



03 November 2020

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Magherafelt and by virtual means Council Offices, Ballyronan Road, Magherafelt, BT45 6EN on Tuesday, 03 November 2020 at 19:00 to transact the business noted below.

In accordance with the spirit of the recent COVID restriction, Members are strongly encouraged to join virtually as the preferred option. Should you need to attend in person then provision will be made at the Council Offices, Magherafelt. Please notify Democratic Services in advance if this is the case.

A link to join the meeting through the Council's remote meeting platform will follow.

Yours faithfully

Anthony Tohill  
Chief Executive

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## AGENDA

### OPEN BUSINESS

1. Apologies
2. Declarations of Interest
3. Chair's Business

### Matters for Decision

#### Development Management Decisions

4. Receive Planning Applications

7 - 186

	Planning Reference	Proposal	Recommendation
4.1.	LA09/2018/0847/F	Conversion of existing dwelling along with rear extension to provide a 5 bed residential care unit and 12 bed dementia care unit; associated support services; staff accommodation and car	APPROVE

		parking for both staff and visitors at 7 Cookstown Road, Moneymore for Hayley Jordan.	
4.2.	LA09/2019/0050/O	Site for a dwelling and garage 37m NE of 9 Annaghmore Lane Annaghmore Cookstown for Mr Noel Devlin.	REFUSE
4.3.	LA09/2019/0416/F	Retention of commercial development for the repair and sale of agricultural/ construction plant and machinery at lands at 67 Glenhoy Road Ballygawley and approx. 100m SW of 68 Glenhoy Road Ballygawley, for Keith Gladney.	APPROVE
4.4.	LA09/2019/1239/O	Replacement dwelling with retention of existing listed building as general-purpose store at 13 Altadaven Road, Favour Royal Demesne, Augher, for Bernard McKenna & Amy McElhatton.	REFUSE
4.5.	LA09/2019/1571/F	Dwelling and garage at site between 20&22 Lough Road & 50m S of 14 Lough Road, Ballymaguigan, for Patrick McKenna.	APPROVE
4.6.	LA09/2020/0307/O	Replacement dwelling at 12 Drumbolg Road, Upperlands, Maghera for Mr A Campbell.	APPROVE
4.7.	LA09/2020/0318/RM	Domestic bungalow and garage at site S of 63 Anneeter Road, Coagh, for Oliver Conlon.	APPROVE
4.8.	LA09/2020/0656/O	Replacement dwelling & detached Domestic Garage at 120m SE of 47 Annaghmakeown Road, Dungannon, for Mr Simon Duggan.	APPROVE
4.9.	LA09/2020/0674/F	Two storey dwelling and detached garage at site adjacent to 82 Annagher Road Coalisland for Kevin McCluskey.	APPROVE
4.10.	LA09/2020/0687/O	Off-site replacement dwelling & detached garage 110m NW of 25 Annaghnaboe Road Coalisland, for Dominic Ryan	REFUSE
4.11.	LA09/2020/0740/F	Sites for 2 infill dwellings and garages between 23 & 29A Cloghog Road, Coalisland, for Mr Conor Tennyson.	REFUSE

4.12.	LA09/2020/0775/O	Dwelling and detached garage on gap site West of 16 Drumnacannon Road, Upperlands, Maghera for Mr K McKinley.	APPROVE
4.13.	LA09/2020/0783/F	Removal of Condition 4 of outline approval LA09/2019/1004/O at approx 170m S of 71 Back Lower Road Killycolpy Dungannon for Mr Plunkett Teague.	REFUSE
4.14.	LA09/2020/0790/O	Dwelling and detached double garage with storage above at pprox 50m SW of 50 Cadian Road, Eglish, Dungannon for Ryan Muldoon.	REFUSE
4.15.	LA09/2020/0801/O	Dwelling & detached domestic garage at site adj to & S of 19 Ballymaguigan Road, Magherafelt for Niamh Young	REFUSE
4.16.	LA09/2020/0804/O	Two storey dwelling & domestic garage at lands 350m S of 293 Pomeroy Road, Lurganeden, Pomeroy for Mr Ben Sinnamon.	REFUSE
4.17.	LA09/2020/0841/O	Site for a Dwelling and Domestic Garage at approx 45m W of No.59 Lurgaboy Lane, Dungannon for Mr Darren McKenna.	REFUSE
4.18.	LA09/2020/0849/F	Dwelling & Garage approx. 80m SW of 60a Ballygittle Road, Stewartstown, for Grace Campbell and Henry Heron.	APPROVE
4.19.	LA09/2020/0933/RM	Dwelling and detached garage 500m SE of 19 Drumimerick Road, Kilrea, for Mr T Kelso.	APPROVE

## 5. Receive Deferred Applications

187 - 302

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2018/0176/F	Retrospective shed for the storage of boats and working of nets to the rear of 140 Kilmascally Road Dungannon, for Mr M O'Neill.	REFUSE
5.2.	LA09/2018/1458/O	Dwelling 50m SW of 55 Kanes Rampart Derrylaughan Coalisland for Mr Owen Campbell.	APPROVE

5.3.	LA09/2019/0423/F	Retention of single storey domestic garage, storage and annex building, to be used in association with the existing dwelling house and an increase in the curtilage of the site at 63a Ballymacombs Road Bellaghy, for Donal O'Cearnaigh	REFUSE
5.4.	LA09/2019/0539/O	Site for a dwelling and garage, 35m S of 98 Desertmartin Road, Magherafelt, for Mr John Tohill.	APPROVE
5.5.	LA09/2019/1418/F	Site for dwelling & domestic garage. At approx 60m NW of 124 Lurgylea Road, Dungannon, for Mr Christopher Kelly.	APPROVE
5.6.	LA09/2020/0022/O	Dwelling in an infill site at land adjacent to and S of 14 Drumkee Road, Dungannon, for Mr Noel Stephenson	REFUSE
5.7.	LA09/2020/0047/O	Site for dwelling and garage approx. 60m W of 121A Desertmartin Road, Moneymore, for Mr Henry and Mark Miller.	APPROVE
5.8.	LA09/2020/0446/F	Change of house type to previous approval (M/2006/1301/RM) at land opposite and SW of 165 Favour Royal Road, Augher, for Mr Finbar McQuaid.	REFUSE

#### Matters for Information

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|---|--|-----------|
| 6 | Minutes of Planning Committee held on 6 October 2020 | 303 - 330 |
| 7 | LDP- Departmental Agreement to Revised Timetable     | 331 - 334 |

**Items restricted in accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014. The public will be asked to withdraw from the meeting at this point.**

#### Matters for Decision

##### Matters for Information

8. Confidential Minutes of Planning Committee held on 6 October 2020
9. Enforcement Cases Opened



## 10. Enforcement Cases Closed





**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0847/F	<b>Target Date:</b>
<b>Proposal:</b> Conversion of existing dwelling along with rear extension to provide a 5No. bed residential care unit and 12no. bed dementia care unit. Development to include associated support services and staff accommodation along with car parking for both staff and visitors	<b>Location:</b> 7 Cookstown Road Moneymore BT45 7QS.
<b>Referral Route:</b>  Objections received.	
<b>Recommendation: APPROVAL</b>	
<b>Applicant Name and Address:</b>  Hayley Jordan 41 Moneyhaw Road Moneymore BT45 7XL	<b>Agent Name and Address:</b>  Hyll-Syde Design Services 9 Knocksilla Grove Omagh BT79 0BA
<b>Executive Summary:</b>  Approval is recommended with conditions.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Rivers Agency	Add Info Requested
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	Rivers Agency	Add Info Requested
Non Statutory	Rivers Agency	

Non Statutory	Rivers Agency	Substantive Response Received
Non Statutory	Rivers Agency	
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	11	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Characteristics of the Site and Area</b>		
<p>The site is located at 7 Cookstown Road, Moneymore, within the settlement limits of Moneymore. It is accessed via the A29 Cookstown Road.</p> <p>Existing on the site is a red brick low storey and a half dwelling and a timber garage/store structure to the rear. The majority of the site is tarmacked to the front of the dwelling and it is stoned at the rear. There is a Waterway running along the length of the western boundary.</p> <p>Beyond the waterway is grass and high mature planting/trees. The land to the north is agricultural land, and to the northern corner of the site is a very steep grassed embankment. The site is defined on all sides by mature vegetation. There is an existing fence and mature planting along eastern boundary.</p> <p>It is located within a mixed use area. To the east of the site is Moneymore Nursing Home, to the south is a private residential dwelling and there is more dense residential housing on the opposite side of the road.</p>		
<b>Description of Proposal</b>		
<p>Conversion of existing dwelling along with rear extension to provide a 5No. bed residential care unit and 12no. bed dementia care unit. Development to include associated support services and staff accommodation along with car parking for both staff and visitors.</p>		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
<p>This proposal has been assessed under the following:</p> <p>Cookstown Area Plan 2010</p> <p>SPSS - The Strategic Planning Policy Statement</p> <p>Planning Policy Statement 1 - General Policies</p> <p>PPS3 -Access, Movement and Parking</p> <p>PPS15 -Planning and Flood Risk</p> <p>DCAN 9 - Residential and Nursing Homes</p> <p>DCAN 11 - Access for people with disabilities</p>		

Residential and nursing homes fall within Class 11 of the Planning (use classes) order 1973 which covers the following:

'use as a home or institution providing for the boarding, care and maintenance of children, old people, or persons under disability, a convalescent home, a nursing home, or a hospital'.

In line with legislation the proposal was advertised in several local press publications in June 2018 and relevant neighbours were notified.

Initially 10 objections were received, including one from Ross Planning on behalf of Four Seasons and local residents.

These raised the point that a number of documents had not been submitted with the original submission. These included a flood risk and drainage assessment, a design and access statement, noise report and transport assessment and appropriate ownership certificate. These were subsequently sent in by the agent and the appropriate consultees were consulted with and neighbours were re-notified.

Flooding was an issue raised by objections and DFI Rivers were consulted with the flood risk and drainage assessment, and they state in their reply of July 2019, while not being responsible for the preparations of the assessment accepts its logic and has no reason to disagree with its conclusions. This will be discussed further in the report under PPS15, however in conclusion Rivers offer no objection but remind the applicant any works approved will also be subject to approval from DFI Rivers under Schedule 6 of the Drainage order 1973 and these two approvals are both independently necessary.

Environmental Health assessed the submitted noise report and have provided two conditions in order to protect the amenity of the proposed development.

In terms of the access and traffic objection raised, DFI Roads provided a number of conditions to ensure the access onto Cookstown Road is safe, and these include visibility splays of 2.4 x 90m in both directions, to be provided prior to the commencement of the development permitted.

Following the submission of the additional information, a further objection was received on 1 Sept 2020 on behalf of Four Seasons Health care owner. It is stated in this letter the objections are the same as those raised previously, a number of which have been addressed with the additional information. They wish to repeat the applicant does not hold title to the land which is subject to the planning application.

Initially the applicant had signed Certificate A, but since the issue of ownership was raised with them, Certificate C was duly signed and submitted and the applicant Hayley Jordan, served notice on 7th July 2020 to PHF Securities Ltd and Tamulst Care Ltd. If permission is approved it will go with the owner of the land and any ownership issues with will be a civil matter for the applicant to sort. Planning have fulfilled their obligation in regards to the ownership issue and not obliged to do nothing further.

An informative will be added to any permission to read – 'This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.'

The Document 'Care standards for Nursing Homes' was raised by objectors in terms of standards for the proposal appearing insufficient. This would be a matter for the applicant and the supervisory body, and not something Planning would specifically comment on.

### **Policy consideration-**

DCAN9 states where applications for residential and nursing homes fall into a change of use of a building to a residential or nursing home, detached dwellings are likely to be the most acceptable for this type of use, particularly if they are substantial villas or mansions set in reasonably large grounds with mature landscaping.

This proposal seeks to convert an existing detached dwelling on a sizable plot, into a residential care home and includes a rear extension, with car parking and a secure garden area for residents. The accommodation is for elderly and will specialise in dementia patients. Although Planning cannot specify or condition the particular type of patient that resides at the home which objectors have raised concerns about, the agent has advised it is designed to be a small scale facility to serve the local population, for the elderly and in particular those suffering from dementia.

DCAN 9 goes on to say that particular regard in urban areas should be paid to siting, locality, traffic aspects, amenity, design and layout and landscaping.

### **Siting**

Scale and size of the proposal is acceptable in this location. The configuration of the proposal is such due to the irregular shape and topography of the site, where it narrows sharply to the north. However the scale is appropriate and by incorporating the existing dwelling as well as extending to it, the proposal is has an acceptable siting in terms of its physical characteristics and positioning.

### **Locality**

The objector raised the issue that the proposal will not be in keeping with the character of the area. I am satisfied the proposal fits into the character of the existing area, there is a compatible use adjacent, a Nursing Home which is located next to the site.

The site being developed in this way will not result in town cramming, as the objector's claim. There is sufficient amenity space and the design is sympathetic to the existing building and the surrounding area. The character of the existing area is still being preserved.

### **Traffic aspects**

The existing access will be used for public and private use, for both staff and visitors. Car Parking has been demonstrated, including disabled spaces as per DCAN 11, as sufficient and DFI Roads have offered no objections. The access will be widened and set back resulting in sufficient vision in both directions meeting the requirements of DFI Roads.

DFI Roads provided a condition to ensure the access onto Cookstown Road is safe, to include visibility splays of 2.4 x 90m in both directions, to be provided prior to the commencement of the development permitted. Other conditions have been also been provided to be attached to any decision notice.

There are various public transport linkages to the site with a number of bus services passing this location throughout the week.

### **Amenity**

Noise and disturbance were considered by Env Heath and following the submission of a noise report, conditions were provided which protect the amenity of the residents of the care home.

Visually amenity issues have also been considered. From the main public viewpoints there is no detrimental visual impact and when viewed from the Cookstown Road the proposal will be in keeping with the area and appear appropriately scaled and visually attractive. The design and layout has the effect of seeing mainly the existing building, with only part of the more modern extension, allowing it to successfully blend into the existing setting.

A 1.2m high paladin fence is to be erected along the western boundary which will aid in protecting the residential amenity of the property.

### **Design and layout**

In terms of design, the majority of the building will remain single storey (highest point will be 6.5m) with the exception of the attic room within the existing dwelling, this will be used for a staff room, staff bedroom and staff bathroom. The only material external change to the dwelling will be changing the existing garage door to a new window. The extension will be finished in render with a natural stone cladded entrance area, although the main house is red brick, this is a compatible mix of finishes in this location, and the contrast of the extension will provide it with a new identity.

Regard has been had to the height, scale and massing of the proposal. It remains in line with the surrounding skylines.

A secure dementia friendly garden has been proposed for use by the residents. This will be a safe, enclosed secure environment outside for the residents to enjoy. Concerns had been raised by objectors about the lack of space for residents and this was raised with the agent. A supporting statement was received to highlight why this type of enclosed space has been shown to benefit dementia patients. An area such as this can with sensory focus can help those living with cognitive impairment like dementia. Having a space like this will provide exercise, give an opportunity for relieving tension, frustration and allow some personal space as well as extra stimulation. The river beside the unit will also be a great benefit in terms of relaxation for patients. The design will be as such that it will appeal to patients, with bright coloured pavers, seating area and water features and plants in the garden area.



It would appear that the needs of the patients would be met with the space provided and access is easy to and from the main building. Neighbours and objectors were also re-notified on this supporting information.

### **Landscaping.**

Landscaping plan shows where possible the existing vegetation will be retained. The existing hedging along the front of the site will be retained. The planting plan also shows the trees on the various boundaries which will be retained. This will ensure privacy for the neighbouring properties as well as aiding in integration on the site from the main road. Proposed planting is also included at the entrance and rear of the rear which will augment what is existing.

The site will be further supplemented with low maintenance planting and general grassed areas external to resident's bedrooms.

### **Other considerations:**

There is a waterway which runs the length of the western boundary, so potential flooding was an important issue to be taken in consideration, which was also raised by the objectors. In terms of PPS15, the flood risk and drainage assessment was consulted with DFI Rivers who assessed it in line with Policy.

FLD1 – Development in fluvial and coastal flood plains. DFI Rivers were consulted with the flood risk and drainage assessment, and they state in their reply of July 2019, while not being responsible for the preparations of the assessment accepts its logic and has no reason to disagree with its conclusions

FLD2 - Protection of flood defence and drainage infrastructure, has been satisfied.

FLD3 - Providing the drainage works in the drainage assessment are implemented the proposed development should not increase the risk of flooding to the development

FLD4 - Artificial modification of watercourses. Part of the proposed gabion wall runs along the edge of the riverbank of a designated watercourse known as Colrtim. Under FLD4 the planning authority will only permit the artificial modification of watercourses in exception circumstances and so DFI Rivers states this is a matter for the planning authority.

The planning authority will only permit the artificial modification of a watercourse, including culverting or canalisation operations, in either of the following exceptional circumstances:

- Where the culverting of a short length of a watercourse is necessary to provide access to a development site or part thereof;
- Where it can be demonstrated that a specific length of watercourse needs to be culverted for engineering reasons and that there are no reasonable or practicable alternative courses of action.

In this case the operations consist of the building the gabion wall along the embankment, and it is necessary for the security of the embankment and in terms of health and safety, as well as access to the rear of the building. The agent has confirmed there is no other alternative. Planning therefore accept this is an exception to FLD4.

Any works approved by planning will also be subject to Schedule 6 of Drainage Order 1973.

FLD5 was not applicable to this site.

The objector mentioned concerns in their letter dated Feb 2019 relating to the lack of drainage and flood risk reports, which have since been submitted. They also say they reserve the right to comment further if additional information is received. They were re-notified and no further specific comments in relation to this issue were received.

All various objector issues have been fully addressed and taken into account in the assessment of the proposal.

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

<b>Neighbour Notification Checked</b>
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<b>Yes</b>
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<b>Summary of Recommendation:</b>
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Taking all objectors concerns into account, consultations responses and policy consideration, an approval is recommended with conditions/informatives below.
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<b><u>Conditions</u></b>
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1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
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Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.
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2. The vehicular access, including visibility splays of 2.4 x 90m in both directions, shall be provided in accordance with Drg No 04 (rev 2) dated 15/01/09, prior to the commencement of any other works or other development hereby permitted.
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Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.
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3. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250 mm 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

4. The access gradient shall not exceed 8% (1 in 12.5) over the first 5.0m outside the road boundary. Where the vehicular access crosses footway or verge, 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.

5. No operations in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved Drg No 04(Rev 2) dated 15/01/19 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.

6. All hard and soft landscape works shall be carried out in accordance with the approved details on plan 04/01 date stamped 5th October 2020 and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out prior to the occupation of any part of the development or in accordance with a submitted planting plan.

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

7. Glazing capable of providing a sound reduction index of at least 38 dB Rw shall be installed within the façade facing south and east marked on drawing number 02.

Reason: To protect the amenity of the proposed development.

8. Prior to occupation of proposed dwellings, passive and mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 38 dB Rw when in the open position (with respect to noise transmission from the exterior to the interior of the building), shall be provided to all southern and eastern, as presented on stamp approved drawing 02. Mechanical ventilators shall not have an inherent sound pressure level (measured at 2 metre) in excess of 30 dB (A), whilst

providing a flow rate of at least 15 litres per second. All provided mechanical ventilators shall meet the requirements contained within 'The Building Control Technical Booklet K – Ventilation 1998'.

Reason: To protect the amenity of the proposed development.

### **Informatives**

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department Infrastructure for which separate permissions and arrangements are required.

It is the responsibility of the developer to ensure that

- Surface water does not flow from the site onto the public road
- The existing roadside drainage is accommodated and no water flows from the public road onto the site
- The developer should note that this planning approval does not give consent to discharge water into a DfI Transport NI drainage system.

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

4. Under the terms of Sch 6 of the Drainage (NI) 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.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	15th June 2018
<b>Date First Advertised</b>	28th June 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Cookstown Road Moneymore Londonderry The Owner/Occupier, 1 Springvale Moneymore Londonderry Gordina & Leslie Johnston 1 Springvale, Moneymore, BT45 7QA Leslie Johnston 1, Springvale, Moneymore, Londonderry, Northern Ireland, BT45 7QA The Owner/Occupier, 10 Cookstown Road Moneymore Londonderry The Owner/Occupier, 10 Cookstown Road, Moneymore, BT45 7QF Geoffrey Wilson 10 Cookstown Road, Moneymore, Londonderry, BT45 7QF Geoffrey Wilson 10, Cookstown Road, Moneymore, Londonderry, Northern Ireland, BT45 7QF The Owner/Occupier, 11 Cookstown Road, Moneymore, BT45 7QF The Owner/Occupier, 13 Cookstown Road, Moneymore, BT45 7QF The Owner/Occupier, 15 Cookstown Road, Moneymore, BT45 7QF The Owner/Occupier, 3 Cookstown Road, Moneymore, BT45 7QF The Owner/Occupier, 3 Springvale Moneymore Londonderry The Owner/Occupier, 3a Springvale Moneymore The Owner/Occupier, 5 Springvale Moneymore Londonderry Keith Wilson 8 Cookstown Road, Moneymore, Londonderry, Northern Ireland, BT45 7QF Keith Wilson 8 Cookstown Road, Moneymore, Londonderry, Northern Ireland, BT45 7QF The Owner/Occupier, 9 Cookstown Road, Moneymore, BT45 7QF The Owner/Occupier, 9a Clare Lane, Cookstown, BT80 8RJ Abigail Mattison	

Four Seasons Health Care Group, Norcliffe House, Station Road, Wilmslow, Cheshire, SK9 1BU  
 Ross Planning  
 Head Office, 9a Clare Lane, Cookstown, BT80 8RJ  
 Ross Planning  
 Head Office, 9a Clare Lane, Cookstown, BT80 8RJ  
 The Owner/Occupier,  
 Moneymore Care Home 5 Cookstown Road Moneymore  
 Ross Planning  
 Ross Planning, Head Office, 9a Clare Lane, Cookstown, BT80 8RJ

<b>Date of Last Neighbour Notification</b>	29th July 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No

### Planning History

Ref ID: LA08/2016/1328/F

Proposal: Construction of an underground gas pipe line and associated infrastructure comprising: a new 85 bar High Pressure (HP) cross-country gas transmission pipeline, approximately 78km in length and varying between 300-400mm diameter; New Intermediate Pressure (IP) gas pipelines, (approximately 107km and varying between 250-315mm diameter) laid primarily in the public road, 7 Above Ground Installations (AGI) and 8 District Pressure Governors (DPG); temporary ancillary development comprising temporary construction compounds, temporary pipe storage areas and temporary construction accesses.

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown.

Intermediate Press

Decision: PG

Decision Date:

Ref ID: LA09/2017/1714/PAD

Proposal: Conversion of existing dwelling and rear extension to provide 15 Bed residential Dementia Care Unit. Development to include associated support services and staff accommodation along with car parking for both visitors and staff

Address: 7 Cookstown Road, Moneymore,

Decision:

Decision Date:

Ref ID: I/1999/0241

Proposal: Dwelling

Address: COOKSTOWN ROAD MONEYMORE (FEENAN BEG)

Decision:

Decision Date:

Ref ID: LA09/2018/0847/F

Proposal: Conversion of existing dwelling along with rear extension to provide a 5No. bed residential care unit and 12no. bed dementia care unit. Development to include associated support services and staff accommodation along with car parking for both staff and visitors.

Address: 7 Cookstown Road, Moneymore, BT45 7QS.,

Decision:

Decision Date:

Ref ID: I/1998/0098

Proposal: Site for dwelling

Address: ADJACENT TO SANDOWN NURSING HOME, COOKSTOWN ROAD  
MONEYMORE

Decision:

Decision Date:

Ref ID: I/1979/0379

Proposal: IMPROVEMENTS TO COTTAGE AND CONVERSION OF OUTBUILDINGS  
TO WORKSHOPS

Address: ROSE COTTAGE (THE NOOK) FEENAN BEG, MONEYMORE

Decision:

Decision Date:

Ref ID: I/1978/0486

Proposal: HOUSING DEVELOPMENT

Address: FEENAN BEG, MONEYMORE

Decision:

Decision Date:

Ref ID: I/1990/6052

Proposal: Residential Development Ministers Walk Moneymore

Address: Ministers Walk Moneymore

Decision:

Decision Date:

Ref ID: I/1979/0122

Proposal: HOUSING DEVELOPMENT

Address: FEENAN BEG, COOKSTOWN ROAD, MONEYMORE

Decision:

Decision Date:

Ref ID: I/1979/012201

Proposal: PRIVATE RESIDENTIAL DEVELOPMENT

Address: FEENAN, MONEYMORE

Decision:

Decision Date:

Ref ID: I/1990/0553

Proposal: Private Nursing Home

Address: AT JUNCTION OF MINISTERS WALK AND COOKSTOWN ROAD  
MONEYMORE

Decision:

Decision Date:

Ref ID: I/1982/0274

Proposal: PUBLIC AUTHORITY HOUSING

Address: COOKSTOWN ROAD, MONEYMORE

Decision:

Decision Date:

Ref ID: I/1977/0110

Proposal: 11 KV O/H LINE, MV U/G SERVICE

Address: FEENANMORE, FEENAN BEG, COOKSTOWN

Decision:

Decision Date:

Ref ID: LA09/2016/0468/PAN

Proposal: Proposed gas pipeline to supply natural gas to west of Northern Ireland

Address: High pressure (HP) gas transmission pipeline of approximately 80 kilometres in length between Portadown and Tullykenneye (just west of Fivemiletown). Intermediate pressure (IP) gas pipeline, approximately 100 kilometres in length from HP I

Decision:

Decision Date:

Ref ID: LA08/2018/0156/DC

Proposal: Discharge of Condition No. 27 (Construction Management Statement) of Planning Permission LA08/2016/1328/F - Gas to the West. (Quiggery Stream, Corkill Road)

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Press

Decision: AL

Decision Date:



Ref ID: LA08/2017/1352/DC

Proposal: Discharge of Condition 15 of planning permission LA08/2016/1328/F.  
Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown.  
Intermediate Press  
Decision: AL  
Decision Date:

Ref ID: LA08/2018/0146/DC

Proposal: Discharge of Condition 21 (Habitat Management Plan) of Planning Permission LA08/2016/1328/F - Gas to the West (Traditional Orchard locations)  
Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown.  
Intermediate Press  
Decision: AL  
Decision Date:

Ref ID: LA08/2018/0157/DC

Proposal: Discharge of Condition No. 27 (Construction Method Statement) of Planning Permission LA08/2016/1328/F - Gas to the West (IP Crossing of Colebroke River, Maguiresbridge)  
Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown.  
Intermediate Press  
Decision: AL  
Decision Date:

Ref ID: LA08/2017/1126/DC

Proposal: Discharge of Condition 2 (programme of archaeological work) of planning approval LA08/2016/1328/F.  
Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown.  
Intermediate Pressu  
Decision: AL  
Decision Date:

Ref ID: LA08/2017/1016/DC

Proposal: Discharge of Conditions 20 (CEMP), 21 (HMP) and 22 (ECOW) of planning permission LA08/2016/1328/F.  
Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd,

Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown.  
Intermediate Press  
Decision: AL  
Decision Date:

Ref ID: LA08/2017/1619/DC

Proposal: Discharge of Condition 27 (Construction Method Statement) of planning permission LA08/2016/1328/F (G2W) - (Off road - IP Crossing - Colebrook River, Maguiresbridge)

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown.  
Intermediate Press

Decision: RL

Decision Date:

Ref ID: LA08/2018/0155/DC

Proposal: Discharge of Condition No. 27 (Construction Method Statement) of Planning Permission LA08/2016/1328/F - Gas to the West (IP Crossing of the Seskinore River, Corkhill Road)

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown.  
Intermediate Press

Decision: AL

Decision Date:

Ref ID: LA08/2018/0145/DC

Proposal: Discharge of Condition 21 (Habitat Management Plan) of planning permission LA08/2016/1328/F - Gas to the West. (3 areas of Purple Moor Gass and Rush Pasture)

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown.  
Intermediate Press

Decision: AL

Decision Date:

Ref ID: LA08/2017/0914/DC

Proposal: Discharge of Condition 2 (programme of archaeological work) of planning approval LA08/2016/1328/F.

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown.  
Intermediate Press

Decision: AL

Decision Date:

<b>Summary of Consultee Responses</b>
<b>Drawing Numbers and Title</b>

Drawing No.  
Type:  
Status: Submitted

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Status: Submitted

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Drawing No.  
Type:  
Status: Submitted

Drawing No. 05  
Type: Proposed Plans  
Status: Submitted

Drawing No. 04  
Type: Proposed Plans  
Status: Submitted

Drawing No. 03

Type: Elevations and Floor Plans  
Status: Submitted

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

Drawing No. 02  
Type: Block/Site Survey Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0050/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for a dwelling and garage. Based on policy CTY 10 (dwellings on farms)	<b>Location:</b> 37m NE of 9 Annaghmore Lane Annaghmore Cookstown
<b>Referral Route: Refusal</b>	
<b>Recommendation: Refusal</b>	
<b>Applicant Name and Address:</b> Mr Noel Devlin 38 Annaghmore Lane Annaghmore Cookstown BT80 0JG	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b> Outline application for a dwelling and garage on a farm.  The Department of Agriculture, Environment and Rural Affairs (DEARA) confirmed the Farm Business has been in existence for more than 6 years. However, the Farm Business has not claimed Single Farm Payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment schemes in the last 6 years. That the Business was initially created in 2005 for AGRI purposes only – (before Business Categories existed) to obtain a Herd Number, and has never applied for any Grants/Subsidies. That the Herd Number quoted on the Form P1C at Q2 made Non-Operational in 2018 as it had No Stock for more than 2 years. The Proposed Site located on a LPIS 2018 Map – field where proposed site located never claimed by any Business for SFP/ SAF BPS.  The agent has been contacted on a number of occasions to address DAERA's comments and demonstrate the Business is currently active, however has failed to do so, as such: <ul style="list-style-type: none"><li>• The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active.</li></ul>	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Description of Proposal

This is an outline application for a proposed dwelling and garage on a farm to be located on lands approximately 37m NE of 9 Annaghmore Lane Annaghmore Cookstown.

### Characteristics of the Site and Area

The site is located in the rural countryside as defined by the Cookstown Area Plan 2010, approx. 1 mile northwest of Moortown.

The site comprises a relatively rectangular shaped agricultural field located adjacent and to the south side of Annaghmore Lane. Annaghmore Lane is a minor rural road within the hinterland of Moortown and Derrychrin.

Whilst there are a number of dwellings located along it to the northeast of the site, the stretch of Annaghmore lane the site is located along, has not been adopted by Roads. It has however been identified on the P1 Form submitted alongside this application as a public right of way. The lane serving the site off the adopted road is tarmac up until a sharp bend in the lane where it passes the last existing dwelling on it, from this point on it continue up to and along the frontage of the site and beyond as a tractor lane.

The site is bound by a mix of mature tree and hedgerow vegetation. And the land within it rises quite steeply from its frontage along Annaghmore Lane to its southern boundary and beyond.

No. 9 Annaghmore Lane a vacant single storey dwelling exists immediately to the southeast corner of the site. A number of dwellings and ancillary buildings exist along the lane serving the site including 3 to its northeast at the opposite side of the lane which alongside an existing farmyard have been identified as being on lands within the control of the applicant. One of these dwellings no. 38 Annaghmore Lane is listed as the applicant home address.

Views of this site are limited until passing its frontage onto Annaghmore Lane. This is due to its location between two bends in Annaghmore Lane; the topography of the area; and existing vegetation along its boundaries and within the wider vicinity.

Located approx.1 mile west of Lough Neagh shores the surrounding area is predominantly flat agricultural land interspersed with single dwellings and farm groups. That said the stretch of Annaghmore Lane accessing the site has come under considerable development pressure in recent years with a number of dwellings, ancillary buildings and farm groups located along it.

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

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Cookstown Area Plan 2010

Planning Policy Statement 2: Natural Heritage

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 15 (Revised): Planning and Flood Risk  
Planning Policy Statement 21: Sustainable Development in the Countryside  
CTY1 - Development in the Countryside  
CTY10 – Dwellings on Farms  
CTY 13 - Integration and Design of Buildings in the Countryside  
CTY 14 - Rural Character

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. 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.

### **Representations**

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

### **Relevant Planning History**

On site

None

Adjacent site

I/2012/0057/F – Shed/workshop for assembly of engineering equipment - 70m N of 11 Annaghmore Lane, Coagh, Cookstown – Refused 20.11.2012 (as contrary to CTY1 and CTY14 of PPS21 and PPS3). This site is the field immediately east of the current site.

LA09/2015/0540/O – Replacement of redundant dwelling with the retention of the existing dwelling for ancillary use to the new dwelling – 9 Annaghmore Lane Cookstown – Granted 08.10.2015. This redundant dwelling is located adjacent the southeast corner of the site

### **Consultees**

1. Transport NI were consulted in relation to access 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. The Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted with the Form P1C and Farm maps submitted alongside the application. DEARA confirmed the Farm Business Id identified on Form P1C has been in existence for more than 6 years. However, the Farm Business has not claimed Single Farm Payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment schemes in the last 6 years. DEARA added the Business was initially created in 2005 for AGRI purposes only – (before Business Categories existed) to obtain a Herd Number, and has never applied for any Grants/Subsidies. That the Herd Number quoted on the Form P1C at Q2 made Non-Operational in 2018 as it had No Stock for more than 2 years. The Proposed

Site located on a LPIS 2018 Map – field where proposed site located never claimed by any Business for SFP/ SAF BPS.

### **Consideration**

Cookstown Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

It is located adjacent to ‘Gort Moss’ designated within the Plan as a Site of Local Nature Conservation Importance (SLNCI). A number of SLNCI’s have been designated within the Plan on the basis of their flora, fauna or earth science interest and protected under Plan Policy CON which outlines special consideration must be given to the protection of nature conservation interests on or adjacent to these sites when determining planning applications. I am content that whilst this site sits adjacent Gort Moss a dwelling on this site, which comprises improved grassland, should not have any significantly detrimental affect on its intrinsic nature conservation interests.

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside, Planning Policy Statement 2: Natural Heritage and Planning Policy Statement 3: Access, Movement and Parking are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside 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 instances are listed in Policy CTY1 of PPS21 ‘Development in the Countryside’ and include dwellings on farms in accordance with Policy CTY 10 of PPS 21 ‘Dwellings on Farms’.

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

1. the farm business is currently active and has been established for at least 6 years,

The Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted with the Form P1C and Farm maps submitted alongside the application (see ‘Consultees’ above).

DAERA confirmed the Farm Business has been established for over 6 years. However, they did not confirm it is active, they stated the Business was initially created in 2005 for AGRI purposes only to obtain a Herd Number. That the Business has never applied for any Grants/Subsidies, and that the Herd Number was made Non-Operational in 2018 as it had No Stock for more than 2 years. They added the proposed site has never been claimed by any Business for SFP/ SAF BPS. As such, I am not content Criterion (1) of CTY 10 has been met.

I had been in contact with the agent on a number of occasions (by phone 26<sup>th</sup> March 2019 and by email: 19<sup>th</sup> April 2019, 30<sup>th</sup> May 2019, 30<sup>th</sup> January 2020 and 23<sup>rd</sup> June 2020) to offer him the opportunity to address the above by providing Planning information:

- to demonstrate the Farm Business is currently active - as the information on file shows the applicant has no herd / livestock; and
- on what the applicant does as a farmer.

On the 7<sup>th</sup> July 2020 the agent emailed additional information in the form of a correspondence from DARD. The correspondence outlined that, 'According to DEARA records Mr Aidan Devlin had a fully operation Herd from 04/11/1998 – 15/05/2018. Whenever DEARA Business Id's were introduced Mr Devlin automatically obtained his on 13/11/2005. He had 8 animals at that stage. On the 27/11/2016 Mr Devlin added his son Noel to his Farm Business. Noel took over and became head of the Business. Again according to DEARA records on the 18/05/2018 Mr Noel Devlin rang to inform DEARA he had developed a disability and wouldn't be able to keep any animals for the foreseeable future.'

The agent added in the email, 'this I trust confirm the applicants business has been active since 1998 and that he had animals up until 2018 when ill health forced him to scale back. That submitted invoices confirm he continues to maintain his land. And that Mr Devlin has confirmed to him he intends to keep cattle again as soon as his health improves.'

Having considered the additional information submitted I believe it only affirms DEARA's formal response, that the Farm Business has been inactive from 2018. Additionally, as no invoices, as referred to above by the agent, were received, it still had not been demonstrated the Farm is Currently Active.

The agent was emailed on the 9<sup>th</sup> September 2020 and made aware of the above consideration including the fact no invoices had been received and given one last opportunity, to submit information to demonstrate the Farm is Currently Active. He was given 3 weeks to get the required information submitted to Planning on a without prejudice basis. He was advised if the information required was not received, Planning would make a recommendation based on the information currently on file and that recommendation would go to the next available Planning Committee.

To date no additional information has been received to demonstrate the Farm Business is Currently Active.

2. 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 or since PPS 21 was introduced on 25th November 2008.

There is no evidence to indicate that any dwellings or development opportunities out-with settlement limits have been sold off from Mr Devlin's farm holding within the last 10 years from the date of the application. Criterion (2) of CTY 10 has been met.

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

I am content subject to a condition that the dwelling be sited in the northeast corner of the site it should visually link with an established group of buildings on the applicants

farm holding located just to the northeast including 3 dwellings, outbuildings/sheds and coal yard. Criterion (3) of CTY 10 has been met.

CTY 10 goes on to say that the application site must also meet the requirements of Planning Policies CTY 13 Integration and Design of Buildings in the Countryside and CTY 14 Rural Character.

I am of the opinion that a dwelling and garage of an appropriate size, scale and design could integrate on this site and into the surrounding landscape without causing a detrimental change to, or further eroding the rural character of the area in accordance with the requirements of policies CTY13 and 14.

Should it be demonstrated the Farm Business is Currently Active, the details of the siting, size, scale and design of the dwelling and garage could be considered further under any subsequent reserved matter application

The only property in close proximity to the site is no. 9 Annaghmore Lane, the vacant dwelling adjacent the southeast corner of the site. Should this dwelling become occupied or be replaced (see 'Planning History') I am content subject to a suitable scheme coming forward under any subsequent reserved matters application a dwelling on this site located to its northeast corner should not adversely impact its amenity, to any unreasonable degree, in terms of over looking or overshadowing.

Planning Policy Statement 2 (PPS2): Natural Heritage – Policy NH 4 of PPS 2 'Sites of Nature Conservation Importance (Local)' outlines Planning permission will only be granted for a proposal that is not likely to have a significant adverse impact on a Local Nature Reserve or Wildlife Refuge. Proposal which could have a significant adverse impact may only be permitted where the benefits of the proposed development outweigh the value of the site.

As detailed further above (see 'Cookstown Area Plan 2010') I am content a dwelling on this site should not have any significantly detrimental affect on the intrinsic nature conservation interests of the adjacent Gort Moss designated a SLNCI under the Plan.

### **Additional considerations**

In addition to checks on the planning portal Historic Environment Division (HED) map viewer available online has been checked and there are no built heritage features of significance on site.

Flood Maps NI indicate the site is not subject to Flooding.

The site is located within SG Defence Estates relating to Met Office Radar whereby consultation to Defence Estates is required for development over 15.2m height.

### **Recommendation**

Refuse - it has not been demonstrated that the farm business is currently active.

<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation:</b>	Refusal
<b>Reasons for Refusal:</b>	

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

**Signature(s)**

**Date:**



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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0416/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of commercial development for the repair and sale of agricultural/ construction plant and machinery Comprising 1 portal frame shed for the repair and maintenance of agricultural/ construction plant and machinery . 1 pitched roof store, 2 prefabricated buildings to provide ancillary offices and stores and amenities block for staff, 1 storage container for equipment and associated development	<b>Location:</b> Lands at 67 Glenhoy Road Ballygawley and approx. 100m SW of 68 Glenhoy Road Ballygawley
<b>Referral Route: Approval and Objections</b>	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Keith Gladney 69 Glenhoy Road Ballygawley	<b>Agent Name and Address:</b> JPE Planning 1 Inverary Valley Larne BT40 3BJ
<b>Executive Summary:</b>  <ol style="list-style-type: none"> <li>1) While this proposal does not meet all policy criteria contained within CTY 11 Farm Diversification of PPS21, weight is given to the business being run in conjunction with the farm holding. Only repair and sale of agricultural and construction industry plant and machinery will be allowed, and the business will not be operated as a hire business;</li> <li>2) No determining weight can be given to the new area plan however it is acknowledged that Council have indicated that in the new plan they would like to see new start up business, up to 100 squ m, in the countryside beside existing dwellings. While this proposal is over 100 squ m it may be reasonable to attach a 3 year temporary permission to this proposal so that full impacts of the business can be assessed over time until such times as the new area plan is adopted. A</li> </ol>	



condition ensuring the business will be ran by the occupier of No. 69 Glenhoy Road is also important to ensure both remain within the same planning unit;

- 3) Given the current climate of Covid 19 there is an emphasis to work from home where possible and it is acknowledged that hardship can be caused due to the pandemic, especially in relocating and finding new premises. Give the unknown impact of Covid 19 a 3 year permission is reasonable in this case so that full impact of the business at this location can be re-visited in 3 years time;
- 4) This proposal involves an element of retail, in that the applicant proposes to buy broken plant and/or machinery, fix it up and sell on. The SPPS directs retailing to town centres, and the development of inappropriate retail facilities in the countryside to be resisted. However, as a general exception to the overall policy approach some retail facilities which may be considered appropriate outside of settlement limits include farm shops, craft shops and shops serving tourist or recreational facilities. As this proposal involves the repair and sale of agricultural plant and machinery it is acknowledged that this is very loosely associated with the rural economy and countryside.

**Signature(s):**

## Case Officer Report

### Site Location Plan



### Representations:

Letters of Support	10
Letters of Objection	2
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### Summary of Issues- objections

- that the business is a nuisance with people arriving at the site outside normal business hours, people working late at night, sometimes 3am and at the weekends;
- that the business only employs one person who is a friend of the applicant;
- that the business is made-up with no purpose for the area;
- that the wife of the applicant sells machinery parts and that the applicant sells diggers etc. Is there two businesses applied for?
- the applicant doesn't own the land
- this is a farming community and the business does not supply agricultural parts or supplies;

### Description of proposal

This is a full planning application for the retention of commercial development for the repair and sale of agricultural/ construction plant and machinery comprising 1 portal frame shed for the repair and maintenance of agricultural/ construction plant and machinery . 1 pitched roof store, 2 prefabricated buildings to provide ancillary offices and stores and amenities block for staff, 1 storage container for equipment and associated development.

**Characteristics of site and area**

The site is set back approx. 140m from the Glenhoy Road and is accessed via its own gravel access road with stone pillars set back from the roadside. Along the NE boundary of the access is a low newly planted hedgerow. To the SW there is a metal rail fence painted black, which separates the site from a large two storey dwelling with integral garage to the west of the site. On site there are 4 buildings, one detached portal frame shed, one pitched roofed store and two prefabricated buildings which serve as ancillary offices. There is also a storage container located on the site. All buildings are located on a square concrete apron and at the time of my site visit there were cars, lorry with low loader and trailers parked at the site and there were some materials stored outside such as pallets, digger buckets, concrete pipes and water/fuel storage tanks.

The site is enclosed by;

- a plastered block wall along the NE boundary beyond which is a newly planted copper beach hedgerow;
- a plastered block wall along the SE;
- mature trees along the SW boundary which provides a backdrop to existing buildings on the site;
- a hawthorn hedge along the NE boundary which is shared with the curtilage boundary of the 2 storey dwelling adjacent and north of the site. There is also an archway pedestrian access linking the two sites.

The site is also set low in the landscape when viewed from Glenhoy Road and is set back behind the existing sizable 2 storey dwelling, with the access falling from roadside down to the site. Ground levels at the yard are approx. 6m lower than those at the access point onto the public road.

Surrounding land use is used mostly for agricultural grazing land.

Rural area outside Augher, rolling countryside, mix of land uses mainly single residential dwellings, farm land and associated dwellings/yards set back off the road.

Opposite the site is a relatively newly constructed dwelling. Further to the north and east are two more single storey dwellings set back from the roadside with associated outhouses and sheds.

**Planning Assessment of Policy and Other Material Considerations****Planning Act 2011**

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

**Development Plan**

Dungannon and South Tyrone Area Plan (DSTAP) 2010- land is not zoned and is located in open countryside. The policy provisions of SPPS and PPS21 apply. There is no specific policy direction contained within the existing area plan that apply to this 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. 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.

Whilst no determining weight can be given to the new area plan however it is acknowledged that Council have indicated that in the new plan they would like to see new start up business, up to 100 sq m, in the countryside beside existing dwellings. It is acknowledged that this proposal is over 100 sq m.

#### Planning History

No relevant planning history.

There is currently live enforcement action on this application site, which has been suspended pending the outcome of this planning application.

#### Representations

3rd Party Planning Objections have been received and the following concerns raised;

- that the business is a nuisance with people arriving at the site outside normal business hours, people working late at night, sometimes 3am and at the weekends;
- that the business only employs one person who is a friend of the applicant;
- that the business is made-up with no purpose for the area;
- that the wife of the applicant sells machinery parts and that the applicant sells diggers etc. Is there two businesses applied for?
- the applicant doesn't own the land
- this is a farming community and the business does not supply agricultural parts or supplies;

A number of Letters of Support have also been received and state the following;

- good to see employment brought to rural areas such as this. The supporter had to move away from the local area to find work;
- Occupier directly opposite the site states that the business causes no impact to their daily living, deliveries to the business are carried out within reasonable business hours and cause no issues of entry to their property;
- the business is a welcome investment to this rural area;
- the business provides a good service to the local farming community in that you can get repairs to hydraulic hoses almost immediately which ensures little downtime for the farmer;
- provides a local facility for farmers and contractors to purchase machinery, repair parts etc in their local area;
- the building and yard are well enclosed and integrate into the landscape;
- liven in area all of life, have experienced no negative impacts from the business and support it continuing to operate from this location;
- an existing agri contracting business in the area supports the business as it repairs machinery in minimal downtime and is local;
- a local farmer uses the business on a regular basis;
- the area needs more family run businesses like this to support the area;

#### Key Planning Policy

SPPS- Strategic Planning Policy Statement

PPS21- Sustainable Development in the Countryside  
PPS3- Access, Movement and Parking

### Consideration

This proposal is a full application for the retention of a business in the countryside that was built without the benefit of planning permission and the applicant has applied for the retention of commercial development for the repair and sale of agricultural/ construction plant and machinery comprising 1 portal frame shed for the repair and maintenance of agricultural/ construction plant and machinery , 1 pitched roof store, 2 prefabricated buildings to provide ancillary offices and stores and amenities block for staff, 1 storage container for equipment and associated development.

In support of the application, the agent has supplied a supporting statement which considers two separate policies. The agent argues that this proposal meets both these policies, which are policy PED6 of PPS4 and policy CTY11 of PPS21. I will consider both policy contexts as presented along with all other material considerations.

The agent/planning consultant considers the following policies to be applicable;  
-Policy PED 6 Small Rural Project of PPS4 Planning and Economic Development;  
- Policy CTY 11 Farm diversification proposals of PPS21 Sustainable Development in the countryside.

The introduction of SPPS does not conflict with any of these existing policies.

Policy PED 6 states that a firm proposal to develop a small community enterprise park/centre or a small rural industrial enterprise on land outside a village or smaller rural settlement will be permitted where it is demonstrated that all the following criteria are met:

- (a) there is no suitable site within the settlement;
- (b) the proposal would benefit the local economy or contribute to community regeneration; and
- (c) the development is clearly associated with the settlement, but will not dominate it, adversely affect landscape setting or otherwise contribute to urban sprawl.

By quick analysis of this proposal against this policy it is clear that part (c) is not met in that the closest settlements to this application site is Ballygawley approximately 4 miles to the east, and, Augher approx.. 3 miles South West. The site is clearly not associated with either settlement. The agent makes an argument that the site is associated with the undesignated settlement of Glenhoy and the village of Augher. Under paragraph 5.25 of the Justification and Amplification of policy PED6 it states that this policy allows for a flexible approach to ensure adequate provision is made where firm proposals exist for a small rural enterprise that is associated with a village or smaller rural settlement but cannot be accommodated within the settlement. By the agents own admission (paragraph 4.11.18) Glenhoy is not a designated settlement within DSTAP 2010. Glenhoy is not a designated village or small rural settlement and falls within an area of open countryside. The nearest settlement is Augher, over 3 miles from the application site. I am of the view that this proposal is not clearly associated with this, or any other, settlement indicated within the DSTAP.

Policy CTY 11 of PPS21 is the policy in which Farm Diversification proposals are assessed. In support of the application the agent has provided a P1C form, farm maps, information to show that the proposed business is run in conjunction with the farm business and an assessment of this proposal against policy CTY11 contained within the Supporting Statement. Policy CTY11 allows 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 that certain other criteria are met.

In the supporting statement it states that the business operator, Mr Gladney, also lives in the adjacent dwelling with his wife, who is the daughter of the Farm owner.

Within the supporting statement it states that the nature of the business is that the business operator buys damaged or broken agricultural/construction industry plant or machinery, fixes the machinery on site and sells on as a profit. Any spraying of machinery takes place off site.

In conjunction

The first test is that the proposed business is run in conjunction with the existing farm holding. In support of the application to demonstrate that the business is run in conjunction with the existing farm business the agent has provided information to show;

- that the applicant helps on the family farm (father-in-laws holding) by testing his machinery on the farm and carrying out ongoing repairs and maintenance of the farming machinery used on the farm;

- A statement issued by the applicants Chartered Accountant also states that while the farm owner does not receive a direct financial payment from the business owner that there is an indirect benefit to the farming operations through use of machinery and repair and maintenance of existing machinery;

- P1C Form and Farm Maps;

- Information to show that the farm owner (the applicants father-in-law) helped set up the current business and that he was a company secretary for Errigal Plant and Sales Ltd in the first year of trade;

It is not explicit of what is meant by run in conjunction with the existing farm holding within policy CTY11 and is a matter for interpretation.

It is clear that the farm owner had a role to play in the setting up of the current running of the business in that he was listed as the company secretary for the first year. Although policy provides no explanation of the requirement, -to be run in conjunction with the agricultural operations on the farm- in appeal 2012/A0073 it was the PAC

Commissioners view that there should be some sort of joint management of the business or some form of business connection. The business also provides an indirect financial gain for the operations of the farm holding in that it supplies machinery to work the farm and fixes and maintains existing farming machinery on the farm. Plus the applicant and the farm owner are related and it is clear that both businesses benefit the other. In the round, and due to the broad sense of interpretation as to what constitutes 'in conjunction with the farm holding' it is my view the business is run in conjunction with the farm holding given the existing ties between the business, the farm holding and the owners of both.

Other criteria to be met under CTY11 is that;

a) the farm business is active and established. DAERA were re-consulted on a revised P1C form on 16/09/2020 and verify that the farm business has been established for a period of at least 6 years and that it is currently active.

b) in terms of character and scale it is appropriate to its location. From the road the site is low lying in the landscape, and buildings are grouped behind an existing 2 storey dwelling. While the business has its own separate access point it has the appearance of being grouped and as one unit as the existing 2 storey dwelling. The site is also set back from the roadside and the large portal building is not unlike some agricultural buildings you might see in the countryside. Given the setback, the concrete apron yard and its relationship to the existing dwelling it is similar in size, scale, appearance and setting to other farm groupings that you might see in the countryside and has the appearance of such. Environmental Health were consulted on this proposal and their response raises no objections given that the proposal does not include activities that would give rise to noise, dust or odour issues. Some machines may be parked outside from time to time but will be agricultural in nature and are machines that you would expect to see in a countryside location. In my view the character and scale of the proposal is acceptable for this site and locality. To ensure that the business will not have a detrimental impact on the character of this area of countryside I propose hours of operation are included should permission be granted.

c) it will not have an adverse impact on the natural or built heritage. This proposal is sited close to historic monument TYR 059:008. HED were consulted and raise no objections or concerns over this application. NIEA and SES were consulted and have no objections to this proposal. The site is not located within a sensitive area and I am content that there will be no natural or built heritage impacts. The business was constructed on agricultural land with low biodiversity value. Addition landscaping has been planted and mature trees retained to the SW boundary which helps to maintain and enhance existing biodiversity in this area.

(d) it will not result in detrimental impact on the amenity of nearby residential dwellings including potential problems arising from noise, smell and pollution. Environmental Health were consulted on this proposal and their response raises no objections given that the proposal does not include activities that would give rise to noise, dust or odour issues. I am aware that there are both objectors and supporters for this application. One objector raises issue that the business operates at unusual hours and provides noise and nuisance to the enjoyment of private residential amenity, especially at night time and weekends. On the other side, other nearby dwellings state that they support the applicant and have never experienced any noise, nuisance or disturbance from this proposal. However, to ensure that business hours do not contribute to loss of amenity it is my view that the hours of operation of this business be restricted from 8am-8pm Mon-Fri, and 8am-2pm Sat, and to no other times should permission be granted. Sewage will be dealt with through connection to an existing septic tank. The agent also provided a Drainage Assessment and Rivers Agency have no objections to this proposal subject to Schedule 6 consent letter from DfI Rivers Area Office in relation to proposed discharge to the watercourse. This can be added as a negative condition should Members vote to approve this application. I am satisfied that there will be no potential problems arising from noise, smell and pollution of nearby residential dwellings.

In addition to the above criteria being met 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.

The farm owners house, No. 69 Glenhoy Rd, is located approx. 160m NE of the application site. At this site there is the farm dwelling, an associated outhouse/shed adjacent to the dwelling within the existing curtilage, and a more traditional looking agricultural shed located on the opposite side of the road from the dwelling and outhouse/shed. Both the outhouse/shed and agricultural building seem to be used at capacity in association with the existing farm holding, and do not seem to be of a size and scale that would be suitable for the proposed business. Therefore, these buildings would not be suitable to be re-used for the proposed business.

The buildings are located beside a sizable two storey replacement dwelling, with integral rear garage. It is the farmer's daughter that lives in this replacement dwelling. While technically the replacement is not part of the current holding, it was clearly associated as part of the farm in the not so distant past, and the farmers agricultural land surrounds the business. As the applicant still uses the farmers land to test his machinery, and to fix the existing farmers machinery, it appears to be part of the overall operations of the farm. The business is sited beside a replacement dwelling that the farmers daughter lives in, which was part of the original holding and is surrounded by the farmers land. In the round, as this grouping has the appearance of a traditional farm grouping in the countryside, and is surrounded by land owned by the farmer and also worked by the applicant, it is my view that these buildings are acceptable in this location for the reasons stated.

In my view the proposal satisfactorily integrates into the landscape given its low lying nature in the landscape, its set back from the public road, being grouped behind a large 2 storey dwelling, and screening provided by existing and proposed landscaping. The business also has the appearance of one unit when viewed with the 2 storey dwelling (same applicant). In my view they do not have a detrimental impact on the rural character of this area through reason of build up. The proposal is not easily read with existing development in this area.

Policies CTY13 and 14 are not offended.

#### SPPS

This proposal involves an element of retail, in that the applicant proposes to buy broken plant and/or machinery, fix it up and sell on. The SPPS directs retailing to town centres, and the development of inappropriate retail facilities in the countryside should be resisted. However, as a general exception to the overall policy approach some retail facilities which may be considered appropriate outside of settlement limits include farm shops, craft shops and shops serving tourist or recreational facilities. As this proposal involves the repair and sale of agricultural plant and machinery it is acknowledged that this is very loosely associated with the rural economy and countryside. It is also clear that this will not be a hire business which would involve a heavier footfall, and greater impacts to neighbouring amenity and rural character. I find it a reasonable approach to



proceed on the basis that the business be allowed for a temporary period of 3 years from the date of permission to allow a full assessment of impacts after this period.

#### Other material considerations

Council have indicated in the draft area plan that they would like to see new start up business, up to 100 sq m, in the countryside beside existing dwellings. While no determining weight can be attached to the plan, it is still a material consideration. It may be reasonable to proceed on the basis of a 3 year temporary permission until the new area plan is adopted and the full impacts of the business can be assessed. To ensure that the business and adjacent dwelling are kept as one planning unit a condition tying both together as a going concern is important in this instance.

Covid 19- it is not clear what the true economic fallout of this pandemic will be at this stage. There is an emphasis to work from home where possible and it is acknowledged that hardship can be caused due to the pandemic in finding new premises. Given this uncertainty, I advise that a temporary permission of 3 year is applied in instance so that the full impacts of the business on this area of countryside can be re-visited at a later stage.

As spraying for fixed agricultural/construction plant/machinery may cause detriment to residential amenity through odour, a condition ensuring that spraying/painting of machinery does not take place on site is also important in this instance.

Economic Factors- a number of local businesses that supply or rely on this business have wrote to Council in support of this application. A number of farmers have also wrote to Council in support of this stating that the service this business provides, especially during peak farming times, is invaluable especially as it is local and easily accessed. If farming equipment or machinery gets broke, this business can either fix or hire out a new machine, which saves the farmer both time and money in the long run. The business also employs one full time member of staff.

The site does not flood and there are no contamination, human health or ecology issues identified.

There are no issues of loss of amenity in terms of noise, nuisance and general disturbance of neighbouring properties not associated with this proposal.

There are no issues of overlooking or overshadow any nearby residential private amenity.

In relation to other issues raised by the objectors that have not been covered;

-that the business only employs one person who is a friend of the applicant;

As there is only one other employee according to the objector it is likely that this will reduce any potential impacts on private amenity.

-that the business is made-up with no purpose for the area;

The business is not made-up. It is a registered Company in Companies House website and is a firm proposal.

-that the wife of the applicant sells machinery parts and that the applicant sells diggers etc. Is there two businesses applied for?

The applicant seems to be applying for the retention of Errigal Plant and Sales Ltd and no other business.  
 -the applicant does not own the land  
 The applicant has filled out Ownership Certificate A and no evidence to the contrary has been provided.  
 -this is a farming community and the business does not supply agricultural parts or supplies;  
 This is not a prerequisite of planning policy and is not material to the overall consideration of this proposal. From letters of support received it seems that local farmers and agricultural contractors are in support of this application as it specialises in fixing farm machinery and hiring farm machinery.

**Neighbour Notification Checked**      **Yes**

**Summary of Recommendation:**

That planning permission is approved subject to the following conditions;

**Conditions**

1.            This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011 and shall only be for a temporary period of 3 years from the date of this decision.

Reason: This is a retrospective application granted for a temporary period of 3 years.

2.            Within 6 months from the date of this permission a Schedule 6 consent letter from DfI Rivers in relation to proposed discharge to the watercourse shall be provided to Council for approval.

Reason: To safeguard the environment.

3.            Discharge to the watercourse shall be carried out in accordance with details contained within the approved Schedule 6 consent letter as agreed in Condition 2, and shall be put in place within 6 months of the date of approval of the Schedule 6 consent, and shall be permanently retained and maintained to an acceptable standard in accordance with that consent thereafter, unless otherwise agreed by Council.

Reason: To safeguard the environment and to ensure the site does not flood or cause flooding elsewhere.

4.            The business hereby approved shall only be operated during the business hours 08.00 a.m. - 8.00 pm Monday to Friday, and 9am - 5.00 pm on a Saturday, and no deliveries or any business operations shall be carried out outside these hours, unless otherwise agreed in writing with Council.

Reason: To safeguard residential amenity and rural character.

5.            The business hereby approved shall only be operated by the occupied of No. 69 Glenhoy Road, unless otherwise agreed in writing with Council.

Reason: To ensure both the business and the adjacent dwelling remain in the same planning unit and to safeguard existing residential amenity and rural character.

6. The business hereby approved shall only be used for the repair and sale of agricultural/construction plant/machinery and shall not be used for the hire of agricultural/construction plant/machinery.

Reason: To safeguard the rural character and nearby residential amenity of this area of countryside.

7. No spraying or painting of agricultural/construction plant/machinery shall take place anywhere on this site, unless otherwise agreed in writing with Council.

Reason: To safeguard the rural character and nearby residential amenity of this area of countryside.

8. The existing natural screening to the site, as indicated on drawing No. 02 rev1 date stamp received 19/09/2019 shall be permanently retained unless otherwise agreed by Mid Ulster Council in writing.

Reason: To assist with integration and to safeguard existing biodiversity.

9. No retained tree shall be cut down, uprooted or destroyed or have its roots damaged within the crown spread, nor shall arboricultural work or tree surgery take place on any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of Mid Ulster Council. Any approved arboricultural work or tree surgery shall be carried out in accordance with British Standard 3998, 1989. Recommendations for Tree Work.

Reason: To ensure the continuity of amenity afforded by existing trees and to ensure the development integrates into the countryside.

10. If within a period of 5 years from the date of this permission any 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 shall be 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.

11. Within 3 months from the date of this permission the vehicular access, including visibility splay of 2.0 metres by 70.0 metres in both directions, shall be provided in accordance with Drawing No 02 Rev 1 stamp date 19th September 2019 and shall be permanently retained thereafter.

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.

12. 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 user.

13. The parking facilities and concrete turning area detailed on Drawing No 02 rev1 date stamp received 19/09/19 shall be kept clear at all times during all hours of business except for staff and visitor parking, turning and circulation within the site, and no machinery or plant or outdoor storage shall impede these areas.

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

#### Informatives

1. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	27th March 2019
<b>Date First Advertised</b>	11th April 2019
<b>Date Last Advertised</b>	15th August 2019
<b>Details of Neighbour Notification</b> (all addresses) Trisha Bingham 11 Ballynasaggart Road, Dungannon, Tyrone,BT70 2AX Emmet McGrady 20 Ballynasaggart Road, Ballygawley, Tyrone,BT70 2AX The Owner/Occupier, 5 Rarogan Road, Augher, Tyrone,BT77 0DH Seamus O'Neill 63 Glenhoy Road, Ballygawley, Tyrone,BT70 2DF The Owner/Occupier, 66 Glenhoy Road,Ballygawley,Tyrone,BT70 2AY George McMahon 66, Glenhoy Road, Ballygawley, Tyrone, Northern Ireland, BT70 2AY The Owner/Occupier, 67 Glenhoy Road,Ballygawley,Tyrone,BT70 2AY The Owner/Occupier, 68 Glenhoy Road,Ballygawley,Tyrone,BT70 2AY Eugene McCaughey 68, Glenhoy Road, Ballygawley, Tyrone, Northern Ireland, BT70 2DF The Owner/Occupier, 69 Glenhoy Road Ballygawley Tyrone Kieran O'Neill 69 Glenhoy Road, Ballygawley, Tyrone,BT70 2AY Cathal McCaughey 70, Glenhoy Road, Ballygawley, Tyrone, Northern Ireland, BT70 2AY Eddie Lynch 86 Glenhoy Road, Ballygawley, Tyrone,BT70 2AY Joe Lynch 88 Glenhoy Road, Ballygawley, Tyrone,BT70 2AY	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No



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

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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 03/11/2020	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1239/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed replacement dwelling with retention of existing listed building as general-purpose store.	<b>Location:</b> 13 Altadaven Road Favour Royal Demesne Augher BT77 0EN
<b>Referral Route:</b> 1. The proposal is contrary to CTY 3 – Replacement Dwellings in PPS 21 in that the proposal is for the replacement of a listed building and no exceptional circumstances have been provided why the listed building should be replaced.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Bernard McKenna & Amy McElhatton 11 Altadaven Road Augher BT77 0E	<b>Agent Name and Address:</b> Funston Howe Architecture 30 Cullion Road Tempo BT94 3AR
<b>Executive Summary:</b> The proposal is for the replacement of a listed building and I consider there is no justification for replacing a listed building.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	Rivers Agency	Standing Advice
Statutory	Historic Environment Division (HED)	Advice

### Representations:

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

**Characteristics of the Site and Area**

The proposal is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and is predominantly agricultural fields, farm complexes and single rural dwellings. There are no dwellings abutting the boundaries of the site but to the southeast, there is a forested area.

The application site is cut-out of an agricultural field where the land slopes upwards from the south west to the northeast by 3m. The field has a roadside frontage onto Altadaven Road and there is an established hedgerow along the roadside boundary. To the northeast is a derelict building which is listed and is the subject of this application. Immediately south of the building is a group of established trees which block views of the building from a southwest direction.

**Description of Proposal**

This is an outline application for a proposed replacement dwelling.

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

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

**Representations**

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

**Planning History**

No recent 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. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

**Dungannon and South Tyrone Area Plan 2010**

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

**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 infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

### **Planning Policy Statement 21 – Sustainable Development in the Countryside**

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 new replacement dwelling and as a result, the development must be considered under CTY 3 of PPS 21.

### **CTY 3 – Replacement Dwellings**

The building to be replaced is single storey and has a long rectangular shape. The building is listed building HB 13/03/038 and within the listed building curtilage of Favour Royal Demesne. As stated in HED's consultation response the building is shown on 1860's historical maps on PRONI and is a solidly constructed building but in a very poor state of repair.

The external materials are blockwork walls and wooden windows. There is no roof on the building but I am content the walls are substantially intact as shown in figure 1 below. The 2 gable walls are intact to roof level and there are the remains of a chimney through the middle of the building as shown in figure 2. The building is overgrown with vegetation but I consider the building is a dwelling. On the front elevation, there are windows and a doorway in the middle as shown in figure 3. Also, there are windows on the left gable wall as shown in figure 4.



Figure 1 – Photograph of the rear of the listed building



Figure 2 – Photograph of the front of the listed building





Figure 3 – Photograph of a window on the front elevation of the listed building



Figure 4 – Photograph of the gable wall of the listed building

I am content the building to be replaced is a listed vernacular dwelling as it has a long rectangular shape and a depth of less than 6m. In addition, the windows are principally on the front and back elevations of the dwelling. I consider the dwelling does make an important contribution to the heritage and character of the local area. The building is part

of Favour Royal Demesne and has a roadside frontage and is visible in critical views in both directions.

The dwelling to be replaced is also a listed building and the policy in CTY3 states there is a presumption in favour of the retention of these buildings. Listed buildings still have to meet the criteria in CTY3. However, the policy in CTY3 states that planning permission will not therefore be granted for the replacement of a listed building unless there are exceptional circumstances. I consider there is no justification for replacing the listed building at the site.

The dwelling to be replaced has a roadside frontage along Altadaven Road and the proposal is to site the proposed dwelling in the agricultural field immediately to the southwest of the building. The curtilage of the listed building is restricted to the rear and the application site is not feasible due to flooding issues.

On balance, having assessed all the issues with this site I do not consider the proposal meets the principle of development in CTY 3.

I consider as the principle of development has not been met in CTY 3 an assessment of integration and rural character is not necessary. There is no exceptional reason to replace the listed building so there is no need to consider a potential siting of a dwelling and its integration into the landscape.

#### **PPS 6 Planning, Archeology and The Built Heritage**

##### **BH 11 – Development affecting the setting of a listed building**

The dwelling to be replaced is a listed building and as such HED were consulted. In their consultation response HED asked for sections and sketches of the proposed dwelling and the impact on the listed building. The agent submitted sketches of a 2-storey dwelling and HED responded that they had concerns about the scale and massing of the dwelling.

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

##### **FLD 1 – Development in Fluvial (River) and Coastal Flood Plains**

The lower section of the application site is within a flood plain and as such Rivers Agency were consulted. In their consultation, response dated 23.10.2019 Rivers Agency stated the proposed site should be repositioned outside the flood plain or if this is not possible the applicant should submit a Flood Risk Assessment. At the time of writing no Flood Risk Assessment has been submitted. Therefore, the current proposal does not comply with FLD 1 as it is within the flood plain and not an exception to the policy.

#### **Other Considerations**

There are no other NED or residential amenity issues with this proposal.

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

I consider the proposal is recommended for refusal, as it does not comply with CTY 3 in PPS 21.

#### **Reasons for Refusal:**

1. The proposal is contrary to CTY 3 – Replacement Dwellings in PPS 21 in that the proposal is for the replacement of a listed building and no exceptional circumstances have been provided why the listed building should be replaced.

**Signature(s)**

**Date:**



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1571/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> Site between 20 and 22 Lough Road and 50m South of 14 Lough Road Ballymaguigan
<b>Referral Route:</b>  Objections received	
<b>Recommendation:</b> Approval	
<b>Applicant Name and Address:</b> Patrick Mc Kenna 37 Killynease Road Castledawson	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	DFI Roads - Enniskillen Office	Additional Information Required
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

Neighbour notification and press advertisement was carried out in line with statutory requirements. Three written objections have been received in relation to this planning application. The main points of objection are based on the following issues:

- Scale and massing is inappropriate
- Height
- Parking Arrangements
- Orientation of the dwelling
- Issues surrounding the access and the requirement of third party land to achieve visibility splays required.

The points made in the objections received have been considered and will be discussed further within this report.

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

The application site is located approximately 500m northeast of one of three clusters of development that makes up the settlement limits of Ballymaguigan and is located within the open countryside, as per the Magherafelt Area Plan 2015. The site is a small agricultural field, which rises gently from east to west. There is a dwelling located at the eastern boundary of the site and there is currently a mound of overgrown top soil/earth separating the boundary. Behind this is an existing hedgerow and fence. The northern boundary consists of existing hedges and trees, which separates the site from the dwelling to the north. The southern boundary is defined by an existing post and wire fence and faces onto the existing laneway. To the west of the site is the site of a recently approved dwelling, which is currently under construction. The two sites are separated by a laneway to access No.14 to the north. The predominant land use of the surrounding area is mainly agricultural with single dwellings and associated outbuildings.

### **Description of Proposal**

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

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

#### **Relevant Site History**

LA09/2019/0065/O- Proposed infill dwelling using access as approved under H/2012/0118/F Site between 20 and 22 Lough Road and 50m south of 14 Lough Road. Approved 05.03.2019.

LA09/2017/1291/O- Proposed infill dwelling at Site between 20 and 22 Lough Road Ballymaguigan. Granted 19.12.1028

LA09/2019/1641/RM- Proposed dwelling and garage at Site at 50m South of 14 Lough Road, Ballymaguigan. Granted 12.02.2020

LA09/2017/1159/LDE- 14 Lough Road, Magherafelt. This application relates to the material start made on site as per approved planning Ref. H/2012/0118/F. It is to seek formal recognition from the council that commencement of works began within the date specified on the aforementioned planning approval. Permitted Development.

H/2009/0727/F- 14 Lough Road, Magherafelt. Re-alignment of part access lane to existing dwelling and re-location of existing field gate. Approved 01.02.2010.

#### **Planning Assessment of Policy**

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21- Development in the Countryside

PPS 3- Access, Movement and Parking

The application is for a dwelling to be considered under CTY 8. The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. The provisions of the SPPS and PPS 21 - Sustainable Development in the countryside, control development.



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

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

An outline planning approval was granted on this site under the planning reference LA09/2019/0065/O that established the principle of development was acceptable as the proposal site sits within a line of buildings including No 20 & 20a, which are located to the west of the site and No.22 which is located to the east of the proposal site. It was agreed all buildings share a common frontage and form a substantial and continuously built up frontage as defined by the policy. The plot size also respects the existing development pattern along the frontage in terms of plot size.

As this is a full planning application, the principle of development is required to be re-assessed. I am content that as the red line of the site is the same as that approved under LA09/2019/0065/O, the principle of development is acceptable under policy CTY 8.

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. Firstly I am content that the proposed building can be integrated into the surrounding landscape as the site has existing, established boundaries to the north and east of the site and will require little additional planting to screen the site.

It should be noted that the outline permission granted attached a condition, which restricted the ridge height of the dwelling to below 6m from finished floor level. This full application proposes two different ridge heights; 6m at the roadside and then a storey and a half section with a ridge height of approximately 7.6m in the northern section. Objections received mainly relate to the design of the proposed dwelling, in particular the height of the dwelling, the scale and mass and the orientation. The objection raised concerns that the outline approval on the site restricted the ridge height to a maximum of 6m and that this proposal was for part of the dwelling to be a storey and a half. However, as this is a full planning application it did not have to comply with the conditions at outline. With regards, the ridge height I am content that the part of the dwelling, which is in line with No.22 to the east, has a ridge height of 6m and runs along the roadside at the gable end. The storey and a half element of the dwelling gives a ridge height of approximately 7.6m and I am content this will not result in the dwelling being a prominent feature in the landscape. It should be noted the dwelling currently under construction to the west of the site is a single storey dwelling.

The objector considered the orientation of the proposed dwelling inappropriate, as the proposal does not run in line with the road; rather the entrance to the dwelling is along the side, to the east. Although the dwelling under construction to the west has the entrance to the south, at the road side, it is similar design in that the length of the building is similar to that being proposed

here. Therefore, I am content the design of the building is appropriate for the site, as it is longer than it is wider. I am content that on balance, the proposal complies with Policy CTY 13.

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 the area. I am content that the dwelling will not be unduly prominent in the landscape and it will not result in a suburban style build-up of development, as it an appropriate gap site to allow for an infill. Points raised in the objection letters mainly relate to the impact the proposal would have on the rural character of the area. The crux of the issue was the design and the fact the proposal faces onto the property at No.22. A number of amendments were made to the proposed plans, including the removal of a large upstairs window, replaced with a smaller obscured glazed window. The proposed dwelling has been moved further west so the separation distance between the proposed dwelling and the property at No.22 is now over 29m.

The objector contends the proposal will result in a lack of privacy and result in overshadowing of No.22. With regards the lack of privacy, although the proposed dwelling faces onto No.22 only one of the windows at ground floor level will be a habitable room that being part of the living room at which is located at front of the property. The rest of the dwelling facing the dwelling at No.22 consists of the entrance to the dwelling, two bathrooms and a bedroom. At the first floor level there is one window, which faces towards the neighbouring property, however this will be obscured glazing and will be facing onto the rear of the neighbouring dwelling with over 30m separation between this window and the rear of the property. The proposal also includes a privacy gate, which will run outside the property between the single storey end, and the storey and a half end, providing an extra layer of privacy to both properties. Therefore, given the layout of the proposed dwelling, the separation distance and the existing and proposed screening at this boundary, I am content that the proposal will not result in a loss of private amenity at the neighbouring property.

Concerns were also raised that the proposal would result in a loss of light and cause overshadowing to the property at No.22 given the fact the site elevated above the dwelling at No.22. The agent has provided ground levels and a section of the proposed dwelling which indicates that even with the sun at its lowest point, the proposed dwelling will not cause a loss of light. In terms of the impact of overshadowing, given the separation distance I am content that this will not be an issue. I am content that on balance, the proposal complies with the policy CTY 14.

### **Other policy and material considerations**

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

Issues had been raised by the objector regarding the proposed access and concerns that it required third party land to achieve the visibility splays that were being proposed. Consultation was on going between DfI Roads and once it was clearly detailed in drawing No.02 REV 05 what access was being used, DfI Roads provided a condition to be attached to any planning approval. The access shown on the aforementioned drawing does not require any third party land to achieve visibility splays therefore this issue was resolved.

DfI Roads drew attention to the fact that the existing lane serves 5 dwellings at present and a further application including this, have been submitted for houses all accessing from this lane. It is normally accepted within the urban area that development in excess of 5 residential units requires the access road to be brought up an adoptable standard. DfI Roads have advised they will not adopt or maintain the access lane in its present layout.

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.

I have no flooding concerns.

#### Neighbour Notification Checked

Yes/No

#### Summary of Recommendation:

That planning permission is granted subject to the following conditions

#### Conditions

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

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

2. All landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 02 REV 05 date stamped 07 AUG 2020 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.

3. 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.

4. The existing vegetation on the northern and eastern boundaries of the site shall be permanently retained.

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

5. 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.

6. The vehicular access including visibility splays 2.4 x 33 metres shall be provided in accordance with Drawing No. 02 REV 05 bearing the date stamp 07 AUG 2020 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Informative

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

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

3. This determination relates to planning control only and does not cover any 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.

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

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

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

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

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	2nd December 2019
<b>Date First Advertised</b>	17th December 2019
<b>Date Last Advertised</b>	22nd September 2020
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 14 Lough Road Magherafelt Londonderry The Owner/Occupier, 20 Lough Road Magherafelt Londonderry The Owner/Occupier, 22 Lough Road Magherafelt Londonderry S Young 22 Lough Road, Ballymaguigan, BT45 6LN Sheila Young 22 Lough Road, Ballymaguigan, Magherafelt, Derry, BT45 6LN S Young 22, Lough Road, Magherafelt, Londonderry, Northern Ireland, BT45 6LN	
<b>Date of Last Neighbour Notification</b>	16th July 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2019/1571/F Proposal: Proposed dwelling and garage Address: Site between 20 and 22 Lough Road and 50m South of 14 Lough Road, Ballymaguigan, Decision: Decision Date:  Ref ID: H/2009/0727/F Proposal: Re-alignment of part access lane to existing dwelling and re-location of existing field gate Address: 14 Lough Road, Magherafelt Decision: Decision Date: 01.02.2010  Ref ID: H/2003/0981/O Proposal: Site of dwelling and detached garage. Address: To rear of 18 Lough Road, Ballymaguigan, Magherafelt. Decision:	

Decision Date: 25.02.2004

Ref ID: H/2004/0793/RM

Proposal: Site of Dwelling and Detached Garage.

Address: To Rear of 18 Lough Road, Ballymaguigan, Magherafelt.

Decision:

Decision Date: 09.12.2004

Ref ID: H/2012/0118/F

Proposal: Realignment and widening of part access laneway to existing dwelling and relocation of field gates

Address: Laneway to South of 20 Lough Road, Magherafelt,

Decision: PG

Decision Date: 12.09.2012

Ref ID: LA09/2019/0065/O

Proposal: Proposed infill dwelling using access as approved under H/2012/0118/F

Address: Site between 20 and 22 Lough Road and 50m south of 14 Lough Road, Ballymaguigan,

Decision: PG

Decision Date: 12.03.2019

Ref ID: LA09/2019/0064/O

Proposal: Proposed infill dwelling using access as approved under application H/2012/0118/F

Address: Site 40m South East of 15 Lough Road, Ballymaguigan,

Decision: WITHDR

Decision Date: 10.07.2019

Ref ID: H/2006/0243/O

Proposal: Site of Dwelling & Garage

Address: Land Adjacent to 20 Lough Road, Ballymaguigan

Decision:

Decision Date: 12.11.2010

Ref ID: H/2006/0444/F

Proposal: Replacement Dwelling

Address: 180m South West of 28 Lough Road, Ballymaguigan

Decision:

Decision Date: 20.01.2009

Ref ID: H/2001/0193/RM

Proposal: Dwelling and garage

Address: Adjacent to 28 Lough Road, Ballymaguigan, Magherafelt

Decision:

Decision Date: 07.08.2001

Ref ID: H/1999/0772/O

Proposal: Site of dwelling and garage

Address: Adjacent To 28 Lough Road, Ballymaguigan, Magherafelt

Decision:

Decision Date: 27.11.2000

Ref ID: LA09/2017/1291/O

Proposal: Proposed infill dwelling

Address: Site between 20 and 22 Lough Road Ballymaguigan,

Decision: PG

Decision Date: 19.12.2018

Ref ID: H/1985/0068

Proposal: BUNGALOW AND DETACHED GARAGE

Address: LOUGH ROAD, BALLYMAGUIGAN, MAGHERAFELT

Decision:

Decision Date:

Ref ID: LA09/2017/1159/LDE

Proposal: This application relates to the material start made on site as per approved planning Ref. H/2012/0118/F. It is to seek formal recognition from the council that commencement of works began within the date specified on the aforementioned planning approval

Address: 14 Lough Road, Magherafelt,

Decision: PG

Decision Date:

Ref ID: H/2014/0011/F

Proposal: Erection of replacement dwelling (change of house type from that previously approved under extant planning ref. H/2006/0444/F) and detached domestic garage

Address: 180m south west of 28 Lough Road, Ballymaguigan, Magherafelt,

Decision: PG

Decision Date: 04.06.2014

### Summary of Consultee Responses

### Drawing Numbers and Title

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

Drawing No. 02 REV 05  
Type: Site Layout or Block Plan  
Status: Submitted

Drawing No. 03  
Type: Details of Access to the Public Road  
Status: Submitted

Drawing No. 04  
Type: Garage Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:





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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 03/11/2020	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0307/O	<b>Target Date:</b>
<b>Proposal:</b> Erection of replacement dwelling within the curtilage of existing site	<b>Location:</b> 12 Drumbolg Road Upperlands Maghera
<b>Referral Route:</b>  Agent's spouse works in MUDC Planning Department	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Mr A Campbell 12 Drumbolg Road Upperlands Maghera	<b>Agent Name and Address:</b> Gordon Arbuthnot 6 Culnady Road Upperlands Maghera BT46 5TN
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Content
Non Statutory	Rivers Agency	Substantive Response Received
Non Statutory	Rivers Agency	Substantive Response Received
Statutory	Historic Environment Division (HED)	Content

### Representations:

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

### Summary of Issues

This application is for a replacement dwelling within the curtilage of the existing site located at No 12 Drumbolg Road, Upperlands. Neighbour Notification and press advertisement has been carried out in line with the Council's statutory duty and no third-party representations were received. All other material considerations have been addressed within the determination below.

## Characteristics of the Site and Area

The site is located within the development limits of Culnady as per the Magherafelt Area Plan 2015. The site is identified as 12 Drumbolg Road, Upperlands, Maghera, within the red line sits a attached single storey dwelling with dwelling No 10. To the rear of the site are several farm buildings with an access off the Drumbolg Road with a front garden and pathway with an iron gate. Throughout the site is a mix of mature trees and hedgerow.

## Description of Proposal

The applicant is seeking outline planning permission for erection of replacement dwelling within the curtilage of existing site located at Drumbolg Road, Upperlands, Maghera.

No details surrounding design or landscaping associated with the proposal have been submitted with this application which relates to outline planning consent only. The proposal is a replacement involves the use of an existing unaltered access to a public road. Given this is a replacement dwelling with no changes to the existing access therefore, DFI Roads were not consulted in the processing of the application.

All planning application forms, drawings, letters etc. relating to this planning application are available to view on [www.planningni.gov.uk](http://www.planningni.gov.uk)

**Relevant planning history:** MUDC planning records show no planning history associated with this site.

## Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. At the time of writing no objections or representations were received. This application was initially advertised in the local press on w/c 16th March 2020 (publication date 17th March 2020. Four (4) neighbouring properties were notified on 11th March 2020; all processes were in accordance with the Development Management Practice Note 14 (April 2015).

EIA Determination. The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015; the proposal has been considered and does not fit within any categories or threshold identified in Schedule 2 of Environment Impact Assessment.

HRA Determination - (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2015, Grillagh River is approximately 120m west of the site, given this is a replacement dwelling it is unlikely that there will be any adverse effects from development works on integrity of any National or European site or any water stream by way of a hydrological link to the site.

## Constraints / Consultations:

Rivers Agency: In their initial consultation response of 09/09/2020 indicated that the site lies on the periphery of the 1 in 100 year strategic fluvial flood plain. DfI Rivers request more information regarding the proposed site layout and dwelling location along with a topographical survey of the site and surrounding land towards the designated watercourse known as the Grillagh River to the west.

Following submission of topography survey DWG No 02 stamp date 23/09/2020, DfI Rivers were re-consulted and responded on 13/10/2020 indicating that drawing 02 stamped received by the Planning Authority 23rd September 2020 shows the proposed location of the dwelling outside the Strategic Flood Plain with a FFL of 39.6m. Provided all build development is kept outside the Strategic Flood Plain with a suitable freeboard DfI Rivers have no reason to object to this proposal from a flood risk perspective. I am satisfied River's concerns can be dealt by way of a condition.

Historic Environment Division: no objections



Figs 1 & 2 front and side elevations

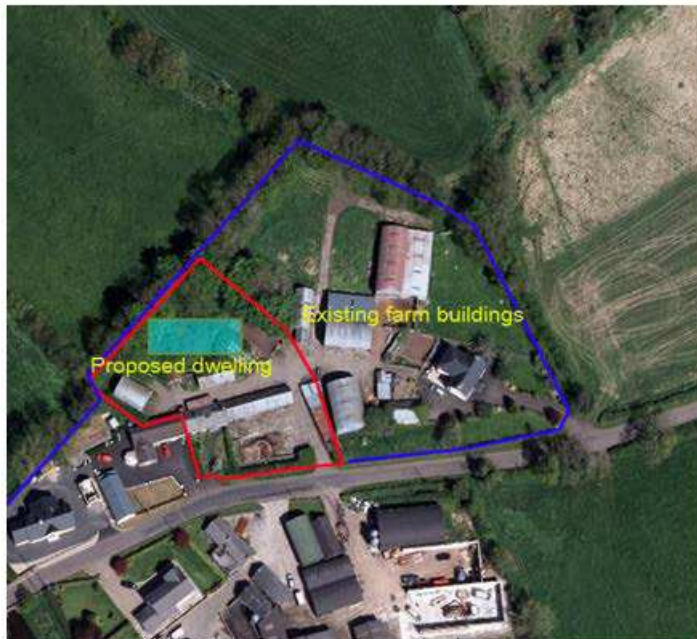


Fig 3 Aerial overview

### Planning Assessment of Policy and Other Material Considerations

## Planning Assessment of Policy and Other Material Considerations

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

The Magherafelt Area Plan 2015 does not contain any specific policies relevant to the application. The principal planning policies are therefore provided by PPS 7: Quality Residential Environment

### Policy context

1. Magherafelt Area Plan 2015.
2. Strategic Planning Policy Statement (SPPS).
3. PPS 6 Archaeological and the Built Environment
4. PPS 7: Quality Residential Environment

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.

**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.

### Policy QD1 of PPS 7.

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.

a) 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 surface areas:-

I note that this application intends to replace an existing dwelling with a new dwelling, with this in mind I am content that the proposal should respect the surrounding context in that the layout, scale, massing etc. especially in relation to the existing dwelling as it does not differ adversely in terms of layout etc.



b) features of the archaeological and built heritage, and landscape features are identical and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development:-

I note that the site is located within the settlement limits of Culnady as per the Magherafelt Area Plan 2015. HED were consulted on archaeological and built heritage features in the near vicinity of the site and responded with no objections.

c) 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:-

The development is only for one dwelling therefore the provision of public amenity space is not required. I am satisfied that the proposed dwelling will provide sufficient private space ? a landscaping scheme will be assessed at Reserve Matters stage.

d) Adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development: -

The size and scale of this development does not require it to make provision for local neighbourhood facilities. There are existing transport links in the area.

e) 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 measures:-

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.

f) Adequate and appropriate provision is made for parking:-

I am content that the proposed dwelling has provided adequate parking provision within the proposed curtilage.

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

No details surrounding design or landscaping associated with the proposal have been submitted with this application which relates to outline planning consent only, therefore landscaping and design will be assessed at Reserves Matters stage.

h) 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:-

Given that this application intends to replace an existing dwelling therefore I am content that there will be conflict with adjacent land uses. Furthermore, I am satisfied that the dwelling will be designed in such a way that it will result in any adverse impacts on neighbouring amenity with regards to that already from the existing dwelling.

i) The development is designed to deter crime and promote personal safety:-

It is my opinion that the proposed development will not increase the potential for crime.

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

The access arrangements remain that as per the existing dwelling therefore I am content that there is a safe access provided and that adequate parking has also been provided.

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

**Neighbour Notification Checked****Yes****Summary of Recommendation:**

I recommend approval subject to conditions.

**Conditions:**

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

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

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

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

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

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

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

4.The proposed dwelling shall have a ridge height of less than 6.5 metres above finish floor levels.

Reason: To ensure that the development is satisfactorily integrated into the landscape.

5.The proposed dwelling shall be sited within the area shaded Blue on DWH No 01 stamp date 02/03/2020 and shall have finish floor level of 39.6m.

Reason: To protect against any potential flood risk

6.No development shall take place until a plan of the site has been submitted to and approved by the Council indicating the existing and proposed contours, height and materials of any retaining walls. Development shall be carried out in accordance with the approved plans.

Reason: To ensure the development takes account of the site's natural features and to safeguard the amenities of the proposed dwellings

7.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 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.

8.Upon occupation of the new dwelling, the dwelling to be replaced, coloured Green on DWG No 01 stamp date 02/03/2020, shall no longer be used or adapted for purposes of human habitation and may only be used for domestic purposes.

Reason: To ensure that the proposed development does not result in the creation of an additional dwelling in the rural area.

#### **Informatives.**

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

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

3. This determination relates to planning control only and does not cover any 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.

**Signature(s)**

**Date:**



ANNEX	
<b>Date Valid</b>	26th February 2020
<b>Date First Advertised</b>	17th March 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 10 Drumbolg Road Upperlands Maghera The Owner/Occupier, 11 Drumbolg Road Upperlands Maghera The Owner/Occupier, 15 Drumbolg Road Upperlands Maghera The Owner/Occupier, 18 Drumbolg Road Maghera Londonderry	
<b>Date of Last Neighbour Notification</b>	11th March 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  <b>Ref ID: LA09/2020/0307/O</b> Proposal: Erection of replacement dwelling within the curtilage of existing site Address: 12 Drumbolg Road, Upperlands, Maghera, Decision: Decision Date:  <b>Ref ID: H/1985/0442</b> Proposal: ALTERATIONS AND ADDITIONS TO DWELLING Address: 10 DRUMBOLG ROAD, CULNADY, UPPERLANDS, MAGHERA Decision: Decision Date:  <b>Ref ID: H/1996/0444</b> Proposal: ALTS AND ADDS TO DWELLING Address: 18 DRUMBOLG ROAD MAGHERA Decision: Decision Date:  <b>Ref ID: H/1996/0237</b> Proposal: EXTENSION TO DWELLING Address: 18 DRUMBOLG ROAD MAGHERA Decision: Decision Date:  <b>Ref ID: H/1996/0518</b> Proposal: REPLACEMENT DWELLING	

Address: 18 DRUMBOLG ROAD CULNADY UPPERLANDS Decision: Decision Date:
<b>Summary of Consultee Responses</b>  Content
<b>Drawing Numbers and Title</b>
Drawing No. 01 Type: Site Location Plan Status: Submitted  Drawing No. 02 Type: Site Levels Status: Submitted
<b>Notification to Department (if relevant) N/A</b>  Date of Notification to Department: Response of Department:

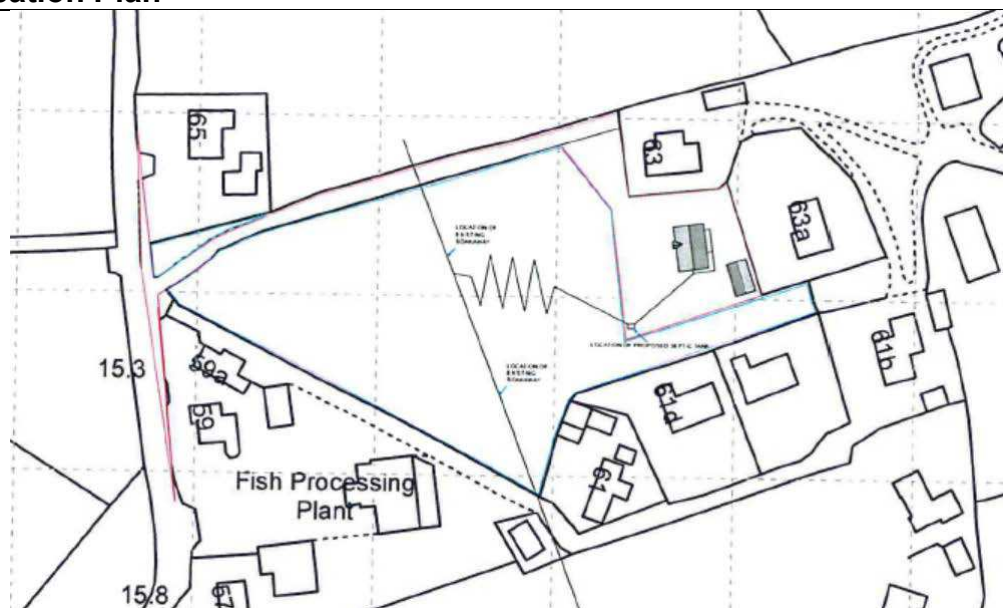


**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0318/RM	<b>Target Date:</b>
<b>Proposal:</b> Proposed domestic bungalow with domestic garage.	<b>Location:</b> Site South of 63 Anneeter Road Coagh Cookstown Co Tyrone BT80 0HZ.
<b>Referral Route:</b> Approval - objections received.	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Oliver Conlon 36 Pairc Na Mona Moortown Cookstown BT80 0TF	<b>Agent Name and Address:</b> Custom Interiors 61c Anneeter Road Coagh Cookstown BT80 0HZ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content – subject to condition

### Representations:

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

### Summary of Issues

Number of objections received (from same objector) - the issues raised in the objections will be discussed later in the report.

### Characteristics of the Site and Area

The site, which lies outside any settlement defined under the Cookstown Area Plan 2010, is located in the rural countryside approx. 1 mile north east of Moortown and only approx. 100 metres west of Lough Neagh and a Commercial Fishing Quay.

The site which is a relatively flat, square shaped plot comprising the back corner of a much larger agricultural field is set back approx. 150 metres from the Anneeter Road which it is proposed to be accessed off via an existing concrete lane serving 2 existing dwellings and the Fishing Quay to its east.

The site nestles in a corner created by the curtilage of the 2 existing dwellings on the lane, nos. 63 and 63a Anneeter Road. The party boundary of the site with no. 63, is

defined by a mature hedge approx. 1.2m high. The party boundary with no. 63a is defined by a mix of hedgerow vegetation. The western (front) and southern boundaries are undefined and open unto the larger field from which the site is cut. The lane proposed to serve the site is bound to its south side by a hedgerow and north side by mature trees. The site is proposed to be accessed off this lane along the front of no. 63's curtilage.

There will be no views of the site on the northern approach due to the existing mature trees/vegetation running along the proposed access lane to the site. And limited views on the southern approach largely until passing along the accesses to No.59a Anneeter Rd and the site, due the topography of the area and its location set back from the road screened by existing roadside development located around the bend in the road and Fish Processing Plant to its south west, existing vegetation in the area.

The immediate area surrounding the site is rural in character, located on the shore of the Lough. However, it has come under considerable development pressure in recent times with a number of single dwellings with ancillary buildings and shed clustered around the Fishing Quay to the east. This development extends south west to a bend in the Anneeter Road and includes a Fish Processing Plant just 100m to the south west.

### **Description of Proposal**

The planning application seeks approval of matters reserved from previous outline planning consent re. LA09/2019/0344/O. Outline planning permission was granted for "Proposed domestic bungalow with separate domestic garage to allow access for commercial fisherman to his places of work" on 5th June 2019 under the CTY 2a cluster policy, therefore the principle of development has already been established on this site with a number of conditions set out on the approval. This current application seeks consent for a number of matters which were reserved at the outline stage.

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

#### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, there were four third party representations received, all from from Mr McLernon (No.65 Anneeter Road). The objections raised relate solely to the proposed sight lines which they state encroach upon their property. The objection also notes the inaccuracy of the information on the P1 form in relation to the Certificates.

These concerns were also raised at the outline stage, however I note that there are no changes proposed to the access which was agreed at the outline stage. The P1 form also notes that "if you are applying for approval of reserved matters following a grant of outline permission a certificate is NOT required" therefore I do not feel it was necessary to get Certificate C filled in for this application. A P2 form and Certificate C was filled in for the outline permission with Certificate C serving notice on the relevant parties and the officer at this stage was content that as any planning permission granted will not confer title, it will be the responsibility of the developer to ensure that they control all the lands necessary to carry out any proposed development.

Amended plans were received on 19th June 2020 with some changes to the design of the proposal to create more of a vertical emphasis on the dwelling along with the chimney on the ridge. There were further amended drawings received on 20th August 2020, ensuring that the red line of the site location plan and access arrangement proposed use the existing laneway. These amendments ensured that the access arrangement shown in this RM application are in line with the access which was previously approved under the outline application.

Neighbour notification was carried out again 11th September 2020 and expired on 25th September 2020. The most recent representation was received on 25<sup>th</sup> September 2020 by Mr McLernon (No 65 Anneeter Road) and noted that their opinion had not changed and their previous objection letters still stand. The issue raised in the previous objections have been discussed and considered in the preceding paragraphs and indeed at the outline stage. Given there were no additional issues raised at RM stage, I am content to say that issues relating to the principle of development have been dealt with at outline stage and land ownership issues are considered to be a civil matter between both parties.

### Planning History

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

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

When outline planning permission was granted re. LA09/2019/0344/O a number of conditions were imposed. I am content that the conditions set out have been complied with.

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.

The site is located in the open countryside as defined by the Cookstown Area Plan 2010 and has no other zonings or designations within the plan.

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. The general planning principles with respect to this proposal have been complied with.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. In particular Policy CTY 13 - Integration and Design of Buildings in the Countryside and

Policy CTY 14 - Rural Character of PPS 21 are relevant to this proposal. These policies require development to be appropriately designed and integrated into the surrounding landscape to ensure the rural character of the area is not harmed.

The proposed dwelling is 1.5 storey and is considered to be modest in size and scale and is not considered to be inappropriate for the site or its locality. The design is considered to be simple and appropriate for this site. It includes a small porch and is finished with pebbledash. Both the design and materials are both considered acceptable in the countryside. This area is characterised by single storey dwellings which have a linear design, similar to what is proposed here.

The proposal is thought to be respectful of the existing pattern of settlement found in this area as it is similar in size and scale and it would not create or add to a ribbon of development. I don't envisage there being any adverse effects on any of the neighbouring properties given the siting and design of the proposal. I feel there is sufficient separation distances between the proposal and any surrounding properties to avoid issues such as overlooking, privacy or loss of light. There is landscaping proposed to supplement the existing hedgerows and boundaries in place which will also aid with integration at the site. There is a single storey double door garage proposed also which is also finished with pebbledash.

The proposal intends to amend the access onto Anneeter Road. The access is proposed to utilise the existing access in place. It is considered that vehicles would be able to manoeuvre around the site with ease and it is considered there is adequate parking available within the site. Although the access arrangement was not altered from the outline stage, DfI Roads were consulted given the objections received related to Roads issues. DfI Roads noted no issue with the proposal, subject to condition.

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

The proposal is considered to be in compliance with the relevant planning policy and guidance and therefore approval is recommended, subject to condition.

**Conditions/Reasons for Refusal:**

1. The development to which this approval relates must be begun by whichever is the later of the following dates:-

- 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.

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

2. The vehicular access including visibility splays of 2.4 x 45 metres and any forward sight distance, shall be provided in accordance with the approved drawings prior to the commencement of any other development hereby permitted. The area within the visibility

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

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

3. The scheme of planting hereby approved shall be carried out in accordance with drawing no. 02a date stamped 2<sup>nd</sup> September 2020 during the first available planting season after the commencement of development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Mid Ulster District Council gives written consent to any variation.

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	5th March 2020
<b>Date First Advertised</b>	17th March 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 61d ,Anneeter Road,Cookstown,Tyrone,BT80 0HZ The Owner/Occupier, 63 Anneeter Road,Cookstown,Tyrone,BT80 0HZ The Owner/Occupier, 63a ,Anneeter Road,Cookstown,Tyrone,BT80 0HZ The Owner/Occupier, 63b ,Anneeter Road,Cookstown,Tyrone,BT80 0HZ J McLernon 65 Anneeter Road, Cookstown, Tyrone, BT80 0HZ The Owner/Occupier, 65 Anneeter Road,Cookstown,Tyrone,BT80 0HZ J McLernon 65, Anneeter Road, Cookstown, Tyrone, Northern Ireland, BT80 0HZ J McLernon 65, Anneeter Road, Cookstown, Tyrone, Northern Ireland, BT80 0HZ	
<b>Date of Last Neighbour Notification</b>	11th September 2020



<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  <p>Ref ID: LA09/2019/0344/O          Proposal: Proposed domestic bungalow with separate domestic garage to allow access for commercial fisherman to his places of work.          Address: Site adjacently south of 63 Anneeter Road, Cookstown, Co Tyrone, BT80 0HZ.,          Decision: PG          Decision Date: 13.06.2019</p> <p>Ref ID: LA09/2020/0318/RM          Proposal: Proposed domestic bungalow with domestic garage.          Address: Site South of 63 Anneeter Road, Coagh, Cookstown, Co Tyrone, BT80 0HZ.,          Decision:          Decision Date:</p> <p>Ref ID: I/2004/0083/O          Proposal: Site for Dwelling          Address: 50 M South of 63 Anneeter Road, Moortown, Coagh, Cookstown          Decision:          Decision Date: 16.04.2004</p> <p>Ref ID: I/2006/1231/RM          Proposal: Domestic dwelling          Address: Proposed dwelling @ 50 metres south of 63 Anneeter Rd, Coagh, Cookstown, Co.Tyrone          Decision:          Decision Date: 10.05.2007</p> <p>Ref ID: I/1990/0158B          Proposal: Dwelling          Address: TO THE REAR OF 63 ANNETER ROAD COAGH COOKSTOWN          Decision:          Decision Date:</p> <p>Ref ID: I/2006/0970/F          Proposal: Private Access Lane Lighting          Address: 63 Aneeter Road, Coagh, Cookstown          Decision:          Decision Date: 06.12.2007</p> <p>Ref ID: I/1980/0318          Proposal: EXTENSION TO DWELLING          Address: 63 ANETER ROAD, COAGH, COOKSTOWN          Decision:          Decision Date:</p>	

Ref ID: I/1990/0158

Proposal: Dwelling

Address: TO REAR OF 63 ANNETER ROAD COAGH

Decision:

Decision Date:

Ref ID: I/2014/0332/PREAPP

Proposal: The abstraction of sand from the bed of Lough Neagh from the "pumping grounds", a dedicated area towards the north western shore of Lough Neagh and the landing of the sand at 8 designated processing facilities.

Address: The abstraction of sand from the bed of Lough Neagh.,

Decision:

Decision Date:

### **Summary of Consultee Responses**

No issues.

### **Drawing Numbers and Title**

Drawing No. 01  
Type: Road Access Plan  
Status: Submitted

Drawing No. 05  
Type: Proposed Plans  
Status: Submitted

Drawing No. 04  
Type: Proposed Plans  
Status: Submitted

Drawing No. 03  
Type: Site Location Plan  
Status: Submitted

Drawing No. 02  
Type: Block/Site Survey Plans  
Status: Submitted

Drawing No. 02a  
Type: Block/Site Survey Plans  
Status: Amended

Drawing No. 01a  
Type: Block/Site Survey Plans  
Status: Amended

Drawing No. 03a  
Type: Block/Site Survey Plans  
Status: Amended

Drawing No. 04a  
Type: Block/Site Survey Plans  
Status: Amended

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 03/11/2020	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0656/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed replacement dwelling & detached Domestic Garage	<b>Location:</b> 120m South East of 47 Annaghmakeown Road Dungannon BT70 3DD
<b>Referral Route:</b> <ol style="list-style-type: none"><li>1. The applicant is a close relative of a member of staff within Planning.</li><li>2. The proposal is an exception to policy in CTY 3 in PPS 21 in that the walls of the main part of the dwelling are not substantially intact but it is accepted there was a dwelling on the site.</li></ol>	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Mr Simon Duggan 47 Annaghmakeown Road Dungannon BT70 3DD	<b>Agent Name and Address:</b> Donnelly Design Services 8 Devesky Road Carrickmore Omagh BT79 9BU
<b>Executive Summary:</b> Members should be aware the building to the left does not meet the criteria in CTY 3 in that the walls are not substantially complete. I am of the opinion the proposal is an exception to policy as the dwelling and the part of the building, which has walls in intact, would have been inter-linked functionally.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Content

### Representations:

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

### Characteristics of the Site and Area

The site is in the countryside and is 576m north west of the settlement limit of Castlecaufield as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is characterised by agricultural fields, farm complexes and single rural dwellings with a roadside frontage. Immediately north of the site are 7 dwellings and outbuildings on both sides of Annaghmakeown Road. Abutting the northern boundary of the site is a shed, which has its own access off the public road.

The application site is an irregular shaped plot with a flat topography and is 0.1 hectares in size. There is no vegetation along the roadside boundary and the boundary of the building

and a post and wire fence defines yard. To the west is an agricultural field, which has established trees along the east and west boundaries and a mature hedgerow along the roadside boundary. The site comprises a building that is the subject of this application. On the left hand side, facing the road is a part of the building, which would have housed 2 rooms. On this side, the walls on all sides are below roof level. On the right hand, side is the part of the building where there is a roof and all the walls are intact. To the front of this building is a gravelled area.

### **Description of Proposal**

This is an outline application for a proposed replacement dwelling and detached domestic garage at 120m southeast of 47 Annaghmakeown Road, Dungannon.

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

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

### **Representations**

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

### **Planning History**

No recent 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. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

### **Dungannon and South Tyrone Area Plan 2010**

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

**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 infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet

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

### **Planning Policy Statement 21 – Sustainable Development in the Countryside**

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 new replacement dwelling and as a result, the development must be considered under CTY 3 of PPS 21.

### **CTY 3 – Replacement Dwellings**

The building to be replaced is single storey and has 2 distinct parts. On the left hand side, the gable wall of the building, which would have housed 2 rooms, faces onto the road. On this side, the walls on all sides are below roof level and there is no roof as shown in figure 1 below. As shown in figures 2 and 3 below there are the remains of 2 fireplaces but in my opinion, it does appear these have been built up with red brick and have the appearance of recently constructed. Stone slabs have been placed where the windowsills would have been. I consider in this part of the building the walls are not substantially intact and therefore does not meet this criteria in CTY 3.



Figure 1 – Photograph of building on site





Figure 2 – Photograph of close up of the dwelling to be replaced



Figure 3 – Photographs of the fireplaces

I consider the attached part of the building to the right is relevant in the assessment of this proposal. As shown in figure 4 below, in this part of the building the walls are substantially intact and there is a tin roof. On the front elevation there are 3 door openings and as figure 5 shows on the rear elevation there is a window opening which has been blocked up with concrete blocks. In the room, furthest north from the public road there is no evidence of window openings or the remains of chimneys. As figure 6 and 7 demonstrates there is a link between the rooms where the walls are not complete and the attached building. In the



room on the wall with the linking doorway there does appear to be the ruins of a fireplace that has been blocked up.



Figure 4 – Photograph of the attached building



Figure 5 – Photograph of the rear of the attached building showing the windows built up





Figure 6 – Photograph of the wall between the attached building and the dwelling to be replaced



Figure 7 – Photograph of the inside of the nearest room to the part of the building where the walls are not complete



Figure 8 – PRONI historical maps of the application site

As shown in figure 8, PRONI historical maps demonstrates there has always been a building on this site of the same approximate length, which is currently on site. I consider the part of the building where the walls are not substantially intact and the attached building would have previously been a dwelling and an attached outbuilding. Animals may have been kept in one area of the building off the main living and sleeping areas but as the rooms were functionally inter-linked, the whole building can be considered a dwelling. Therefore, I consider the building to be replaced as shown in green on the site location plan is considered a dwelling.

For the afore-mentioned reasons I am content the building is a non-listed vernacular dwelling. There are critical views of the building from Annaghmakeown Road but as the dwelling is already, derelict I consider it does not make an important contribution to the character of the surrounding area.

A search of PRONI historical maps shows there is an established curtilage at the application site and is fenced off on site with a post and wire fence. I consider the existing curtilage is small and could not reasonably accommodate a family sized dwelling. I have no concerns about the proposal for an extension into the neighbouring field.

Further west of the site is a small group of dwellings with a roadside frontage along Annaghmakeown Road and there are 2-storey dwellings within this group. Even-though the dwelling to be replaced is a modest single storey I have no concerns that a 2-storey dwelling would be a prominent feature in the landscape. In addition, there is a row of established trees along the west boundary, which would be a backdrop and block any critical views in this direction.

As this is an outline application, the design would be considered at the Reserved Matters Stage.

As this is a replacement dwelling and there is an existing access, it is not necessary to consult DFI Roads.

In conclusion, members should be aware the building to the left does not meet the criteria in CTY 3 in that the walls are not substantially complete. I am of the opinion the proposal is an exception to policy as the dwelling and the part of the building, which has walls in intact, would have been inter-linked functionally.

### **CTY 13 – Integration and Design of Buildings**

The site has a roadside frontage along Annaghmakeown Road and has a flat topography. There is an established hedgerow along a section of the roadside boundary. In addition, along the west and northeast boundaries there are matures trees and hedgerows which I recommend to be retained in this proposal. Along both directions of the main road there are minimal critical views of the site and I have no concerns a dwelling would be a prominent feature in the landscape. There are no views of the proposed dwelling from the Finulagh Road to the south and the land slopes upwards at Finulagh Road blocking any direct views. The proposal will use an existing access so I have no issues the access will impact on the character of the surrounding area. As this is an outline application, no design for the dwelling and garage has been submitted and this is considered at the reserved matters stage. The existing dwelling is a modest single storey building but as there are no

critical views from either direction along the main road and there are currently a mix of one and two storey dwellings along the road.

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

As stated earlier in the assessment I am content the proposed dwelling and garage will not be unduly prominent in the landscape. The immediate area is already built up with dwellings so I do not consider the addition of this dwelling will exacerbate the situation and the proposal is a replacement of an existing dwelling. I am content a dwelling and garage at this site would not damage rural character.

#### **Other Considerations**

HED were consulted as the site is within the 200m buffer zone of an archaeological site and monument.

There are no other NED, HED or flooding issues.

**Neighbour Notification Checked** None Required

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

The proposal is recommended for approval as an exception to policy in CTY 3 – Replacement Dwellings in PPS 21.

#### **Conditions**

1. Application for the approval of 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 the approval of the last of the reserved matters to be approved.
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 (herein thereafter called the “Reserved Matters”, shall be obtained from Mid Ulster Council in writing before any development is commenced.

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

3. The existing buildings coloured green on the site location plan Drawing No 01 Rev 1 date stamped 10 SEP 2020 shall be demolished within 6 weeks of the occupation of the new dwelling and all rubble and foundations removed from the site.

Reason: To prevent an accumulation of dwellings on the site.

4. The dwelling hereby permitted shall have a ridge height not exceeding 8 metres above finished floor level and shall be designed in accordance with ‘Building on Tradition’ Design Guidance.

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

5. The depth of the underbuilding between finished floor level and ground level shall not exceed 0.3m at any point.

Reason: In the interest of visual amenity.

6. No development shall take place until a plan indicating existing and proposed floor levels has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

7. The existing natural screenings of the site, as indicated in green, on approved drawing 01 Rev 1 date stamped 10 SEP 2020 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: 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.

8. A landscaping scheme shall be submitted simultaneously with the detailed drawings for the development, hereby approved at the Reserved Matters Stage. No trees or hedgerows which may be damaged or die within a period of 5 years from the date of the planting shall be replaced by plants of similar species and size at the time of their removal.

Reason: In the interests of visual amenity.

### **Informatives**

1. This permission does not alter or extinguish or affect any existing right of way crossing.
2. This permission does not confer title. It is the responsibility of the developer to ensure he controls all the land necessary to carry out the proposed development.
3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or any other statutory authority.

**Signature(s)**

**Date:**



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

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

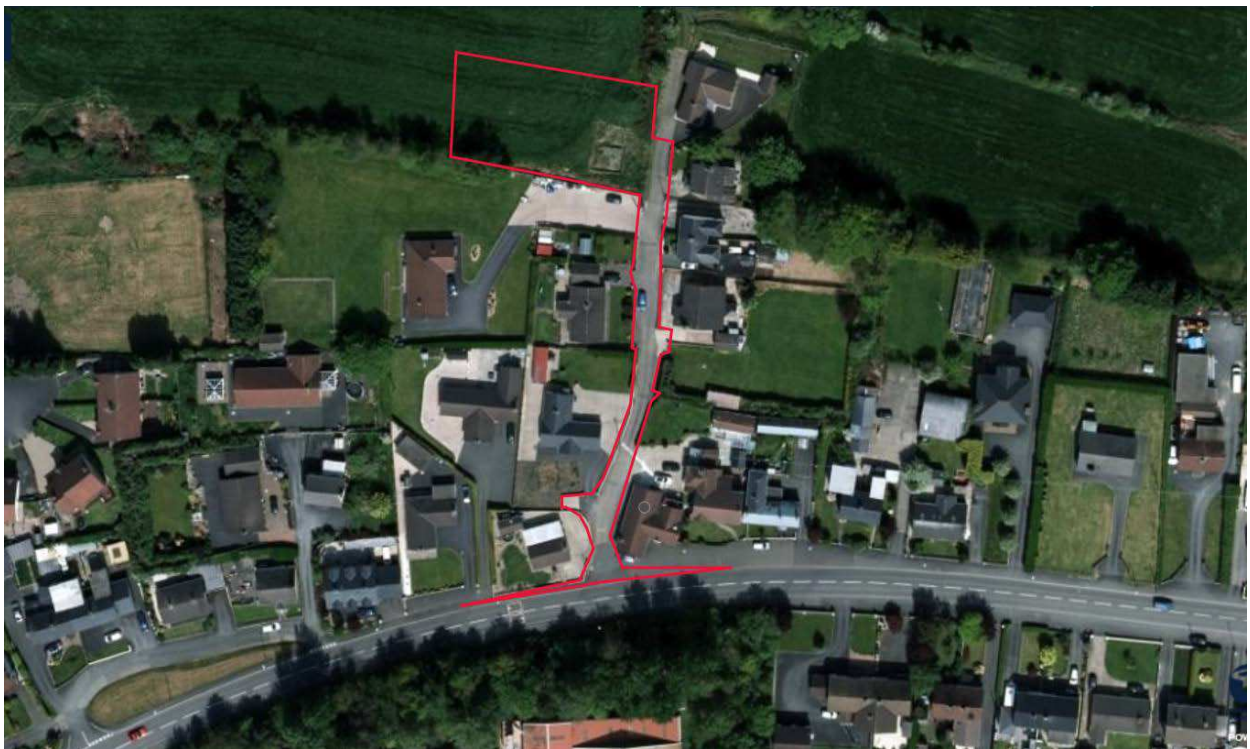
### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0674/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed erection of 1 two storey dwelling and detached garage	<b>Location:</b> Site adjacent to 82 Annagher Road Coalisland
<b>Referral Route: Objections</b>	
<b>Recommendation: Approve</b>	
<b>Applicant Name and Address:</b> Kevin Mc Cluskey 41 Moorlands Clonoe Dungannon BT71 4SJ	<b>Agent Name and Address:</b>
<b>Executive Summary:</b> Full application for dwelling and garage within Coalisland Settlement Limits accessed off Annagher Rd via a shared lane serving 11 existing dwellings.  12 objection letters received from the owners / occupiers of properties largely accessed off the shared lane, relating to the applicant's rights to and use of the lane. The objections were taken into consideration however opinion remained to approve as: <ul style="list-style-type: none"><li>the proposal was deemed to comply with planning policy.</li><li>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 and access the proposed development.</li><li>whilst acknowledged the lane is lined with dwellings and not adopted, it already serves well in excess of 5 dwellings and it would be unfair to ask the current applicant to put this infrastructure in place. DfI Roads advised existing access arrangements on to Annagher Rd comply with DCAN15, subsequently the proposal will not prejudice road safety or significantly inconvenience the flow of traffic. Furthermore, adopting the road, was not deemed necessary on a previous application on site and there has been no change in the Area Plan or relevant planning policy since, therefore the same applicant has a reasonable expectation of getting the same decision, an approval.</li></ul>	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response

### Representations:

Letters of Support	None Received
Letters of Objection	12

Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
<p><b>Description of Proposal</b></p> <p>This is an outline application for a 2 storey dwelling and detached garage to be located on lands adjacent to 82 Annagher Road Coalisland.</p> <p>Previous planning application on site made by the same applicant: M/2011/0095/F – Proposed erection of 1 no. two storey dwelling and detached garage – – Granted 13th September 2011</p> <p>The current dwelling and garage are to be accessed off the Annagher Rd via an existing lane and be sited largely as before. The only significant changes to the previous proposal appear to be that the dwelling's ridge height is to be increased from approx. 7.3m to 8.3m and the garage ridge height from approx. 5.6m to 6.1m the access off the lane has moved slightly further north along the eastern boundary of the site; and minor changes to the fenestration.</p>	
<p><b>Characteristics of the Site and Area</b></p> <p>The site is located within the development limits of Coalisland, as defined in the Dungannon and South Tyrone Area Plan 2010.</p> <p>The site is a relatively flat, rectangular shaped plot (approx. 0.11 hectares) cut from the southeast corner of a much larger agricultural field.</p> <p>It is set back approx. 90 metres from and accessed off the Annagher Rd located to its south via an existing concrete lane serving 11 properties, all detached with the exception of a pair of semi-detached properties, nos. 74 and 76 Annagher Rd.</p> <p>A mix of post and wire fencing and hedgerow vegetation bound the site's eastern boundary. A wooden d-rail fence defines the eastern half of the southern boundary with mature trees and vegetation to the western half. The remaining northern and western boundaries are undefined and open onto the larger from which the site is cut.</p> <p>The area is predominantly residential. The density of housing development in the area could be described as medium, comprises largely of detached houses on relatively small plots. A filling station, shop and off licence exists across the road from the access to the site, further up the hill to the east of the site. The immediate area is at the edge of build up within the settlement limit. To the rear of the site runs the remainder of the agricultural field its cut from and to the front runs residential housing down to the main Annagher Rd.</p>	
<p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p>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.</p> <p><b>The following documents provide the primary policy context and guidance for the determination of this application:</b></p>	



Dungannon and South Tyrone Area Plan 2010  
SPPS – Strategic Planning Policy Statement for Northern Ireland  
PPS 3 – Access, Movement and Parking  
PPS 7 – Quality Residential Environments  
PPS 7 (Addendum) - Safe Guarding the Character of Established Residential Areas  
Creating Places  
DCAN 8 Housing in Existing Urban Areas  
DCAN15 Vehicular Access Standards

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.

### **History on Site**

- M/2011/0095/F – Proposed erection of 1 no. two storey dwelling and detached garage – Site adjacent to 82 Annagher Road Coalisland – Granted 13th September 2011

### **Consultations**

1. DFI Roads were consulted in relation to access arrangements and responded as follows: The site is situated within the settlement limits of Dungannon on land north of Annagher Road, as illustrated in the Area Plan. A site inspection indicated the proposed access to the site is via an existing laneway, appearing to serve well in excess of five units. Planning should note roads serving more than five dwellings must be determined in accordance with the Private Streets Order and the Layout of the Housing Roads design guide, “Creating Places”. Planning should advise Dfi Roads if they are setting aside Creating Places design requirements or if the applicant proposes to upgrade part of the laneway, to allow determination to the Department’s standards. Dfi Roads advise due to the current design of the laneway that our Private Streets Section would not be able to determine and adopt this laneway if requested in the future by frontagers. Planning should note the existing access arrangements on to the Annagher Rd comply with DCAN15.
  - I have considered Dfi’s advice above however as the lane already serves well in excess of 5 dwellings and ‘Creating Places’ is design guide I think it would be unfair to ask the current applicant to put this infrastructure in place. Dfi Roads have advised the existing access arrangements on to the Annagher Rd comply with DCAN15, subsequently as the proposal will not prejudice road safety or significantly inconvenience the flow of traffic; I think it is reasonable to approve this application.
2. Environmental Health were consulted in relation to the proposed use of a bio – disc treatment plant for the disposal of foul sewage and had no objection in principle to the proposed development subject to standard conditions which I am content are reasonable to attach to any subsequent decision as informatives to bring to the attention of the applicant.

### **Key Policy Consideration and Assessment**

Dungannon and South Tyrone Area Plan 2010 – Dungannon and South Tyrone Area Plan is the extant Plan for the area and identifies the site as being within the settlement limits for Coalisland.

The Plan has defined the settlement limits and allows for development within these limits provided it meets with regional policy requirements of Policy SETT 1.

Policy SETT 1 sets out 6 criteria and a general criteria to meet with regional policy. I consider that if the development meets with regional policies contained in PPS 3 – Access, Movement and Parking and PPS7 – Quality Residential Environments it will meet the requirements of SETT1.

Strategic Planning Policy Statement for Northern Ireland – I do not consider the Strategic Planning Policy Statement have provided any change in policy direction or provided clarification in relation to any of the existing policies relevant to this proposal.

PPS 3 – Access, Movement and Parking - The site is proposed to be accessed off the Annagher Rd via an existing access and shared laneway with 11 other dwellings within the settlement limits of Coalisland. DfI Roads have been consulted and as detailed further above (see 'Consultations') advised roads servicing in excess of 5 units as is the case here should be brought up to adoptable standards. I would reiterate my previous comments that the lane already serves well in excess of 5 dwellings and 'Creating Places' is design guide I think it would be unfair to ask the current applicant to put this infrastructure in place. DfI Roads have advised the existing access arrangements on to the Annagher Rd comply with DCAN15, subsequently as the proposal will not prejudice road safety or significantly inconvenience the flow of traffic; I think it is reasonable to approve this application. Adequate in-curtilage parking for 2 vehicles is accommodated within the site. I am therefore content that this proposal is in compliance with the policy provisions of PPS 3

PPS 7 – Quality Residential Environments - PPS 7 is the relevant material planning policy for this type of development within a settlement. All proposals for residential development will be expected to conform to a number of criteria laid out in the policy. I will deal with these as they appear in the policy.

- (a) 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;

The lands hold no specific zoning in the Dungannon & South Tyrone Area Plan 2010. The surrounding area is almost exclusively residential development with at present, 11 dwellings accessed off the laneway proposed to serve the site. The area has no particular characteristics in terms of housing stock. Further to the east of the site lies Meenagh Park a medium to high density housing development approved in the early 1990's comprising mostly terraced dwellings on modest plots. In the immediate area the ratio of built form to garden area is approx. 1:3 and buildings are well spaced (both front

to back and between buildings). The proposed plot dimensions of approx. 25m x 45m is at the higher end of those dwellings accessed off the private lane and far in excess of those in Meenagh park. I am content that the size, scale, layout and design including finishes of the proposed dwelling and garage is appropriate to the character and topography of the site and that they will respect their surrounding context. Whilst the size of the footprint of the dwelling is more generous than the majority of dwellings on Annagher Road the plot has the capacity to absorb it. In terms of the street scene it is not envisaged that the proposal will have a critical impact.

- (b) 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;

Checks of the DfC's Historic Environment Map viewer and NIEA's Natural Environment Map viewer show no natural conservation interests or built heritage assets on site. And existing mature vegetation along the boundaries of the site except where it is required to provide access to it can be conditioned to be retained in the interests of both visual and residential amenity.

- (c) 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;

I am dealing solely with an application for a single dwelling as such public open space is not a requirement for this type of proposal and I am content that private amenity space well in excess of the 70m<sup>2</sup> average promoted in Creating Places, has been provided. Existing mature vegetation along the boundaries of the site, alongside additional planting proposed will help enclose and integrate the site into the surrounding area in the interests of visual and residential amenity.

- (d) adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;

I am dealing solely with an application for a single dwelling and I do not consider it is appropriate to require the provision of neighbourhood facilities for this scheme.

- (e) 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 measures;

The site accesses onto the Annagher Rd whereby footpaths link the development to services located within Coalisland. This will support walking and cycling and enable adequate and convenient access to public transport within the Town. Given the nature of the lane serving the development I do not consider the provision of a footway to the front of the site necessary.

(f) adequate and appropriate provision is made for parking;

I am content adequate in-curtilage parking for 2 vehicles has been accommodated. DFI Roads have raised no concerns in respect of parking.

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

In terms of the design of the dwelling, including garage, and materials used it is my view that they are acceptable for the site and locality.

(h) 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; and

I am content that this proposal for a 2-storey dwelling and detached garage will not conflict with the surrounding primarily residential land use. I believe there will be no unacceptable adverse effect on neighbouring amenity in terms of overlooking or overshadowing given the siting and orientation of the proposed dwelling and garage; and the separation distances in excess of those promoted in Creating Places that will be retained between them and existing properties. Paragraph 7.16 of Creating Places advises that there should be a minimum separation distance of 10m between the rear of new houses and the common boundary. Existing mature vegetation along the boundaries of the site, alongside the additional planting proposed will help enclose and integrate the site into the surrounding area in the interests of visual and residential amenity

(i) the development is designed to deter crime and promote personal safety

I am satisfied that there are enough dwellings close by to deter crime to some degree.

**PPS 7 (Addendum) Safe Guarding the Character of Established Residential Areas –**

I am satisfied that this proposal complies with Policy LC 1 of the Addendum to PPS 7, Protecting Local Character, Environmental Quality and Residential Amenity, in that the proposal will not result in a significantly higher residential density in this area; the pattern of development is in keeping with the overall character and environmental quality of the established residential area; and the site has the capacity to accommodate the dwellings which are of a size not less than those set out in Annex A of this addendum.

**On the basis of the above assessment it is clear that the proposal under consideration complies with all the criteria set out in policy QD 1 of PPS 7, the addendum to PPS7 and PPS3 and approval is recommended.**

**Other Considerations**

Checks of the Planning portal and Flood Maps NI indicate the site is not subject to flooding.

Whilst the site is located within an area of constraint on abandoned mines consultation with DETI GSNI was not considered necessary as they had been consulted under the previous application on site and raised no concerns.

### **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 12 identical objection letters had been received from the owners / occupiers of the following properties located largely adjacent and accessed off the lane proposed to access to the site: nos. 56, 58, 62, 66, 68, 70, 74, 80, 82, 84, 92, 94 Annagher Rd. A summary of objection:

- Principal reason is proposed access to development. The site's host field is accessed off the Stewartstown Rd. The application however proposes to access the site via a private lane off Annagher Rd owned and maintained by its residents. The residential access rights to current properties on lane are governed by a mixture of ownership (held in various portfolios) and residential rights of way. Lane residents have not been approached by applicant / his representative to discuss the use of the lane for an additional residential access.
- The applicant will contest an agricultural right of way across the lane to the site. This is not the case. Whilst a gap was created in the hedge (into site off lane) a few years back this does not constitute a right of way. Furthermore, it is not positioned at the proposed new residential access. This planning application cannot reply on a request from the applicant to us to upgrade this gap to residential access. This will be denied.
- The lane accesses 10 properties, is narrow, of uneven width with no turning point other than within the private residences. A number of residents must reverse in/out of their properties with limited sightlines. The lane is not DRD adopted. It was surfaced years ago by residents to support access for private vehicles, not designed for agricultural / construction traffic. Council refuse collection vehicles are unable to cross the lane.
- All families on the lane have young children/grandchildren and are already concerned by the danger posed to children at play by the traffic volume on this overcrowded lane. We have addressed this ourselves by building speed bumps and erecting warning signs for visitors/delivery drivers who may not be aware of the danger posed by their vehicles. Even with these measures, we believe further traffic intensification, cannot be considered and strongly object and will not agree to a residential right of way being created to access this 'field' as it raises the potential for unknown additional traffic and pedestrian access which the lane cannot support.
- We understand a larger development on the field encompassing this site was applied for years ago, access via an entrance on the Stewartstown Rd. And contend, on legal and safety grounds, that only access from the Stewartstown Road can be considered for any development on the site.

The above objections have been taken into consideration in the assessment of this proposal my opinion however remains to approve as I consider the proposal complies with planning policy as detailed above. With regards ownership / legalities surrounding the lane and use of the lane 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 and access the proposed development. And whilst it is acknowledged the lane proposed to serve the site is lined with dwellings and is not adopted, as previously stated it already serves well in excess of 5 dwellings and I think it would be unfair to ask the current applicant to put this infrastructure in place. DfI Roads have advised the existing access arrangements on to Annagher Rd comply with DCAN15, subsequently the proposal will not prejudice road safety or significantly inconvenience the flow of traffic. Furthermore, adopting the road, was not deemed necessary on a previous application on site and there has been no change in the Area Plan or relevant planning policy since, therefore the same applicant has a reasonable expectation of getting the same decision, an approval.

**Taking all of the above into consideration I would recommend the approval of this application.**

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

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

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

2. The existing mature trees and vegetation along the north and west boundary of the site as detailed on Drawing No. 01 bearing the date stamp received 15 JUN 2020 shall be retained except where it is required to provide access and / or sight lines. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual amenity.

3. All proposed landscaping as detailed on Drawing No. 01 bearing the date stamp received 15 JUN 2020, shall be carried out during the first available planting season following the occupation 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: In the interests of visual amenity.

### Informatives

1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. This determination relates to planning control only and does not cover any 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.
4. This permission authorises only private domestic use of the proposed garage and does not confer approval on the carrying out of trade or business there from.
5. Please see Mid Ulster District Council Environmental Health Department comments below for information purposes:

A Consent to Discharge Sewage Effluent being obtained from Water Management unit, The Northern Ireland Environment Agency, as required by the Water (Northern Ireland) Order 1999.

Any new or existing septic tank unit being a minimum of 15 metres from the proposed development or any other habitable dwelling/building such as an office or such dwelling/building in the course of construction or the subject of a planning approval.

A legal agreement being obtained in relation to lands used in connection with any septic tank/drainage arrangement where such lands are outside the ownership of the applicant or outside the area marked in red which is the subject of this application. This agreement must ensure that the lands in question will always be available for the intended purpose and also that any occupier/owner of the proposed development will have access to these lands for maintenance/improvement works as required. Such legal agreement should be included in any planning approval as a planning condition.

The applicant ensuring that the proposal does not compromise any existing drainage arrangements serving existing neighbouring premises or developments not completed/commenced which are the subject of a planning approval.

Planning department receiving confirmation from Northern Ireland Water that a mains water supply is available and that it is feasible for the proposed development to be connected to same. Where mains water supply is not available, the applicant/agent is strongly advised to contact this department

before any detailed plans are prepared. (The District Council cannot approve plans for housing development unless a satisfactory water supply is available).

**Signature(s)**

**Date:**





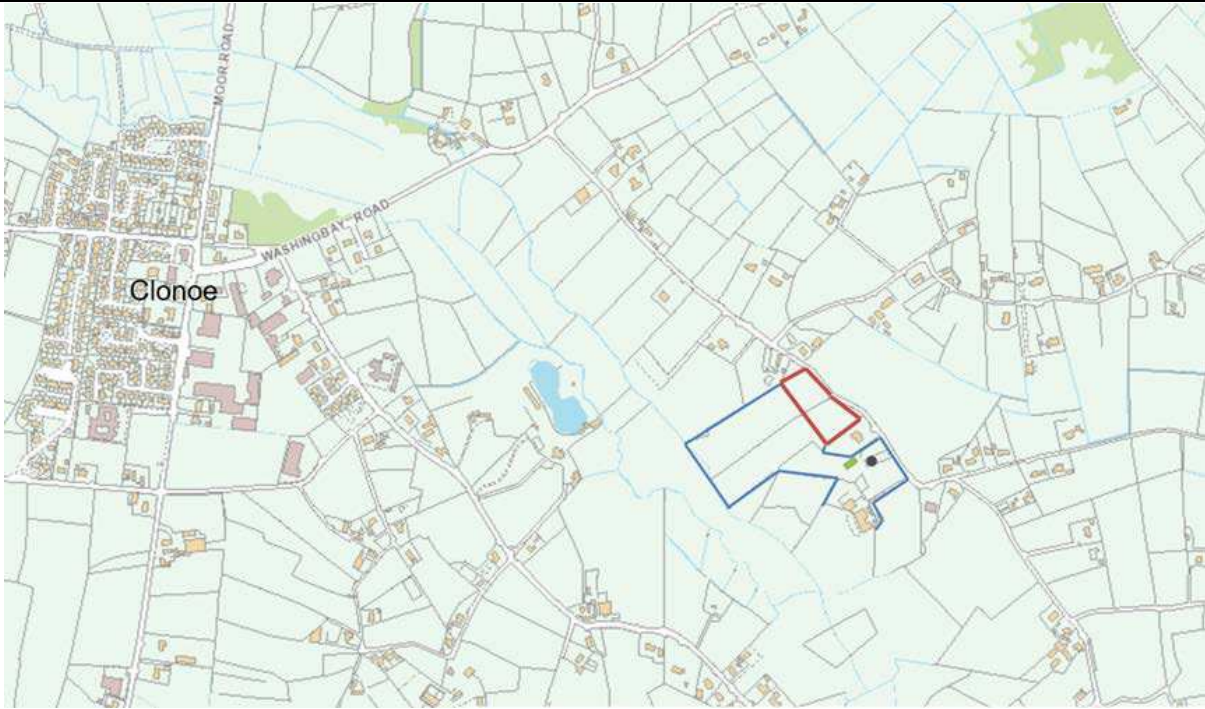
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0687/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed off-site replacement dwelling & detached garage	<b>Location:</b> 110 Metres North West of 25 Annaghnaaboe Road Coalisland Dungannon BT71 4QH
<b>Referral Route:</b> Contrary to policy	
<b>Recommendation:</b>	REFUSAL
<b>Applicant Name and Address:</b> Dominic Ryan 25 Annaghnaaboe Road Coalisland Dungannon BT71 4QH	<b>Agent Name and Address:</b> Sam Smyth Architecture Unit 45D DGN Enterprise Centre 2 Coalisland Road Dungannon BT71 6JT
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

None

### Characteristics of the Site and Area

The site lies within the open countryside outside all other areas of constraint as depicted by the DSTAP 2010. The red line of the site is situated approx. 100 metres to the NW of number 25 Annaghnaaboe Road, which is just a short distance to the East of the settlement of Clonoe.



The red line of the site encompasses the front portion of two long narrow fields sandwiched between numbers 23 and 19 Annaghnaaboe Road. The land rises gradually from the roadside north east to the rear south west. There is a mature low cropped native species hedgerow along the roadside boundary and a row of mature trees bounding the NW and SE sides. The rear boundary remains undefined. There is also a mature hedgerow splitting the middle of the site.





The dwelling to be replaced lies within blue land just to the South of the site to the rear of the applicants existing home. It is a small cottage with a tin roof, a storm porch, red brick chimney, green front door and 3 small windows on the front elevation. The building is fully intact however, it is evident it has been vacant for some years and has become a little overgrown with vegetation.



### Description of Proposal

The proposal seeks outline planning permission for an offsite replacement dwelling.

### Planning Assessment of Policy and Other Material Considerations

Assessment  
 Regional Development Strategy  
 Dungannon Area Plan (CAP) 2010  
 SPPS  
 PPS1  
 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 Area Plan 2010 (CAP) 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 CAP 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.

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.

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.

Planning Policy CTY 3 states;  
 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...

...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.

Assessment of CTY3;

The dwelling to be replaced exhibits the essential characteristics of a dwelling, (as can be seen from above photo) in that a chimney, a fireplace, windows and door openings and roof are all visible and all the walls are fully intact.

In this case the applicant has proposed an off-site replacement, locating the new dwelling in the field to the north west of the existing dwelling. The reason this off site position is sought is due to the nature of the existing positioned to the rear of two dwellings.



There is no obvious curtilage with the existing dwelling, but there is only a limited space between the dwelling to be replaced and the dwelling to the front, the applicant suggests that the alternative position proposed nearby is necessary as the plan future farm expansion to the ground to the South East.

My assessment would be that whilst the replacement on the existing footprint is to the rear of two existing dwellings, I feel that a small dwelling of similar size and scale to that being replaced would not have any demonstrable harm. There is also a small gap to the North West between the two existing roadside dwellings that could also accommodate the replacement.

Furthermore, I would also consider that the red line of the site, where the applicant seeks to position the proposed dwelling would constitute an important visual break and any further dwellings approved here would result in ribbon development.



Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development, in this case the proposes re positioning of the dwelling to the North would leading to ribboning and is therefore detrimental to the character, appearance and amenity of the countryside.

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. It is considered that the site is open and exposed and provides a significant visual break in the landscape, therefore a dwelling would struggle to blend in successfully with its immediate and wider surroundings.

In terms of policy CTY14 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. It is considered that the site and its surrounding environs are not suitable for absorbing a dwelling of any size or scale. A dwelling on this site would in my opinion result in a suburban style build-up of development and add to a ribbon of development.

Recommendation - Refusal.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
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#### Refusal Reasons

1. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed replacement dwelling is not sited within the established curtilage of the existing dwelling and it has not been shown that the alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	17th June 2020
<b>Date First Advertised</b>	30th June 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 19 Annaghnaboe Road, Coalisland, Tyrone, BT71 4QH The Owner/Occupier, 19 Annaghnaboe Road, Coalisland, Tyrone, BT71 4QH The Owner/Occupier, 19A Annaghnaboe Road, Coalisland, Tyrone, BT71 4QH The Owner/Occupier, 19b ,Annaghnaboe Road, Coalisland, Tyrone, BT71 4QH The Owner/Occupier, 20 Annaghnaboe Road, Coalisland, Tyrone, BT71 4QH The Owner/Occupier, 23 Annaghnaboe Road Coalisland Tyrone The Owner/Occupier, Caravan, 19a ,Annaghnaboe Road, Coalisland, Tyrone, BT71 4QH	
<b>Date of Last Neighbour Notification</b>	3rd July 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2020/0687/O Proposal: Proposed replacement dwelling & proposed detached garage Address: 110 Metres North West of 25 Annaghnaboe Road, Coalisland, Dungannon, BT71 4QH, Decision: Decision Date:  Ref ID: M/1994/0665 Proposal: Erection of Dwelling Address: ADJACENT TO 25 ANNAGHNABOE ROAD COALISLAND Decision: Decision Date:  Ref ID: M/1991/0254 Proposal: Erection of dwelling Address: ADJACENT TO 25 ANNAGHABOE ROAD COALISLAND	



Decision: Decision Date:  Ref ID: M/1973/0009 Proposal: 11KV O/H LINE Address: MEENAGH, DUNGANNON Decision: Decision Date:  Ref ID: M/1974/0531 Proposal: ERECTION OF SUBSIDY BUNGALOW Address: LOWER MEENAGH, COALISLAND Decision: Decision Date:
<b>Drawing Numbers and Title</b>
Drawing No. 02 Type: Housing Concept Plan Status: Submitted  Drawing No. 01 Type: Site Location Plan Status: Submitted
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:



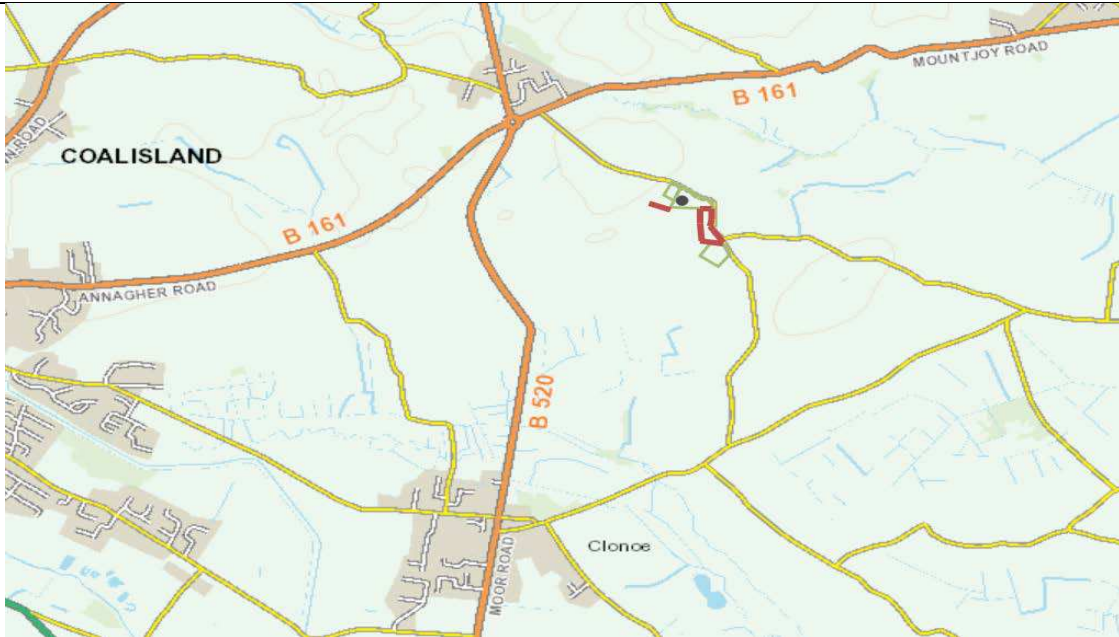
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0740/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed sites for 2No infill dwellings and garages	<b>Location:</b> Between No.23 & No 29A Cloghog Road Coalisland
<b>Referral Route:</b> Contrary to Policy	
<b>Recommendation:</b>	REFUSAL
<b>Applicant Name and Address:</b> Mr Conor Tennyson 39 Cloghog Road Coalisland BT71 5EH	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge Magherafelt BT41 3SG
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

None

### Characteristics of the Site and Area

The site lies within the open countryside outside all other areas of constraint as depicted by the DSTAP 2010. It is located a short distance to the North of the settlement of Clonoe, along the Cloghog Road, between numbers 23 and 29a.

The red line of the site encompasses two fields, directly south of number 23 Cloghog road and directly north of 29a Cloghog road.

The land rises very slightly from the roadside east to the rear west with a low cropped hedgerow bounding the site along the Cloghog road to the east. The site is also bounded on both ends north and south by a row of mature trees and hedgerow.



The site lies within a row of three dwellings and garages with frontages onto the Cloghog Road. The dwelling to the direct north includes a large two storey dwelling and significant garden. The dwelling to the rear is also a large two storey dwelling with a significant garden to the front. The site lies on the outside of a bend in the road and therefore visual linkage of the two existing dwellings is not strong.



### Description of Proposal

The proposal seeks full planning permission for two single storey dwellings and detached garages.

### Planning Assessment of Policy and Other Material Considerations

Regional Development Strategy

Dungannon Area Plan 2010

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

PPS 3: Access, Movement and Parking.

PPS 21: Sustainable Development in the Countryside.

- CTY8 - Ribbon Development

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 Area Plan 2010 (CAP) 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 CAP 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.

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.

**Key Policy Consideration:**

Strategic Planning Policy Statement- SPPS advises that the policy provisions of PPS21 Sustainable Development in the Countryside are retained.

PPS21- sustainable development in the countryside

The overarching policy for development in the countryside is PPS21. 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 Development in the Countryside. The applicant has provided a case that the site represents a gap site within an existing built up frontage therefore will be assessed against policy CTY 8 Ribbon Development.

In considering Policy CTY8- Ribbon Development it states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental criteria. For the purposes of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

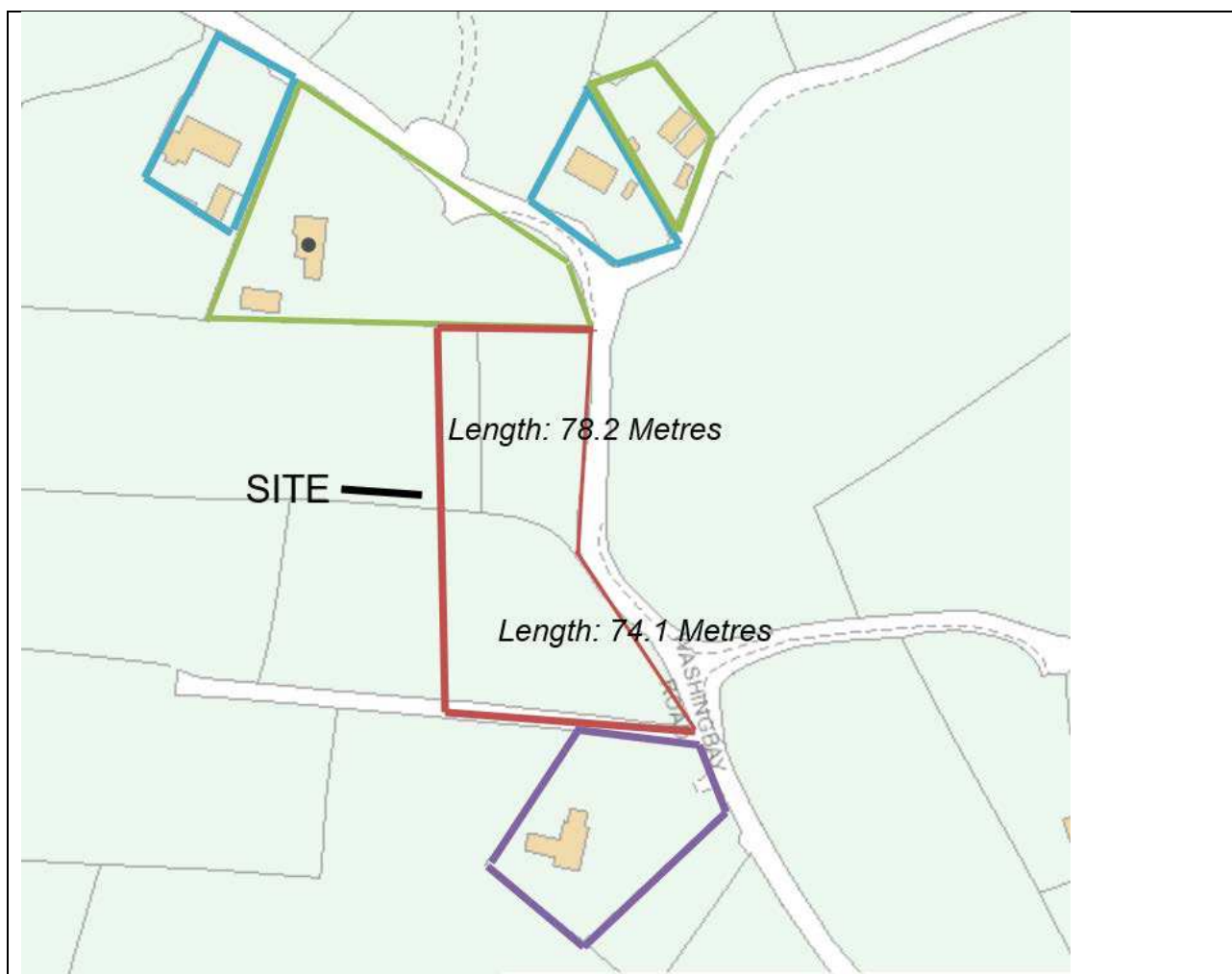
The site falls between two dwellings and garages to the North West, and a further dwelling to the south east.

There is a gap of approx. 150 metres along the site frontage, which is excessive, the existing plot sizes along this Road would generally range between 25 and 40 metres, with the exception of the corner site to the north which has an exceptionally large frontage.

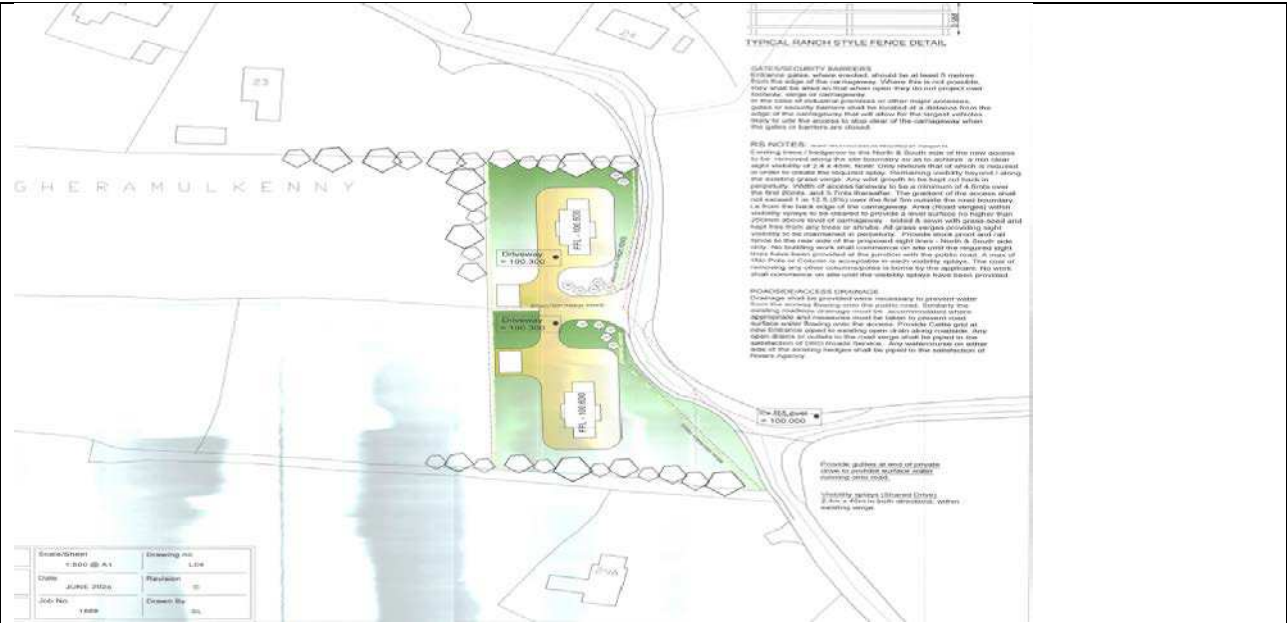
It is clear that a gap of over 150 metres site frontage is be out of character for the area.  
It is my opinion that this site is therefore sufficient to accommodate a lot more than 2 dwellings.

Policy CTY8 is not met.





Development in the countryside is also required to integrate under the provisions of policy CTY13. The proposed site is relatively low lying and has a low level of vegetation cover. The proposal seeks permission for two dwellings with a ridge of 5.5 metres. Upon site inspection it was evident that there were buildings of a similar height and larger within the surroundings.



The addition of two more dwelling, located on this particular plot, in my view will have a detrimental impact on the rural character as it will be extending the existing ribbon of development along a site which I consider to represent a significant visual break in the landscape. In my view CTY 14 of PPS21 is not met.

Other Policy and Material Considerations

Transport NI have no objections to this proposal subject conditions.

Recommendation refuse.

Neighbour Notification Checked      Yes

Refusal Reasons

- 1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- 2. The proposal is contrary to Policy 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 and add to a ribbon of development, therefore resulting in a detrimental change to the rural character of the countryside.

Signature(s)

Date:



<b>ANNEX</b>	
<b>Date Valid</b>	25th June 2020
<b>Date First Advertised</b>	7th July 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 21 Cloghog Road Coalisland Tyrone The Owner/Occupier, 23 Cloghog Road Coalisland Tyrone The Owner/Occupier, 24 Cloghog Road Coalisland Tyrone The Owner/Occupier, 29a Cloghog Road Coalisland	
<b>Date of Last Neighbour Notification</b>	24th July 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2020/0740/F Proposal: Proposed sites for 2No infill dwellings and garages Address: Between No.23 & No 29A Cloghog Road, Coalisland, Decision: Decision Date:  Ref ID: M/2002/0597/RM Proposal: Erection of dwelling and detached domestic garage. Address: Land 80m west of 24 Cloghog Road, Coalisland. Decision: Decision Date: 20.09.2002  Ref ID: M/2003/0207/F Proposal: Extension to dwelling Address: 80m west of 24 cloghog Road, Coalisland Decision: Decision Date: 07.05.2003  Ref ID: M/2001/0028/O Proposal: Site for dwelling. Address: Land 80m west of 24 Cloghog Road, Coalisland. Decision:	

Decision Date: 16.11.2001

Ref ID: M/1996/0330

Proposal: Site for dwelling

Address: ADJACENT TO NO. 21 CLOGHOG ROAD, MAGHERAMULKENNY,  
COALISLAND

Decision:

Decision Date:

Ref ID: M/1991/6078

Proposal: 2 No Sites Washingbay Road Coalisland

Address: Washingbay Road Coalisland

Decision:

Decision Date:

### **Drawing Numbers and Title**

Drawing No. 03

Type: Site Appraisal or Analysis

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 07

Type: Housing Concept Plan

Status: Submitted

Drawing No. 06

Type: Proposed Plans

Status: Submitted

Drawing No. 05

Type: Proposed Plans

Status: Submitted

Drawing No. 04

Type: Proposed Plans

Status: Submitted

### **Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0775/O	<b>Target Date:</b>
<b>Proposal:</b> Construction of detached dwelling and detached garage on gap site	<b>Location:</b> West of 16 Drumnacannon Road Upperlands Maghera BT46 5TD
<b>Referral Route:</b>  Approval - To Committee – Agent's spouse works for the Planning Department in Mid Ulster District Council.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mr K McKinley 16 Drumnacannon Road Upperlands Maghera BT46 5TD	<b>Agent Name and Address:</b> Gordon Arbuthnot 6 Culnady Road Upperlands Maghera BT46 5TX
<b>Executive Summary: Approval</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

Approval - To Committee – Agent's spouse works for the Planning Department in Mid Ulster District Council.

### Characteristics of the Site and Area

The proposed site is located approximately 0.8km north west of the settlement limits of Tamlaght, in which the site is located within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as west of 16 Drumnacannon Road, Upperlands, in which the red line covers an agricultural field. I note that the agricultural field is bounded by mix of mature trees and hedging on all boundaries. The proposed site is currently accessed via an existing agricultural field gate however this is to be upgraded with access directly off the Drumnacannon Road. I note that the immediate and surrounding area are predominately agricultural land uses with a scattering of residential dwellings.

#### Representations

Three neighbour notifications were sent out however no representations were received.

**Description of Proposal**

This is an outline application for the construction of detached dwelling and detached garage on gap site, the site is located west of 16 Drumnacannon Road, Upperlands.

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

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

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 8 - Ribbon Development

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

CTY14 - Rural Character

PPS 3 - Access, Movement and Parking;

The application is for a dwelling to be considered under CTY 8. The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

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

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

With regards to the continuous and built up frontage, I note that to east sits a detached dwelling (No. 16) and to the west sits a detached dwelling (No.14), garage and shed all fronting onto the Drumnacannon Road. With this in mind, I am content that these buildings are able to constitute as a continuous and built up frontage. With regards to the gap, I am content that the gap between No. 14 and 16 is able to accommodate no more than two dwellings, I note that only one dwelling has been applied for in this case. From such, I am content on balance that this application complies under CTY 8.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore no design details have been submitted however I am of the opinion that an appropriately designed dwelling will not appear prominent in the landscape. I note that as much of the existing landscaping should be retained as possible and supplemented with additional landscaping where necessary. Therefore a landscaping scheme will be required in any 'Reserved Matters' application. Finally given the site, landform and surrounding development I feel it necessary to restrict the ridge height to be no more than 6m above finished floor level. From this I am content that the application is able to comply with CTY 13.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not appear prominent in the landscape wherein it will still be able to respect the pattern of development in the area. I am content on balance that this proposed application will not unduly change the character of the area. On a whole I am content that the proposed development complies with CTY 14.

Other policy and material considerations

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and in their response confirmed that they were content subject conditions and informatives.

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.

I have no flooding or residential amenity concerns.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approve

Conditions:

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

ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

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

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

3. The proposed dwelling shall exhibit the traditional elements of rural design particularly in form, proportion and finishes, as set out in the Department of Environment's Sustainable Design guide for the Northern Ireland countryside, 'Building on Tradition'.

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

4. The proposed dwelling shall have a ridge height of less than 6 metres above the finished floor level of the site and a low angle of roof pitch not exceeding 40 degrees.

Reason: To ensure that the development is not prominent and satisfactorily integrated into the landscape.

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

Reason: In the interest of visual amenity.

6. 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.

Reason: To ensure the dwelling integrates into the landform.

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

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

8. 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.

9. 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.

10. 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.

#### Informatives

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

2.This permission authorises only private domestic use of the proposed garage and does not confer approval on the carrying out of trade or business there from.

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

4. This determination relates to planning control only and does not cover any 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.

5. The applicant's attention is drawn to form RS1 and the statement regarding an accurate, maximum 1:500 scale survey which must be submitted as part of the Reserved Matters application.

**Signature(s)**

**Date:**



ANNEX	
<b>Date Valid</b>	2nd July 2020
<b>Date First Advertised</b>	14th July 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 13 Drumnacanon Road, Upperlands, Maghera, Londonderry, BT46 5TD The Owner/Occupier, 14 Drumnacanon Road Maghera Londonderry The Owner/Occupier, 20 Drumnacanon Road Upperlands Maghera	
<b>Date of Last Neighbour Notification</b>	31st July 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/0775/O Proposal: Construction of detached dwelling and detached garage on gap site Address: West of 16 Drumnacannon Road, Upperlands, Maghera, BT46 5TD, Decision: Decision Date:  Ref ID: H/1976/0003 Proposal: SUBSIDY BUNGALOW WITH GARAGES Address: STATION ROAD, CASTLEDAWSON Decision: Decision Date:  Ref ID: H/1976/0102 Proposal: 11KV AND MV O/H LINES AND SURFACE WIRING (C.8209) Address: DRUMNACANNON AND KILLYMUCK GLEBE, MAGHERAFELT Decision: Decision Date:  Ref ID: H/2000/0587/O Proposal: Site of dwelling and garage Address: Approx. 180m West of 20 Drumnacanon Road, Upperlands Decision: Decision Date: 04.05.2001	

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



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

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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0783/F	<b>Target Date:</b>
<b>Proposal:</b> Removal of Condition 4 of outline approval LA09/2019/1004/O (farmhouse & garage)	<b>Location:</b> Approx 170m South of 71 Back Lower Road Killycolpy Dungannon
<b>Referral Route: Refusal</b>	
<b>Recommendation: Refuse</b>	
<b>Applicant Name and Address:</b> Mr Plunkett Teague 68 Back Lower Road Killycolpy Dungannon	<b>Agent Name and Address:</b> McSorley Cad Solutions 20 Roscavey Road Beragh Sixmilecross BT79 0GH
<b>Executive Summary:</b> Removal of Condition 4 (siting condition) of outline approval LA09/2019/1004/O (Dwelling and garage approved under CTY 10 of PPS21 Dwellings on Farms'). Applicant seeks to site dwelling and garage further South West of the area conditioned to allow for farm expansion between the existing buildings on the farm and proposed re-sited dwelling.  Re-siting not considered to meet Criterion (3) of CTY 10 that new buildings must visually link or site to cluster with an established group of buildings on the farm.  Additionally, this proposal does not merit being considered an exception within policy in that whilst requested it has not been demonstrated that verifiable plans exist to expand the farm business at the existing building group; or health and safety reasons exist.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
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#### Representations:

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

#### Description of Proposal

This is a full planning application to removal condition no. 4 of outline planning approval LA09/2019/1004/O.

LA09/2019/1004/O – farm house and garage to be located on lands approx. 170m South of 71 Back Lower Road Killycolpy Dungannon – granted 9<sup>th</sup> October 2019

Condition no. 4 stated: The proposed dwelling and its curtilage shall be sited within the area shaded green on approved drawing no. 01 bearing the date stamp received 24 JUL 2019. Reason: In the interest of visual amenity.

The above siting condition was attached to the previous application so a dwelling on site would comply with the provisions

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

There does not appear to be any significant changes on site or in the immediate vicinity from the outline application on site, as such the characteristics of the site and area remain as per LA09/2019/1004/O.

The site is located in the rural countryside as defined by the Cookstown Area Plan 2010, approx. 4km south of Ardboe and approx. 550m west of Lough Neagh.

The site comprises a relatively flat agricultural field located adjacent and to the outside of a right-angled bend in the Backlower Road. Within and adjacent both the northern boundary of the site and roadside are a couple of small low ridge (approx. 2½ m) farm buildings with block walls and corrugated metal sheeting to their roofs.

The site is bound by a mix of mature hedgerows and vegetation. The site is accessed off Backlower Road via an existing agricultural access and gate located just to the south side of the existing buildings on site.

Views into this on both the western and northern approach along the BackLower Road and when passing its roadside frontage relatively limited to passing its agricultural access off the road. This is due to its location at a bend in the road; the topography of the area; and existing vegetation along its boundaries, the roadside and within wider vicinity.

The surrounding area is predominantly flat agricultural land located on the shores of Lough Neagh, interspersed with single dwellings and farm groups however a cluster of residential development exists at another right angled bend in the Backlower Road just to the west of the site.

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

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

### **The following documents provide the primary policy context and guidance for the determination of this application:**

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Cookstown Area Plan 2010

Planning Policy Statement 2: Natural Heritage

Planning Policy Statement 3: Access, Movement and Parking  
Development Control Advice Note 15: Vehicular Standards  
Planning Policy Statement 15 (Revised): Planning and Flood Risk  
Planning Policy Statement 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. 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.

### **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.

### **History on Site**

LA09/2019/1004/O – Farm house and garage to be located on lands approx. 170m South of 71 Back Lower Road Killycolpy Dungannon – Granted 9<sup>th</sup> October 2019

### **Consultees**

None applicable

**Cookstown Area Plan 2010** – the site lies in the rural countryside outside any designated settlement.

**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** 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 instances are listed in Policy CTY1 of PPS21 'Development in the Countryside' and include dwellings on farms in accordance with Policy CTY 10 of PPS 21 'Dwellings on Farms'.

I am content that planning permission was granted for a dwelling on this site under LA09/2019/1004/O under Policy CTY 10 of PPS 21 and therefore the principle of development has already been established on this site.

This application seeks solely to remove condition 4 of LA09/2019/1004/O, which states: 'The proposed dwelling and its curtilage shall be sited within the area shaded green on approved drawing no. 01 bearing the date stamp received 24 JUL 2019 (see Fig 1: below).

Reason: In the interest of visual amenity.'

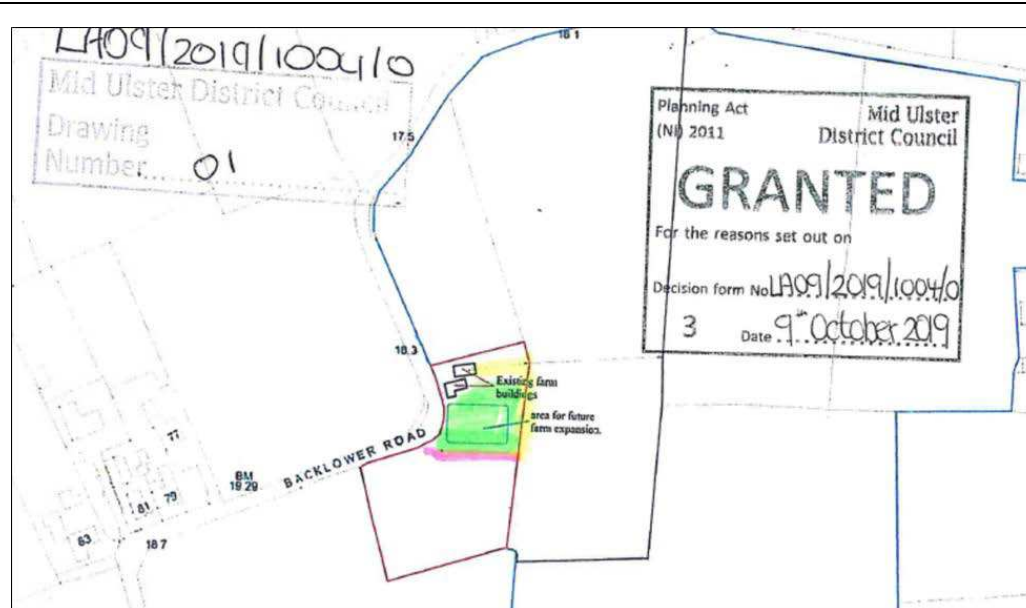


Fig 1: Approved Drawing No. 01

The applicant's agent submitted a cover letter alongside this application outlining:

- they felt the area shaded green was more suited to the development of the existing farm sheds on site; and
- the dwelling should be sited further south west, as per Initial Concept Drawing No. 02 received 2 JUL 2020 (see Fig 2: below). This arrangement would allow (existing & potential) farm buildings to be kept together rather than to both sides of the dwelling therefore reducing danger of cattle and machinery all around the house.

The letter concludes, they hope, Planning will take this farm safety issue and the fact that the part of the site they propose to site within offers less exposure due to the existence of mature hedges and trees into consideration and look favourably upon this application.

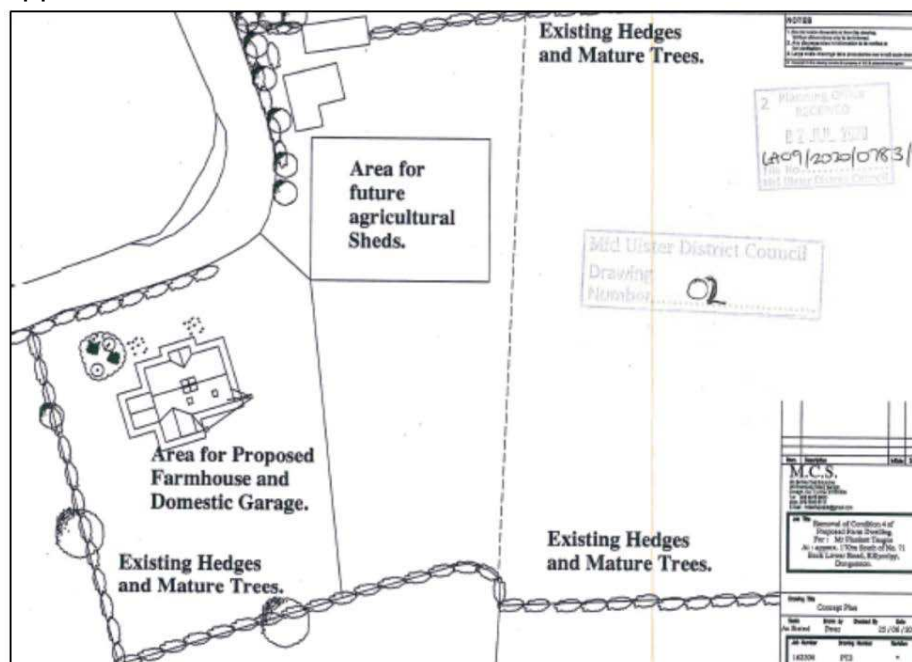


Fig 2: Initial Concept Drawing No. 02



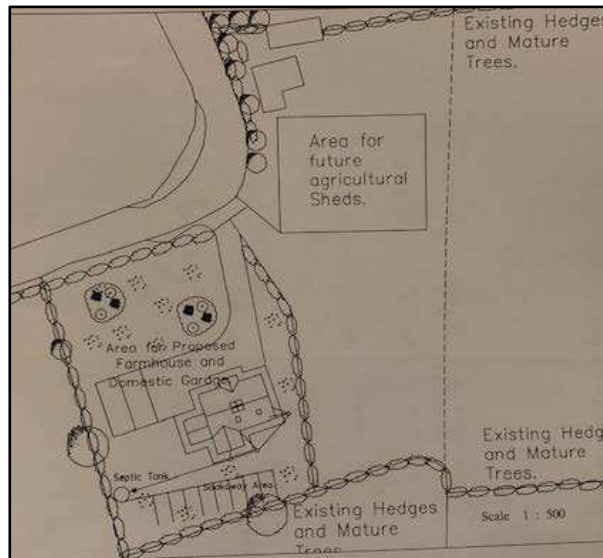


Fig 3: Concept Drawing No. 03

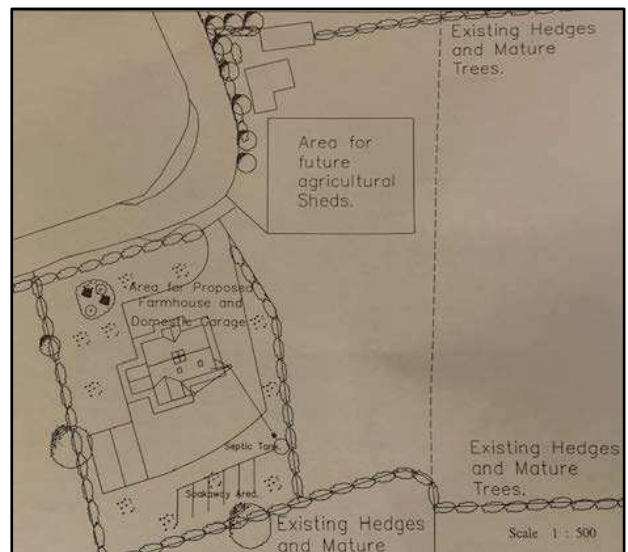


Fig 4: Concept Drawing No. 04

Having dealt with the outline application on this site I considered the siting area conditioned and attached to the subsequent decision notice (Fig 1) necessary to cluster the proposed farm dwelling with the existing farm buildings so they visually link and meet the requirements of Criterion (3) of CTY 10.

Criterion (3) of CTY 10 outlines the new buildings must visually link or site 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:

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

Having considered the initial concept plan and subsequent revisions, concept drawing nos. 03 and 04 (Fig 3 & 4 above) received 10<sup>th</sup> and 29<sup>th</sup> September 2020 respectively, to site the dwelling in the southwest part of the site I am not content it would visually link or cluster with the existing farm buildings. Views into this site on both the western and northern approach along the BackLower Road and when passing its roadside frontage are relatively limited to passing its agricultural access off the road. This is due to its location at a bend in the road; the topography of the area; and existing vegetation along its boundaries, the roadside and within wider vicinity. From these views I believe the dwelling sited as proposed and farm buildings would not read together, on the western approach the dwelling then considerable gap will be passed before viewing the modest overgrown farm buildings and vice versa the farm building then gap site before dwelling on the northern approach.

Furthermore, whilst the applicant / agent has stated the area conditioned for the proposed dwelling and its curtilage would be better suited to the development of the existing farm sheds on site and future sheds, verifiable plans to expand the farm business at the existing buildings have been requested by email (25<sup>th</sup> September 2020) and not provided. There no extant or current Planning Applications or Certificate of Lawfulness Applications for the expansion of the farm business at the existing building



group. And given the condition of the existing buildings rather than develop the area conditioned for the proposed dwelling for future sheds as stated it would be better replacing the existing buildings.

I am not content this proposal meets the requirements of Criterion (3) of CTY 10 and in the absence of verifiable plans for future expansion and demonstrable health and safety reasons for the proposed siting, see no reason why the applicant cannot site as approved.

Additional considerations

**Case Officer Recommendation – Refuse**

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

Refuse

**Reasons for Refusal:**

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated verifiable plans exist to expand the farm business at the existing building group to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm; or health and safety reasons exist to justify an alternative site.

**Signature(s)**

**Date:**



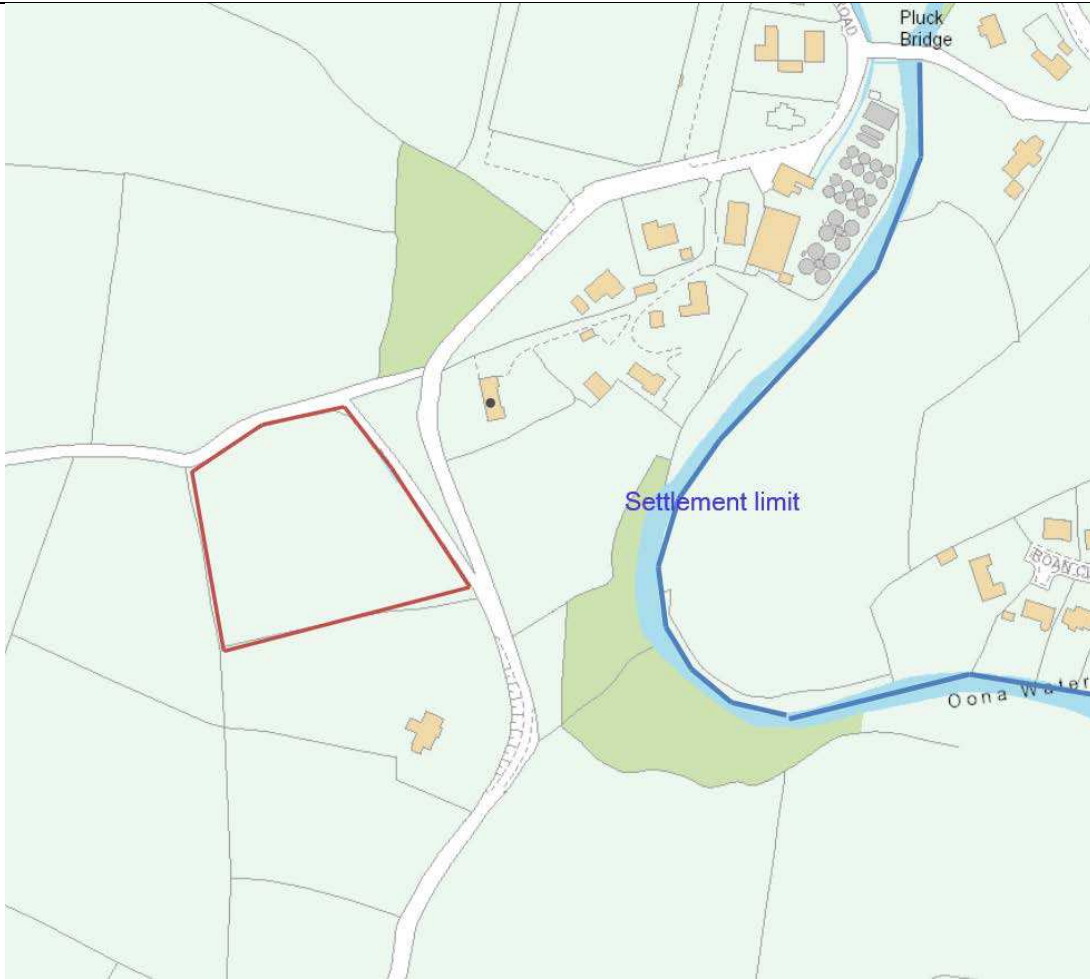
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
 District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0790/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and detached double garage with storage above	<b>Location:</b> Approximately 50 metres South West of 50 Cadian Road Eglish Dungannon
<b>Referral Route:</b> Contrary to policy	
<b>Recommendation:</b>	refuse
<b>Applicant Name and Address:</b> Ryan Muldoon 31 Carrowcolman Road Eglish Dungannon BT70 1LF	<b>Agent Name and Address:</b> Colm Muldoon 31 Carrowcolman Road Eglish Dungannon BT70 1LF
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

None

### Characteristics of the Site and Area

The site lies in the open countryside just outside the settlement limits of Eglishe and outside all other areas of constraint.

The red line of the site depicts a large agricultural field on raised ground above the Cadian Road. The site rises from the East to the West and is accessed via a small narrow laneway off the Cadian Road which rises steeply along the site front (East) and along the side (North).



The site is bounded on all sides by thick mature trees with the only access a small agricultural gateway in the NW corner.



**Description of Proposal**

The proposal seeks outline planning permission for a dwelling, double garage and store.

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

PPS 1 General Principles  
 PPS 3 Access, Movement and Parking  
 PPS 21 Sustainable Development in the Countryside  
 SPPS  
 CTY 1 - Development in the Countryside  
 CTY 2a  
 CTY 8 - Ribbon Development  
 CTY 13 - Integration and Design of Buildings in the Countryside  
 CTY 14 - Rural Character

**History**

M/1994/0341/F - Approval for a dwelling. - GRANTED

The applicant has not provided any case of need for a dwelling on this site or justification as to why it could not be located within the settlement limits.

It does not represent a dwelling in a cluster (cty2a), there is no dwelling to replace (cty3), it cannot be considered an infill opportunity (cty8) and no farming case has been provided (cty10). The applicant was basing his application on the basis that there was a previous approval granted some 25 years ago. However, this permission has lapsed and the permission was never started.

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. It is considered that a dwelling could blend in successfully with its immediate and wider surroundings if it were of a size and scale that is comparable to the dwellings in the vicinity. I have no concerns regarding integration.

In terms of policy CTY14 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. It is considered that a dwelling on this site would not respect the traditional pattern of settlement.

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.

Recommendation Refusal.

**Neighbour Notification Checked**

**Yes**

**Refusal Reasons**

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	3rd July 2020
<b>Date First Advertised</b>	14th July 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 50 Cadian Road,Dungannon,Tyrone,BT70 1LY The Owner/Occupier, 55 Cadian Road,Dungannon,Tyrone,BT70 1LY	
<b>Date of Last Neighbour Notification</b>	5th August 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2020/0790/O Proposal: Proposed dwelling and detached double garage with storage above Address: Approximately 50 metres South West of 50 Cadian Road, Eglish, Dungannon, Decision: Decision Date:  Ref ID: M/2003/1570/O Proposal: Proposed dwelling Address: Opposite 49 Cadian Road, Eglish, Dungannon Decision: Decision Date: 29.06.2004  Ref ID: M/1974/0244 Proposal: ERECTION OF BUNGALOW Address: BROSSLOY, EGLISH, DUNGANNON Decision: Decision Date:  Ref ID: M/1994/0341 Proposal: Site for dwelling Address: APPROX 250M NORTH EAST OF NO 49 CADIAN ROAD EGLISH DUNGANNON. Decision: Decision Date:  Ref ID: M/2005/2112/F	

Proposal: Proposed dwelling house  
 Address: Adjacent to 47 Cadian Road, Dungannon  
 Decision:  
 Decision Date: 02.03.2006

Ref ID: M/2008/0473/F  
 Proposal: Proposed change of house type to provide additional ground floor sun room to previously approved replacement dwelling- M/2006/1269/RM  
 Address: 49 Cadian Road, Eglish, Dungannon  
 Decision:  
 Decision Date: 13.06.2008

Ref ID: M/2003/0327/O  
 Proposal: Proposed replacement dwelling  
 Address: 49 Cadian Road, Eglish, Dungannon  
 Decision:  
 Decision Date: 06.05.2003

Ref ID: M/2006/1269/RM  
 Proposal: Replacement dwelling  
 Address: 49 Cadian Road, Eglish, Dungannon  
 Decision:  
 Decision Date: 20.06.2006

Ref ID: M/1992/0217B  
 Proposal: Erection of Dwelling  
 Address: ADJACENT TO 49 CADIAN ROAD BENBURB  
 Decision:  
 Decision Date:

Ref ID: M/1998/0594  
 Proposal: Site for dwelling  
 Address: 70M NORTH OF 51 CADIAN ROAD EGLISH DUNGANNON  
 Decision:  
 Decision Date:

#### **Drawing Numbers and Title**

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

#### **Notification to Department (if relevant)**

Date of Notification to Department:  
 Response of Department:





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0801/O	<b>Target Date:</b>
<b>Proposal:</b> Dwelling & detached domestic garage	<b>Location:</b> Site adj to & South of 19 Ballymaguigan Road Magherafelt
<b>Referral Route:</b>  Refusal - To Committee – Contrary to CTY 1, 8 and 14 of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Niamh Young 22 Lough Road Ballymaguigan Magherafelt BT45 6LE	<b>Agent Name and Address:</b> E C Birt 72 Main Street Toomebridge BT42 3NJ
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

Refusal - To Committee - Application has failed under CTY 1 and 8 of PPS 21.

### Characteristics of the Site and Area

This site is located approximately 0.7km south east of the development limits of Gracefield, in which the site is located within the open countryside as per the Magherafelt Area Plan 2015. The site comprises a flat rectangular shaped plot which is defined by a Leylandii hedgerow 5 m in height along its western boundary, mixed bushes approximate 3m in height along southern our dry with scattered trees, eastern boundary is undefined and northern roadside boundary consists of a row of trees 5-6m in height. There is a 2m roadside verges along the site frontage

#### Relevant planning history

H/2014/0302/F - Erection of dwelling and detached garage in a gap site with associated access and landscaping - Land adjacent to and south east of 19 Ballymaguigan Road Magherafelt BT45 6LE - Permission Granted - 05.11.2014

H/2010/0303/O - Proposed dwelling in a gap site. - Land adjacent to and south east of 19 Ballymaguigan Road, Ballymaguigan - Permission granted - 30.12.2010

**Representations**

Four neighbour notifications were sent out however no representations were received.

**Description of Proposal**

This is an outline application for a dwelling & detached domestic garage located site adj. to & South of 19 Ballymaguigan Road, Magherafelt.

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

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

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 8 - Ribbon Development

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

CTY14 - Rural Character

PPS 3 - Access, Movement and Parking;

The application is for a dwelling to be considered under CTY 8. The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

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

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

I first note that there is a history on the site, with previous approvals H/2014/0302/F and H/2010/0303/O, which have been approved under CTY 8 but have both unfortunately expired and neither appear to have been started within time.

With regards to the continuous and built up frontage, I note that to the west sits two detached dwellings both with associated garages. I note that to the east that the applicant is relying on what is noted No. 19b, however upon site inspection that No.19b is not constructed in that it only appears to have footings dug out. With this in mind I am of the opinion that this cannot be counted towards the built up frontage. I note that there are two other dwellings further east approximately 155m away and not read as part of the built up frontage. With this in mind, I do not hold the opinion that there is even a gap site within a built up and continuous frontage as a result and the application would fail under CTY 8 as it would extend the ribbon of development along the Ballymaguigan Road.

I note that this was relayed to the applicants agent who referred back to the history on the site, I note that this was discussed at group. It was agreed that whilst the policy itself has not changed it is the interpretation of the policy that has changed. Back in 2010, it was allowed that approved development mainly that of No.19b whether built or not to constitute as part of the built up frontage. It is felt that ample time has been passed for No. 19b to be further developed and built and for this reason does not constitute as a part of the built up frontage anymore.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore no design details have been submitted however I am of the opinion that an appropriately designed dwelling will not appear prominent in the landscape. I note that as much of the existing landscaping should be retained as possible and supplemented with additional landscaping where necessary. Therefore a landscaping scheme will be required in any 'Reserved Matters' application. Finally given the site, landform and surrounding development I feel it necessary to restrict the ridge height to be no more than 6.5m above finished floor level. From this I am content that the application is able to comply with CTY 13.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not appear prominent in the landscape. I am content that the development would not lead to a sub-urban style build-up of development when viewed with existing and approved development. I am content that the ancillary works would not damage rural character. As noted above if approved this application would result in the addition of a ribbon of development along the Ballymaguigan Road, in which this would adversely change the rural character of the area as a result. From this, it would fail under CTY 14.

Other policy and material considerations

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and in their response confirmed that they were content subject conditions and informatives.

I note that no other case have been put forward to the Council, in that the site is not a valid farm site, cluster, for social housing, no domestic and personal circumstances have

been submitted, the site isn't in a DRC, there is no valid replacement or conversion on site and it is not for a non-agricultural business enterprise.

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.

I have no flooding or residential amenity concerns.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

**Refusal Reasons**

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

2.The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is no valid gap site and that the proposal would, if permitted, result in the addition of ribbon development along Ballymaguigan Road.

3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	8th July 2020
<b>Date First Advertised</b>	21st July 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 17 Ballymaguigan Road Magherafelt Londonderry The Owner/Occupier, 18 Ballymaguigan Road Magherafelt Londonderry The Owner/Occupier, 19 Ballymaguigan Road Magherafelt Londonderry The Owner/Occupier, 19b Ballymaguigan Road Magherafelt	
<b>Date of Last Neighbour Notification</b>	31st July 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/0801/O Proposal: Dwelling & detached domestic garage Address: Site adj to & South of 19 Ballymaguigan Road, Magherafelt, Decision: Decision Date:  Ref ID: H/1986/0243 Proposal: BUNGALOW Address: BALLYMAGUIGAN ROAD, MAGHERAFELT Decision: Decision Date:  Ref ID: H/2003/1018/O Proposal: Site of dwelling and garage. Address: Approx 90m South East of 19 Ballymaguigan Road, Magherafelt. Decision: Decision Date: 17.06.2004  Ref ID: H/2001/0787/Q Proposal: Site Of Dwelling Address: Adjacent To 19 Ballymaguigan Road, Magherafelt. Decision:	

Decision Date:

Ref ID: H/1988/0307

Proposal: SITE OF DWELLING AND GARAGE

Address: 70M SE OF NO 17 BALLYMAGUIGAN ROAD BALLYMAGUIGAN  
MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2003/0932/O

Proposal: Site of dwelling and garage.

Address: 50m South East of 19 Ballymaguigan Road, Magherafelt.

Decision:

Decision Date: 16.09.2004

Ref ID: H/2010/0303/O

Proposal: Proposed dwelling in a gap site.

Address: Land adjacent to and south east of 19 Ballymaguigan Road, Ballymaguigan

Decision:

Decision Date: 30.12.2010

Ref ID: H/1986/024301

Proposal: SITE OF BUNGALOW

Address: BALLYMAGUIGAN ROAD, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2014/0302/F

Proposal: Erection of dwelling and detached garage in a gap site with associated access and landscaping

Address: Land adjacent to and south east of 19 Ballymaguigan Road Magherafelt BT45 6LE,

Decision: PG

Decision Date: 05.11.2014

### Summary of Consultee Responses

### Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:





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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0804/O	<b>Target Date:</b> 21/10/20
<b>Proposal:</b> Proposed two storey dwelling & domestic garage	<b>Location:</b> Lands 350m South of 293 Pomeroy Road Lurganeden Pomeroy
<b>Referral Route:</b>  Recommended refusal	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Ben Sinnamon 18 Torrent Glen Main Street Castlecaulfield	<b>Agent Name and Address:</b> McKeown & Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b> Proposal considered against prevailing planning policy – considered the proposal fails to comply with Policy CTY10 (c) and CTY 13. No objections received.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Characteristics of the Site and Area

The application site is located outside the development limits of any settlement defined in the Cookstown Area Plan 2010. The application comprises a rectangular portion of a large agricultural field, the topography of which is relatively flat and at a similar level to the public road. The area is rural in character with low development pressure with the predominant form of development being single dwellings and agricultural buildings. The settlement of Pomeroy lies approximately 3.2km northwest of the site.

The site is currently accessed via an agricultural field on to Lurganeden Lane, however the field also has frontage on Pomeroy Road. A concrete laneway which appears to be used for agricultural purposes runs along the eastern boundary. The eastern and southern boundary are defined by an established low hedge, approximately 1 metre high. The western boundary is well defined by mature trees and the northern boundary is currently undefined.

**Description of Proposal**

This is an outline planning application for a two storey dwelling and domestic garage to be located on lands 350m South of 293 Pomeroy Road, Lurganeden, Pomeroy.

The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 10 Dwelling on a Farm.

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

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

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

Regional Development Strategy 2030  
Strategic Planning Policy Statement for Northern Ireland  
Cookstown Area Plan 2010  
Planning Policy Statement 3: Access, Movement and Parking  
PPS 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. 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.

**Representations**

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

**History on Site**

No Relevant Planning History.

**Key Policy Considerations/Assessment**

Cookstown Area Plan 2010 – the site lies in the rural countryside outside any designated settlement with no other specific designations or zonings.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining all planning applications. 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. There is no conflict between the SPPS and the relevant planning policy to consider this planning application.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside –

PPS21 is the overarching policy for development in the countryside. Policy CTY 1 outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. The current proposal falls under one of these instances, the development of a dwelling on a farm in accordance with Policy CTY10 – Dwellings on Farms.

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
- 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:
  - demonstrable health and safety reasons; or
  - 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 the business ID has been in existence for more than 6 years and claims have been made on the lands. I am content the farm holding has been established for at least 6 years and is currently active.

With respect to (b) there are no records indicating that any dwellings or development opportunities out with the settlement limits have been sold off from the farm holding within 10 years of the date of this application.

With respect to (c), the proposal is not located in proximity to established farm buildings. It should be noted that the farm holding northeast of the application site is not in the applicants ownership or part of his farm business. Following an inspection of the farm maps it was identified that an established group of farm buildings are located approximately 0.6km west of the application site as the crow flies, located on the Lurganeden Road. The agent submitted a supplementary report providing justification for the proposed siting; this report contained sensitive information therefore was not uploaded on to the planning portal. The supplementary report was considered however did not provide site-specific justification for the proposed siting to warrant an exception under Policy CTY10. I relayed this to the agent and he responded relying on Paragraph 5.41 of PPS21 and in particular the below sentence –

*If however, the existing building group is well landscaped, or where a site adjacent to the building group is well landscaped 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.*

The agent has argued that the application site and the existing farm holding on Lurganeden Road are separated by the existence of dense forestation and landscaping at both locations so any impact to the landscape would be negligible. He argues if the

application site were to be approved it would not be seen as being detached from the farm group as the existing farm holding is not open to public views.

Paragraph 5.41 states dwellings should be positioned sensitively with an established group of buildings on the farm to help minimise impact on the character and appearance of the landscape. The application site is separated from the farm holding by two public roads and a densely forested portion of land, therefore the visual linkage is non-existent, not only due to the amount of screening but by physical distance. I accept that the existing farm holding is set back from the public road, however I do not consider it has no public views from any vantage point. Therefore, I do not consider this is acceptable justification for not siting with the existing farm buildings. In my opinion, the arguments presented would not warrant an exception to prevailing policy. The farm business has existing farm buildings; however the proposal seeks permission for a farm dwelling in a green field with no farm buildings in proximity to aid integration. The justification for positioning of farm dwellings with established farm buildings under CTY10 is to minimise impact on the character and appearance of the surrounding landscape of the proposal site. Whilst it is considered the proposal site is well integrated and could accommodate a dwelling without detrimentally impacting rural character, the proposal fails to meet with the requirements of criterion c and therefore is contrary to CTY 10. No demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building groups have been presented. In this instance, I do not consider there are any overriding reasons or material considerations which outweigh the policy criteria of CTY10.

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. There is existing, established vegetation along the east, west and southern boundaries of the proposal site. However the site comprises a cut out of a larger agricultural field with no backdrop to assist integration or provide enclosure. Policy CTY13 states a new building will be unacceptable in the case of a proposed dwelling on a farm where it is not visually linked or sited to cluster with an established group of buildings on a farm. Therefore, I consider the proposal is contrary to Policy CTY 13.

In terms of policy CTY14, 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. The proposal seeks planning permission for a two storey dwelling. Given the established, mature trees and vegetation present along the Pomeroy Road, there are no long-term critical views of the site. As the topography of the land is relatively flat and the site is well screened, I consider a two storey dwelling could be accommodated without appearing unduly prominent in this rural landscape. It is considered that the site and the surrounding environment is capable of absorbing a dwelling without significant impact on rural character and will not result in a suburban style build-up of development, therefore the proposal complies with Policy CTY14.

Planning Policy Statement 3: Access, Movement and Parking - It is considered the proposal complies with PPS 3 in that will not prejudice road safety or significantly inconvenience the flow of traffic. The application site will require a new vehicular access onto the minor Road, Lurganeden Lane. DfI Roads have been consulted and have offered no objections, subject to conditions.

**Additional considerations**

It was identified the proposal site is in proximity to an IPRI site. NIEA were consulted and offered no objections, providing standing advice and informatives should the application be approved. No built heritage assets or interests of significance have been identified on site or nearby.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

The proposal is recommended for refusal, as it does not comply with CTY10 and CTY 13 of Planning Policy Statement 21.

**Reasons for Refusal:**

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.
2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside, and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm and no exceptional case has been presented which would justify an alternative site elsewhere on the farm.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and would not visually integrate into the surrounding landscape.

**Signature(s)**

**Date:**



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

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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 03/11/2020	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0841/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed Site for a Dwelling and Domestic Garage: Based on Policy CTY 8	<b>Location:</b> Approx 45 Meters West of No.59 Lurgaboy Lane Dungannon BT71 6JX
<b>Referral Route:</b> <ol style="list-style-type: none"><li>1. The proposal is contrary to CTY 1 in Planning Policy Statement 21 in that there is no overriding reasons why the development is essential and could not be located within a settlement.</li><li>2. The proposal is contrary to CTY 8 – Ribbon Development of Planning Policy Statement 21 in that the development would create ribbon development.</li><li>3. The proposal is contrary to CTY 14 – Rural Character of Planning Policy Statement 21 in that the development would be detrimental to rural character.</li><li>4. The proposal is contrary to CTY 15 – The Setting of Settlements of Planning Policy Statement 21 in that the development would mar the distinction between the countryside and the defined settlement limit of Dungannon.</li></ol>	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Darren McKenna 26 Kindrum Dungannon BT71 6JP	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SG
<b>Executive Summary:</b> The application site is in the countryside but on the edge of the settlement limit of Dungannon to the south. The proposal is for an infill dwelling and there is a dwelling to the west at No. 59 which has a frontage to the public road. South of the site, there is an	

agricultural field and abutting this field are 2 sheds and a concrete yard. The sheds and concrete yard are within the settlement limit of Dungannon so cannot be used towards 3 or more buildings on a common frontage. The proposal does not meet any other policies within PPS 21.

**Signature(s):**

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	DETI - Geological Survey (NI)	Substantive Response Received

### Representations:

Letters of Support	None Received
Letters of Objection	None Received



Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
<p><b>Characteristics of the Site and Area</b></p> <p>The site is in the countryside but is on the edge of the settlement limit of Dungannon as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character with a mix of agricultural fields, farm complexes and single rural dwellings. To the southeast of the site is a single storey dwelling with a driveway and to the west is another agricultural field. Across the road and to the north is a modest single storey dwelling. There is minimal development pressure along this section of the road from the construction of single rural dwellings. Abutting the southern boundary of the adjacent sheds the area is built up with dwellings on both sides of the road and this is within the settlement limit of Dungannon.</p> <p>The application site is an agricultural field and is 0.44 hectares in size with a flat topography. Along the roadside boundary, there is a row of established trees and along the boundary with No. 59, there is a row of large trees. There is a mix of mature trees and hedgerows along the boundary with the adjacent field.</p>	
<p><b>Description of Proposal</b></p> <p>This is an outline application for a proposed dwelling and detached garage approximately 45 Meters West of No.59 Lurgaboy Lane, Dungannon.</p>	
<p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p>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.</p> <p><b>Representations</b></p> <p>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.</p> <p><b>Planning History</b></p> <p>No recent planning histories at the application site.</p> <p><b>Mid Ulster Development Plan 2030 – Draft Plan Strategy</b></p> <p>The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.</p> <p><b>Dungannon and South Tyrone Area Plan 2010</b></p>	

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

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** 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 infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

#### **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 proposal does not meet the criteria in CTY 2a as the site is not located at a crossroads or a focal point.

There is no dwelling on the application site that could be replaced so the proposal does not meet CTY 3.

The proposal does not meet the criteria in CTY 8 as there is a dwelling at No. 59 Lurgaboy Lane, which has a garden that is a frontage to the public road. However, the nearest building is No. 45 which is within the settlement limit of Dungannon as defined in the Dungannon and South Tyrone Area Plan 2010. Therefore, as No. 45 is within the settlement limit it cannot be used as a building to meet the criteria for 3 or buildings with a substantial frontage as shown in figure 1 below.

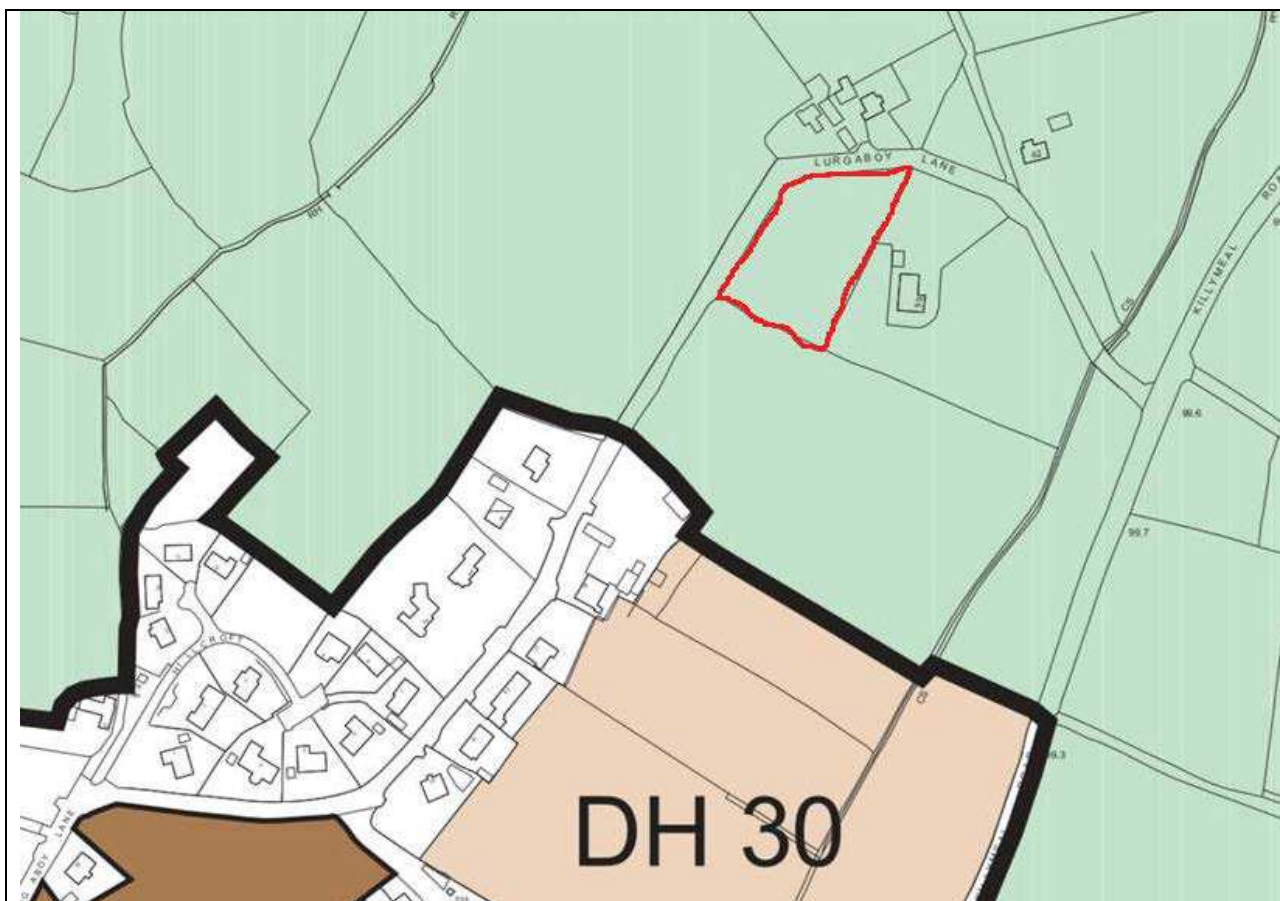


Figure 1 – Image of the edge of the settlement limit and the application site.



Figure 2 – Photograph of the frontage of No. 59





Figure 3 – Photograph of the buildings at No. 45 which have a frontage to the road



Figure 4 – Photograph showing the yard area to the front of No, 45



Figure 5 – Photograph of the line of trees along the proposed access point

No. 59 has a plot frontage of 20m, which consists of a driveway and garden area as shown in figure 2 above. There is an area of trees immediately to the north of No. 59 but this is not within the garden of No. 59 so cannot be considered within their frontage. This area of trees has a frontage of 40m. The application site is a field and has a frontage along a bend in the public road. The frontage is 124m and the adjacent field to the south is 80m. Thus, the average frontage along this stretch of road is 66m. I consider the application site does not respects the existing development pattern in terms of plot size. The policy in CTY 8 states the site should be a small gap site sufficient only to accommodate up to a maximum of two houses. This site and the neighbouring field to the south could accommodate at least 3 dwellings so I consider this proposal does not meet CTY 8.

As the proposal does not meet any of the relevant policies for a dwelling in the countryside in PPS 1, I consider there is no reason why the development should be located in the countryside and hence the proposal is contrary to CTY 1.

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

CTY 13 and CTY 14 deal with rural character and integration and design of buildings in the countryside and both policies would be relevant should the principle of development be acceptable on this site.

I am content the proposed dwelling and garage will not be a prominent feature in the landscape as the application site has a flat topography but is about a metre higher in levels than the public road. There are minimal critical views in the east direction due to the bend in the road and existing trees will block views to the south.



There are established hedgerows and large trees along three boundaries of the site and particularly the roadside boundary, which should be retained. I am content the proposal will not rely on new landscaping for integration.

A new access is proposed and DFI Roads had no concerns about the visibility splays and road safety. There is a verge along the road already in place so I am content the new access will not involve the removal of all the established trees along the roadside.

The design of the proposed dwelling will be considered at the Reserved Matters Stage. I consider a one or two storey dwelling would integrate well at this site. There are established trees on all boundaries of the site, which will provide a degree of integration even-though the other dwellings along this stretch of road are single storey.

I am content that the proposal is capable of complying with CTY 13.

#### **CTY 14 – Rural Character**

CTY 14 states that planning permission will be granted for a building where it does not cause a detrimental change to, or further erode the rural character of the area. As mentioned, the site benefits from existing vegetation on three boundaries. I am content that this dwelling will not be a prominent feature in the landscape. I consider that the development will result in a suburban style build-up of development. Given its position on the edge of the settlement, this would alter rural character. I do consider the proposal will create a ribbon of development so will alter rural character.

#### **CTY 15 – The Setting of Settlements**

The application site is one field north of the defined settlement limit of Dungannon. There are buildings and a concrete yard at No. 45 and rows of dwellings with a roadside frontage to the south within the settlement limit. The site is an agricultural field and could accommodate up to 2 dwellings and the field to the south could accommodate 2 dwellings. Overall, this development would blur the distinction between Dungannon and the countryside.

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

I consulted DFI Roads as a new access is proposed. In their consultation response, they stated they had no objections subject to conditions and informatives.

#### **Other Considerations**

I am satisfied there are no other ecological, historical or flooding issues at the site.

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

The proposal does not meet any of the policies in Planning Policy Statement 21.

#### **Reasons for Refusal:**

1. The proposal is contrary to CTY 1 in Planning Policy Statement 21 in that there is no overriding reasons why the development is essential and could not be located within a settlement.

2. The proposal is contrary to CTY 8 – Ribbon Development of Planning Policy Statement 21 in that the development would create ribbon development.
3. The proposal is contrary to CTY 14 – Rural Character of Planning Policy Statement 21 in that the development would be detrimental to rural character.
4. The proposal is contrary to CTY 15 – The Setting of Settlements of Planning Policy Statement 21 in that the development would mar the distinction between the countryside and the defined settlement limit of Dungannon.

**Signature(s)**

**Date:**



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0849/F	<b>Target Date:</b>
<b>Proposal:</b> Dwelling and Garage	<b>Location:</b> Approx 80m SW of 60a Ballygittle Road Stewartstown
<b>Referral Route:</b>  Applicant works in Mid Ulster District Council	
<b>Recommendation:</b> Approval	
<b>Applicant Name and Address:</b> Grace Campbell & Henry Heron 60a Ballygittle Road Stewartstown BT71 5JS	<b>Agent Name and Address:</b>
<b>Executive Summary:</b>	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

No representations have been received in relation to this planning application. DfI Roads, HED and DAERA were consulted on this application

### Characteristics of the Site and Area

The site is located within the open countryside, approximately 1.2km northeast of the settlement limits of Killen as identified in the Dungannon and South Tyrone Area Plan 2010. The site is

identified as being 80sw of 60a Ballygittle Road, Stewartstown. The site is currently an agricultural field with access taken from the Ballygittle Road via an existing agricultural lane. There is an existing farm complex located to the north east of the site, with two dwellings located adjacent to the farm buildings. Another single dwelling is located to the south east of the application site. A rath is located to the south of the application boundary. The surrounding area is rural with a mixture of agricultural lands and dwellings scattered.

### **Description of Proposal**

This is a full planning application for a dwelling and garage on lands 80m SW of 60a Ballygittle Road, Stewartstown.

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

Dungannon and South Tyrone 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 Dungannon and South Tyrone 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 who have confirmed that the business ID provided is currently an active business and has been established for at least 6 years. Following a search on the planning portal, I am content no dwellings or development opportunities have been sold off from this farm business holding. Therefore, I am content the proposal meets both criteria a & b of Policy CTY 10.

I am satisfied that the position of the proposed dwelling ensures it is visually linked with an established group of buildings on the farm. The farm holding and dwelling is located to the north west of the site and from the site, there is a strong visual link to the existing buildings. The proposed access is via an agricultural lane that is clearly used to access a number of fields however, this access would require upgrading. I am content the proposal meets criteria c.

Having considered all of the above, I am content the proposal complies with Policy CTY 10 of PPS21.

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. Upon review of the submitted plans and undertaking a site visit I am of the opinion that the proposed building will integrate well into the surrounding area. The site takes advantage of strong mature boundaries which allow the site to be well screened from surrounding areas such as the road and neighbouring properties which are not located on the farm complex. A new hedgerow is proposed along the southern boundary, however the existing tree line further south provides adequate screening of the site. In regards the design I am satisfied the proposed design is of high quality and is in keeping with traditional designs in the countryside. The proposed building is a two storey building with single storey annex. The site is elevated above the road level and although a two storey building can be considered a dominant feature, I am content that the site is well screened with natural boundaries that it will not appear as a dominant feature in the landscape. From this, I am content the proposed dwelling is able to comply with Policy CTY 13.

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 mentioned the building is of a high quality design and will integrate well into the existing surroundings therefore, it will not be an unduly prominent feature in the landscape. It will not result in a suburban style build-up of development when viewed with existing and approved buildings. As the proposal is for a dwelling on a farm and it is visually linked to existing farm buildings, I am content it will respect the traditional pattern of settlement in the area. The proposal will not create or add to a ribbon development. Any associated ancillary works will not damage the rural character. From this, I am content the proposal complies with Policy CTY 14.

### **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.

I have no flooding, ecological or residential amenity concerns.

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and requested a revised drawing showing the required visibility splays of 2.4m x 60m. Consequently, revised plans 02 REV 01 were submitted showing visibility splays of 2.4m x 60m in both directions.

**PPS 6- Planning, Archaeology and the Built Heritage:**

As the site is located within close proximity to an Archaeological site and Monument a consultation was issued to Historic Environment Department (HED). Following an assessment of the application, HED was content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

**Neighbour Notification Checked****Yes/No****Summary of Recommendation:**

Approve subject to conditions

**Conditions:**

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

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

2. No development shall take place within the approved site until the vehicular access, including visibility splays and any forward sight distance, has been provided in accordance with Drawing No. 02 REV 01 bearing the date stamp 16 SEP 2020. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. The existing mature vegetation on the northern, eastern and western boundaries of the site shall be permanently retained.

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

4. If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of 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 by existing trees.

5. All landscaping comprised in the approved details of landscaping on stamped drawing No. 03 date stamped 10 JUL 2020 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.

6. 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 shall be planted at the same place, unless the Council gives written consent to any variation.

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

**Informative**

1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Planning Authority or other statutory authority.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	16th July 2020
<b>Date First Advertised</b>	28th July 2020
<b>Date Last Advertised</b>	22nd September 2020
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 60a Ballygittle Road Stewartstown	
<b>Date of Last Neighbour Notification</b>	14th September 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/0849/F Proposal: Dwelling and Garage Address: Approx 80m NW of 60a Ballygittle Road, Stewartstown, Decision: Decision Date:  Ref ID: M/2004/0696/O Proposal: New dwelling Address: Adjacent to 60 Ballygittle Road, Stewartstown Decision: Decision Date: 02.09.2004  Ref ID: M/2005/1313/F Proposal: Proposed dwelling Address: Adjacent to 60 Ballygittle Road, Stewartstown Decision: Decision Date: 04.08.2005  Ref ID: M/1980/069301 Proposal: DWELLING HOUSE Address: BALLYGITTLE, STEWARTSTOWN Decision: Decision Date:  Ref ID: M/1980/0693 Proposal: ERECTION OF DWELLING	

Address: BALLYGITTLE, STEWARTSTOWN  
Decision:  
Decision Date:

**Summary of Consultee Responses****Drawing Numbers and Title**

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

Drawing No. 02 REV 01  
Type: Road Access Plan  
Status: Submitted

Drawing No. 03  
Type: Site Layout or Block Plan  
Status: Submitted

Drawing No. 04  
Type: Elevations and Floor Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0933/RM	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and detached garage	<b>Location:</b> 500m South East of 19 Drumimerick Road Kilrea
<b>Referral Route:</b>  Approval- Applicant is a relative of a director in MUDC.	
<b>Recommendation:</b>	approve
<b>Applicant Name and Address:</b> Mr T Kelso 28 Old Tyanee Road Portglenone BT44 8JJ	<b>Agent Name and Address:</b> Diamond Architecture 77 Main Street Maghera BT46 5AB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

No representations have been received. The application complies with the policy contained in PPS 21.

### Characteristics of the Site and Area

The site is located approximately 4km North East of the settlement limit of Tamlaght and is located within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as being located approximately 500m South East of 19 Drumimerick Road, Kilrea and the red line is part of a larger agricultural field. The surrounding area is agricultural in use with mainly agricultural fields bar a number of agricultural buildings in the field adjacent to the site, which the applicant owns. The roadside and northern boundary of the site is defined by existing vegetation and hedges with the remainder of the site boundaries undefined. The lands rise gently from the roadside and thus parts of the site are on a more elevated location. The surrounding area is predominantly rural with some scattered dwellings and their associated outbuildings.

### Description of Proposal

The proposal is for a dwelling and domestic garage. The planning application seeks the approval of reserved matters from the previous outline planning consent LA09/2019/1412/O.

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

### Planning History

LA09/2019/1412/O- Site for dwelling and detached garage- 500m South East of 19 Drumumerick Road, Kilrea- Approved 4th March 2020

### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. There were no neighbours notified under this application. At the time of writing, no third party representations have been received.

### Planning Assessment of Policy and Other Material Considerations

- Magherafelt Area Plan 2015
- Strategic Planning Policy Statement (SPPS)
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- Local Development Plan 2030 - Draft Plan Strategy

The Magherafelt Area Plan 2015 identify the site as being in the rural countryside. The site has no other zonings or designations.

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.

When outline planning permission was granted re. LA09/2019/1412/O a number of conditions were imposed. I am content that the conditions set out have been complied with.

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. The general planning principles with respect to this proposal have been complied with.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. In particular Policy CTY 13 - Integration and Design of Buildings in the Countryside and Policy CTY 14 - Rural Character of PPS 21 are relevant to this proposal. These policies require development to be appropriately designed and integrated into the surrounding landscape to ensure the rural character of the area is not harmed.

The application proposes a single storey with a detached garage to the rear of the property. I am content that the dwelling is a modest size and is appropriately designed. It will appear as a single storey dwelling but will have living space upstairs and this will only be visible at the rear of the property. The site is already screened at the roadside and the northern boundary, although further planting is proposed along the eastern and southern boundaries to ensure the dwelling integrates into the landscape. From this, I am content the proposal satisfies the policy criteria of Policy CTY 13.

I am content that the proposal will not cause a detrimental change to, or further erode the rural character of the area as the proposal is for a dwelling on the farm and is located adjacent to existing farm buildings. The proposed dwelling will not create a suburban style build-up of

development nor will it create a ribbon development. The proposal respects the rural character of the area and therefore, meets the policy criteria of Policy CTY 14.

#### Other policy and material considerations

PPS 3 - Access, Movement and Parking;

A consultation was sent to DFI Roads for comments, in which they were content with the visibility splays and provided a condition. I am content that a safe access is achievable from the site.

I have no ecological, flooding or residential amenity concerns.

As the proposal has shown its compliance under PPS 21, I therefore must recommend approval for this application.

#### **Neighbour Notification Checked**

**Yes/No**

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

Approval

#### **Conditions**

1. The development to which this approval relates must be begun by whichever is the later of the following dates:-

- 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.

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

2. The vehicular access, including visibility splays 2.4 x 60 metres and any forward sight distance, shall be provided in accordance with the Drawing No 02 bearing the date stamp 03/08/2020 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. All landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 02 date stamped 03/08/2020 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

4. 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 shall be 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.

**Informatives**

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

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

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

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	3rd August 2020
<b>Date First Advertised</b>	18th August 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier,	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/0933/RM Proposal: Proposed dwelling and detached garage Address: 500m South East of 19 Drumimerick Road, Kilrea, Decision: Decision Date:  Ref ID: LA09/2019/1412/O Proposal: Site of dwelling and detached garage Address: 500m South East of 19 Drumimerick Road, Kilrea, Decision: PG Decision Date: 06.03.2020  Ref ID: H/1978/0320 Proposal: SITE OF FARM BUNGALOW Address: 27 DRUMMERICK ROAD, LISNAGROAT, KILREA Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	

Drawing Numbers and Title
Drawing No. 03 Type: Elevations and Floor Plans Status: Submitted
Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted
Drawing No. 01 Type: Site Location Plan Status: Submitted
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:



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

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

## Deferred Consideration Report

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

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

### **Description of Proposal**

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

### **Deferred Consideration:**

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

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

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



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

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

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

**Reasons for Refusal:**

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

**Signature(s):**

**Date**



Comhairle Ceantair  
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## Deferred Consideration Report

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

shed with grey block walls and green insulated cladding panels and green panels on the roof. To the front of the shed is a large roller shutter door. To the south eastern side of the shed is a Pvc door and a window and the rear of the opposite side of the shed on the north west is another Pvc type door. The boundary to the east and north of the site consists of post and wire fence, to the west to northwest there is mature hedgerows and vegetation. To the south west there is a small wooden fence which makes up the boundary between the application site and the property at 140 Kilmascully road. The boundary to the front of the site which adjoins the Kilmascully road consists of large wooden gates. There are some old lorry trailers, an old vehicles a small boat as well as empty diesel containers observed around the perimeter of the shed. The surrounding land is rural in nature with agricultural fields with a scattering of single dwellings along the roadside.

### **Description of Proposal**

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

### **Deferred Consideration:**

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

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

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

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

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

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

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

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

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

**Reasons for Refusal:**

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

**Signature(s):**

**Date**



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## Deferred Consideration Report

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### **Description of Proposal**

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

### **Deferred Consideration:**

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

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

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

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

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

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

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



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

**Reasons for Refusal:**

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

**Signature(s):**

**Date**



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

## Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	DFI Roads - Enniskillen Office	

### Representations:

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

### Summary of Issues

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

### Characteristics of the Site and Area

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

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

### **Description of Proposal**

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

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

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

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

### **Planning History**

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

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

### **Assessment**

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

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

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

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

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

#### **Conclusion**

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

#### **Neighbour Notification Checked**

**Yes**

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

Refusal

Conditions/Reasons for Refusal:

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

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

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

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

**Date:**

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

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

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No.  
 Type:  
 Status: Submitted

Drawing No.  
 Type:  
 Status: Submitted

Drawing No.  
 Type:  
 Status: Submitted

Drawing No.  
 Type:  
 Status: Submitted

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

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

Drawing No. 03  
 Type: Proposed Plans  
 Status: Submitted

### **Notification to Department (if relevant)**

Date of Notification to Department:  
 Response of Department:



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

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

## Deferred Consideration Report

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



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

### **Description of Proposal**

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

### **Deferred Consideration:**

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

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

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

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

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

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

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

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

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

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

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

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

- b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.

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

- c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane.

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

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

#### Conditions:

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

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

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

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

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

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

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

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

**Signature(s):**

**Date**

APPENDIX  
Land owned by the applicant





2007 Ortho



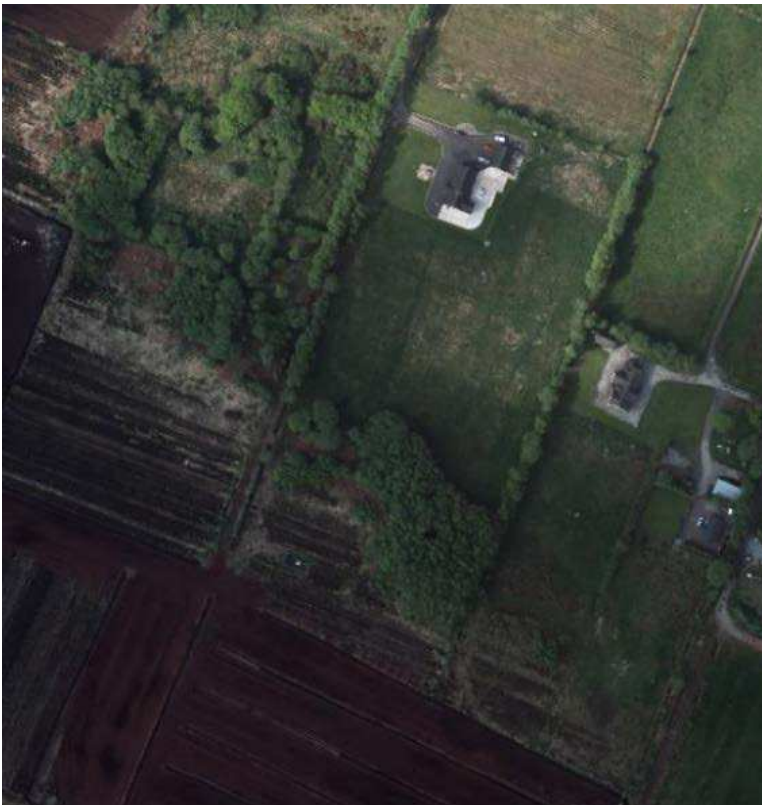
2010 ortho



2013 Ortho



Ortho 2016





Most recent ortho



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

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

*Councillor Reid left at 8.17 pm*

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

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

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

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

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

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

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

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

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

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

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

Proposed by Councillor McPeake

Seconded by Councillor Gildernew and

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





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

## Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice

#### Representations:

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

#### Summary of Issues

None

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

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

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

### **Description of Proposal**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DFI Roads were consulted and responded;

"The proposed development directly adjoins a private laneway.

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

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

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

Refusal recommended

#### Neighbour Notification Checked

Yes

#### Refusal Reasons

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

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

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

**Signature(s)**

**Date:**

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







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

## Deferred Consideration Report

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

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

### **Description of Proposal**

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

### **Deferred Consideration:**

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

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

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

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

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

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

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

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

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

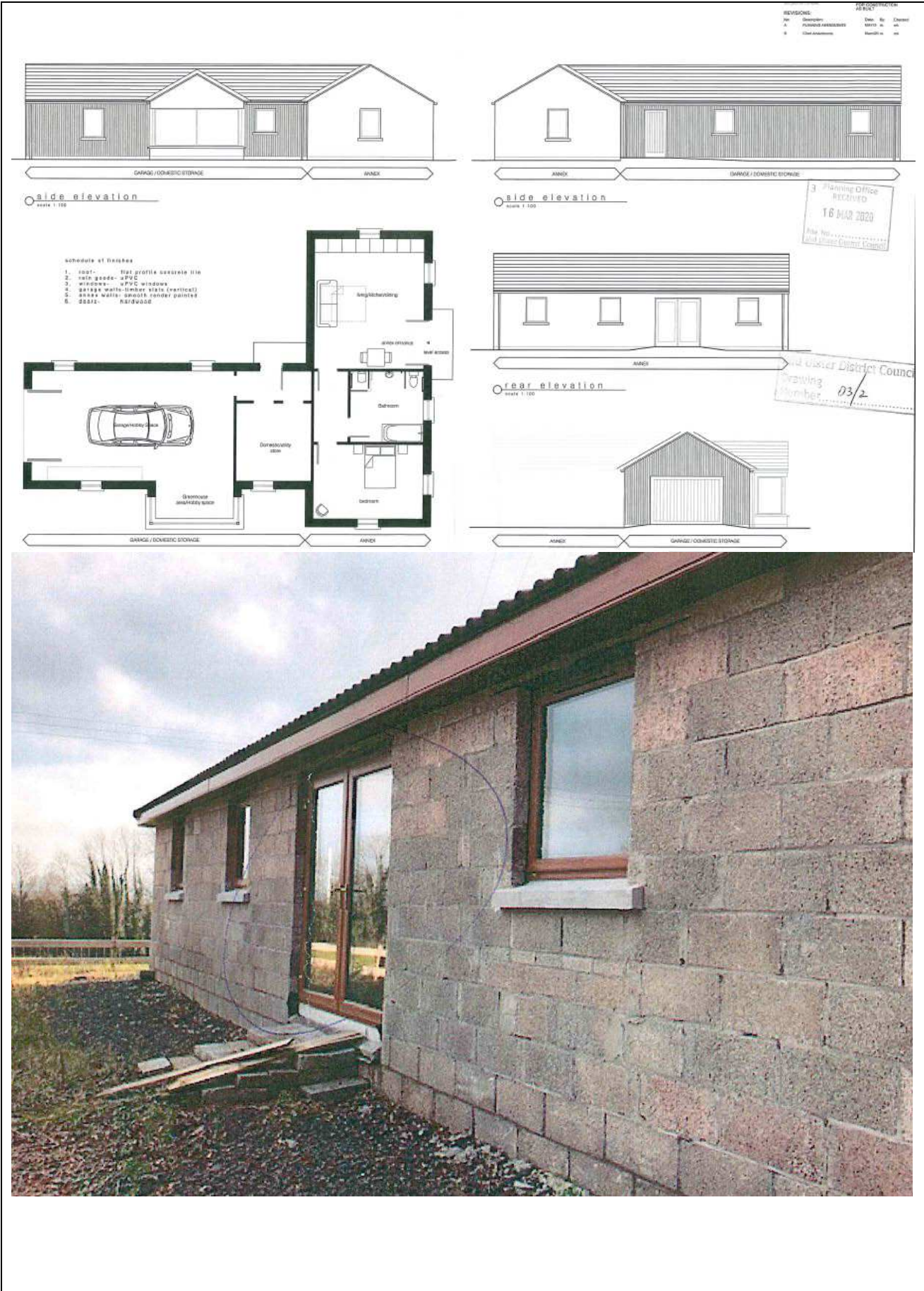
*Ancillary Accommodation (PPS7 addendum)*

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

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

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

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







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

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

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

#### **Reasons for Refusal:**

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

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

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

**Date 16th Oct 2020**

## Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



### Consultations

Consultation Type	Consultee	Response
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### Representation

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

### Summary of Issues

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

Issues raised are summarised as follows:

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



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

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

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

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

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

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

### **Description of Proposal**

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

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

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

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

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

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

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

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. Having carried out a site inspection and a desk-top constraint search of this site and area, I am aware that this site is not an area of acknowledged importance in terms of archaeology and/or built heritage. The closest third party dwelling to the existing building is located approx. 40m to the SW. Given this separation distance and the presence of established boundary treatment running along the SW boundary of the site I am satisfied that there will be no negative impact on adjacent residential amenity.

### **Magherafelt Area Plan 2015**

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

### **Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy**

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22nd Feb 2019. Policy GP1 - General Principles Planning Policy is applicable to this application. Whilst little weight can be attributed to the Draft Plan Strategy, it should be noted that the proposal does not raise any conflict with the Policy GP1.

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

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

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

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

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

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

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

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





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

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

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

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

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

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

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

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

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

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

**Refusal Reasons:**

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

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

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

**Signature(s)**

**Date:**

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

Decision:  
Decision Date:

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

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

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

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

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

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

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



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

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

### **Summary of Consultee Responses**

None carried out

### **Drawing Numbers and Title**

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

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

Drawing No. 03 Revision 1  
 Type: Proposed Plans  
 Status: Submitted

### **Notification to Department (if relevant)**

Date of Notification to Department:  
 Response of Department:



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

## Deferred Consideration Report

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

**Representations**

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

**Description of Proposal**

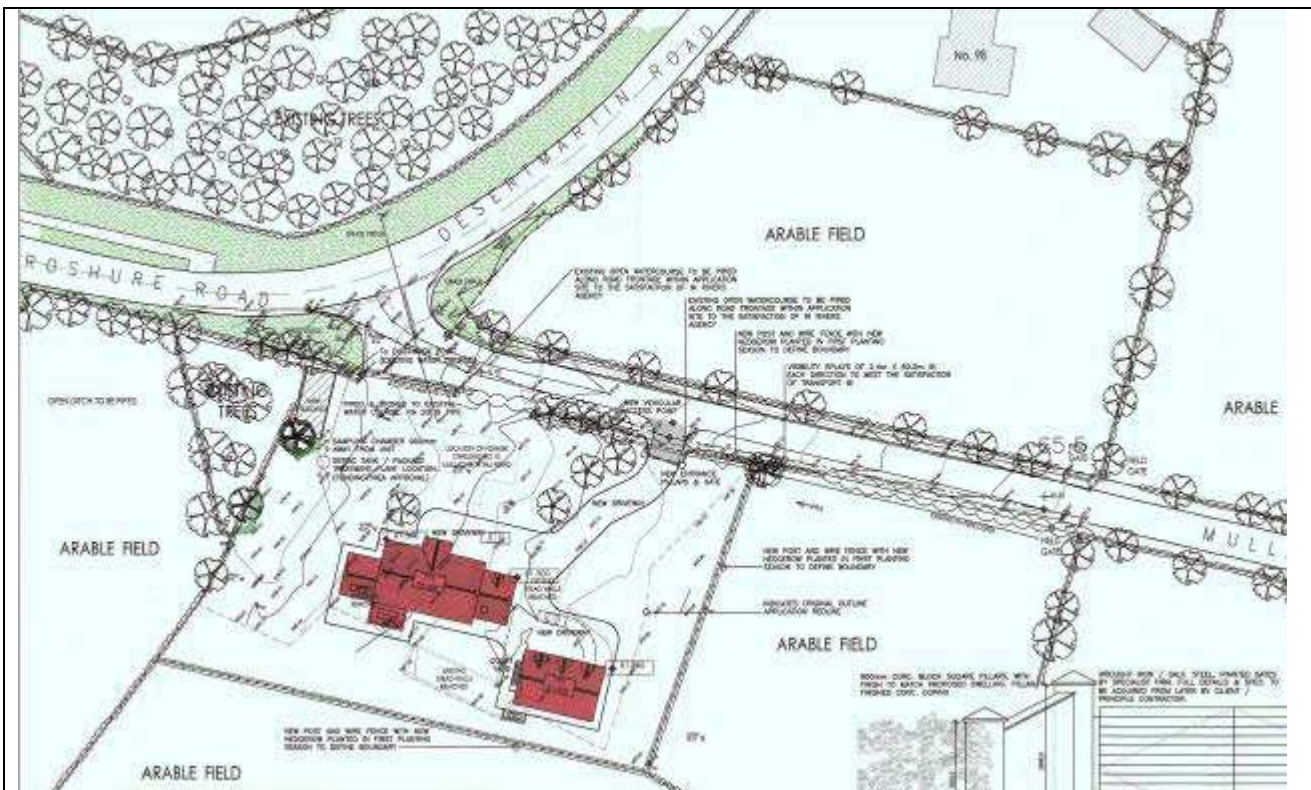
This is an outline application for a proposed site for a dwelling and garage. The site is located 35m South of 98 Desertmartin Road, Magherafelt.

**Deferred Consideration:**

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

The principle planner visited the site on 24th Jan 2020 to investigate the potential for an infill opportunity on the site. Policy CTY8 states an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage. The issue with this site is there is no road frontage for the buildings on the corner on Roshure Road.

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



LA09/2017/1796/F (replacement dwelling)



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

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

I recommend approval subject to conditions.

**Conditions.**

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

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

**Date** 19th Oct 2020



### Deferred Consideration Report

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

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

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

### **Description of Proposal**

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

### **Deferred Consideration:**

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

The principle planner visited the site on 24th Jan 2020 to investigate the possibility of an infill opportunity on the site. CTY8 states an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage.

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

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

Refusal is Recommended for the following reasons below.

### **Refusal Reasons**

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

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





## Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

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

### Characteristics of the Site and Area

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

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

#### Relevant planning history

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

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

#### Representations

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

### Description of Proposal

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

### Planning Assessment of Policy and Other Material Considerations

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

#### Magherafelt Area Plan 2015

#### Strategic Planning Policy Statement (SPPS)

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

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

#### CTY 1- Development in the Countryside

#### CTY 10 – Dwellings on Farms

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

#### CTY14 – Rural Character

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

#### PPS 15 – Planning and Flood Risk

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.  
I have no flooding, ecological or residential amenity concerns.

#### Other policy and material considerations

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

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

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

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

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

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

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

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

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

**Reasons for Refusal:**

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

**Signature(s)**

**Date:**

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

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





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Local Planning Office  
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50 Ballyronan Road  
Magherafelt  
BT45 6EN

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2019/1418/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Site for dwelling & domestic garage. Based on Policy CTY10 (dwelling on a farm)	<b>Location:</b> Approx 60m NW of 124 Lurgylea Road Dungannon
<b>Applicant Name and Address:</b> Mr Christopher Kelly 53 Glenenny Road Carrickmore BT79 9HJ	<b>Agent name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b> Whether the proposed site visually links with a group of buildings on the farm.	
<b>Summary of Consultee Responses:</b> DEARA – single farm payment claimed on land  DFI Roads – sight lines 2.4m x 70.0m to be provided at junction for safe access	
<b>Characteristics of the Site and Area:</b> The site is within the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and is characterised predominantly by single detached dwellings, farm complexes and agricultural fields. There is minimal development pressure in the area from the development of single dwellings and there are relatively few dwellings under construction or recently built along this stretch of public road.	

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

### **Description of Proposal**

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

### **Deferred Consideration:**

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

It has been set out that:

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

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

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

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

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

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

**Conditions:**

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

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

2. Prior to the commencement of any development hereby permitted visibility splays of 2.4m x 70.0m shall be provided where the existing lane meets Lurgylea Road as shown on drawing no 02Rev2 bearing the stamp dated 4 FEB 2020. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. The existing natural screenings of the site, as indicated 'existing hedgerows and smaller trees' and 'existing trees retained' on drawing no 02 Rev 2 bearing the stamp dated 4 FEB 2020 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: In the interests of visual amenity and biodiversity.

4. All hard and soft landscape works shall be carried out in accordance with the details as set out on drawing No 02 Rev 2 bearing the stamp dated 4 FEB 2020 and the appropriate British Standard or other recognised Codes of Practice. The landscaping shall be carried out within 6 months of the date of occupation of the development hereby approved and any tree shrub or plant dying within 5 years of planting shall be replaced in the same position with a similar size, species and type.

REASON: In the interests of visual amenity and biodiversity.

**Signature(s):**

**Date**





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Magherafelt  
BT45 6EN

## Development Management Officer Report Committee Application

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

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

**Signature(s):**

### Case Officer Report

#### Site Location Plan



#### Consultations:

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

Statutory	DFI Roads - Enniskillen Office	Content
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Characteristics of the Site and Area</b>		
<p>The site is within the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and is characterised predominantly by single detached dwellings, farm complexes and agricultural fields. There is minimal development pressure in the area from the development of single dwellings and there are relatively few dwellings under construction or recently built along this stretch of public road.</p>		
<p>The application site is a cut-out of an existing agricultural field and is 0.45ha in size, with a relatively flat topography. The site is accessed off an existing laneway and is set back from the public road by 190m. To the south of the site are four dwellings at No. 124, 126, 126a and 130, and a number of outbuildings. The farm dwelling is a single storey building at No. 124 which has finishes of grey pebbledash and slate roof. At the site itself there is a post and wire fence along the eastern boundary and a 1m high hedge along the northern and southern boundaries.</p>		
<b>Description of Proposal</b>		
<p>This is a full application for a dwelling and domestic garage on a farm.</p>		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
<b>Planning History</b>		
<p>No recent planning history</p>		
<b>Representations</b>		
<p>The application was advertised in the local press and neighbour notified and at the time of writing no representations have been received.</p>		
<b>Planning Policy Consideration</b>		
<p>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.</p>		
<b>Mid Ulster Development Plan 2030 – Draft Plan Strategy</b>		
<p>The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period gave rise to a number of objections to Policies contained in the Plan. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25<sup>th</sup> March for 8 weeks. The re-consultation was due to close</p>		

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

### **Dungannon and South Tyrone Area Plan 2010**

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

### **SPPS – Strategic Planning Policy Statement for Northern Ireland:**

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

### **Policy CTY 10 – Dwellings on Farms**

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **Other Considerations**

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

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

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

#### **Reasons for Refusal**

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

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

**Signature(s)**

**Date:**





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## Deferred Consideration Report

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

**Deferred Consideration:**

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

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





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



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



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

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

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

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

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

**Reasons for Refusal:**

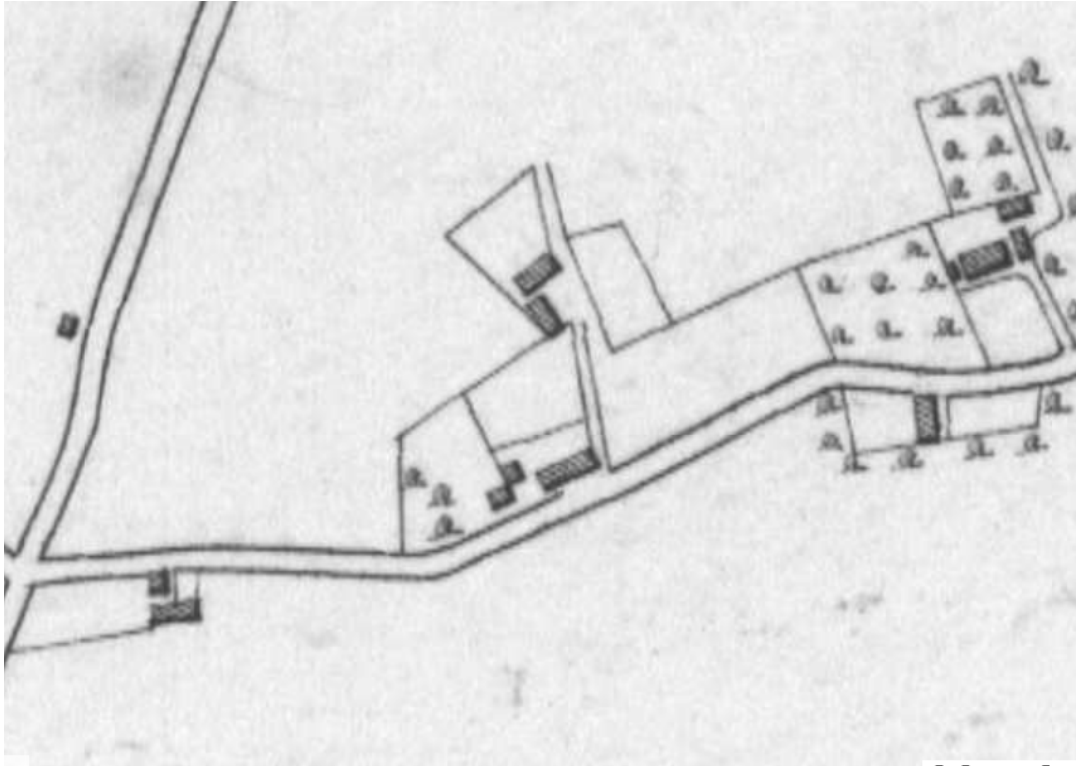
1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

**Signature(s)**

**Date:**



PRONI HISTORICAL MAPS  
First Edition 1832 - 1846



Second Edition 1846 - 1862



Third Edition 1900 – 1907



Forth Edition 1905 -1957





## Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



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

### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

No representations received.

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

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

### **Description of Proposal**

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

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

#### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 14 and 16 Drumkee Road. At the time of writing, no representations were received.

#### Planning History

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

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

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

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

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

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations.

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

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

CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of the policy, the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

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



**Figure 1**





**Figure 2**

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

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

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



**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

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

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

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

2.The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal is not located within a small gap site within an otherwise substantial and continuously built up frontage.

3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the (building) would, if permitted add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

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

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

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

**Summary of Consultee Responses**

Dfl Roads – No issue.

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Deferred Consideration Report

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

<p><b>Description of Proposal</b></p> <p>Outline planning permission is sought for a site of dwelling and garage (2 storey).</p>
<p><b>Deferred Consideration:</b></p> <p>This application was previously presented as a refusal to Planning Committee for the following reason;          ‘The proposal is contrary to SPPS and Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 3, in that it would, if permitted, result in the creation of a new vehicular access onto a Main Traffic Route / Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.’</p> <p>It was subsequently deferred for an office meeting with the Area Planning Manager. This was held on 13th August 2020. At the office meeting the protected route issue was discussed and the agent stated there may be an alternative access via an existing access. It was advised that amended plans and P1 forms were submitted to show this and DFI would be re-consulted.</p> <p>Amendments were received on 21st August 2020 and DFI Roads were re-consulted for comment. They replied on 30th September advising PPS3 of AMP3 Access is applicable. Access is now proposed via an existing vehicular access which is permissible under PPS3 subject to other planning policies being acceptable to Council, along with the standard DFI condition they provided.</p> <p>The site has not changed and there are no other planning policies issues, a dwelling would be acceptable under CTY10. As an existing access is now to be used, which is long established and was always traditionally used as a farm access, there will be no greater visual impact. As the Protected route issue, which had been the only reason for refusal, has now been resolved, approval is therefore recommended with relevant conditions.</p> <p>The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.</p>
<p><b>Conditions</b></p>

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

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

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

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

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

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

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

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

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

5. The proposed dwelling shall have a ridge height of less than 8.0 metres above finished floor level.

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

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

Reason: In the interests of visual amenity.

**Signature(s):**

**Date**



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**Mid Ulster**  
District Council

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

**Development Management Officer Report  
Committee Application**

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



## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

None.

### Characteristics of the Site and Area

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

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

**Description of Proposal**

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

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

There is no relevant planning history on the site.

**Neighbour Notification**

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

No letters of representation / objection were received at time of writing this report.

**Development Plan and Key Policy Consideration**

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

Magherafelt Area Plan 2015: The site is located in the open countryside. There are no other designations on the site.

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

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

PPS3: Access, Movement and Parking (Revised 2005) and PPS3 (Clarification 2006): sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking.

PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. Policies CTY1, CTY10, CTY13 and CTY14 are applicable.

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

- (a) The farm business is currently active and has been established for at least 6 years;
- (b) No dwellings or development or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.
- (c) The new building is visually linked or sited to cluster within an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane.

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



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

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

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

### **Integration**

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore no design details has been submitted however I am of the opinion that an appropriately designed dwelling will not appear prominent in the landscape. I am of the opinion that as much of the existing landscaping should be retained as much as possible with additional landscaping to further aid integration, therefore a landscaping plan will be required in any 'Reserved Matters' application.

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

### **Rural Character**

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

As noted an appropriately designed dwelling will not appear prominent in the landscape wherein it will be able respect the pattern of development in the area. I am content on balance that this proposed application will not unduly change the character of the area. On a whole I am content that the proposed development complies with CTY 14.

### **Other Material Considerations**

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

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal.

**Reasons for Refusal:**

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

**Signature(s)**

**Date:**

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



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**Mid Ulster**  
District Council

Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
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## Deferred Consideration Report

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

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

**Description of Proposal**

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

**Deferred Consideration:**

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

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

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

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

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

Reasons for Refusal:

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

**Signature(s)**

**Date:**



## APPENDIX



Photograph 1



Photograph 2





Photograph 3



Photograph 4



Photograph 5





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

### Development Management Officer Report Committee Application

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



## Case Officer Report

### Site Location Plan



**Representations:** None Received

### Description of proposal

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

### Characteristics of Site and Area

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

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

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

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

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

#### **Planning Act 2011**

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

#### **Area Plan**

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

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

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

#### **Representations**

None received

#### **Relevant planning history**

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

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

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

#### **Key Planning Policy**

SPPS Strategic Planning Policy Statement

PPS21 Sustainable Development in the Countryside

PPS3 Access, Movement and Parking

#### **Planning Assessment**

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

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

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

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

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

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

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

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

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

#### Other Policy and Material Considerations

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

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

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

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



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



**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 6 October 2020 in Council Offices, Ballyronan Road, Magherafelt and by virtual means**

<b>Members Present</b>	Councillor S McPeake, Chair	
	Councillors Bell, Black, Brown, Clarke*, Colvin, Cuthbertson, Gildernew*, Glasgow, Kearney, Mallaghan, McFlynn, McKinney, D McPeake, Quinn, Robinson	
<b>Officers in Attendance</b>	Dr Boomer, Planning Manager Mr Bowman, Head of Development Management Ms McCullagh, Senior Planning Officer Ms McKearney**, Senior Planning Officer Ms McNally, Council Solicitor Mr Stewart, Senior Planning Officer Miss Thompson, Democratic Services Officer	
<b>Others in Attendance</b>	<b>Applicant Speakers</b>	
	LA09/2019/0562/F	Councillor Elattar Mr McLaughlin*
	LA09/2020/0484/O	Mr Ross
	LA09/2020/0692/O	Mr Coney
	LA09/2019/1540/O	Councillor B McGuigan Mr Cassidy*

\* Denotes members and members of the public present in remote attendance

\*\* Denotes Officers present by remote means

The meeting commenced at 7.00 pm

*The Chair, Councillor S McPeake welcomed everyone to the meeting and those watching the meeting through the Live Broadcast. The Chair, in introducing the meeting detailed the operational arrangements for transacting the business of the Committee in the Chamber and by virtual means, by referring to Annex A to this minute.*

The Chair also referred to addendum which had been circulated earlier in the day and asked if those joining remotely had seen this document and had time to read it.

Members joining remotely confirmed that they had seen the addendum and had time to read it.

**P089/20 Apologies**

None.

## **P090/20      Declarations of Interest**

The Chair reminded members of their responsibility with regard to declarations of interest.

The Chair, Councillor S McPeake referred to agenda items 4.23 (LA09/2020/0603/F), 4.24 (LA09/2020/0604/F) and 4.29 (LA09/2020/0979/F) and that as these items are Council applications all Members should declare an interest.

Proposed by Councillor Mallaghan  
Seconded by Councillor Bell and

**Resolved** That all Members present at the Committee both in the room and virtually (Councillors Bell, Black, Brown, Clarke, Colvin, Cuthbertson, Gildernew, Glasgow, Kearney, Mallaghan, McFlynn, McKinney, D McPeake, S McPeake, Quinn, Robinson) declare an interest in agenda items 4.23 (LA09/2020/0603/F), 4.24 (LA09/2020/0604/F) and 4.29 (LA09/2020/0979/F).

Councillor Black declared an interest in agenda item 4.25 – planning application LA09/2020/0630/O.

Councillor Kearney declared an interest in agenda item 4.10 – planning application LA09/2019/16.30/F.

## **P091/20      Chair's Business**

Councillor Quinn referred to the recent demolition of O'Rahilly House in Dublin and asked if the planning department had undertaken an audit of historic buildings within Mid Ulster and if so was this consulted on with the public.

The Planning Manager stated that such an audit would be conducted by Historic Buildings Section within the Department for Communities and that they would consult with Council in relation to historic buildings. The Planning Manager stated that Historic Buildings have compiled a report which details buildings at risk and that there were some buildings within the Mid Ulster area.

Councillor Quinn stated he would raise the issue with the Department for Communities.

The Planning Manager referred to the recent performance statistics issued for the period of April, May and June. The Planning Manager stated that during this time 287 applications were received by Mid Ulster Council and that this was the 3<sup>rd</sup> highest number received by Councils with the highest being around 300 applications. The Planning Manager stated that this number was down on what is normal but should be understandable given this was during the period of lock down. During this time 231 applications were decided these all being approvals, this was the 2<sup>nd</sup> highest rate of decisions. The Planning Manager stated that Mid Ulster is dealing with applications within 14 weeks and any Councils who are quicker are receiving less applications. Members were also advised that during the 3 month period 170

enforcement cases were concluded in time. The Planning Manager stated that during the April, May, June period the department received more applications than it dealt with and that there is currently a large caseload of live applications.

In relation to the Development Plan it was advised that re-consultation ended on 24 September and the aim is to move to having all representations online hopefully before Christmas. The Planning Manager stated it was difficult to foresee what further impact COVID19 will have on delivery of service but that officers will continue to push on as best possible.

Councillor S McPeake stated that the planning department's performance is commendable during the current challenging times.

## **Matters for Decision**

### **P092/20 Planning Applications for Determination**

The Planning Manager referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred from tonight's meeting schedule for an office meeting –

Agenda item 4.5 – LA09/2019/0060/F – 2 holiday villas to match previously approved (I/2012/0159/F) at 60m E of 62 Loughbracken Road, Pomeroy for Karl Heron.

Agenda item 4.11 – LA09/2020/0034/O – Dwelling at an existing cluster adjacent to and SW of 150a Washingbay Road, Upper Meenagh, Coalisland for Patrick Brady.

Agenda item 4.13 – LA09/2020/0093/O – Dwelling and garage on a farm 60m E of 43 Carnaman Road, Gulladuff for Mr James McErlean.

Agenda item 4.14 – LA09/2020/0213/F – Restructuring and alterations of vehicular access at 18 Cookstown Road, Dungannon for Mr Barry O'Neill.

Agenda Item 4.15 – LA09/2020/0331/O – Site for a dwelling and domestic garage approx. 15m NE of 153 Sixtowns Road, Owenreagh, Draperstown for Ms Lisa Murray.

Agenda item 4.21 – LA09/2020/0550/O – Replacement dwelling at site 100m E of 2 Halfgayne Road, Maghera for Seamus Logue.

Agenda item 4.22 – LA09/2020/0561/F – Unit for valeting and cleaning of cars 15m SE of 82 Corr Road, Dungannon for Dan McNulty.

The Planning Manager further advised that planning applications LA09/2019/1624/F (Agenda item 4.9) and LA09/2019/1376/O (Agenda item 5.2) had been withdrawn.

Proposed by Councillor Brown  
Seconded by Councillor McFlynn and

**Resolved** That the planning applications listed above for deferral be deferred for an office meeting.

The Chair drew Members attention to the undernoted planning applications for determination.

**LA09/2017/1279/F**                      **2 Broiler Poultry sheds with 4 feed bins, 2 gas tanks and an office changing and standby generator building at Land approx. 50m SW of 40 Edendoit Road Pomeroy for Mr Eric Black**

Members considered previously circulated report on planning application LA09/2017/1279/F which had a recommendation for approval.

Councillor McKinney stated that as agenda items 4.1 to 4.4 were all for approval and there were no requests to speak on these applications that he would propose that they be considered collectively as approvals.

Councillor Colvin seconded Councillor McKinney's proposal.

**Resolved** That planning application LA09/2017/1279/F be approved subject to conditions as per the officer's report.

**LA09/2018/0211/F**                      **Free range organic poultry shed with 2 feed bins and a standby generator building (poultry shed to contain 6,000 free range organic egg laying hens) at land approx. 200m NE of 72 Sessiagh Scott Road, Dungannon, for Jim Hamilton**

Members considered previously circulated report on planning application LA09/2018/0211/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Colvin and

**Resolved** That planning application LA09/2018/0211/F be approved subject to conditions as per the officer's report.

**LA09/2018/0391/F**                      **Dwelling adjacent to and 15m S of 3 Park Lane, Dungannon for Arlene Jardine**

Members considered previously circulated report on planning application LA09/2018/0391/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Colvin and

**Resolved** That planning application LA09/2018/0391/F be approved subject to conditions as per the officer's report.

**LA09/2018/0652/F**                      **Housing development for 5 detached units with private access road and 1 no. detached dwelling with separate access from Loves Road at lands S of 1 Loves Road, Magherafelt, for FP McCann Ltd**

Members considered previously circulated report on planning application LA09/2018/0652/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Colvin and

**Resolved**    That planning application LA09/2018/0652/F be approved subject to conditions as per the officer's report.

**LA09/2019/0060/F**                      **2 holiday villas to match previously approved (I/2012/0159/F) at 60m E of 62 Loughbracken Road, Pomeroy for Karl Heron**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2019/0562/F**                      **Residential Development of 20 dwellings; includes site access, access roads, landscaping, car parking, driveways, garages and all associated site works and the retention of existing dwelling with new front boundary and access at 9a Slieve Gallion Drive, Magherafelt Road, Draperstown, for Viva Bingo Hall Ltd**

The Head of Development Management presented a report on planning application LA09/2019/0562/F advising that it was recommended for approval.

The Chair advised the committee that requests to speak on the application had been received and invited Councillor Elattar to address the committee.

Councillor Elattar stated that the proposal is to be sited on white lands and in the garden of an existing property and none of the residents of Slieve Gallion Drive would ever have imagined a development of 20 houses would be built in the grounds of the existing residence.

Councillor Elattar stated that the objectors recognise the efforts of the planning department and the developer to try to minimise the effects of the development on nos. 5 and 7 Slieve Gallion Drive however the residents of 7 Slieve Gallion Drive still have concerns relating to increased traffic flow and how this will impact their daily lives. The Councillor referred to the extensive health problems the residents of no.7 have and the search they had to find a property which would suit their needs. In finding no.7 Slieve Gallion Drive the residents believed they had found a suitable property but would not have purchased the property had they known a new housing development would mean the traffic flow outside their bedroom would increase substantially.



Councillor Elattar stated that there was also concern from nos. 5 and 7 Slieve Gallion Drive on the safety of access to and from their driveways which are both beside the new access road. Visibility from the new access road into Slieve Gallion Drive is also a concern. Councillor Elattar stated that objectors feel the DfI Roads have not fully considered these concerns.

Councillor Elattar also referred to the use of the road through Slieve Gallion Drive for agricultural vehicles and that it had previously been stated that the developer can provide alternate access for these vehicles but that this has not materialised and DfI Roads have not pursued this option. Councillor Elattar stated that there is a potential alternative access for the proposal onto the Magherafelt Road and objectors would like this taken into consideration.

Councillor Elattar stated that if the proposal is to go ahead then the objectors would like it conditioned that there would be no future access through for any future development beside the current proposed site as there is another site beside the proposal site which is zoned and there is a potential for a loop road which would exacerbate the problems already being faced by nos. 5 and 7 Slieve Gallion Drive.

Councillor Elattar asked that the application be deferred until the points raised have been considered and to give Members a chance to see the problem for themselves. Councillor Elattar stated that the objectors would be keen to have a site meeting with Members and that DfI Roads and Environmental Health be included at such a meeting.

The Planning Manager stated that there appeared to 3 main issues of objection to the application, 2 being roads issues and the other being noise and nuisance. The Planning Manager asked the Head of Development Management if Environmental Health had been consulted on the application.

The Head of Development Management advised that Environmental Health were consulted and were asked to examine the issues raised by one of the residents in relation to personal circumstances. It was advised that Environmental Health responded to say that issues around ease of access to and from no.7 Slieve Gallion Drive and noise impact is a matter for DfI Roads to consider.

The Planning Manager asked if the objectors concerns were highlighted to DfI Roads.

The Head of Development Management stated that following a site meeting with objectors DfI Roads were asked to specifically consider the issues raised at that meeting – primarily access through Slieve Gallion Drive, access in and out of properties in Slieve Gallion Drive and sight lines. It was advised that DfI Roads did respond on these issues and that they considered the layout and access arrangements of the proposal to be consistent with road design guidelines.

The Planning Manager referred to the issue of the road loop and asked if there are any safeguards against this.

The Head of Development Management stated that the layout of the site shows a future access way that can link in to the zoned housing site to the North and therefore provision has been left, if the other site was ever developed, to have 2 means of access to the site via Slieve Gallion Drive and directly from Magherafelt Road.

The Planning Manager stated that planning permission would be required to create the link and asked if there was any other way into the land.

The Head of Development Management stated that the only way directly onto the Magherafelt Road is from the narrow strip of land.

The Planning Manager stated that as the land is zoned it is a reasonable expectation that the narrow strip of land can be used for access. He stated however that Members cannot determine the application before them tonight on what may happen in the future but at the same time consideration needs to be given to the Development Plan and what is proposed within that document.

The Planning Manager referred to the earlier request for deferral and stated that as all objections have been forwarded to the relevant consultees and considered thoroughly he did not believe there was anything to add by deferring the application.

The Council Solicitor referred to email submitted by Councillor Elattar which was emailed to Councillors as part of the addendum and that Members should take the time to consider this document.

The Chair, Councillor S McPeake asked if all Members had been able to access the addendum which was emailed to them.

Councillor Gildernew indicated that he did not receive the addendum which was emailed and confirmed that he would therefore not speak/vote on the application.

The Council Solicitor stated that if the Head of Development Management went through the points raised in the email for Members now then Councillor Gildernew can take part in discussion/ voting on the application should he wish to do so.

Councillor Cuthbertson stated that the Chair had asked at the beginning of the meeting if everyone had received the addendum and no one had said they had not received it. Councillor Cuthbertson stated that if planning officers are content that all concerns have been taken into account, including those raised in the email as part of the addendum then he would propose the recommendation to approve the application.

The Planning Manager stated that as there appeared to be some ambiguity as to Members having received the email with the addendum it would be better to take some time to go through the points raised in the email.

Councillor McKinney stated that it was his belief under the Code of Conduct that if Councillor Gildernew has not received the information then the Committee were not in a position to move forward.

The Planning Manager stated that the addendum had been emailed to all Members, however as Councillor Gildernew has stated that he did not receive this information he would not take part in any discussion/vote on the application. The Planning Manager stated that there was still more than enough of the Committee who could take a decision on the application.

Councillor Gildernew stated that he had put his hand up at the beginning of the meeting when it was asked if everyone had received the addendum however this did not appear to have been acknowledged.

Councillor Glasgow stated that he did not feel it would take that long to go through the points within the email and that this would allow Councillor Gildernew to take part in any discussion/voting on the application.

The Chair, Councillor S McPeake asked the Head of Development Management to go through the points raised in the email submitted by Councillor Elattar.

The Head of Development Management took Members through the points raised in the email from Councillor Elattar as follows –

*Breach of original neighbour notification. Despite being within the designated 90m from the proposed development, some residents were not included in the process. They view this as a major concern. Does this have an impact on the process and effectively flaws the originally submission?*

The Head of Development Management advised that at the outset there was an issue regarding what was neighbouring property or adjoining property and there were errors made at that time however those have since been corrected and that he was satisfied that all parties which should have been notified have now been notified.

*Unsatisfactory reporting from Roads Enniskillen throughout the process with limited substantiation. The objectors are 100% sure there is a sight line issue between the main Slieve Gallion Drive route and the proposed turn off into 9A Slieve Gallion Drive. On both sides of the entrance whilst trying to look right and left. There are obvious dangers on access/egress. They wish to meet Roads to discuss this*

The Head of Development Management advised that DfI Roads were specifically asked to look at these concerns. It was advised that DfI Roads have indicated there is no issue to justify refusing access to this site however there may be some vegetation growth which has exceeded the footpath which may be dealt with under a different control. The Head of Development Management stated that DfI Roads have not presented anything to state that entry/exit to any property in Slieve Gallion Drive will be made unsafe due to this proposal going ahead.

*Unsatisfactory reporting from the Environmental Health. If they have properly studied the objection from number 7 Slieve Gallion Drive a more sympathetic approach may have been taken. The objectors wish to meet Environmental Health. It seems the emotional pleas with very strong and genuine human rights issues have been completely ignored and fallen on 'deafened ears'. This has to be a serious flaw.*

The Head of Development Management stated that Environmental Health were asked to comment on issues raised by no.7 Slieve Gallion Drive but that they and DfI Roads were satisfied that the means of entry both in and out of no.7 is not prejudiced by this application.

*Multiple issue of identical notification letters and in some cases up to 6 to any 1 objecting household. Objectors wonder does this relate to the ratio of notifications versus the number of objections? It certainly has presented misleading statistic when one simply review the quantum of notification versus objection.*

The Head of Development Management advised that this point relates to multiple objections from the one address and that when the application is re-notified each of the named objectors receives a letter as opposed to one per household and explains why some households may have received 4 or 5 letters and others only 1.

*Despite being a very strong link between the owners of 9A grounds and adjacent development lands there is an insistence that there is no link- meaning that they will not consider access through these lands and direct to the Magherafelt Road. If this is the position why did the council recommend the provision of an open space areas in this proposed development to safeguard the future development of the adjacent lands?*

The Head of Development Management stated that this particular application site does not have any particular key site requirement and it is reasonable for access to be considered as it has been. It was advised that the adjacent zoned site does provide future connectivity and that this along with the need to ensure future open space is not a burden on the adjacent site in its entirety, open space within this application was requested.

*Number 9A is now occupied once again as a dwelling. How can that continue safely if their grounds are to be eventually a building site?*

The Head of Development Management stated that as the applicant is the owner of the property in question then they should in all likelihood ensure that the ground at the property will be left safe and that this should not be a deterrent to the application proceeding.

*If planning approves this application, local residents would like to see both a copy of the Construction Management Plan and the Construction Environmental Management Plan which should be submitted as part of the planning process and which should form part of the approval process.*

The Head of Development Management referred to the additional note on the addendum and that NIEA Water Management Unit have sought a Construction Method statement and that this should be submitted 8 weeks prior to the commencement of construction.

*Removal of the Planning Portal. How are existing residents supposed to track updates? They have experienced considerable difficulty in accessing the planning portal.*

The Head of Development Management stated that he was not aware of any issues regarding public access to the planning portal.

The Council Solicitor stated that there was one of the points raised in the email regarding unsafe movement of agricultural traffic which had not been dealt with. The Council Solicitor also referred to the vegetation growth mentioned and whether this requires a condition. The Council Solicitor also referred to point raised in which it was stated that genuine human rights issues have been completely ignored and asked if this has been considered as part of the report.

The Head of Development Management referred to the additional point within the email as follows -

*Unsafe movement of agricultural traffic through Slievegallion Drive and the proposed new development (as recent as last week with slurry tanks and associated equipment utilising Slieve Gallion Drive and the grounds of 9A to access adjacent agricultural lands). Certainly a contradiction when we consider the minutes confirming that the Developer could access agricultural lands through alternative routes (minuted by the council) but latest reports suggest that the Developer did not make this offer. The objectors wish to know why the developers offer to provide alternative agricultural access has not been taken up.*

The Head of Development Management stated this was not an ideal situation and that the current arrangement facilitates the occasional access of agricultural vehicles through Slieve Gallion Drive. It was advised that when officers met with the agent there appeared to be a willingness to get agricultural vehicles to access the land via a different means but that when the amended plans were submitted no alternative access was put forward. DfI Roads do not feel that the occasional use of the road through the development was a road safety issue given the limited/seasonal use.

The Planning Manager stated that the issue of overgrown vegetation was a common one and can relate to visibility splays in which DfI Roads could write to a property owners asking them to cut back such vegetation. Such matters are dealt with under other legislation.

In relation to human rights, the Planning Manager stated that in planning terms this is considered under the term neighbouring amenity and the right for a person to enjoy their home. The Planning Manager stated that it was not a pre requisite for planning to go through each of the points of the Human Rights Act but in this instance officers have considered the objections in relation to noise, road safety and access and have also consulted on these matters.

Councillor Clarke stated that the situation regarding agricultural vehicles was not ideal and it would be better if such vehicles did not travel through the housing development.

The Chair, Councillor S McPeake invited Mr McLaughlin to address the Committee.

Mr McLaughlin stated that the proposal was for 20 dwellings with the retention of 9a Slieve Gallion Drive. The site is accessed off Magherafelt Road via Slieve Gallion

Drive and is located within the development limits of Draperstown. Mr McLaughlin stated that it is entirely appropriate to consider the proposal to develop the lands in question for housing and this is the predominant surrounding land use. Mr McLaughlin stated that the original application was for 23 dwellings however this was reduced to 20 following consultation with the planning department following concerns from objectors. Mr McLaughlin stated that the application conforms with planning policy and that the original PAD application was submitted in January 2019 with the full application being submitted in April 2019 – Mr McLaughlin did not believe the planning recommendation has been made in haste and that all matters raised by objectors and again tonight have been considered with no issues raised by statutory consultees. Mr McLaughlin requested that the Committee endorse the recommendation of the planning officer.

The Chair, Councillor S McPeake referred to the concerns in relation to agricultural vehicles and asked Mr McLaughlin to comment on this.

Mr McLaughlin stated that concerns in relation to agricultural vehicles travelling through the development have not been raised with any other body other than through this application. Mr McLaughlin stated that this issue was discussed previously with planning officers and it was advised that the use of agricultural vehicles through Slieve Gallion Drive is very limited. DfI Roads have assessed the matter as part of the consultation process and also have no issues. Mr McLaughlin stated that whilst there is an alternative access which may be explored at a later date, the existing access needs to remain at the moment. Mr McLaughlin also explained that there is a requirement of DfI Rivers to access a watercourse for maintenance purposes and that this is included in their consultation response and conditions.

Councillor Colvin stated that one would not expect agricultural vehicles to be travelling through a residential development and felt that as there is an alternative access available that the developer should have included this in their proposal in order to avoid any further agricultural vehicles going through Slieve Gallion Drive.

The Planning Manager asked if this application prejudices the use of the alternative access.

Mr McLaughlin stated it did not.

The Planning Manager asked if Mr McLaughlin would be agreeable to a condition being applied which would not allow through access to neighbouring fields.

Mr McLaughlin stated he could not answer that question without speaking to the applicant.

The Planning Manager stated that the proposal was for a residential development and that it would be reasonable to put a condition such as the one suggested on the application.

The Planning Manager stated that access from the North can be taken from an existing road and that there is currently existing access for agricultural vehicles for

the other land. The Planning Manager suggested that the one single boundary which is causing concern be fenced off but allowing for access as shown on the plans because as it appears to be an existing agricultural access anyway.

Councillor Colvin stated that the proposal will site a number of houses around the existing access and that there needs to be change in relation to agricultural vehicles travelling through a development.

The Planning Manager stated that a right of access cannot be altered and that it was not uncommon for a housing development to allow access to lands to the rear. With regard to concerns regarding potential occupiers of the new houses the Planning Manager stated it is up to individuals if they wish to purchase a property with the knowledge of what the planning approval shows.

Councillor Robinson stated that having listened to all the discussion tonight and that all objections have been answered he would second Councillor Cuthbertson's proposal to approve the application.

**Resolved** That planning application LA09/2019/0562/F be approved subject to conditions as per the officer's report.

**LA09/2019/0966/F**                      **Access for goods vehicles to enter and exit onto the B34 Dungannon Road from Sandvik site, at Sandvik Mining and Rock Technology, Tullyvannon, Ballygawley for Sandvik Ltd**

Members considered previously circulated report on planning application LA09/2019/0966/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2019/0966/F be approved subject to conditions as per the officer's report.

**LA09/2019/1567/F**                      **Retention of extension to work shop, store, mobile office, canteen and welfare facilities at 67A Farlough Road, Newmills Dungannon, for Mr Kenny Archer**

Members considered previously circulated report on planning application LA09/2019/1567/F which had a recommendation for approval.

Proposed by Councillor Mallaghan  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2019/1567/F be approved subject to conditions as per the officer's report.

**LA09/2019/1624/F**                      **5 Self-catering tourist accommodation units at lands 250m NE of 5 Old Loughry Road, Cookstown, for Jason Currie**

Application Withdrawn.

**LA09/2019/1630/F**                      **Section 54 application regarding a proposed conversion of a redundant building to form one dwelling house approved under LA09/2016/0889/F. Application seeks to vary condition 3 of the approval - removing the need for a forward sight distance at 40m SW of 38 Lisnamuck Road Tobermore for Mr Hopper**

Members considered report on planning application LA09/2019/1630/F which had a recommendation for refusal.

Proposed by Councillor Mallaghan  
Seconded by Councillor Glasgow and

**Resolved**     That planning application LA09/2019/1630/F be refused on grounds stated in the officer's report.

**LA09/2020/0034/O**                      **Dwelling at an existing cluster adjacent to and SW of 150a Washingbay Road, Upper Meenagh, Coalisland for Patrick Brady**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/0089/F**                      **Conversion of existing natural stone barn to dwelling at 20m W of former Ulster Bank premises 26-27 The Square Stewartstown for Ryan Smith Properties Ltd**

Members considered previously circulated report on planning application LA09/2020/0089/F which had a recommendation for approval.

Proposed by Councillor Colvin  
Seconded by Councillor Brown and

**Resolved**     That planning application LA09/2020/0089/F be approved subject to conditions as per the officer's report.

**LA09/2020/0093/O**                      **Dwelling and garage on a farm 60m E of 43 Carnaman Road, Gulladuff, for Mr James Mc Erlean**

Agreed that application be deferred for an office meeting earlier in meeting.



**LA09/2020/0213/F                      Restructuring and alterations of vehicular access, at  
18 Cookstown Road, Dungannon for Mr Barry O'Neill**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/0331/O                      Site for a dwelling and domestic garage approx. 15m  
NE of 153 Sixtowns Road, Owenreagh, Draperstown  
for Ms Lisa Murray**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/0415/F                      Change of use from domestic garage to beauty salon  
at 17 Lurgaboy Lane, Dungannon for Paul Lavery**

Members considered previously circulated report on planning application  
LA09/2020/0415/F which had a recommendation for approval.

Proposed by Councillor Mallaghan  
Seconded by Councillor Robinson and

**Resolved**     That planning application LA09/2020/0415/F be approved subject to  
conditions as per the officer's report.

**LA09/2020/0433/F                      Single storey extension to existing suspended  
ground floor of the bakery at 169 Ballagh Road  
Fivemiletown for Scotts Bakery Ltd**

Members considered previously circulated report on planning application  
LA09/2020/0433/F which had a recommendation for approval.

Proposed by Councillor Gildernew  
Seconded by Councillor Brown and

**Resolved**     That planning application LA09/2020/0433/F be approved subject to  
conditions as per the officer's report.

**LA09/2020/0449/F                      Extension of existing residential care home facility  
with 7 no. individual care units, communal building,  
staff area with associated car parking and  
landscaping at 19 Rocktown Lane, Knockloughrim,  
Magherafelt for Inspire 2 Care Ltd**

The Chair, Councillor S McPeake declared an interest in the application and vacated  
the Chair.

Councillor Glasgow took the Chair.

Members considered previously circulated report on planning application  
LA09/2020/0449/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2020/0449/F be approved subject to conditions as per the officer's report.

Councillor S McPeake took the Chair.

**LA09/2020/0461/F Extensions to existing office and factory buildings at 26b Station Road, Magherafelt for Bloc Blinds Ltd**

Members considered previously circulated report on planning application LA09/2020/0461/F which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2020/0461/F be approved subject to conditions as per the officer's report.

**LA09/2020/0484/O Offsite replacement dwelling garage at approx. 60m N of 18 Ballynakilly Road, Cookstown for Seamus Nugent**

The Head of Development Management presented a report on planning application LA09/2020/0484/O advising that it was recommended for approval.

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

Mr Ross stated he was representing neighbouring residents to the site, the Costello family. Mr Ross stated that when considering a replacement the basic principle should be that the new dwelling should be within the curtilage of the existing site although there can be a small minority of cases in which exceptional circumstances can be put forward in which a dwelling can be moved to a better location. In this case the applicant wants to move the new dwelling quite a distance from the original structure with the key concern being that the new dwelling will be right beside the objector's property and it is felt that there is an alternative site within the applicant's farm where the dwelling can be located. Mr Ross stated that just because the proposal may be the most desirable site to the applicant the question should be asked as to whether this is the most integrated site and that there is a better site available to the applicant in landscape and visual terms and is also well distanced from the poultry houses. Mr Ross stated that alternative sites have not been investigated at any stage and it was his feeling that a review of alternatives is an essential component of any off site replacement proposal. Mr Ross stated that if the proposal was moved to a different location then his clients would be happy to withdraw their objections. Mr Ross asked that alternative sites be considered.

The Chair, Councillor S McPeake asked if there were amenity issues with regards to the objections raised.

Mr Ross stated that the objectors concerns are that the new house will invade their privacy and that it seems strange in that when there is a large area of land and alternative sites available that the applicants have chosen to locate their new dwelling right beside an existing dwelling.

The Planning Manager asked where in the policy it states that an off site replacement needs to assess all the other alternatives.

Mr Ross stated that this is not stated with policy CTY3 but that the thrust of policies CTY13 and CTY14 is about finding the best integrated site.

In response to the Planning Manager, Mr Ross stated that the argument was that the proposal site did not integrate and was obtrusive and would lead to build up.

The Planning Manager asked if the tests had been applied in terms of integration and build up.

The Head of Development Management referred to the case officer report which states that there are no critical views of the dwelling along both directions of the Ballynakilly Road and that there will be some views of the dwelling along the Rockdale Road but only from a distance. In terms of rural character the case officer report states that they are content that the dwelling will not be a prominent feature and will not impact on rural character of the area.

The Planning Manager stated that there needed to be consideration given to the existing residents and in terms of protecting their amenity and privacy he asked what had been considered.

The Head of Development Management referred to the quality of vegetation between the two sites and that a condition of approval is the retention of natural screenings.

Councillor McKinney asked if all planning procedures have been exhausted as whether there are alternative sites or not it is not up to Councillors to pick a site but rather to judge the site before them for what it is.

The Planning Manager stated that the map shows an indicative site for the dwelling and asked if the distance could be increased from the neighbouring dwelling.

The Head of Development Management stated that a siting condition has been applied and there is the possibility of moving the new dwelling away from the existing dwelling if it continues to be acceptable in visual terms.

Councillor Black referred to the concerns of objectors and that they feel their amenity is not being protected. Councillor Black asked if it would be worthwhile to defer this application in order to find a solution to which both parties can agree.

The Planning Manager stated he felt siting conditions should be imposed and that in imposing such a condition officers are mindful of increasing the separation distance between the two dwellings and also ensuring a condition which requires the boundaries to be retained but also augmented.

Councillor Brown asked why the access to the dwelling has to come down the middle of the field rather than to the side where the existing dwelling is located.

The Head of Development Management advised that the officer report states the new access runs across the middle of an agricultural field but follows a row of established trees and it is felt that this is a suitable route to follow.

The Planning Manager referred to the suggestion of deferring the application and if an agreement between both parties can be reached then this would benefit everyone. The Planning Manager suggested that the application be deferred for officers to look at the laneway and if there can be any increased separation between the proposal and the neighbouring property.

Councillor Black proposed that the application be deferred.

Councillor Brown seconded Councillor Black's proposal.

**Resolved** That planning application LA09/2020/0484/O be deferred for officers to further consider siting and access.

Councillor Bell requested that these matters be considered expediently.

The Planning Manager stated that the application should be ready to come back before the Committee next month.

Councillor Mallaghan stated that the applicant would have expected this application to be approved tonight and therefore any changes to the application should be done in consultation with the applicant.

The Planning Manager stated this will happen.

**LA09/2020/0550/O                      Replacement Dwelling at site 100m E of 2 Halfgayne Road, Maghera, for Seamus Logue**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/0561/F                      Unit for valeting and cleaning of cars, 15m SE of 82 Corr Road, Dungannon for Dan McNulty**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/0603/F                      Upgrade to existing parking area and path from carpark to Forest Road. New path within Forest towards the River. Trail furniture and timber Play Equipment. Walking trail extending from Rath Dubh Community Centre towards the River at Moydamlaght Forest, Moydamlagh Road, (Approx. 5 miles NW of Draperstown). Agricultural land to the NE of Rath Dubh community Centre, Moneyneaney Road for Mid Ulster District Council**

Members considered previously circulated report on planning application LA09/2020/0603/F which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor Kearney and

**Resolved** That planning application LA09/2020/0603/F be approved subject to conditions as per the officer's report.

**LA09/2020/0604/F**                      **Mountain bike trail to include: New blue and red grade mountain trails, all necessary crossings, bridge structure and boardwalk, Gravity bike trail, Jump track and Trail signage/waymarker posts at Davagh Forest, Davagh Road, Omagh, for Mid Ulster District Council**

Members considered previously circulated report on planning application LA09/2020/0604/F which had a recommendation for approval.

Proposed by Councillor Mallaghan  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2020/0604/F be approved subject to conditions as per the officer's report.

**LA09/2020/0630/O**                      **Site for 2 storey dwelling and garage opposite and S of 23 Tulnacross Road, Cookstown for Mr Black & Miss Bradley**

Councillor Black withdrew to the public gallery.

Members considered previously circulated report on planning application LA09/2020/0630/O which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2020/0630/O be approved subject to conditions as per the officer's report.

Councillor Black rejoined the meeting.

**LA09/2020/0634/F**                      **2 storey extension to side and single storey rear extension with disabled adaptations at 98 Drumbolg Road, Maghera, for Carla Kennedy / Ciaran Bennett**

Members considered previously circulated report on planning application LA09/2020/0634/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Kearney and

**Resolved** That planning application LA09/2020/0634/F be approved subject to conditions as per the officer's report.

**LA09/2020/0677/F**                      **Change of house type and garage (to approval LA09/2016/1557/F) at 40m SW of 9 Ballyhagan Road, Maghera, for Mr E Kelly**

Members considered previously circulated report on planning application LA09/2020/0677/F which had a recommendation for approval.

Councillor McKinney stated that there were floods in this area recently and asked if Rivers Agency had any issues with the application.

Councillor Mallaghan stated that this was a change of house type therefore approval had already been given for a dwelling.

The Chair, Councillor S McPeake stated that the officer was currently looking for the file for this application to establish if Rivers Agency had made any comment in relation to flooding and in the meantime the Committee would continue with the next item on the agenda and come back to this item later.

**LA09/2020/0692/O**                      **Dwelling in an infill site at land adjoining 57 Kinturk Road, Moortown, for Adrian McNally**

The Head of Development Management presented a report on planning application LA09/2020/0692/O advising that it was recommended for refusal.

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

Mr Coney stated that the application was submitted as infill and that the map submitted is typical of the type of development in the area. Mr Coney stated that he believed that the site is suitable as infill from the lane access and long frontage which is indicated on the map. Mr Coney stated that the site is accessed from the Kinturk Road and there is no intention to alter this access and should remain as an existing access. Mr Coney advised that the owner of no.57 does not drive and never will drive therefore there will be no increased vehicular use. Mr Coney stated there is the potential to screen the new dwelling which will protect from the appearance of backed on development with emphasis put on the dwelling from the laneway as the gap site as opposed to from the Kinturk Road.

Councillor Mallaghan stated that the proposal demonstrates how development has occurred in the surrounding area for a long period of time and that he did not feel the proposal would look out of place given what is already there.

Councillor Bell stated he agreed with Councillor Mallaghan's comments as he lived in the area and this is how development had transpired over the years. Councillor Bell

also referred to a recent application considered by the Committee which he felt was a similar scenario to this in which a house was set back from the road.

The Planning Manager asked if there were any road safety concerns in relation to the application.

The Head of Development Management stated more information has been requested to demonstrate that a safe access can be achieved.

The Planning Manager suggested that the application be deferred for an office meeting to further consider access issues.

The Council Solicitor stated that there were three reasons for refusal the third being CTY1 and that all reasons needed to be considered.

Proposed by Councillor Bell  
Seconded by Councillor Mallaghan and

**Resolved** That planning application LA09/2020/0692/O be deferred for an office meeting.

**Continuation of  
LA09/2020/0677/F**

**Change of house type and garage (to approval  
LA09/2016/1557/F) at 40m SW of 9 Ballyhagan Road,  
Maghera, for Mr E Kelly**

Ms McCullagh (SPO) stated that the rivers maps do show that the southern corner of the site is within the flood plain but that there will be no dwelling or development within this area.

Proposed by Councillor Mallaghan  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2020/0677/F be approved subject to conditions as per the officer's report.

Councillor McKinney questioned that if part of the site is within the flood plain whether it is still passable.

The Chair, Councillor S McPeake stated that the application is for a change of house type and that permission has already been granted on that site.

The Planning Manager stated that the issue of flood plains is intensifying as a result of global warming and that Rivers Agency are currently conducting a review of flood plains. The Planning Manager stated that when assessing applications in relation to flood plains this consideration is proportionate ie. A dwelling may not be in a flood plain but the access to it is and in such cases officers will liaise with the relevant agencies to tease out issues.

*Councillor Cuthbertson left the meeting at 8.45 pm.*

**LA09/2020/0979/F**                      **Installation of play park with play equipment, picnic bench, bins, seating bench, accompanying wet pour 1.2m high bow top fence to be installed around the perimeter of park and an asphalt concrete path at lands off Barrack Road, and adjacent to O'Neill Park, Ballymaguigan, for Mid Ulster District Council**

Members considered previously circulated report on planning application LA09/2020/0979/F which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor McFlynn and

**Resolved**     That planning application LA09/2020/0979/F be approved subject to conditions as per the officer's report.

**LA09/2018/1153/F**                      **General purpose farm/storage shed and animal welfare unit associated with existing established farm business, 55m N of 3 Killycolpy Road, Carnan, Stewartstown for Mr Francis Gallagher**

Members considered previously circulated report on planning application LA09/2018/1153/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Colvin and

**Resolved**     That planning application LA09/2018/1153/F be approved subject to conditions as per the officer's report.

**LA09/2019/1376/O**                      **Site for dwelling and garage within a gap site 50m South of 39 Baladoogh Lane, Cookstown for Patrick McAleer**

Application Withdrawn.

**LA09/2019/1394/O**                      **Dwelling and detached garage 40m East of 12 Newline Road, Cookstown for Laura Rafferty**

Members considered previously circulated report on planning application LA09/2019/1394/O which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor Robinson and

**Resolved**     That planning application LA09/2019/1394/O be approved subject to conditions as per the officer's report.



Ms McCullagh (SPO) presented a report on planning application LA09/2019/1540/O advising that it was recommended for refusal.

The Chair advised the committee that requests to speak on the application had been received and invited Councillor B McGuigan to address the committee in the first instance.

Councillor B McGuigan stated he had attended the site meeting for this application and that the issue at that meeting related to frontage at no.29. Councillor B McGuigan stated he did not believe this was a laneway but rather a driveway to the dwelling at no.29. Councillor B McGuigan stated that the driveway has a well kept frontage and will have gates in the future and be tarmacked. Councillor B McGuigan stated he did not believe a dwelling on this site would impact the rural character of the area.

Councillor D McPeake that he had also attended the site meeting and it was his belief on leaving the meeting that day that the application could be approved. Councillor D McPeake referred to the well kept frontage onto the road and that there were wires in place for electric gates.

The Planning Manager stated that a road or access is not treated that same as a building and in this case the building is set a distance up a laneway and is not reading as a book end and therefore does not meet policy. The Planning Manager stated he was advising the Committee to prevent it from getting into difficulties because if an interpretation is made on something which no reasonable person would then the Committee can be found liable. The Planning Manager stated that exceptions to policy can be considered but that valid reasoning has to be provided.

The Chair, Councillor S McPeake stated that the first discussion relating to this application related to the frontage and ambiguity regarding same. During previous discussion the frontage was being interpreted as a field and the Chair stated that that is not what it is.

The Planning Manager stated that policy refers to buildings not frontages with access. The Planning Manager stated that just because there is an access with a piece of kept ground with a dwelling set back the Committee would be on dodgy ground if they were tested on this due to the fact there is no policy provision. The Planning Manager stated that the Committee as decision makers are not bound by what policy says but if policy is not being followed then clear reasoning has to be provided as to what the exception is. The Planning Manager advised the Committee not to try to make a policy fit if it doesn't fit.

The Chair, Councillor S McPeake stated that during the first discussion on the application there was some discussion regarding a temporary building and that building was then discounted. Further discussion during the site meeting related to frontage and the building at the rear and whether that constituted a building or not.

The Chair stated that following the site meeting he was a lot more informed on the application and he still felt that the application meets the test for infill.

The Planning Manager advised the Committee that there are a number of refusals where there is an agricultural field in between a site and the road and if the Committee came to a similar conclusion in this instance then he believed the Committee would be putting itself at risk. The Planning Manager stated that an exception can be made but that reasoning for doing so needs to be set out.

The Chair, Councillor S McPeake stated that the grounds at the frontage and along the laneway are well taken care of and maintained and this was not an agricultural field.

The Planning Manager repeated that if the Committee want to make an exception then reasoning needs to be provided. The Planning Manager stated that to say the application meets policy would be difficult to defend.

Councillor Bell asked where in the policy it states that the building that is one of the bookends has to be at the roadside.

The Planning Manager stated the policy refers to a gap between buildings therefore manicured grass and a laneway cannot be considered.

Councillor McKinney stated that the farm building as indicated on the map is not a farm building but rather a portable feeder which can be moved about from field to field.

The Planning Manager stated that the Councillor was correct and that such a structure would not constitute a building. The Planning Manager stated that exceptions have been made on numerous other applications previously and clear reasoning had been provided as to why an exception was being made.

The Chair, Councillor S McPeake invited Mr Cassidy to address the Committee.

Mr Cassidy stated that point 5.3.3 of infill policy is clear and does not require buildings to be visually linked. In this case the building under dispute is no.29 which has a garden area of some 400sqm of which 41m abuts the road, at the entrance to the house there are pillars under construction with wiring for electric gates already in situ. Mr Cassidy stated that in a review to infill dwellings a greater need for flexibility in how sites are defined was identified. Mr Cassidy stated that most entrances into dwellings are 5 to 6 metres, in this case there is an entrance of over 40 metres which he felt would be difficult to replicate elsewhere and that the Committee would therefore not be setting a precedent.

The Council Solicitor stated she felt it would be worthwhile for Members to hear the policy relating to frontage and also to get confirmation of what frontages are to be included as part of the consideration of this application.

The Planning Manager stated that the map showed 3 blue houses in a row which would ordinarily be taken as a building with a frontage to the road and that the

proposal is not a building with a frontage but rather an access with a dwelling set back from the road. The Planning Manager stated that the building to the other side of the access was not a permanent building and did not have a certificate of lawfulness. The Planning Manager stated that the application is hard to justify if policy is not being applied and that there are numerous examples within policy which outline what an infill is. The Planning Manager asked the Head of Development Management to read the policy to Members.

The Head of Development Management read from policy CTY8 which states that planning will be permitted for the development of a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting, plot size and meets other planning and environmental requirements. The definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

Councillor Colvin stated he had also visited the site and felt it was a stretch to call this an infill site. Councillor Colvin stated he had listened to the discussion on both sides tonight and felt that the arguments put forward by officers were much more robust and that on this basis he would propose that the application be refused.

Councillor Robinson seconded Councillor Colvin's proposal.

Councillor Clarke stated he had not heard all of the Planning Manager's last comments.

The Planning Manager reiterated his last comments and referred to guidance document on sustainable rural development which clearly gives different examples of infill development. The Planning Manager stated that this application would go against a lot of practice and has not been accepted before and that there are previous PAC decisions to support this. The Planning Manager stated that if there is a reason why the application should be treated as an exception then the reasoning should be set out but that he was uncomfortable with an attempt to twist policy to make it fit.

**Resolved** That planning application LA09/2019/1540/O be refused on grounds stated in the officer's report.

*Councillor Bell left the meeting at 9.14 pm*

<b>LA09/2019/1553/F</b>	<b>Retention of a two storey seminar/ training room, office and store associated with the expansion of an established emergency medical supplies (EMS) business (amended plan) at 12 Ballynahone Road, Maghera 12 Ballynahone Road, Maghera for Emergency Medical Services (N.I) Ltd</b>
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Members considered previously circulated report on planning application LA09/2019/1553/F which had a recommendation for approval.

Councillor Glasgow referred to the officer report which stated that Dfl had been reconsulted on the application but had not come back.

Ms McCullagh (SPO) stated that a response from Dfl Roads was within the addendum.

Proposed by Councillor Brown  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2019/1553/F be approved subject to conditions as per the officer's report.

### **Matters for Information**

#### **P093/20 Minutes of Planning Committee held on 1 September 2020**

Members noted minutes of Planning Committee held on 1 September 2020.

*Councillor Robinson left the meeting at 9.15 pm.*

Live broadcast ended at 9.15 pm.

### **Local Government (NI) Act 2014 – Confidential Business**

Proposed by Councillor Mallaghan  
Seconded by Councillor Colvin and

**Resolved** In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P094/20 to P097/20.

#### **Matters for Decision**

P094/20 Receive Enforcement Report

#### **Matters for Information**

P095/20 Confidential Minutes of Planning Committee held on  
1 September 2020

P096/20 Enforcement Cases Opened

P097/20 Enforcement Cases Closed

#### **P098/20 Duration of Meeting**

The meeting was called for 7 pm and concluded at 9.36 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_

## Annex A – Introductory Remarks from the Chairperson

Good evening and welcome to the meeting of Mid Ulster District Council's Planning Committee in the Chamber, Magherafelt and virtually.

I specifically welcome the public watching us through the Live Broadcast feed. The Live Broadcast will run for the period of our Open Business but will end just before we move into Confidential Business. I will let you know before this happens.

Just some housekeeping before we commence. Can I remind you:-

- If you have joined the meeting remotely please keep your audio on mute unless invited to speak and then turn it off when finished speaking
- Keep your video on at all times, unless you have bandwidth or internet connection issues, where you are advised to try turning your video off
- If you wish to speak please raise your hand in the meeting or on screen and keep raised until observed by an Officer or myself
- Should we need to take a vote this evening please raise your hand in the normal way and keep raised until advised to lower
- For members attending remotely, note that by voting on any application, you are confirming that you were in attendance for the duration of, and that you heard and saw all relevant information in connection with the application you vote on
- When invited to speak please introduce yourself by name to the meeting. When finished please put your audio to mute
- For any member attending remotely, if you declare an interest in an item, please turn off your video and keep your audio on mute for the duration of the item
- An Addendum was emailed to all Committee Members at 5pm today. There is also a hard copy on each desk in the Chamber. Can all members attending remotely please confirm that they received the Addendum and that have had sufficient time to review it?
- If referring to a specific report please reference the report, page or slide being referred to so everyone has a clear understanding
- For members of the public that are exercising a right to speak by remote means, please ensure that you are able to hear and be heard by councillors, officers and any others requesting speaking rights on the particular application. If this isn't the case you must advise the Chair immediately. Please note that once your application has been decided, you will be removed from the meeting. If you wish to view the rest of the meeting, please join the live link.

- Can I remind the public and press that taking photographs of proceedings or the use of any other means to enable persons not present to see or hear any proceedings (whether now or later), or making a contemporaneous oral report of any of the proceedings are all prohibited acts.

Thank you and we will now move to the first item on the agenda.



<b>Report on</b>	<b>Mid Ulster District Council</b>
<b>Date of Meeting</b>	<b>3<sup>rd</sup> November 2020</b>
<b>Reporting Officer</b>	<b>Chris Boomer - Planning Manager</b>
<b>Contact Officer</b>	<b>Roisin McAllister - Senior Planning Officer (Acting)</b>

<b>Is this report restricted for confidential business?</b>	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	x

<b>1.0</b>	<b>Purpose of Report</b>
1.1	To inform members of the Department's agreement of our Revised Timetable (August 2020) for the production of the new Local Development Plan (LDP) for Mid Ulster District Council Area.
<b>2.0</b>	<b>Background</b>
2.1	Legislation, namely the Planning (NI) Act 2011, requires the council to produce and review such a timetable when preparing and adopting a LDP. Regulation 7 of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 requires that the timetable is approved by resolution of the council prior to submission to the Department for its agreement and submitted to the Department. It also requires the Department to respond within four weeks of receipt of the timetable, unless it has, before the expiry of that period, notified the council that it requires more time to consider the timetable.
<b>3.0</b>	<b>Main Report</b>
3.1	The revised timetable (August 2020) was agreed by resolution of the council on 1 <sup>st</sup> September 2020. It was submitted to the Department on 11 <sup>th</sup> September 2020. The Department responded on 18 <sup>th</sup> September 2020 confirming their agreement of our Revised LDP Timetable (August 2020) – please see attached letter (Appendix A).
3.2	Regulation 8 of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 requires that where a timetable is agreed under regulation 7, the Council must make a copy of the agreed timetable available for inspection during normal office hours at its principal offices, such other places within its district as it considers appropriate; and give notice by local advertisement that the timetable is available for inspection, the place and times at which it can be inspected; and publish the timetable on its website.
3.3	Consequently, the next step is to make the revised timetable available for inspection in the three principal offices, publish it on our website and give notice by local advertisement that the timetable is available for inspection along with the details as specified by Regulation 8 of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015.



<b>4.0</b>	<b>Other Considerations</b>
<b>4.1</b>	<b>Financial, Human Resources &amp; Risk Implications</b>
	Financial: N/A
	Human: N/A
	Risk Management: N/A
<b>4.2</b>	<b>Screening &amp; Impact Assessments</b>
	Equality & Good Relations Implications:
	Rural Needs Implications:
<b>5.0</b>	<b>Recommendation(s)</b>
5.1	Members are requested to note the contents of this report.
<b>6.0</b>	<b>Documents Attached &amp; References</b>
	<ul style="list-style-type: none"> <li>- Appendix A: Letter outlining the Department's agreement to Mid Ulster District Councils Revised LDP Timetable (August 2020).</li> </ul>

## Strategic Planning Directorate



Department for

# Infrastructure

An Roinn

## Bonneagair

[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

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Your Reference:  
Our Reference:

18 September 2020

Dear Chris

### **Mid Ulster District Council – Local Development Plan 2030 – Revised LDP Timetable**

Thank you for your correspondence received 11 September 2020 enclosing Mid Ulster District Council's revised Local Development Plan timetable for agreement.

In accordance with Section 7(2) of The Planning Act (Northern Ireland) 2011 and regulation 7 of The Planning (Local Development Plan) Regulations (Northern Ireland) 2015, the Department hereby agrees the Council's Local Development Plan timetable.

It is noted that the Council has acknowledged a number of factors that could impact upon the timescale for LDP delivery, particularly the impact of the COVID-19 pandemic upon LDP preparation and the Department would encourage the Council to continue to monitor the wider situation in respect of any impact on the LDP programme as a consequence of the current pandemic.

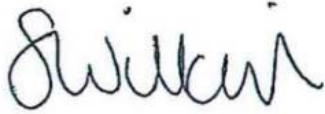
The Council must also be satisfied that any changes made to the timetable are, where necessary, reflected in the Statement of Community Involvement.

You are reminded of the publicity requirements regarding availability of the timetable under regulation 8 of The Planning (Local Development Plan) Regulations (Northern Ireland) 2015.

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Website: [www.planningni.gov.uk](http://www.planningni.gov.uk)

If you have any further queries regarding this matter please do not hesitate to contact myself, Suzanne Bagnall or Claire Patton.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Swilkin'.

**SUSAN WILKIN**  
Deputy Director