scale for the location.**

The proposed building is of standard design and character for the rural area and is of standard design for a modern pig unit. It is located 160m from the existing farm complex and this is worthy of some further consideration.

- **The proposed building visually integrates into the landscape and includes additional landscaping as necessary.**

The proposed building is a low set building on a site close to a dead end on a very minor road. The site is located well back (110m) from the public road with the benefit of good boundary hedges along two of the proposed boundaries which are to be retained. However, it is noted on the site layout plan that 'Floor levels shown are indicative only. Exact levels shall be agreed on site between the client/ground works contactor when soil depths and ground conditions are known. This is not acceptable and exact finished floor levels would be required to be stated, if the proposal were to be approved or at least secured by a condition.

- **The proposal does not adversely impact on natural or built heritage;**

The proposal satisfies this requirement;

- **The proposal will not result in a detrimental impact on residential amenity outside the farm holding including issues of noise, smell and pollution;**

In relation to the provision of a new building, this policy also requires applicants to demonstrate that there are no suitable existing buildings on the holding; that the design and materials are sympathetic to the locality and adjacent buildings; and that the proposal is sited beside existing farm buildings.

Whilst the applicant has not demonstrated that there are no existing buildings which can be utilised, it is accepted that as the applicant is only commencing pig farming it is unlikely that they will have either existing pig units or buildings suitable for conversion, on the farm as pig units tend to be a specialist building. As detailed above, the design is typical for a pig unit and is acceptable.

The policy test for a new building such as this is also that it is sited beside existing farm buildings. It is notable that this test does not state 'beside existing **agricultural** buildings' and this point was raised during the site visit. There is an argument that the applicants own dwelling, being located on the farm can be regarded as the 'farm house' and therefore a farm building. This being the case the proposed pig unit would be located only some 68m to the applicants dwelling measured to its closest point. Visually if one regards the farm house as being a farm building then I am reasonably satisfied that the chosen location does provide an opportunity to site beside. Whilst there is a 68m distance, visually when viewed from the approach from the south and immediately east along the Cahore Road, a measurable degree of visual linkage is achieved which I feel satisfies the policy intention in this regard.

Following further internal discussions on the chosen siting it was decided that the agent would be asked to comment on the operational reasons why the pig unit could not reasonably operate in the adjacent small field closer to the farm house. In a response dated 16th Nov 2017 Philip Marshall stated the following:

"In my opinion there are a few reasons why this site will not work:

The shed and turning area will not physically fit in the field.

The field is very steep - we have no topo survey of it but it rises at least 10 -12 m. and there is a drop at the bottom (through the hedge) to the original site of approx. 3m. due to this fact and the concrete lane at the top of the field it is not possible to cut and fill the site.

In theory the site could be developed but there would be major engineering works/retaining walls which would be totally uneconomical and in planning terms would not integrate.

If the shed could fit in the field the shed would be within 10 - 15m of the applicants dwelling (in anybody'd book this is too close - although not everyone may agree with this)"

2 letters have been submitted by the agent on the reasons for the chosen location from DEARAs Pig Advisor outlining good practise and Bio-security reasons why new pig finishing sheds should be kept separate from other farm animals / buildings and a further letter from Mr Grant who is Director in Parklands Veterinary Group specialising in Pigs within which he states that this specific site was chosen due to its lower and sheltered nature and how this assists with the sheds ventilation ability and pig health.

Odour

The critical issue surrounding this proposal is in relation to the ability to control odour from the proposal. The application has been significantly reduced from its original 1950 pig numbers

(originally considered) to 1250 which was sought when the application was submitted to 900 which is currently being applied for.

Irwin Carr Consulting on behalf of the applicant argue that the original AFBI report 'The impact of diet and flushing' on ammonia and odour emissions from pig housing by Dr Magowan dated 2015 is robust scientific evidence that a 20% reduction in odour can be applied where a low protein diet is fed to fattener pigs. I note that Irwin Carr state that NIEAs position is to agree with this approach, whilst expressing a cautious approach is to be taken in assessing such impacts. Dr Chris Jordan in his capacity as an EHO officer with Mid and East Antrim Council in an e-mail dated 16 June 2016 acknowledges that the IPRI response by Dr Stewart appears conclusive is finding that locations very close, ie 80-100m, to a proposed pig unit would be considered unsuitable due to the significant potential for odour nuisance arising. However he also states that odour modelling has its limitations and that levels of uncertainty increase as receptors become closer to the odour source. He wasn't able at that time to provide to the Council the relevant document which confirmed this view.

The proposed building is to be located approximately 120m from a neighbouring 3rd party dwelling and 85m from the private amenity space belonging to that dwelling. The pig unit will be sited on higher ground with finished floor levels being approximately 7-8m above the site levels of the neighbouring dwelling.

To enable full consideration to be given to the proposed development, consultations were sent to the following bodies in relation to the potential for odour and pollution; Environmental Health, NIEA: Industrial Pollution and Radiochemical Inspectorate; Water Management Unit; Natural Environment Division and Shared Environmental Services.

Water Management Unit requested a nutrient management plan to demonstrate that the manure from the proposed development would be utilised in a responsible and acceptable manner. This was submitted and WMU accepted that the manure would be land spread in a suitable manner.

Although the proposed unit is below the threshold which would require regulation by IPRI, they advised that there was potential for significant impact of residential amenity due to odour; that it was unlikely that that any reduction in the protein content of the feed stuff is directly proportionate to the reduction in ammonia emissions; the use of on/off fan controls rather than variable speed fan controls would help to optimise dispersion of emissions. Dr Charlotte Stewart (IPRI) advised by way of e-mail on 15th June 2016 that 'In addition the very close proximity of the 3rd party dwellings (80 - 100m) has the potential to result in odour nuisance arising at those receptors despite the modelling results. At this close proximity to 3rd party dwellings margin of error/variability of any air dispersion modelling results would be increased. Therefore, locations very close (i.e. <80 - 100m) to 3rd party dwellings from a farm of this nature would be considered unsuitable due to the significant potential for odour nuisance arising.' This view continues to give me grave concerns about whether a low protein diet will have the effect of reducing ammonia emissions at all.

Following the submission of a number of Air Quality Impact Assessments which were considered by MUDC Environmental Health Department, including NIEA's comments on the AFBI report "The impact of diet and 'flushing' on ammonia and odour emissions from pig housing" by Dr Elizabeth Magowan (dated June 2015), it is Environmental Health's opinion that a reduced odour emission factor should **not** be used in this assessment as the evidence remains scant. This is further compounded by their concerns regarding the potential for the pig unit to have a detrimental impact on residential amenity due to the inherent uncertainty within the odour modelling process coupled with the fact that the unit is to be sited in such close proximity (80m) to the private amenity space of the nearest third party dwelling. This is in addition to the need to rely on the use of a low protein feed to meet the 3 Odour Units criterion.

The agent provided details of a previous planning approval granted for pig units by another Council's planning authority and felt that if that authority were able to attach conditions relating to feed stuffs then this authority should be prepared to do the same. However, whilst I respect the right of one authority to grant planning approvals subject to whatever conditions they feel are appropriate, this should not restrict other authorities from having a different opinion. Indeed I alerted EHO to this application and sought their view on this decision which was that the cautious approach adopted in the Cahore Road case was the correct stance to adopt.

NIEA: Natural Environment Division and Shared Environmental Services have recommended conditions relating to the use of crude protein diet, this is in relation to the protection of Special Areas of Conservation and Areas of Special Scientific Interest (SAC's and ASSI's) and does not take into consideration the potential for odour nuisance on residential amenity. This is the remit of Environmental Health who continue to express concerns regarding the proximity to third party dwellings and the potential for odour nuisance.

Following our site visit and in seeking further clarification around the need for foodstuff records to be kept I am somewhat more comfortable with the notion that the Council could condition low protein foodstuff to be used for this proposal. The fundamental issue I have is whether the evidence exists to show that this will itself achieve the effect of the pig unit operating so as to not have an odour impact on the third party dwelling.

Considerations of the proposal around other Policies such as CTY13 and 14 were outlined in the original report to Committee and following the site visit I do not have reasons to raise these policy considerations as being of concern.

The agent asked, without prejudice, to address the other outstanding concerns in relation to the potential for noise nuisance to the Council. In response correspondence was received from the applicants agent, including a noise impact assessment entitled "Irwin Carr Consulting, report No RP003 2014131 (McErlean Pig Farm) 7 September 2017", in an attempt to address concerns previously raised by the Environmental Health Department.

Noise Impact

The acoustic consultancy concludes that, "Operational Noise: The rating level for all the nearest noise sensitive receivers from the proposed development is below the 'typical' daytime and night-time background sound level.....whilst the feed delivery predicted noise impact marginally exceeds the 'typical' background sound level, further to consideration of context the impact would be deemed low.

In arriving at this conclusion the acoustic consultancy is reliant on deliveries being restricted to daytime hours only and the sound power levels of fans employed on site not exceeding 76 dB(A)

Therefore, to ensure that residential amenity is protected EHO have recommend the attachment of the following conditions, if planning Department are minded to grant permission for the development:

1. "There shall be no commercial deliveries between the hours of 23:00 and 07:00"
2. "The sound power level of fans to be employed as part of the building permitted shall not exceed 76 dB"

Reason: Protection of residential amenity.

Consideration of the issues of objection

Whilst the neighbour notification letters are usually sent at the time of validation, the letter to No.65A was sent as it was noticed during the site inspection that it shared a common access on Cahore Road.

Environmental Health considered issues of odour, risk to human life/environmental pollution, noise and increase in vermin. While no concerns were raised regarding risk to human health or vermin, concerns have been raised in relation to odour with regards the proximity to the private amenity space of no.65A Cahore Road.

In consideration of the issues of access and traffic, TransportNi raised no concerns and are satisfied with the proposal subject to conditions.

Utilisation of the pig manure by land spreading has been considered by NIEA: Natural Environment Division as has the issue of waste product run-off and both have been found to be acceptable.

No evidence has been presented to substantiate claims that the development will result in either an increase in rates or a devaluation of property.

There is no evidence to sustain any claims that the proposal would result in animal cruelty. With regards to there being 'little evidence that a low protein diet will be fed and the proximity to an existing dwelling', these issues have been dealt with in the case officers report above.

An additional objection has been received showing a part of the public road flooded during a recent storm event. It is alleged that the pig unit will increase this risk. In response I am not of the view that there is any clear evidence to suggest that this will result from the pig unit should it be approved. The precise means of storm run-off are subject to separate consent in any case.

Summary

In summary whilst those who visited the site and the alternative pig unit outside Broughshane were impressed by the ability of that shed to operate relatively quietly and without noticeable odour levels it remains of a concern to me that in the absence of support from EHO, despite providing assurance to them that low protein feed stuff could be conditioned in this case, that recommending approval of this application is contrary to the cautious more scientific approach to odour assessment referred to earlier in this report given the very close proximity to a third party dwelling **and** in light of the fact that this pig unit will not require licensing and therefore regulation by IPRI.

I am however satisfied that the proposal will not have a detrimental noise impact as per EHOs acceptance of the noise report and also on balance regard the building to be adequately sited with other farm buildings, namely the farm house particularly in light of the lack of surrounding view points and exaggerated topography.

Reasons for Refusal:

1. The proposal is contrary to Policies CTY 1 and CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development, if permitted, could result in a detrimental impact on the amenity of residential dwellings outside the holding or enterprise by reason of odour.

Signature(s): M.Bowman

Date 21/11/17



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Melvin Bowman	
Application ID: H/2015/0068/F	
Proposal: Proposed change of use from basement carparking to supermarket unit to include new mall and amended service yard at existing Meadow lane Shopping Centre, Moneymore Road, Magherafelt	Location: Meadowlane Shopping Centre Moneymore Road Magherafelt
Applicant Name and Address: Castlefarm Properties C/o.agent	Agent name and Address: Clarman and Co. Unit 1 33 Dungannon Road Coalisland BT71 4HP
Summary of Issues: A number of representations have been received in relation to the proposed development. They relate to <ul style="list-style-type: none"> • potential flooding; • shortfall of 217 car parking spaces (101 existing and 116 additional requirement) leading to illegal parking; • non submission of a transport assessment form; • Inaccuracies within the transport assessment form; • increased noise levels and the impact on noise sensitive receptors. 	
Description of Proposal The proposal is for the 'Change of use from basement car parking to supermarket unit to include new mall and amended service yard at existing Meadow lane Shopping Centre.' The existing car park is accessed via the public car park which extends from Queen Street to Rainey Street and can be entered from either street. The car park currently provided for 93 parking spaces on a level which sits slightly below the level of the adjoining public car park and is approximately 2-3 below	

the level of the Moneymore Road. The gross floor area of the car park at present is approximately 2328m².

Characteristics of the site and area

The site is located within Magherafelt town centre and within the Primary Retail Core as identified in the Magherafelt Area Plan 2015. This is the main shopping and retail services centre for the district and surrounding rural area. The surrounding area is a mixture of commercial, restaurants, hot-food outlets, offices, residential properties and public car parks and is accessed off one of the main thoroughfares through the town. There are also a number of secondary schools/colleges within easy walking distance of the site. The Meadowlane shopping centre at present has 39 units on two levels, of which 33 are occupied. Units 5, 13, 19, 27, 29 & 35 are vacant. A 40th unit (Costa Coffee) operates from the mall within the store. The centre has a capacity of 472 parking spaces on 7 levels. This includes disabled parking spaces and 22 spaces which are reserved for DARD staff on the ground floor level accessed directly off the Moneymore Road. The basement level has a capacity of 93 spaces and not 98 spaces as advised in the Transport Assessment Form. A further 6 spaces are available outside the entrance to the basement car park which will also be affected by the proposal.

Deferred Consideration:

This planning application was originally presented to Committee in January 2016 with a recommendation to approve. However, following discussion by Committee it was agreed that the application be deferred for the Planning Manager and Council Solicitor to further explore a Planning Agreement to secure future car parking if required. Following discussions between Mid Ulster District Council's Planning Department and the applicant, a subsequent planning application LA09/2017/0891/F has been submitted for a proposed extension to the existing multi-storey car parking facility to provide 212 additional car parking spaces over 2 additional levels to include associated alterations/extension to existing lobbies/elevators. An associated Planning Agreement which is to be presented to Committee tonight has also been drafted and when signed by both Mid Ulster District Council and the applicant, will provide a mechanism by where if the existing car parking occupancy rates exceed an agreed threshold, following the proposed supermarket becoming operational, the proposed car park extension will be provided.

The associated planning application LA09/2017/0891/F for the proposed car park extension has been presented to Committee this evening with a recommendation to approve subject to the concise nature of the relevant conditions to be agreed along with the associated planning agreement.

Consequently this planning application is therefore being returned to Committee with a recommendation that it be approved in association with Planning Application LA09/2017/0891/F and the related Planning Agreement.

Conditions:

To be delegated to the Planning Manager based on the Committees decision.



Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2016/0797/F	Target Date:
Proposal: Retrospective change of use to car sales yard (including front garden changing to hardstanding car display area) and tyre/alloy wheels sales with the following opening hours Monday, Wednesday, Friday and Saturday 8am to 6pm, Tuesday and Thursday 8am to 8pm (Amended Description)	Location: 53 and 53a Ballyronan Road, Magherafelt
Applicant Name and Address: Top Gear NI 53a Ballyronan Road Magherafelt BT45 6EW	Agent name and Address: Taggart Design 133a Coolreaghs Road Cookstown BT80 9QD
Summary of Issues: Opening hours	
Summary of Consultee Responses: Transport NI - advised that the proposal was acceptable subject to conditions relating to the following:- Access arrangements; Provision of waiting area outside entrance gates; Provision of parking/display areas. Environmental Health Department - advised that the proposal would be acceptable subject to informatives relating to the following; Appropriate use of lighting so that it does not become a nuisance; The selection and use of external noise generating plant/equipment to avoid creating noise disturbance.	
Characteristics of the Site and Area: The existing dwelling already has planning approval to change to offices which the applicant advised has already been implemented. The front garden which extends from the dwelling to the	

Ballyronan Road is to be changed to provide a hard standing area for the display of cars for sale. A low wall is proposed around this area. There is no proposed changes to the access. The existing site contains a large 6 bay industrial building to the rear of the dwelling which was the tyre depot. This is subdivided into three units with a small portacabin office to the side. The three units have separate roller doors. At present units 1 and 2, as identified on the submitted drawing no.03 dated 28th September 2016, is being used in connection with the car sales business. Unit 3 is still retained in connection with the tyre depot.

The site is located within the settlement development limits of Magherafelt and is located within a mixed use area between the private housing development at Ronan Drive, a small dwelling at No. 51 and Meadowbank Sports Arena. Mid Ulster District Council offices are located almost directly opposite the site with the entrance to Acheson & Glovers concrete plant less than 100m to the south of the site.

Description of Proposal

This planning application is for full planning permission for the 'Retrospective change of use to car sales yard (including front garden changing to hardstanding car display area) and tyre / alloy wheels sales'

Deferred Consideration:

This application was presented to Committee on 7th March 2017 with an opinion to approve. However, at that meeting, members were advised of a late objection in which the objector, Mr Joe McKernan, alleged that he owned both the laneway and the visibility splays associated with the application. Mr McKernan further contended that he was unaware of the application and that the 'Planning Application Certificate' was incorrectly submitted. Committee agreed to defer the application to allow these issues to be clarified and/or resolved. Following land registry checks and the receipt of amended P2 certificates this issue has been resolved.

An amended P1 with the description changed to include flood lighting and tyre/alloy wheel sales was also received. Amended plans were also submitted detailing the flood lighting.

Transport NI were re-consulted with the details mentioned above and duly advised that a further amendment was required to show visibility splays of 2.4m x 45m looking north east and 2.4m x 70m looking south west. These details were submitted and Transport NI advised that they were content not to be re-consulted subject to the visibility splays being conditioned as these already exist on site.

Following receipt of the amended plans, all neighbours were re-notified and no further representations were received.

The application was presented in September with a recommendation to approve which was agreed by the Committee. However the agent requested an amendment to Condition 2 to allow for late night opening on both a Tuesday and a Thursday evening to 8 pm. The application was subsequently deferred for further consideration by the Planning Manager.

Having considered the request to extend the opening hours I am of the opinion that this is acceptable on the suggested 2 evenings a week and I am recommending a continued approval of this application.

Conditions

1. This approval is effective from the date of this decision notice and is issued under Article 55 of the Planning Act (Northern Ireland) 2011.

Reason: This is a retrospective application.

2. The use hereby permitted shall not be open to customers and no deliveries shall take place to or from the site, outside the following times, 8:00am to 6:00pm Monday, Wednesday Friday and Saturday, 8:00am to 8:00pm on Tuesday and Thursday and at no time on a Sunday.

Reason: To safeguard the living conditions of residents in adjoining and nearby properties.

3. The floodlights as shown on drawing No 05/1 bearing the date stamp 5 July 2017 shall be switched off outside the operating hours listed under Condition No 2.

Reason: To safeguard the living conditions of residents in adjoining and nearby properties.

4. The sheds associated with the development hereby approved as indicated on drawing no.03 date stamped 28th September 2016 shall be used in connection with the car sales business only and for no other use.

Reason: To prohibit a change to an unacceptable use within the Use Classes Order.

5. The vehicular access, including visibility splays of 2.4m x 45m in both directions, shall be provided in accordance with Drawing No. 02/5 bearing the date stamp 5 July 2017, 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.

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

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

7. No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No. 02/5 bearing date stamp 5 July 2017 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and display of vehicles.

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

Signature(s):

Date



Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2016/1684/O	Target Date:
Proposal: Expansion of existing care home facility to provide 4no individual care units and a new dwelling and garage in connection with the existing business enterprise	Location: Lands immediately SW of 19 Rocktown Lane, Knockloughrim
Applicant Name and Address: Mr C Maynes 12 West Clare Court Lisacclare Road Coalisland BT71 5BF	Agent name and Address: Paul Moran Architect 18B Drumsamney Road Desertmartin Magherafelt BT45 5LA
Summary of Issues: Principle of the proposal in the rural area.	
Summary of Consultee Responses: No objections.	
Characteristics of the Site and Area: The proposal site is currently a large agricultural roadside field with the existing 'Mountview Retreat' to the rear of the site. The site gently rises up in level from the roadside. There is an existing access lane which also has another lane running parallel serving a detached property SE of the proposal site. The site is bounded on the western boundary by a wooden post fence, on the northern and southern by a modest agricultural hedge and on the eastern by hedging and mature trees. The surrounding pattern of development on Rocktown Lane is one of detached rural roadside dwellings and associated agricultural buildings.	
Description of Proposal Outline application for 'Expansion of existing car home facility to provide 4 No. individual care units and a new dwelling and garage in connection with the existing business enterprise'.	

Deferred Consideration:

This application was presented before the Planning Committee in June 2017 with a recommendation to refuse. The application was deferred by the Committee for a deferred office meeting with the Head of Development Management which took place on 22 June 2017. The applicant was afforded the opportunity to provide more detailed information on the proposal and why there is a need for the accommodation and dwelling that is being sought.

The previous owners of the care home were granted planning permission for a new dwelling in 2001. The facility had been run entirely by that family, both the parents and the daughters with one daughter having been previously the registered provider and another daughter the registered manager and they would have stayed overnight with the parents so as to provide care on a 24/7 basis. Once the business was sold to Mr Maynes there was no longer a house in association with the care home business, though the house was not approved on the basis of a manager's dwelling.

Mr Maynes is both the registered owner and registered provider. Presently with a 7 bedroom facility Mr Maynes argues it is not financially viable to have a night time manager employed and he is called out on a regular basis. There is one member of staff working at night and Mr Maynes is the registered nurse. The only land owned by Mr Maynes is to the west with new health policies driving the proposed expansion. He referred to the Bamford Review of 2005 which addresses the future needs of resettlement and it cannot be done in units of 5 or more people for people with learning disabilities and mental health issues who are now in a younger age bracket and cannot live independently given their needs. He referred also to a similar facility at Bohill House, Coleraine. It is Mr Maynes' intention that each of the residential units will house 3-4 residents with varying levels of care. He says there is a huge waiting list with some people waiting for 15 years to live in supported accommodation outside a hospital environment.

There have been various concept layouts worked through with the proposed layout being agreed as that of having the least visual impact in this rural location. Mr Maynes currently lives in Coalisland and has looked at other dwellings in the area but there are still issues of practicality with not living on site. His wife also works at the care home. Mr Maynes stated he is trying to sustain the employment of his staff in this area and he needs to progress the business forward and be sustainable. This is presently not a modern unit and he must meet all the current regulations of the RQIA. Mr Maynes stressed his client's need a settled environment and a different manager would prove difficult for the residents to adjust to. He wishes to see the care home run by a family as a family business.

Mr Maynes submitted a copy of The Bamford Review following the deferred office meeting. I have read this report in detail and would highlight the following issues.

- In 2003 there were some 450 people with a learning disability living in hospitals and on average they will have lived there for 20 years with no home outside of a hospital facility.
- The average age of people living in hospital in NI in 2003 was 49. They typically live in a ward style accommodation and few have their own bedroom.
- Between 11 and 15% of those admitted to hospital with a learning disability for assessment and treatment have remained in hospital owing to the absence of a suitable community alternative.

There are a number of recommendations in the Bamford Review which include the following:

- With immediate effect all new housing with support provision for people with a learning disability should be for no more than 5 individuals with a learning disability
- By 1 January 2013 all accommodation for people with a learning disability under 60 years of age should be for no more than 5 people.

- An addition 100 supported living places per annum for the next 15 years (from 2003) should be developed to enable people to move from family care without having to be placed in inappropriate settings.

It is my opinion the applicant has proven there is a need for this specific type of accommodation and given the existing care home in this rural location the applicant has proven there are overriding reasons why this development is essential in this rural location and could not be located within a settlement.

With regards to the need for the dwelling for a non-agricultural business enterprise in accordance with Policy CTY 7 of PPS 21 it allows for a dwelling house in connection with an established non-agricultural business enterprise where a site specific need can be clearly demonstrated that makes it essential for one of the firm's employees to live at the site of their work. It goes on to state that where such a need is accepted the dwelling house will need to be located beside, or within, the boundaries of the business enterprise and integrate with the buildings on the site. Such a dwelling will be subject to an occupancy condition.

Planning permission was granted for a dwelling for the previous owners and sited immediately adjacent to the care home. When Mr Maynes purchased the care home the house was retained by the previous owners and they were not restricted by an occupancy condition and permission was granted under now expired planning policy.

The applicant currently resides in Coalisland and at the office meeting stated he needs to live as close as possible to the care home as he is the registered owner and registered provider and as such has ultimate responsibility for every aspect of the care home. Given the level of dependency on Mr Maynes it is my opinion that he has demonstrated a specific need for the dwelling house beside the care home. The business has always benefited from someone either living on site or immediately adjacent to the care home which is critical in this situation.

Having submitted various concept layouts of alternative siting's of both the dwelling and the proposed independent units we have sought amended plans which now show the four care units as 2 pairs of semi-detached dwelling units and the manager's dwelling is now proposed to be sited side on to the road to lessen the impact on this rural area.

I am content to recommend an approval of this application subject to the conditions listed below.

Conditions

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

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

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

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

3. The development hereby approved shall be in general conformity with drawing No 02/1 received 14 November 2017.

Reason: To control the use of the properties and ensure they have minimal impact on the rural character of the area.

4. The occupation of the single dwelling hereby approved shall be limited to the manager of Mountview Care Home and his/her family members.

Reason: The dwelling has been approved in response to the operational needs of Mountview Care Home.

5. The 4no individual care units hereby approved shall only be occupied by those persons in need of special care in conjunction with Mountview Care home and shall not be used as single dwelling houses.

Reason: The units are being approved in response to a need demonstrated by the owner of Mountview Care Home.

6. The existing natural screenings of this site shall be retained unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing prior to their removal.

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

7. During the first available planting season after the occupation of the dwelling, a hawthorn/natural species hedge shall be planted in a double staggered row 200mm apart, at 450 mm spacing, 500 mm to the rear of the sight splays along the front boundary of the site.

Reason: To ensure the development integrates into the countryside.

8. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.

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

Signature(s):

Date





Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2017/0074/O	Target Date:
Proposal: Proposed dwelling (infill site)	Location: Site adjacent to 61a Brough Road, Castledawson
Applicant Name and Address: Mary Scullion 67 Brough Road Castledawson BT45 8ER	Agent name and Address: Newline Architects 48 Main Street Castledawson BT45 8AB
Summary of Issues: Impact on rural character, infill site.	
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: The proposal site is located on Brough Road and sited within a large relatively flat agricultural field adjacent to No.61a Brough Road, a detached single storey dwelling. North of the proposal site is the remainder of the agricultural field, and further along there is an agricultural piece of land with a detached 2 storey dwelling set back to the rear. This set back property is accessed via a laneway and has a distinctive curtilage with separation from the road frontage.	
Description of Proposal Outline application for proposed dwelling.	
Deferred Consideration: This application was presented before the Planning Committee in July with a recommendation to refuse as we didn't consider the application, as presented to be an infill opportunity. The application was deferred for an office meeting with the Planning Manager which took place on 20 July. Dr Boomer confirmed the application cannot be considered as an infill site and the agent, Martin Kearney, suggested the description could be changed so the site could be considered as part of a cluster. It was agreed the senior planner would visit the site	

Having carried out a site visit I do not consider this can be considered an infill site. The gap is simply too big between Nos 61a and 67 Brough Road. The dwelling to the south east does not have a common frontage to the road given their curtilage does not extend to the Brough Road itself.

At the deferred office meeting there was some discussion with regards to assessing the application under Policy CTY 2a as part of a cluster of development.

Having visited the site it is my opinion that the rural character at this locality has been lost to a considerable number of individual dwelling houses. Whilst this field provides a small degree of a visual break it will not protect any rural character through the refusal of planning permission.

In considering the application as a part of a cluster of development I will look at each criteria in turn as follows:

- The cluster does lie outside of a farm and it does consist of four or more buildings of which at least three are dwellings;
- The cluster appears as a visual entity in the local landscape.
- The cluster is required to be associated with a focal point and Policy CTY 2a lists examples of a focal point though the list is not exhaustive. There is a T-junction just beyond to the south west of the site and there is a small riding centre to the north-west at the junction of the Hillhead Road and Brough Road.
- The site is bounded on at least two sides with other development in the cluster with other dwellings being sited on two sides of the application site.
- A new dwelling on this site will not visually intrude into the open countryside nor will it significantly alter its existing character.
- Neighbours have been notified and no objections have been raised. Regardless I do not consider there will be an adverse impact on residential amenity.

Having considered the application under the criteria of Policy CTY 2a it is my opinion a new dwelling is acceptable. Given the roadside dwellings at this location are all single storey I would recommend a ridge height restriction of 6 metres. All other conditions are listed below.

An approval is recommended.

Conditions:

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

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

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

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

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

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

4. The existing natural screenings of this site shall be retained unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing prior to their removal.

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

5. During the first available planting season after the occupation of the building for its permitted use, trees shall be planted along the north eastern and south western boundaries of the site in accordance with a scheme submitted to and approved by the Department

Reason: In the interest of visual amenity and to ensure the development integrates into the countryside.

6. The dwelling hereby permitted shall not be occupied until the existing native species hedgerow has been reinstated behind the required sight visibility splays.

Reason: To ensure the proposal is in keeping with the character of the rural area.

7. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.

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

Signature(s):

Date





Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2017/0422/O	Target Date:
Proposal: Proposed site of dwelling and domestic garage for residential purposes	Location: 150m North West of 107 Bancran Road, Draperstown
Applicant Name and Address: Stephen Donnelly 14 Cordarragh Road Draperstown BT45 7AW	Agent name and Address: Diamond Architecture 77 Main Street Maghera BT46 5AB
Summary of Issues: No objections have been received in respect of this application.	
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: The area is rural in character with dwellings and farm buildings sited on road frontage sites in addition to some farm groupings being set back off this minor public road and accessed via existing farm laneways. The site is a small steeply sloping field set back mid-way along the existing laneway, 180m north of the Bancran Road and 170m south of the existing farm dwelling and outbuildings and accessed via the existing laneway which also serves two 2 storey dwellings and adjoining farm outbuildings. The general area is steeply undulating with land rising steeply from the road towards the north and the site. The site is bounded by a mature thorn hedge along the southern boundary with a low thorn hedge along the western boundary. The northern and eastern boundaries are undefined. The only critical views of the site are from the end of the laneway, from where a dwelling on the site would appear divorced and isolated from the existing farm complex.	

Description of Proposal

This is an outline application for a dwelling on a farm holding therefore details of the design and siting have not been submitted.

Deferred Consideration:

This application was presented before the Planning Committee in October with a recommendation to refuse where it was deferred for an office meeting with the Planning Manager. The deferred office meeting took place on 12 October where it was agreed that I would carry out a site visit.

I visited the site and found that indeed the approved site which has expired sits at a considerably higher level than the existing laneway. It also rises to the rear and I agree with the agent there will be a considerable degree of cut and fill which will result in an engineered solution for a new dwelling. In my opinion a dwelling on the now expired site will not immediately read as being part of the farm grouping due to the proposed siting in the front of the field and the intervening vegetation between it and the Bancran Road itself.

Whilst I accept the proposed siting is somewhat further removed from the farm grouping I do not consider this to be an unacceptable degree of separation. The site benefits from an excellent backdrop with the rising land and hillside to the rear of the proposed site. From the Bancran Road a dwelling on this site will be read with the farm dwelling to the north east, though it is not sited to cluster with it.

It is my opinion that a dwelling, subject to the conditions listed below, is acceptable in terms of Planning Policy.

Conditions:

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

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

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

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

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

Reason: To ensure that the development is not prominent in and is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21.

4. 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.

5. The existing natural screenings of this site shall be retained unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing prior to their removal.

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

6. During the first available planting season after the occupation of the building for its permitted use, trees shall be planted along the northern boundary of the site in accordance with a scheme submitted to and approved by the Department

Reason: To ensure the development integrates into the countryside.

7. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.

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

Signature(s):

Date

