



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.1
Application ID: LA09/2019/0941/F	Target Date: 2 September 2019
Proposal: Proposed new roof to improve acoustic performance	Location: 23 Molesworth Street Cookstown
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: 1 Oak Leisure 71 Creagh Road Castledawson BT45 8EY	Agent Name and Address: Aps Architects LLP 4 Mid Ulster Business Park Cookstown BT71 5NN
Executive Summary: Refusal	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Historic Environment Division (HED)	Substantive: YResponseType: FR
	Historic Environment Division (HED)	Substantive: YResponseType: FR
	Historic Environment Division (HED)	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBC

Representations:

Letters of Support	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

To Committee - Refusal - Insufficient information.

Characteristics of the Site and Area

The site is located within the Cookstown Town Centre but also within the Area of Townscape Character and the secondary retail frontage as per defined in the Cookstown Area Plan 2010. The site encompasses the building that is operated as the Squealing Pig bar and Clubland, now renamed as Lanyon Hall. The main emphasis of this application is the building to the rear, whose roof is to be replaced to improve acoustic performance. I note that site is located within an area of mixed development inclusive retail, residential, public houses.

Representations

Three neighbour notification were sent out however no representations were received on this application.

Description of Proposal

This is a full application for the proposed new roof to improve acoustic performance, the site has been identified as 23 Molesworth Street, Cookstown.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Cookstown Area Plan 2010
Mid Ulster Local Development Plan 2030 – Draft Strategy
Strategic Planning Policy Statement (SPPS)

The 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. Para 6.137 of the SPPS advises that residential extensions should be well designed.

Given the nature of the development it was felt necessary to consult with Environmental Health, who in their response stated that no information on the acoustic performance of the roof has been submitted, in the absence of any such information no further comment can be made. However after numerous attempts to get this information, it has never been submitted as such the application will proceed as a refusal on the basis of insufficient information.

The red line covers a listed building and the curtilage of the listed building but the main emphasis will be the setting on the listing building. Therefore a consultation with HED was required. Initially HED responded to state that HED Historic Buildings has considered the impact of the proposal on the building and advises that it has incomplete information which does not allow a substantive response that the proposals may have an adverse impact, subject to requested information being provided. I note that a number of amended plans were submitted and in their final consultation HED noted that Historic Buildings has further considered the impacts of the scheme on the building and advises that on the basis of the additional information received that it is now content with the proposal. The application has been assessed under 6.12 (setting) of Strategic Policy Planning Statement for Northern Ireland and Policy BH 11 (Development affecting the

Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.

The site is located within the limit of development of Cookstown wherein Plan Policy SETT 1 applies, given the nature of development proposed I am content the proposal is sensitive to the size and character of the settlement in terms of scale, form, design and use of materials. I am content that the proposal is still capable of respecting the opportunities and constraints of the specific site and its surroundings. This application will not result in any detrimental effect on amenities in which it is trying to improve amenity. The application will create no significant conflict with recognised conservation interests and that parking and access arrangements are unaffected. From which I am content that this application complies under SETT 1.

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.

Given the failure to submit relevant noise information I must recommend refusal.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal has failed to provide sufficient information to demonstrate the acoustic performance of the proposed acoustic roof.

Signature(s): Peter Henry

Date: 16 August 2022

ANNEX	
Date Valid	8 July 2019
Date First Advertised	25 July 2019
Date Last Advertised	24 July 2019
Details of Neighbour Notification (all addresses) The Owner / Occupier 21 Molesworth Street Cookstown Tyrone BT80 8NX The Owner / Occupier 25 Molesworth Street Cookstown Tyrone BT80 8NX The Owner / Occupier 1, 27 Molesworth Street, Cookstown, Tyrone, BT80 8NX	
Date of Last Neighbour Notification	11 July 2019
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR Historic Environment Division (HED)-Substantive: YResponseType: FR Historic Environment Division (HED)-Substantive: YResponseType: FR Historic Environment Division (HED)-Substantive: YResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBC	
Drawing Numbers and Title Proposed Plans Plan Ref: 02 Site Location Plan Plan Ref: 01	

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.2
Application ID: LA09/2019/0978/LBC	Target Date: 12 September 2019
Proposal: We propose to upgrade the existing roof of Lanyon Hall night club as per the plans. The proposed roof will consist of Kingspan cladding and two layers of sound board to improve acoustic performance.	Location: 21-23 Molesworth Street Cookstown Co. Tyrone
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: 1 Oak Leisure 71 Creagh Road Castledawson Magherafelt BT45 8EY	Agent Name and Address: Aps Architects LLP Unit 4 Mid Ulster Business Park Cookstown BT809LU
Executive Summary: Refusal	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
	Historic Environment Division (HED)	Substantive: YResponseType: FR
	Historic Environment Division (HED)	Substantive: YResponseType: FR
	Historic Environment Division (HED)	Substantive: TBCResponseType: PR

Representations:

Letters of Support	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Refusal - To Committee - No approved full application to facilitate development.

Characteristics of the Site and Area

The site is located within the Cookstown Town Centre but also within the Area of Townscape

Character and the secondary retail frontage as per defined in the Cookstown Area Plan 2010. The site encompasses the building that is operated as the Squealing Pig bar and Clubland, now renamed as Lanyon Hall. The main emphasis of this application is the building to the rear, whose roof is to be replaced to improve acoustic performance. I note that site is located within an area of mixed development inclusive retail, residential, public houses.

Relevant planning history

LA09/2019/0941/F- Proposed new roof to improve acoustic performance.

Representations

No representations were received on this application.

Description of Proposal

This a listed building consent to upgrade the existing roof of Lanyon Hall night club as per the plans. The proposed roof will consist of Kingspan cladding and two layers of sound board to improve acoustic performance.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 – Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 6: Planning, Archaeology and the Built Heritage

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. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS. The SPPS operates a general presumption in favour of development unless there is demonstrable harm to interests of acknowledged importance.

PPS 6 – Planning, Archaeology and the Built Heritage

The red line covers a listed building and the curtilage of the listed building but the main emphasis will be the setting on the listing building. Therefore a consultation with HED was required. Initially HED responded to state that HED Historic Buildings has considered the impact of the proposal on the building and advises that it has incomplete information which does not allow a substantive response that the proposals may have an adverse impact, subject to requested information being provided. I note that a number of amended plans were submitted and in their final consultation HED noted that Historic Buildings has further considered the impacts of the scheme on the building and advises that on the basis of the additional information received that it is now content with the proposal. The application has been assessed under 6.12 (setting) of Strategic Policy Planning Statement for Northern Ireland and Policy BH 11 (Development affecting the Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.

I am content that all works under this Listed Building Consent are acceptable and I can recommend approval as this all complies with PPS 6.

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.

However due to insufficient information in the full application, this consent must be refused as there is no full application to facilitate it.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal does not have a full application to facilitate the proposed development.

Signature(s): Peter Henry

Date: 16 August 2022

ANNEX	
Date Valid	18 July 2019
Date First Advertised	1 August 2019
Date Last Advertised	31 July 2019
Details of Neighbour Notification (all addresses)	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses	
Historic Environment Division (HED)-Substantive: YResponseType: FR Historic Environment Division (HED)-Substantive: YResponseType: FR Historic Environment Division (HED)-Substantive: TBCResponseType: PR	
Drawing Numbers and Title	
Site Location Plan Plan Ref: 01 Proposed Plans Plan Ref: 02	
Notification to Department (if relevant)	
Not Applicable	



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.3
Application ID: LA09/2019/1271/O	Target Date: 21 November 2019
Proposal: Proposed dwelling in a cluster	Location: 20M West Of 6 Derry Row Coalisland Dungannon BT71 4NX.
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Patrick McGrath 2 Valemont Derryvale Road Dungannon BT71 4RJ	Agent Name and Address: Sam Smyth Architecture Unit 45 D DGN Enterprise Centre 2 Coalisland Road Dungannon BT71 6JT
Executive Summary: The site meets requirements of Policy CTY2a of PPS21 permitting a new dwelling in an existing cluster. A no. of objections have been received relating to a number of issues including flooding, these have been taken into account in the main body of the report.	
Characteristics of the Site and Area The site is located in the rural countryside, as defined by the Dungannon and South Tyrone Area Plan, approx. ½ km outside Coalisland. The site is a triangular shaped roadside field located adjacent the Derry Rd to the immediate west of a row of 6 no. of two storey roadside terraced properties, nos. 1 – 6 Derry Row; and to the north of an existing engineering business 'Gold Star Engineering' on a large yard to the opposite side of the Derry Rd. The rear / north boundary of the site is bound by a watercourse, 'The Mill Race'. The	

roadside frontage / southern boundary of the site is undefined and opens onto the adjacent Derry Rd. The eastern boundary of the site is undefined and opens onto the curtilage of no. 6 Derry Row, the end terrace of the aforementioned properties.

The landform within the site, which sits approx. ½ - 1 metre above the adjacent road level, rises in a south to north direction through the site. The landform in the vicinity also falls gently in a west to east direction along the frontage of the site / Derry Rd.

Critical views of the site will be short distant and limited until just before and passing along its roadside frontage on both the west and eastern approach to the site from along the Derry Road. Views of the site are limited due to the topography of the area and its location at a small bend in the road where it is screened by existing roadside vegetation on the western approach; and by both existing roadside vegetation and the terraced properties on the eastern approach.

This area of countryside whilst largely rural in nature is characterised by the small cluster of development formed to the east and south of the site. This small cluster which sits adjacent a small bend in the Derry Rd at its junction with Kettle Lane comprises the aforementioned terraced properties to the north side of the Derry Rd and the engineering business opposite at the other side of the road.

Description of Proposal

This is an outline application for a dwelling in a cluster to be located on lands 20m West of 6 Derry Row Coalisland Dungannon BT71 4NX.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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 following documents provide the primary policy context for the determination of this application:

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement (PPS) 3: Access, Movement and Parking

Development Control Advice Note (DCAN) 15: Vehicular Standards

Planning Policy Statement (PPS)15 (Revised): Planning and Flood Risk

Planning Policy Statement (PPS) 21: Sustainable Development in the Countryside

Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was

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

Planning History

LA09/202/0726/F - Proposed culverting of mill race - 20m West of 6 Derry Road Coalisland - Pending outcome of current application.

The above application was submitted to address flooding issues raised during the processing of the current application (See Rivers Agency consultation response further below). The flooding issues have however been addressed under the current application, therefore subject to the approval of the current application, the above proposal is no longer required and the agent advised it will be withdrawn.

Consultees

1. DfI Roads - were consulted on the 9th October 2019 in relation to access, movement and parking arrangements. Transport NI responded on the 12th November 2019 that they had no objection to the proposal subject to standard conditions and informatives.
2. Historic Environment Division (HED) - were consulted on the 9th October 2020 as the site is located within an archaeological site and monument (ducati canal). HED assessed the application and responded on the 11th October 2019 that they were content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.
3. DETI Geological Survey of Northern Ireland (GSNI) - were consulted on the 9th October 2019 as the site was located within an area of constraint on abandoned mines. GSNI responded on the 25th October 2019 that having assessed the above planning proposal in view of stability issues relating to abandoned mine workings. A search of their "Shafts and Adits Database" indicates that the proposed site does not contain any known historic mine workings or known area of undermining
4. DfI Rivers Agency - were consulted as objectors in the terraced properties to the immediate east of the site raised flooding issues (See 'Representations' received further below). Video evidence submitted by the objectors forwarded to DfI Rivers showed the mill race located along the rear of the site overtopping within the application site. As such under PPS15 Policy FLD1 Development in Fluvial Flood Plains DfI Rivers requested additional information from the applicant to demonstrate that there is no risk of flooding to the development and that the development will not increase flood risk elsewhere outside of the application site; and a Drainage Assessment (D.A) under FLD3 Development and Surface Water. Subsequently, a Flood Risk Assessment (FRA) and D.A was received and further to ongoing consultations with Rivers Agency and supplementary information in relation to the FRA being received Rivers Agency responded as follows on the 16 JUN 2022:

o FLD 1 Development in Fluvial (River) Plains - DfI Rivers has reviewed the Letter from McCloy Consulting, dated 10th June 2022 alongside the FRA from McCloy Consulting dated March 2022 and comments as follows: A post-development model has been provided which shows no increase to existing flood risk to neighbouring properties due to the proposal. The FRA states 'The outcome confirms there is no measurable effect on flooding elsewhere as a result of the development. There is a localised effect of +10mm immediately to the site frontage which causes no change to flood risk to any other receptor, is within the model accuracy tolerance, and is deemed negligible within industry guidance such as the DMRB note LA 113'. DfI Rivers, while not being responsible for the preparation of the Assessment accepts its logic and has no reason to disagree with its conclusions. It should be brought to the attention of the applicant that the responsibility for justifying the assessment and implementation of the proposed flood risk measures (as laid out in the assessment) rests with the developer and his/her professional advisors. Under the terms of Schedule 6 of the Drainage (Northern Ireland) Order 1973 the applicant must submit to DfI Rivers, for its consent for any proposal to carry out works which might affect a watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc. Failure to obtain such consent prior to carrying out such proposals is an offence under the aforementioned Order which may lead to prosecution or statutory action as provided for.

o FLD 2 Protection of Flood Defence and Drainage Infrastructure - An undesignated watercourse/mill race lies adjacent to the northern boundary of the site. Policy requires a minimum 5m maintenance strip. The FRA shows that a maintenance strip is available. It should be protected from impediments (including any new tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development by way of a planning condition. Clear access and egress should be provided at all times. By way of a planning informative, prospective purchasers whose property backs onto this watercourse should be made aware of their obligations to maintain the watercourse under Schedule 5 of the Drainage Order Northern Ireland 1973.

o FLD 3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains - The history of surface water flooding at the site has been addressed in the FRA, therefore a D.A is no longer required. Note although a D.A is not required by policy, it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site.

o FLD 4 - The FRA states there is no proposal to culvert the open watercourse adjacent to the site, therefore, FLD4 is not applicable.

I am content River's Agency are raising no objections to this proposal from a flood risk perspective, that a maintenance strip can be conditioned along the mill race and a standard informative can be attached to any subsequent decision making prospective developers / purchasers of the site aware of their responsibility and obligations.

5. NI Water - were consulted on the 25th May 2020 to ascertain if connection to the main for waste water disposal is available in Coalisland. NI Water responded on the 27th May 2020 with no objections that there was available capacity at the receiving waste water treatment works / sewer network.

6. Shared Environmental Services (SES) - were consulted informally on the 9th October 2019 as an undesignated watercourse bounds the rear / northern boundary of the site in case there would be a hydrological connection to Lough Neagh and Lough Beg SPA/Ramsar downstream from this proposal.

SES responded on the 10th October 2019 that given the small scale/short term duration of works and the hydrological distance and in the absence of mitigation there would not be any significant impacts from this proposal to the features or conservation objectives of Lough Neagh (providing waste water disposal capacity is available). That the impacts of the proposal on downstream Lough Neagh and Lough Beg SPA/Ramsar has been considered and screened out from further assessment as it could not have any significant effect on the European site feature/conservation objectives. It is noted as per NI Water consultation response waste water disposal capacity is available.

Dungannon and South Tyrone Area Plan - The site is located in the rural countryside outside any designated settlement.

The site is located just within and at the edge of a Mineral Reserves Policy Area (MRPA) located adjacent to the western edge of Coalisland to supply the clay brick industry designated under Plan Policy MN2 to protect its mineral reserves. Policy MN2 outlines surface development within these areas that would prejudice the future exploitation of these reserves will be restricted in accordance with the provisions of prevailing regional planning policy. The designation will protect mineral reserves that are needed in the manufacture of clay bricks. In Coalisland, the MRPA is located both north and south of Derry Road and west of Derryvale Road. The area south of Derry Road received planning permission for the extraction Brick Shale and Fireclay under M/2001/1364/F in September 2005. The regional planning policy for these areas is set out in Policy MIN 5 of A Planning Strategy for Rural Northern Ireland. I am content this proposal in accordance with policy MIN 5 Mineral Reserves will not prejudice future exploitation of valuable mineral reserves.

The Strategic Planning Policy Statement (SPPS) for Northern Ireland - advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside which deals with development such as proposed, are retained.

Planning Policy Statement (PPS) 21: Sustainable Development in the Countryside - PPS 21 is the overarching policy for development in the countryside states that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in CTY1 of PPS21. The applicant has applied under one of these instances, a new dwelling in an existing cluster in accordance with Policy CTY2a New Dwellings in Existing Clusters.

Policy CTY 2a - New Dwellings in Existing Clusters states planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria bullet pointed criteria are met:

- o The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided

structures) of which at least three are dwellings.

The site lies within a small cluster of development lying outside of a farm and consisting of four or more buildings of which more than three are dwellings. The cluster sits at a small bend in the Derry Rd at its junction with Kettle Lane. The cluster consists of 6 no. of roadside terraced properties, nos. 1 - 6 Derry Row located immediately to the east of the site; and an existing engineering business 'Gold Star Engineering' comprising a large shed and small no. of ancillary buildings on a large yard to the south of the terraced properties to the opposite side of the Derry Rd.

- o The cluster appears as a visual entity in the local landscape.

I believe the cluster appears as a visual entity in the local landscape when viewed on both the western and eastern approaches to it from the Derry Rd and when passing through it.

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

The site is associated with nos. 1-6 Derry Row, a line of terraced properties and the engineering business opposite, which I believe could be considered a focal point.

- o The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.

The site has a suitable degree of enclosure provided by a mix of mature tree and hedgerow vegetation running along its rear / northern boundary; the topography of the area; and existing development within the cluster, which bounds it on three sides, to the north, east and south. The mill race bounds the site to north; nos. 1 - 6 Derry Row, 6 two storey terraced properties bounds the site to the east; and an existing engineering business 'Gold Star Engineering' comprising a large shed and small no. of ancillary buildings on a large yard bounds the site to the south.

- o Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.

A dwelling could be absorbed into the existing cluster through rounding off and consolidation with no significant impact on the existing character, or visually intruding into the open countryside.

- o Development would not adversely impact on residential amenity.

Whilst this is an outline application, given the dimensions of the site and block plan submitted, I believe a suitably sited and designed dwelling could be absorbed without adverse impact on neighbouring residential amenity in terms of overlooking or overshadowing. I consider adequate separation distances could be retained between the proposed dwelling and existing properties including no. 6 Derry Row to its immediate east.

Representations

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 5 third party objections had been received from the owners / occupiers of 3 of the 6 terraced properties immediately to the east of the site.

1 from Mr McCabe (6 Derry Row, end terrace adjacent site) - received 23rd October 2019.

2 from Mrs Pamela Nicholl and Mr Peter Nicholl (5 Derry Row) - received 7th November 2019 and 10th September 2020.

1 from Mrs Linda Devlin and 1 from Mr Michael Devlin (4 Derry Row) - received 11th & 12th November 2019, respectively.

The key issues raised were as follows

1. The site does not comply with Policy CTY2a including that it is not located adjacent a crossroads and plans to construct a racetrack near the site have been scrapped therefore the site is not associated with, or close to any focal point and a two storey detached dwelling is not in character with the existing terrace properties.

The site is associated with nos. 1-6 Derry Row and the engineering business opposite it which could be considered a focal point.

2. This site is not bound on at least two sides with other development.

The mill race bounds the site to north; nos. 1 - 6 Derry Row, 6 two storey terraced properties bounds the site to the east; and an existing engineering business 'Gold Star Engineering' comprising a large shed and small no. of ancillary buildings on a large yard bounds the site to the south.

3. The site is so small and in such close proximity to existing dwellings that the development will adversely impact residential amenity.

I am content the site is an adequate size to accommodate a suitably designed dwelling that should have no unreasonable impact on neighbouring properties (with particular consideration given to no. 6 Derry Row) in terms of overlooking or overshadowing. That subject to a suitable designed dwelling and scheme coming forward for further consideration under any subsequent reserved matters application adequate separation distances can be retained between the proposed dwelling and the neighbouring properties.

4. The Council should not allow our houses to be surrounded by commercial development.

This proposal is for a dwelling not a commercial development.

5. Trees have been cut down within this site causing increased flooding.

The trees within the site are not protected thus outside the remit of planning and the issue of flooding is addressed further below at point 6.

6. There is a history of flooding on site. The site is a floodplain for the fast flowing river the Mill Race that forms its rear boundary. The ground rising up at the rear of the site is the riverbank. Concern about increased flood risk downstream of the proposed culvert due to the proposed development. Notes question 19 of the P1 Form (i.e. is there a known risk of flooding) has been answered 'no' when it should have been answered 'yes'.

Rivers Agency have been consulted during the processing of this application and have raised no objections (see River Agency consultation response further above).

A 6th representation was received on the 5th August 2022 a second from Mr McCabe outlining the residents of Derry Row are concerned about the deterioration of the culvert in the river (Mill Race) running to the rear of their houses. An Engineer's Report prepared by Hamilton and Casement Ltd on behalf of Mr McCabe, dated 15th December 2021 and addressed to whom it may concern was enclosed. The findings of the report were that the 500mm culvert pipe is badly damaged. The pipe's base has worn away causing water to seep through the embankment towards Mr McCabe's property. Not only has this created a flood risk, the embankment to the culvert is weak due to flow of water from the pipe. This may become unstable overtime and cause serious damage to the surrounding land, affecting wildlife and damaging property. It is believed this watercourse is regulated by Rivers Agency and this problem should be rectified immediately. The representation states Rivers Agency has been informed.

As detailed above River's Agency raised no objections to this proposal from a flood risk perspective (see River Agency consultation response further above), a maintenance strip can be conditioned along the Mill Race and a standard informative can be attached to any subsequent decision making prospective developers / purchasers of the site aware of their responsibility and obligations. This application does not propose the artificial modification of the watercourse and as detailed in the representation received River's Agency has been informed of residents' concerns.

Other Policy and Material Considerations

In addition to checks on the planning portal DAERA's Natural Environment Division Map Viewer available online have been checked. No natural heritage features of significance were identified on or in close proximity to the site.

Recommendation: Approve

The site meets requirements of Policy CTY2a of PPS21 permitting a new dwelling in an existing cluster.

Neighbour Notification Checked

	Yes/No
<p>Summary of Recommendation:</p> <p>Approve is recommended</p>	
<p>Approval Conditions</p> <p>Condition 1 Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-</p> <ul style="list-style-type: none"> 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. <p>Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.</p> <p>Condition 2 Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.</p> <p>Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.</p> <p>Condition 3 Full particulars, detailed plans, sections and elevations 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.</p> <p>Reason: To enable the Council to consider in detail the proposed development of the site.</p> <p>Condition 4 The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.</p> <p>Reason: In the interest of visual amenity.</p> <p>Condition 5 No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council.</p>	

Reason: In the interest of visual amenity.

Condition 6

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

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

Condition 7

A minimum 5m maintenance strip shall be provided adjacent the watercourse running along the northern boundary of the site. The strip should be level, marked up on all layout drawings and protected from impediments (including tree planting), land raising or future unapproved development.

Reason: To facilitate future maintenance.

Condition 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 and shall include sight splays 2.4m x 70m in northwesterly direction and 2.4m x 45m in southeasterly direction; and any forward sight distance required. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

Case Officer: Emma Richardson

Date: 24 August 2022

ANNEX	
Date Valid	26 September 2019
Date First Advertised	8 August 2022
Date Last Advertised	8 October 2019
Details of Neighbour Notification (all addresses) The Owner / Occupier 62 Derry Road, Coalisland, Tyrone, BT71 4NT The Owner / Occupier 46A , Derry Road, Coalisland, Tyrone, BT71 4NT The Owner / Occupier 64 Derry Road, Coalisland, Tyrone, BT71 4NT The Owner / Occupier 60 Derry Road, Coalisland, Tyrone, BT71 4NT The Owner / Occupier 6 Derry Row, Coalisland, Tyrone, BT71 4NX The Owner / Occupier 58 Derry Road, Coalisland, Tyrone, BT71 4NT The Owner / Occupier 46 Derry Road, Coalisland, Tyrone, BT71 4NT	
Date of Last Neighbour Notification	26 July 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Historic Environment Division (HED)-Substantive: YResponseType: FR DETI - Geological Survey (NI)-Substantive: TBCResponseType: FR	

Rivers Agency-Substantive: YResponseType: FR NI Water - Single Units West-Substantive: TBCResponseType: FR Rivers Agency-Substantive: TBC Rivers Agency-Substantive: YResponseType: FR Rivers Agency-Substantive: YResponseType: FR Rivers Agency-Substantive: YResponseType: FR Rivers Agency-Substantive: YResponseType: FR Rivers Agency-Substantive: TBCResponseType: PR
Drawing Numbers and Title Site Location Plan Plan Ref: 01
Notification to Department (if relevant) Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.4
Application ID: LA09/2020/0150/F	Target Date: 31 March 2020
Proposal: Proposed site for 5 no. glamping pods, amenity space and associated external works	Location: Lands 140M South West Of 11 Crancussy Road Cookstown
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Paul And Damien McHugh 11 Crancussy Road Cookstown BT80 9PW	Agent Name and Address: CQ Architects 23 Dunamore Road Cookstown BT80 9NR
Executive Summary:	
Characteristics of the Site and Area The site is identified as being 140m south west of 11 Crancussy Road, Cookstown. The site is located approximately 3km North West of the settlement limits of Gortacladdy as per the Cookstown Area Plan 2010 and is located within the open countryside. The site is currently an agricultural field with rough grazing land. The site is accessed via an existing access on the Crancussy Road. The site rises in gradient from the road level towards the site. The site is bounded to the north and east with post and wire fencing, with no defined boundary to the west or south. The site is set back from the road and the existing hedgerow along the road provides screening to the site. The surrounding area is mainly rural agricultural land, with a dwelling and the associated farmyard located across the road at 16 Crancussy Road. Lough Doo ASSI is located on lands immediately to the east of 16 Crancussy Road however; the proposal is located outside the designation.	
Description of Proposal This is a full planning application for a proposed site for 5no glamping pods, amenity	

space & associated external works.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Magherafelt Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS 2: Natural Heritage

PPS3: Access, Movement and Parking

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes non-residential development including farm diversification schemes. Section 6.260 deals with proposals for tourism in the countryside and states that tourism development must be carefully managed in the countryside. Acceptable development may include appropriate self-catering accommodation, particularly in areas where tourist amenities and accommodation have become established or likely to be provided because of tourism initiatives.

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, this includes non-residential development including farm diversification proposals in accordance with Policy CTY 11. In this instance, the applicant submitted farm information and proposes the tourism accommodation be considered as a farm diversification scheme under CTY 11.

Policy CTY 11 states that planning permission will be granted for a farm diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm and it meets the following criteria:

- (a) the farm or forestry business is currently active and established;
- (b) in terms of character and scale it is appropriate to its location;
- (c) it will not have an adverse impact on the natural or built heritage; and
- (d) it will not result in detrimental impact on the amenity of nearby residential dwellings including potential problems arising from noise, smell and pollution.

I am content that the proposed tourist accommodation scheme can be successfully run in conjunction with the agricultural operations on the farm. The site selected is less than 1 hectare in size, on farm land comprised of some 48 hectares. I have no concerns the

proposal will impact on the farming operations and the land selected is less favorable land. A consultation was issued to DAERA who have confirmed the farm ID provided relates to a business which is currently active and established so I am content the proposal meets criteria (a) of CTY 11.

I am of the opinion that the proposal is appropriate to its location in terms of character and scale. The proposed glamping pods are of a small scale and can be incorporated into the surrounding area with minimal effort in terms of additional screening needed. I believe it is appropriate to its location given the number of tourism attractions nearby so I am satisfied the proposal meets the criteria (b) of CTY 11.

Given the nature of the development, with limited ground works taking place in order to facilitate this development I have limited concerns that the proposal would have an adverse impact on the natural or built heritage. Given the close proximity of the Lough Doo ASSI, a consultation was issued to NIEA to ensure there would be no adverse impact on this site. In their response, Natural Environment Division (NED) has concerns with this proposal and requires further information to assess the potential impacts on natural heritage interests. They note that the site contains peatland, scrub and hedgerows which may impact priority habitats and protected and/or protected species such as badgers and birds. There is also a small watercourse within the site with a hydrological connection to Upper Ballinderry River SAC and ASSI. NED recommends that a Preliminary Ecological Appraisal (PEA) is carried out on the site. It should also address any potential pollution impacts the proposal may have on the watercourse within the site.

This information was relaying to the agent and as this response was received on 8th February 2021. The agent then consulted with an ecologist and the applicant and was exploring the option of altering the red line of the application to change the siting of the Glamping Pods. This was discussed with a principle planner and it was agreed this change could not take place under this application and that a new application would be required to make the changes given how significant they were. As it stands, no further ecological information has been received and as such, the proposal is contrary to criteria C of CTY 11 and Policy NH2 of PPS 2 in that it may have an impact on pollution and on species protected by law.

Given the rural location of the proposed site and the lack of neighboring residential dwellings nearby I am content that the proposal will not have a detrimental impact on the amenity of nearby residential dwellings. The nearest receptor is located at 16 Crancussy Road however; this has been identified as being the farm associated with the proposal. As mentioned previously, there is a hydrological link via an existing watercourse and NED requested a PEA, which would also address any potential pollution impacts.

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 am content that the proposal will not be a prominent feature in the landscape and would visually integrate into the existing landscape given the topography of the site and the additional planting that is proposed to aid integration. The design of the proposed glamping pods are of high quality and will integrate with the landscape and they will visually link with the existing farm holding opposite.

Policy CTY 14 states that Planning permission will be granted for a building in the

countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that the proposal complies with CTY 14.

There is ample space within this site to provide septic tank provision. The onus is on the landowner/developer to ensure there are appropriate consents in place for any private septic tank provision. In my view the proposal does not offend policy CTY16 of PPS21.

PPS 3: Access, Movement and Parking

DfI Roads were consulted on the proposal and offer no objection subject to conditions being attached to any approval.

Other Material Considerations

Shared Environmental Services (SES) were informally consulted as the proposal has a potential hydrological link to the Upper Ballinderry SAC. They have requested further information by the way of a Habitats Regulation Assessment. This was requested along with the PEA that HED requested and no further information has been forthcoming.

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

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to Planning Policy Statement 2, Natural Heritage, Policy NH 2, in that insufficient information has been provided to ensure the proposal is not likely to harm any priority habitats and protected and/or protected species such as badgers and birds.

Reason 2

The proposal is contrary to Policy CTY 11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that insufficient information has been provided to ensure the proposal will have no pollution impacts on the watercourse within the site.

Case Officer: Ciaran Devlin

Date: 17 August 2022

ANNEX	
Date Valid	4 February 2020
Date First Advertised	18 February 2020
Date Last Advertised	18 February 2020
Details of Neighbour Notification (all addresses)	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: I/2003/0402/Q Proposals: Site Decision: 211 Decision Date: 30-MAY-03 Ref: I/2001/0332/O Proposals: Proposed site for one and a half storey dwelling Decision: Decision Date: Ref: I/2003/0699/O Proposals: Proposed site for 1 & 1/2 storey dwelling and domestic garage Decision: PG Decision Date: 30-JAN-04 Ref: LA09/2020/0150/F Proposals: Proposed site for 5 no. glamping pods, amenity space and associated external works Decision: Decision Date:	
Summary of Consultee Responses NI Water - Single Units West-Substantive: TBCResponseType: FR DAERA - Omagh-Substantive: TBCResponseType: PR Shared Environmental Services-Substantive: TBCResponseType: FR	

NIEA-Substantive: TBCResponseType: PR
Shared Environmental Services-Substantive: TBC
NIEA-Substantive: TBC
NIEA-Substantive: TBC
NIEA-Substantive: TBC
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR

Drawing Numbers and Title

Site Location Plan Plan Ref: 01 Rev 02
Block/Site Survey Plans Plan Ref: 02 Rev 02
Site Location Plan Plan Ref: 01
Elevations and Floor PlansPlan Ref: 03
Block/Site Survey Plans Plan Ref: 02

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.5
Application ID: LA09/2020/0667/F	Target Date: 7 August 2020
Proposal: Housing development of 7 no dwelling units made up of 3 no detached units and 2 no sets of semi-detached units	Location: Adjacent To And Immediately West Of 10 Oldmill Court Moneymore
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Colm Bell Bell Contracts Unit 5 Mid Ulster Business Park Derryloran Industrial Estate Cookstown BT80 9LU	Agent Name and Address: Eamoon Moore Architects Ltd 10 Knockmoyle Cookstown BT80 8WE
Executive Summary:	
Characteristics of the Site and Area The site is currently site is a brown field site which has been previously cleared and construction of a new development was commenced under I/2010/0391/F for 7 no. 2 bedroom townhouses in two blocks of 3 and 4 units. Part of the foundations have been dug at the front of the site. The site is bounded to the north and west by the rear amenity spaces of dwellings fronting onto Stonard Street and Bridger Street. The northern boundary is defined by a low earth bund, the western boundary by a 1.5-2.0m stone/concrete wall and outbuildings, the eastern boundary by a 2.0-2.5m concrete wall along the side of Old Mill court and car park, with the southern boundary defined by the public footpath along Hammond Street. There was no vegetation noted on the site apart from a thorn hedge and sycamore trees along the eastern boundary and part of the southern boundary.	
Description of Proposal	

The development was originally proposed as 8 no. semi-detached dwellings, but this has been amended to 7 dwellings made up of 4 semi-detached and 3 detached dwellings.

The house types are as follows:-

Sites 1, 2, 4-7 house type HT 01: 6 no. 3 bed, 2 no. detached and 4 no. semi's (2 storey)

Site 3 - house type HT 02: 1 no. 3 bed detached (2 storey).

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

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 - Draft Plan Strategy has been published for consultation, 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 main policy considerations in the assessment of this application are:-

Cookstown Area Plan 2010

Strategic Planning Policy Statement

Planning Policy Statement 3 - Access, Movement and Parking.

Planning Policy Statement 7 - Quality Residential Environments.

Planning Policy Statement 12 - Housing in Settlements

Planning Policy Statement 13 - Transportation and Land Use

Creating Places

The SPPS has superseded PPS 1 (General Principles.). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to any interests of acknowledged importance. The proposed development is not within an area of archaeological importance.

The SPPS gives specific provision for Housing in settlements subject to a number of policy provisions. It does not present any change in policy direction with regards to residential developments in settlements. As such, existing policy will be applied, primarily PPS 7, Quality Residential Environments.

As the site is located on a brownfield site within the Cookstown Area Plan 2010, the critical planning policy is therefore PPS 7.

PPS 7 Quality Residential Environments - Policy QD 1 Quality in new Residential Environments requires new residential developments to create a quality residential environment which should be based on a concept plan which drawn on the positive aspects of the surrounding area. Proposals must conform to nine criteria listed in the policy in order to protect residential amenity, residential character, environmental quality and movement. Any proposals which fails to satisfy the criteria, even if the site is designated for residential use, will not be acceptable.

As this is an full application the proposed development is being assessed against these criteria as follows:-

(a) The proposal meets the first of these criteria in that it respects the surrounding context insofar as the proposal is for a housing development within a predominantly residential area. In terms of layout, the density at 37 dwellings per hectare is similar to the surrounding areas and in particular the adjacent similar sized development to the east of the site which has ten dwellings on a site of 0.23ha with a density of 43 dwelling per hectare.

(b) There are no features of archaeological or built heritage on this site. There are no TPO's near the site.

(c) This proposal is for 7 dwellings and therefore there is no requirement for the provision of public open space. All dwellings have adequate private amenity space and range from a minimum of 45m² to 60m². Sites 4 and 5 are positioned 5-6.5m from the rear boundary and although this is less than the recommended 10m in Creating Places document, in my opinion, it is acceptable. The rear boundary of the dwellings are defined by a stone/concrete wall with a close boarded fence to the rear of part of the wall. The boundary is also partially defined by outbuildings set to the rear of some of the dwellings on Bridger Street. The wall and outbuildings help to lessen the potential for overlooking and loss of privacy and as the proposed site is to the east of the rear of the dwellings on Bridger Street there is little potential to cause shadowing. The applicant also has a 'Fall-back' position as the previous approved development of seven townhouses was commenced with foundations evident on site. That approval, I/2010/0391/F, proposed a block of 4 town houses backing onto the dwellings at Bridger Street similar to the proposed dwellings at sites 4-5. Therefore in my opinion, there is little to be gained from seeking further amendments to the proposed layout.

(d) As the site is close to and within walking distance of the centre of Moneymore, the provision of neighbourhood facilities are not deemed necessary within the site;

(e) The site has vehicular access onto Hamond Street via Oldmill Court pedestrian access which will provide an acceptable movement pattern, including walking and cycling. This will enable occupants to access public transport routes and the public network system;

(f) Adequate provision can be made for in-curtilage parking of vehicles within three of the seven sites with communal parking on the remaining four sites.

(g) The design of the proposed dwellings is such that they do not cause a loss of residential amenity to the existing dwellings surrounding the site by way of overshadowing or overlooking.'

(h) The proposal will not create a conflict with adjacent land uses as these are predominantly existing dwellings.

(i) Generally the layout is designed to deter crime as there are no areas which are unsupervised or overlooked.

Consultee responses

DfI Roads advised that the access and parking arrangements are acceptable subject to conditions.

Environmental Health requested a contamination report. Following submission of a Phase 1 Preliminary Risk Assessment and a Phase 2 Generic Quantative Risk Assessment, EHD advised that the proposed development was acceptable.

Following submission of the Phase 1 Preliminary Risk Assessment and a Phase 2 Generic Quantative Risk Assessment, NIEA Regulation Unit advised that the proposed development was acceptable.

Historic Environment Division (HED) Historic Buildings and Historic Monuments advised that they had no objections to the proposal.

NI Water advised that there is no capacity at the WWTW. However as approval has previously been granted for a development of seven townhouses and a material start has been made on that development, the developer has a 'Fall back' position, in that they could complete those seven town houses without any further permissions being sought. Therefore in this instance it is my considered opinion that this application should be progressed without the need for any further amendments being required in this respect.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Approve is recommended

On consideration of the above, it is my opinion that planning permission should be approved subject to the conditions listed below:-

Approval Conditions

Condition 1

As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this

permission.

Reason: Time Limit.

Condition 2

If during the development works, new contamination or risks to the water environment are encountered which have not previously been identified, works should cease and the Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance available at: <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>.

In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Planning Authority in writing, and subsequently implemented and verified to its satisfaction.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

Condition 3

After completing any remediation works required and prior to operation of the development, a verification report needs to be submitted in writing and agreed with the Planning Authority. This report should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance. The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

Condition 4

The development shall not be occupied until the remedial measures detailed in section 8 of the contaminated land report from O'Sullivan Macfarlane Ltd, dated 28 March 2022, Report No. P1072, have been fully implemented and verified to the satisfaction of Planners in consultation with Mid Ulster District Council and the Northern Ireland Environment Agency

Reason: To protect future site users from land contamination.

Condition 5

Verification documentation shall be submitted in the form of a verification report, to Mid Ulster District Council and the Northern Ireland Environment Agency. The report shall describe all the remediation and monitoring works undertaken and shall demonstrate the effectiveness of the works in managing and remediating all the risks posed by contamination.

Reason: To protect future site users from land contamination.

Condition 6

In the event that previously unknown contamination is discovered falling outside the scheme of the approved remediation strategy, development on the site shall cease

pending submission and agreement of a written report, detailing the proposed investigation, risk assessment and remediation scheme, by Planners in consultation with Mid Ulster District Council and the Northern Ireland Environment Agency. Development works shall not resume until the approved written report has been fully implemented to the satisfaction of Planners in consultation with Mid Ulster District Council and the Northern Ireland Environment Agency.

Reason: To protect future site users from land contamination.

Condition 7

The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

The Department for Infrastructure hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 07/3 bearing the date stamp 19 November 2021

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

Condition 8

No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road including footway improvements along Hammond Street have been completed in accordance with the details outlined blue on Drawing No 07/3 bearing the date stamp 19 November 2021. The Department for Infrastructure Roads, hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

Reason: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the development are carried out.

Condition 9

No dwelling(s) shall be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of the development.

Reason: To ensure the orderly development of the site and the road works necessary to provide satisfactory access to each dwelling.

Informative 1

"The applicant is advised to refer to the informative advice provided by consultees in their responses which are available to view at www.midulstercouncil.org. The applicant is also advised that this permission does not confer title. Please ensure that you control all the lands necessary to carry out the proposed development".

Case Officer: Malachy McCrystal
Date: 19 August 2022

ANNEX	
Date Valid	12 June 2020
Date First Advertised	23 June 2020
Date Last Advertised	23 June 2020
Details of Neighbour Notification (all addresses) The Owner / Occupier 5 Hammond Street, Moneymore, Londonderry, BT45 7PS The Owner / Occupier 7 Hammond Street, Moneymore, Londonderry, BT45 7PS The Owner / Occupier Flat 2, 18 Stonard Street, Moneymore, Londonderry, BT45 7PN The Owner / Occupier 16 Stonard Street, Moneymore, Londonderry, BT45 7PN The Owner / Occupier 1B , Hammond Mews, Moneymore, Londonderry, BT45 7PU The Owner / Occupier Flat 1, 18 Stonard Street, Moneymore, Londonderry, BT45 7PN The Owner / Occupier 1A , Woodvale Crescent, Moneymore, Londonderry, BT45 7PT The Owner / Occupier 4 Bridger Street, Moneymore, Londonderry, BT45 7PP The Owner / Occupier 1 Old Mill Court, Moneymore, Londonderry, BT45 7PJ The Owner / Occupier 9 Old Mill Court, Moneymore, Londonderry, BT45 7PJ The Owner / Occupier 8 Old Mill Court, Moneymore, Londonderry, BT45 7PJ The Owner / Occupier 7 Old Mill Court, Moneymore, Londonderry, BT45 7PJ The Owner / Occupier 6 Old Mill Court, Moneymore, Londonderry, BT45 7PJ The Owner / Occupier 1 Hammond Mews, Moneymore, Londonderry, BT45 7PU The Owner / Occupier 16 Bridger Street, Moneymore, Londonderry, BT45 7PP The Owner / Occupier 14 Bridger Street, Moneymore, Londonderry, BT45 7PP The Owner / Occupier 12 Bridger Street, Moneymore, Londonderry, BT45 7PP The Owner / Occupier 10 Bridger Street, Moneymore, Londonderry, BT45 7PP	

The Owner / Occupier
 Flat 5, 18 Stonard Street, Moneymore, Londonderry, BT45 7PN
 The Owner / Occupier
 6 Bridger Street, Moneymore, Londonderry, BT45 7PP
 The Owner / Occupier
 2 Bridger Street, Moneymore, Londonderry, BT45 7PP
 The Owner / Occupier
 1 Hammond Street, Moneymore, Londonderry, BT45 7PS
 The Owner / Occupier
 3 Hammond Mews, Moneymore, Londonderry, BT45 7PU
 The Owner / Occupier
 2 Hammond Mews, Moneymore, Londonderry, BT45 7PU
 The Owner / Occupier
 Flat 3, 18 Stonard Street, Moneymore, Londonderry, BT45 7PN
 The Owner / Occupier
 8 Bridger Street, Moneymore, Londonderry, BT45 7PP
 The Owner / Occupier
 1B , Woodvale Crescent, Moneymore, Londonderry, BT45 7PT
 The Owner / Occupier
 3 Hammond Street, Moneymore, Londonderry, BT45 7PS
 The Owner / Occupier
 1A , Hammond Mews, Moneymore, Londonderry, BT45 7PU
 The Owner / Occupier
 2 Old Mill Court, Moneymore, Londonderry, BT45 7PJ
 The Owner / Occupier
 3 Old Mill Court, Moneymore, Londonderry, BT45 7PJ
 The Owner / Occupier
 4 Old Mill Court, Moneymore, Londonderry, BT45 7PJ
 The Owner / Occupier
 5 Old Mill Court, Moneymore, Londonderry, BT45 7PJ
 The Owner / Occupier
 Flat 4, 18 Stonard Street, Moneymore, Londonderry, BT45 7PN

Date of Last Neighbour Notification	3 July 2020
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Date of EIA Determination	
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ES Requested	<events screen>
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Planning History

Ref: I/2010/0391/F

Proposals: Proposed change of unit type from 14 apartments to 7 no 2 bed townhouses in 2 block of 3 and 4 with associated Road

Decision: PG

Decision Date: 17-JUN-11

Ref: LA09/2018/0427/F

Proposals: New underground gas transmission pipeline (intermediate pressure) approximately 3.5km in length, both in road and off road with associated temporary site works, including open cut excavation and horizontal directional drilling for pipe installation, and temporary storage area for pipes and soil.

Decision: PG

Decision Date: 04-JUL-18

Ref: I/2001/0872/A

Proposals: Retention of hanging and wall signs.

Decision: CG

Decision Date: 13-FEB-02

Ref: I/1999/0601/CA

Proposals: Demolition of vacant public house (Bier Kellar) and erection of new public house , including first floor apartment.(Conservation Area Consent)

Decision: CG

Decision Date: 08-MAY-00

Ref: I/1999/0458/F

Proposals: Demolition of vacant public house (Bier Kellar) and erection of new public house, including first floor apartment.

Decision: PG

Decision Date: 05-MAY-00

Ref: I/2014/0142/F

Proposals: Demolition of extension to rear of building and conversion of the public house and function room into 4 no flats

Decision:

Decision Date:

Ref: I/1990/0080

Proposals: New Workshop Units for Office and Business Use

Decision: PG

Decision Date:

Ref: I/1984/0002

Proposals: CONVERSION OF STORE TO 3 NO. SELF CONTAINED FLATS

Decision: PG

Decision Date:

Ref: I/1997/0514

Proposals: Erection of 10 dwellings

Decision: PG

Decision Date:

Ref: I/1975/0475

Proposals: ERECTION OF TWO SUBSIDY DWELLINGS

Decision: PG

Decision Date:

Ref: I/1975/047501

Proposals: ERECTION OF TWO SEMI-DETACHED TWO STOREY DWELLINGS

Decision: PG

Decision Date:

Ref: I/1993/0082

Proposals: Erection of Store for Builders Materials

Decision: PG

Decision Date:

Ref: I/1992/4052

Proposals: Improvements to dwellings

Decision: PDNOAP

Decision Date:

Ref: LA09/2016/0706/NMC

Proposals: The change sought is to sub-divide one bedroom in each of the seven units into two Bedrooms to create seven three bedroom townhouses

There are no changes to the elevations or side layout and the 19 parking spaces provided are in excess of parking standards for seven three bedroom townhouses (i.e. 12.25 unassigned or 14 assigned spaces)

Decision: CG

Decision Date: 14-JUL-16

Ref: I/2003/0415/O

Proposals: Housing Development

Decision: PG

Decision Date: 28-JUL-03

Ref: LA09/2016/1361/RM

Proposals: Dwelling

Decision: PG

Decision Date: 18-NOV-16

Ref: LA09/2015/0634/O

Proposals: Proposed detached dwelling

Decision: PG

Decision Date: 17-NOV-15

Ref: I/2006/0973/F

Proposals: Erection of 14 No. Duplex apartments.

Decision: PG

Decision Date: 30-OCT-08

Ref: I/2000/0498/O

Proposals: Housing Development

Decision: PG

Decision Date: 08-MAR-01

Ref: LA09/2020/0667/F

Proposals: Housing development of 7 no dwelling units made up of 3 no detached units and 2 no sets of semi-detached units

Decision:

Decision Date:

Ref: I/1975/0099

Proposals: IMPROVEMENTS TO DWELLING HOUSE

Decision: PG

Decision Date:
 Ref: I/1975/0017
 Proposals: CONVERSION OF DWELLING TO GROCERY SHOP
 Decision: PR
 Decision Date:
 Ref: I/1975/0336
 Proposals: EXTENSION TO DWELLING
 Decision: WITHDR
 Decision Date:
 Ref: I/1976/0059
 Proposals: IMPROVEMENTS TO DWELLING
 Decision: PG
 Decision Date:
 Ref: I/1990/6016
 Proposals: Housing Development Hammond Street Moneymore
 Decision: QL
 Decision Date:
 Ref: I/1993/6060
 Proposals: Site Hammond Street Moneymore
 Decision: QL
 Decision Date:
 Ref: I/1997/0400
 Proposals: 2 No. Flats and 3 No. Detached Dwellings, change to external finishes
 Decision: PG
 Decision Date:
 Ref: I/2014/0156/F
 Proposals: Demolition of extension to rear of building and conversion of the public house and function room into 4 no. flats
 Decision: PG
 Decision Date: 14-MAY-15

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR
 Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR
 NI Water - Multiple Units West-Substantive: TBCResponseType: FR
 Historic Environment Division (HED)-Substantive: YResponseType: FR
 NI Water - Multiple Units West-Substantive: TBC
 NIEA-Substantive: YResponseType: FR
 NI Water - Multiple Units West-Substantive: TBC
 DFI Roads - Enniskillen Office-Substantive: YResponseType: FR
 NI Water - Multiple Units West-Substantive: TBC
 DFI Roads - Enniskillen Office-Substantive: YResponseType: FR
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 DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR
Environmental Health Mid Ulster Council-Substantive: TBC
NIEA-Substantive: TBCResponseType: FR

Drawing Numbers and Title

Site Layout or Block Plan Plan Ref: 02/2
Road Access Plan Plan Ref: 07/3
Road Access Plan Plan Ref: 07/2
Road Access Plan Plan Ref: 07/1
Road Access Plan Plan Ref: 07
Site Layout or Block Plan Plan Ref: 02/1
Proposed Elevations Plan Ref: 06
Proposed Elevations Plan Ref: 05
Proposed Elevations Plan Ref: 04
Proposed Elevations Plan Ref: 03
Site Layout or Block Plan Plan Ref: 02
Site Location Plan Plan Ref: 01
Site Layout or Block Plan Plan Ref: 02/2

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.6
Application ID: LA09/2020/0757/F	Target Date: 24 August 2020
Proposal: Change of use from yard to smoking area with associated internal alterations to provide access	Location: 86 Chapel Street Cookstown
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Raymond Forbes 86 Chapel Street Cookstown	Agent Name and Address: Aps Architects LLP 4 Mid Ulster Business Park Cookstown BT80 9LU
Executive Summary: Refuse	
Characteristics of the Site and Area The site is located within the development limits of Cookstown, within undesignated white lands as per defined by the Cookstown Area Plan 2010. The site is identified as 86 Chapel Street, Cookstown where currently on the site sits a licensed public house known as 'Thirsty Js'. The building is located to the South of the town centre and fronts directly onto the eastern side of Chapel Street. The adjoining property to the South of No.86, fronting onto Chapel St, is an off licence whilst another adjoining property to the rear fronting onto the Fountain Road is a vacant commercial unit. The proposal is to extend the licenced premises into the area of the previous retail outlet, which had been an electrical shop. Currently deliveries to the existing bar would seem to be serviced via a right of way, which also provides access the rear of other properties on Chapel Street as well as some residential properties on Fountain Road. The surrounding area is urban in character. The site is located to the South of Cookstown Town Centre and within the development limits as designated in the	

Cookstown Area Plan 2010. The site fronts onto the A29 Protected Route. There is a mixture of land uses in the immediate vicinity, residential and commercial. To east; semi detached dwellings with detached dwellings to rear of same. To south; vacant car sales garage and associated compound, with detached residential units beyond on Fountain Road. To west; existing two story building with off sales to ground floor. Beyond that Chapel Street and residential properties beyond again. To north; residential properties, some of which have rear access from the adjoining right of way.

Relevant planning history

I/2014/0193/F - Proposed alterations and single storey extension to Moe's Bar - 86 Chapel Street, Cookstown - Permission Refused - 06.05.2015

LA09/2017/1027/F - Demolition of existing porch area, relocation of existing smoking area - 86 Chapel Street, Cookstown - Application Withdrawn

Representations

4 neighbour notifications were sent out however 9 objections have been received in connection with this application. Summary of objections are as below;

- Unauthorised development
- Creates nuisance for family
- In breach of Covid-19 restrictions - patrons entering via new side door when main door is closed when at full capacity
- Previous applications for a smoking area such as this previously refused, to take the appeal into account.
- Fears of anti-social behaviour
- Neighbours being denied vehicular access to their homes by careless parking by patrons and insufficient parking for the facility.
- Blocking of access by musicians/bar staff poses a serious health risk in the event of an emergency
- Misrepresentation of the development applied for - it is a beer garden not a smoking area.
- Given the noise factors the neighbour notification period should be extended beyond the 90m.
- The removal of the noise shielding that the existing premises provided to local residents, from internal noise.
- Clarification of why it appears to have shrunk in size.
- The suggestion of the additional area is for 'ancillary' use and 'storage' appears inaccurate.
- New door on Fountain Road could create long queues for potential events, but also a spill out area for patrons at the end of night.

Description of Proposal

This is a full application for the change of use from yard to smoking area with associated internal alterations to provide access located at 86 Chapel Street, Cookstown.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Cookstown Area Plan 2010

Strategic Planning Policy Statement (SPPS)

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

The 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. Under the SPPS, the guiding principle for planning authorities in determining applications is that sustainable development, should be permitted having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

Parking and traffic issues

Parking Standards document sets out the parking standards that should be taken into regard in assessing proposals for new development. The principle objective is to ensure that in assessing development proposals, appropriate consideration is given to the accommodation of vehicles attracted to the site within the wider government policy aimed at promoting modal shift to more sustainable forms of transport. I note that currently there is no parking provision at the property with reliance on on-street parking entirely. I note that a consultation was sent to DFI Roads, who in their response stated that no intensification of use has been demonstrated on the P1 form, as a result, DFI Roads has no objection. I note that this a smaller scheme than previously refused on the site and as it has been demonstrated to be no intensification then the existing arrangements should be sufficient.

Noise and general disturbance

It must be taken into account that the Commissioner in appeal 2015/A0057, acknowledges that guidance DCAN7 states that public houses can be a source of annoyance due to problems of noise and disturbance. The appeal sites context is that of an existing public house in a mixed use area at a busy junction. This is not a noise sensitive location and it is an area where a degree of disturbance is inevitable. Paragraph 6.8 of the appeal decision acknowledges an open courtyard would be a new source of noise along Fountain Road, different in character from the existing noise of traffic.

The proposed yard is attached to the rear of an existing bar and extends to the rear towards existing residential property situated on Fountain Close/Fountain Road. Numerous letters of objection have been raised in relation to noise and anti-social behaviour and it should be noted that comments made by the Environmental Health section relate only to noise from within the curtilage of the property. Some of the issues raised by the objectors is that the smoking area is being used as a beer garden with live music being played (and advertised) from within this beer garden area. No noise impact assessment has been submitted in relation to noise and it cannot be determined from

the application whether the smoking area will include amplified music, televisions and/or seating for patrons. The existing bar area has a valid Entertainment Licence and we would also have concern about noise breakout from the existing bar into the proposed smoking area as well as noise generated from within the proposed area. For that reason, the applicant is requested to provide additional information to support this application. After numerous requests for additional information, no noise information has been submitted, as such I must recommend refusal on the basis of insufficient information.

Policy SETT 1 Settlement Limits within the Plan outlines a series of criteria by which all development proposals inside of settlements will be expected to adhere to. I am content that as this is a change of use that the scale, form, design and use of materials are acceptable to the area. I note that there is no conflict with conservation interests. As stated by DFI Roads there are satisfactory arrangements and parking as there is no intensification where there is suitable sewage disposal available. I am content that there is no additional infrastructure to facilitate the development nor is there any key site requirements. I am content that the proposal does not conflict with the opportunities and constraints of the immediate area. However as stated that there is insufficient information submitted to demonstrate that this proposal will not result in an adverse impact on neighbouring amenity by way of noise disturbance.

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 response to the comments made by the objectors; to start in terms of the unauthorised development I note that there is a live enforcement case and planning application to rectify this issue. In terms of the noise nuisance I agree that insufficient information has been provided to demonstrate that the proposal does not create an adverse impact on neighbouring amenity. With regards to Covid-19 breaches this would have been a matter for the police, planning control only has concern with the planning application. I note that there is substantial history on this one and has been taken into consideration and as such refusal is recommended. In terms of the new door leading to queues/potential spill out of patrons that could lead to anti-social behaviour this would again be a matter for the police.

In terms of the nearby residents being unable to gain vehicular access as a result of patrons and that there is insufficient parking, I note that DFI Roads have not offered an objection and confirmed that there was no intensification of the use, as such existing arrangements should be sufficient. Anything beyond this is outside planning control and becomes a civil matter or a matter for the police.

In terms of the blocking of access by musicians/bar staff poses a serious health risk in the event of an emergency, unfortunately this is beyond planning control and for other statutory bodies to manage. I acknowledge the concern over the misrepresentation of the development applied for, in that it is a beer garden not a smoking area, it is difficult to distinguish between the two but refusal is recommended regardless. With regards to

given the noise factors the neighbour notification period should be extended beyond the 90m, I note that the appropriate neighbours were notified as per legislation and this is why the application is advertised in the local papers.

In terms of the removal of the noise shielding that the existing premises provided to local residents, from internal noise, noise has been a concern in this application and insufficient information has not been provided. In terms of clarification of why it appears to have shrunk in size, I note that this is a reduced scheme in comparison to that previously. Finally, the suggestion of the additional area is for 'ancillary' use and 'storage' appears inaccurate, this has been assessed and the recommendation has been made.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refuse is recommended

To Committee - Refusal - Insufficient information and 9 objections received.

Refusal Reasons

Reason 1

The proposal has failed to provide sufficient information to demonstrate the proposal does not impact neighbouring amenity by way of noise and nuisance.

Case Officer: Peter Henry

Date: 16 August 2022

Drawing Numbers and Title
Proposed Plans Plan Ref: 02 Site Location Plan Plan Ref: 01
Notification to Department (if relevant)
Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.7
Application ID: LA09/2020/1019/F	Target Date: 20 October 2020
Proposal: Proposed change of use and extensions to dwelling to provide a multi purpose health and well being centre (including Chiropractor and physiotherapist)	Location: 30 Coleraine Road Maghera
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Michael Kelly 31 Coleraine Road Maghera	Agent Name and Address: D M Kearney Design 2A Coleraine Road Maghera BT46 5BN
Executive Summary:	
Characteristics of the Site and Area <p>The site is located within the settlement development limits of Maghera on an area of whiteland zoned and just outside the town centre as defined within the Magherafelt Area Plan 2015.</p> <p>The site contains an existing vacant two storey detached property with an attached single domestic garage and a detached double domestic garage. The two storey property was formerly a dwelling with direct access onto the Coleraine Road - A29 Protected Route. Although the dwelling is vacant, it is still capable of being inhabited. There is a large hard surfaced area to the immediate south of the site which is currently used by a third party as a private car park. This hard surfaced area was formerly the private amenity space of the dwelling. The site is bounded to the west by a 2.7m high concrete wall, to the north by a 1.8m high solid timber panel fence and a 2.0m high concrete wall around the domestic garage which is set to the rear northern corner. The wall and fence mark the boundary with the adjoining property at No.44 which is a low two</p>	

storey detached dwelling with 2no. 1st floor windows and 1 no. ground floor window in the side elevation looking into the site. The subject property has no windows facing the adjoining No.44.

Description of Proposal

The proposal is for the change of use and extensions to dwelling to provide a multi purpose health and well being centre (including Chiropractor and physiotherapist). The proposal involves the sub division of the former overall site in that the private amenity space is being developed separately and is not part of this application. A new 1.8m high black mesh boundary fence is being proposed along the south of the dwelling and leaving a 3.3m separation between the fence and the building. A new vehicular access is being proposed with a sliding gate and car paring along the eastern boundary, at the rear of the public footpath. The northern and western boundaries are not being altered and should remain as existing.

The single garage is to be demolished and replaced with a new two storey extension, providing a lobby, stairwell and a lift shaft with a single side window overlooking No.44. A new front projection is proposed in place of the existing sun lounge. This will be a two storey structure and will provide additional treatment rooms.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

ASSESSMENT OF POLICY AND OTHER MATERIAL CONSIDERATIONS

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

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

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.

PPS 4 - Planning and Economic Development.

Economic Development in Settlements - PED 1 states that within Villages and smaller rural settlements;

Planning History

H/1984/0401 - Erection of double garage - Approved

Planning Assessment

Magherafelt Area Plan 2015

The Strategic Planning Policy Statement for Northern Ireland (SPPS)

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

The 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.

The Magherafelt Area Plan 2015 operates as the local development plan of the area the application site lies within. Policy COY 1 - Community Uses states that planning permission will be granted for community uses within settlement limits provided all the following criteria are met:

- There is no significant detrimental effect on amenity;
- The proposal does not prejudice the comprehensive development of the surrounding lands, particularly on zoned sites.
- The proposal is in keeping with the size and character of the settlement and its surroundings
- Where necessary, additional infrastructure is provided by the developer; and
- There are satisfactory access, parking and sewage disposal arrangements.

I am content that all the above criteria has been met given the size of the proposed extension, which is relatively small and as the existing boundary fence and wall are being retained along the common boundary with No.44, there will be no detrimental effect on amenity. Although there is one additional first floor window facing No.44, this is located on a stairwell and will not cause an issue of overlooking or loss of privacy.

The proposal does not prejudice the potential development of the remainder of the site, on which there is a current application for a change of use to a private car park in connection with the Hotel located at the junction of Coleraine Road and Main Street.

The proposal is in keeping with the surrounding area and is not much larger in terms of footprint or scale and massing than the existing dwelling.

No additional infrastructure is required.

Additional dedicated car parking is proposed within the site for customers. This is a secure car park enclosed by perimeter fencing and access gate. DfI Roads have advised

that the proposal is acceptable in terms of the access and parking arrangements.

Policy PED 9 - General criteria for economic development; states that a proposal, in addition to other policy provisions of this PPS, will be required to meet all of the stated criteria.

The proposed change of use is considered to satisfy all the criteria of policy PED 9 and is therefore acceptable in that respect.

Summary of consultee responses

DfI Roads - No objection subject to the suggested conditions and informatives.

Environmental Health - No objection subject to the suggested informatives.

NI Water - No objection.

Recommendation - Approve subject to the conditions listed below:-

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Approve is recommended

Approve subject to the conditions listed below:-

Approval Conditions

Condition 1

As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

Condition 2

The vehicular access including visibility splays shall be provided in accordance with Drawing No 01/2 bearing the date stamp 11 May 2022 prior to the commencement of any other development hereby permitted.

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

Condition 3

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 01/2 bearing the date stamp 11 May 2022. 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 movement of vehicles.

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

Informative 1

"The applicant is advised to refer to the informative advice provided by consultees in their responses which are available to view at www.midulstercouncil.org. The applicant is also advised that this permission does not confer title. Please ensure that you control all the lands necessary to carry out the proposed development".

Case Officer: Malachy McCrystal

Date: 19 August 2022

ANNEX	
Date Valid	25 August 2020
Date First Advertised	8 September 2020
Date Last Advertised	8 September 2020
Details of Neighbour Notification (all addresses) The Owner / Occupier 13 Tirkane Court Maghera Londonderry BT46 5JD The Owner / Occupier 12 Tirkane Court Maghera Londonderry BT46 5JD The Owner / Occupier 11 Tirkane Court Maghera Londonderry BT46 5JD The Owner / Occupier 37 Coleraine Road Maghera Londonderry BT46 5BN The Owner / Occupier 33 Coleraine Road Maghera Londonderry BT46 5BN The Owner / Occupier 44 Coleraine Road Maghera Londonderry BT46 5BN The Owner / Occupier 35 Coleraine Road Maghera Londonderry BT46 5BN	
Date of Last Neighbour Notification	23 September 2020
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR NI Water - Single Units West-Substantive: TBCResponseType: FR NI Water - Strategic Applications-Substantive: TBCResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR DFI Roads - Enniskillen Office-dfi Roads Consultation3.docx	

Drawing Numbers and Title
Site Location Plan Plan Ref: 01/2 Site Location Plan Plan Ref: 01/1 Site Location Plan Plan Ref: 01 Proposed Plans Plan Ref: 02
Notification to Department (if relevant)
Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.8
Application ID: LA09/2021/0676/O	Target Date: 29 June 2021
Proposal: Proposed relocation of existing approved site LA09/2018/1646/O to opposite side of road	Location: 70M South West Of 11 Motalee Road Magherafelt
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mrs Gillian Montgomery 29 Thornhill Road Thornhill Glebe Pomeroy Dungannon	Agent Name and Address: Cmi Planners 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	
Characteristics of the Site and Area <p>The proposed site is located approximately 0.63km north west of the development limits of Magherafelt and from this the site is located within the open countryside as per defined in the Magherafelt Area Plan 2015. The red line covers part of an existing agricultural field on the east of Motalee Road, where permission was previously granted for a dwelling under reference LA09/2018/1646/O and then extends across the road to the west and is part of a larger agricultural field where the applicant wishes to site. The proposed site is relatively flat and has strong mature boundaries on all sides apart from the north west which is currently undefined and extends into the rest of the field. The predominant land use is of an agricultural nature, with single dwellings and associated outbuildings also visible in local area.</p> <p>Relevant Planning History</p> <p>LA09/2018/1646/O- Proposed site for dwelling and domestic garage / store under policy</p>	

CTY 10 - dwelling on a farm. 55mts South / South East of No. 11 Motalee Road, Magherafelt. Permission Granted 27.03.2019

LA09/2019/0710/O- Proposed "off site" replacement dwelling & domestic garage/store. "under policy CTY 3". 70m SW of 11 Motalee Road, Magherafelt. Permission Refused 29th December 2020.

Description of Proposal

This is an outline planning application for the proposed relocation of existing approved site LA09/2018/1646/O to opposite side of road.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Magherafelt Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS3: Access, Movement and Parking

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

The site is located in the open countryside as defined by the Cookstown Area Plan 2010. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes dwellings on farms. 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.

A consultation was issued to DAERA to establish if the farm business is active and have been established for at least 6 years. DAERA responded to confirm the farm business has been in existence for 6 or more years however no payments are being claimed by the farm business, However the site is located on lands claimed by another farm business with the land being let to another farmer, therefore I am content the proposal complies with Criteria A.

In relation to criteria B an objection raised the comments made by the agent on another application for the same applicant, (LA09/2019/0710/O) which was for the site this application proposes to site. Whilst addressing the committee the agent stated that "the applicants sister had been gifted the site of the approved dwelling by the applicant and similarly the applicants other sister will be gifted the site for this application." Paragraph 5.40 of PPS21 states that for the purposes of CTY 10, the term sold off means any development opportunity disposed of from the farm holding to any other person including a member of the family. A land registry check was carried out on 9th August 2022 and it shows that this site is still legally in the ownership of the applicant. I am content that Criteria B has been met.

Criteria C states that any new building should be visually linked with or sited to cluster with an established group of buildings on the farm. The existing farm buildings have been identified on the site location map being on the opposite side of the road, north east of the proposed siting. I am content there is a visual link between the proposed site and the existing farm buildings opposite. It is noted that the proposed site and the existing farm buildings are well screened from the public road and as per paragraph 5.41 of PPS 21 which states, "planning permission can be granted for a new dwelling even though the degree of visual linkage between the two is either very limited, or virtually non-existent due to the amount of screening vegetation."

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. The site is currently well screened from the public road and I am content that it will integrate into the landscape with some additional landscaping to aid integration. A ridge height condition should be applied to any approval to limit the dwelling to 6.5m above finished floor level.

Policy CTY 14 states 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. However as determined by application LA09/2019/0710/O and

appeal reference 2019/A0199 a dwelling at this location, if permitted, would result in the addition of ribbon development along the Motalee Road and would result in the creation of a ribbon and a suburban build-up of dwellings. Therefore, this proposed re-location fails to meet Policy CTY 14.

Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. As previously mentioned a building at this location would result in the addition of a ribbon of development along the Motalee Road. This site does not meet the exception criteria contained within CTY 8 and therefore fails to comply.

There is ample space within this site to provide a private package treatment provision. The onus is on the landowner/developer to ensure there are appropriate consents in place for any private package treatment provision. In my view, the proposal does not offend policy CTY16 of PPS21.

PPS 3: Access, Movement and Parking

DfI Roads were consulted and offered no objection.

Other Material Considerations

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

The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY8 and CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along the Motalee Road and would, if permitted, result in the creation of a ribbon and suburban build up of dwellings.

Case Officer: Ciaran Devlin

Date: 18 August 2022

ANNEX	
Date Valid	4 May 2021
Date First Advertised	18 May 2021
Date Last Advertised	18 May 2021
Details of Neighbour Notification (all addresses) The Owner / Occupier 10 Motalee Road Magherafelt Londonderry BT45 5HG The Owner / Occupier 8 Motalee Road Magherafelt Londonderry BT45 5HG The Owner / Occupier 6 Motalee Road Magherafelt Londonderry BT45 5HG The Owner / Occupier 6 Motalee Road, Magherafelt, Londonderry, BT45 5HG	
Date of Last Neighbour Notification	3 June 2021
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: H/2003/0653/F Proposals: New domestic garage. Decision: PG Decision Date: 18-SEP-03 Ref: H/1993/0008 Proposals: BUNGALOW Decision: PR Decision Date: Ref: LA09/2017/1775/O Proposals: Proposed dwelling and garage Decision: Decision Date: Ref: LA09/2018/1646/O Proposals: Proposed site for dwelling and domestic garage / store under policy CTY 10 dwelling on a farm Decision: PG Decision Date: 26-MAR-19	

Ref: LA09/2019/0710/O

Proposals: Proposed "off site" replacement dwelling and domestic garage / store: "under policy CTY 3"

Decision: PR

Decision Date: 06-DEC-19

Ref: H/1998/0334

Proposals: EXT TO DWELLING AND NEW GARAGE

Decision: PG

Decision Date:

Ref: LA09/2021/0676/O

Proposals: Proposed relocation of existing approved site LA09/2018/1646/O to opposite side of road

Decision:

Decision Date:

Ref: H/2002/0894

Proposals: Disposal of railway land.

Decision: 211

Decision Date: 03-MAR-04

Ref: H/1993/0066

Proposals: CONVERSION OF GARAGE TO PROVIDE RECREATION ROOM ALSO CAR

PORT AND GARDEN STORE

Decision: PG

Decision Date:

Ref: H/1996/0582

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

DAERA - Coleraine-Substantive: TBCResponseType: FR

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable

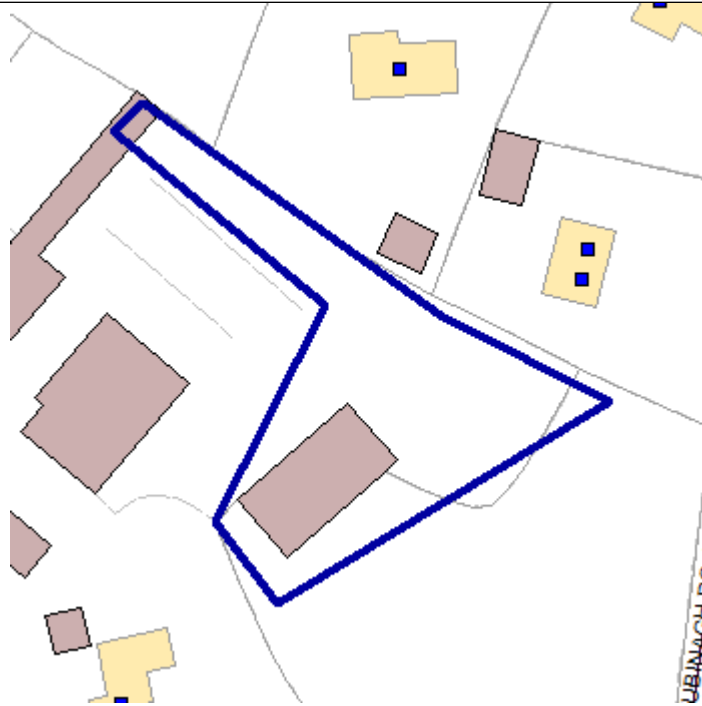


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.9
Application ID: LA09/2021/0698/F	Target Date: 2 July 2021
Proposal: Proposed Retention of and additional concrete walls and yard area	Location: Land At 9 Crubinagh Road Dungannon BT71 7PL
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Adrian Daly 9 Crubinagh Road Dungannon BT71 7PL	Agent Name and Address: Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBC
	Environmental Health Mid Ulster Council	Substantive: TBC

Representations:

Letters of Support	0
Letters of Objection	2
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

This proposal was submitted in response to enforcement action on the unauthorised development regarding the extension of a farm holding.

Objections have been submitted from neighbouring dwelling with concerns regarding impacts on their amenity as a result of noise, smell and vermin nuisance.

Characteristics of the Site and Area

This application occupies a portion of the farmyard associated with No 9 Crubinagh Road, Dungannon. It is less than 1.5 kilometres to the north west of Eglish village and sits approximately 4.5 kilometres to the west of the Moy.

It is located in the rural countryside as defined in the Dungannon and South Tyrone Area Plan (DSTAP). The surrounding countryside is characterised predominantly by low lying agricultural land with some groupings of poultry houses in the immediate vicinity.

Detached dwellings are peppered throughout the area along the minor road network or as part of farmsteads along a laneway.

The applicant's dwelling and the wider farmyard of which this application site is located to the rear, is accessed off the Eglish Road which runs south of the site. This site includes the eastern part of the established farm holding including the entire rear north eastern boundary of the farmyard where 3 open silo pits are located. The north eastern boundary of the site is hedgerow with some trees also. Abutting this are 2 dwellings where the rear curtilage of No 77 Derryfubble Road at the western part and the side curtilage of No 1 Crubinagh Road at the eastern part.

The south eastern boundary is undefined on the ground as it runs parallel to the wall which has been unlawfully constructed. The south western and western boundaries dissect the farmyard and are not clearly defined by any features or buildings.

The site sits at a level above the surrounding minor road network. The application site is mostly visible from the Crubinagh Road which runs to the east of the site and the Derryfubble Road sits to the north of the site.

Description of Proposal

This application seeks full planning permission for the retention of and additional concrete walls and yard area on land at 9 Crubinagh Road, Dungannon. The existing wall to be retained measures a length of 54 metres and runs close to the south eastern site boundary. Its height ranges from 1.8 – 2.8 metres from yard level, however when viewed from the public road network and the field level, this wall measures 3 – 3.9 metres high. The steel uprights are 6.7 metres in height and are coloured red. The concrete panels which are used to construct the wall is approximately 0.2 metres deep. The agent has stated this wall is necessary to define the boundary of the farm and to enclose the increased concrete yard area.

An open silo pit is included within the northern part and the eastern corner proposes a concreted area. A recently constructed shed is in the southern corner of the site with a concrete apron yard area around. The proposed new wall to enclose the farm yard along the northern boundary runs approximately 82 metres in length. This will be along the rear boundary of No 77 Derryfubble Road and the side boundary of No 1 Crubinagh Road.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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. The period for Counter Representations closed on 18th December 2020. The Council submitted the Draft Plan Strategy to the Department for Infrastructure (DfI) on 28th May 2021 for them to carry out an Independent Examination. In light of this, the Draft Plan Strategy currently does not yet carry any determining weight.

The Strategic Planning Policy Statement (SPPS) outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. The SPPS advises that the policy provision of PPS 21: Sustainable Development in the Countryside are retained and it is this policy which this application will be assessed under.

PPS 21 is the overarching policy for development in the countryside. Policy CTY1 - Development in the Countryside outlines certain instances where development is in principle, considered acceptable in the countryside, subject to criteria. Planning permission will be granted for development on an active and established agricultural and forestry holding under Policy CTY 12 where it is demonstrated criteria has been met. It was evident at the time of the site inspection that the applicant has an existing farm which includes the application site and adjoining lands. Through the processing of application LA09/2019/0482/F DAERA confirmed that the current business ID has not been existence for more than 6 years, but was created a result of a merger between 2

farm businesses. Both these businesses did claim SFP/SAF subsidies from 2005 up to and including 2015 while the new amalgamated business ID has claimed subsidies for 2016-2019. This was accepted as being suffice to demonstrate the farm is both active and established. I am content this proposal is deemed necessary for the efficient use of and supports the growing needs of the existing agricultural business.

The surrounding area is characteristically rural with agriculture being the dominant landuse. This application site represents an organic growth of an established farm holding which was necessary to accommodate the increase in activity on the farm and to meet modern day standards. I am satisfied the development to be retained and the proposed works is appropriate in the rural countryside, with the concrete panels and concrete yard area typical features in farmyards.

The location of the wall to be retained is quite evident, particularly when travelling along the Crubinagh Road. Although it sits 30 – 70 metres back from the Crubinagh Road, its position on an elevated site above this road and lack of vegetation increases its presence and exposure in the landscape. Initially this boundary was granted planning permission for a fence with trees planted along to screen it from the road in LA09/2019/0482/F. The proposed trees were also included as a condition of this permission. I feel it necessary in the event of a planning approval that a condition be attached referring to a deadline for this additional planting to have occurred. Although the scale of this wall is quite large, it is required due to the difference in height between the level of the yard and the existing field. The proposed wall would also benefit from a supplementation of planting which would offer more enclosure for the amenity areas of the neighbouring properties bounding the site. When this additional planting becomes established it should offer some integration and reduce the severity of the appearance of the concrete wall on the landscape.

I am satisfied this development proposal will not have an adverse impact on the natural or built heritage as it is not located within any protected area or priority habitats. There are no structures to accommodate livestock in this application. However based on the concerns highlighted from the neighbouring objector and the recommendation from Environmental Health, a condition restricting the storage of any livestock or feed in the concrete yard area should potentially alleviate their concerns. The inclusion of a timescale whereby the planting must be completed will also help protect amenity of residential dwellings outside the holding.

As detailed in my assessment above, I consider the materials in this proposal and its design are characteristic features in farmyards.

Subject to planning permission being granted and the inclusion of the condition relating to the planting of screening, I believe this development proposal should not cause a detrimental change to the rural character of this area. It is my opinion this proposal reads as a progressive expansion of an established and active farm business.

Consultations and Representations

This application was advertised in the local press and two neighbours were notified, in line with the Council's statutory duty. There were objections submitted from the neighbouring dwelling No 1 Crubinagh Road. They highlighted a number of concerns

regarding the unauthorised work on the site, noise and smell nuisances as well as an increase in rodent and insect activity.

DFI Roads were not consulted on this application as it does not entail any alteration or intensification of the existing access at this application site.

Mid Ulster Council's Environmental Health Section were consulted on this application and requested further details on the end use of the yard area in this proposal in order to assess a potential loss of amenity to neighbouring properties. The agent confirmed this yard area would be concreted and used for the storage of farm machinery, trailers and other farming equipment. Environmental Health responded stating they do have concerns regarding the loss of amenity to the adjacent properties, however they conclude that it should be possible to avoid any impact with the inclusion of a condition restricting what can be kept in this open yard area.

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

Neighbour Notification Checked	Yes/No
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Summary of Recommendation:
Approve is recommended

Approval Conditions
Condition 1 As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
Reason: Time Limit
Condition 2 The concrete yard area shall not be utilised for the storage of animal manure of animal feed.
Reason: In order to protect the amenity of adjacent residential properties.

Condition 3

All additional new planting as detailed on Drawing No 02 REV1 bearing the date stamp 29th November 2021 shall be carried out within the first planting season following the date of this decision. These shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice and in the event of any dying within 5 years of planting, they shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity.

Condition 4

All existing boundary vegetation identified on Drawing No 02 REV1 bearing the date stamp 29th November 2021 shall be permanently retained to their existing height.

Reason: In the interests of visual amenity.

Signature(s): Cathy Hughes

Date:

ANNEX	
Date Valid	7 May 2021
Date First Advertised	20 May 2021
Date Last Advertised	18 May 2021
Details of Neighbour Notification (all addresses) The Owner / Occupier 1 Crubinagh Road, Dungannon, Tyrone, BT71 7PL The Owner / Occupier 77 Derryfubble Road Dungannon Tyrone BT71 7PJ	
Date of Last Neighbour Notification	14 December 2021
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: M/1985/0600 Proposals: BUNGALOW, SITE NO 2 Decision: WITHDR Decision Date: Ref: M/1990/0072 Proposals: Chalet Bungalow Decision: PG Decision Date: Ref: M/1988/0285 Proposals: BUNGALOW Decision: PG Decision Date: Ref: M/2006/1403/F Proposals: Proposed 11kw o/h electric line for proposed poultry houses Decision: PG Decision Date: 15-AUG-06 Ref: LA09/2019/0482/F Proposals: Retention of cattle house and proposed new Agricultural feed storage shed Decision: PG Decision Date: 06-SEP-19	

Ref: LA09/2021/0698/F

Proposals: Proposed Retention of and additional concrete walls and yard area

Decision:

Decision Date:

Ref: M/1985/0627

Proposals: ERECTION OF BUNGALOW (SITE NO 1)

Decision: WITHDR

Decision Date:

Ref: M/1991/0477B

Proposals: Erection of Dwelling

Decision: PG

Decision Date:

Ref: M/1980/0084

Proposals: PROPOSED BUNGALOW

Decision: PG

Decision Date:

Ref: M/1991/0477

Proposals: Erection of dwelling

Decision: PG

Decision Date:

Ref: M/1988/0611

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: M/2008/0961/F

Proposals: 2 storey side extension to dwelling

Decision: PG

Decision Date: 17-OCT-08

Ref: M/1985/0536

Proposals: CONSTRUCT NEW DWELLING

Decision: PG

Decision Date:

Summary of Consultee Responses

Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR

Environmental Health Mid Ulster Council-Substantive: TBC

Environmental Health Mid Ulster Council-Substantive: TBC

Drawing Numbers and Title

Site Layout or Block Plan Plan Ref: 02 REV 1

Proposed Plans Plan Ref: 03 REV 1

Proposed Plans Plan Ref: 03

Site Layout or Block Plan Plan Ref: 02

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.10
Application ID: LA09/2021/1018/O	Target Date: 30 August 2021
Proposal: Proposed dwelling and garage	Location: 70M Se Of 5A Drumlamph Lane Castledawson
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Cathal Shivers 33 Drumlamph Lane Castledawson	Agent Name and Address: Cmi Planners Ltd 38 Airfield Road Toomebridge
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
	Historic Environment Division (HED)	Substantive: TBCResponseType: PR
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR
	DAERA - Coleraine	Substantive: TBCResponseType: FR

Representations:

Letters of Support	0
Letters of Objection	8
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Objections have been received. These have been considered as part of the assessment of this planning application. The issues raised are summarised below:

Issues raised over ownership of the lands in red

Concerns regarding to loss of privacy and overlooking at No.5a

Will impact on wildlife in the area.

Issues with visibility splays

Negative impact on the landscape and character of the area.

All material planning considerations have been addressed in the body of the report. With regards the challenge regarding ownership, the applicant submitted an amended P1 form specifically question 27 regarding the certificate of ownership. I am content that Certificate C was completed and notice was served on the relevant landowners.

Characteristics of the Site and Area

The site is located within the open countryside, outside any settlement limits as defined by the Magherafelt Area Plan 2015. The red line includes an existing access laneway and the western portion of a larger agricultural field. The site rises gently in a northern direction with mature boundaries along the northern and western boundaries. The existing access laneway has dense mature trees along it. The surrounding area is mainly agricultural in nature with dwellings located throughout. The existing agricultural buildings are located to the west of the site at the entrance point of the existing access.

Description of Proposal

This is an outline planning application for a proposed dwelling and garage.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Magherafelt Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS3: Access, Movement and Parking

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

The site is located in the open countryside as defined by the Cookstown Area Plan 2010. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes dwellings on farms. 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.

A consultation was issued to DAERA to establish if the farm business is active and have been established for at least 6 years. DAERA responded to confirm the farm business has been in existence for more than 6 years and that the farm business has claimed payments in each of the last 6 years and the site is on land which payments are being claimed by the business. I am content criteria A has been met.

In relation to criteria B, following a search on the planning portal an application LA09/2021/0211/F was approved on 21st October 2021 for Cathal Shivers who is the applicant in this case. A land registry search was carried out to ensure the development opportunity has not been sold off.

Criteria C states that any new building should be visually linked with or sited to cluster with an established group of buildings on the farm. Initially the agent identified the farm buildings being located approximately 110m North west of the application site with a third party dwelling and lands located in between. Following a land registry search and discussions with the applicant it has been clarified that these are not within the applicants ownership and the blue line has been altered to show this. Instead, the farm buildings have been identified to the north east of the site approximately 120m away, which were approved under LA09/2019/0784/F with the agent confirming works have commenced at this site. The applicant's home and garage are located approximately 140m east of the site and are visible from the application site.

The policy does not state that the buildings have to be within a certain distance, rather they should visually link or cluster. I am content there is a visual link between the application site and the applicants home and once fully constructed the farm sheds. Therefore, I am content that the proposal complies with criteria C.

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. Although the site is quite open in the countryside, I am content that it will integrate into the landscape with some additional landscaping to aid integration. Concerns were raised by an objector over the visual impact of a dwelling however, given the landscape and topography of the surrounding area I believe an appropriately designed dwelling would integrate at this location. A dwelling within this general vicinity of the red line is unlikely to raise any issues regarding overlooking or loss of privacy to any third party dwellings given the separation distance,

although when detailed plans are received at Reserved Matters stage this can be fully assessed.

Policy CTY 14 states 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. From all of this I am satisfied that the application is able to comply with CTY 14.

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and, in their response, stated that they had no objections subject to conditions.

PPS 6: Planning, Archaeology and the Built Heritage

Historic Environment Division (HED) were consulted as the site is located within an area identified as having archaeological potential. HED responded to confirm they assessed the application and are content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

Other Material Considerations

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.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

- i. the expiration of 5 years from the date of this permission; or
- ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

Condition 2

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

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

Condition 3

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

Condition 4

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

Condition 5

The dwelling hereby permitted shall have a ridge height not exceeding 7 metres above existing ground level and be designed in accordance with the design guide 'Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside'

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

Condition 6

A detailed scheme of structured landscaping for the site including along all site boundaries, shall be submitted at Reserved Matters stage at the same time as the dwelling to include details of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during first available planting season after the occupation of the dwelling which is hereby approved.

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

Signature(s): Ciaran Devlin

Date: 22 August 2022

ANNEX	
Date Valid	5 July 2021
Date First Advertised	5 July 2022
Date Last Advertised	20 July 2021
Details of Neighbour Notification (all addresses) The Owner / Occupier 5A Drumlamph LANECASTLEDAWSONMAGHERAFELTBT458EH The Owner / Occupier 5A , Drumlamph Lane, Castledawson, Londonderry, BT45 8EH The Owner / Occupier 7 Drumlamph Lane Castledawson Londonderry BT45 8EH The Owner / Occupier 5A, Drumlamph Lane, Castledawson, Londonderry, Northern Ireland, BT45 8EH The Owner / Occupier 7 Drumlamph Lane Castledawson Londonderry BT45 8EH The Owner / Occupier 5 Drumlamph Lane Castledawson Londonderry BT45 8EH	
Date of Last Neighbour Notification	5 August 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses Historic Environment Division (HED)-Substantive: TBCResponseType: PR DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR DAERA - Coleraine-Substantive: TBCResponseType: FR	

Drawing Numbers and Title
Site Location Plan Plan Ref: 01 Rev 02 Site Location Plan Plan Ref: 01 Rev 01
Notification to Department (if relevant)
Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.11
Application ID: LA09/2021/1217/F	Target Date: 18 October 2021
Proposal: Change of house type	Location: 61 Clauneo Meadows Clonoe Dungannon
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Roxborough Plant And Construction Ltd 31F Killyman Road Moy	Agent Name and Address: Roxborough Plant And Construction Ltd 31F Killyman Road Moy BT71 7SJ
Executive Summary: Site located outside and at edge of Dernagh / Clonoe settlement limits. Department previously granted dwelling and garage on site as rounding off. Agree with Department decision that this is an exception to PPS 21 and it complies with policy CTY 15 of PPS21 - The Setting of Settlements in that it will not mar the settlement limits of Dernagh / Clonoe or otherwise lead to urban sprawl. The watercourse bounding the site to the east is a natural feature defining the edge of the Dernagh / Clonoe settlement limits as they head east along the Mountjoy Rd and the proposed dwelling and garage on this site would round off the existing housing development and settlement limits.	
Characteristics of the Site and Area The site lies in the rural countryside at the edge of Dernagh / Clonoe settlement limits designated by the Dungannon and South Tyrone Area Plan 2021. The site is a relatively flat thick L-shaped plot of land situated adjacent the Mountjoy Road and running to the rear of a fenced off roadside pumping station. A mix of perimeter fencing, enclosing the aforementioned pumping station; close boarded fencing, enclosing a neighbouring dwelling; and some mature vegetation define the western boundaries of the site. The northern and eastern boundaries of the site are	

relatively undefined and bound to the outside by a watercourse. A mix of mature vegetation bounds the roadside frontage of the site to the northeast side of an access that has been opened into the site but fenced off. Critical views of the site are limited on the southwest approach along Mountjoy Rd until just before and passing the roadside frontage of the site due to the topography of the area; existing development within the settlement limits; and mature vegetation on site and within the wider vicinity screening it. Slightly longer views exist from elevated lands on the northeast approach.

The site nestles into and is bound to the west by development within the settlement limits of Dernagh/Clonoe, namely a substantial housing development 'Clauneo Meadows'; and a fenced off pumping station. No. 60 Clauneo Meadows a two storey dwelling with ancillary garage sits immediately adjacent the site. St Patrick's Church and graveyard lies further southwest of the site within the settlement limits. The land to the north, east and south of the site, which lies outside the settlement limits, is typically rural, characterised primarily by agricultural land interspersed with detached dwellings, ancillary buildings and farm groups.

Description of Proposal

This is an outline application for a change of house type at 61 Clauneo Meadows Clonoe Dungannon.

The siting, size and scale of the currently proposed dwelling and garage is relatively similar to the dwelling and garage previously approved on this site.

Whilst there has been a modest re-positing and change to the design of the dwelling and garage the dwelling remains 2 storey with a ridge height approx. 8.3m above FFL and the garage single storey however its ridge has dropped from approx. 4.7m above FFL previously to 4.2m above FFL.

Finishes to the proposed scheme are similar to those used in the neighbouring housing development Cluaneo Meadows and include red facing brick and brick soldier course over windows to walls and grey / black concrete roof tiles / slates.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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 following documents provide the primary policy context for the determination of this application:

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010
Planning Policy Statement 3: Access, Movement and Parking
Development Control Advice Note 15: Vehicular Standards
Planning Policy Statement 15: Planning and Floodrisk
Planning Policy Statement 21: Sustainable Development in the Countryside

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

Representations

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 2 third party representations were received.

An objection was received on the 15th September 2021 from Mr Coney the owner / occupier of no. 60 Cluaneo Meadows the adjacent property to the west. Mr Coney raised the following issues: 1) The impact the development could have on the structure of his property due to its proximity with the adjacent river and issues with piling within the river. 2) That additional heavy machinery, vehicles and tools needed to construct this development would cause damage to his property. 3) The site was marked as communal ground on the plans he received when we purchased his property and that is why he purchased. With regards to issue 3 raised by Mr Coney that they purchased their home having viewed drawings that the current site was to be retained as communal land this site was previously approved for a dwelling and garage in December 2008 with a 5 year time limit for commencement. Regarding issue 1 the agent submitted drawings to show details of the foundation design and the retaining structure (including sheet piling layout) on site at the side of the bank. Whilst I do not foresee this proposal impacting the structure of no. 60, I am content that any determination on this site relates to planning control only. Any determination does not cover any other consent or approval, which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority and should issue arise it would be a civil matter between the applicant and Mr Coney.

A non-committal was also received on the 31st August 2021 from Ms Marjorie Brimage who stated the applicant did not own the land turning left out of the site on both sides of the road. Further to Ms Brimage's representation the agent was contacted to confirm they had control of the lands required to implement any subsequent permission granted on this site as detailed on the Certificate of Ownership accompanying the application. The agent advised they had ownership of the lands required, the Certificate of Ownership completed was correct and they are not encroaching on any third party lands. Accordingly, I am content as any planning permission granted will not confer title, it will be the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

Relevant Planning History on Site

M/2003/0589/F - Proposed housing development comprising of 54 dwellings (21 detached, 14 semi-detached, 1 No. feature building of 4 No. townhouses, 2 blocks of 5 terraced houses and 2 blocks of 3 terraced houses) - Lands at junction of Moor Rd and Mountjoy Rd Dernagh/Clonoe Coalisland - Granted 22nd July 2004

M/2008/0945/F - Alteration to previously approved planning application to provide one number additional dwelling house and garage M/2003/0589/F - 35m east of 60 Clauneo Meadows Clonoe Coalisland - Granted 9th December 2008

LA09/2021/0746/NMC - Alteration to previously approved planning application to provide one number additional dwelling house & garage M/2003/0589/F - Clauneo Meadows Clonoe Coalisland - Withdrawn 13th August 2021

Consultees

1. DfI Roads were consulted in relation to access, movement and parking arrangements and have no objection subject to standard conditions and informatives, subject to which I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

2. DETI - Geological Survey (NI) were consulted as the site is located within an area of constraint on abandoned mines. GSNI responded that having assessed the above planning proposal in view of stability issues relating to abandoned mine workings they had no objection. A search of the GSNI's "Shafts and Adits Database" indicates that the proposed site is not in the vicinity of any known abandoned mine workings.

3. Environmental Health Mid Ulster Council were consulted and recommended a minimum separation distance of 7m between habitable dwellings and any wastewater treatment equipment and that the applicant maximises the separation distance on this site to ensure no loss of amenity due to odour and noise. I am content that the site is located beside a pumping station and not a waste water treatment works which should not give rise to the same loss of amenity due to odour and noise and that an approx. 6m separation distance, previously deemed suitable by the Department, has been provided between the dwelling and the pumping station.

4. NI Water were consulted and whilst they advised there is available capacity at the Waste Water Treatment Works (WWTW's) for the proposed dwelling they also stated the development may experience nuisance due to its proximity to the operations of the existing WWTW's. That before they would be prepared to recommend approval of this application they required confirmation that the requirements of Planning Policy Statement (PPS) 11, particularly Policy WM5, can be satisfied. As the site is located wholly or partially within the WWTW's 400m odour consultation zone an Odour Encroachment Assessment is required to determine the compatibility of the proposals with the existing operation of the WWTW's. Depending on circumstances, this may also require the procurement of an Odour Dispersion Model to NI Water specification. The developer will be required to fund the capital and operating costs of any mitigation measures e.g. odour abatement works, that might be required to ensure the proposal remains compatible with the existing operation of the WWTW's. The Applicant is advised to consult directly with NI Water (InfrastructurePlanning@niwater.com) to commence

the odour assessment procedure. Upon completion of this process and subject to re-consultation, NI Water may reconsider its recommendation. NI Water also noted a public foul sewer crosses the site. As outlined previously, I am content that the site is located beside a pumping station and not a waste water treatment works which should not give rise to the same loss of amenity due to odour and noise and that an approx. 6m separation distance, previously deemed suitable by the Department, has been provided between the dwelling and the pumping station.

5. DfI Rivers Agency were consulted in relation to this proposal accompanied by a Flood Risk Assessment (FRA) and responded under PPS15 (Revised): Planning and Flood Risk, Policies as follows:

FLD 1 Development in Fluvial (River) Plains – Rivers reviewed the FRA which has provided a hydraulic model to better define the floodplain at the site. This model shows the site is not affected by the 1% AEP fluvial floodplain. Rivers, while not being responsible for the preparation of the Assessment accepts its logic and has no reason to disagree with its conclusions. It should be brought to the attention of the applicant that the responsibility for justifying the Assessment and implementation of the proposed flood risk measures (as laid out in the assessment) rests with the developer and his/her professional advisors (refer to section 5.1 of Revised Planning Policy Statement 15). The FRA has stated that the 1% AEP fluvial flood level at the site is 43.05m OD Belfast. Due to the near location to the flood plain the developer should be advised that for design purposes all finished floor levels (including gardens, driveways and paths) should be placed at a minimum of 600mm above the 1% AEP fluvial flood level. I am content the finished floor levels of the dwelling and garage can be conditioned accordingly under any subsequent decision notice.

FLD 2 Protection of Flood Defence and Drainage Infrastructure – a designated watercourse flows along the eastern boundary of the site. Policy requires a minimum 5m maintenance strip. The applicant should contact the local Rivers area staff to establish their needs. Rivers recommends the working strip is shown on a site layout drawing and it be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development by way of a planning condition. Access to and from the maintenance strip should be available at all times. Prospective purchasers whose property is affected by this watercourse should be made aware Rivers obligations to maintain it. I am content the maintenance strip can be provided to the other side of the watercourse.

FLD 3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains - The development is located partially within a predicted flooded area as indicated on the Surface Water Flood Map. Although a Drainage Assessment (D.A) is not required by policy, it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site. I am content under any subsequent decision an informative can be attached to make developer's aware of their responsibility.

FLD 4 Artificial Modification of Watercourses - artificial modification of a watercourse is normally not permitted unless necessary to provide access to a development site or for engineering reasons. This is a matter for the planning authority. Any artificial modification

approved by Planning Authority will also be subject to approval from DfI Rivers under Schedule 6 of the Drainage Order 1973. These two approvals are independently required. The FRA has stated that schedule 6 approval for the sheet piled wall has been granted by DfI Rivers. However, due to the extensive history regarding this watercourse, the applicant is advised to confirm with DfI Rivers area office that this section of watercourse falls within that consent and the proposed works to the watercourse are acceptable. The agent advised the works relating to the sheet piling started in March 2017 and were completed towards the end of April 2017 more than 5 years ago and that this application is not proposing any further works to artificially modify the watercourse. Accordingly, I am content a standard informative making the applicant aware of DfI Rivers advice / requirements will be attached to any subsequent decision notice.

Key Policy Considerations/Assessment

Dungannon and South Tyrone Area Plan 2010 – the site lies in the rural countryside just outside and at the edge of Dernagh / Clonoe settlement limits (see Fig 1, further above).

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in Policy CTY1 of PPS21.

Whilst this proposal on site for a dwelling and garage in the countryside does not fall under any of the instances listed in Policy CTY1 of PPS21 a similar scheme for a dwelling and garage was accepted and approved under planning application M/2008/0945/F. It was considered that the development of this site would round off, rather than mar the settlement limits of Dernagh / Clonoe.

I would agree with the previous assessment that this proposal is an exception to policy. I consider this proposal complies with policy CTY 15 – The Setting of Settlements in that it will not mar the settlement limits of Dernagh / Clonoe or otherwise lead to urban sprawl. In my opinion, the watercourse bounding the site to the east is a natural feature defining the edge of the Dernagh / Clonoe settlement limits as they head east along the Mountjoy Rd and that the proposed dwelling and garage on this site would round off the existing housing development and settlement limits.

I am content the proposed dwelling and garage are of appropriate size, scale, design (including finishes) and layout for the site and locality and are similar to those in the adjoining housing development. That they should integrate on to the site, respecting the surrounding residential context, character, and topography of the site.

I am content that sufficient private amenity space has been provide within the curtilage of the property and that the property should not have adversely impact the neighbouring property to any unacceptable degree in terms of overlooking or overshadowing. This is largely due to the existing fencing along the party boundary of the site with neighbouring party no. 60 Cluaneo Meadows, the location and orientation of the proposed dwelling

and garage, and separation distances that will be retained. Whilst the garage, to be located closest to the neighbouring property may cause a degree of overshadowing this would be minimal to the gable side of the dwelling and should not cause any greater overshadowing than the existing fencing and existing buildings within no. 60's curtilage to any many serving windows. Given the nature of this proposal, I have no concerns regarding noise or other disturbance.

Accordingly, I think it is reasonable to accept the proposed dwelling and garage on this site in this exceptional case.

Additional Considerations

In additional to checks on the planning portal Natural Environment Map Viewer (NED) map viewer available online has been checked and identified no natural heritage features of significance or built heritage assets of interest on site.

Recommendation: Approve

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 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.

Condition 2

All proposed landscaping as detailed on Drawing No. 02(Rev.01) bearing the date stamp received 16 FEB 2022, shall be carried out during the first available planting season following the commencement of the development hereby approved. Any trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

Condition 3

The proposed finished floor level of the dwelling and garage should be placed at a

minimum of 600mm above the lough level of 43.05m OD Belfast as indicated on Drawing No. 02(Rev.01) bearing the date stamp received 16 FEB 2022.

Reason: To ensure the development hereby permitted will not increase the risk of flooding to the development or elsewhere.

Condition 4

The vehicular access, including visibility splays of 2.4m x 90m in both directions and any forward sight distance shall be provided in accordance with Drawing No. 02(Rev.01) bearing the date stamp received 16 FEB 2022, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the 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.

Condition 5

The gradient(s) of the access road shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses a footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

Condition 6

One dwelling only shall be constructed within the area of the site outlined in red on the approved Drawing No. 01 bearing the date stamp received 23 AUG 2021.

Reason: To control the number of dwelling on the site as this permission is in substitution for planning approval M/2008/0945/F and is not for an additional dwelling on this site.

Case Officer: Emma Richardson

Date: 23 August 2022

ANNEX	
Date Valid	23 August 2021
Date First Advertised	15 March 2022
Date Last Advertised	7 September 2021
Details of Neighbour Notification (all addresses) The Owner / Occupier 60 Cluaneo Meadows Coalisland Tyrone BT71 5EN	
Date of Last Neighbour Notification	7 March 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Substantive: YResponseType: FR DETI - Geological Survey (NI)-Substantive: TBCResponseType: FR Rivers Agency-Substantive: YResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR NI Water - Single Units West-Substantive: TBCResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBC NI Water - Single Units West-Substantive: TBCResponseType: FR Rivers Agency-Substantive: YResponseType: FR	
Drawing Numbers and Title Site Location Plan Plan Ref: 01 Proposed Floor Plans Plan Ref: 03 Site Layout or Block Plan Plan Ref: 02	

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.12
Application ID: LA09/2021/1290/O	Target Date: 29 October 2021
Proposal: Proposed dwelling & garage on a farm.	Location: Lands 200M SW Of 39 Draperstown Road Desertmartin Co Derry BT45 5NB.
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Anthony Bradley 8 Meadowbank Drive Magherafelt BT45 6EQ	Agent Name and Address: OJQ Architecture The Gadda Building 89 Main Street Garvagh BT51 5AB
Executive Summary:	
Characteristics of the Site and Area The site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan 2015. The red line of the application site includes a small portion of a larger agricultural field which sits at a level well below the public road located approximately 70m to the North of the site. There is an existing field gate and rough access lane that runs along the western field boundary and leads to lands located adjacent and south of the site where there appears to be a yard with a small building and some machinery located. The site boundaries are defined on the east and southern boundaries by an existing hedge row with the other boundaries undefined. As stated the topography of the land is a slope which falls from a southern direction from the public road until it flattens out at the bottom of the field. Public views of the site are limited and the surrounding area is agricultural in nature.	
Description of Proposal This is an outline planning application for a proposed dwelling and garage on a farm.	

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Magherafelt Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS3: Access, Movement and Parking

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes dwellings on farms. 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.

A consultation was issued to DAERA to establish if the farm business is active and have been established for at least 6 years. DAERA confirmed that the business ID number

has been in existence for more than 6 years but that the business does not claim any payments through DAERA. The applicant has provided a substantial number of receipts, which clearly indicate that farming activity has been taking place for more than 6 years including Herd details showing the movement of cattle both being bought and sold from the farm. On this basis I am content the proposal complies with criteria A.

With regards criteria B, following a search on the planning portal I am content that no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding.

In relation to criteria C, an objector claimed the existing shed which is located in the field adjacent to the south west of the site was erected without any planning permission. Following a search of planning histories on the site, the shed does not appear to have any planning permission but has been in place on the site from at least 2014 and therefore is immune from enforcement action. At the time of the site visit, it was clear this shed was being used for agricultural purposes although it is a temporary structure and there was agricultural machinery stored on site within the farmyard. The policy states the new building should visually link with an established group of buildings and as such, this temporary structure cannot be considered as an established group. However, given the site is well integrated and there are no other lands or buildings available for the farmer to site with given his registered address is within the settlement limits, it can be considered an exception to policy. This is due to there being a farmyard in existence and the temporary structure being in place, which the proposed dwelling will visually link with. No other sites are available where a dwelling would group with established buildings on the farm and therefore, this proposal can be considered an exception to policy given it is the best available site in terms of integration.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is an outline application in which the exact design and siting details have not been submitted. As the site sits at a level below the public road, I am content that it will integrate into the landscape with some additional landscaping to aid the integration on the northern boundary.

Policy CTY 14 states 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 previously stated, 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. From all of this I am satisfied that the application is able to comply with CTY 14.

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and, in their response, stated they have no objection subject to a condition being attached to request access to be constructed in accordance with the attached RS1 Form. I am content that given DFI Roads input and assessment of the proposed access that the access would cause no road safety issues as raised by the objector.

Other Material Considerations

Shared Environmental Services (SES) were informally consulted given the site was located adjacent to a watercourse/stream. SES confirmed a formal consultation was not required because the proposal could not have any conceivable effect on a European Site.

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

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

Application for approval of the reserved matters shall be made to Mid Ulster District Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

- i. the expiration of 5 years from the date of this permission; or
- ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

Condition 2

Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from Mid Ulster District 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 Mid Ulster District Council.

Condition 3

No development shall take place until a plan indicating floor levels of the proposed

dwelling in relation to existing and proposed ground levels has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

Condition 4

No development shall take place until full details of all proposed tree and shrub planting and a programme of works, have been submitted to and approved by Mid Ulster District Council, and all tree and shrub planting shall be carried out in accordance with those details and at those times.

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

Condition 5

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.

Case Officer: Ciaran Devlin

Date: 15 August 2022

ANNEX	
Date Valid	3 September 2021
Date First Advertised	14 September 2021
Date Last Advertised	14 September 2021
Details of Neighbour Notification (all addresses) The Owner / Occupier 39, Draperstown Road, Tullyroan, Desertmartin, Londonderry, BT45 5NB	
Date of Last Neighbour Notification	14 September 2021
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: H/1997/0120 Proposals: SITE OF DWELLING Decision: WITHDR Decision Date: Ref: H/2005/0961/Q Proposals: Draperstown Road, Desertmartin. Decision: 211 Decision Date: 13-OCT-05 Ref: H/2011/0351/F Proposals: Proposed new infill dwelling and garage Decision: PG Decision Date: 01-NOV-11 Ref: H/1994/0393 Proposals: REPLACEMENT DWELLING Decision: PG Decision Date: Ref: H/1988/0448 Proposals: AGRICULTURAL SHED AND CATTLE CRUSH Decision: WITHDR Decision Date: Ref: H/1979/0198 Proposals: ALTERATIONS AND ADDITIONS TO HOUSE	

Decision: PG
 Decision Date:
 Ref: H/1989/0104
 Proposals: AGRICULTURAL SHED
 Decision: PR
 Decision Date:
 Ref: H/2013/0347/F
 Proposals: Proposed 2 storey replacement dwelling and detached double garage
 Decision: PG
 Decision Date: 26-JUN-14
 Ref: H/2007/0983/O
 Proposals: New dwelling and garage
 Decision: PR
 Decision Date: 16-SEP-10
 Ref: H/1992/6024
 Proposals: SITE OF DWELLING ADJ TO 39 DRAPERSTOWN ROAD DESERTMARTIN
 Decision: QL
 Decision Date:
 Ref: LA09/2021/1290/O
 Proposals: Proposed dwelling & garage on a farm.
 Decision:
 Decision Date:
 Ref: H/1988/0026
 Proposals: RETIREMENT BUNGALOW
 Decision: PG
 Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR
 DAERA - Coleraine-Substantive: TBCResponseType: FR
 DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

Drawing Numbers and Title

Block/Site Survey Plans Plan Ref: 02
 Site Location Plan Plan Ref: 01 (REV-1)

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.13
Application ID: LA09/2021/1404/F	Target Date: 19 November 2021
Proposal: Refurbishment alteration & extension of existing public house into neighbouring property & the associated change of use of ground floor hot food carry-out to public house & 1st floor apartment to office, removal of 1st floor public house space at rear to create enclosed ground floor beer garden area	Location: 26-30 Queen's Street Magherafelt
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: H J Downey Ltd 26-28 Queens Street Magherafelt BT45 6AB	Agent Name and Address: Horscroft Design Courthill House 2 Fair Hill Cushendall BT44 0ND
Executive Summary:	
Characteristics of the Site and Area The application site is located within the settlement limits and designated town centre of Magherafelt as defined in Magherafelt Area Plan 2015. The site is located on Queen Street and encompasses a two storey building with public house "Downeys" and hot food takeaway "Curry House" on the ground floor and apartment and office above on the first floor. The red line also includes a small outbuilding located within an alley to the south of the host building. The alley to the south of the site provides access to McClean Fuels. This town centre area is characterised by a mix of different uses. Fronting onto Queen Street are takeaways, betting office, public house, clothes shop, offices, community building and a credit union. The area is recognised as being an area of	

archaeological importance (LDY 042:016, LDY042:022 and LDY 042:031).

Description of Proposal

This application seeks full planning permission for the alteration and extension of existing public house and associated change of use of ground floor hot food carry-out to public house; creation of enclosed ground floor beer garden area; and change of use of first floor apartment to office located at 26-30 Queen's Street, Magherafelt.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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 following documents provide the primary policy context for the determination of this application:

- o Regional Development Strategy 2030
- o Strategic Planning Policy Statement for Northern Ireland
- o Magherafelt Area Plan 20105
- o PPS 3 - Access, Movement and Parking
- o PPS 6 -Planning, Archaeology and the Built Heritage
- o PPS 7 - Quality Residential Environments

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

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, 2no. Objection letters have been received from John J McNally & Co Solicitors on behalf of their client Laurence Niblock. The content of these letters are summarised and considered below.

The Objector owns the adjacent property and is concerned that -

- o Increased noise from the rear pub area together with the public house will impact his tenants living in adjacent flats who already suffer noise pollution, disturbance and anti-social behavior from pub users congregating in the entry way;
- o The proposal encroaches on a right of way in favour of his premises;

- o The proposal could result in damage to his property from pub users;
- o Connection to the sewage system will be made within his entry which the applicant has no right to do and connection may be inadequate and not fit for the additional burden that this would place on the existing system.

Environmental Health have considered the proposal as well as the objection letters and requested the submission of an acoustic report to ensure the creation of a beer garden with associated music/live entertainment externally would not detrimentally impact adjacent residential amenity. A noise impact assessment was subsequently submitted, however Environmental Health required further information/clarification before making a final recommendation. Following the submission of further details to Environmental Health, they have advised they have no objections subject to conditions. In light of their response, I am content the proposal will not result in adverse impact on residential amenity in terms of noise and nuisance. Environmental Health have suggested a condition restricting the number of patrons within the external beer garden. Having discussed the wording of this condition internally with Principal Planner and Planning Enforcement team it was agreed this would not be enforceable and it is considered patron numbers could be controlled through other regulatory and licensing bodies. It is noted that there is an existing public house on the site and the proposal will extend into the neighbouring unit. Damage to the objector's property or anti-social behaviour from pub users is a legal matter. The comments regarding right of way also falls outside the remit of planning and a civil matter between the applicant and the objectors. Planning permission granted does not confer title; it is the responsibility of the applicant to ensure that they control all the lands necessary or have the necessary permissions to carry out the proposed development. With respect the objectors comments regarding sewage connection, it is noted the proposal relates to renovations and change of use of an existing premises and therefore connection is already in place. NI Water have been consulted and have raised no concerns.

History on Site

H/2006/0565/F - Change of use from existing commercial retail unit to hot food take away bar at ground floor level and from existing office accommodation to residential apartment at first floor level including alterations to existing elevations and internal amendments to layout - 28-30 Queen Street, Magherafelt - Permission Granted 03/01/07

Key Policy Considerations/Assessment

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. SPPS sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Paragraph 4.11 of the SPPS states that there are a wide range of environment and amenity considerations, including noise and air quality, which

should be taken into account by planning authorities when proposing policies or managing development. For example, the planning system has a role to play in minimising potential adverse impacts, such as noise or light pollution on sensitive receptors by means of its influence on the location, layout and design of new development.

The proposal relates to the extension of an existing public bar and change of use from residential to office use. The changes proposed to the ground floor premises include the rearrangement of the bar and addition of the existing hot food carryout to create a larger front bar area with associated office and the creation of a large enclosed beer garden to the rear of the premises which includes a stage and bar. Changes to the front elevation onto Queen Street include the creation of an additional access to the beer garden at the rear of the site. The frontage is remodelled and it is noted an additional new window bay is proposed in place of the existing hot food takeaway entrance and this premises frontage amended to match the overall proposed pub frontage design. The first floor changes include the removal of the office to the rear of the building and change of use from existing flat to office fronting onto Queen Street. The proposed 'open air beer garden' is enclosed and includes a pitched veranda screened awnings. The side elevation includes the addition of external staircase to access first floor offices and stores and the addition of double door access to the proposed ground floor beer garden area. Given there is an existing public house with associated smoking area and office above established on the site and therefore the principle of development is established and as such is considered appropriate in this town centre location. Following advice given by the Councils Environmental Health Department, I am satisfied that this proposal will not give rise to any unacceptable levels of noise which would impact on neighbouring residential amenity. It will be necessary to attach conditions to ensure this remains the case. This area of the town centre is not defined by any one land use and is instead made up of a variety of different uses and it is considered the change from residential to office use is acceptable.

Magherafelt Area Plan 2015

This site is located within the Town Centre of Magherafelt, with a small portion of the site to the rear also within a designated MT 42 Development Opportunity Site. The designated opportunity site incorporates the former cinema in Queen Street and several portions of backland and is suitable for office, leisure, entertainment, cultural and service uses. The application site is located outside the Primary Retail Core. The Area Plan recognises that the Town Centre has been designated to include a wide range of commercial uses. As this proposal is established on the site, I am content that it is compatible with the type of uses acceptable in the Town Centre of Magherafelt.

DCAN 7 Public Houses

DCAN 7 primarily provides advice for considering applications for new public houses. Part 15 does however make specific reference to extensions to public houses and so its part 15 that holds most relevance in this assessment. Part 15 states A proposed extension to a public house requires planning permission regardless of the size of that extension. When considering such extensions account will be taken of the likely effects of the intensification of the existing use on the surrounding area. In particular, the suitability of any existing access and parking facilities will be carefully considered as well as any loss of amenity due to an increase in noise and disturbance.

In terms of location, the existing building is sited in the town centre in an area of mixed uses including entertainment, residential, retail and commercial. It is noted that the public house is an already established use on the site and the application now seeks planning permission for renovations including extending the business into the adjacent hot food takeaway and the creation of an enclosed beer garden. I do not consider the proposed extension and renovations will negatively impact on the surrounding character or built form. The proposed extension is subordinate to the existing building. It is accepted that the beer garden has the potential for some degree of nuisance on the existing residential properties. However, the established use of the site is a public house and existing residents will be aware of this. EHD have considered the proposal and have no objections subject to recommended conditions which will offer protection to residential amenity should neighbouring dwellings experience unacceptable disturbance. It is noted that this is a town centre area where there are several other public bars and nightclubs and so there is already a level of night time disturbance. It is not considered that allowing the proposed renovations including beer garden will not exacerbate this to a level that is unacceptable. It is also important to note that most adjacent properties are commercial and so will be vacant at night time. The design and nature of the use is considered acceptable and the proposed works will be subordinate and ancillary to the existing use of the bar therefore will not detrimentally impact on the existing character. No parking facilities have been specially identified for this proposal, however due to its location within the town centre and accessibility to car parking I am of the opinion that there is adequate parking spaces in close proximity. It is noted that refurbishment and renovations to existing premises help to protect the vitality of the town centre. DFI Roads have been consulted and have offered no objections. In light of this, it is considered that the proposal will not lead to a significant deterioration in road safety under the provisions of PPS 3 Access, Movement and Parking.

Planning Strategy for Rural Northern Ireland- Policy DES 2 Townscape Requires development proposals in towns and villages to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials. In regard to alterations and extensions it states that all alterations and extensions to buildings should normally respect the scale, detailing and materials of the original building. It is considered that changes to the front elevation are minimal and will not detrimentally impact the streetscape of Queen Street. The proposed beer garden is located to the rear of the premises. It is considered that the scale, form, detailing and materials of the proposed extensions and alterations will not detract from the character of the area and should not cause adverse impact on the amenity of residents within first floor adjacent flats.

Additional Considerations

It is noted that the application site is located within the historic settlement of Magherafelt. HED (Historic Monuments) were consulted and have responded advising that on the basis of the information provided, and the nature and scale of the proposals, is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 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.

Condition 2

All entertainment noise and loudspeakers shall not exceed LAeq, 5 minutes of 81 dB(A) when measured 3 metres from a loudspeaker.

Reason: To protect nearby residential amenity from entertainment noise.

Condition 3

All amplified entertainment within the external beer garden area as annotated on drawing number 05 date stamped 31st August 2021 shall be played through an in-house amplification system and compression type noise limiter and not exceed the limits stated within condition 2.

Reason: To protect nearby residential amenity from entertainment noise.

Condition 4

All doors opening to the beer garden shall be equipped with self-closing devices and shall not be held open other than for the means of ingress and egress.

Reason: To reduce noise breakout and protect nearby residential amenity from noise.

Condition 5

Within 8 weeks of a written request by the Planning Department, following a reasonable noise complaint, the applicant shall, at their expense, employ a suitably qualified and competent person to assess and report the level of noise emissions from the site and their impact at the complainant's property. Details of the noise monitoring survey shall be submitted to the Planning Department for written approval prior to any monitoring commencing.

Reason: To protect nearby residential amenity from excessive noise.

Condition 6

If the report(s) submitted, as per condition 5, or monitoring by Mid Ulster District Council indicates that noise levels exceed noise limits stated within condition 2, a scheme

outlining corrective action with proposed timescales for their implementation shall be agreed in writing with the Planning Department within 8 weeks from date of receipt of this report.

Reason: To protect nearby residential amenity from excessive noise.

Case Officer: Grace Heron

Date: 23 August 2022

Summary of Consultee Responses

Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR
NI Water - Strategic Applications-Substantive: TBCResponseType: FR
DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR
Historic Environment Division (HED)-Substantive: TBCResponseType: PR
Environmental Health Mid Ulster Council-Substantive: TBC
Environmental Health Mid Ulster Council-Substantive: TBC
Environmental Health Mid Ulster Council-Substantive: TBC
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR
Environmental Health Mid Ulster Council-Substantive: TBC
Environmental Health Mid Ulster Council-Substantive: TBC
Environmental Health Mid Ulster Council-LA09-21-1404 F 26-30 Queen Street Thirsty Goat 230822.doc

Drawing Numbers and Title**Notification to Department (if relevant)**

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.14
Application ID: LA09/2021/1425/F	Target Date: 24 November 2021
Proposal: Proposed dwelling and domestic garage	Location: Approx 140M South West Of 93A Ballynagarve Road Magherafelt
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Darren MC Ivor 7 O'Neills Park Ballymaguigan Magherafelt	Agent Name and Address: Cmi Planners 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	
Characteristics of the Site and Area <p>The site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan 2015. The red line includes an existing approved site LA09/2020/0512/O which is located adjacent to and south of No.93 and the red line then also extends to the 'proposed site' which is located to the South West of the previously approved site and is a roadside site and is a corner section of a larger agricultural field. The land here rises in a north eastern direction to approximately 3m above the road level. There is an existing separate laneway which runs adjacent to the site to the south and leads to a third party farm which abuts the site to the north east with an existing yard/storage area and then further to existing buildings. There is also an historical planning approval for a dwelling within this storage area adjacent to the north east, approved under planning references H/2003/0831/O and H/2007/0174/RM</p> <p>There are critical views of the site on approach from the north along Ballynagarve Road, especially from the junction from Loves Road from where a dwelling on the site would appear close to the hilltop. These critical views of the site continues up to the proposed</p>	

access point with the Ballynagarve Road. On approach from the south the critical views are more limited. The boundaries of the site are defined by existing hedgerows on all sides bar the north western boundary which is currently undefined and extends into the larger agricultural field.

Description of Proposal

This is a full planning application for a proposed dwelling and domestic garage.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Magherafelt Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS3: Access, Movement and Parking

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster' 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 dwellings on farms. 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.

It is important to note that outline permission was granted under planning reference LA09/2020/0512/O and this full application is seeking to relocate to a new proposed site. As such, this application will be fully assessed against the relevant policy criteria.

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.

DAERA have been consulted and have confirmed that the business has been in existence for more than 6 years and that the business has claimed single farm payment or agri environment payments within the last 6 years.

A planning history check of the farm shows that no dwellings or development opportunities in the countryside have been sold off from the farm holding. The previous outline approval was granted but no Reserved Matters application has been submitted or approved so this application would supersede and previous approval.

As was the case in the previous application LA09/2019/0471/O, the proposed site is neither visually linked with nor sited to cluster with the applicants or farmers established farm buildings. The farmers business ID which has been used is the same as per the previous outline application which was recommended for refusal and then subsequently withdrawn for a new application to be made on a site which would meet criteria C of CTY 10. The only buildings identified that the site should visually link with or cluster with is the farm shed located west of No.93 which is approximately 110m North East of the site. The farm holding to adjacent to the northeast are 3rd party buildings and cannot be considered.

The agent was asked to provide any reasoning as to the need for this site given permission is already in place for a site as per outline approval LA09/2020/0512/O such as demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group. No such information was provided and as such, the proposed site does not meet criteria C of Policy CTY 10.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Given the topography of the site and the low level hedges which define the site, the dwelling at this location would be a prominent feature, with the ridge of the dwelling appearing 6.5m above the road level, which would be very visible from approach in both directions. As such the dwelling would rely heavily on site works such as landscaping and planting to achieve an acceptable degree of integration and is therefore, contrary to this policy.

Policy CTY 14 states 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, the proposed dwelling would be on an elevated site and would appear unduly prominent in the landscape. As such, the proposal is contrary to this policy. The proposal also has the potential to create a ribbon of development along

the farm lane to the south east of the application site as it would create a gap between the approved dwelling and the dwelling and farm buildings at No.89. Although there is planning approval for a site at this gap, it is unclear if it is an extant approval given the length of time since this application was passed and that no substantial building is in place. Therefore, the proposal would be contrary to policy CTY 14 in that it will create a ribbon of development.

PPS 3 - Access, Movement and Parking;

The proposal is to create a new access. Transport NI advised that they have no objection to the proposed development subject to conditions.

Other Material Considerations

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.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY 10 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.

Reason 3

The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed building will be a prominent feature in the landscape and the site relies primarily on the use of new landscaping for integration.

Reason 4

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape and it would create a ribbon of development which would result in a detrimental change to the rural character of the countryside.

Case Officer: Ciaran Devlin

Date: 17 August 2022

ANNEX	
Date Valid	29 September 2021
Date First Advertised	12 October 2021
Date Last Advertised	12 October 2021
Details of Neighbour Notification (all addresses) The Owner / Occupier 93 Ballynagarve Road Magherafelt Londonderry BT45 6LA The Owner / Occupier 89 Ballynagarve Road Magherafelt Londonderry BT45 6LA The Owner / Occupier 93A Ballynagarve Road Magherafelt Londonderry BT45 6LA	
Date of Last Neighbour Notification	13 October 2021
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: H/2007/0174/RM Proposals: Proposed one and a half storey dwelling and domestic garage Decision: PG Decision Date: 16-OCT-08 Ref: LA09/2015/0416/F Proposals: Single storey front extension for porch and sitting room, single storey side extension for sun lounge, single storey rear extension for boiler, utility room and toilet. Detached domestic garage and relocation of existing access to provide sight lines. Decision: PG Decision Date: 19-NOV-15 Ref: LA09/2020/0512/O Proposals: Proposed dwelling and garage on a farm Decision: PG Decision Date: 15-DEC-20 Ref: H/2000/0200/O Proposals: Site Of Dwelling House And Garage Decision: Decision Date: Ref: H/1997/0189 Proposals: ALTERATIONS TO DWELLING	

Decision: PG
Decision Date:
Ref: H/2004/0497/O
Proposals: Site of dwelling and garage.
Decision: PR
Decision Date: 25-NOV-05
Ref: H/2003/0831/O
Proposals: Site of one and a half storey dwelling and garage.
Decision: PG
Decision Date: 20-APR-04
Ref: LA09/2019/0471/O
Proposals: Proposed dwelling and domestic garage/store based on policy CTY10 dwelling on a farm
Decision:
Decision Date:
Ref: LA09/2021/1425/F
Proposals: Proposed dwelling and domestic garage
Decision:
Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR
DAERA - Coleraine-Substantive: TBCResponseType: FR

Drawing Numbers and Title

Site Location Plan Plan Ref: 01
Block/Site Survey Plans Plan Ref: 02
Elevations and Floor Plans Plan Ref: 03
Garage Plans Plan Ref: 04

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.15
Application ID: LA09/2021/1568/F	Target Date: 24 December 2021
Proposal: Retention of shed for the manufacturing and sales of hydraulic hoses and other ancillary farm machinery products (farm diversification development)	Location: 95M Se Of 133 Bush Road Coalisland BT71 6QQ.
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Adrian McCann 131 Bush Road Coalisland Dungannon BT71 6QQ	Agent Name and Address: OJQ Architecture 89 Main Street Garvagh Coleraine BT51 5AB
Executive Summary:	

Case Officer Report

Site Location Plan

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Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR
	DFI Roads - Enniskillen Office	Substantive: TBC

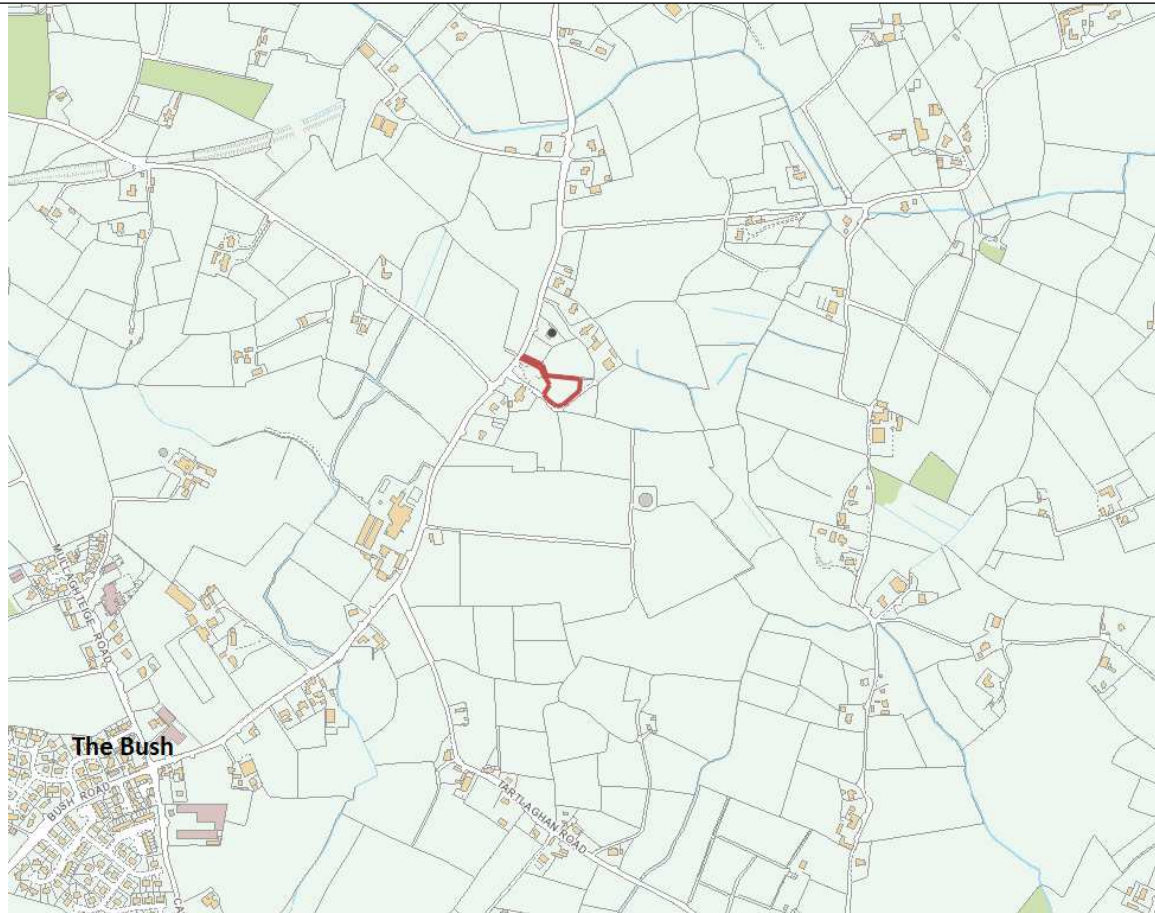
Representations:

Letters of Support	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Characteristics of the Site and Area

The application site is located in the open countryside along the Bush Road on the outskirts and to the north east of the settlement limits of Coalisland as identified in the Dungannon & South Tyrone Area Plan.



The submitted red line site is an agricultural field which is relatively flat located to the rear of number 131 Bush Road. There are also a number of mature trees on the boundaries. A caravan has been stationed within the site and it is within a row of residential dwellings. The red line includes a stoned access which leads to the main body which has been cleared and stoned to provide a large yard area with the shed seeking retention in the north east corner.



The shed itself is a standard aluminum clad shed with a concrete block base and a large roller shutter door on the road facing gable elevation. The lane and body of the site are enclosed by a timber post and wire fence, therefore the lack of natural vegetation allow the shed to be clearly seen from the roadside. The rear of the site drops off quite steeply to the east, where a small shed is situated.



The surrounding area is predominantly residential in nature with a scattering of dwellings and farm holdings located along the roadside. The site lies in a row of 5 dwellings, with a yard including a number of large sheds directly to the rear.

Description of Proposal

The proposal seeks full planning permission for the retention of a shed for the manufacturing and sales of hydraulic hoses and other ancillary farm machinery products (farm diversification project)

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

SPPS - Strategic Planning Policy Statement for Northern Ireland

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS encourages a positive approach to appropriate economic development proposals, and proactively support and enable growth generating activities. 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. It does not present any change in policy direction from Policy CT1 or CTY 11 of PPS 21, nor Policy PED 1 and PED 9 of PPS 4 - Planning and Economic Development therefore existing policy applies.

PPS 21 – Sustainable development in the countryside

As the site lies in the countryside of Mid Ulster it falls to be considered against the provisions of PPS21. Policy CTY1 of PPS 21 list a number of developments that area acceptable in principle in the countryside. One of those listed is development in accordance with farm diversification proposals and policy CTY 11.

PPS 21 – CTY 11 Farm Diversification

The main thrust of this policy is that the proposal will be ran in conjunction with the agricultural operations on the farm. Proposals will normally only be acceptable where they involve the re-use or adaptation of existing farm buildings.

Development proposals must meet certain criteria;

- a) the farm or forestry business is currently active and established;

The original submission did not include a farm diversification project and therefore a farming case including a P1C form was not submitted. The proposal has subsequently changed, however, in light of the recommendation I have not sought proof of active farming nor consulted DAERA yet. However, if the recommendation was to be over turned, the applicant would need a P1C form and a consultation with DAERA.

- b) in terms of character and scale it is appropriate to its location;

This proposal does not involve the utilisation of an existing building but instead involves the retention of an unauthorised shed which has the appearance of a large industrial building and is therefore not suitable in this location.

- c) it will not have an adverse impact on the natural or built heritage;

There are no natural or built heritage concerns regarding this application.

- d) The proposal involves the manufacturing of hydraulic hoses and therefore it is possible it may have a detrimental impact on the amenity of nearby residential dwellings including potential problems arising from noise, smell and pollution. However, environmental health have been consulted and responded with no concerns subject to conditioning the use.

Proposals **will only** be acceptable where they involve the re-use or adaptation of existing farm buildings. Exceptionally, a new building may be permitted where there is no existing building available to accommodate the proposed use, either because they are essential for the maintenance of the existing farm enterprise, are clearly unsuitable for adaptation and re-use or cannot be adapted to meeting the requirements of other statutory agencies.

Where a new building is justified it should be satisfactorily integrated with an existing group of buildings.

With respect to the above paragraph which is crucial to this report it must be noted that there are 4 other sheds on the surrounding blue land. The agent has also identified these sheds in their supporting statement and has stated that they are all in use and unavailable for adaption or re use. The sheds include a livestock house and a silo which would be unsuitable for re-use. However, there are two other sheds, which for ease of purpose they are identified as shed 1 and shed 4 in the agent's statement. The agent has identified these buildings as used for storage, maintenance and repair of farm machinery, whilst I accept that these are needed for everyday farm use, at the time of site visit they were by no means being fully utilised and in my opinion would be suitable for adaption for this intended use.

In addition if the new shed was justified, the proposal should be satisfactorily integrated with an existing group of buildings. In this case the shed is not located in the existing yard alongside the existing group of buildings, but is proposed in a new field behind the rear of a newly built dwelling and in my opinion not capable of satisfactory integration in the rural area. As can be seen in the below image from the Bush road, the shed lacks any established boundaries to aid integration and would rely solely on landscaping proposals.



PPS 21 – CTY 13 Integration and design of buildings in the countryside

A new building will be unacceptable where:

- (a) it is a prominent feature in the landscape; or
- (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or
- (c) it relies primarily on the use of new landscaping for integration; or
- (d) ancillary works do not integrate with their surroundings; or
- (e) the design of the building is inappropriate for the site and its locality; or
- (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or
- (g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.

In this case the proposal would fail to integrate into the landscape as it lacks any long established natural boundaries and would not be able to provide a suitable degree of enclosure for a building to integrate into the landscape and it would rely primarily on the use of new landscaping, therefore it fails the policy tests of CTY13.

Conclusion

The proposal fails policy CTY 11 in that it is my opinion that there are other buildings within blue land which could be adapted or re used for the proposal and therefore a new building is not justified. In addition a had a new building been justified, it would only be acceptable if it was satisfactorily integrated with an existing group of buildings, in this case the new building is set away from the farm on its own.

Finally, the proposal fails CTY 13 in that the site lacks long established boundaries and would rely on new landscaping for integration.

Neighbour Notification Checked	Yes/No
Summary of Recommendation:	
Refuse is recommended	
<p>Refusal Reasons</p> <p>Reason 1 Enter Text here</p> <p>Reason 2 The proposal is contrary to Policy CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it does not involve the re-use or adaptation of existing farm buildings and it has not been demonstrated that there are no other buildings available to accommodate the proposal.</p> <p>Reason 3 The proposal is contrary to Policy CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building is not satisfactorily intergated with the established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.</p> <p>Reason 4 The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries/is unable to provide a suitable degree of enclosure for the building to integrate into the landscape, in addition the proposed building relies primarily on the use of new landscaping for integration.</p>	
Signature(s): Peter Hughes	
Date: 22 August 2022	

ANNEX	
Date Valid	29 October 2021
Date First Advertised	11 November 2021
Date Last Advertised	9 November 2021
Details of Neighbour Notification (all addresses) The Owner / Occupier 133 Bush Road Dungannon Tyrone BT71 6QQ The Owner / Occupier 131 Bush Road Dungannon Tyrone BT71 6QQ The Owner / Occupier 129 Bush Road Dungannon Tyrone BT71 6QQ	
Date of Last Neighbour Notification	18 November 2021
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR DFI Roads - Enniskillen Office-Substantive: TBC	
Drawing Numbers and Title Site Location Plan Plan Ref: 1B Site Layout or Block Plan Plan Ref: 2B Proposed Floor Plans Plan Ref: 3A Proposed Elevations Plan Ref: 4A	

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.16
Application ID: LA09/2021/1604/O	Target Date: 31 December 2021
Proposal: Site for a two storey dwelling with a ridge height of 8.5m.	Location: 70M Se Of 43 Fallylea Lane Fallylea Maghera.
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Margaret McCrystal 22 Tirgan Road Moneymore Magherafelt BT45 7RZ	Agent Name and Address: No Agent
Executive Summary: The applicant's husband is employed as a member of the Council's Planning section and therefore has an interest. There has been a letter of objection from a neighbouring resident and this dwelling is proposed as the first building on the farm holding.	
Characteristics of the Site and Area This application site is located 70 metres south east of No 43 Fallylea Lane, Maghera. It sits over 3.5 kilometres to the north west of Maghera village, with the Glenshane Road 800 metres to the south of the site. The site lies in the countryside as designated in the Magherafelt Area Plan, with the edge of the Sperrins AONB sitting approximately 200 metres to the north west. The surrounding area is typically rural with single dwellings dispersed throughout and agricultural fields the dominant landuse, The site occupies almost half of a flat agricultural field which sits alongside and to the east of Fallylea Lane. The existing agricultural entrance to the field is on the outer corner of a slight bend on this minor road. At the time of the site inspection, some round bales were stored in the field close to the gate. A triangular shaped field occupies a position to	

the north of the application site and has a very small opening where it accesses the public road. This field separates the site from No 43 Fallylea Lane which sits approximately 60 metres to the north west. A bungalow at No 39 sits approximately 100 metres to the south of the site.

The western boundary of the host field which runs along the roadside is an established hedgerow with gorse interspersed. The northern boundary of the site is hedgerow and some trees, with a post and wire fence securing the field. The western and southern boundaries are undefined as the site occupies the northern section of a field. The eastern boundary of the site is treed and beyond which runs a watercourse, located approximately 35 metres away at its closest.

Description of Proposal

This application seeks outline permission for a two storey dwelling with a ridge height of 8.5 metres on land 70 metres South East of No 43 Fallylea Lane, Fallylea, Maghera.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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. The period for Counter Representations closed on 18th December 2020. The Council submitted the Draft Plan Strategy to the Department for Infrastructure (DfI) on 28th May 2021 for them to carry out an Independent Examination. In light of this, the Draft Plan Strategy currently does not yet carry any determining weight.

This application site is located in the rural countryside, outside of any designated settlement development limit identified in the plan, therefore the relevant policy context is provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21). The Strategic Planning Policy Statement (SPPS) has retained PPS 21 and it is this policy which this application will be assessed under.

Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered acceptable in the countryside and the circumstances wherein planning permission will be granted for an individual dwelling house are identified.

A dwelling on a farm is acceptable in accordance with the policy provisions of CTY 10, where all of the following criteria are met:

- (a) The farm business is currently active and has been established for at least 6 years.
- (b) No dwellings or development opportunities out-with settlement limits have been

sold off from the farm holding within 10 years of the date of the application.

(c) The new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

- i) Demonstrable health and safety reasons; or
- ii) Verifiable plans to expand the farm business at the existing building group(s).

In addition to the criteria above, applications of this nature must also demonstrate that they meet the policy requirements of policies CTY 13, CTY 14 and CTY 16 of PPS 21.

Criterion (a) requires that the farm business is currently active and has been established for at least 6 years.

A member of staff Malachy has a farm which he actively farms outside of his job as a Planner in Mid Ulster District Council. His wife Margaret also has a farm which is jointly registered in her name and another person, but only from 2021. The P1 form states this parcel of land is farmed by Margaret Mc Crystal and Patricia Bradley who was later identified as the applicant's mother. The Department for Agriculture, Environment and Rural Affairs (DAERA) confirms that the applicant's Business ID number was established on 05/04/2005 and thus is in existence over 6 years. DAERA have also confirmed that no payments have been made through the Basic Payment Scheme and there has not been payments claimed on this land. They have also stated this field is not controlled by the applicant's farm business.

The applicant was asked to provide some clarification on the proposed development and they also rebutted comments in the letter of objection received. It was confirmed the joint owner of the Farm Business ID is the applicant's mother and it is her address which this farm is registered under. The field subject of this application is the extent of the farm holding and a number of invoices were submitted. These documented a range of goods purchased and services provided such as hedge cutting, sheugh cleaning, drainage work and hay bailing from 2016 - 2021. I am satisfied the applicant's farm is active and established and in compliance with criteria a.

It is clear that over time, the farm has been divided into different landowners No 43 to the north west and No 39 to the south of the site. I have checked apart from the field adjacent and to the north of the site which was transferred to Declan and Donna Bradley in April 2021, Land Registry searches show the land on which the 2 existing houses mentioned above were transferred from this farm more than 10 years ago. On this basis, it is reasonable to conclude that the land is an active farm and whilst it has been subdivided, this has not been contrary to policy. I am content there have been no dwellings or development opportunities sold off from this farm holding in the last 10 years, thereby fulfilling criteria b.

In order to grant planning permission, the applicant has to meet other tests in that the site should be located next to buildings on the farm. From the application, the field which the site is located in is the entirety of the farm holding and the applicant has stated on the P1C form, this proposed building will be the first on the farm. The equipment utilised

for farming this land is kept on the applicant's husband's farm. There is nothing in the policy which precludes a husband and wife owning separate farms and therefore if there are no buildings on this farm, it is not possible to locate a dwelling next to it. I am satisfied the applicant has demonstrated how a farm dwelling on this site meets the requirements of Policy CTY 10 of PPS 21.

Policy CTY 13 stipulates 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 am satisfied a dwelling sited in this part of the field as is proposed would benefit from the existing boundary vegetation. The established tree boundary to the rear would create a backdrop with the established northern field boundary providing enclosure for the access. This existing boundary vegetation can be conditioned to be retained in order to aid the integration of the dwelling into the area. The design of the dwelling will be detailed and assessed at the Reserved Matters stage.

This said, Policy CTY14 poses a greater challenge in that it is quite clear that if a dwelling were positioned as is shown on the drawings submitted, it would represent a change to rural character of the area from the existing pattern of bungalows separated by a couple of fields. Furthermore, it is likely it would lead to further development pressure by leaving potential gap sites to the north and to the south of this application site. The applicant has claimed they aim to prevent this by having the dwelling set back from the road, leaving a very narrow strip for agricultural purposes. If approval was granted for this dwelling on this basis, that gap could be increased by requiring a hedge further back into the site and requiring all land to be permanently for agriculture. Although how effective this would be in the long run would be speculative.

Consultations and Representations

The applicant has indicated on the application form they propose to construct a new access onto Fallylea Lane where the existing agricultural opening is. DFI Roads were consulted and responded with no objections subject to the submission of further information at Reserved Matters stage. This must show visibility splays of 2.4 metres by 45 metres in both directions and a forward sight distance of 45 metres to be provided and permanently kept clear thereafter. This will require the setting back of hedgerow in both directions.

This application was advertised in the local press and one neighbour was notified, in line with the Council's statutory duty.

There was one letter of objection received from the neighbouring resident to the north west of the site at No 43 Fallylea Lane. The neighbour highlighted that a dwelling had already been granted planning permission on this farm holding under reference H/2011/0324/F. I can confirm a dwelling and garage was granted permission in October 2011 for Mr and Mrs Bradley. This dwelling has been constructed and is No 39 Fallylea Lane, sitting approximately 100 metres to the south of this application site. The applicant has stated that site was transferred from the farm business shortly after the permission was granted and as this all occurred over 10 years ago, the applicant can apply for a farm dwelling once every 10 years as is allowed in PPS 21. This current application was submitted on 5th November 2021 and thus is in compliance with CTY 10 in PPS 21.

The objector queried the location of the site questioning should it not be closer to the aforementioned dwelling so as to not create infill opportunities either side of the site. Due to the siting of this proposed dwelling and its curtilage to the rear of the field and away from the roadside, I am of the opinion a dwelling on this site could not be considered as part of a substantial and continuous frontage. It would fail to meet the requirements for a gap site or infill opportunity under the current policy and therefore in my opinion this concern is not substantiated.

The objector also believes a two storey dwelling on this site would be out of character with the other houses in the area. Although the 2 closest dwellings to this site are single story, I am aware the surrounding area includes a mixture of house types and varying ridge heights. Due to the existing established boundary vegetation, I have no concerns regarding a dwelling with a maximum 8.5 metres ridge height damaging the existing character of the area

I have no concerns about any significant detrimental impact in terms of neighbour amenity, overshadowing, dominance or privacy concerns. A dwelling on this application site will be a reasonable distance away from the objector's dwelling at No 43. There is also an intervening field between these properties and the curvature of the road here means there will be a distance of approximately 60 metres.

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Approve is recommended

Based on the policy, it is my view that a dwelling would integrate with the rear eastern boundary and not change rural character in itself. Given that the requirements in relation to the farm in CTY 10 have also been met, I would be inclined to recommended approval.

I have discussed this matter with the Service Director who is concerned that as this application is from a Council Officer's wife and the Officer clearly has an interest, combined with the fact an objection letter from a neighboring resident has been submitted, it would be prudent for members to view the site before a final decision is made.

Following a site visit and if members agree, I recommend planning permission should be

granted subject to the conditions below.

Approval Conditions

Condition 1

Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

- i. the expiration of 5 years from the date of this permission; or
- ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

Condition 2

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

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

Condition 3

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.

Condition 4

Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4 metres by 45 metres and a forward sight distance of 45 metres, shall be provided in accordance with a 1:500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

Condition 5

During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of a native species hedge to be planted to the rear of the visibility splays and the planting of the southern

and western boundaries and along the entire southern boundary of the new access on the Drawing No 01 date stamped 5th November 2021. The scheme shall detail species types, sitting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity.

Condition 6

The existing northern and eastern boundaries shall be permanently retained.

Reason: In the interests of visual amenity.

Condition 7

The curtilage of this dwelling shall be restricted to the yellow line as is identified on Drawing No 01 date stamped 5th November 2021. This boundary shall be planted, while the area shaded orange shall be permanently retained for agricultural purposes.

Reason; To prevent infill and build up creating opportunity for a dwelling in the interest of rural character.

Case Officer: Cathy Hughes

Date: 18 August 2022

ANNEX	
Date Valid	5 November 2021
Date First Advertised	16 November 2021
Date Last Advertised	16 November 2021
Details of Neighbour Notification (all addresses) The Owner / Occupier 43 Fallylea Lane, Fallylea, Maghera.,	
Date of Last Neighbour Notification	3 March 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR DAERA - Omagh-Substantive: TBCResponseType: PR	
Drawing Numbers and Title Site Location Plan Plan Ref: 01	
Notification to Department (if relevant) Not Applicable	



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.17
Application ID: LA09/2021/1651/O	Target Date: 11 January 2022
Proposal: One new dwelling (Revised Land Ownership Certificate)	Location: Lands To The West Of 69 Derrylaughan Road Coalisland Dungannon
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Pamela Quinn 69 Derrylaughan Road Coalisland Dungannon	Agent Name and Address: P G Quinn Ltd, Consulting Engineers 15 Derrytresk Road Dungannon BT71 4QL
Executive Summary:	
Characteristics of the Site and Area The site is in the countryside and outside of any settlement limits in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is semi-rural in character with predominantly agricultural fields, groups of farm buildings and single rural dwellings. There is a lot of development pressure along Derrylaughan Road and adjoining roads from the construction of single dwellings. The application site is a portion of a larger agricultural field with a flat topography and there are at least eight other dwellings along this laneway.	
Description of Proposal This is an outline application for a dwelling at lands to The West Of 69 Derrylaughan Road, Coalisland, Dungannon.	
Planning Assessment of Policy and Other Material Considerations	

Policy Consideration

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

Representations

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

Planning History

No planning histories at the application site.

Mid Ulster Development Plan 2030 - Draft Plan Strategy

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

Dungannon and South Tyrone Area Plan 2010

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

SPPS - Strategic Planning Policy Statement for Northern Ireland: sets out that 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 6.77 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'.

Planning Policy Statement 21

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 are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement.

The applicant has not specifically asked for the proposal to be considered under a

specific policy so the assessment has considered all potential policies for a dwelling in the countryside.

I do not consider the proposal meets all the criteria for a dwelling in a cluster. Within the surrounding area there are at least three dwellings and when viewed on orthophotography the immediate area does appear as a visual entity in the landscape. The site is not associated with a focal point or at a crossroads so fails this criteria in CTY 2. There is a suitable degree of enclosure at the site as there is a dwelling to the south and another dwelling to the east. The site is on agricultural land behind a dwelling at No. 69 and there are a number of dwellings along this laneway. I am of the opinion a suitable designed dwelling would not have an unacceptable impact on neighbouring amenity through overlooking, loss of light etc.

There is no dwelling to be replaced so CTY 3 is not relevant.

The proposal would not meet the criteria for an infill dwelling as the site is behind an existing dwelling at No. 69.

In terms of dwelling on a farm the agent was asked on the 14th February 2022 what policy he would like the application considered under and no response was received. The applicant lives at No. 69 Derryloughan Road which is the dwelling immediately west of the site.

I consider the proposal is contrary to CTY 1 in that no overriding reason has been provided as to why the dwelling could not be located within a settlement limit and it does not meet any of the other policies for a dwelling in the countryside.

CTY 13 - Integration and Design of Buildings in the Countryside

The application site is a cut-out of a larger agricultural field on land to the rear of dwellings at No. 67 and No. 69 Derryloughan Road. The site has a flat topography and there is a post and wire fence along the eastern boundary with No. 69. Along the southern boundary is established hedging. The remaining boundaries are undefined as the site is a portion of a larger field. As the site is behind a row of dwellings I am content a suitably designed dwelling would not be a prominent feature in the landscape.

As the proposal is for an outline the design would be considered at reserved matters stage.

A new access would run along the southern boundary of No. 69 and to the north of No. 73. I have no concerns about the access as it would run along an existing boundary.

CTY 14 - Rural Character

As stated previously in the assessment I am content a dwelling on this site would not be a prominent feature in the landscape. The site is directly behind existing dwellings and there is already a lot of development pressure along this laneway from the construction of dwellings. I am of the opinion that another dwelling would not significantly alter the rural character of the area.

Planning Policy Statement 3 - Access, Movement
Parking Policy AMP 2 - Access to Public Roads

PPS 3 policy AMP 2 outlines that planning permission will only be granted for a development proposal involving direct access onto a public road where; It does not prejudice public safety or inconvenience traffic. It does not conflict with access to protected routes. In addition, consideration should be given to the nature and scale; character of existing development; contribution to a quality environment and the location and number of existing accesses.

DFI Roads were consulted as a new access is being created and they responded with no objections subject to visibility splays of 2.4m x 45m in both directions. The site is not onto a protected route so this is not relevant in this case.

PPS 15 - Planning and Flood Risk
Policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains

A check on the statutory map viewer showed a portion of the site to the south west is within the Q100 flood plain which is contrary to FLD1. Consequently the red line of site was reduced in size away from the area of flooding. I am satisfied as the proposed site is away from the area of flooding a drainage assessment is not necessary. There are no other flooding issues at the site.

Other Considerations

The site is within Lough Neagh and Lough Beg Ramsar site so I sent an informal email to SES and they responded stating a formal consultation was required. SES responded on the 4th April 2022 stating they are waiting on NED's response. NED had asked for a preliminary ecological appraisal to allow an assessment of the impact on the ramsar. To date this has not been submitted.

There are no other ecological or built heritage issues at the site.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refuse is recommended

The proposal is recommended for refusal as it does not meet any policies in PPS 21.

Refusal Reasons

Reason 1

Contrary to CTY 1 in PPS 21 in that there is no overriding reason why the development cannot be located within a settlement.

Case Officer: Gillian Beattie

Date: 17 August 2022

ANNEX	
Date Valid	16 November 2021
Date First Advertised	26 April 2022
Date Last Advertised	30 November 2021
Details of Neighbour Notification (all addresses) The Owner / Occupier 73A Derryloughan Road, Coalisland, Tyrone, BT71 4QS The Owner / Occupier 69 Derryloughan Road Coalisland Tyrone BT71 4QS The Owner / Occupier 67 Derryloughan Road, Coalisland, Tyrone, BT71 4QS The Owner / Occupier 65A Derryloughan Road, Coalisland, Tyrone, BT71 4QS The Owner / Occupier 71 Derryloughan Road, Coalisland, Tyrone, BT71 4QS The Owner / Occupier 63 Derryloughan Road, Coalisland, Tyrone, BT71 4QS The Owner / Occupier 73B Derryloughan Road, Coalisland, Tyrone, BT71 4QS The Owner / Occupier 73 Derryloughan Road Coalisland Tyrone BT71 4QS	
Date of Last Neighbour Notification	6 April 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses Rivers Agency-Substantive: TBCResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Shared Environmental Services-Substantive: YResponseType: FR NIEA-Substantive: YResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Rivers Agency-Substantive: YResponseType: FR	

Drawing Numbers and Title
Site Layout or Block Plan Plan Ref: 02 Site Location Plan Plan Ref: 01 Rev 3
Notification to Department (if relevant)
Not Applicable

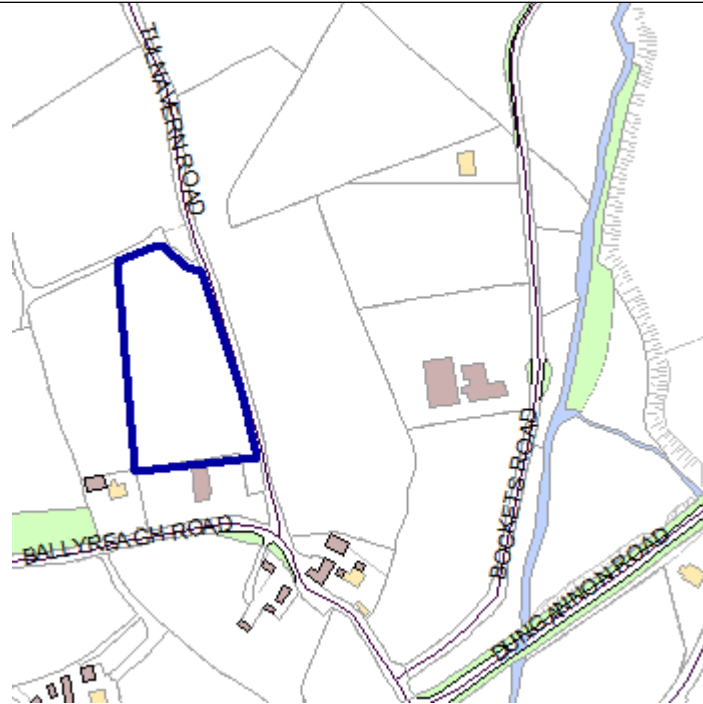


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.18
Application ID: LA09/2021/1656/O	Target Date: 13 January 2022
Proposal: Proposed Dwelling House & Detached Garage	Location: Approx.50M South - East Of : 12 Tulnavern Road Ballygawley BT70 2HH
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Luke Hanna & Amy Gilmour 12 Tulnavern Road Ballygawley BT70 2HH	Agent Name and Address: Concept 44 Architecture 44 Reahaghey Road Aughnacloy BT69 6EU
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DAERA - Omagh	Substantive: TBCResponseType: FR

Representations:

Letters of Support	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Characteristics of the Site and Area

The site is located at lands approx. 50m South East of 12 Tulnavern Road, Ballygawley. The red line of the site is an irregular shaped roadside portion of a larger agricultural field. There is a number of fields surrounding the site which are outlined in blue,

indicating ownership. There is an existing dwelling and agricultural building located NW of the application site. The site itself is generally quite flat throughout and the boundaries appear undefined apart from the roadside boundary which has mature hedging along it. The surrounding area is rural, scattered with single dwellings and their associated outbuildings. There is a presbyterian church which is located directly south of the site.

Description of Proposal

Outline planning permission is sought for a proposed dwelling house and detached garage.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Planning Assessment of Policy and Other Material Considerations

Planning History

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

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 1 and 3 Ballyreagh Road . At the time of writing, no third party representations have been received.

Planning Assessment of Policy and Other Material Considerations

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

The Dungannon and South Tyrone Plan 2010 identifies the site as being in the rural countryside. There are no other zonings or designations within the Plan.

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

The propoosal was assessed against the policies held within PPS 21. The agent provided details for a farm case under CTY 10 and the possibility of a cluster case under CTY 2a. Although, it failed on a number of criteria within CTY 2a so CTY 10 was considered the best option to assess the proposal against.

Policy CTY 1 of PPS 21 establishes that planning permission will be granted for a dwelling on a farm where it is in accordance with Policy CTY 10. This establishes the principle of development, a dwelling on a farm, is acceptable, subject to meeting the policy criteria outlined in Policy CTY 10. Policy CTY 10 establishes that all of the following criteria must 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
- (c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
 - o demonstrable health and safety reasons; or
 - o verifiable plans to expand the farm business at the existing building groups(s)

With respect to (a) the applicant has provided details surrounding their farm business ID and associated mapping. DAERA have confirmed that the business ID has been in existence for more than 6 years. DAERA have also confirmed the applicant has been claiming on the land over the last 6 years. From this information and from the site visit conducted, I am content the farm holding has been active and established for at least 6 years and that the land has been maintained in good agricultural and environmental condition.

With respect to (b) there are no records indicating that any dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of this application. Checks were carried out using the UNIFORM system and no historical applications have been found.

With respect to (c), the new dwelling is not considered to be visually linked with any existing farm buildings on the site and therefore the proposal fails the policy on this criterion. The proposed site is approx. 95m at the closest point to the red line of the site and the farm complex. The agent has provided supporting information, justifying their proposed siting by way of a photo montage, shown below in figure 1. When discussed at our internal group meeting, we did not feel that this overlaid site photograph was sufficient to show visual linkage between the two sites and we are of the opinion that there is still appreciable distance between the proposed site and farm buildings. There does appear to be alternative sites which would meet with the policy contained within CTY 10 within blue lands. There are no verifiable plans currently in the system to show that the farm business is to be expanded.

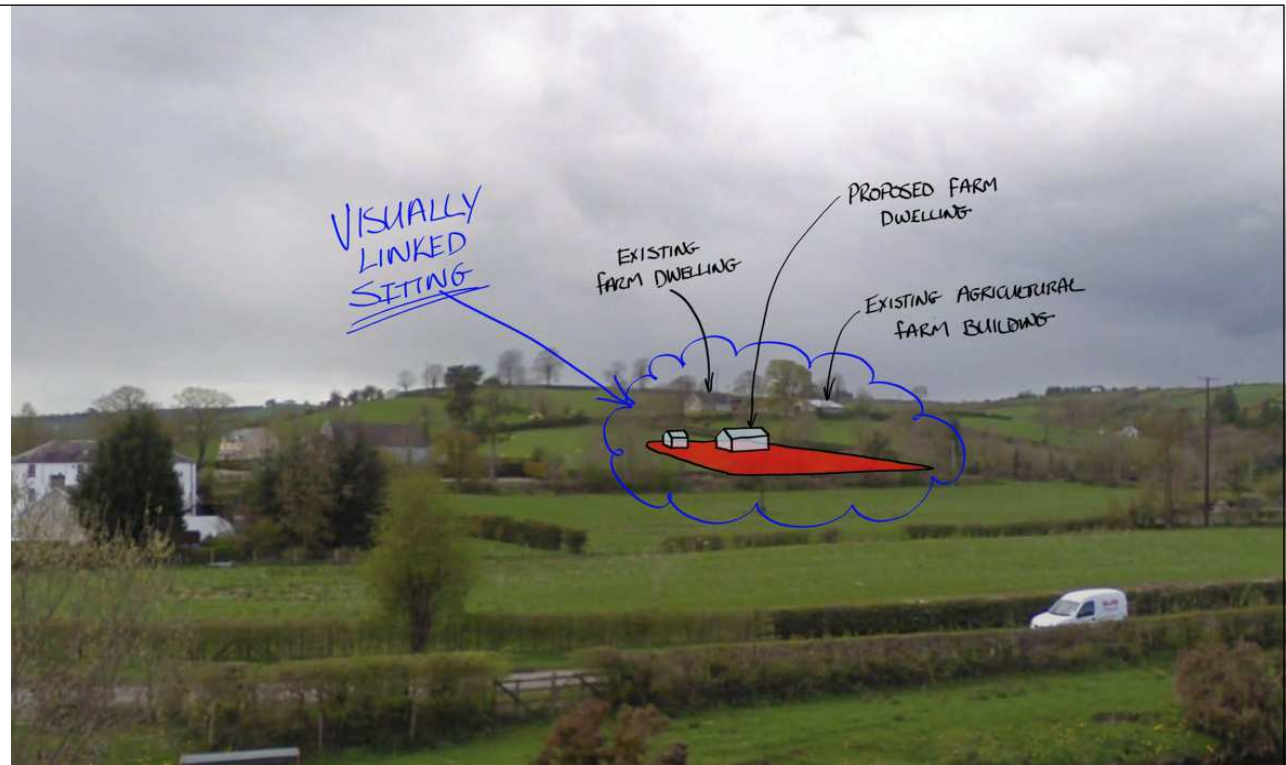


Figure 1 – Photo overlaid to show visual linkage provided by agent

CTY 13 and CTY 14 deal with rural character and the integration and design of buildings in the countryside. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. However, we feel that the proposal fails on criterion (g) of CTY 13 where in the case of a proposed dwelling on a farm, it is not visually linked or sited to cluster with an established group of buildings on a farm. I note that some of the closest surrounding properties and buildings are two storeys so if approval was to be granted, I would have no concern with a two storey dwelling provided it was designed appropriately for the site.

The applicant has noted that they intend to alter the existing access from Tulnavern Road, showing a dual shared entrance on the plans. DfI Roads were consulted and have noted no issues with the proposed access arrangement, subject to condition.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked with an established group of buildings on the farm. No health and safety reasons exist to justify an alternative site not visually linked with an established group of buildings on the farm and no verifiable plans exist to expand the farm business at the existing building group(s) to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm.

Reason 2

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 and therefore would not visually integrate into the surrounding landscape.

Signature(s): Sarah Duggan

Date: 9 August 2022

ANNEX	
Date Valid	18 November 2021
Date First Advertised	2 December 2021
Date Last Advertised	30 November 2021
Details of Neighbour Notification (all addresses) The Owner / Occupier Ballyreagh Presbyterian Church 1 Ballyreagh Road Ballygawley Tyrone BT70 2HQ The Owner / Occupier 3 Ballyreagh Road Ballygawley Tyrone BT70 2HQ	
Date of Last Neighbour Notification	16 December 2021
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> 	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Substantive: YResponseType: FR DAERA - Omagh-Substantive: TBCResponseType: FR	
Drawing Numbers and Title Site Location Plan Plan Ref: 01	
Notification to Department (if relevant) Not Applicable	



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.19
Application ID: LA09/2021/1677/F	Target Date: 18 January 2022
Proposal: Proposed dwelling and garage	Location: 20M North Of 9 Coolshinney Road Magherafelt
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Kyle MC Elhatton 9 Coolshinney Road Magherafelt	Agent Name and Address: Vision Design 31 Rainey Street Magherafelt BT45 5DA
Executive Summary:	
Characteristics of the Site and Area The site is located within the development limits of Magherafelt, but also it within land zoned for housing as defined by the Magherafelt Area Plan 2015. The site is located just north of No.9 Coolshinney Road, in which the red line covers a small agricultural field that is currently accessed via an existing agricultural access. I note that immediate and surrounding area is characterised by a mix of development inclusive of residential, schools, commercial and agricultural land uses. Representations There were ten neighbour notification letters sent out however no representations have been received.	
Description of Proposal This is a proposed full application for a proposed new dwelling and garage, the site is located north of 9 Coolshinney Road, Magherafelt.	
Planning Assessment of Policy and Other Material Considerations	

Policy Consideration

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030 - Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 7: Quality Residential Environment

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. The SPPS sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

Policy QD1 of PPS 7 states that planning permission will be granted for new residential development only where it is demonstrated that it will create a quality and sustainable residential environment. It indicates that housing will not be permitted in established residential areas where it would result in unacceptable damage to local character, environmental quality or residential amenity of these areas. The current proposal is for a single storey detached dwelling. The Policy sets out nine criteria which all residential development proposals are expected to meet.

Upon review of the proposed development and its wider setting I am content that the development would be able to successfully respect the surrounding context and that site is acceptable in of layout, scale, proportions, massing and appearance of buildings structures and landscaped and hard surface areas. Further inspection of the wider setting I note that there are no archaeological and built heritage, and landscape features in the immediate vicinity so there is no conflict with this part of the policy.

Given the size development this size does not require public open space nor local neighbourhood facilities. I am content that sufficient private amenity space has been provided for the proposed dwelling where there are existing transport links in this area. I am content the site will provide an acceptable movement pattern, including walking and cycling, which will enable occupants to access public transport routes and the public network system. I am content that there is sufficient provision made for parking as per the site plan submitted.

g) the design of the development draws upon the best local traditions of form, materials and detailing:-

I note that the design is quite modern in comparison to the existing dwelling to the south, but given such I am content that the design is still acceptable. Given the site layout and existing separation distances I am content that the proposed dwelling would be unlikely to result in adverse impacts on neighbouring amenity by way of overlooking, loss of light, overshadowing, noise or other disturbance. Finally, it is my opinion that the proposed development will not increase the potential for crime.

A Planning Strategy for Rural Northern Ireland

Policy DES 2 Townscape requires development proposals in towns and villages to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials. The proposed development will read as part of the wider area and as such will be sympathetic.

PPS 3: Access, Movement and Parking

The proposed site intends to create a new access, in which a consultation was sent DFI Roads who confirmed they were content subject to conditions and informatives. I am content that the access in place complies under PPS 3.

A consultation was also sent to HED who confirmed that they had no objections.

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

As the application has complied under Policy QD1 of PPS 7 I must recommend approval for this application.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Approve is recommended

Approval - To Committee - Applicant is related to a member of staff in the Council.

Approval Conditions

Condition 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.

Condition 2

The existing natural screenings of the site shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior

to removal.

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

Condition 3

If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same place and that/those tree(s) shall be of such size and species and shall be planted at such time as may be specified by the Council.

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

Condition 4

All landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 02 date stamped 23rd November 2021 shall be carried out in the first planting season following the commencement of the construction of the development hereby approved.

Reason: To ensure the development integrates into the surrounding context.

Condition 5

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

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

Condition 6

The vehicular access including visibility splays 2.4 x 70 metres and any forward sight distance, shall be provided in accordance with Drawing No 02 bearing the date stamp 23rd November 2021 prior to the commencement of any other development hereby permitted.

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

Condition 7

The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway before the development hereby permitted is commenced 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.

Case Officer: Peter Henry

Date: 16 August 2022

ANNEX	
Date Valid	23 November 2021
Date First Advertised	7 December 2021
Date Last Advertised	7 December 2021
Details of Neighbour Notification (all addresses) The Owner / Occupier 8 Coolshinney Road Magherafelt Londonderry BT45 5JF The Owner / Occupier 10 Coolshinney Road Magherafelt Londonderry BT45 5JF The Owner / Occupier 9 Coolshinney Road, Magherafelt, Londonderry, BT45 5JF The Owner / Occupier 2 The Willows Magherafelt Londonderry BT45 5RH The Owner / Occupier 4 The Willows Magherafelt Londonderry BT45 5RH The Owner / Occupier 6 The Willows Magherafelt Londonderry BT45 5RH The Owner / Occupier 8 The Willows Magherafelt Londonderry BT45 5RH The Owner / Occupier 10 The Willows Magherafelt Londonderry BT45 5RH The Owner / Occupier 5a Coolshinney Road Magherafelt Londonderry BT45 5JF The Owner / Occupier 4 Oakvale Drive Magherafelt Londonderry BT45 6FL	
Date of Last Neighbour Notification	28 June 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Historic Environment Division (HED)-Substantive: YResponseType: FR	

Drawing Numbers and Title
Floor Plans Plan Ref: 03 Site Layout or Block Plan Plan Ref: 02 Site Location Plan Plan Ref: 01
Notification to Department (if relevant)
Not Applicable

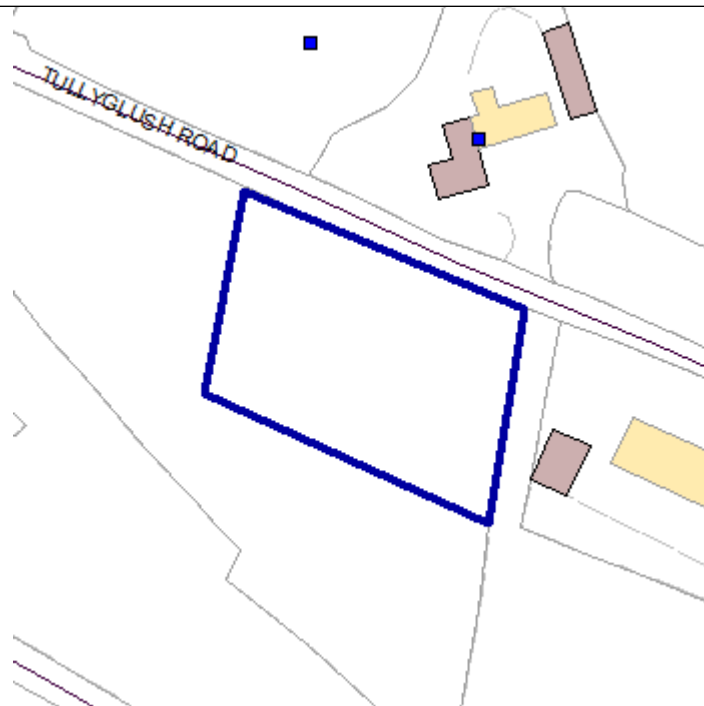


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.20
Application ID: LA09/2021/1772/O	Target Date: 7 February 2022
Proposal: Proposed dwelling, domestic garage and associated works	Location: Lands Approx. 30M To The South Of 29 Tullyglush Road Ballygawley
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Liam Farrell 50 Church Street Ballygawley	Agent Name and Address: ADP Architects 1 Holmview Terrace Omagh BT79 0AH
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR

Representations:

Letters of Support	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

No issues. There was one representation received by way of a non-committal email. The email noted that they did not object to the proposal but they were interested in the decision. The email stated that the proposal was not linked with the principal farm group, but rather the farm business ID numbers brother. We have asked the agent for clarification and the lands in question are outlined in blue, indicating ownership and thus we will take it at face value that they are in ownership of the lands or in this case they have served notice on the relevant party.

Characteristics of the Site and Area

The site is located at lands located approx. 30m South of 29 Tullyglush Road, Ballygawley. The red line of the site includes a roadside portion of a larger agricultural field. Most of the existing boundaries are currently undefined opening into the remainder of the agricultural field. The lands adjoining the site to the south and west are outlined in blue, which indicates ownership. The surrounding area includes a number of roadside residential properties and their associated outbuildings, but beyond that lands are rural in nature, largely made up with agricultural fields.

Description of Proposal

Outline planning permission is sought for a proposed dwelling and domestic garage and associated site works.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 28 and 29 Tullyglush Road. At the time of writing, no third party representations were received.

Planning History

M/2004/0494/O - Domestic dwelling and garage at Land 50M SW Of 29 Tullyglush Road, Ballygawley - PERMISSION REFUSED

Planning Assessment of Policy and Other Material Considerations

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

The Dungannon and South Tyrone 2010 identify the site as being outside any defined settlement limits and there are no other designations or zonings within the Plan.

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

In light of this, the draft Plan Strategy does not yet carry determining weight.

This proposal is for a new dwelling and domestic garage. The agent has submitted a supporting statement where they set out how they feel the proposal meets with the policy criterion held within CTY 2a of PPS 21 which was considered at our group discussions.

In line with planning policy held within CTY 2a of PPS 21 permission will only be granted for a dwelling at an existing cluster of development provided the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings. This proposal site lies outside of a farm and consists of more than 4 buildings thus adhering to this criteria. Although there is a number of existing roadside dwellings and associated outbuildings, we are not content that the cluster appears as a visual entity in the local landscape. The third criterion notes that the cluster should be associated with a focal point such as a social/community building/facility or is located at a crossroads. I am not convinced that there is anything which would be considered as a focal point in close proximity to the site and thus the proposal fails on this criterion. The identified site is bounded on two sides by development, to the North and East and it is my consideration that the proposed development could be absorbed into the existing cluster without significantly altering the existing character or adversely impacting on the residential amenity. There is sufficient separation distance between the site and neighbouring properties to avoid any issues such as privacy or overlooking concerns.

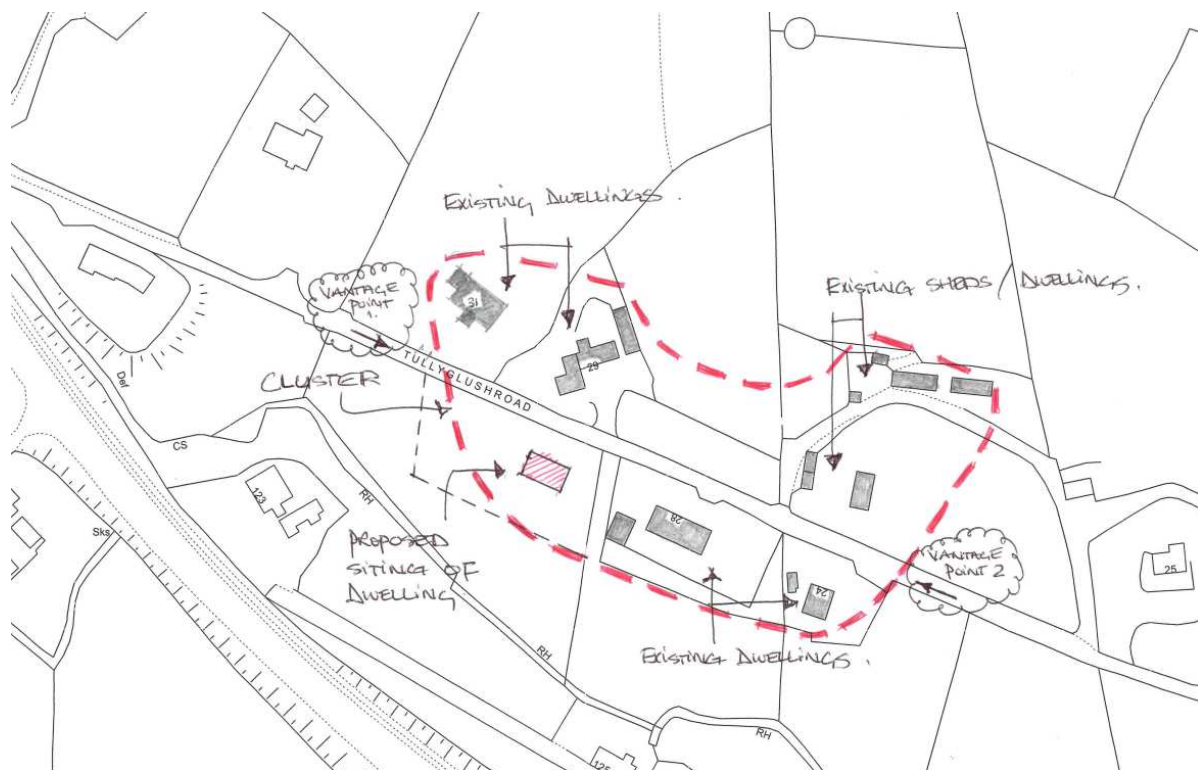


Figure 1 – Sketch of Cluster prepared by agent

It is also necessary for the proposal to be considered against the requirements of CTY 13 and CTY 14 of PPS 21, whereby it 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. This proposal is for an outline application thus no design has been stipulated at this time however given the character of the area and noting that the dwellings in the surrounding area are a mix of sizes, I am content that a two storey which is appropriately designed could be absorbed into the site. This would avoid the proposed dwelling appearing overly dominant and also will be in keeping with the surrounding development. The existing hedging should also be conditioned to be retained where possible with full details of proposed landscaping along the remainder of the boundaries to also be included with the RM application, again if approval were to be granted.

Having considered all of the above and noting that the proposal site is not within an identifiable cluster of development and does not have a focal point relating to the site thus contrary to policy, we feel the application should be refused.

I would add that the possibility of exploring a farm case at this site was discussed with the agent however no farm case was presented to us and thus we could only assess the proposal under Policy CTY2a.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster does not appear as a visual entity in the local landscape and the cluster is not associated with a focal point and is not located at a cross-roads. The dwelling would if permitted alter the existing character of the cluster visually intrude into the open countryside.

Signature(s): Sarah Duggan

Date: 9 August 2022

ANNEX	
Date Valid	13 December 2021
Date First Advertised	6 January 2022
Date Last Advertised	4 January 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 28 Tullyglush Road, Seskilgreen, Tyrone, BT70 2BZ The Owner / Occupier 29 Tullyglush Road Seskilgreen Tyrone BT70 2BZ	
Date of Last Neighbour Notification	13 January 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR	
Drawing Numbers and Title Site Layout or Block Plan Plan Ref: 02 Site Location Plan Plan Ref: 01	
Notification to Department (if relevant) Not Applicable	



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.21
Application ID: LA09/2022/0042/F	Target Date: 9 March 2022
Proposal: Proposed replacement dwelling and garage	Location: Land Approx. 100M N.W. Of 12 Lisnagleer Road Dungannon
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Derek Montgomery 29 Lisnagowan Road Feroys Dungannon	Agent Name and Address: Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
Executive Summary:	
Characteristics of the Site and Area <p>The site is a 0.86ha parcel of ground located on the Lisnagleer Road and lies approximately 1.9km north-west of Carland. The site is located within the rural countryside, outside any defined settlement limit as identified in the Dungannon and South Tyrone Area Plan 2010. The site outlined in red is a square portion of land comprising a portion of an agricultural field and what appears to be a farm holding with 2 no. buildings used for agricultural purposes, gable end to the road, and the remains of a third building to the west and rear of these. The northern boundary runs along the rear of the shed whilst the western and southern boundaries are undefined as they are cut out of the larger agricultural field. The eastern (roadside) boundary has mature trees and hedgerows. The site rises to the south.</p> <p>There are a number of histories in the immediate vicinity of the site. However, as can be seen from the site history check there are only two approvals at this site; one for a replacement dwelling to the south of the existing buildings, and one for a farm dwelling to the north of the existing buildings. There is an existing 1 1/2 storey dwelling to the other side of the public road, and the surrounding area is primarily agricultural in nature,</p>	

with development to the southeast and further to the northeast.

Description of Proposal

Proposed replacement dwelling.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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.

Relevant Histories

There are a number of planning histories associated with this site.

M/2009/0076/F was granted approval in March 2009 for a dwelling and garage on land 280 metres North West of 12 Lisnagleer Road. (Derek Montgomery) substituted by M/2010/0167/F.

M/2009/1014/F was granted permission in Feb 2010 on land 220 south west of 12 Lisnagleer Road for the re-siting of dwelling and garage which was approved in March 2009 under application M/2009/0076/F. (Derek Montgomery) Now expired as a check on Spatial NI shows that works have not commenced on site.

M/2010/0167/F was granted permission in May 2010 for the substitution of previous planning approval M/2009/0076/F, for a dwelling and garage on land 150m west of 12 Lisnagleer Road. (Derek Montgomery) Now expired as a check on Spatial NI shows that works have not commenced on site.

LA09/2015/0865/O was granted permission in March 2016 for a farm dwelling and garage on land 100m NW of 12 Lisnagleer Road under, this is sited immediately north of the outbuildings. (Cyril Montgomery) Now expired as no Reserved Matters application was submitted within the requisite 3 years, nor Full application within 5 years.

LA09/2016/0458/O was granted permission in June 2016 for a replacement dwelling and garage on land 100 metres N.W. of 12 Lisnagleer Road (Cyril Mongomery) Now expired as no RM application was submitted within the requisite 3 years, nor Full application within 5 years.

LA09/2019/1204/O was granted permission in February 2020 for a dwelling and garage on a farm on land 100 metres NW of 12 Lisnagleer Road. (Cyril Montgomery). This application was essentially a renewal of LA09/2015/0865/O, as the principal of a farm dwelling at this site was established and there has been no change in policy since.

LA09/2020/1329/O was granted permission in September 2021 for Proposed replacement dwelling and garage at Land approx. 100m N.W. of 12 Lisnagleer Road, Dungannon (Cyril Montgomery). This application was essentially a renewal of LA09/2016/0458/O as the principal of a replacement dwelling at this site was established and there has been no change in policy since. This application was approved on 30th October 2021.

As it stands there are two live approvals at this site, one to the north of the existing

buildings (LA09/2019/1204/O - farm dwelling) and one to the south of the existing buildings (LA09/2020/1329/O - replacement dwelling).

This application LA09/2022/0042/F has been received on this site as the applicant wishes to move the dwelling outside the green shaded area as conditioned under LA09/2020/1329/O.

Representations

One (1) neighbouring property was notified and press advertisement has been carried out in line with the Council's statutory duty. As the neighbour notification letter for the property identified across the public road (No. 11) was returned, I printed another neighbour notification letter and hand delivered this on 3rd March 2022. From conversation with the lady at this address there has been some confusion over this address in the past, and she states the address is No. 12a Drumconor Road.

Subsequently a letter of objection from Doris & MacMahon Solicitors on behalf of the occupants of No. 12a Drumconor Road (shown as No. 11 Lisnagleer Road on our maps) was received on this application on 14th March 2022. I have sought clarification on the issue of the inaccurate address with Building Control who have confirmed that 11 Lisnagleer Road is the correct address for this property.

The objection to the planning application submitted are based on the following grounds which shall each be considered in turn.

1) The development, if permitted, will exasperate an existing problem at the junction of the Drumconor Road and Lisnagleer Road which has resulted in extensive flooding and damage to their property;

I have consulted the Flood Hazards & Flood Risk Maps for NI and this does not indicate that there is a flooding issue associated with the site in question. The maps show there may be an issue with surface water in the field to the north of their property as the result of existing ponds in this field. Rivers Agency were not consulted as this application site does not show as being affected by flooding issues.

2) The development will increase the number of vehicles on the Drumconor Road and Lisnagleer Road and as there is no footpath and no lighting on the said roads the intensification of traffic will create difficulties for our clients;

DFI Roads were consulted on the proposal and they have responded by stating that the access including visibility splays of 2.4m x 45m and a forward sight distance of 45m shall be provided in accordance with the submitted plans. This will ensure that there is a satisfactory means of access in the interests of road safety and the convenience of road users. DFI Roads are satisfied that there are no road safety issues with a dwelling on this site.

3) The applicant has two further dwellings approved along the Lisnagleer Road and has a further development of a dwelling approved under LA09/2021/1010/RM. The proposed development will therefore result in an additional four dwellings accessing unto the Drumconor and Lisnagleer Road.

As has been detailed above there are a number of histories on this site. However, only two permissions are currently valid; LA09/2020/1204/O for a farm dwelling to the north of the existing buildings, and LA09/2020/1329/O for a replacement dwelling to the south of the buildings - the same site that is currently under consideration. This full application has been received as the applicant wishes to site outside the green shaded area set down at OPP stage under LA09/2020/1329/O and therefore a RM application could not be submitted. Only one replacement dwelling can be granted for this site.

The further development quoted as being approved - LA09/2021/1010/RM - is currently

under consideration by the Council and has not to date been approved.

4) A Regional Property Certificate has been submitted which was received when they purchased their property in 2020. It is their view that the applicant did not comply with the statutory obligation to provide notice in respect of his previous applications and that those applications are now void.

Neighbour notification to No. 11 Lisnagleer Road was carried out by the Council under the previous applications LA09/2015/0865/O, LA09/2016/0458/O, LA09/2019/1204/O and LA09/2020/1329/O. I do not believe that this address has been prejudiced as they have been afforded the opportunity to comment on the submitted applications. They may wish to liaise with Building Control regarding the address matter, as No. 11 Lisnagleer Road would appear to be the correct address for this property.

Dungannon and South Tyrone Area Plan 2010

The site lies outside any settlement limit defined in the Dungannon and South Tyrone Area Plan 2010 and is not subject to any area plan designations, as such, existing planning policies should be applied in this assessment.

Mid Ulster District Council Draft Plan Strategy 2030

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

SPPS - Strategic Planning Policy Statement for Northern Ireland

The 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. It does not present any change in policy direction from PPS 21, therefore existing policy applies.

PPS 3 - Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves a new access to the public road and DFI Roads have no concerns subject to sightlines of 2.4m x 90m being provided which is as shown on the submitted block plan.

CTY1 of PPS 21 - Development in the Countryside

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY1 of PPS21 lists development proposals that are considered to be acceptable forms of development in the countryside, including replacement dwellings, subject to policy criteria within CTY3 - Replacement Dwellings being met.

CTY 1 allows for a new dwelling in the countryside provided it meets with the criteria specified in other policies within the document. Planning permission will be granted for an

individual dwelling house in the countryside in the following cases:

- a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a;
- a replacement dwelling in accordance with Policy CTY 3;
- a dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6;
- a dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7;
- the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8; or
- a dwelling on a farm in accordance with Policy CTY 10.

CTY 3 - Replacement Dwellings

CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact.

The building on site is constructed in stone, brick and some block masonry infilling. The roof is pitched, has a corrugated zinc covering and is intact, albeit some openings were evident. Whilst the building to be replaced would appear to be utilised for agricultural purposes at this time, a small central projection with a pitched gable and a small window opening which appears to be a storm porch is evident on the southern elevation. There are 4 no. window openings with red brick surround, all of which have been either partially or completely blocked up or covered with zinc. For this reason the building was deemed to be substantially intact and exhibited the characteristics of a dwelling house and was deemed acceptable to be replaced under LA09/2016/0458/O. As no application for Reserved Matters was made within the requisite time, this permission expired. However it is important to take this approval into consideration in the assessment of this application as is it considered a precedent on the site. Subsequently LA09/2020/1329/O was submitted to the Council for a proposed replacement dwelling and garage and was granted permission on 30th October 2021.

Policy CTY3 then goes on to set out other criteria for consideration in all replacement cases. It states that the proposed dwelling should be sited within the established curtilage of the existing building unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.

The proposed dwelling is to be sited outside the curtilage of the existing, extending into the agricultural field to the south as the curtilage of the existing building is very restrictive. The existing buildings on site shall be retained and utilised for the purposes of agricultural only. This ensures that the approved farm dwelling to the north of these buildings will cluster and read with them. This Full application has been received as the applicant has moved the dwelling further away from the existing buildings, outside the area conditioned at OPP stage. It is not felt that this move will have a significant detrimental visual effect, nor will it result in any detriment to the property across the public road as it will be further removed from it. The move will have demonstrable amenity benefits as it will be further away from the farmyard. Levels have been provided and are considered acceptable.

Policy CTY 13 - Design and Integration and Policy CTY 14 - Rural Character

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. The proposed dwelling will be 5.7m in height, 17.7m in length (22m in length including the side projection with a lower ridge height) and has a gable depth of 9.7m. The windows have a horizontal rather than vertical emphasis and there is a strong relationship of solid to void, with the chimneys expressed from the ridgeline. The finish of coloured render is considered acceptable. Given the orientation of the dwelling on site I do not consider there will be long term critical views of the windows and they are acceptable. Levels of the site and details of the proposed retaining wall have been received and are considered acceptable. There are limited long term critical views of the site when travelling south and will only be on approach to the site. There will be no critical views when travelling north until upon the site given the curvature of the public road and the mature boundaries along it. The existing roadside boundary will have to be removed to facilitate sightlines, although a note on the plans does say that the existing mature trees are to be fully retained and protected. It is clear from the drawings that this is not the case as this boundary has to be removed to facilitate sightlines and the drawings show this. Additional planting to the rear of the sightlines is shown which will help aid integration when mature, and must be conditioned to be implemented. From conversation with the objectors 28th July 2022 they are aware of the need to remove this boundary, and I do not feel that additional plans are required with the removal of the note regarding tree retention as the drawings show them removed.

CTY 14 of PPS21 Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The proposed dwelling will not be unduly prominent in the landscape nor does it result in build up. It respects the settlement pattern of the area and it does not create or add to a ribbon of development. The ancillary works will not damage rural character. A dwelling on this site is in accordance with this policy and the proposal therefore complies with CTY 14.

Other Material Considerations

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

I recommend approval as the proposal complies with CTY 3. The dwelling is eligible to be replaced and the design is considered to be acceptable.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 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.

Condition 2

The vehicular access, including visibility splays of 2.4m x 45.0m and any forward sight distance shall be provided in accordance with drawing No. 02 Rev. 02 bearing the date stamp 17 Jun 2022, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the 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.

Condition 3

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 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.

Condition 4

All hard and soft landscape works as detailed on drawing No. 02 Rev. 02 date stamped 17 Jun 2022 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity.

Condition 5

The dwelling to be replaced shaded green on Drawing No. 01 Rev. 01 date stamped 09 May 2022 shall be utilised for the purposes of agriculture only. This building shall be retained, unless prior written approval from Mid Ulster Council allows for its removal if it is necessary to prevent danger to the public, in which case a full explanation shall be given to the Council.

Reason: This building was utilised for which to cluster a farm dwelling with.

Case Officer: Deirdre Lavery

Date: 17 August 2022

ANNEX	
Date Valid	12 January 2022
Date First Advertised	27 January 2022
Date Last Advertised	27 January 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 11 Lisnagleer Road Dungannon Tyrone BT70 3LN The Owner / Occupier 11 Lisnagleer Road, Dungannon, Tyrone, BT70 3LN The Owner / Occupier Kiln House, 12A Drumconnor Road, Dungannon, BT70 3LL	
Date of Last Neighbour Notification	7 July 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: LA09/2015/0865/O Proposals: Proposed dwelling and garage on a farm Decision: PG Decision Date: 08-MAR-16 Ref: M/2005/1943/O Proposals: Site of dwelling and garage Decision: PG Decision Date: 19-JAN-06 Ref: M/2000/0598/O Proposals: Site for dwelling Decision: PG Decision Date: 19-DEC-00 Ref: M/2009/1014/F Proposals: Re-siting dwelling and garage from previous approval reference, M/2009/0076/F Decision: PG Decision Date: 09-FEB-10 Ref: M/2010/0167/F Proposals: New dwelling and garage in substitution of previous planning approval	

M/2009/0076/F

Decision: PG

Decision Date: 18-MAY-10

Ref: M/1977/0197

Proposals: 11KV O/H LINE

Decision: PG

Decision Date:

Ref: M/2009/0076/F

Proposals: Proposed Dwelling & Garage

Decision: PG

Decision Date: 11-MAR-09

Ref: LA09/2022/0042/F

Proposals: Proposed replacement dwelling and garage

Decision:

Decision Date:

Ref: M/2004/0644/F

Proposals: 11 KV Supply (03/09896)

Decision: PG

Decision Date: 16-JUN-04

Ref: LA09/2019/1204/O

Proposals: Proposed dwelling and garage on a farm.

Decision: PG

Decision Date: 06-FEB-20

Ref: LA09/2016/0458/O

Proposals: Proposed replacement dwelling and garage.

Decision: PG

Decision Date: 29-JUN-16

Ref: LA09/2020/1329/O

Proposals: Proposed replacement dwelling and garage

Decision: PG

Decision Date: 30-OCT-21

Ref: M/2009/0057/RM

Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 18-FEB-09

Ref: M/2005/1942/O

Proposals: Site of dwelling and garage.

Decision: PG

Decision Date: 19-JAN-06

Ref: M/2005/2286/F

Proposals: Dwelling and garage

Decision: PG

Decision Date: 17-JUL-06

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: TBC

DFI Roads - Enniskillen Office-LA09-2022-0042-F - 12 Lisnagleer Road, Dungannon - Response.docx

Drawing Numbers and Title

Proposed Plans Plan Ref: 03

Site Layout or Block Plan Plan Ref: 02

Site Location Plan Plan Ref: 01

Site Location Plan Plan Ref: 01 Rev 01

Site Layout or Block Plan Plan Ref: 02 Rev 02

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.22
Application ID: LA09/2022/0137/F	Target Date: 29 March 2022
Proposal: Proposed new vehicular access to be paired with the existing vehicular access to 47 Killyneill Road, Dungannon	Location: 47 Killyneill Road Dungannon
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: David Moore 49 Killyneill Road Dungannon	Agent Name and Address: Sam Smyth Architecture Unit 45D Dungannon Enterprise Centre Dungannon BT71 6JT
Executive Summary:	
Characteristics of the Site and Area The site is located within the open countryside approx. 1 mile east of Dungannon Town, outside any settlement designated by the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and predominantly agricultural fields, groups of farm buildings and single rural dwellings, whilst Hobsons Electronic business exists to the east of the site, The site has a roadside frontage onto Killyneill Road which is a moderately trafficked road between Dungannon and Killyman and The Bush.	
Description of Proposal This is a full application for proposed new vehicular access to be paired with the existing vehicular access to 47 Killyneill Road, Dungannon.	
Planning Assessment of Policy and Other Material Considerations	
Policy Consideration	

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

Representations

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

Planning History

LA09/2018/1065/F - Renewal of previously approved dwelling and garage under
M/2013/0032/F - North Of 47 Killyneill Road, Dungannon - Permission Granted
03.10.2018

M/2013/0032/F - Proposed replacement dwelling and garage - Lands North Of 47
Killyneill Road, Dungannon - Permission Granted - 25.04.2013

Mid Ulster Development Plan 2030 - Draft Plan Strategy

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

Dungannon and South Tyrone Area Plan 2010

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

SPPS - Strategic Planning Policy Statement for Northern Ireland:

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

Planning Policy Statement 3 - Access, Movement

Parking Policy AMP 2 - Access to Public Roads

PPS 3 policy AMP 2 outlines that planning permission will only be granted for a development proposal involving direct access onto a public road where; It does not prejudice public safety or inconvenience traffic. It does not conflict with access to protected routes.

The proposal is for a new access to pair with the existing access to a dwelling at No. 47 Killyneill Road. There is a planning approval LA09/2018/1065/F along the same access lane for a dwelling and the proposal is for the new access to serve this new dwelling. DFI Roads were consulted as the statutory authority and were content with the access subject to visibility splays of 2.4m x 60m in both directions. I am content the proposal will not prejudice road safety.

The agent has stated in an email dated 8th June 2022 that the new access is needed due to issues obtaining third party land for visibility splays and mortgage issues about shared laneways. Mortgage issues along laneways are not a material planning consideration. I consider there is no justification for the new access which will involve significant cutting into the landscape and prominent retaining walls. As stated in PPS 3 consideration should be given to the nature and scale; character of existing development; contribution to a quality environment and the location and number of existing accesses.

The site does not exit onto a protected route so there is no intensification of a protected route in this application.

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

CTY 13 - Integration and Design of Buildings in the Countryside

The new access laneway will run alongside the existing access and the proposal involves cutting into an embankment which is approximately 3-4m in height as shown on the section drawing no. 589-04. Therefore a 2.5m high retaining wall is proposed for a section along the laneway and roadside. The retaining wall be a blockwork wall with concrete coping on top of the wall and will run along the roadside for a considerable distance. This proposal involves significant cutting into the landscape and retaining walls which I do not consider is acceptable in the countryside. The proposal is also contrary to condition 4 of planning approval LA09/2018/1065/F which stated the existing mature trees and vegetation along the entire site boundaries should be retained in the interests of visual amenity. The site is currently a rural laneway with trees and hedging on either side. As stated in paragraph 5.73 in CTY 13 hedges and walls are an important element in mitigating the impact of new development. The proposal will not integrate into the landscape and be prominent in critical views in both directions.

CTY 14 - Rural Character

I consider the proposal will be prominent and will have an unacceptable impact on rural character. A new access should blend into the landscape and this proposal involves significant engineering works with a concrete blockwork wall.

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

Other Considerations

Rivers Agency were consulted on this application as a stream runs along the eastern boundary of the site. Rivers Agency had no objection but made the following site specific comments under the respective policies of PPS 15.

Due to the stream running along the eastern boundary of the site I have considered this proposal for HRA however considering the scale of the proposal and its distance upstream from Lough Neagh it's considered unlikely to have any significant effects on Lough Neagh.

Overall the proposal is recommended for refusal.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refuse is recommended

Refusal is Recommended.

Refusal Reasons

Reason 1

The agent is a Mid Ulster Council Employee.

Reason 2

Contrary to CTY 13 - Integration and design of buildings in the countryside in PPS 21 that the development if permitted would be a prominent feature in the landscape and would not integrate into the landscape.

Reason 3

Contrary to CTY 14 - Rural Character in PPS 21 in that that the development if permitted would be a prominent feature in the landscape and the impact of ancillary works would damage rural character.

Reason 4

Contrary to AMP 2 - Access to Public Roads in PSP 3 - Access, Movement and Parking in that in that the nature and scale of the proposed access is detrimental to rural character.

Case Officer: Gillian Beattie

Date: 17 August 2022

ANNEX	
Date Valid	1 February 2022
Date First Advertised	17 February 2022
Date Last Advertised	15 February 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 47 Killyneill Road, Dungannon, BT71 6LL The Owner / Occupier 49A Killyneill Road, Dungannon, BT71 6LL The Owner / Occupier 49 Killyneill Road, Dungannon, BT71 6LL	
Date of Last Neighbour Notification	23 February 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Rivers Agency-Substantive: TBCResponseType: FR Historic Environment Division (HED)-Substantive: YResponseType: FR	
Drawing Numbers and Title Existing Plans Plan Ref: 03 Proposed Plans Plan Ref: 02 Site Location Plan Plan Ref: 01	

Notification to Department (if relevant)

Not Applicable

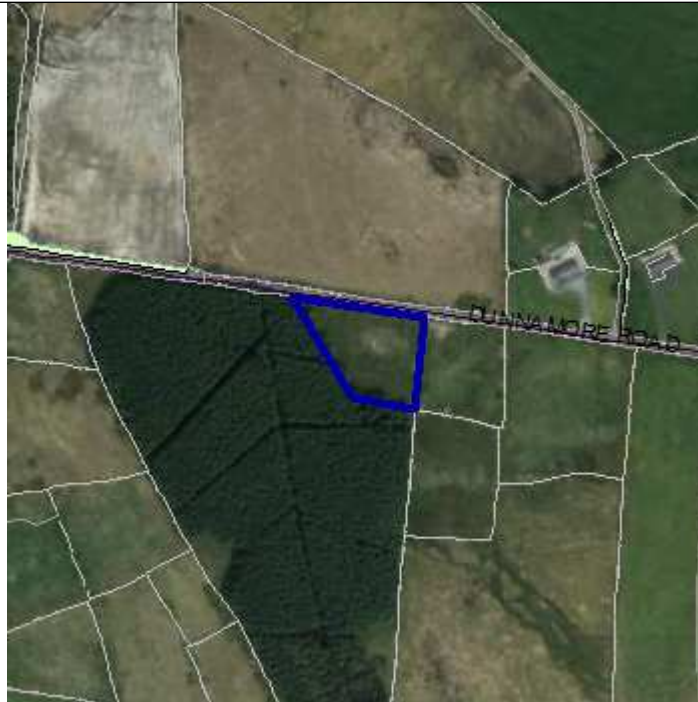


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.23
Application ID: LA09/2022/0234/O	Target Date: 20 April 2022
Proposal: Proposed site for dwelling and garage	Location: Lands Approx. 100M South West Of 111 Dunnamore Road Cookstown
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Noel Corey 101A Dunnamore Road Cookstown	Agent Name and Address: Cmi Planners Ltd 38 Airfield Road Toomebridge
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR
	DAERA - Omagh	Substantive: TBCResponseType: FR

Representations:

Letters of Support	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Contrary to Policy CTY 1 and CTY 10 of PPS 21. Insufficient information provided to show the farm has been active and established for more than 6 years as Farm Business ID was allocated in October 2020.

Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the

Cookstown Area Plan 2010 and is a rural site with single dwellings sparsely located throughout the surrounding area. The site itself is a small corner site of a field and sits at a level slightly below the road level. The land is rough agricultural lands and an area of woodlands is located along the western boundary and continues south, which provides a strong backdrop for the site. A low-level post and wire fence defines the northern and eastern boundary and the site slopes gently in a southern direction.

Description of Proposal

This is an outline planning application for a proposed site for a dwelling and a garage.

Site History

I/2006/0621/O- Dwelling and garage 120m South West of 111 Dunamore Road, Cookstown.

Permission refused. (Appealed)

2006/A0532- Appeal Dismissed 1st June 2007.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Cookstown Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS3: Access, Movement and Parking

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

The site is located in the open countryside as defined by the Cookstown Area Plan 2010.

Development is controlled under the provisions of the SPPS and PPS 21 -Sustainable Development in the countryside.

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster' 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 dwellings on farms. 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.

In respect to criteria (a) a consultation was issued to DAERA who confirmed the farm business has not been in existence for more than 6 years. The business ID was allocated in October 2020, the business ID is a category 3 status that is not entitled to claim land payments, and the site is located on land not claimed by any farm business. The agent was contacted on the 8th April and again on 13th June to ask if they could provide any additional evidence that a farm business has been active and established for more than 6 years, prior to the allocation of a farm business ID. No further information has been forthcoming although on the P1c form the agent provided a DARD Ref (not a business ID) stating it was established in 1999 and a screenshot for what appears to be a DARD system showing the applicants details. From this, the proposal fails to meet criteria A.

A search on the planning system does not show any dwellings or development opportunities have been sold off from the farm holding within 10 years of the application.

The proposed site is not located to visually link or sited to cluster with an established group of buildings on the farm. Within the P1c form, the applicant claims there are no other buildings on the farm in which the proposed dwelling could cluster or visually link with. As is consistent within Mid Ulster District Council, where there are no other buildings available on or close to the identified farmlands, the best available site is chosen in terms of integration within the countryside as an exception to policy. The applicant provided an old farm map dated 2012 that shows this site and the lands outlined in blue as part and the only field on the farm maps. So on the basis this is the only lands available. In terms of the access, there is no existing farm lane, only a field gate to access the field.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been provided however, the proposed site is bounded to the west and south by existing mature trees and I am content a dwelling at this location would not be a prominent feature in the landscape. Ancillary works would integrate with the surroundings.

Policy CTY 14 states, planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, no design details were submitted. However, given the screening available at this site and the landform surrounding the site I am content an appropriately designed dwelling would not be unduly prominent in the landscape. I do not believe a dwelling here would result in a suburban style build up or development nor create or add to a ribbon of development.

Other Material Considerations

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and, in their response, stated that they had no objections subject to conditions.

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

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to the Strategic Planning Policy Statement and 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.

Reason 2

The proposal is contrary to Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that it has not been demonstrated that the farm business has been active and established for at least six years.

Signature(s): Ciaran Devlin

Date: 15 August 2022

ANNEX	
Date Valid	23 February 2022
Date First Advertised	8 March 2022
Date Last Advertised	8 March 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier No Neighbours	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: I/2006/0621/O Proposals: Dwelling and domestic garage Decision: Decision Date: Ref: I/2008/0727/F Proposals: Proposed dwelling (change of condition siting condition of approved reserved matters - I/2006/0637/RM) Decision: PG Decision Date: 16-MAR-09 Ref: I/2002/0064/O Proposals: Proposed Dwelling & Garage Decision: PG Decision Date: 02-APR-03 Ref: LA09/2022/0234/O Proposals: Proposed site for dwelling and garage Decision: Decision Date: Ref: I/2006/0637/RM Proposals: Proposed dwelling and garage Decision: PG Decision Date: 21-JUN-07 Ref: I/1988/0460	

Proposals: 11 KV Rural Spur
Decision: PG
Decision Date:
Ref: I/1983/0286
Proposals: ERECTION OF DWELLING
Decision: PG
Decision Date:
Ref: I/2006/1034/F
Proposals: Proposed dwelling and garage
Decision:
Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR
DAERA - Omagh-Substantive: TBCResponseType: FR

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.24
Application ID: LA09/2022/0269/O	Target Date: 28 September 2022
Proposal: Proposed PPE manufacturing , production, distribution and controlled storage facility with research and development, innovation and sustainability centre with associated site works , landscaping and new vehicular access.	Location: Lands Opposite 80 Aughrim Road Magherafelt
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Bloc Ppe Ltd 26B Station Road Magherafelt	Agent Name and Address: Manor Architects Ltd Stable Buildings Manor House 30A High Street Moneymore BT45 7PD
Executive Summary:	
Characteristics of the Site and Area The site is located approx. a mile east of Magherafelt directly adjacent to the Aughrim Road. The site is directly opposite 2 industrial buildings – one operated by Russel Shields Tyre repair and the other by SDC Trailers. The site is generally described as flat although there is a slight rise in elevation from east to west. The roadside boundary, to the north of the site consists of a low native species hedge and indeed the other boundaries of the site along the south and southwest are similarly defined. The eastern boundary which frames the public perspective when travelling along the Aughrim Road toward Magherafelt is slightly denser with some larger deciduous trees.	

The site frontage along the Aughrim Road is approx. 420m long and the total site area is given as 3.8Ha which makes this a major application under the Schedule attached to The Planning (Development Management) Regulations (Northern Ireland) 2015.

The area as already mentioned has two existing industrial buildings in the immediate vicinity however, the area in my opinion still possess a generally rural feel with little in the way of development pressure apart from these two enterprises.

Description of Proposal

The proposal is for a new industrial facility consisting of two buildings. One building is to allow for the production, distribution, storage and collection / recycling of PPE equipment. The other building is to facilitate research and development.

The scheme also incorporates associated site works, a new vehicular access, access road, parking and a leisure garden in the extreme western, most elevated portion of the site.

The facility is required to meet the growing and assumed future demand for PPE equipment as well as to recycle single use PPE equipment in order to address the issue of rising pollution and waste resulting directly from the upsurge in PPE usage.

Due to an upsurge in PPE production from 2020 onwards, the developer has outgrown their existing premises in Magherafelt and needs a larger production facility as well as new facilities for research and development and collection and recycling of PPE equipment

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

- * MAGHERAFELT AREA PLAN 2015
- * STRATEGIC PLANNING POLICY STATEMENT (SPPS)
- * PLANNING POLICY STATEMENT 21 SUSTAINABLE DEVELOPMENT IN THE COUNTRYSIDE
- * PLANNING POLICY STATEMENT 4 – PLANNING AND ECONOMIC DEVELOPMENT
- * PPS 3 – ACCESS MOVEMENT AND PARKING
- * PPS 15 – PLANNING AND FLOOD RISK
- * MID ULSTER DRAFT PLAN STRATEGY 2015-2030

Magherafelt Area Plan 2015

The site is not located within the settlement limit of any defined settlement. It is located in the countryside as per the Magherafelt Area Plan 2015 and therefore should be

assessed as such from a planning policy perspective.

Strategic Planning Policy Statement (SPPS)

In relation to the development of economic projects in the countryside, the SPPS states at para. 6.82 that the planning authority should support rural economic development that are “of an appropriate scale and nature.”

The document also goes on to state that when assessing proposals for rural development, the guiding principle will be to support projects which will support the rural economy and rural communities whilst at the same time protecting and preserving the rural character of an area. Furthermore, the best scope for such development is to achieve this through the redevelopment of buildings or through the expansion of existing enterprises with new buildings only being acceptable where they can be integrated in a satisfactory manner.

In fact, the SPPS directly states that the level of new building for economic development outside of settlements (in the countryside) should be restricted unless one of the following criteria (summarised) apply;

- > a small scale new build project where there is no suitable site within the settlement limit (edge of settlement favourable subject to normal planning considerations).
- > A proposal for a major or regionally significant economic development where a countryside location is necessary for site specific reasons and where a significant economic benefit is anticipated. Again, an edge of settlement location is favourable over a location elsewhere in the rural area.

The main issues raised in the SPPS therefore are;

- * The development being of an “appropriate scale and nature”
- * General presumption towards restricting new economic development in the countryside
- * No suitable sites existing within the settlement
- * An edge of settlement limit location being favourable (subject to normal planning considerations)
- * An exception in the form significant economic contribution being provided
- * An exception in the form of site specific reasons for this proposed location

All of these issues are issues which are raised through the consideration of operational planning policy and for the sake of avoiding repetition, will be fully considered below as part of the assessment of the relevant policy.

Planning Policy Statement 21 (PPS 21) – Sustainable Development in the Countryside.

CTY 1

CTY 1 of PPS 21 states that in relation to proposals for industry and business uses in the countryside, planning permission will be granted for proposals which are in accordance with PPS 4 – Planning and Economic Development.

PPS 4 is therefore the main policy consideration when assessing the general principle of this development proposal. Other aspects of PPS 21 such as CTY 13 “Integration and Design of Buildings in the Countryside” and CTY 14 “Rural Character” are also important

considerations and will be assessed following assessment of PPS 4 and the general principle of the development.

PPS 4 – Planning and Economic Development

PED 2

Policy PED 2 there are a range of scenarios wherein economic development in the countryside will be acceptable. These are;

- * The expansion of an established economic development use under PED 3
- * The re-development of an established economic development use under PED 4
- * Major industrial development under PED 5
- * Small rural projects under PED 6
- *

It is therefore apparent that if this policy is capable of being approved it must comply with Policy PED 5.

PED 5

PED 5 states that a major industrial economic proposal which makes a significant economic contribution to the regional economy will be permitted in the countryside where there are reasons relating to size or site specific issues which mean it needs a countryside location. The Justification and Amplification states that the developer must show a thorough examination of all alternative sites in order to demonstrate how these are unsuitable and that this must include an assessment of edge of settlement sites.

The policy also states at para. 5.23 that permission will not normally be granted for existing urban based enterprises to relocate to the countryside; therefore setting a presumption against the principle of the development proposed in this instance.

In this case, the site has an area of 3.8 Ha and therefore the requirement of a rural location on the basis of size can be ruled out fairly easily as there are existing zoned economic lands within Magherafelt Settlement Limit which can house such a size of development. This is something that has been acknowledged by the developers agent who has indicated in their submitted Planning Statement (rec'd. 2nd March 2022) that zonings MT 28 and MT 29 are adequate in terms of size to accommodate this development.

The developers agent has asserted that there are site specific reasons why this development is needed in the countryside insofar as a rural location is needed in order to ensure an environment which is "free from pollutants." No evidence has been submitted regarding the nature of the proposed industrial process and how it cannot be expected to operate in an urban location because of the presence of these "pollutants."

Correspondence with the agent has sought clarity on this issue and indeed they were asked to clarify what the "pollutants" in the urban are, what level of pollution is experienced in an urban setting as opposed to a rural setting and what level of these "pollutants" is needed in order to make the industrial process unfeasible. These are all issues, which need to be understood in order to make an assessment on whether there

are site-specific reasons why this development requires a rural location. In the agents response, no satisfactory response was given to these questions and therefore I am of the opinion that site specific issues which justify a rural location are not sufficient in this instance to meet the criteria included in policy PED 5. It should be noted that the developer operated in an urban environment for a period of months (at Meadowbank Sports Arena) and was able to produce PPE equipment in this urban environment.

Similarly, it has not been demonstrated that this proposal will make a “significant contribution to the regional economy”. Indeed, the developer has not shown that there will be any new jobs created by this proposal but rather they refer to existing jobs being protected. I am therefore not of the opinion that this proposal will have a “significant contribution to the regional economy” and therefore does not constitute an economic project which is deemed suitable of being located in a rural location.

PED 5 states that the developer must demonstrate how alternative sites are unsuitable and therefore how a rural location is necessary. In this instance, the developer has not conducted a thorough assessment of all alternative sites.

Rather, the developers agent has scored all existing economic zoned land in Magherafelt against a pre-defined matrix. In doing so, they have scored two sites as either “good” or “reasonable” in terms of their own matrix of required characteristics. The two economic zonings, MT 28 and MT 29 at Ballymoughan Road have been scored as either “good” or “reasonable” in all aspects. It is therefore very difficult to see how these two sites can be classed as unsuitable.

The agent has shown in their planning statement that there are suitable sites within Magherafelt but their argument seems to centre on the fact that the proposed site is, in their view, more suitable. This is not the essence of the policy test in PED 5 which states that the developer must show the alternative sites within existing settlement limits to be unsuitable.

I am therefore of the view that these two sites (MT28 and MT29) are suitable for this development but land ownership and the fact that the developer appears to have an agreement (Certificate C completed) with the existing landowner at the proposed site are the principal drivers for them wishing to house the development at the proposed location. These are not valid planning reasons for allowing such a large scale industrial development in a rural area.

The developer has not considered any alternative sites in either Cookstown or Dungannon but has stated that they are too far away from the core business and employee base and therefore the prospect of this development in either of these locations is not feasible.

Similarly, there have been no considerations given to edge of town locations, which according to PPS 5, are favoured over more rural locations such as this one, where the principle of development in the rural area is accepted. If the principle of this development in the rural area were to be accepted then the developer would be required to conduct a thorough assessment of edge of town sites and rule them out as unsuitable before consideration could be given to this site which has been proposed.

Considering all of the above therefore, I am of the view that this proposal is contrary to PED 5 of PS 4 for the following reasons;

- * There is no reason relating to the size of the development as to why it cannot be located within the settlement limit.
- * The developer/agent has failed to make the case that this operation needs a rural location for site specific reasons. They have simply stated that the operation needs a sterile environment free from pollutants.
- * The developer/agent has not proven that all sites within the settlement limit of Magherafelt are unsuitable
- * The developer / agent has not considered all alternative sites in Cookstown/Dungannon
- * The developer has not considered any edge of town sites.

PED 9

Policy PED 9 sets out a range of general criteria that all economic development must comply with.

Environmental Health Department have stated that impact on sensitive receptors can be mitigated via the imposition of conditions on any approval, if it were to be granted. Similarly NI Water have indicated that adequate public water supply is available and that approval if granted, should include various conditions. NIEA WMU have stated that a full drainage assessment would be required to enable proper consideration, should the application progress to Full or RM stage.

There are no historic or built heritage assets in the immediate vicinity.

In terms of natural heritage, the site is located approx. 4km from Lough Neagh, which is designated as an ASSI, a SPA and RAMASR. NED have requested a Preliminary Ecological Appraisal in order to assess any concerns over the impact the development could potentially have on Lough Neagh. However, given the principal of development is in my opinion, fundamentally contrary to policy, I have not requested this from the agent as I think the contents of such an assessment would be immaterial in relation to making the application fundamentally acceptable or not, in terms of planning policy.

Other general planning criteria included in PED 9 such as traffic, flooding and integration are also discussed in the paragraphs below, which relate to relevant PPSs and therefore, to avoid duplication, will not be discussed here.

PPS 3 – Access, Movement and Parking

DFI Roads have stated that the proposed visibility slays of 4.5m x 160m are acceptable. However, they have also stated that an inadequate level of information has been submitted in relation to vehicular movements that will be generated by the proposal and therefore proper consideration cannot be given to internal movements and parking arrangements. Accordingly, DFI ROads have requested the submission of a Transport

Assessment Form (TAF). I have not requested this from the agent as I think the contents of this and the subsequent response from DFI Roads would be immaterial in relation to making the application acceptable or not, in terms of planning policy.

PPS 15 – Planning and Flood Risk

FLD 1

The site contains an area of land, which is included within the Q100 flood plain. This area has not been included as part of the development scheme on the submitted drawings and DFI Rivers have indicated that this is acceptable and that if this area is left undeveloped then they have no grounds to object from a flood risk perspective.

Planning Policy Statement 21 (PPS 21) – Sustainable Development in the Countryside.

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

Policy CTY 13 states that development will be unacceptable where it is a prominent feature in the landscape and where the site lacks the long established boundaries to enable the proposal to integrate satisfactorily. A development will be unacceptable where it relies primarily on the provision of new landscaping to aid integration.

The proposal is for a large scale industrial complex which will be 3 stories high in places and will be much larger than any typical rural building or any building in the immediate vicinity. Schematic drawings of the site layout and the proposal are not to scale but the agent has indicated that buildings will be three storey in nature and the schematic drawings show that the buildings will occupy a large proportion of the >400m site frontage when viewed from the Aughrim Road. The view from the Aughrim Road is the main public perspective of this development and therefore the proposal is for a significantly sized development that will be a significant feature in the landscape. Integration will therefore be a significant issue in considering the acceptability or otherwise of this proposal.

This site in question is lacking in existing vegetation that could aid integration. The roadside boundary, to the north of the site consists of a low native species hedge and in places, a post and wire fence where there is no hedge. The other boundaries of the site along the south and southwest are similarly defined with a few taller deciduous trees dotted along the boundaries. As a result, the site is open to long term views when approaching from the east along the Aughrim Road. There is a larger deciduous tree in the north western corner of the field immediately to the east and this provides a degree of screening on this approach but this is not adequate in my opinion to help a proposal of this size to integrate.

The layout drawing shows various tree planting taking place along the northern roadside boundary and the agent has stated that “a fully detailed landscaping scheme will also assist with the integration and allow the development to blend naturally into the landscape. However, relying on new landscaping to enable integration alone is not acceptable in terms of policy.

It is therefore, my view that the site does not provide adequate enclosure to enable integration of this large industrial development and is therefore contrary to policy CTY13.

CTY 14 – Rural Character

Policy CTY 14 states that permission will be granted for a development that does not cause a detrimental change to, or further erode rural character.

It is my view that this area is still rural in nature with a relatively low level of housing. There are two industrial buildings in the immediate vicinity but these are not large buildings and in my opinion, they do not erode the rural character of this area. The approach along the Aughrim Road towards Magherafelt includes a long-term view of Slieve Gallion, which in my view, adds to the rural character and rural feel of this immediate locality.

This proposal would have a detrimental impact on the rural character of the area. The developer has stated that this proposal is a natural extension and consolidation of the existing rural business grouping. However, it is my view that this proposal is significantly greater in terms of impact than both existing rural businesses combined.

The site is much greater in terms of size than both existing enterprises. Both existing enterprises have a combined site frontage of around 220m but this proposal alone has a frontage of around 420m – nearly twice the size of the original two buildings. In addition, whilst no scaled drawings have been submitted at outline stage, the developer has stated that the buildings will be 3 storey in places and this would certainly suggest that the buildings themselves will be of a much greater scale than the existing buildings.

I therefore do not accept that the proposal will “consolidate” or act as a “natural extension” to the existing buildings. It would become the main focal point in what is still an area of rural character and would alter the area significantly to one which is no longer rural in nature but which would be dominated by a large industrial estate type development. The development would also impact negatively on the long term views of Slieve Gallion which are vital to the character of the area. These long term views would be obscured by this proposal and this would further erode the rural character of the area.

Design of the buildings has been indicated on a schematic drawing but this cannot be regarded with any certainty at outline application stage and details of design would be addressed if approval was granted, at Full or RM stage of the process.

Considering all of the above I am of the view that this proposal would be unacceptable in terms of CTY 14 as it would erode and impact negatively on the rural character of the area due to its very large overall site area and the anticipated height of the buildings. These are not in keeping with the existing character of the area and would in my view cause a harmful change to the area.

DRAFT PLAN STRATEGY 2030

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan

Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020.

On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

A representation was submitted to the Preferred Options Paper in relation to this site – MUPOP/692. This representation requested that the site should be considered for a change of use from agricultural use to commercial use.

This is something which would be considered at LPP stage (possibly via the introduction of RIPA designation) and as such has not been considered by the Development Plan team as LPP stage has not been encountered yet.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refuse is recommended

I recommend that this application is refused planning permission as it is contrary to the Area Plan, the SPPS and policies PED 2 and PED 5 of PPS 4 and policies CTY 1, CTY 13 and CTY 14 of PPS 21 for the reasons outlined above.

Refusal Reasons

Reason 1

1)The proposal is contrary to the Magherafelt Area Plan 2015 plan objectives in so far as it fails to locate with an urban area, create ease of access, maximise the use of existing infrastructure and promote local hubs as employment and trade centres.

Reason 2

2)The proposal is contrary to the SPPS in that it fails to promote sustainable economic development in an environmentally sensitive manner; nor is the proposed development representative of a rural economic development of an appropriate nature and scale promoted by the SPPS to sustain a vibrant rural community.

Reason 3

3)The proposal is contrary to policy PED 2 of PPS 4 Planning and Economic Development, in that it does not comply with the provisions of any policy listed in that policy, whereby industrial development in the countryside would be acceptable. Neither

does the proposal merit being treated as an exceptional circumstance which would justify setting policy PED 2 aside.

Reason 4

4)The proposal is contrary to policy PED 5 of PPS 4 Planning and Economic Development, in that it has not been demonstrated that the proposal needs a countryside location because of its size and/or because of site-specific reasons.

Reason 5

5)The proposal is contrary to policy PED 5 of PPS 4 Planning and Economic Development, in that a thorough examination of alternative sites has not been carried out in order to show that existing sites within nearby settlement limits or indeed, at the edge of nearby settlement limits are unsuitable.

Reason 6

6)The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed buildings will be a prominent feature in the landscape and the site lacks long established natural boundaries and is therefore unable to provide a suitable degree of enclosure for the proposed buildings to integrate into the landscape;

Reason 7

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

Reason 8

8)The proposal is contrary to Planning Policy Statement 3: Access, Movement and Parking in that insufficient information has been provided in relation to vehicular movements generated by the proposal in order to properly assess access arrangements, parking, servicing and other internal vehicular movements.

Case Officer: Colin McKeown

Date: 23 August 2022

ANNEX	
Date Valid	2 March 2022
Date First Advertised	15 March 2022
Date Last Advertised	15 March 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 80 Aughrim Road Magherafelt Londonderry BT45 6JY The Owner / Occupier 76 Aughrim Road Magherafelt Londonderry BT45 6JY The Owner / Occupier 64 Aughrim Road Magherafelt Londonderry BT45 6JY	
Date of Last Neighbour Notification	23 June 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: LA09/2022/0269/O Proposals: Proposed PPE manufacturing , production, distribution and controlled storage facility with research and development, innovation and sustainability centre with associated site works , landscaping and new vehicular access. Decision: Decision Date: Ref: H/1979/0439 Proposals: CAR PARK Decision: PR Decision Date: Ref: H/1998/0046 Proposals: SITE OF DWELLING AND GARAGE Decision: PR Decision Date: Ref: H/2005/0975/F Proposals: Proposed extension to existing industrial unit. Decision: PG Decision Date: 23-MAR-06 Ref: LA09/2020/1091/PAD Proposals: Creation of a new manufacturing, production & distribution hub to enable the	

production of blinds plus PPE equipment & supplies with associated car parking & landscaped area, to also include new access onto the Aughrim Road

Decision: PAD

Decision Date: 24-JUN-21

Ref: LA09/2020/0697/PAN

Proposals: Creation of new manufacturing, production and distribution hub to enable the production of blinds plus PPE equipment and supplies with associated car-parking and landscaped areas, to also include new access onto the Aughrim Road

Decision: PANACC

Decision Date: 02-NOV-20

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

NI Water - Strategic Applications-Substantive: YResponseType: FR

Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR

Shared Environmental Services-Substantive: TBCResponseType: FR

Rivers Agency-Substantive: YResponseType: FR

NIEA-Substantive: TBC

Rivers Agency-Substantive: TBCResponseType: PR

Shared Environmental Services-LA09-2022-0269-O_2ndHolding.pdf

NIEA-PRT LA09 2022 0269 O.pdf

Shared Environmental Services-

Drawing Numbers and Title

Site Layout or Block Plan Plan Ref: 05

Site Layout or Block Plan Plan Ref: 04

Existing Site Survey Plan Ref: 03

Site Layout or Block Plan Plan Ref: 02

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.25
Application ID: LA09/2022/0278/F	Target Date: 28 April 2022
Proposal: Alterations, refurbishment & extension of existing vacant stone structure to the rear, in order to provide new residential flats & office accommodation for local business	Location: To The Rear Of 31 Union Street Cookstown
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Bell Contracts Unit 5 Mid Ulster Business Park Cookstown BT80 9LU	Agent Name and Address: Aps Architects LLP Unit 4 Mid Ulster Business Park Cookstown BT80 9LU
Executive Summary:	
Characteristics of the Site and Area The site is located within the settlement limits of Cookstown, within the Town Centre and Area of Townscape Character as defined by the Cookstown Area Plan 2010. The red line of the site includes an access laneway to the south and extends to a piece of land which is located behind an existing row of terrace buildings namely No. 29 & 31 Union Road. The site is currently derelict with the ruins of what appears to have been an older building. To the west is a public car park where access to the site is currently taken from and also leads to an existing business premises adjacent to the site, within the applicants ownership. The site is bounded on the northern and western boundaries by an existing high stone wall. The surrounding area is a mix of land uses, which is prominently residential within the immediate area and a mix of businesses spread throughout given the sites location within the town centre.	
Description of Proposal	

This is a full planning application for alterations, refurbishment and extension of existing vacant stone structure to the rear of 31 Union Street Cookstown, in order to provide new residential flats and office accommodation for local business.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Cookstown Area Plan
Strategic Planning Policy Statement (SPPS)
Planning Policy Statement 7 (PPS 7): Quality Residential Environments
Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The SPPS has superseded Planning Policy Statement 5 (Retailing and Town Centres). The SPPS states that Planning Authorities must adopt a Town Centre approach for retail and main Town Centre uses. It also states that applications for main Town Centre uses should be considered in order of preference beginning with the Primary Retail Core, Town Centres, Edge of Centre and Out of Centre. I am content there is no conflict with the SPPS.

This area of the town centre is not defined by any one land use and is instead made up of a varieties of different uses and I am content that the proposed use as an office space on the ground floor which is Class B1: Business and is suitable for the town centre location.

With regards the two proposed flats on the first floor they are subject to assessment under PPS 7, which states, planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. As the site is located within an Area of Townscape Character, the proposal will be required to maintain or enhance their distinctive character and appearance. Policy CON 7 of the Cookstown Area Plan also states, Planning permission will only be granted to development proposals in these areas where they are sympathetic to the building traditions of the area in terms of scale, form, massing and design and will not detract from the overall character and appearance of the area. I am content that this is the case given the scale and finishes of the proposal which are sympathetic with the tradition in the area, specifically the use of the stone work which is a common feature on the site.

All proposals for residential development will be expected to conform to all of the following criteria:

The development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas. And features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;

As previously mentioned I am content with the design of the building and it respects the character of the area and the local distinctness of the site. There are no features of archaeological or built heritage which would be affected by the development.

Adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area. And adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development. A movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measure

There is adequate provision for private garden space within the development. The site is within the town centre and can access all local facilities and make use of the existing infrastructure.

Adequate and appropriate provision is made for parking;

DfI Roads were consulted on the proposal and offered no objection. There is a council owned car park to the rear and there is on street parking available on Union Street and access to the apartments can be taken from Union Street and via a gated entrance to the North on Union Place.

The design of the development draws upon the best local traditions of form, materials and detailing;

I am content that the proposal is of high quality and draws upon the local materials in the area, namely the stonework that is a feature of the existing site and adjacent buildings.

The design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.

The objector raised concerns over the initial plans which would have resulted in the living area of the proposed flats looking directly into the properties at 29 & 31 union street. The agent was asked to re-consider the design and possibly putting the bedroom and bathroom to this end which would reduce the impact. This was done and it was agreed at an internal group meeting this was acceptable, with the external staircase also removed and a back door at the downstairs office removed which would have lead directly into the private amenity area of the residential flat. A 1.8m high fence is also to be erected as part of the proposal, which will ensure privacy between the proposal and the neighbouring dwellings. A condition should be attached to ensure this is in place before the residential flats or office space is occupied. The objector was re-notified of the amended plans and no further comments have been received.

The development is designed to deter crime and promote personal safety. The objector also raised concerns relating to this and the proposed access. However, the agent has demonstrated the access will be gated on the northern boundary and that there will be further access via a public right of way, leading to another gate on the southern boundary of the site which are all within the applicants control. Therefore, I have no concerns relating to crime or personal safety at this site. Therefore, the policy fully complies with the relevant policies within the Cookstown Area Plan, the SPPS and PPS 7.

Other Material Considerations

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

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

The works hereby permitted shall be begun not later than the expiration of 5 years beginning with the date on which this consent is granted.

Reason: As required by Section 105 of the Planning Act (Northern Ireland) 2011

Condition 2

No units hereby permitted shall be occupied until the 1.8m High Close Boarded Timber Fence is erected as shown on drawing No. 02 Rev 03 date stamped 28th June 2022.

Reason: To protect the amenity of the adjoining residential premises.

Condition 3

The proposed stone work shall only be locally quarried natural basalt stone only.

Reason: In the interest of visual amenity and to maintain the character of the area.

Case Officer: Ciaran Devlin

Date: 11 August 2022

ANNEX	
Date Valid	3 March 2022
Date First Advertised	24 May 2022
Date Last Advertised	15 March 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier Flat 2 31 Union Street Cookstown Tyrone BT80 8NN The Owner / Occupier Flat 1 31 Union Street Cookstown Tyrone BT80 8NN The Owner / Occupier 33 Union Street Cookstown Tyrone BT80 8NN The Owner / Occupier 29 Union Street Cookstown Tyrone BT80 8NN The Owner / Occupier 1 Union Street Cookstown Tyrone BT80 8NN The Owner / Occupier Flat 3 31 Union Street Cookstown Tyrone BT80 8NN	
Date of Last Neighbour Notification	29 June 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: I/2007/0783/F Proposals: Development to provide office space Decision: PG Decision Date: 22-APR-11 Ref: I/2007/0430/F Proposals: Proposed 3 storey apartment development, 11.455m high consisting of 6 apartments Decision: PR Decision Date: 20-NOV-07 Ref: I/1984/0433 Proposals: SHOP AND OFFICES Decision: PR Decision Date:	

Ref: I/1995/0320

Proposals: Change of use from dwelling to 3no.flats

Decision: PG

Decision Date:

Ref: I/2001/0158/F

Proposals: Change Existing Dwelling to Office & 2 Apartments.

Decision: PG

Decision Date: 23-FEB-02

Ref: LA09/2018/0244/F

Proposals: Alterations, refurbishment and extension of existing vacant stone structure to the rear of 31 Union Street Cookstown, In order to provide new office accommodation for local business.

Decision:

Decision Date:

Ref: I/1978/0366

Proposals: REBUILD KITCHEN AND BATHROOM

Decision: PG

Decision Date:

Ref: I/2005/0217/O

Proposals: Demolition of existing outhouses and construction of new accommodation for Age Concern including on ground floor dining area and kitchen with first and second floor offices. Parking for 3 No. staff and mini bus. (Amended Plans).

Decision: PG

Decision Date: 11-MAY-06

Ref: LA09/2022/0278/F

Proposals: Alterations, refurbishment & extension of existing vacant stone structure to the rear, in order to provide new residential flats & office accommodation for local business

Decision:

Decision Date:

Ref: I/1995/0148

Proposals: Creation of 2 No flats from 1 No dwelling

Decision: PG

Decision Date:

Summary of Consultee Responses

Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: TBC

Drawing Numbers and Title

Proposed Elevations Plan Ref: 04
Proposed Floor Plans Plan Ref: 03
Site Layout or Block Plan Plan Ref: 02
Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.26
Application ID: LA09/2022/0283/F	Target Date: 28 April 2022
Proposal: Replacement dwelling & new dwelling (approved under LA09/2020/0899/O)	Location: 71 Anneeter Road Coagh Cookstown
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Charles Mallon 71 Anneeter Road Coagh Cookstown BT80 0HZ	Agent Name and Address: Kee Architecture Ltd 9A Clare Lane Cookstown BT80 8RJ
Executive Summary:	

Case Officer Report

Site Location Plan

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Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR

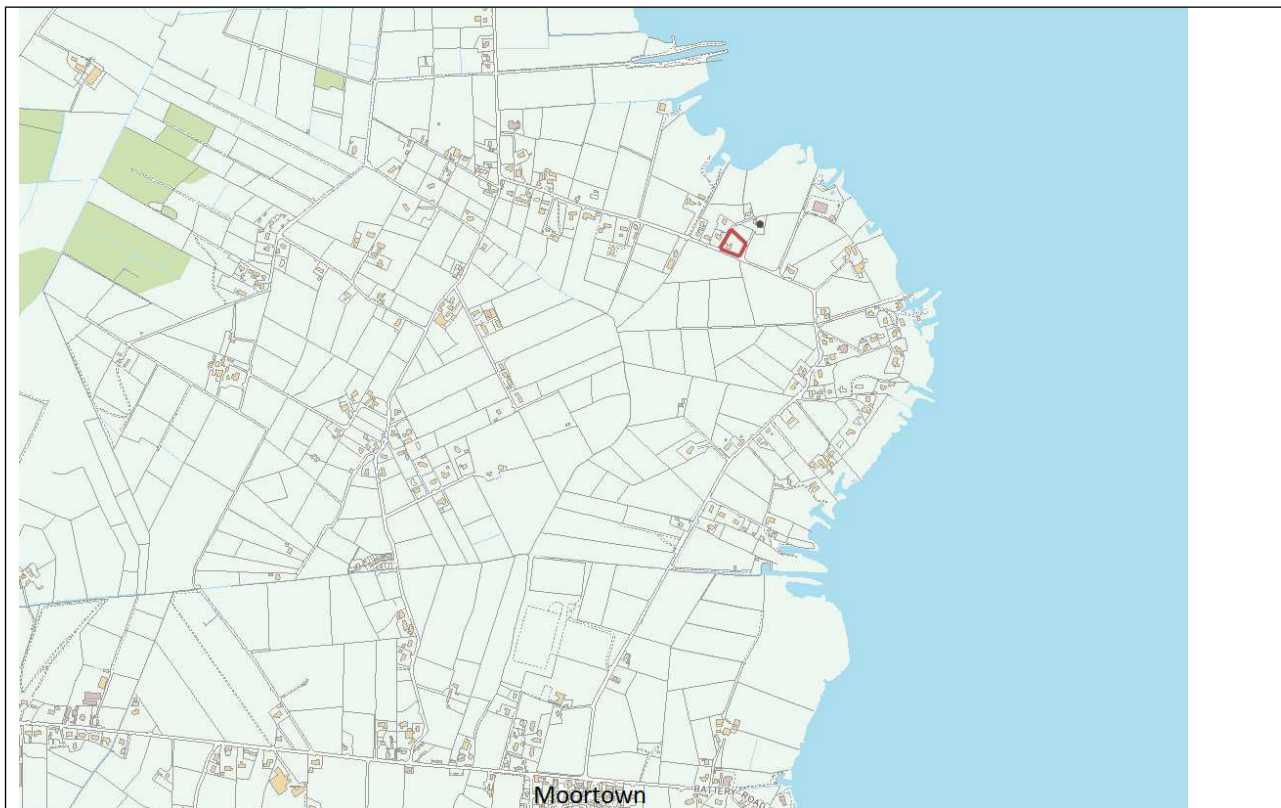
Representations:

Letters of Support	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Characteristics of the Site and Area

The site lies in the open countryside on the edge of Lough Neagh, just a short distance to the North of the settlement limits of Moortown and outside all other areas of constraint as depicted by the DSTAP 2010.



The site is located on the Anneeter Road, and whilst it is designated as open countryside this particular area has come under significant development pressure. There is a high level of development all along this Anneeter Road and a small grouping at this particular location. The red line of the site includes an existing bungalow including a side extension and a garage and further shed to the rear. There is a low cropped hedgerow along the front roadside elevation, mature trees to the north and east boundaries and a low cropped hedge and laneway along the west side.



The dwelling on the site is finished in white dash with white upvc window and doors, a dark tiled roof and a large garden area to the rear and east.



Description of Proposal
The proposal seeks full planning permission for a replacement dwelling & new dwelling (approved under LA09/2020/0899/O)
Planning Assessment of Policy and Other Material Considerations
<u>Policy Consideration</u>
Background Planning permission was sought for a dwelling on a gap site under planning reference LA09/2020/0899/O. This resulted in the application being recommended for refusal, as it would add to a ribbon of development, further erode the rural character and there were no overriding reasons for this location. Subsequently, this application was deferred and after further consideration it was approved as a dwelling in a cluster, however, with the premise that the siting was to the rear, as shown on the approved plan below. This siting would satisfy the clustering angle and avoid the issue of adding to a ribbon of development.





Assessment

This is a two part assessment. - Part one for the replacement dwelling.

Regional Development Strategy

Dungannon South Tyrone Area Plan (DSTAP) 2010

SPPS

PPS3

PPS21

The Strategic Planning Policy Statement for Northern Ireland `Planning for Sustainable Development (SPPS) is material to all decisions on individual planning applications and appeals. The SPPS retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

The Dungannon and South Tyrone Area Plan 2010 (DSTAP) operates as the local development plan of the area the application site lies within. The site sits in a rural location outside any defined settlement limits. The DSTAP offers no specific policy or guidance in respect of this application. There is no conflict or

change in policy direction between the provisions of the Strategic Planning Policy Statement for N Ireland (SPPS) and those of Planning Policy Statement 21 (PPS21) in respect of this application thereby the policy provisions of PPS 21 remain applicable.

Key Planning issues;

Planning Policy Statement 21

Policy CTY 1 - Development in the Countryside

Policy CTY 3 - Replacement Dwellings

Policy CTY 13 - Integration and Design

Policy CTY 14 - Rural character

Objections / comment received from 3rd Parties;

There have been no objections / comments received in relation to this proposal.

Assessment of CTY3;

The dwelling to be replaced exhibits the essential characteristics of a dwelling, in that a chimney, a fireplace, windows and door openings are all visible and all the walls are fully intact, in fact the dwelling is currently inhabited.

In this case the applicant has proposed a scheme which involves replacement with a dwelling with a similar size footprint, however, the single storey with dormer windows design has been retained. The dwelling sited slightly off the existing footprint moving the dwelling slightly further back, away from the road edge. From site inspection it is my opinion that the dwelling has no defined curtilage and therefore this small movement in the positioning of the dwelling will not have a significant impact.

In addition the existing access will be used therefore there will be minimal intrusion.



The existing dwelling above exhibits a bungalow with a dormer window. The overall length of the proposed dwelling is broadly the same as the proposed, however, the existing ridge height of 5.6 metres will slightly increase, it would represent a minimal increase in overall size, however, nothing unacceptable for this location.



Given the local context of the area, as well as considering the extent of a back drop, I do not feel that there would be a significant impact.

In this case the permissions for a replacement dwelling under this policy will be subject to a condition requiring the demolition of the existing dwelling.

PPS 3 - Access, Movement and Parking

The existing site access is via the existing laneway off the Anneeter Road and remains unaltered. It must be noted that as this application is for a replacement dwelling and in principle does not involve intensification of the access to the public road. Demolishing the existing dwelling will ensure this does not result in intensification of the use of the access and should be conditioned. As it does not result in intensification AMP2 is not, in my view, be engaged to seek amendments or improvement to the access. I consider it appropriate to attach an informative to any permission highlighting this is a substandard access and encouraging it is improved.

Having considered all of the above it is considered that the replacement part of the proposal would be acceptable.

Part 2 – new dwelling (previously approved under ref LA09/2020/0889/O)

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

Representations

Press advertisement and neighbour notification have been carried out in line with the Council's statutory

duty. At the time of writing, no third party objections were received.

Planning History

LA09/2020/0889/O – Dwelling in a cluster – GRANTED

Mid Ulster Development Plan 2030 & Draft Plan Strategy

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

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

SPPS & Strategic Planning Policy Statement for Northern Ireland: 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. The SPPS sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

Dungannon and South Tyrone Area Plan 2010

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

Planning Policy Statement 21 & Sustainable Development

Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. It is clear this application does not meet any of the examples set out in CTY1 for a dwelling in the countryside, however, outline planning permission was granted 05.10.2021 for a dwelling in a cluster.

I am being asked to consider if it is acceptable to substitute the approved outline permission which is still live, with a full application for a dwelling on a re-sited position.

CTY 8 – Ribbon development

Planning permission will be refused for a building which creates or adds to a ribbon of development. In this case the new proposed position alongside the existing dwelling will add to a ribbon of development. This was deemed the case in the previous application, which was only approved on the basis of an amended scheme with a proposed dwelling clustered to the rear.

CTY 13 - Integration and Design

The application site is set along the existing roadside. The re-location of the dwelling will entail moving from a well screened siting to the rear of the existing dwelling to a position alongside and in my opinion will be in a much more prominent position in the landscape.

There is a mature only a low cropped hedgerow along the front roadside elevation therefore the proposal will rely on new planting for integration.

The proposal will also require a new access onto the Anneeter road.

Therefore, due to the above I consider this proposal will have a greater impact than previously improved.

CTY 14 Rural Character

As stated earlier in the assessment I consider the proposal will be a more prominent feature in the landscape.

In addition it will result in a suburban style build-up of development when viewed with existing due to its position alongside, as opposed to the rear of the existing dwelling.

I consider the design of the proposed dwelling is a simple rural form and respects the pattern of settlement.

It will add ribbon development and therefore will have a damage the rural character.

Recommendation refusal

CTY 8

CTY 13

CTY 14

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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 addition of ribbon development along the Anneeter Road.

Reason 2

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks the natural boundaries to provide a suitable degree of enclosure for the building to integrate into the landscape

and would rely primarily on the use of new landscaping for integration, therefore would not visually integrate into the surrounding landscape.

Reason 3

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

Signature(s): Peter Hughes

Date: 22 August 2022

ANNEX	
Date Valid	3 March 2022
Date First Advertised	15 March 2022
Date Last Advertised	15 March 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 71B , Anneeter Road, Cookstown, Tyrone, BT80 0HZ The Owner / Occupier Anneeter Road, Cookstown, Tyrone, BT80 0HZ The Owner / Occupier 69 Anneeter Road, Cookstown, Tyrone, BT80 0HZ The Owner / Occupier 71C , Anneeter Road, Cookstown, Tyrone, BT80 0HZ The Owner / Occupier 71E , Anneeter Road, Cookstown, Tyrone, BT80 0HZ The Owner / Occupier 71A , Anneeter Road, Cookstown, Tyrone, BT80 0HZ	
Date of Last Neighbour Notification	28 March 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR	

Drawing Numbers and Title

Proposed Plans Plan Ref: 03
Site Layout or Block Plan Plan Ref: 02
Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable

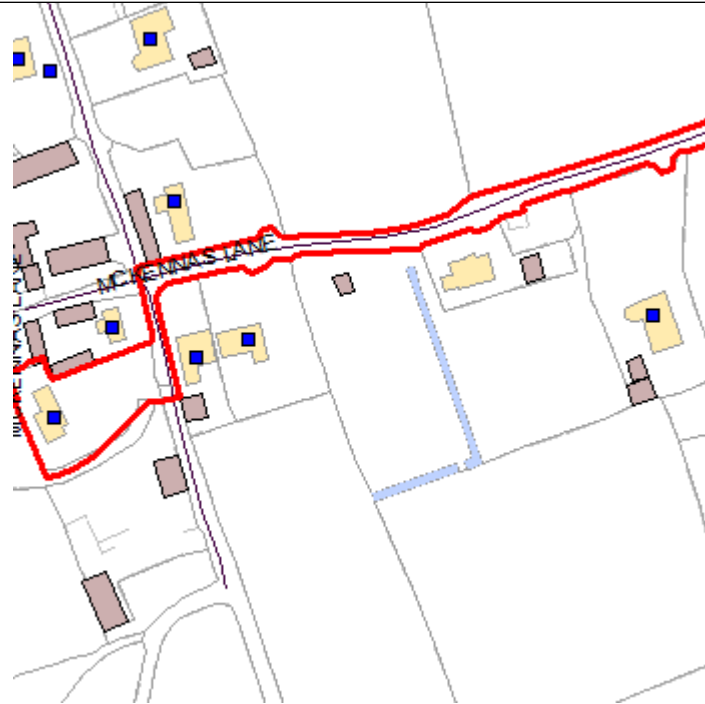


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.27
Application ID: LA09/2022/0396/F	Target Date: 20 May 2022
Proposal: Replacement dwelling and garage. The dwelling being replaced has been shaded green on the site location map	Location: 12 McKenna's Lane Bellaghy BT458JJ
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: William McCorry 12 McKenna's Lane Bellaghy BT45 8JJ	Agent Name and Address: Vincent McAllister 122 Upper Lisburn Road Finaghy Belfast BT100BD
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response

Representations:

Letters of Support	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

The applicants daughter works for Mid Ulster District Council.

Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan 2015. The red line of the site includes an existing shared laneway and extends west until it reaches the site of the existing dwelling. The dwelling is a single storey building with a built on garage on the northern wall of the house. The site has a large open concrete yard with the dwelling located close to the western

boundary of the site. The land slopes gently from north to south with dwellings located to the north east and west of the site and farm buildings and yard to the south. Beyond the immediate boundaries the character of the area is rural agricultural with dwellings located throughout.

Description of Proposal

This is a full planning application for a replacement dwelling and garage

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

PPS 21 - Sustainable Development in the Countryside

Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes replacement dwellings. 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 are acceptable in the countryside. In this instance, the application is for a replacement dwelling and as a result, it must be considered under CTY 3 of PPS 21.

CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. For the purposes of this policy all references to 'dwellings' will include buildings previously used as dwellings. Buildings designed and used for agricultural purposes, such as sheds or stores, and buildings of a temporary construction will not however be eligible for replacement under this policy. Policy states that if the dwelling does not make an important contribution to the heritage, appearance or character of the locality, planning permission will be granted for a new dwelling. In such cases the retention of the existing structure will be accepted where it is sympathetically incorporated into the layout of the overall development scheme, for example as ancillary accommodation or a store, to form an integrated

building group.

Upon the site visit, I am content that the building subject to the replacement is a dwelling, and could still be used as a dwelling.

The policy further states that replacement dwellings will only be permitted where all the following criteria are met:

- The proposed replacement dwelling should be sited within the established curtilage of the existing building.

I am content that the proposal will be located within the existing established curtilage.

- The overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building.

I am content that the new dwelling would not have a visual impact significantly greater than the existing building, allowing it to integrate into the surrounding landscape. The existing dwelling is a single storey building with the proposal being slightly larger.

- The design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness.

I am content that the design of the dwelling is high quality. Views of the site will be limited from the public road and will not detract from the rural character of the area.

- All necessary services are available or can be provided without significant adverse impact on the environment or character of the locality.

I am content that the necessary services are already available at the site, although upgrading may be required. However, I am content this will not have an adverse impact on the environment or character of the locality.

- Access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.

The site has an existing access and this will be used.

I am content that the proposal complies with the policy criteria of Policy CTY 3.

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 am content that the proposed dwelling will not be a prominent feature in the landscape. The site in its current form does not benefit from any landscaping, however the proposal includes a larger garden on site with additional planting which will help integrate the proposed dwelling. I am content the design of the building is appropriate for the area and blends with the surrounding landscape. It is noted that the proposal is to change orientation and will be re-positioned more within the centre of the existing site curtilage. And while this does extend the distance between the dwelling at No.12a and the proposal, it will move it slightly closer to the rear garden of No.14 to the North. Given the separation distance and the wall, which exists and will be retained along this boundary I have no concerns regarding loss privacy or overlooking on the neighbouring dwelling. There is one 1st floor window at the rear and this will be a bathroom window, reducing any potential impacts surrounding overlooking or loss of privacy. I am content the proposal will not affect any neighbouring amenity or the character of the area.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am already content that the building will not be a prominent feature in the landscape. It will not result in a suburban style build-up of development and it respects the traditional pattern of settlement in the area. It will not create or add to a ribbon of development. The impact of ancillary works will not damage the rural character of the area.

Other Material Considerations

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.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

The works hereby permitted shall be begun not later than the expiration of 5 years beginning with the date on which this consent is granted.

Reason: As required by Section 105 of the Planning Act (Northern Ireland) 2011

Condition 2

All landscaping comprised in the approved details of landscaping on stamped drawing No.02 date stamped 25th March 2022 shall be carried out in the first planting season following the commencement of the construction of the development hereby approved.

Reason: To ensure the development integrates into the countryside.

Condition 3

The existing building coloured green on the approved 1:2500 scale site location plan, Drawing No.01, date stamp received 25th March 2022, is to be demolished within 6 weeks of the occupation of the new dwelling and all rubble and foundations removed from the site.

Reason: To preserve the amenity of the area and to prevent an accumulation of dwellings on the site.

Signature(s): Ciaran Devlin

Date: 11 August 2022

ANNEX	
Date Valid	25 March 2022
Date First Advertised	5 April 2022
Date Last Advertised	5 April 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 10 McKennas Lane Bellaghy Londonderry BT45 8JJ The Owner / Occupier 16 McKennas Lane Bellaghy Londonderry BT45 8JJ The Owner / Occupier 106A Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 12A McKennas Lane Bellaghy Londonderry BT45 8JJ The Owner / Occupier 14 McKennas Lane Bellaghy Londonderry BT45 8JJ The Owner / Occupier 15 McKennas Lane Bellaghy Londonderry BT45 8JJ The Owner / Occupier 15A McKennas Lane Bellaghy Londonderry BT45 8JJ	
Date of Last Neighbour Notification	23 June 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: H/1978/0256 Proposals: ALTERATIONS AND ADDITIONS TO BUNGALOW Decision: PG Decision Date: Ref: H/2005/0984/O Proposals: Site of dwelling and garage. Decision: PR Decision Date: 11-JUL-07 Ref: LA09/2019/1494/F Proposals: Change of access from previously approved Ref. LA09/2019/0670/RM Decision: PG Decision Date: 07-JAN-20	

Ref: H/1982/0297
Proposals: BUNGALOW AND GARAGE
Decision: PG
Decision Date:
Ref: LA09/2017/1172/O
Proposals: Proposed dwelling and garage
Decision: PG
Decision Date: 05-FEB-19
Ref: H/2010/0213/F
Proposals: New Farm Dwelling with Detached Garage
Decision: PG
Decision Date: 17-SEP-10
Ref: LA09/2019/0670/RM
Proposals: Proposed dwelling and garage.
Decision: PG
Decision Date: 25-SEP-19
Ref: LA09/2022/0396/F
Proposals: Replacement dwelling and garage. The dwelling being replaced has been shaded green on the site location map
Decision:
Decision Date:
Ref: H/2001/0914/F
Proposals: Site of Dwelling.
Decision: PG
Decision Date: 14-DEC-01
Ref: H/2012/0166/F
Proposals: Extension and alterations of existing dwelling and new granny flat
Decision: PG
Decision Date: 19-NOV-12
Ref: H/1979/0008
Proposals: BUNGALOW
Decision: PG
Decision Date:
Ref: H/1990/0252
Proposals: SITE OF DWELLING AND GARAGE
Decision: PG
Decision Date:
Ref: H/1991/0266
Proposals: BUNGALOW AND GARAGE
Decision: PG
Decision Date:
Ref: H/1984/0415
Proposals: ALTERATIONS AND ADDITIONS TO HOUSE
Decision: PG
Decision Date:
Ref: H/1993/0541

Proposals: ALTS AND ADDS TO DWELLING

Decision: PG

Decision Date:

Ref: H/2004/0403/RM

Proposals: Erection of one no. bungalow and detached garage. (Outline Ref:H/2001/0188).

Decision: PG

Decision Date: 24-MAY-04

Ref: H/2009/0478/O

Proposals: Infill site for single dwelling and garage under CTY8

Decision: PG

Decision Date: 17-NOV-09

Ref: H/2003/0973/F

Proposals: Dwelling and garage.

Decision: PG

Decision Date: 04-AUG-04

Ref: H/1997/0609

Proposals: ALTS AND ADDS TO DWELLING

Decision: PG

Decision Date:

Ref: H/2003/0211/F

Proposals: Dwelling and garage.

Decision: PG

Decision Date: 16-APR-03

Ref: H/1991/0426

Proposals: SITE OF DWELLING AND GARAGE

Decision: PG

Decision Date:

Ref: H/1998/0229

Proposals: ALTERATIONS AND ADDITIONS TO DWELLING

Decision: PG

Decision Date:

Ref: H/2008/0318/F

Proposals: Proposed re-location of new dwelling & garage and the adjustment of the site boundaries to supersede previous approvals H/2003/0643/O & H/2006/0523/RM

Decision: PG

Decision Date: 15-APR-10

Ref: H/1999/0040

Proposals: SITE OF DWELLING

Decision: WITHDR

Decision Date:

Ref: H/2001/0729/O

Proposals: Site Of Bungalow & Garage.

Decision: PG

Decision Date: 11-OCT-01

Ref: H/2001/0188/O

Proposals: Site of bungalow and garage
Decision: PG
Decision Date: 18-JUL-01
Ref: H/2006/0523/RM
Proposals: Proposed new dwelling and garage
Decision: PG
Decision Date: 20-SEP-06
Ref: H/2003/0238/O
Proposals: Site of dwelling and garage.
Decision: PG
Decision Date: 17-SEP-03
Ref: H/2003/0643/O
Proposals: Site of a Chalet - Type dwelling.
Decision: PG
Decision Date: 31-JAN-05
Ref: H/1992/0272
Proposals: ALTS AND ADDS TO BUNGALOW
Decision: PG
Decision Date:
Ref: H/1985/0121
Proposals: SITE OF BUNGALOW WITH GARAGE
Decision: PG
Decision Date:
Ref: H/1983/0076
Proposals: BUNGALOW AND GARAGE
Decision: PG
Decision Date:
Ref: H/1986/0057
Proposals: SITE OF REPLACEMENT DWELLING
Decision: PG
Decision Date:
Ref: H/2012/0129/O
Proposals: Proposed dwelling and garage
Decision: PR
Decision Date: 18-FEB-13

Summary of Consultee Responses

-

Drawing Numbers and Title

Garage Plans Plan Ref: 05
Proposed Plans Plan Ref: 04
Site Layout or Block Plan Plan Ref: 03
Site Layout or Block Plan Plan Ref: 02
Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable

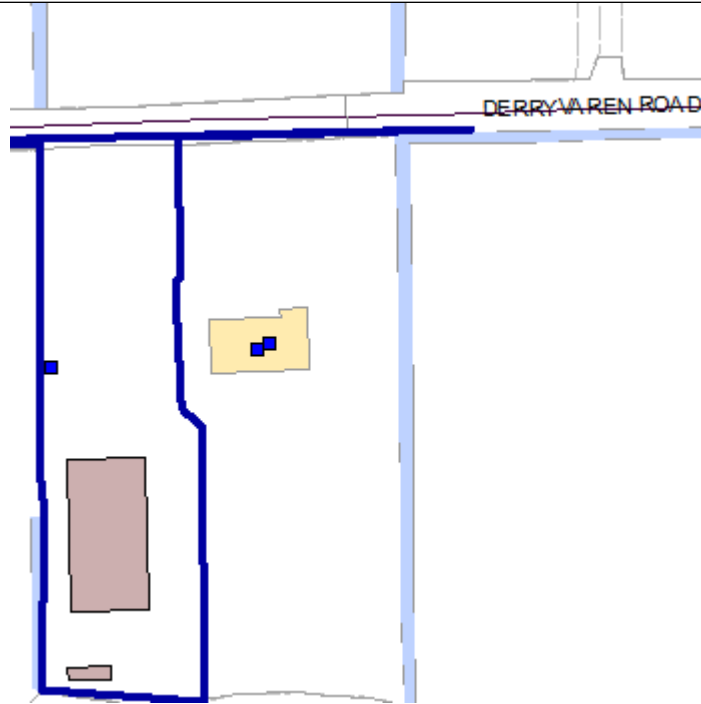


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.28
Application ID: LA09/2022/0437/F	Target Date: 27 May 2022
Proposal: Retrospective application for the retention of farm dwelling	Location: 59 Derryvaren Road Coalisland
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr James Campbell 59 Derryvarren Road Coalisland BT71 4QP	Agent Name and Address: Cmi Planners Ltd 38B Airfield Road Toomebridge BT413SG
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBC
	DAERA - Omagh	Substantive: TBC
	Rivers Agency	Substantive: TBCResponseType: FR

Representations:

Letters of Support	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Characteristics of the Site and Area

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

There is a lot of development pressure along Derryvaren Road and adjoining roads from the construction of single dwellings. To the east and directly adjacent to the application site is a modest single storey dwelling at No. 63.

The site has a flat topography and there is no fencing or hedging along the roadside boundary. Along the west and south boundaries there is a row of established trees and hedging along the boundary with No. 63. The sites comprises a mobile home which is the subject of this application and a shed to the rear.

Description of Proposal

This is a full application for retrospective application for the retention of farm dwelling at 59 Derryvaren Road, Coalisland.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

Representations

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

Planning History

M/2010/0538/F - Proposed domestic garage - Lands adjacent to 62 Derryvarren Road, Coalisland - Permission Granted 15.04.2011. This is the shed to the rear of the mobile home

Site across the road

M/2008/0554/F – Proposed domestic store for the storage of fisherman's boat car, turf & household utilities - To the rear of 62 Derryvarren Road, Coalisland - Permission Granted – 14.10.2009

Mid Ulster Development Plan 2030 – Draft Plan Strategy

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was

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

Dungannon and South Tyrone Area Plan 2010

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

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

Planning Policy Statement 21

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 are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for a dwelling on a farm CTY 10 is the relevant policy in the assessment.

CTY 10 – Dwelling on a Farm

DAERA have confirmed in their consultation response that the farm business has not been in existence for over 6 years and the farm business is category 3. The DAERA ID was only allocated on the 16th March 2022 even-though the applicant states on the P1C form the farm business was established more than 6 years. DAERA state there are no subsidies being claimed at the site by an farm business. The applicant is Mr James Campbell who lives at 59 Derryvaren Road in the mobile home currently on site. The applicant has submitted the following evidence to substantiate claims that the farm business has been active for the past 6 years.

Invoices from SC Groundworks for

1. Ground Maintenance on the 7th March 2018

2. Site Clearance on the 12th August 2015
3. Installation of septic tank on 7th November 2014
4. Installation of pipes on 19th October 2020
5. Levelling of stone on the 15th February 2020
6. Preparation of ground on the 17th July 2020
7. Drain Cleaning on the 11th August 2019
8. Installation of sewage pipe on the 25th September 2018
9. Laying of concrete on the 14th August 2017

Evidence from DAERA for a fishing licence registered to Mr James Campbell from the 3rd August 2021 to 31st December 2021.

A brown eel fishing permit for James Campbell valid from 1st May 2021.

Invoices from MacLaughlin Engineering for

1. A feeding bin on the 1st February 2020
2. Railings on the 6th April 2018
3. Grid Supply on the 20th June 2015

Invoices from Shane Campbell Hay and Straw Sales at 55 Derryvaren Road, Coalisland for

1. 4 Hay Bales on 1st December 2017
2. 4 Hay Bales on 7th December 2016
3. 4 Hay Bales on 3rd December 2015
4. 4 Hay Bales on 5th December 2014
5. 4 Hay Bales on 5th December 2020
6. 4 Hay Bales on 4th December 2019
7. 4 Hay Bales on 3rd December 2018

Invoices from G & C McGahan for

1. 2 round bale silage on 3rd December 2015
2. 2 round bale silage on 28th November 2016
3. 2 round bale silage on 28th September 2017
4. 2 round bale silage on 18th December 2018
5. 2 round bale silage on 13th November 2019

6. 2 round bale silage on 22nd September 2020

The invoices from Shane Campbell and G & C McGahan which relate to farming activity at the site are a Word format and not a named invoice from a company so it is difficult to ascertain the validity of these receipts. The only land the applicant has shown in blue on the site location plan is one field immediately west of the site. Google maps image from May 2022 appear to show the grass at the field has been cut and maintained. On the basis of the evidence provided I am not content there is an active and established farm business at the site for the past 6 years. The invoices from SC Groundworks relate to the mobile home and do not show that there is active farming at the site.

I completed a check of histories on the fields provided and no sites have been sold off from the farm holding within the past 10 years.

The only building on the site is a shed to the rear of the mobile which was granted approval under M/2010/0538/F as a domestic garage. I completed a check on Spatial NI orthophotography and the shed was on site on the 6th July 2013. I am content the shed has been on site for over 5 years and is a building can be used to cluster with. However as there is only one building on site within the farm business I do not consider there is a group of farm buildings to cluster or visually link with.

Overall, I am of the opinion the proposal does not meet the criteria in CTY 10 for a dwelling on a farm.

CTY 13 – Integration and Design of Buildings in the Countryside

There are established trees and mature hedging along the east and west boundaries which will assist in the integration of the building into the landscape.

I have no concerns about the new access as it runs for a short distance through the middle of the site.

The building to be retained is a mobile home which is in not appropriate for a dwelling in the countryside. Mobile homes are normally only allowed on site for a temporary period agreed with the Council pending the construction of a dwelling.

Overall, I consider this dwelling would not integrate into the landscape due to the design of the building.

CTY 14 – Rural Character

I consider the mobile home does not reflect the traditional pattern of settlement in the area. Mobile buildings should only be on land in the countryside for a temporary period and are unacceptable as a rural dwelling. I am of the opinion mobile buildings have an unacceptable impact on rural character and are visually prominent.

PPS 3 Access, Movement and Parking

Policy AMP 2 – Access to Public Roads

PPS 3 policy AMP 2 outlines that planning permission will only be granted for a development proposal involving direct access onto a public road where; It does not

prejudice public safety or inconvenience traffic. It does not conflict with access to protected routes. In addition, consideration should be given to the nature and scale; character of existing development; contribution to a quality environment and the location and number of existing accesses.

The proposal is to retain new access at the site. DFI Roads were consulted as the statutory authority and responded with no concerns subject to visibility splays of 2.4m x 70m in both directions. I am content the new access will not prejudice road safety.

The site does not access onto a protected route so there are no concerns.

PPS 15 – Planning and Flood Risk

Policy FLD 1 – Development in Fluvial (River) and Coastal Flood Plains

Rivers Agency confirmed the application site is within the Q100 flood plain. As the proposal is for a farm dwelling it does not meet the criteria to be considered an exception in FLD 1.

There are no other watercourses abutting the site so consideration of other FLD's in the policy is not necessary.

Other Considerations

The site is within Lough Neagh and Lough Beg Ramsar Site but due to the distance from Lough Neagh I am content the proposal is sufficiently removed from the Ramsar for there not to be an unacceptable impact on it.

I have completed checks on the statutory ecological and built heritage map viewers and there are no other issues at the site.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

Contrary to policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains in PPS 15 - Planning and Flood Risk that the development is located within the Q100 flood plain and is not an exception to policy.

Reason 2

Contrary to CTY 10 - Dwellings on Farms in PPS 21 - Sustainable Development in the

Countryside in that there is not an active and established farm business for the past 6 years and there is no group of farm buildings to cluster or visually link with.

Reason 3

Contrary to CTY 13 - Integration and Design of Buildings in the Countryside in PPS 21 in that the design of the building is inappropriate for the site.

Reason 4

Contrary to CTY 14 - Rural Character in PPS 21 in that the development does not reflect the traditional pattern of settlement in the area.

Signature(s): Gillian Beattie

Date: 17 August 2022

ANNEX	
Date Valid	1 April 2022
Date First Advertised	12 April 2022
Date Last Advertised	12 April 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 63 Derryvaren Road Coalisland Tyrone BT71 4QP The Owner / Occupier 62 Derryvaren Road Coalisland Tyrone BT71 4QP The Owner / Occupier 61 Derryvaren Road Coalisland Tyrone BT71 4QP The Owner / Occupier 64 Derryvaren Road Coalisland Tyrone BT71 4QP The Owner / Occupier 59 Derryvaren Road, Coalisland, Tyrone, BT71 4QP	
Date of Last Neighbour Notification	28 April 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Substantive: TBC DAERA - Omagh-Substantive: TBC Rivers Agency-Substantive: TBCResponseType: FR	

Drawing Numbers and Title

Existing Plans Plan Ref: 03
Site Layout or Block Plan Plan Ref: 02
Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.29
Application ID: LA09/2022/0547/RM	Target Date: 20 June 2022
Proposal: Proposed dwelling and garage on a farm	Location: 100M South Of 1 Eglish Road Dungannon
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Darren Simpson 1 Eglish Road Dungannon	Agent Name and Address: Sam Smyth Architecture Unit 45D Dungannon Enterprise Centre 2 Coalisland Road Dungannon BT71 6JT
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBC

Representations:

Letters of Support	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Application is before Council as the agent is a Council employee

Characteristics of the Site and Area

The site is a 0.97ha parcel of ground located between the Granville and Eglish Road, with an access onto the Eglish Road. It is located within the rural countryside, outside any defined settlement limit as identified in the Dungannon and South Tyrone Area Plan 2010 however, it lies immediately adjacent to the settlement limits of Dungannon which run along the northern and western boundaries of the site. The site is defined by deciduous hedging to the western boundary with some mature trees and hedging along the eastern and northern boundaries of the

site. The site rises from east to west. The Black Lough lies approximately 240m to the south east of the site and the site lies within a Local Landscape Policy Area (LLPA 03 Ballysaggart Lough).

A row of semi-detached and detached cottages lies across the Granville Road to the west of the site, with a detached dwelling to the north

Description of Proposal

Reserved Matters application for proposed dwelling and garage on a farm.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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.

Relevant Histories

LA09/2021/1041/O - Proposed dwelling and garage on a farm - 100m south of 1 Eglish Road Dungannon PERMISSION GRANTED 06.10.2021

The principle of development has been established through the recent approval of LA09/2021/1041/O and this Reserved Matters proposal complies with all the conditions set down at outline stage.

Representations

(19) neighbouring properties were identified to be notified, and press advertisement was carried out in line with the Council's statutory duty. There was some confusion initially as to the address of properties in the adjoining residential development, whether these were Killymaddy Cottages or Killymaddy Knox. On speaking to people on site I am satisfied that this development is known locally as both, and post will find either address. I am satisfied that the site address is correct and that the application site has been advertised correctly. I identified a further two properties to be notified from site inspection, so I hand delivered letters to No. 15 and No. 16 Killymaddy Cottages on 27.05.2022. In total 21 neighbours were notified. To date no third party representations have been received.

Dungannon and South Tyrone Area Plan 2010

The site lies outside any settlement limit defined in the Dungannon and South Tyrone Area Plan 2010 and lies within a Local Landscape Policy Area (LLPA 03 Ballysaggart Lough) As such, existing planning policies should be applied in this assessment.

LPA 03 Ballysaggart Lough

This LLPA is designated at Ballysaggart Lough and adjacent landscape, to help protect the area's visual amenity, nature conservation interest and recreational use. It is important that its banks and surrounding land are kept free from inappropriate and visually intrusive development. The northern bank of the Lough is overlooked by a localised hill, which contains significant areas of woodland around the historic 'Manse'. The open undeveloped northern slopes of this hill are important when viewed from Dungannon town centre, providing a backdrop of mature woodland on steeply rising ground. This site is located at the edge of the designated area, bounded by existing development to the north and west, and therefore I do not consider a dwelling here will have a negative impact on the LLPA.

Mid Ulster District Council Draft Plan Strategy 2030

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

SPPS - Strategic Planning Policy Statement for Northern Ireland

The 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. It does not present any change in policy direction therefore existing policy applies.

Planning Policy Statement 3 - Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves a new access onto the Eglish Road. DFI Roads have been consulted and have no concerns providing sightlines of 2.4m x 100m are provided as per the site plan submitted.

Planning Policy Statement 21 - Sustainable Development in the Countryside

As the principle of development has already been established, the matters reserved under the OPP must now be considered.

CTY 13 of PPS21 - Integration and Design of Buildings 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. The proposed dwelling is 6.5m in height, and has an approximate curve, with a rear projection. The dwelling is

sited facing the Eglish Road. The walls are to be finished in white K-rend with natural stone to the front porch. The windows mostly have a vertical emphasis, with a strong relationship of solid to void and the chimneys are expressed from the ridge. The solid to void relationship on the southern elevation is not as strong with more glazing than wall however the proposed planting to this elevation will, when mature, prevent any critical views of this. There are no overlooking concerns. I am satisfied this dwelling can be visually integrated into the surrounding countryside.

The proposed garage will be located between the new dwelling and the exiting dwelling to the north of the site and will therefore have limited critical views. For this reason I feel its design is considered acceptable. Levels have been provided and are acceptable, ensuring the dwelling and garage will not be prominent in the landscape. A landscaping plan has been provided which shows retention of the existing boundaries, augmented by additional planting. An amended landscaping scheme has been received showing the planning to the southern boundary to define the area conditioned at OPP stage and I consider this acceptable. Views of the site are limited to along the roadside frontage of the host field. The proposal therefore meets policy criteria contained within policy CTY13 of PPS21.

CTY 14 of PPS21 - Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The proposed dwelling will not be unduly prominent in the landscape nor does it result in build up. It respects the settlement pattern of the area and it does not create or add to a ribbon of development. The ancillary works will not damage rural character. It was assessed at outline stage that a dwelling on this site is in accordance with this policy and the proposal therefore complies with CTY 14.

Other Considerations

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

The applicant submitted the same planning application on the field to the south of this site under planning reference LA09/2020/0239/O and after discussions with the Council and Rivers agency they decided to withdraw and re-submit on this more elevated site to alleviate any concerns regarding potential flooding. I therefore have no flooding concerns. In addition to checks on the planning portal, Natural Environment Division (NED) map viewer available online has been checked and did not identify any natural heritage interests on site to raise any concerns in relation this proposal and I have no ecological or residential amenity concerns.

Recommend approval as the application meets all conditions set down at OPP stage and the design is considered acceptable.

Neighbour Notification Checked	Yes/No
Summary of Recommendation:	
Approve is recommended	
<p>Approval Conditions</p> <p>Condition 1 The development to which this approval relates must be begun by whichever is the later of the following dates:-</p> <p>i. The expiration of a period of 5 years from the grant of outline planning permission; or ii. The expiration of a period of 2 years from the date hereof.</p> <p>Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.</p> <p>Condition 2 The vehicular access, including visibility splays of 2.4m x 100.0m and any forward sight distance shall be provided in accordance with drawing No. 02 rev. 01 bearing the date stamp 28 JUL 2022, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.</p> <p>Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.</p> <p>Condition 3 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 to stop clear of the public road when the gates or barriers are closed.</p> <p>Reason: To ensure waiting vehicles do not encroach onto the carriageway.</p> <p>Condition 4 All existing trees and hedges, as indicated on drawing No 02 date stamped 1 Apr 2022, shall be permanently retained unless otherwise agreed by Mid Ulster Council in writing.</p> <p>Reason: In the interests of visual amenity and to ensure the development integrates into the countryside.</p> <p>Condition 5</p>	

All hard and soft landscape works as detailed on drawing No. 02 Rev 1 bearing the stamp dated 28 JUL 2022 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity.

Signature(s): Deirdre Lavery

Date: 17 August 2022

ANNEX	
Date Valid	25 April 2022
Date First Advertised	12 May 2022
Date Last Advertised	10 May 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 11 Killlymaddycottages, Dungannon, Tyrone, BT70 1NL The Owner / Occupier 6 Killlymaddy Cottages, Dungannon, Tyrone, BT70 1NL The Owner / Occupier 5 Killlymaddy Cottages Dungannon Tyrone BT70 1NL The Owner / Occupier 10 Killlymaddy Cottages, Dungannon, Tyrone, BT70 1NL The Owner / Occupier 4 Killlymaddy Cottages, Dungannon, Tyrone, BT70 1NL The Owner / Occupier 3 Killlymaddy Cottages, Dungannon, Tyrone, BT70 1NL The Owner / Occupier 2 Killlymaddy Cottages, Dungannon, Tyrone, BT70 1NL The Owner / Occupier 1 Eglisch Road, Dungannon, Tyrone, BT70 1NL The Owner / Occupier 11 Killlymaddy Knox, Dungannon, Tyrone, BT70 1NL The Owner / Occupier 17A Killlymaddy Cottages, Dungannon, Tyrone, BT70 1NL The Owner / Occupier 14 Killlymaddy Cottages, Dungannon, Tyrone, BT70 1NL The Owner / Occupier 13 Killlymaddy Cottages, Dungannon, Tyrone, BT70 1NL The Owner / Occupier 15 Eglisch Road, Dungannon, Tyrone, BT70 1NL The Owner / Occupier 1 Loughview Heights, Dungannon, Tyrone, BT70 1NL The Owner / Occupier 1 Killlymaddy Cottages, Dungannon, Tyrone, BT70 1NL The Owner / Occupier 9 Killlymaddy Cottages, Dungannon, Tyrone, BT70 1NL The Owner / Occupier 8 Killlymaddy Cottages Dungannon Tyrone BT70 1NL The Owner / Occupier 7 Killlymaddy Cottages, Dungannon, Tyrone, BT70 1NL The Owner / Occupier	

12 Killymaddy Cottages, Dungannon, Tyrone, BT70 1NL

Date of Last Neighbour Notification	11 May 2022
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Date of EIA Determination	
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ES Requested	<events screen>
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Planning History

Ref: M/2001/1097/O

Proposals: Housing Development

Decision:

Decision Date:

Ref: M/2002/1402/O

Proposals: Housing Scheme

Decision:

Decision Date:

Ref: LA09/2020/0239/O

Proposals: Proposed dwelling and garage on a farm.

Decision: WDN

Decision Date: 15-APR-21

Ref: M/1991/0044C

Proposals: Erection of Dwelling

Decision: PG

Decision Date:

Ref: M/2000/0852/O

Proposals: Housing development

Decision: DREIA

Decision Date: 24-OCT-00

Ref: LA09/2022/0547/RM

Proposals: Proposed dwelling and garage on a farm

Decision:

Decision Date:

Ref: M/1991/0044

Proposals: Erection of dwelling

Decision: PG

Decision Date:

Ref: LA09/2021/1041/O

Proposals: Proposed dwelling & a garage on a Farm

Decision: PG

Decision Date: 06-OCT-21

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Substantive: TBC

Drawing Numbers and Title

Garage Plans Plan Ref: 04
Proposed Plans Plan Ref: 03
Site Layout or Block Plan Plan Ref: 02
Site Location Plan Plan Ref: 01
Garage Plans Plan Ref: 04.rev.01
Site Layout or Block Plan Plan Ref: 02.rev.01
Proposed Elevations Plan Ref: 03.rev.01

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.30
Application ID: LA09/2022/1110/F	Target Date: 17 October 2022
Proposal: LA09/2016/1307/F Construction of proposed motorsport racetrack to include: ancillary buildings (pit garages/hospitality/media centre/press area; medical centre; shower block; creche; mission hall; and restaurant area & spectator gallery); associated car parking; landscaping; acoustic banking; sound barriers; associated site works; relocated recycling area; internal loop road; and public link road between Dungannon Road and Derry Road with access points on Derry Road (2No.) and Dungannon Road (1No.) at Clay Pits, Dungannon Road, Coalisland. (FURTHER ENVIRONMENTAL INFORMATION) We would like to request to vary the following conditions 3, 37,38 and 39. We hope the Council will agree to these variations to the relevant conditions, to enable the development to commence (see supporting document).	Location: Clay Pits Dungannon Road Coalisland BT71 4JA
Referral Route: Pending is recommended	
Recommendation: Pending	
Applicant Name and Address: Barrick Hill Quarries 96 Lurgylead Road Galbally Dungannon BT70 2NY	Agent Name and Address: Mr Michael Clarke Unit 1 10 Monaghan Court Monaghan Street Newry BT35 6BH

Executive Summary:	
Legal advice to be obtained for Committee deliberation.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Geological Survey NI (DfE)	3062. MUDC Planning. Creche Clay Pits Dungannon Road Coalisland, Tyrone BT71 4JA.doc
Statutory Consultee	Historic Environment Division (HED)	

Representations:

Letters of Support	1
Letters of Objection	1
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Characteristics of the Site and Area

The proposed site is located out with, but directly adjacent to the Settlement Development Limit 'SDL' of Coalisland, on the western edge, as identified within the Dungannon and South Tyrone Area Plan 2010 'DSTAP', which was adopted in March 2005. Within the DSTAP the site is identified as 'Green Belt' (now covered by the policies contained with Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) and a portion is also identified as being located within a Minerals Reserve Policy Area (MRPA) along with a Site of Local Nature Conservation Importance (SLNCI) being identified within the site.

The proposed site comprises areas of exhausted clay and coal pits located on the Western edge of Coalisland. The site was previously known as the known as the 'Clay Pits' or 'Tyrone Brickworks site' and which was previously owned by Roadstone plc. Building bricks and clay pipes for construction, were manufactured on site, with aggregates extracted, over a hundred year period.

Prior to this, the site has a long history of industrial workings, including coal mining. The site itself which covers approximately 57 hectares, comprises grassed agricultural fields and hedgerows to the South and South West quarters untouched by the quarrying. In the central area, steep quarry faces lacking vegetation dominate, with two water-filled deep quarried excavations forming large ponds. The site abuts the Derry Road to the North, the Dungannon Road to the East and the Bush Road to the South East. The site also comprises the existing Coalisland Household Waste Recycling Area.

Description of Proposal

This is an application made under section 54 of The Planning Act (N.I.) 2011 to vary the wording of conditions 3, 37,38 and 39 of LA09/2016/1307/F *Construction of proposed motorsport racetrack to include: ancillary buildings (pit garages/hospitality/media centre/press area; medical centre; shower block; creche; mission hall; and restaurant area & spectator gallery); associated car parking; landscaping; acoustic banking; sound barriers; associated site works; relocated recycling area; internal loop road; and public link road between Dungannon Road and Derry Road with access points on Derry Road (2No.) and Dungannon Road (1No.) at Clay Pits, Dungannon Road, Coalisland*

Current Conditions;

3. No site works of any nature or development shall take place until a programme of archaeological work has been implemented, in accordance with a written scheme and programme prepared by a qualified archaeologist, submitted by the applicant and

approved by the Department. The programme should provide for the identification and evaluation of archaeological remains within the site, for mitigation of the impacts of development, through excavation recording or by preservation of remains, and for preparation of an archaeological report.

Reason: to ensure that archaeological remains within the application site are properly identified, and protected or appropriately recorded.

37. Prior to the commencement of any development hereby approved, a revised Coal Mines Risk Assessment (CMRA) shall be submitted for approval by the Council, in accordance with The Coal Authority and CIRIA SUP 32 Guidance, for consultation and approval by DfE which contains the following information: -

- Ground model of Coal and Fire clay seams which occurred on site ;
- Assessment of historic mining activity;
- Consideration of unrecorded mining activity;
- Risk rating (High, Medium and Low) for the area within the application boundary;
- Detailed recommendation for intrusive and non-intrusive site investigation works; and
- Detailed mitigation strategy

Reason: In the interests of ensuring land stability concerns are fully addressed.

38. Prior to the commencement of the development of the racetrack and other ancillary buildings or works the developer shall have undertaken the intrusive and non-intrusive site investigation works and approval of the results of the investigations by the Council.

Reason: In the interests of ensuring land stability concerns are fully addressed.

39. Prior to the commencement of the development hereby approved the developer shall have submitted a scheme of remedial works and carry out those works in accordance with a timetable and schedule as agreed with the Council.

Reason: In the interests of ensuring land stability concerns are fully addressed.

Proposed Conditions;

3. No site works of any nature or development shall take place within the area outlined in yellow in Figure 14 of the Archaeological Programme of Works prepared by Otrá Archaeology and dated June 2021 until a programme of archaeological work has been implemented, in accordance with the said Programme of Works.

Reason: To ensure that archaeological remains within the application site are properly

identified, and protected or appropriately recorded.

37. No development shall take place on any part of the site until a revised Coal Mines Risk Assessment, for that part of the site, has been submitted to the Council for approval. The CMRA shall be in accordance with The Coal Authority and CIRIA SUP 32 Guidance, for consultation and approval by DfE, and shall contain the following information:

- Ground model of coal and fire clay seams, pertaining to that part of the site;
- Assessment of historic mining activity, on that part of the site;
- Consideration of unrecorded mining activity, on that part of the site;
- Risk rating (high, medium and low), for that part of the site;
- Detailed recommendations for intrusive and non-intrusive site investigation works, for that part of the site; and
- Detailed mitigation strategy for that part of the site.

Reason: In the interests of ensuring land stability concerns are fully addressed.

38. No works or development shall be carried out on any part of the site until the developer has undertaken intrusive and non-intrusive site investigation works on that part of the site, and the Council has confirmed its satisfaction with the results of the investigations.

Reason: In the interests of ensuring land stability concerns are fully addressed.

39. No works or development shall commence on any part of the site until the developer has submitted a scheme of remedial works, for that part of the site, and these works shall be carried out in accordance with a timetable and schedule to be agreed by the Council.

Reason: In order to ensure land stability concerns are fully addressed

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

PROCEDURAL ISSUE

Members are advised that a legal opinion is being sought on whether Council can decide upon a proposal for variation of a planning condition (Section 54 application) where the original permission has lapsed.

In a planning appeal in England an Inspector concluded that while the appeal had been submitted before the lapse of planning permission, no further action could be taken on the appeal because the planning permission to which it related had since lapsed.

The original permission LA09/2016/1307/F **was granted permission on 6th September 2017.**

Previous legal advice predicates that the permission will lapse **at midnight on 5th September 2022.**

As the Planning Committee meeting is on **6th September**, Members could potentially be deciding upon a planning application to vary conditions on a lapsed permission.

Based on the English appeal and the fact that the Planning Act 2011 prohibits removal of conditions with the intent of extending the life of a permission I recommend refusal as the permission has expired.

In case legal advice differs, I have provided an alternative view based on the permission being live in APPENDIX 1 below.

RECOMMENDATION

Legal advice to be obtained for Committee deliberation.

APPENDIX 1

Had the original permission been live at the time of September Committee Meeting, the following recommendation for variation of Conditions 3, 37, 38 and 39 is presented;

Variation of Condition 3;

The original condition states;

3. No site works of any nature or development shall take place until a programme of archaeological work has been implemented, in accordance with a written scheme and programme prepared by a qualified archaeologist, submitted by the applicant and approved by the Department. The programme should provide for the identification and evaluation of archaeological remains within the site, for mitigation of the impacts of development, through excavation recording or by preservation of remains, and for preparation of an archaeological report.

Reason: to ensure that archaeological remains within the application site are properly identified, and protected or appropriately recorded.

The agent would like this amended to;

3. No site works of any nature or development shall take place within the area outlined in yellow in Figure 14 of the Archaeological Programme of Works prepared by Otra Archaeology and dated June 2021 until a programme of archaeological work has been implemented, in accordance with the said Programme of Works.

Reason: To ensure that archaeological remains within the application site are properly identified, and protected or appropriately recorded.

Historic Environment Division were consulted on the proposal and make the following comments;

HED (Historic Monuments) does not consider the proposed change to be necessary. A programme of works has been submitted to partially discharge condition 3 (application number LA09/2021/0971/DC). Within the Recommendations section of this programme of works it clearly states that archaeological mitigation is only required within the area outlined in yellow in figure 14 of this report and this has been agreed by HED (Historic Monuments). Therefore, archaeological mitigation is only required within this area and works elsewhere on the site can commence without archaeological mitigation. Any works undertaken without archaeological monitoring within the application site outside the yellow line area would not be considered in breach of condition 3.

HED (Historic Monuments) does not agree with the proposed changes and advises that the conditions should remain as per condition 3 of planning approval LA09/2016/1307/F or changed to the more up-to-date standard conditions attached below:

In my view, the permission will not be in breach of the original condition should development commence in accordance with the agreed Archaeological Programme of Works prepared by Otra Archaeology and dated June 2021. The implementation of the programme of works is only required within the area indicated in yellow on the agreed report, and this will not have to take place until this area is being developed, as agreed in the report.

HED recommend that the condition should remain as per condition 3 of planning approval LA09/2016/1307/F or changed to the more up-to-date standard conditions as attached. I agree with HED that the condition should remain unaltered. I am not in agreement that the condition should be amended to the rewording suggested by HED as the rewording would be more onerous on the developer and would not be reasonable to introduce this new wording at this stage.

As prescribed by Section 54 (3) b of the Planning Act, if the authority which granted planning permission decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, the authority must refuse the application.

Therefore I advise that this proposal to amend/vary condition 3 should be refused.

Variation of Conditions 37, 38 and 39

These conditions relate to the requirement of a Coal Mine Risk Assessment to be carried out on the entire site, prior to the commencement of any development hereby approved. This will ensure that ground stability conditions for development on the site will be acceptable for development, or that mitigation will have to be put in place prior to development of those buildings or that part of the site from taking place. The developer/agent would like the condition amended to allow for a phased approach requirement for such reports to be carried out, depending on the area of the site being developed.

Consultation was carried out with the Geological Service for Northern Ireland (GSNI) for their views on the re-wording of the conditions. The agent also provided a details Coal Mine Risk Assessment for a small part of the site where the Crèche building is proposed. In their first response GSNI did not object to the construction of this building and agreed with the results of the Risk Assessment, but stayed silent on whether the rewording of the conditions would be acceptable or not. I re-consulted with GSNI and in their second

response agreed with the rewording of the conditions, subject to a minor amendment to the re-wording of condition No. 39 which should be as follows;

37. No development shall take place on any part of the site until a revised Coal Mines Risk Assessment, for that part of the site, has been submitted to the Council for approval. The CMRA shall be in accordance with The Coal Authority and CIRIA C758 Guidance, for consultation and approval by DfE, and shall contain the following information:

- Ground model of coal and fire clay seams, pertaining to that part of the site;*
- Assessment of historic mining activity, on that part of the site;*
- Consideration of unrecorded mining activity, on that part of the site;*
- Risk rating (high, medium and low), for that part of the site;*
- Detailed recommendations for intrusive and non-intrusive site investigation works, for that part of the site; and*
- Detailed mitigation strategy for that part of the site.*

Reason: In the interests of ensuring land stability concerns are fully addressed.

The new conditions still meet the test of a condition, and will not materially alter the original permission. The new conditions will not result in new development and there is no requirement for any further environmental information to be submitted for these conditions or any further EIA or HRA screening of these conditions.

REPRESENTATIONS

An e-mail of support has been received stating that the development would be a major boost for the local economy, and that the facility would be a welcome one for the local biking community and developing local talent.

An objection was received raising concern over the following;

- Close to adjoining properties*
- Inadequate access*
- Not enough info given on application*
- Traffic or Highways*

The location map attached to the current planning application does not incorporate the lands to which permission is sought to vary planning conditions.

The Mining report attached simply red lines a very specific and insignificant parcel of land within the overall development site.

The identified lands have been chosen as they appear to be located outside known areas of the historical mining and archaeological remains.

The attached red-lined map does not reflect the original approval, nor does the red line include the area necessary to connect to the public road.

The area of lands identified within the red line does not connect to the original site's approved drainage or attenuation systems.

If the area "red lined" is to be developed in advance of the overall development, then the parent planning approval conditions 19, 20, 21, 22 and 23 should be submitted for variation.

In legislation the authority which granted the previous planning permission must consider **only** (my emphasis) the question of the conditions subject to which planning permission should be granted.

Therefore, the issues raised in the e-mail of support and online objection that do not relate directly to the conditions to be varied cannot be afforded any weight in the decision making process, as it is only the question of the condition that be considered.

No weight can be afforded to the letter of support as the proposal has already been decided and nothing in it relates directly to the question of the conditions under consideration.

The objector raises concern over the proximity to adjoining properties, inadequate access, not enough info given on application and Traffic or Highways. These issues cannot be afforded any material weight to the decision as they do not relate directly to the conditions in question, and these issues have been considered under the original permission.

I am satisfied that there is sufficient information to identify the site in question. The site is that the same as LA09/2016/1307/F as the proposal relates to the amendment of some of these conditions. It is clear from the description of the proposal that it is only the question of conditions 3, 37, 38 and 39 of LA09/2016/1307/F being considered. I do not find the objectors concerns to be determining in this regard.

There is sufficient information to determine these conditions and I find the objectors concerns in this regard not determining.

The objector relates to other conditions within LA09/2016/1307/F. These concerns fall outside this assessment, and the variation of conditions under consideration will not impact on the remaining conditions contained within LA09/2016/1307/F.

The objector is also concerned that access to the Crèche Building indicated in the submitted Coal Mine Risk Assessment submitted with this application is not shown. This access is not required to be shown by any of the conditions under assessment, plus all of the access conditions attached to the original permission LA09/2016/1307/F are not pre commencement conditions.

Conclusion to APPENDIX 1;

I recommend partial refusal and partial approval of this application.

Variation of condition 3 should be refused.

Conditions 37, 38 and 39 should be allowed to be varied to;

37. No development shall take place on any part of the site until a revised Coal Mines Risk Assessment, for that part of the site, has been submitted to the Council for approval. The CMRA shall be in accordance with The Coal Authority and CIRIA C758 Guidance, for consultation and approval by DfE, and shall contain the following information:

- Ground model of coal and fire clay seams, pertaining to that part of the site;*
- Assessment of historic mining activity, on that part of the site;*
- Consideration of unrecorded mining activity, on that part of the site;*
- Risk rating (high, medium and low), for that part of the site;*
- Detailed recommendations for intrusive and non-intrusive site investigation works, for that part of the site; and*
- Detailed mitigation strategy for that part of the site.*

Reason: In the interests of ensuring land stability concerns are fully addressed.

38. No works or development shall be carried out on any part of the site until the developer has undertaken intrusive and non-intrusive site investigation works on that part of the site, and the Council has confirmed its satisfaction with the results of the investigations.

Reason: In the interests of ensuring land stability concerns are fully addressed.

39. No works or development shall commence on any part of the site until the developer

has submitted a scheme of remedial works, for that part of the site, and these works shall be carried out in accordance with a timetable and schedule to be agreed by the Council.

Reason: In order to ensure land stability concerns are fully addressed

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Pending is recommended

Approval Conditions

Condition 1

On the night of Committee, Members will have 3 options;

Option 1: Refuse on legal advice (advice is pending)

Option 2: Part approve / part refuse the proposal in accordance with the recommendation in Appendix 1

Option 3: Defer for further consideration

Signature(s): Paul McClean

Date: 25 August 2022

ANNEX	
Date Valid	4 July 2022
Date First Advertised	19 July 2022
Date Last Advertised	19 July 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 314 Coalisland Road, Drumcoo, Dungannon, BT71 6ET The Owner / Occupier 2 Mill View Cottages, Derrywinnin Glebe, Dungannon, Tyrone, BT71 6EX The Owner / Occupier 1 Derry Row, Coalisland, Tyrone, BT71 4NX, The Owner / Occupier 323 Coalisland Road, Drumcoo, Dungannon, Tyrone, BT71 6ET, The Owner / Occupier 36 Derry Road, Coalisland, BT71 4HY The Owner / Occupier 282 Coalisland Road, Drumcoo, Dungannon, Tyrone, BT71 6ET, The Owner / Occupier 7 Brackaville Road, Coalisland, BT71 4NH The Owner / Occupier 11 Brackaville Road, Coalisland, BT71 4NH The Owner / Occupier 11A Brackaville Road, Coalisland, BT71 4NH The Owner / Occupier Gold Star Engineering, 46 Derry Road, Coalisland, BT71 4HY The Owner / Occupier 280 Coalisland Road, Drumcoo, Dungannon, Tyrone, BT71 6ET, The Owner / Occupier 13 Brackaville Road, Coalisland, BT71 4NH The Owner / Occupier 318 Coalisland Road, Drumcoo, Dungannon, Tyrone, BT71 6ET, The Owner / Occupier 2 Dungannon Rd, Coalisland, BT71 4HP The Owner / Occupier Church Of The Holy Family, 5 Platers Hill, Coalisland, Dungannon, BT71 4JZ The Owner / Occupier 9 Brackaville Road, Coalisland, BT71 4NH The Owner / Occupier 86 Dungannon Road, Gortgonis, Coalisland, Tyrone, BT71 4HP, The Owner / Occupier	

4 Mountcairn Drive, Gortgonis, Coalisland, BT71 4RW
The Owner / Occupier

3 Mountcairn Drive, Gortgonis, Coalisland BT71 4RW
The Owner / Occupier

5 Derry Row, Coalisland, Tyrone, BT71 4NX,
The Owner / Occupier

4 Derry Row, Coalisland, Tyrone, BT71 4NX,
The Owner / Occupier

3 Derry Row, Coalisland, Tyrone, BT71 4NX,
The Owner / Occupier

2 Derry Row, Coalisland, Tyrone, BT71 4NX,
The Owner / Occupier

2 Mountcairn Drive, Gortgonis, Coalisland BT71 4RW
The Owner / Occupier

6 Derry Row, Coalisland, Tyrone, BT71 4NX,
The Owner / Occupier

1 Mountcairn Drive, Gortgonis, Coalisland BT714RW
The Owner / Occupier

50 Dungannon Road, Gortgonis, Coalisland, Tyrone, BT71 4HP,
The Owner / Occupier

46A Derry Road, Coalisland, BT71 4HY
The Owner / Occupier

15 Brackaville Road, Coalisland, BT71 4NH
The Owner / Occupier

68 Dungannon Road, Gortgonis, Coalisland, Tyrone, BT71 4HP,
The Owner / Occupier

46 Derry Road, Coalisland, BT71 4HY
The Owner / Occupier

41 Derry Road, Coalisland, BT71 4HY
The Owner / Occupier

37 Derry Road, Coalisland, BT71 4HY
The Owner / Occupier

60 Derry Road, Coalisland, BT71 4HY
The Owner / Occupier

60 Dungannon Road, Gortgonis, Coalisland, Tyrone, BT71 4HP,
The Owner / Occupier

62 Derry Road, Coalisland, BT71 4HY
The Owner / Occupier

48 Dungannon Road, Gortgonis, Coalisland, Tyrone, BT71 4HP,
The Owner / Occupier

46 Dungannon Road, Gortgonis, Coalisland, Tyrone, BT71 4HP,
The Owner / Occupier

17 Brackaville Road, Coalisland, BT71 4NH
The Owner / Occupier

82 Dungannon Road, Gortgonis, Coalisland, Tyrone, BT71 4HP,
The Owner / Occupier

90 Derryvale Road, Coalisland, BT71 4DY
The Owner / Occupier

1 Mill View Cottages, Derrywinnin Glebe, Dungannon, Tyrone, BT71 6EX,
 The Owner / Occupier
 64 Derry Road, Coalisland, BT71 4HY
 The Owner / Occupier
 14 Laurel Grove, Gortgonis, Coalisland, Tyrone, BT71 4SA
 The Owner / Occupier
 199 Bush Road, Coalisland
 The Owner / Occupier
 12 Laurel Grove, Gortgonis, Coalisland, Tyrone, BT71 4SA,
 The Owner / Occupier
 11 Laurel Grove Gortgonis Coalisland Tyrone BT71 4SA
 The Owner / Occupier
 8 Ballynakilly Road, Gortgonis, BT71 4HU
 The Owner / Occupier
 64 Derry Road, Coalisland, BT71 4HY
 The Owner / Occupier
 1 Ballynakilly Road, Gortgonis, BT71 4HU
 The Owner / Occupier
 4 Station Yard, Coalisland, BT71 4GA
 The Owner / Occupier
 58 Derry Road, Coalisland, BT71 4HY
 The Owner / Occupier
 13 Laurel Grove, Gortgonis, Coalisland, Tyrone, BT71 4SA,
 The Owner / Occupier
 4 Ballynakilly Road, Gortgonis, BT71 4HU
 The Owner / Occupier
 104 Derryvale Road, Coalisland, Co Tyrone, BT71 4DY
 The Owner / Occupier
 100 Derryvale Road, Coalisland, BT71 4DY
 The Owner / Occupier
 84 Dungannon Road, Coalisland, BT71 4HP
 The Owner / Occupier
 14 Ballynakilly Road, Coalisland, BT71 4HU
 The Owner / Occupier
 Drumreagh House, Derryvale Rd, Coalisland, BT71 4DY
 The Owner / Occupier
 25 Derryvale Road, Coalisland, BT71 4DY
 The Owner / Occupier
 318 Bush Road, Coalisland, BT71 6QQ
 The Owner / Occupier
 3 Derry Road, Coalisland , Co.Tyrone, BT71 4HY
 The Owner / Occupier
 4 Ballynakilly Road, Coalisland, BT71 4HU
 The Owner / Occupier
 13 Ballynakilly Road, Coalisland, BT71 4HU
 The Owner / Occupier
 94 Derryvale Road, Coalisland, BT71 4DY
 The Owner / Occupier

88 Derryvale Road, Coalisland, BT71 4DY The Owner / Occupier 31 Derry Road, Coalisland, BT71 4HY The Owner / Occupier 92 Derryvale Road, Coalisland, BT71 4DY The Owner / Occupier 36 Derry Road, Coalisland, BT71 4HY The Owner / Occupier 270 Coalisland Road, Coalisland, BT71 6ET The Owner / Occupier 4 Derry Road, Coalisland, BT71 4HY The Owner / Occupier Brackaville Church Of Ireland, Dungannon Rd, Coalisland, BT71 4HT	
Date of Last Neighbour Notification	22 July 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses Geological Survey NI (DfE)-3062. MUDC Planning. Creche Clay Pits Dungannon Road Coalisland, Tyrone BT71 4JA.doc Historic Environment Division (HED)-	
Drawing Numbers and Title Site Location Plan Plan Ref: 01	
Notification to Department (if relevant) Not Applicable	