



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> LA09/2018/1329/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed enabling works to allow future development of a new leisure centre and primary school on the Gortgonis site. Enabling works for Leisure centre include a new vehicular entrance, temporary accommodation and relocation of the existing play area, Enabling works for the proposed school includes modification and improvement of existing vehicular entrance (Revised Access Arrangements)	<b>Location:</b> Adjacent to the Gortgonis Sports Pavillion Gortgonis Road Coalisland
<b>Referral Route:</b> Application made by MUDC Objections received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Mid Ulster District Council Burn Road Cookstown	<b>Agent Name and Address:</b> Gregory Architects 4 Crescent Gardens Belfast BT7 1NS
<b>Executive Summary:</b> This application is for a new access to serve the new leisure centre and the new school (which are dealt with under separate applications), it proposes a temporary building for groups to use when the old centre is removed and the new one is being built and it also proposes a new play area. There have been considerable negotiations with DFI Roads to agree the most suitable access arrangements. An objection has been received in respect of the play park moving closer to residential properties, noise from this and anti social behaviour will devalue the property. The objection does not consider it is a good idea to move the play park closer to the road.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Access to be as per drawing 06 REV 1 and subject to Private Streets Determination
Non Statutory	Environmental Health Mid Ulster Council	No objections
Advice and Guidance	NI Water - Single Units West - Planning Consultations	Consulted in Error
Advice and Guidance	NI Water - Strategic Applications	Substantive Response Received

### Representations:

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

### Summary of Issues

Objecting to the play parks moving closer to residential development, Nosie and antisocial behaviour will devalue property.

**Characteristics of the Site and Area**

The application site is part of the existing running track, football pitch, car park and grass area on Gortgonis Road, Coalisland. The site is zoned as existing open space and recreation inside the settlement limits of Coalisland. There are some benches and trees in the grassed area between the running track and the road, a low hedge and fence separate the grass area from the running track.

The surrounding area has the existing leisure centre and play park to the east, community woodland and the canal to the north and a mix of residential development to the south and west.

**Description of Proposal**

The proposal is for new accesses to the serve the proposed new leisure centre (LA09/2019/1016/F) and primary school (LA09/2018/1384/F), temporary accommodation and car parking area for groups who currently use the leisure centre and relocation of play park.

**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 no neighbour notification have been carried. At the time of writing, no third party objections were received.

**Planning History**

There is no recent planning history at the application site.

**Mid Ulster Development Plan 2030 – Draft Plan Strategy**

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

**SPPS – Strategic Planning Policy Statement for Northern Ireland**

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

## Dungannon and South Tyrone Area Plan 2010 (DSTAP)

### COMM 1 – Community Uses and SETT 1 - Settlements

The site is within the settlement limit for Coalisland as defined in the DSTAP and has been identified as an area of existing recreation and open space which is to be protected in accordance with policies in PPS8. The plan also has a policy for Community Uses (COM 1) which states that planning permission will normally be granted for community uses within settlement limits provided 7 specific criteria are met. These are similar to the criteria set out in SETT1 and as the proposal is dealing with access, it is for temporary accommodation in place of the existing leisure centre which will not result in increased sewage loading and as it is not located on phase 2 housing land and therefore unlikely to prejudice the provision of housing on these lands, I consider if it meets SETT1 it will also meet COMM1.

The proposed building (fig1) is for a temporary period to allow the demolition of the old buildings and decant the groups who use it while the new leisure centre is being constructed. It is 23m long, 12m wide and 3m in height, it has a flat roof and grey cladding to the walls. The proposed building will be located with the side elevation facing towards the road and it is proposed to have 17 car parking spaces in a temporary car park along with it. Given its temporary nature and its location in this area where there is a mix of uses and designs, I do not consider it would detract from the appearance of the area.

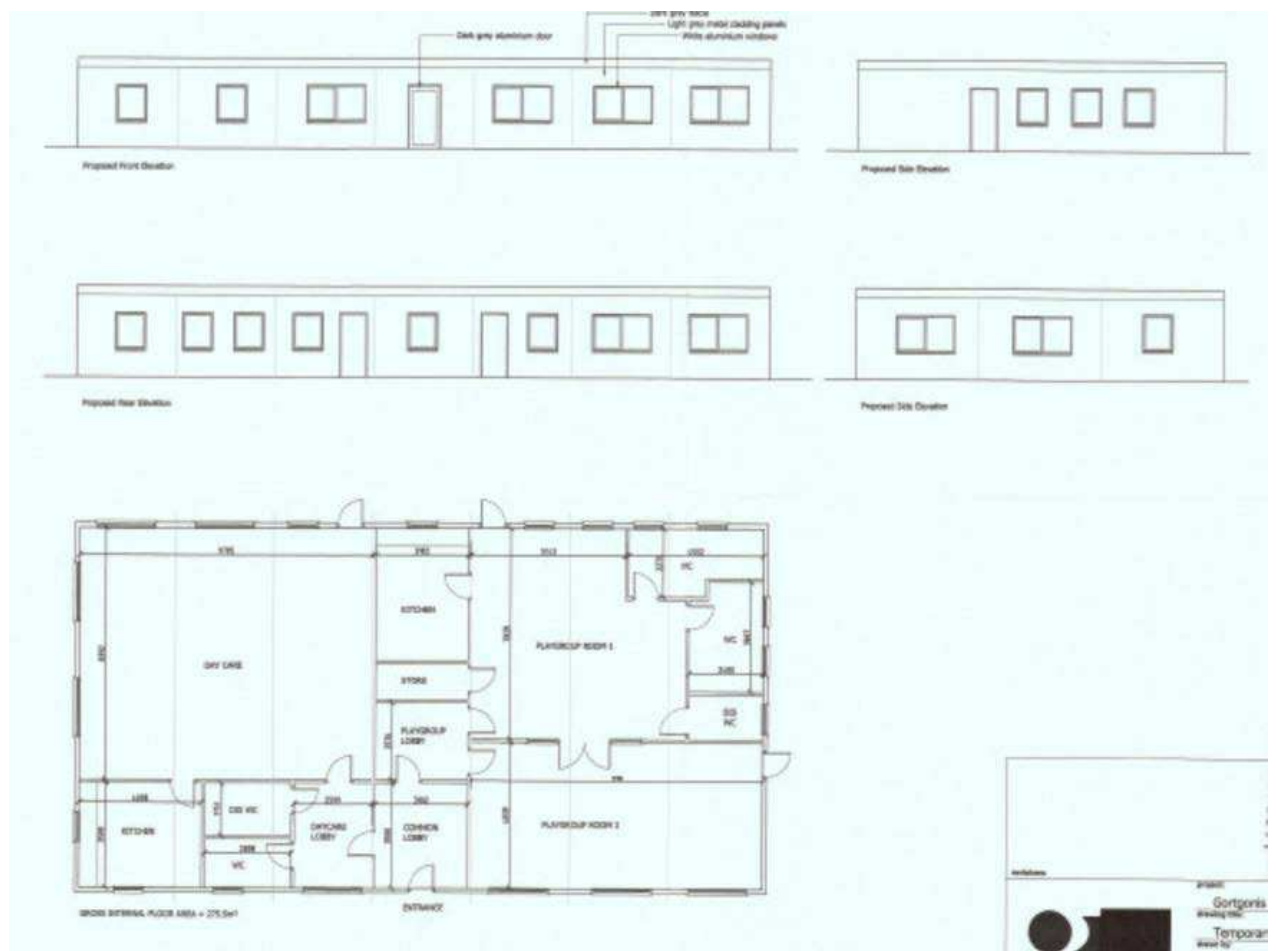


Fig 1 – temporary building

Part of the proposal is creating 2 new accesses, one to serve the new leisure centre and one to serve the new school. These access are in place of the existing access that serves the existing community centre at this location. Following extensive discussions with DFI Roads, they have agreed an arrangement that can accommodate both sites, as set out in drawing No 06 Rev 1, see fig 2 below. This provides right hand turning pockets to serve the school, the leisure centre and the residential development opposite. As DFI Roads have agreed these details I consider the proposal will have satisfactory arrangements for access and this would also then meet the requirement of AMP2 of PPS3. The temporary car park proposes 17 spaces and a mini bus space to serve the temporary building and play park. It is noted the temporary building is to accommodate the existing daycare use and playgroup who utilise the existing buildings on the site. Using the ratio of 1 staff per 3 children, the playgroup use would generate up to 6 spaces in accordance with the parking standards. The daycare use is not specifically addressed in the parking standards. I consider it reasonable that the mini bus space would be used to pick up and drop off the users and 1 space would be provided for 3 staff members, similar to the general theme for staff parking provision for health care and education facilities in the standards. I consider the remaining 11 spaces will be adequate to serve the day-care use and the play park..



Fig 2 – access arrangements

This development is located well away from the woodland and the canal, as such I do not consider it has the potential to negatively impact on these areas.

An objection has been lodged in respect of the impacts on residential amenity due to antisocial behaviour and noise due to the relocation of the play park. The existing playpark is located well back from the road and there is a playarea which is wholly to the rear of the existing buildings and not well overlooked. The proposed play park will be in a more visible location, closer to the road and will have passive surveillance by the road users and the occupants of houses close by, this should limit antisocial behaviour. There will be noise from the playpark from children using the facilities, however the playpark proposed with this application will be located no closer than 80 metres to the residents in Maplebrook

Grove. The existing playing field and running track are located closer to these properties and while I acknowledge there will be noise, I do not think this will be to such an unacceptable degree given the existing uses on the site.

### **PPS3 – Access, Movement and Parking**

As discussed above, DFI Roads have agreed the provision of 2 accesses with right hand turning pockets to serve the new school, new leisure centre and the existing housing opposite. As this has been agreed with conditions to provide it as detailed and subject to Private Streets determination, I consider AMP2 has been met.

### **PPS8 – Open Space, Sport and Outdoor Recreation**

Policy OS1 has a general presumption in favour of protecting existing areas of open space. There is an exception where existing playing fields may be developed which allows up to 10% of the site to be developed if this will allow enhancement and retention of the facility and will have no adverse effect in the sporting potential of the facility. This proposal involves a number of elements, the play park and the accesses are, in my opinion acceptable under OS1 as they will serve the new recreational facility and the play park is defined as open space. The provision of the temporary car park and building are not open space, however they are required to accommodate the current users of the existing building on the site. The proposed building will be for a temporary period and can be conditioned to be removed once the site has been redeveloped. I consider this meets the exception as the building will be removed and once removed will not adversely effect the site.

### **Objection:**

The issues in relation to the relocation of the playpark have been addressed in the report above. The objection questions the location of the play area closer to the road, it is noted the play park will be located within 1..2m high steel fence and as such this will allow young children to play safely inside the area, the play area associated with the temporary building will have a 1.5m high timber fence around it, which will also ensure the children can play safely.

Members will be aware that property value, while raised as an issue in the objection, is not a planning matter as it can be affected by a number of different factors. In this case the property is located beside an existing area of open space and this will still be an area of open space, once the redevelopment has been carried out.

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

### **Neighbour Notification Checked**

**Yes**

### **Summary of Recommendation:**

Approve with conditions to remove the temporary building and provide the access in accordance with the details agreed with DFI Roads.

**Conditions:**

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

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

2. The vehicular accesses, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No06 Rev 1 bearing stamp date 04 March 2022, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. 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.

4. Stage 3 and Stage 4 Road Safety Audits shall be completed for the Right Hand Turning Lane on the U1027 Gortgonis Road as appropriate on the public road network (as generally detailed under drawing No: 06 Rev 1 bearing stamp date 04 March 2022) in accordance with the Design Manual for Roads and Bridges, Standard GG119 any recommendations/remedial works shall be carried out in agreement with DFI Roads Authority.

REASON: In the interest of road safety.

5. Prior to the building annotated 'proposed temporary accommodation' on drawing no 02 Rev 2, bearing the stamp dated 27 October 2020 becoming operational the temporary car as detailed on drawing no 02 Rev 2, bearing the stamp dated 27 October 2020 shall be provided.

REASON: To ensure there is adequate car parking to serve the proposed development.

6. The temporary building, as annotated 'proposed temporary accommodation' on drawing no 02 Rev 2, bearing the stamp dated 27 October 2020 shall be removed

from the site within 3 months of any new leisure centre becoming operational and the site restored in accordance with a scheme as agreed by the Council.

REASON: This building is only permitted for a temporary period In the interest of visual amenity.

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

PSD01. The Department for Infrastructure has determined that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No: 06 Rev 1 bearing stamp date 04 March 2022

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

PSD02 . No other development hereby permitted, shall be commenced, until the road improvements have been completed in accordance with details submitted to and approved by the Department, as indicated generally on Drawing No 06 Rev 1 bearing stamp date 04 March 2022. The Department for Infrastructure may attach to any determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under article 3 (4C).

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

**Informatives**

1. Under the above Orders the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the Department to make the roads (including road drainage) in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001. Sewers require a separate bond from Northern Ireland Water to cover foul and storm sewers.
2. Separate approval must be received from Dfi Roads in respect of detailed standards required for the construction of streets in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001.
3. Under the terms of The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001, design for any Street Lighting schemes will require approval from Dfi Roads Street Lighting Consultancy, Moygashel Depot



Dungannon. The Applicant is advised to contact Roads Service Street Lighting Section at an early stage. The Applicant/Developer is also responsible for the cost of supervision of all street works determined under the Private Streets Order (Northern Ireland) 1980.

4. 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 for Infrastructure for which separate permissions and arrangements are required.
5. 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.
6. All construction plant and materials shall be stored within the curtilage of the site.
7. 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.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	8th October 2018
<b>Date First Advertised</b>	25th October 2018
<b>Date Last Advertised</b>	1st December 2020
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Gortevin Terrace, Gortgonis, Coalisland, Tyrone BT71 4RE The Owner/Occupier, 1 Gortgonis Rd Coalisland Dungannon The Owner/Occupier, 1 Knockmoy Terrace, Gortgonis, Coalisland, Tyrone BT71 4LX The Owner/Occupier, 10 Knockmoy Terrace, Gortgonis, Coalisland, Tyrone BT71 4LX The Owner/Occupier, 10 Maplebrook Grove, Gortgonis, Coalisland, BT71 4TD The Owner/Occupier, 17 Gortgonis Road, Coalisland, Tyrone, BT71 4QG, The Owner/Occupier, 19 Gortgonis Road, Coalisland, Tyrone, BT71 4QG, The Owner/Occupier, 2 Gortevin Terrace, Gortgonis, Coalisland, Tyrone BT71 4RE The Owner/Occupier, 2 Gortgonis Rd Coalisland Dungannon The Owner/Occupier, 2 Knockmoy Terrace, Gortgonis, Coalisland, Tyrone BT71 4LX The Owner/Occupier, 2 Torrent Drive, Gortgonis, Coalisland, Tyrone BT71 4SG The Owner/Occupier, 20 Gortevin Terrace, Gortgonis, Coalisland, Tyrone, BT71 4RE The Owner/Occupier, 21 Gortgonis Road, Coalisland, Tyrone, BT71 4QG, The Owner/Occupier, 23 Gortgonis Road, Coalisland, Tyrone, BT71 4QG, The Owner/Occupier, 26 Gortgonis Road Coalisland Tyrone The Owner/Occupier, 3 Gortevin Terrace, Gortgonis, Coalisland, Tyrone BT71 4RE The Owner/Occupier, 3 Gortgonis Rd, Coalisland, Dungannon, BT71 4QF The Owner/Occupier, 3 Knockmoy Terrace, Gortgonis, Coalisland, Tyrone BT71 4LX The Owner/Occupier, 4 Gortevin Terrace, Gortgonis, Coalisland, Tyrone BT71 4RE The Owner/Occupier, 4 Knockmoy Terrace, Gortgonis, Coalisland, Tyrone BT71 4LX	

The Owner/Occupier,  
 5 Gortevin Terrace, Gortgonis, Coalisland, Tyrone BT71 4RE  
 The Owner/Occupier,  
 5 Gortgonis Rd Coalisland Dungannon  
 The Owner/Occupier,  
 5 Knockmoy Terrace, Gortgonis, Coalisland, Tyrone BT71 4LX  
 Jason Procter  
 5 Maplebrook Grove Coalisland Tyrone  
 Jason Procter  
 5 Maplebrook Grove, Coalisland, Tyrone, Northern Ireland, BT71 4TD  
 The Owner/Occupier,  
 6 Gortevin Terrace, Gortgonis, Coalisland, Tyrone BT71 4RE  
 The Owner/Occupier,  
 6 Knockmoy Terrace, Gortgonis, Coalisland, Tyrone BT71 4LX  
 The Owner/Occupier,  
 6 Maplebrook Grove Coalisland Tyrone  
 The Owner/Occupier,  
 7 Gortgonis Rd, Coalisland, Dungannon, BT71 4QF  
 The Owner/Occupier,  
 7 Knockmoy Terrace, Gortgonis, Coalisland, Tyrone BT71 4LX  
 The Owner/Occupier,  
 7 Maplebrook Grove, Coalisland, Tyrone, BT71 4TD,  
 The Owner/Occupier,  
 8 Knockmoy Terrace, Gortgonis, Coalisland, Tyrone BT71 4LX  
 The Owner/Occupier,  
 8 Maplebrook Grove Coalisland Tyrone  
 The Owner/Occupier,  
 9 Gortgonis Rd, Coalisland, Dungannon, BT71 4QF  
 The Owner/Occupier,  
 9 Knockmoy Terrace, Gortgonis, Coalisland, Tyrone BT71 4LX

<b>Date of Last Neighbour Notification</b>	28th March 2022
<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	No

**Planning History**

Ref ID: LA09/2016/0647/F

Proposal: Retention of existing domestic garage

Address: Lands west and adjacent to 17 Gortgonis Road, Coalisland,

Decision: PG

Decision Date: 04.11.2016

Ref ID: LA09/2018/1329/F

Proposal: Proposed enabling works to allow future development of a new leisure centre and primary school on the Gortgonis site. Enabling works for Leisure centre include a new vehicular entrance, temporary accommodation and relocation of the existing play

area, Enabling works for the proposed school includes modification and improvement of existing vehicular entrance

Address: Adjacent to the Gortgonis Sports Pavillion Gortgonis Road Coalisland,

Decision:

Decision Date:

Ref ID: LA09/2017/0478/PAD

Proposal: Gortgonis Master Plan - new sports facility

Address: Gortgonis Road, Coalisland,

Decision:

Decision Date:

Ref ID: LA09/2018/1384/F

Proposal: Demolition of existing building to erect 7 based primary school (single unit), nursery (single unit) and playground. The access road is existing to the site and will form apart of another planning application submitted by Mid Ulster Council.

Address: Site fronts onto Gortgonis Road adjacent to sports field on existing Community Centre site Gortgonis , Coalisland , BT71 4JJ. Grid Reference: 284750/366000.,

Decision:

Decision Date:

Ref ID: LA09/2017/1019/PAN

Proposal: Demolition of existing sports pavilion building and development of Primary School, Single Nursery Unit, access road and associated playground

Address: Sports Pavilion and associated car park / playground, Gortgonis Park, Gortevin Terrace, Gortgonis, Coalisland,

Decision: PANACC

Decision Date:

Ref ID: LA09/2017/1695/PAD

Proposal: 7 base primary school, single unit, access road and playground

Address: Site fronts onto Gorgonis Road, adjacent to sports field on existing community centre site, Gortgonis, Coalisland,

Decision:

Decision Date:

Ref ID: LA09/2016/1101/F

Proposal: Development of a 7 classroom Primary School, Single Nursery Unit, access road and playground

Address: Adjacent to the sports field and pavilion on Gortevin Terrace, bordered by the canal, Gortgonis, Coalisland,

Decision: WITHDR

Decision Date: 11.05.2017

Ref ID: LA09/2015/1134/PAN

Proposal: 7 Based Primary School, Single Nursery Unit, access road and playground  
Address: Adjacent to the Sports field and Pavilion on Gortevin Terrace, bordered by the Canal, Gortgonis, Coalisland,  
Decision: PANACC  
Decision Date:

Ref ID: LA09/2015/1145/DETEI  
Proposal: 7 classroom Primary school and nursery unit  
Address: Gortgonis Road, Coalisland,  
Decision: NRES  
Decision Date:

Ref ID: LA09/2018/1404/PAN  
Proposal: The proposed development includes a Leisure Centre which will have a community rooms, meeting rooms, gym, changingcommodation,3G pitch, track, trail paths, play park as well as ancillary areas such as foyer and toilets  
Address: 22 Gortgonis Road, Coalisland,  
Decision:  
Decision Date:

Ref ID: LA09/2015/0003/F  
Proposal: Proposed three bedroom two storey detached dwelling house to include the reduction and retention of existing domestic garage  
Address: Lands west and adjacent to 17 Gortgonis Road, Coalisland,  
Decision: PG  
Decision Date: 04.08.2015

Ref ID: M/2011/0178/F  
Proposal: Proposed Detached Dwelling and Single Garage  
Address: Adjacent to and West of 17 Gortgonis Road Coalisland BT71 4QF,  
Decision:  
Decision Date: 13.06.2011

Ref ID: M/1991/0053  
Proposal: Erection of shop  
Address: ADJACENT TO NO 17 GORTGONIS ROAD COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1976/0264  
Proposal: ERECTION OF FURNITURE STORE  
Address: GORTGONIS, COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1990/0310

Proposal: 2 Semi-Detached Retirement Bungalows

Address: ADJACENT TO NO 17 GORTGONIS ROAD COALISLAND

Decision:

Decision Date:

Ref ID: M/1976/0010

Proposal: ERECTION OF 6 DWELLINGS

Address: GORTGONIS, COALISLAND

Decision:

Decision Date:

Ref ID: M/1983/0397

Proposal: SHOP

Address: GORTGONIS ROAD, COALISLAND

Decision:

Decision Date:

Ref ID: M/1993/0671

Proposal: Erection of 10 No Floodlights.

Address: GORTGONIS PLAYING FIELDS, GORTGONIS ROAD, COALISLAND.

Decision:

Decision Date:

Ref ID: M/1975/007702

Proposal: PLAYING FIELDS, CAR PARK, PLAY AREAS

Address: GORTGINIS ROAD, COALISLAND

Decision:

Decision Date:

Ref ID: M/1975/007701

Proposal: PLAYING FIELDS, CAR PARK AND PLAY AREAS

Address: GORTGONIS ROAD, COALISLAND

Decision:

Decision Date:

Ref ID: M/1975/0077

Proposal: ERECTION OF PLAY AREA

Address: GORTGONIS ROAD, COALISLAND

Decision:

Decision Date:

Ref ID: M/1991/0077

Proposal: Re-roofing of Sports Pavilion  
Address: ADJACENT TO NO 26 GORTGONIS ROAD COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1998/0576  
Proposal: Erection of 12 No. Dwellings (Site 1-12 Maplebrook Court  
Phase 11) Gortgonis Road Coalisland  
Address: LANDS OPPOSITE 3 AILSA VILLAS ADJACENT TO PLAYING FIELDS AT  
GORTGONIS ROAD COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1975/0062  
Proposal: PUBLIC AUTHORITY HOUSING  
Address: GORTGONIS, COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1978/0772  
Proposal: PROPOSED SMALL HOUSING DEVELOPMENT  
Address: GORTGONIS, COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1992/0042  
Proposal: 33/11 KV system improvement (Part 5)  
Address: CULLION, EDENDORK, DERRY, BRACKAVILLE, ANNAGHER GORTGONIS  
DUNGANNON  
Decision:  
Decision Date:

Ref ID: LA09/2015/0630/PAD  
Proposal: Proposed new primary school and single nursery unit; with associated external  
hard play space and informal grass play; new access road and car park.  
Address: Site to rear of the sports field and pavilion on Gortevin Terrace, bordered by  
canal, Gortgonis, Coalisland.,  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

**Drawing Numbers and Title**



Drawing No.  
Type:  
Status: Submitted

Drawing No.  
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Status: Submitted

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Status: Submitted

Drawing No. 01

Type: Site Location Plan  
Status: Submitted

Drawing No. 03  
Type: Proposed Plans  
Status: Submitted

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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> LA09/2019/1016/F	<b>Target Date:</b>
<b>Proposal:</b> Redevelopment of gortgonis leisure centre and playing fields comprising of the demolition and general site clearance of existing facilities and erection of a new leisure centre on the gortgonis site. The proposed leisure centre will house a community hall, gym, day care facilities and associated ancillary accommodation. It is proposed to replace the existing pitch with a floodlit 3G synthetic pitch and 6 lane running track with outdoor play areas. The site works to the new centre and recreation facilities include modification and improvement of the existing vehicular entrance, the addition of a right hand turn land, car parking, pavements, fencing and amenity lighting.	<b>Location:</b> Adjacent to the Gortgonis Sports Pavilion Gortgonis Road Coalisland Dungannon BT71 4QG.
<b>Referral Route:</b>  Major application.	
<b>Recommendation: Approval.</b>	
<b>Applicant Name and Address:</b> Mid Ulster District Council Burn Road Cookstown BT80 8DT	<b>Agent Name and Address:</b> Gregory Architects 4 Crescent Gardens Belfast BT7 1NS
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Shared Environmental Services	
Non Statutory	Environmental Health Mid Ulster Council	
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	NIEA	Advice
Statutory	NI Water - Strategic Applications	Advice
Statutory	Rivers Agency	Advice
Statutory	DETI - Geological Survey (NI)	Content
Statutory	Historic Environment Division (HED)	Content
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

Advice and Guidance	Shared Environmental Services	Add Info Requested
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	
Statutory	NIEA	Content
Advice and Guidance	Shared Environmental Services	
Non Statutory	Environmental Health Mid Ulster Council	
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Rivers Agency	Advice
Advice and Guidance	Shared Environmental Services	
Statutory	DFI Roads - Enniskillen Office	
Advice and Guidance	Shared Environmental Services	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Rivers Agency	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Rivers Agency	Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	
Statutory	DFI Roads - Enniskillen Office	
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	
<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>Summary of Issues</b>		

## Characteristics of the Site and Area

The site is located within the limit of development for Coalisland as defined in the Dungannon and South Tyrone Area Plan 2010. On site exists two playing fields, one large grass pitch and a smaller 5 a side type facility. In addition, the larger playing field is surrounded by a surfaced running track. Included within the site is a large area of woodland, which was designated, within the Area Plan as Community Woodland (CCW 01). Planting has taken place, as proposed, to allow for passive recreational purposes. Within the site also exists pedestrian links to Gortgonis Road, canal footpath and existing community centre. All of which are located outside the site.

Access to the site is proposed from the Gortgonis Road by way of a new entrance, closer to the town centre. The existing access is proposed to be utilised (with alteration) by a proposed new Irish School.

Land use adjacent to the site includes;

To the North and North East the canal footpath, canal and housing development beyond.

To the North West, residential estates.

To the South, community facilities and

To the South West, on the opposite side of Gortgonis Road residential estates.

The site boundaries are a mixture of wooden and metal fencing with hedging and trees.

Relevant Site Histories:

The recent relevant site histories identified are;

LA09/2018/1404/PAN, A Pre Application Notice for this application. Considered acceptable 20/12/18.

LA09/2018/1329/F: Proposed enabling works to allow future development of a new leisure centre and primary school on the Gortgonis site. Enabling works for Leisure centre include a new vehicular entrance, temporary accommodation and relocation of the existing play area, Enabling works for the proposed school includes modification and improvement of existing vehicular entrance. Current application.

LA09/2018/1384/F: Demolition of existing building to erect 7 classroom based primary school (single unit), nursery (single unit) and playground. The access road is existing to the site and will form a part of another planning application submitted by Mid Ulster Council. Current application.

Representations:

No representations received from press notice or neighbourhood notification.

Whilst no formal objection has been received to this application, I am aware of local objection to the related enabling works application which does appear to relate to certain aspects of this application. Those concerns relate to concerns about parks in close proximity to housing / anti social behaviour associated with same / noise nuisance from the park / bringing a childs play park near the road not being a good idea/ depreciation of property value. In response you will see that both EHO and DFI have advised that they are content with the proposal, including the

enabling works application, subject to conditions which will include reducing the likelihood of noise and disturbance from the proposed development. Matters of anti-social behaviour can be addressed via adequate control of the site and are ultimately a matter for the PSNI. The devaluation of property is not a material planning consideration which can be afforded any determining weight.

Consultation with Department for Infrastructure - Rivers, Environmental Health Department, Department for Agriculture Environment and Rural Affairs has raised no concerns subject to conditions and informatives.

## **Description of Proposal**

### **Details of the Proposal:**

Redevelopment of Gortgonis leisure centre and playing fields comprising of the demolition and general site clearance of existing facilities and erection of a new leisure centre on the Gortgonis site. The proposed leisure centre will house a community hall, gym, day care facilities and associated ancillary accommodation. It is proposed to replace the existing pitch with a floodlit 3G synthetic pitch and 6 lane running track with outdoor play areas. The site works to the new centre and recreation facilities include modification and improvement of the existing vehicular entrance, the addition of a right hand turn land, car parking, pavements, fencing and amenity lighting in compliance with Planning Policy Statement 8 (PPS 8): Open Space, Sport and Outdoor Recreation.

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

This application is to be considered under Planning Policy Statement 8 (PPS 8): Open Space, Sport and Outdoor Recreation. Policies OS 4, OS 5 and OS 7 relate. As the proposal is for the redevelopment of the existing sports facilities on Gortgonis Road it will not result in the loss of open space.

### **Policy OS 4 Intensive Sports Facilities;**

The development of intensive sports facilities will only be permitted where these are located within settlements and continues; in all cases the development of intensive sports facilities will be required to meet all identified criteria. Based on examination of the site, submitted plans and consultation replies it is my opinion that there is no unacceptable impact on the amenities of people living nearby by reason of the siting, scale, extent, frequency or timing of the sporting activities proposed, including any noise or light pollution likely to be generated; there is no adverse impact on features of importance to nature conservation, archaeology or built heritage; that the buildings are designed to a high standard, are of a scale appropriate to the local area or townscape and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment; the proposed facility takes into account the needs of people with disabilities and is located so as to be accessible to the catchment population giving priority to walking, cycling and public transport; and the road network can safely handle the extra vehicular traffic the proposal will generate and satisfactory arrangements are provided for site access, car parking, drainage and waste disposal.

### **Policy OS 5 Noise Generating Sports and Outdoor Recreational Activities;**



Policy permits the development of sport or outdoor recreational activities that generate high levels of noise where all the specified criteria are met. It is my opinion that there is no unacceptable level of disturbance to people living nearby or conflict with other noise sensitive uses; there is no unacceptable level of disturbance to farm livestock and wildlife; and there is no conflict with the enjoyment of environmentally sensitive features and locations or areas valued for their silence and solitude.

#### Policy OS 7 The Floodlighting of Sports and Outdoor Recreational Facilities

Policy permits the development of floodlighting associated with sports and outdoor recreational facilities where all the specified criteria are met. It is my opinion that there is no unacceptable impact on the amenities of people living nearby; there is no adverse impact on the visual amenity or character of the locality; and public safety is not prejudiced.

This type of proposal could impact negatively on the amenity of nearby residential properties, in terms of noise and lighting. The Environmental Health Department of Mid Ulster Council was consulted and comment received. These issues were considered not to have a negative impact on nearby residential property.

#### **Other Policy and Material Considerations:**

It should be noted that this is one of three applications which is dependent upon an agreed access configuration. Namely this application, application LA09/2018/1329/F (Proposed enabling works to allow future development of a new leisure centre and primary school on the Gortgonis site. Enabling works for Leisure centre include a new vehicular entrance, temporary accommodation and relocation of the existing play area, Enabling works for the proposed school includes modification and improvement of existing vehicular entrance (Revised Access Arrangements)) and an application for Irish school. The application for the enabling works can now also be approved and DfI Roads have agreed the external road arrangements by way of conditions and informatives, The same arrangement covers this application and the Irish School.

DFI Roads have responded with no objections subject to conditions that no development of this proposal commences until all conditions associated with the enabling works application are completed.

The site lies within the defined limits of Coalisland as defined within the Dungannon and South Tyrone Area Plan 2010. The area is identified as existing sports facilities.

This application being categorised as major has complied with the requirements of the Planning (Development Management) Regulations (Northern Ireland) 2015.

The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). Having considered the nature, scale, timing, duration and location of the project it is concluded that, provided mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site. (see above condition).

The Department of the Environment has published its Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development. This policy is a consolidation of some twenty separate policies however the policy provisions of Planning Policy Statement 8 (PPS 8): Open Space, Sport and Outdoor Recreation is retained until such time as the Mid Ulster Council adopt a Plan Strategy for the Council area, no other issues have been identified.

<b>Neighbour Notification Checked</b> <div style="text-align: right;"><b>Yes/No</b></div>
<b>Summary of Recommendation:</b>  I recommend that planning permission is granted subject to conditions
<b>Conditions:</b>  1.As required by Section 61 of the Planning Act (Northern Ireland) Order 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.  Reason: Time Limit.  2. Prior to the commencement of any other development hereby permitted all works required by conditions on planning permission granted under LA09/2018/1329/F , and as indicated on Drawing No. 06 Rev 1 bearing the date stamp 04 March 2022 associated with that application, shall be completed.  REASON: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users  3. 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.  4. The applicant/appointed contractor shall submit a Final Construction Environmental Management Plan (CEMP) and finalised layout design including a site drainage plan to Mid Ulster Council Planning for agreement prior to works commencing. This CEMP to include all the mitigation as detailed in Section 1 of the HRA by WM Associates dated 20/01/2020.  Reason: To protect the features of the hydrologically connected Lough Neagh and Lough Beg SPA/Ramsar.  5. Prior to the commencement of any of the approved development on site, a final drainage assessment, compliant with Annex D of PPS 15 and containing a detailed drainage network design including a demonstration of how out of sewer flooding will be managed shall be submitted to the Planning Authority for its consideration and approval.  Reason – To safeguard against flood risk to the development and elsewhere.

6. A suitable buffer of at least 10m shall be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc and the adjacent watercourse.

Reason: To protect the features of the hydrologically connected Lough Neagh and Lough Beg SPA/Ramsar.

7. There shall be no direct discharge of untreated surface water run-off during the construction and operational phase to the adjacent watercourse.

Reason: To protect the features of the hydrologically connected Lough Neagh and Lough Beg SPA/Ramsar.

8. No discharge containing pesticides shall be directed towards the mains system. To facilitate this NED recommend the installation of an isolated drainage system to capture the drainage from the pitch during pesticide application.

Reason: To protect the features of the hydrologically connected Lough Neagh and Lough Beg SPA/Ramsar.

9. All proposed new landscaping to be provided following the first available planting season following the commencement of the development.

Reason: In the interests of visual amenity.

**Informatives:**

- 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.
- **Department for Infrastructure; Roads Informative:**

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 for Infrastructure for which separate permissions and arrangements are required.

**RS-I-15**

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.

**RS-I-16**

Notwithstanding the terms and conditions of the Department of Environment'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 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 Main Street Moygashel. A monetary deposit will be required to cover works on the public road.

**RS-I-17**

All construction plant and materials shall be stored within the curtilage of the site.

**RS-I-19**

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.

- **Environmental Health Department comment:**

The impact of light and noise from the proposal on adjacent residential properties has been considered.

It is noted that drawing number 03 considers the proposed lighting scheme and subsequent light impact (lux) on adjacent properties. Compliance with the 'Institute of Lighting Professionals – Guidance Notes for the Reduction of Obtrusive Light' has been demonstrated and we are satisfied that the lighting scheme will not impact neighbouring residential amenity.

The fitness suite is located closest to the neighbouring residential properties on drawings. Noise from gyms, both equipment and amplified music from within the gym, can give rise to noise complaints. However, it is noted that there are no door openings on the northern façade of the gym facing Maplebrook Grove which will reduce the noise breakout from the gym.

A scheme to adequately ventilate the gym, without the need for door or window openings, should be installed so as to minimise the potential for any noise impact at nearby residential properties.

- **Department for Infrastructure; Rivers Informatives:**

DFI River's previous comments in relation to Revised PPS 15 **FLD 1, 2, 4 & 5** remain the same as per our consultation response dated 2nd September 2019.

**PPS15 Policy FLD 1 Development in Fluvial (River) and Coastal Flood Plains**

The strategic flood maps (NI) indicates that the development does not lie within the 1 in 100 year fluvial flood plain. Hence DfI Rivers would have no specific reason to object to the proposed development from a fluvial flood risk perspective.

**PPS15 Policy FLD 2 Protection of Flood Defence and Drainage Infrastructure**

The site is within close proximity of a watercourse that is undesignated in accordance with the Drainage (Northern Ireland) Order 1973. Along the northern boundary of the site is an undesignated watercourse.

Under 6.32 of the policy a 5m maintenance strip is required unless the watercourse can be maintained from the opposite bank by agreement with the landowner, it should be protected from impediments (including new tree planting, hedges, permanent fencing and sheds), land raising of

future unapproved development by way of a planning condition. Clear access and egress should be provided at all times.

### **PPS15 Policy FLD 3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains**

DfI Rivers has reviewed the Revised Drainage Assessment by Gilligan Consulting, dated March 2020, and comments as follows;

DfI Rivers advises the Planning Authority that the applicant will be responsible for the design, construction and maintenance of the drainage network, and managing the flood risk associated with this network. There will be no further input by a statutory authority. DfI Rivers advises that, as a minimum requirement, the drainage network should be designed and constructed in accordance with Sewers for Adoption (NI).

Details of how runoff from the site will be controlled by a stormwater attenuation system and safely disposed of at limited rate supported by relevant correspondence from DfI Rivers has been submitted as part of the drainage assessment. Therefore, DfI Rivers, while not being responsible for the preparation of the report accepts its logic and has no reason to disagree with its conclusions. Consequently, DfI Rivers cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective.

It is brought to the attention of the applicant that the responsibility for the accuracy, acceptance of the Drainage Assessment and implementation of the proposed flood risk measures rests with the developer and their professional advisors. (refer to section 5.1 of PPS 15).

PPS 15, D18 bullet point 3 states, 'It is the responsibility of the developer to satisfy the appropriate authorities that the internal site drainage complies with the appropriate legislation and includes for exceedence (refer to CIRIA document C635).'

Under the terms of Schedule 6 of the Drainage (Northern Ireland) Order 1973 the applicant must submit to DfI Rivers, for its consent for any proposal to carry out works which might affect a watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc. Failure to obtain such consent prior to carrying out such proposals is an offence under the aforementioned Order which may lead to prosecution or statutory action as provided for.

- **Northern Ireland Water comment:**

A formal water connection application must be made for all developments, including those where it is proposed to re-use existing connections.

Public water supply within 20m of your proposal, the Developer is required to consult with NIW by means of a Pre Development Enquiry (PDE) to determine if there is capacity to serve this proposal. Application to NIW is required to obtain approval to connect.

A formal sewer connection application must be made for all developments, including those where it is proposed to re-use existing connections.

Foul sewer within 20m of your proposal, the Developer is required to consult with NIW by means of a Pre Development Enquiry (PDE) to determine if there is capacity to serve this proposal. Application to NIW is required to obtain approval to connect.

A formal sewer connection application must be made for all developments, including those where it is proposed to re-use existing connections.

Surface water sewer within 20m of your proposal, the Developer is required to consult with NIW by means of a Pre Development Enquiry (PDE) to determine if there is capacity to serve this proposal. Application to NIW is required to obtain approval to connect.

Status of receiving Waste Water Treatment Works - Available Capacity

Is the proposed development in close proximity of a Waste Water Treatment Works (incl Regional Pumping Stations) - N/A

NIW Infrastructure - Existing sewer crossing site;

No construction to be made, trees planted or other obstruction made within

- 3m (or 1.5 times the depth whichever is greater) of sewers, OR
  - 4m (or 1.5 times the depth whichever is greater) of watermains <350mm diameter or 8m of watermains of 350mm diameter or greater.
- A diversion may be necessary. Consultation with NIW is required at an early design stage.

REASON: To prevent disturbance/ damage to existing sewers / watermains and in the interest of public safety.

The applicant is advised to contact NIW Waterline on 03457 440088 or [waterline@niwater.com](mailto:waterline@niwater.com), upon receipt of this consultation to discuss any areas of concern.

Application forms and guidance are also available via these means.

If during the course of developing the site the developer uncovers a pipe not previously evident, NIW should be notified immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the pipe. Notify NIW Waterline on 03458 770002.

Although it has been determined above if NIW infrastructure is within 20m of your proposal, consultation with NIW is required at an early design stage by means of a Predevelopment Enquiry to obtain details of the availability of existing water and sewerage infrastructure and how their proposal may be serviced if not already applied for.

No connection should be made to the public sewer from 23rd May 2016, in accordance with the Water and Sewerage Services (Northern Ireland) Order 2006 (as amended Water and Sewerage Services Act (Northern Ireland) 2016), until the mandatory Sewer Adoption Agreement has been authorised by NIW.

A formal water / sewer connection application must be made for all developments, including those where it is proposed to re-use existing connections.

All services within the development should be laid underground. REASON: In the interests of visual amenity

Development shall not be occupied until the onsite works have been completed in accordance with the drainage details submitted to and approved by the relevant authority.

REASON: In the interest of public health

Development shall not be occupied until surface water drainage works on-site and off-site have been submitted, approved and constructed by developer and the relevant authority.

REASON: To safeguard the site and adjacent land against flooding and standing water.

Statutory water regulations are in force, which are designed to protect public water supplies against contamination, undue consumption and misuse. All internal plumbing installation must comply with the current Water Supply (Water Fittings) Regulations (Northern Ireland).

Applicants should contact NI Water's Water Fittings Regulations team via [waterline@niwater.com](mailto:waterline@niwater.com) if they have any queries.

- **Department of Agriculture, Environment and Rural Affairs informatives:**

#### Drainage and water

Water Management Unit has considered the impacts of the proposal on the surface water environment and, on the basis of the information provided, is content with the proposal subject to Conditions, the applicant noting the advice contained in the Explanatory Note, the applicant referring and adhering to Standing Advice and any relevant statutory permissions being obtained.

Water Management Unit's comments are on the basis that there will be no modifications to the existing bridge which crosses the watercourse located at the northern corner of the site. If this is not the case, then Water Management Unit should be re-consulted with full details of any works in, near or liable to affect the nearby waterways.

Water Management Unit would request that once a contractor has been appointed, a Construction Method Statement should be submitted to Water Management Unit at least 8 weeks prior to the commencement of construction to ensure effective avoidance and mitigation methodologies have been planned for the protection of the water environment. This can be sent directly to Water Management Unit Pollution Prevention Team ([nieapollutionprevention@daera-ni.gov.uk](mailto:nieapollutionprevention@daera-ni.gov.uk)) who will be happy to advise.

The application proposes to dispose of foul sewage to a Northern Ireland Water (NIW) sewer. NW have identified a number of Waste Water Treatment Works (YWVTW) and sewer networks that are at or near capacity and new connections are therefore not being permitted. However, if NIW advise they are content that both the receiving YWVTIN, and the associated sewer network for this development can take the additional load, then Water Management Unit has no objection to this aspect of the proposal.

If NW advise it is not possible to connect the proposed development then discharge consent under the terms of the Water (NI) Order 1999 will be required for the discharge of sewage effluent from the proposed development.

Due to the close proximity of the site to several watercourses, care will need to be taken to ensure that polluting discharges do not occur during the demolition, construction and operational phases of the development.

Water Management Unit recommends the applicant considers the installation of an oil interceptor to prevent oil from car parking areas leaving the site.

The applicant should consult Pollution Prevention Guideline (PPG) 03 - Use and design of oil separators in surface water drainage systems, for further advice regarding the installation and

maintenance of oil interceptors/separators which can be found at the link given below.  
[http://www.netreqs.org.uk/library\\_of\\_topics/pollution\\_prevention\\_guides/all\\_ppqs.aspx](http://www.netreqs.org.uk/library_of_topics/pollution_prevention_guides/all_ppqs.aspx)

The applicant must refer and adhere to the relevant precepts in DAERA Standing Advice on Pollution Prevention Guidance, paying particular attention to where further information can be found regarding oil storage, incident response (dealing with spills), safe storage - drums and intermediate bulk containers, and the use of oil separators in surface water systems (including the restrictions due to use of detergents).

Water Management Unit notes the development will include a 3G pitch. The use of Sustainable Urban Drainage Systems is recommended and where practicable, these should discharge into the ground. Where a SUDS option discharges to a waterway, then permission should be sought from Department for Infrastructure (DfI) Rivers. No consent under the Water (Northern Ireland) Order 1999 is required.

Where the use of herbicides/pesticides is proposed, then the applicant should refer to "Pesticides - Code of Practice for Using Plant Protection Products" available at:  
<https://vmw.daera-ni.gov.uk/publications/code-practice-using-plant-protection-products>

Care should be taken to ensure that only clean surface water is discharged to the nearby waterways. Water Management Unit recommends the applicant refers and (where applicable) adheres to the precepts contained in DAERA Standing Advice on Sustainable Drainage Systems in order to minimise the polluting effects of storm water on waterways.

Discharge consent, issued under the Water (Northern Ireland) Order 1999, is required for any discharges to the aquatic environment and may be required for site drainage during the construction phase of the development. Any proposed discharges not directly related to the construction of the development, such as from septic tanks or wash facilities, will also require separate discharge consent applications. The applicant should refer to DAERA Standing Advice on Discharges to the Water Environment.

If the development includes excavation of an underground structure (e.g. tanks), then depending on the geological setting, the potential exists for the water table to be encountered during these works. If water is encountered, an appropriate abstraction/impoundment licence under the Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006 and consent to discharge under the Water (Northern Ireland) Order 1999 may be required from Water Management Unit. The applicant should refer to DAERA Standing Advice on Abstractions and Impoundments and Discharges to the Water Environment.

All DAERA Standing Advice is available at:

<https://www.daerani.gov.uk/publications/standing-advice-development-may-have-effect-water-environmentincluding-groundwater-and-fisheries>

It should be noted that any kitchen facilities associated with this development should have a suitable properly maintained grease trap on their effluent pipes.

The applicant is informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to E20,000 and / or three months imprisonment.

The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter.



## Natural Environment Division(NED)

Natural Environment Division has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to recommendations.

The application site hydrologically connected to the Lough Neagh & Lough Beg Special Protection Area (SPA)/ Ramsar and the Lough Neagh Area of Special Scientific Interest (ASSI) (hereafter referred to as the designated site) which is of national and international importance and are protected by Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) and The Environment (Northern Ireland) Order 2002.

NED acknowledges receipt of the NI Biodiversity Checklist Preliminary, Ecological Appraisal (PEA) & Ecological Impact Assessment (EclA) report, date stamped 13/09/2019 by the Mid Ulster District Council.

The application site contains species protected by The Wildlife (Northern Ireland) Order 1985 (as amended).

From the information available to NED it is clear that the proposal is not connected with, or necessary for, the conservation management of the designated sites.

NED has considered the impacts of the proposal on the designated sites and advises that due regard is given by the competent authority, Mid Ulster Borough Council, to the recommendations outlined below, in undertaking the Habitats Regulations Assessment on the designated site to overcome any NIEA concerns with the proposal. These should ensure compliance with the requirements of the Habitats Directive and The Environment (Northern Ireland) Order 2002.

## Bats

Based upon the information provided, NED is content that the proposal is unlikely to have any significant impact on bats. We note that bat activity was concentrated towards the north-eastern section of the site in around the existing woodland which the ecologist has highlighted as being of local importance as a commuting corridor. While some loss of vegetation is expected, the majority of the woodland is outside the footprint of the proposal (as per Drawing Number 02 (Rev1), date stamped 19/08/2019 by the planning authority). NED notes that new floodlights are proposed but based upon the ecologist assessment of lighting on bats (see section 4.56 and Figure 4g of the ecological report), we are content that the impact will be minimal. We would refer the applicant to the following website for additional guidance on bats and lighting, <https://www.bats.org.uk/news/2018/09/new-guidance-on-bats-and-lighting>

## Priority Habitats & Flora

Of the habitats recorded on site, the hedgerow running through the site is the only habitat that has priority status. Additionally, the ecologist has recorded native bluebells (*Hyacinthoides non-scripta*) on site. Bluebells are protected under Schedule 8 of the Wildlife Order.

As priority habitats and flora species have been recorded on site, the protective provisions set out in policy NH2 and NH5 of the Planning Policy Statement 2: Natural Heritage (PPS2) are engaged and as such protective measures that will ensure hedgerows, trees roots zones and associated ground flora are not impacted during the construction phase, are required. These measures can be confirmed within a finalised Construction & Environment Method Statement CEMP.

## Other Natural Heritage Concerns

The report has highlighted that badgers and hedgehogs are currently utilising the site but no setts/places of rest have been recorded on site or within 25m of the red line boundary. Given that the development occurs for the most part upon the existing footprint of the pitch/track, the impact of the proposal on these species will be minimal. The vast majority of ecologically favourable habitat is to be retained.

NED acknowledges that no other protected species or habitats have been recorded on site.

## **Recommendations**

1. NED request that the applicant/appointed contractor submits a Construction & Environment Method Statement (CEMP) and finalised layout design including a site drainage plan to the Planning Authority for agreement prior to works commencing. (See condition above) Such measures should be incorporated in method statements which should identify the perceived risks to the aquatic environment, identify potential pollution pathways, and the mitigation measures to be employed which will negate the risk to any aquatic environment. For example;

- Details of all proposed excavations and construction.
- Details of all areas to be used for the storage of substrate/spoil including a suitable buffer between location for storage of excavated spoil and construction materials and any watercourses or surface drain present on site or adjacent to site.
- Details of the pollution prevention measures to be employed during construction and operation.
- Detailed drawing plans, demonstrating a suitable buffer between location of refuelling, storage of oil/fuel, concrete mixing and washing areas and any watercourses/soakaways or surface drain present on site or adjacent to site (at least 10m)
- A proposed storm drainage plan designed to the principles of Sustainable Drainage Systems (SuDS) in order to minimise the polluting effects of storm water on waterways.

Construction of SuDS should comply with the design and construction standards as set out in The SuDS Manual - Construction Industry Research and Information Association (CIRIA) Report C753 (2015).

- Regular inspections of machinery onsite.
  - Emergency spill procedures in place.
  - Protective measures to be put in place to protect existing hedgerows, trees, root protection zones and associated ground flora.
- This list is not exhaustive but should merely be used as a starting point for considerations to be made.

## **Informatives**

1. The applicant should refer and adhere to the precepts contained in DAERA Standing Advice Notes: Pollution Prevention Guidance, Sustainable Drainage Systems and Discharges to the Water Environment. Standing advice notes are available at: [https://www.daeraNaturalHeritage & Conservation Areas.ni.gov.uk/publications/standing-advice-development-may-have-effect-water-environment-includinggroundwater-and-fisheries](https://www.daeraNaturalHeritage&ConservationAreas.ni.gov.uk/publications/standing-advice-development-may-have-effect-water-environment-includinggroundwater-and-fisheries)

2. The applicant's attention is drawn to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:

- a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes the otter (*Lutra lutra*) and all species of bat;
- b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- c) Deliberately to disturb such an animal in such a way as to be likely to;
  - i. affect the local distribution or abundance of the species to which it belongs;
  - ii. Impair its ability to survive, breed or reproduce, or rear or care for its young; or
  - iii. Impair its ability to hibernate or migrate;
- d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
- e) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of bat and/or otter activity on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

3. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- ☐ kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*);
- ☐ damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection;
- ☐ damage or destroy anything which conceals or protects any such structure;
- ☐ disturb a badger while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of badger on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

4. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- ☐ kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the smooth or common newt (*Lissotriton vulgaris*, formerly *Triturus vulgaris*);
- ☐ damage or destroy, or obstruct access to, any structure or place which newts use for shelter or protection;
- ☐ damage or destroy anything which conceals or protects any such structure;
- ☐ disturb a newt while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of newts on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

5. The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- ☐ kill, injure or take any wild bird; or
  - ☐ take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
  - ☐ at any other time take, damage or destroy the nest of any wild bird included in Schedule A1;
- or
- ☐ obstruct or prevent any wild bird from using its nest; or
  - ☐ take or destroy an egg of any wild bird; or
  - ☐ disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
  - ☐ disturb dependent young of such a bird.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence. It is therefore advised that any tree or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season between 1st March and 31st August.

6. The applicant's attention is drawn to Article 14 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to sell, offer or expose for sale, or have possession of or transport or cause to be transported for the purpose of sale at any premises, any live or dead wild plant, or any part of such a plant, included in Part I or Part II of Schedule 8 of the Order.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

7. The applicant's attention is drawn to the Welfare of Animals Act (Northern Ireland) 2011 which indicates that it is an offence to cause unnecessary suffering to any animal. There are wild animals such as hedgehogs present on site. To avoid any breach of the Act through entombment or injury to animals on site the applicant should ensure that best practice techniques are applied during construction works. Advice on working with wildlife is available from the CIRIA online knowledge base at [www.ciria.org](http://www.ciria.org)

8. Under Article 1 of the Wildlife and Natural Environment Act (Northern Ireland) 2011 it is the duty of every public body, in exercising any functions, to further the conservation of biodiversity so far as is consistent with the proper exercise of those functions.

Conserving biodiversity includes:

- a) In relation to any species of flora or fauna, restoring or enhancing a population of that species;
- b) In relation to any type of habitat, restoring or enhancing the habitat.

- **Shared Environmental Service:**

The Shared Environmental Service (SES) has reviewed the Mid Ulster Council HRA for the proposal by WM Associates dated 20/01/2020, to assess its suitability to fulfil the requirements of Planning Service under Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (NI) 1995 (as amended). SES are in agreement with the conclusion of no significant effects on any European Site provided environmental mitigation is followed during construction phase.

<b>Signature(s)</b> <b>Date:</b>

<b>ANNEX</b>	
<b>Date Valid</b>	26th July 2019
<b>Date First Advertised</b>	8th August 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Gortevin Terrace, Coalisland, Tyrone, BT71 4RE The Owner/Occupier, 1 Knockmoy Terrace, Coalisland, Tyrone, BT71 4LX The Owner/Occupier, 10 Knockmoy Terrace, Coalisland, Tyrone, BT71 4LX The Owner/Occupier, 10 Maplebrook Grove, Coalisland, Tyrone, BT71 4TD The Owner/Occupier, 15 Maplebrook Green Coalisland Tyrone The Owner/Occupier, 17 Maplebrook Green, Coalisland, Tyrone, BT71 4TE The Owner/Occupier, 17 Maplebrook Way Coalisland Tyrone The Owner/Occupier, 18 Maplebrook Green Coalisland Tyrone The Owner/Occupier, 2 Gortevin Terrace, Coalisland, Tyrone, BT71 4RE The Owner/Occupier, 2 Gortgonis Road, Coalisland, Tyrone, BT71 4QG The Owner/Occupier, 2 Knockmoy Terrace, Coalisland, Tyrone, BT71 4LX The Owner/Occupier, 20 Maplebrook Way Coalisland Tyrone The Owner/Occupier, 3 Gortevin Terrace, Coalisland, Tyrone, BT71 4RE The Owner/Occupier, 3 Gortgonis Road, Coalisland, Tyrone, BT71 4QG The Owner/Occupier, 3 Knockmoy Terrace, Coalisland, Tyrone, BT71 4LX The Owner/Occupier, 4 Gortevin Terrace, Coalisland, Tyrone, BT71 4RE The Owner/Occupier, 4 Knockmoy Terrace, Coalisland, Tyrone, BT71 4LX The Owner/Occupier, 5 Derryowen Place, Coalisland, Tyrone, BT71 4ST The Owner/Occupier, 5 Gortevin Terrace, Coalisland, Tyrone, BT71 4RE The Owner/Occupier, 5 Gortgonis Road, Coalisland, Tyrone, BT71 4QG	

The Owner/Occupier,  
 5 Knockmoy Terrace, Coalisland, Tyrone, BT71 4LX  
 The Owner/Occupier,  
 5 Maplebrook Grove Coalisland Tyrone  
 The Owner/Occupier,  
 6 Derryowen Place, Coalisland, Tyrone, BT71 4ST  
 The Owner/Occupier,  
 6 Gortevin Terrace, Coalisland, Tyrone, BT71 4RE  
 The Owner/Occupier,  
 6 Knockmoy Terrace, Coalisland, Tyrone, BT71 4LX  
 The Owner/Occupier,  
 6 Maplebrook Grove Coalisland Tyrone  
 The Owner/Occupier,  
 7 Derryowen Place, Coalisland, Tyrone, BT71 4ST  
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 7 Gortgonis Road, Coalisland, Tyrone, BT71 4QG  
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 7 Knockmoy Terrace, Coalisland, Tyrone, BT71 4LX  
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 8 Knockmoy Terrace, Coalisland, Tyrone, BT71 4LX  
 The Owner/Occupier,  
 8 Maplebrook Grove Coalisland Tyrone  
 The Owner/Occupier,  
 9 Gortgonis Road, Coalisland, Tyrone, BT71 4QG  
 The Owner/Occupier,  
 9 Knockmoy Terrace, Coalisland, Tyrone, BT71 4LX

**Date of Last Neighbour Notification**

17th October 2019

**Date of EIA Determination****ES Requested**

Yes /No

**Planning History**

Ref ID: LA09/2015/1134/PAN

Proposal: 7 Based Primary School, Single Nursery Unit, access road and playground

Address: Adjacent to the Sports field and Pavilion on Gortevin Terrace, bordered by the Canal, Gortgonis, Coalisland,

Decision: PANACC

Decision Date:

Ref ID: LA09/2018/1329/F

Proposal: Proposed enabling works to allow future development of a new leisure centre and primary school on the Gortgonis site. Enabling works for Leisure centre include a new vehicular entrance, temporary accommodation and relocation of the existing play area, Enabling works for the proposed school includes modification and improvement of existing vehicular entrance

Address: Adjacent to the Gortgonis Sports Pavillion Gortgonis Road Coalisland,

Decision:  
Decision Date:

Ref ID: LA09/2017/0478/PAD  
Proposal: Gortgonis Master Plan - new sports facility  
Address: Gortgonis Road, Coalisland,  
Decision:  
Decision Date:

Ref ID: LA09/2018/1384/F  
Proposal: Demolition of existing building to erect 7 based primary school (single unit), nursery (single unit) and playground. The access road is existing to the site and will form apart of another planning application submitted by Mid Ulster Council.  
Address: Site fronts onto Gortgonis Road adjacent to sports field on existing Community Centre site Gortgonis , Coalisland , BT71 4JJ. Grid Reference: 284750/366000.,  
Decision:  
Decision Date:

Ref ID: LA09/2017/1019/PAN  
Proposal: Demolition of existing sports pavilion building and development of Primary School, Single Nursery Unit, access road and associated playground  
Address: Sports Pavilion and associated car park / playground, Gortgonis Park, Gortevin Terrace, Gortgonis, Coalisland,  
Decision: PANACC  
Decision Date:

Ref ID: LA09/2017/1695/PAD  
Proposal: 7 base primary school, single unit, access road and playground  
Address: Site fronts onto Gorgonis Road, adjacent to sports field on existing community centre site, Gortgonis, Coalisland,  
Decision:  
Decision Date:

Ref ID: LA09/2016/1101/F  
Proposal: Development of a 7 classroom Primary School, Single Nursery Unit, access road and playground  
Address: Adjacent to the sports field and pavilion on Gortevin Terrace, bordered by the canal, Gortgonis, Coalisland,  
Decision: WITHDR  
Decision Date: 11.05.2017

Ref ID: LA09/2015/1145/DETEI  
Proposal: 7 classroom Primary school and nursery unit  
Address: Gortgonis Road, Coalisland,  
Decision: NRES



Decision Date:

Ref ID: LA09/2019/1016/F

Proposal: Redevelopment of gortgonis leisure centre and playing fields comprising of the demolition and general site clearance of existing facilities and erection of a new leisure centre on the gortgonis site. The proposed leisure centre will house a community hall, gym, day care facilities and associated ancillary accommodation. It is proposed to replace the existing pitch with a floodlit 3G synthetic pitch and 6 lane running track with outdoor play areas. The site works to the new centre and recreation facilities include modification and improvement of the existing vehicular entrance, the addition of a right hand turn land, car parking, pavements, fencing and amenity lighting.

Address: Adjacent to the Gortgonis Sports Pavilion, Gortgonis Road, Coalisland, Dungannon, BT71 4QG.,

Decision:

Decision Date:

Ref ID: LA09/2018/1404/PAN

Proposal: The proposed development includes a Leisure Centre which will have a community rooms, meeting rooms, gym, changingcommocation,3G pitch, track, trail paths, play park as well as ancillary areas such as foyer and toilets

Address: 22 Gortgonis Road, Coalisland,

Decision: PANACC

Decision Date:

Ref ID: M/1991/6082

Proposal: Surplus Lands River Park Coalisland

Address: River Park Coalisland

Decision:

Decision Date:

Ref ID: M/2014/0564/PREAPP

Proposal: Proposed new educational infrastructure

Address: Gortgonis Road, Coalisland,

Decision:

Decision Date:

Ref ID: M/1993/0671

Proposal: Erection of 10 No Floodlights.

Address: GORTGONIS PLAYING FIELDS, GORTGONIS ROAD, COALISLAND.

Decision:

Decision Date:

Ref ID: M/1975/007702

Proposal: PLAYING FIELDS, CAR PARK, PLAY AREAS

Address: GORTGINIS ROAD, COALISLAND

Decision:  
Decision Date:

Ref ID: M/1975/007701  
Proposal: PLAYING FIELDS, CAR PARK AND PLAY AREAS  
Address: GORTGONIS ROAD, COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1975/0077  
Proposal: ERECTION OF PLAY AREA  
Address: GORTGONIS ROAD, COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1991/0077  
Proposal: Re-roofing of Sports Pavilion  
Address: ADJACENT TO NO 26 GORTGONIS ROAD COALISLAND  
Decision:  
Decision Date:

Ref ID: M/2005/1820/F  
Proposal: Proposed surface treatment and flood lighting of existing bitmac football area  
Address: Gortgonis playing fields, Gortgonis, Coalisland  
Decision:  
Decision Date: 05.05.2006

Ref ID: M/1998/0576  
Proposal: Erection of 12 No. Dwellings (Site 1-12 Maplebrook Court  
Phase 11) Gortgonis Road Coalisland  
Address: LANDS OPPOSITE 3 AILSA VILLAS ADJACENT TO PLAYING FIELDS AT  
GORTGONIS ROAD COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1978/0425  
Proposal: HOUSING DEVELOPMENT  
Address: GORTGONIS, COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1999/0765/F  
Proposal: Erection of 2 No Dwellings ( sites 1 & 5 Mapelbrook Grove ) Gortgonis Road  
Coalisland

Address: Gortgonis Road Coalisland Co Tyrone

Decision:

Decision Date: 17.11.1999

Ref ID: M/2000/0239/F

Proposal: Dwelling

Address: Lands at Gortgonis Road, Coalisland, Co Tyrone

Decision:

Decision Date: 03.05.2000

Ref ID: M/1997/0016

Proposal: Housing Development Phase I - 15 Detached Dwellings and  
Garages - 8 semi-detached dwellings and garages

Address: LAND OPPOSITE 3 AILSA VILLAS AND ADJACENT TO PLAYING FIELDS  
GORTGONIS ROAD COALISLAND

Decision:

Decision Date:

Ref ID: M/1992/0042

Proposal: 33/11 KV system improvement (Part 5)

Address: CULLION, EDENDORK, DERRY, BRACKAVILLE, ANNAGHER GORTGONIS  
DUNGANNON

Decision:

Decision Date:

Ref ID: LA09/2015/0630/PAD

Proposal: Proposed new primary school and single nursery unit; with associated external  
hard play space and informal grass play; new access road and car park.

Address: Site to rear of the sports field and pavilion on Gortevin Terrace, bordered by  
canal, Gortgonis, Coalisland.,

Decision:

Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No.  
Type:  
Status: Submitted

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Status: Submitted

Drawing No. 03

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 04

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 05

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 07

Type: Proposed Elevations

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 06

Type: Proposed Floor Plans

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



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

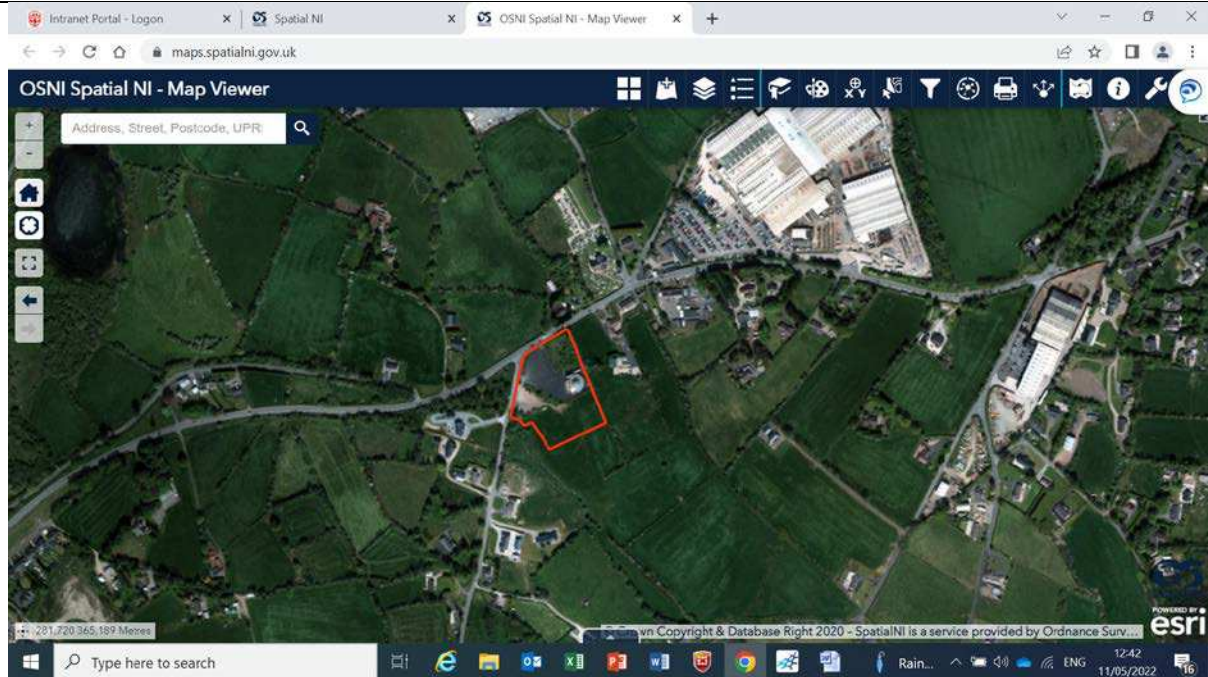
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09-2020-0281-F	<b>Target Date:</b>
<b>Proposal:</b> Full planning permission for the demolition of St Malachy's Parochial Hall. The construction of a new 11 classroom primary school with associated landscape, vehicle access, car parking, hard and grass play areas.	<b>Location:</b> St Malachy's Parochial Hall 163 Coalisland Road Dungannon BT71 4DP.
<b>Referral Route:</b> Major application	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Edendork Primary School 181 Coalisland Road Edendork Dungannon BT71 4DP	<b>Agent Name and Address:</b> Hamilton Architects Hamilton House 3 Joy Street Belfast BT2 8LE
<b>Executive Summary:</b>	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	NI Water - Strategic Applications	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	DETI - Geological Survey (NI)	Advice
Statutory	NIEA	Content
Non Statutory	Rivers Agency	Substantive Response Received
Advice and Guidance	Shared Environmental Services	Substantive Response Received
Non Statutory	Historic Environment Division (HED)	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice

### Representations:

Letters of Support	None Received
Letters of Objection	6
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

**Description of Proposal**

Full planning permission for the demolition of St Malachy's Parochial Hall. The construction of a new 11 classroom primary school with associated landscape, vehicle access, car parking, hard and grass play areas.

**Characteristics of the Site and Area**

The site lies within the limit of development for the settlement of Edendork, as defined within the Dungannon and South Tyrone Area Plan 2010. On site at present stands a vacant entertainment hall with tarmacked parking area to front and an overgrown area to the north of hall. Additionally the site encompasses a hard-cored area to the west and agricultural lands to the south. Access to the site is proposed from the Killymeal Road, which defines the western edge of the limit of development. Part of the eastern boundary also defines the limit of development.

The site is open to views from both the Killymeal and Coalisland roads with little vegetation along part of the northern and western boundaries. The hall structure is in poor condition and has a derelict appearance. Land uses beyond the site are mainly agricultural with some detached residential units to the north, east and west. Topography of the site is relatively flat with a slight southerly gradient.

**Relevant Site Histories:**

Previous relevant site history includes;

M/2008/0579/O - outline planning permission granted on 16/9/09 for New 10 Classroom Primary School, and separate 25 pupil Nursery with associated parking, access, sports hall and external playing areas. Foul sewer pumping station also to be included within site.

LA09/2018/0593/PAD concluded,

LA09/2019/0832/PAN acceptable.

**Representations:**

Representations received from press notice or neighbourhood notification.

Consultation with Department for Infrastructure - Roads, Department for Infrastructure - Rivers, Environmental Health Department, Department for Agriculture Environment and Rural Affairs, Shared Environmental Services, Northern Ireland Water and Department for the Economy has raised no concerns subject to conditions and informatives. For representation see below.

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

The site lies within the Limit of Development for Edendork as defined by the Dungannon and South Tyrone Area Plan 2010, there is no specific land use designation on same. The area plan includes Plan Policy COM 1, which provides for community uses within the settlement limits. Plan Policy COM 1 advises that planning permission for community uses will normally be granted within settlement limits provided certain criteria are met. It is my opinion that there is no significant detrimental effect on amenity; the proposal would not prejudice comprehensive development; there is no significant conflict with recognised conservation interests; the proposals are in keeping with the size and character of the settlement and its surroundings; that additional infrastructure is provided by the developer; there are satisfactory access, parking and sewage disposal arrangements, and the proposal is in accordance with prevailing regional planning policies and the policies, requirements and guidance contained in the Plan.

Previous approval on site allowed for development of the site for educational purposes. The use of the site as an educational facility is established.

The design and external materials proposed for the scheme are acceptable in this urban location.

#### Other Policy and Material Considerations:

During the processing of this application, comment was received from third parties. The comment related to;

- The existence of a drainage channel under the existing car park this information uploaded and available to agent and DfI Rivers.
- Objections were received from a number of individuals and Ulster Architectural Heritage. Objections relate to:

a building of significant architectural and historic interest, building could be saved and school built on remaining land.

Postpone decision until a full historic and architectural assessment carried out.

No parochial centre, operate in tandem with community centre.

Special architectural design.

Building should be regenerated to support local economy and arts sector.

Environmental impact of demolishing the building.

Detrimental impact on planet.

Important landmark

Opportunity to provide space for arts.

Consultation with Department for Communities - HED has advised that having carried out a full historic and architectural assessment, the building is not of significant or special architectural and historic interest to justify listing.

The provision of parochial/community/arts centre may be acceptable in land use terms however it is evident that the use of the proposed building is in support of the provision of a required community facility and suitable in land use terms.

No evidence has been submitted to support the claim of Environmental impact of demolishing the building or detrimental impact on planet.

Ulster Architectural Heritage objected on the grounds that the council has failed in its duty to ensure that the building (of special architectural and historic interest and under the threat of demolition) is protected in the interim to allow for a full survey for potential listing.

As part of their objection, Ulster Architectural Heritage requested that the Council serve a Building Protection Notice (BPN) to allow the building to be fully surveyed by the Department for Communities Historic Environment Division architects. The request was presented to committee

and the issuing of a BPN was not considered appropriate as the building had no listing attached and was in a derelict state.

In addition to objecting to this application Ulster Architectural Heritage contacted HED directly with a request for a BPN. HED subsequently carried out a survey of the building and commented;

While it is an interesting parochial hall from a social history perspective due to the involvement of the entrepreneurial and pioneering Parish Priest at the time (Fr Eustace), it is not an outstanding building of its era and is not the best work of an important architect. It therefore does not meet the legislative test for listing.

The building has no listed status and therefore consultation with Department for Communities - Historic Environment Division(HED) was not initially necessary. On receipt of the objections consultation with HED was initiated and response raised no issues of concern.

This application being categorised as major has complied with the requirements of the Planning (Development Management) Regulations (Northern Ireland) 2015

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

**Neighbour Notification Checked**

**Yes**

**Recommendation:**

I recommend that planning permission is granted subject to conditions.

**Conditions**

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

Reason: Time Limit.

2. Prior to the commencement of any of the approved development on site, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 must be submitted to the Planning Authority for its consideration and approval.

Reason: To safeguard against flood risk to the development and elsewhere.

3. A minimum 5m maintenance strip shall be provided adjacent to the undesignated watercourse along the southern boundary. The maintenance strip shall be level and protected from impediments (including tree planting), land raising or future unapproved development.

Reason: to ensure that the watercourse is maintained.

4. No development activity shall take place until a Bat Mitigation Plan (BMP) has been submitted to and approved in writing by the Planning Authority. The approved BMP shall be

implemented in accordance with the approved details and all works on site shall conform to the approved BMP, unless otherwise agreed in writing by the Planning Authority. The BMP shall include the following:

- a) Details of the provision of alternative roosting locations for bats, including the number, model, specifications and location (including height and aspect) of bat boxes;
- b) Details of the methodology and timing of works and the implementation of mitigation measures;
- c) Details of any external lighting proposed for the site;
- d) Details of updated bat surveys prior to any demolition works commencing and the development of any additional mitigation measures should bats be found;
- e) Details of the appointment of a suitably qualified and experienced bat ecologist to oversee all works and the implementation of mitigation measures.

Reason: To mitigate for impacts on bats using the site.

- 5. Fully screened, fixed plant and equipment shall have a maximum single or combined level LAeq 55dB at 5 m for daytime use.

Reason: To protect the amenity of nearby residents.

- 6. A clearly defined buffer of at least 10 m shall be maintained between the location of all refuelling, storage of oil/fuels, concrete mixing and washing areas, storage of machinery/materials/spoil etc. and all watercourses within or adjacent to the site.

Reason: To prevent polluting discharges entering adjacent watercourses and impacting on the site integrity of Lough Neagh and Lough Beg SPA/Ramsar.

- 7. Storm drainage of the site during construction shall be designed to the principles of Sustainable Drainage Systems (SuDS) in order to prevent the polluting effects of storm water on the adjacent watercourse. Construction of SuDS shall comply with the design and construction standards as set out in The SuDS Manual - Construction Industry Research and Information Association (CIRIA) Report C753.

Reason: To prevent polluting discharges entering adjacent watercourses and impacting on the site integrity of Lough Neagh and Lough Beg SPA/Ramsar.

- 8. Final operational storm drainage shall include the use of a petrol interceptor as detailed in the proposed drainage layout drawing (Drainage Assessment Appendix F).

Reason: To prevent any contaminated run-off from car parking areas entering adjacent watercourses and impacting on the site integrity of Lough Neagh and Lough Beg SPA/Ramsar.

- 9. Stage 3 and Stage 4 Road Safety Audits shall be completed for the Right Hand Turning Lane on the A45 Coalisland as appropriate on the public road network (as generally detailed under drawing No: IBH0726/PSD/100 bearing date stamp 6 April 2022) in accordance with the Design Manual for Roads and Bridges, Standard GG119 any recommendations/remedial works shall be carried out in agreement with DFI Roads Authority.

Reason: In the interest of road safety.

10. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. IBH0726/PSD/100 bearing the date stamp 6 April 2022, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

11. 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.

12. The existing access as located on the U1037 Killymeal Road and 23.0 metres south west of its junction with the A45 Coalisland Road, shall be permanently closed and the footway properly reinstated to Roads Service satisfaction within 12 months of the date of approval.

Reason: In order to minimize the number of access points on to the public road in the interests of road safety and the convenience of road users.

13. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.  
The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. IBH0726/PSD/100 bearing the date stamp 6 April 2022.

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

14. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.  
No other development hereby permitted, shall be commenced, until the road improvements have been completed in accordance with details submitted to and approved by the Department [as indicated generally on Drawing No. IBH0726/PSD/100 bearing the date stamp 6 April 2022.]The Department may attach to any determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under article 3 (4C).

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

### **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. **Environmental Health Department comment:**

Environmental Health have no objections to the proposal subject to condition (see above, condition 5).

### 3. **Northern Ireland Water comments:**

See attached comments dated 7/4/20.

### 4. **Department of Agriculture, Environment and Rural Affairs informatives:**

NIEA Natural Environment Division (NED) has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to a condition (see above).

#### Bats

The Bat Roost Potential (BRP) Survey identified high quality foraging and commuting bat habit on site, high BRP in the building, and low BRP in the trees which occur around the boundaries of the site. The survey identified the need for Emergence/re-entry surveys of the building. The survey also identified the need for winter hibernation roost surveys of the unheated sub-floor/basement.

NED notes that Bat Emergence and Re-entry Survey found evidence of a Common and Nathusius Pipistrelle maternity roost in the building. Two Soprano Pipistrelles were observed emerging from the building during the first survey. Single Sopranos were seen emerging on the second and third visits.

The Bat Emergence and Re-entry Survey recommends that a Bat Mitigation Plan, to include erection of bat boxes on nearby trees of buildings prior to commencement of demolition works, and a lighting plan will be required to reduce and mitigate impacts to bats. In addition, a bat licence will be required for demolition of the building, which should be done under ECoW supervision.

NED does not recommend that a hibernation survey of the basement is carried out. NED considers that there is no requirement for a hibernation survey as bats were found during the dawn / dusk searches and there is sufficient mitigation proposed, and it is highly unlikely that a hibernation survey would significantly increase the number of bats found in the building. Provided a condition is included in any decision notice to ensure adequate bat mitigation is implemented, NED has no concerns regarding bats.

#### Otters

NED notes that the otter survey, which was undertaken on 8 July 2020 and followed NIEA specifications, found no evidence of otter activity or holts on the site or in the surrounding zone of influence. NED has no concerns regarding this species.

#### Badgers

NED notes that the badger survey, which was undertaken on 6 March 2020 and followed NIEA specifications, found no evidence of badger setts or activity on the site or in the surrounding zone of influence. NED has no concerns regarding this species.

#### Newts

NED notes that the newt surveys, which were undertaken on 24 March and followed NIEA specifications, 14 & 23 April and 2 May 2020 under Wildlife Order licence, found no ponds and no evidence of newts on the site. NED has no concerns regarding this species.

#### Invasive species

NED notes that Japanese Knotweed was found in the southwest corner of the site during the badger survey of 6 March 2020.

- The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:
  - a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;
  - b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
  - c) Deliberately to disturb such an animal in such a way as to be likely to -
    - i. affect the local distribution or abundance of the species to which it belongs;
    - ii. Impair its ability to survive, breed or reproduce, or rear or care for its young;
    - iii. Impair its ability to hibernate or migrate;
  - d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
  - e) To damage or destroy a breeding site or resting place of such an animal.
- The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:
  - a) kill, injure or take any wild bird; or
  - b) take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
  - c) at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
  - d) obstruct or prevent any wild bird from using its nest; or
  - e) take or destroy an egg of any wild bird; or
  - f) disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
  - g) disturb dependent young of such a bird.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

It is therefore advised that any tree or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season between 1 March and 31 August.

- The applicant's attention is drawn to Article 15 of The Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence for any person to plant or otherwise cause to grow in the wild any plant included in Part II of Schedule 9 of the Order, which includes Japanese Knotweed (*Fallopia japonica*). This highly invasive plant species has been recorded on site and control measures must be taken to ensure that any works do not cause it to spread either on or off the site.

Japanese Knotweed spreads entirely via fragments of plant material or rhizome (root) material. Any soil containing such material which is removed off site is classified as controlled waste under the Controlled Waste Regulations (Northern Ireland) 2002 (as amended). The Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002 (as amended) places a duty of care on anyone who produces, imports, stores, transports, treats, recycles or disposes of waste to take the necessary steps to keep it safe and to prevent it from causing harm, especially to the environment or to human health?. In the case of Japanese Knotweed, it is the duty of the waste



producer to inform the licensed waste carrier and licensed landfill site that the controlled waste material contains Japanese Knotweed as part of the waste transfer process.

Please see the following link for Best Practice Guidance:

<http://invasivespeciesireland.com/toolkit/best-practice-management/>

Further advice can be sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Belfast BT7 2JA. Tel: 028 905 69605.

#### **5. Department for Infrastructure - Rivers Informatives:**

FLD1 - Development in Fluvial Flood Plains - Flood Map (NI) indicates that the site does not lie within the 1 in 100 year fluvial flood plain.

FLD2 - Protection of Flood Defence and Drainage Infrastructure - A watercourse which is undesignated under the terms of the Drainage (NI) Order 1973 lies adjacent to the southern boundary of the site. Under 6.32 of the policy a minimum 5m maintenance strip is required.

FLD3 - Development and Surface Water

DfI Rivers has reviewed the Drainage Assessment (DA) by RPS, dated February 2021, and comments as follows;

DfI Rivers, while not being responsible for the preparation of the Assessment accepts its logic and has no reason to disagree with its conclusions.

It is brought to the attention of the applicant that the responsibility for justifying the Assessment and implementation of the proposed flood risk measures (as laid out in the assessment) rests with the developer and his/her professional advisors (refer to section 5.1 of Revised Planning Policy Statement 15).

FLD4 - Artificial Modification of watercourses

Under FLD 4 of Planning Policy Statement 15, artificial modification of a watercourse is normally not permitted unless it is necessary to provide access to a development site or for engineering reasons. This is a matter for the planning authority.

Any culverting approved by Planning Authority will also be subject to approval from DfI Rivers under Schedule 6 of the Drainage Order 1973. These two approvals are independently necessary.

Under the terms of Schedule 6 of the Drainage (NI) Order 1973 any proposal either temporary or permanent, in connection with the development which involves interference with any watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc requires the written consent of DfI. This should be obtained from our Armagh Office, 44 Seagoe Industrial Estate, Seagoe Lower, Craigavon, BT63 5QE.

#### **6. Department for the Economy - Geological Survey of Northern Ireland comments:**

Geological Survey of Northern Ireland (GSNI) assessed the planning proposal in view of stability issues relating to abandoned mine workings.

A search of the Geological Survey of Northern Ireland -Shafts and Adits Database- indicates that the proposed site is not within an area that contains known abandoned mine workings or known undermining. A disused trial shaft is located to the west of the site, approximately 100m away from the proposed surface structures and outside the footprint of the development. This should not have any impact of the proposed development.

This letter summarises the information currently held by GSNI. We acknowledge that our databases may not be comprehensive and that in certain circumstances the precise location of features and boundaries cannot be guaranteed as being accurate. I would therefore draw your attention to the attached (Conditions and Limitations).

#### Conditions and Limitations:

Use by the customer of information provided by the Geological Survey of Northern Ireland is at the customers risk. The Department for the Economy gives no warranty, expressed or otherwise implied as to the quality or accuracy of information supplied by the Survey. The report provides only general indications of ground conditions and must not be relied upon as a source of detailed information about specific areas or as a substitute for site investigation or ground surveys. Users must satisfy themselves, by seeking appropriate professional advice and carrying out ground surveys and site investigations if necessary, that the ground conditions are suitable for any particular use or developments.

#### 7. **Department for Infrastructure - Roads Informatives:**

The Private Streets (Northern Ireland) Order 1980 and The Private Streets (Amendment) (Northern Ireland) Order 1992.

Under the above Orders the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the Department to make the roads (including road drainage) in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001. Sewers require a separate bond from Northern Ireland Water to cover foul and storm sewers.

Separate approval must be received from Dfi Roads in respect of detailed standards required for the construction of streets in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001.

Under the terms of The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001, design for any Street Lighting schemes will require approval from Dfi Roads Street Lighting Consultancy, Moygashel Depot Dungannon. The Applicant is advised to contact Roads Service Street Lighting Section at an early stage. The Applicant/Developer is also responsible for the cost of supervision of all street works determined under the Private Streets Order (Northern Ireland) 1980.

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 for Infrastructure for which separate permissions and arrangements are required.

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.

All construction plant and materials shall be stored within the curtilage of the site.

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.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	27th February 2020
<b>Date First Advertised</b>	10th March 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 130 Killymeal Road Dungannon Tyrone martin cullen 14 Drumglass Way Drumcoo Dungannon Andrew Sloan 162 Coalisland Road, Dungannon, Tyrone, Northern Ireland, BT71 4DP The Owner/Occupier, 164 Coalisland Road Dungannon Tyrone The Owner/Occupier, 166 Coalisland Road Dungannon Tyrone The Owner/Occupier, 168 Coalisland Road Dungannon Tyrone The Owner/Occupier, 169 Coalisland Road Dungannon Tyrone Fey Cole 2 Woodview Dungannon Tyrone Rebecca Spence 24 Cambrai Park, Waringstown, Down, Northern Ireland, BT66 7PS Mark O'Neill 45 Cadian Road Dungannon Tyrone Tony Hurson 46 Drumglass Way Dungannon Tyrone Olwen Badziak 5 Queen Sreet Caversham Reading J H Anderson Ulster Architectural Heritage, 7 Old Museum Arts Centre, College Square North, Belfast, BT1 6AR John Anderson Ulster Architectural Heritage, 7 Old Museum Arts Centre, College Square North, Belfast, BT1 6AR	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No

**Planning History**

Ref ID: LA09/2020/0281/F

Proposal: Full planning permission for the demolition of St Malachy's Parochial Hall. The construction of a new 11 classroom primary school with associated landscape, vehicle access, car parking, hard and grass play areas.

Address: St Malachy's Parochial Hall, 163 Coalisland Road, Dungannon, BT71 4DP.,

Decision:

Decision Date:

Ref ID: LA09/2018/0593/PAD

Proposal: Demolish existing parish hall. New 11 class primary school with associated vehicle access, car parking hard and grass play areas

Address: St Malachy's Parish Hall, 163 Coalisland Road, Dungannon,

Decision:

Decision Date:

Ref ID: M/2008/0579/O

Proposal: New 10 Classroom Primary School, and separate 25 pupil Nursery with associated parking, access, sports hall and external playing areas. Foul sewer pumping station also to be included within site.

Address: Edendork, site currently occupied by Parochial Hall (163 Coalisland Road), and extending along Killymeal Road into Greenfield site behind

Decision:

Decision Date: 18.09.2009

Ref ID: LA09/2019/0832/PAN

Proposal: Construction of new 10 Classroom 1900m<sup>2</sup> , 309 pupil school for Edendork Primary School on the existing St Malachy's Parochial Hall site with adjacent land to the South East and associated works to the proposed school site.

Address: St Malachy's Parochial hall, at the intersection between the Killymeal and Coalisland Roads, Dungannon, BT71 4DP.,

Decision: PANACC

Decision Date:

**Summary of Consultee Responses**

Content subject to conditions and informatives

**Drawing Numbers and Title**

Drawing No. 09/3  
Type: Roads Details  
Status: Approved

Drawing No. 02/3  
Type: Site Layout or Block Plan  
Status: Approved

Drawing No. 17/1  
Type: Proposed Plans  
Status: Approved

Drawing No. 16/1  
Type: Proposed Plans  
Status: Approved

Drawing No. 15/1  
Type: Proposed Plans  
Status: Approved

Drawing No. 14/1  
Type: Proposed Plans  
Status: Submitted

Drawing No. 13/1  
Type: Roads Details  
Status: Approved

Drawing No. 12/1  
Type: Roads Details  
Status: Submitted

Drawing No. 11/1  
Type: Existing Plans  
Status: Submitted

Drawing No. 10/1  
Type: Roads Details  
Status: Approved

Drawing No. 08  
Type: Existing Site Survey  
Status: Submitted

Drawing No. 07  
Type: Site Levels  
Status: Approved

Drawing No. 06/1  
Type: Proposed Plans

Status: Approved

Drawing No. 05/1

Type: Levels and Cross Sections

Status: Approved

Drawing No. 04/1

Type: Proposed Floor Plans

Status: Approved

Drawing No. 03/1

Type: Proposed Elevations

Status: Approved

Drawing No. 18

Type: Proposed Plans

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Approved

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department: n/a



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> LA09/2020/1239/F	<b>Target Date:</b>
<b>Proposal:</b> Change of use of enclosed yard from disused vehicular storage yard for DRD, to an area for the storage and bagging of peat	<b>Location:</b> 45 Craveny Road Martray Ballygawley Co Tyrone BT70 2JU.
<b>Referral Route: 3rd party objections</b>	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Harte Peat Ltd Leonards Island Clones Co Monaghan	<b>Agent Name and Address:</b> P.Cassidy B.Arch 6 Willoughby Mews Enniskillen BT74 7EZ
<b>Executive Summary:</b> Meets planning policy, recommendation to approve, 3rd party objections	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



### 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

- detrimental impacts of noise;
- detrimental impacts of smell;
- working hours
- unacceptable traffic volume resulting in safety issues for all road users;
- procedural issues, application site approaches on neighbouring visibility splays;
- that the yard was never used as scrap yard

### Characteristics of site and area

The site is situated at 45 Cravenney Road, Ballygawley, Co. Tyrone. This area is categorised as countryside within the Dungannon & South Tyrone Area Plan 2010. The area surrounding the site exhibits a small element of undulation and can be described as a rural upland area with an element of discernible variation in elevation. This area of countryside is generally quite enclosed and areas around the site exhibit a

degree of enclosure, particularly towards the south and south east which includes areas of mature vegetation and plantation.

The site itself has quite an enclosed nature when compared to the surrounding area and this is mainly due to the nature of the surrounding landscape and its topography. The site is currently made up of a hard stand area and this includes a hard-core yard area. The previous use of the site, according to the agent, was a yard used by the then DRD for the storage of road maintenance vehicles. I do not dispute this. There is no planning permission for this use but I do not dispute this. There are previous permissions on the site for a builders yard.

There are a number of residential dwelling houses in close proximity to the application site, including No. 48 Cravenney Road to the west and Nos 43 and 39 Cravenney Road to the south.

Adjacent and north of the site is a large a large yard that was previously used as a car scrap yard. This site is being redeveloped into industrial uses.

### **Description of proposal**

This is a full planning application for Change of use of enclosed yard from disused vehicular storage yard for DRD, to an area for the storage and bagging of peat.

### **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.

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

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

The site is located in the open countryside and is not within any zoned or designated area. Policy IND 1 of the Area Plan concentrates more on existing and identified zoned industrial development and does not mention anything about the development of general or storage and distribution industrial uses in the countryside. The regional policy that covers industrial development in the countryside is covered by SPPS, PPS21 and PPS4 Planning and Economic Development.

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

1. Strategic Planning Policy Statement (SPPS).
2. Dungannon & South Tyrone Area Plan 2010.
3. Planning Policy Statement (PPS) 3 Access, Movement and Parking.

4. Planning Policy Statement (PPS) 4 Planning and Economic Development.
5. Planning Policy Statement (PPS) 21 - Sustainable Development in the Countryside.

#### Representations

3rd party objections have been received and are summarised as follows;

- detrimental impacts of noise;
- detrimental impacts of smell;
- working hours
- unacceptable traffic volume resulting in safety issues for all road users;
- procedural issues, application site approaches on neighbouring visibility splays;
- that the yard was never used as scrap yard

#### Relevant Planning History

LA09/2017/0588/F-Proposed general engineering workshop for the manufacture of quarry plant and general engineering, permission granted with conditions on 26.11.2018.

LA09/2021/0717/F- proposed storage warehouse for use in association with proposed peat storage and distribution yard (currently being assessed under LA09/2020/1239/F) with associated single storey canteen ,toilets, office reception area and ancillary works. At time of writing this report (15/02/2022) decision pending.

#### Assessment

The Strategic Planning Policy Statement (SPPS) for Northern Ireland, Planning for Sustainable Development, is a material consideration. The SPPS supersedes the policy provision within Planning Policy Statement (PPS) 1, 5 and 9. The policy provision within PPS 3, PPS 4 and PPS 21 have been retained under transitional arrangements. PPS 21 sets out planning policies for development in the countryside, PPS 4 deals with Economic Development and the policy provision within PPS 3 deals with access, movement and parking.

It is important to note at this stage that there is a live planning permission on this site for a general industrial use and engineering workshop for the manufacture of quarry plant and general engineering. LA09/2017/0588/F is live until 26.11.2023, therefore this permission can be implemented at any time up to that period, and is the current fall back position for this site. The planning policy context has not changed since this permission, nor has the new area plan for MUDC been adopted nor can the draft plan be given any determining weight at this time.

As this current proposal is for a change of use of land from DRD Depot to peat storage and bagging yard, with no proposed building, it is a different proposal to what was granted under the 2017 permission, and therefore will require a fresh assessment than what was considered under the previous permission. This proposed use is predominantly B4, storage and distribution. In the original submission, the agent had indicated on the block plan the outline of the previously approved building on site and titled -position of building previously approved (planning ref: LA09/2017/0588/F) for the purposes of general engineering-. It was explained to the agent that this building would need to be removed from the drawing, as this did not form part of this particular planning application. The agent argued that the building should be allowed to remain on the plan, that the building would be used in association with the peat baggage plant. However, no

fee was paid for this building, and to allow this building to remain on the plan, along with the annotation, would in essence be granting two separate uses on this site, which in my view would represent an intensification of use on the site, and is a completely different proposal from what the agent requires to put in place on the ground. It was agreed to remove the outline of the building from the plan and to apply for change of use application only. Following on from this, the agent then submitted an additional planning application, to show the building but to be used in association with the proposed peat business, and not to be used as a general industrial use building (see LA09/2021/0717/F).

There is some dispute over the previous use of the site between Planning Officers, the agent and objectors. What is clear is that there is a current live permission on the site, LA09/2017/0588/F for a Class B2 and B3 use, with associated general engineering building. The site is also identified as a brownfield site in the countryside, in that there were previous industrial uses on the site over the years.

LA09/2017/0588/F was assed under policy PED 4 of PPS4 - the redevelopment of an established economic development use in the countryside. I find PED 4 to be relevant in this case also, and planning policy has not changed from this previous permission.

The policy provision within PED 9 will also be pertinent in terms of assessing the proposal against the general criteria for economic development.

Policy PED 4 outlines that a proposal for the redevelopment of an established economic development use in the countryside for industrial purposes will be permitted where 4 policy tests (a-d) are met. The first policy test relates to the scale and nature of the proposed works.

The site will not extend the current yard area to be redeveloped, and will use an existing access to the site, with the development including access improvements, storage area for peat with an impermeable surface, silt trap, a turning area for HGVs, and parking area. Under this application no building is proposed. Earth bunding approx. 2.5 m high will be retained along the SW and SE boundaries as will existing mature trees beyond this bunding. The trees and bunding provide a buffer between the site and dwelling located beyond the SW boundary. The site is low lying and is well screened from the public road, I do not find the proposal will have any detrimental impact on visual amenity. Given that a quarry and general engineering use and workshop has been proposed for this site, I do not find this outdoor use for storage and bagging of peat to be of a significantly greater detrimental impact on amenity than what can be built on site. Environmental Health were consulted on the proposal and have raised no concern over Noise, Odour or Dust impacts. Peat is an odourless plant material that will be stored in a saturated state on the yard so that it will not blow away. The noise impact assessment states that bagging and vehicle movements will be less than 5 db above background noise levels. Environmental Health do not object to this, however has included a planning condition that in the event of a reasonable noise complaint that a noise assessment be carried out by the developer and if unacceptable noise is identified, to carry out agreed works to mitigate against this nuisance. A similar condition is suggested for an odour complaint which I find to be acceptable. Hours of operation are also suggested. These suggested conditions by EHD will help to protect existing residential amenity and control operations on the site to an acceptable degree. I find that rural character or appearance of the area will not be negatively impacted by this development

subject to planning conditions. I find the objectors concerns in relation to noise and smell not to be determining in this instance, plus proposed hours of operation will limit nuisance to those times. Plus, given the proposed use that was granted under LA09/2017/0558/F, for production of quarry plant machinery and general industrial, I find this proposed use to be of less detriment to neighbouring amenity.

The second policy test contained within PED 4 relates to the environmental benefits associated with the scheme and the amplification attached to the policy outlines that this includes the opportunity for environmental improvement and the promotion of job creation without creating a negative impact on the amenity of the countryside. The proposed works will allow for this area of industrial brown land in the countryside to be used whilst creating employment in the local area. I consider that this will be achieved without negatively impacting upon the amenity of the local area. EHD have attached a condition that should contaminated land or pollutants be identified when developing the site then this should be addressed by the developer and removed to an appropriate waste facility. Rainwater drainage and interceptors are being brought onto the site, to ensure the peat stockpiles do not become polluted, as this will render them useless for growing purposes.

The third policy test contained within PED 4 highlights that the redevelopment should deal with the full extent of the site. The full site is considered and is within the ownership of the developer. I am content that the proposal will fully consider the entire site and that it will result in the orderly development of the site without any parts of the site remaining undeveloped or untidy, that may result in the unsightly appearance of this area of countryside.

The final policy test under PED 4 relates to the visual impact of replacement buildings. This proposal does not include any buildings and I find the overall visual impact of the development to be considered acceptable for this site and surrounding area.

#### PED 9

In addition to that above, Policy PED 9 of PPS 4, outlines that a proposal for economic development use, in addition to the other policy provisions of PPS 4, will be required to meet a set of criteria (a-m):

In consideration of that criteria it is noted that the proposal relates to a peat storage and bagging use on an existing brown field which has been used for industrial purposes and has a history of industrial planning approvals. The land to the north of the site are also used for industrial purposes and lands to the south and west of the site are residential in nature. I consider these land uses to be compatible.

In terms of the amenity of nearby residents, including the closest properties at Nos 39, 43, and 48 Craveny Road, Environmental Health (EHD) were consulted and they raise no objections subject to conditions.

Under the 2017 permission Historic Environment Division (HED) were consulted. HED returned comment (23/05/2017) highlighting that they were content with the proposal and no further historic interests have been identified in the intervening period. . As noted above the proposal is located on a brown field site and the works proposed do not involve the removal of any natural features. On the basis of that above, I am content that the proposal will not adversely impact upon any features of natural or built heritage. NIEA do not raise any concern in this regard. I also note that the site sits outside of a flood plain.

On the basis of that above I am content that the proposal satisfactorily meets with the policy criteria contained within PED 9 of PPS 4.

#### Access

As the application involves an intensification of use and an alteration to the existing access provision it was deemed necessary to consult with DFI Roads. Roads were consulted on this proposal and raise no objections to the proposal subject to conditions. Dfi Roads do not raise any concern over impacts of traffic on road safety, and I find the objectors concerns in this respect not to be determining to the outcome of this application.

#### Consideration of Objections

Most of the objectors concerns in terms of potential impacts on amenity have been considered above. An additional level of protection to nearby residents have been provided in the form of planning conditions which the development has to be in accordance with.

In terms of the procedural issues, I am satisfied that these have been satisfactorily dealt with. The agent has completed Certificate C and served notice on the landowner. An objector has raised concern that the splays required to implement the proposed development splays, will overlap with their visibility splays. It is likely that this land within the roadside verge is within control of Dfi Roads, and therefore there is no requirement for the developer to notify Dfi Roads in this instance. It would not be in either the objectors or developers interest to block existing splays as this could give rise to road safety issues and could lead to future enforcement action from Dfi Roads or the Council's Planning Department. Should it be demonstrated that 3rd party land is required for the implementation of visibility splays or other development in relation to this permission, then this is a civil matter between the interested parties, and it is in the developers best interest that all necessary agreements are in place prior to commencement of development as this could prejudice the implementation of the permission.

#### Conclusion

Land contamination conditions have been added to ensure that should any pollutants be discovered in the development of the site that these are adequately dealt with.

The proposed development is considered to be in compliance with the policy objectives of the SPPS, PPS 21, PPS 4 and PPS 3, and accordingly approval is recommended subject to conditions.

To ensure that the Peat being received at this site is not from an unauthorised source, especially within Mid Ulster, the Service Director of Planning wanted reassurance from the agent before progressing the application any further. On 29 April 2022 the agent provided headed paper from Kalloveen, a peat supplier from Estonia, stating that they can and will supply O'Harte Peat with Estonian Peat Moss and that they are fully compliant with the Estonian extraction rules. The agent also provided evidence that Kalloveen is a RPP (Responsibly Produced Peat) Registered Company. This information has been accepted by the Service Director.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

That full 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. The use hereby permitted shall be for the storage, distribution and bagging of peat only and for no other purpose that may be permitted under Use Class B4 Storage or Distribution of the Schedule to the Planning (Use Classes) Order (NI) 2015.

Reason: To control the use of the site in the interest of protecting nearby residential amenity from noise, nuisance and general disturbance.

3. The business hereby permitted, including all associated operations including site activity and deliveries, shall not operate outside 07:00 hours and 19:00 hours Monday to Friday and 09:00 hours to 13:00 hours on Saturdays, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect residential amenity from noise, nuisance and general disturbance.

4. The existing earth mounding, indicated on drawing No. 02 rev3 date stamp received 15 JUN 2021, shall be permanently retained along the south west and south east boundaries of the site at a height no less than 2.5m above ground level at that point, unless otherwise agreed in writing with Mid Ulster Council.

Reason: To safeguard residential amenity.

5. Within 4 weeks of a written request by the Council following a reasonable noise complaint from the occupant of a dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess the level from the development and demonstrate it complies with the noise levels contained within Doc 1: Noise Assessment Report date stamp received 01 APR 2021 and attached to this permission. Details of noise monitoring survey shall be submitted to Council for written approval prior to any monitoring commencing. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring. The Council shall then be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 4 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect residential amenity from noise.

6. Only raw peat or bagged peat shall be stored externally on this site, unless otherwise agreed in writing with Council.

Reason: To protect nearby residential amenity from negative impacts of odour.

7. Where peat is to be stored externally on the site, it shall only be stored within the area shown hatched on drawing No. 02 rev3 date stamp received 15 JUN 2021, and shall not be stored externally elsewhere on the site unless otherwise agreed in writing by Council.

Reason: In the interest of residential amenity, to protect the environment and to control the area of open storage on the site.

8. Within 4 weeks of a written request by the Council following a reasonable odour complaint from the occupant of a dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess the level of odour from the development. Details of odour monitoring survey shall be submitted to Council for written approval prior to any monitoring commencing. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the odour monitoring. The Council shall then be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 4 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect residential amenity from odour.

9. Any peat stored externally shall be in a dampened state at all times.

Reason: To safeguard surrounding residential amenity from negative impacts of dust.

10. Within 4 weeks of a written request by the Council following a reasonable dust complaint from the occupant of a dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess the level of dust from the development. Details of dust monitoring survey shall be submitted to Council for written approval prior to any monitoring commencing. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the dust monitoring. The Council shall then be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 4 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect residential amenity from dust

11. In the event that previously unknown contamination is discovered, falling outside the scope of previous assessment and remediation scheme, development on the Site shall cease, pending submission of a written report. The report shall appropriately investigate the nature and extent of that contamination and present the findings and conclusions of the same additionally providing details of the appropriate measures to be taken as a result of the contamination, for the prior written approval of Planning Department (in consultation with the Environmental Health Department).

Reason: To protect the development from land contamination



12. It would be considered good practice for any material imported on site for use in reinstatement of excavations to be proven to be 'suitable for use'. Appropriate sampling should be undertaken & laboratory analysis presented within a verification report. If required, the applicant should seek authorisation from the Waste Management Licensing Team within NIEA and ensure the appropriate approvals are in place before works commence. All excavated materials should be removed in accordance with the appropriate waste management legislation.

Reason: To protect the development from land contamination

13. All existing trees indicated on drawing No. 02 rev3 date received 15 JUN 2021 shall be permanently retained at a height not less than 4 m above ground level at that point, unless otherwise agreed in writing by Mid Ulster Council.

Reason: To safeguard visual and residential amenity and to safeguard existing biodiversity.

14. The drainage of the site shall be in accordance with details indicated within Doc 2: Drainage Assessment date stamp received 02 SEPT 2021.

Reason: To ensure the site has adequate drainage and does not cause drainage problems elsewhere.

15. Prior to the commencement of development hereby approved, a Schedule 6 consent to discharge shall be provided to Council for agreement.

Reason: To safeguard the water environment.

16. No development shall take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW) or a Consent to discharge has been granted under the terms of the Water (NI) Order 1999, and details provided to Council for agreement.

Reason: This condition is both to ensure protection to the aquatic environment and to help the applicant avoid incurring unnecessary expense before it can be ascertained that a feasible method of sewage disposal is available. The applicant should note this also includes the purchase of any waste water treatment system.

17. The vehicular accesses, including visibility splays of 4.5 metres by 70.0 metres to the south direction & 4.5 metres by 45.0 metres to the north direction at the access on to the public Road, shall be provided in accordance with Drawing No 02 Rev 3 date stamp received 15 JUN 2021 prior to the commencement of any other development hereby permitted 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 permanently 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.

18. No other development hereby permitted shall become operational until the road widening to 6.0m indicated on Drawing No 02 Rev 3 date stamp received 15 JUN 2021 has been fully completed in accordance with the approved plans and permanently retained thereafter.

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

19. 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.

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

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

21. No operations hereby approved shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 02 Rev 3 date stamp received 15 JUN 2021. 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 facilities for parking, servicing and circulating within the site in the interests of road safety.

**Signature(s)**

**Date:**

ANNEX	
Date Valid	8th October 2020
Date First Advertised	20th October 2020
Date Last Advertised	22nd June 2021
Date of Last Neighbour Notification	6th July 2021
Date of EIA Determination	
ES Requested	No



Comhairle Ceantair  
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**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0141/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed retention of alterations to in Vessel Composting Facility approved under M/2014/0567/F and LA09/2016/0729/NMC comprising additional bay and vent scoops to bunker building raised platform to tunnel building, bio filter enclosure , de watering plant, storage areas and ancillary plant, tanks, conveyors and ducting	<b>Location:</b> Lands at Northway Mushrooms 24m South of 17 Aghnagar Road Ballygawley
<b>Referral Route: 3rd party interest on wider site.</b>	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Northway Mushrooms Ltd Unit 10 Bridge Business Park Main Street Blackwatertown	<b>Agent Name and Address:</b> Clyde Shanks Ltd Second Floor 7 Exchange Place Belfast BT1 2NA
<b>Executive Summary:</b> This application is in response to ongoing enforcement issues at this site and to works carried out in response to a Corrective Notice served by NIEA on odour issues. The proposal is to regularise unauthorised development on site that has occurred, partly in response to 3 <sup>rd</sup> party objections to unacceptable odour levels experienced on the wider site and neighbouring residential properties, and the case is being presented to Members in tandem with LA09/2021/1474/F.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### 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

While no letters of objection have been received on this application, there is wider public interest on this site with particular concern over odour.

### Description of proposal

This is a full planning application for the retention of alterations to in Vessel Composting Facility approved under M/2014/0567/F and LA09/2016/0729/NMC comprising additional bay and vent scoops to bunker building, raised platform to tunnel building, bio filter enclosure, de watering plant, storage areas and ancillary plant, tanks, conveyors and ducting.

### Characteristics of site and area

The site is located at Northway Mushrooms, which is accessed from the Aghnagar Road, Ballygawley, Co. Tyrone. This area is categorised as countryside within the Dungannon & South Tyrone Area Plan 2010.

The site is within the existing In Vessel Composting Facility, which currently produces compost for the mushroom growing industry. This process is complex and relies on several chemical processes and mixing of different waste types, to produce this compost. Straw, chicken litter and gypsum are used to produce the compost. The raw materials in themselves can be quite pungent, and the process to produce the compost can also produce unpleasant smells.

On my site visit there was quite a strong smell of ammonia at certain parts of the site.

The lands to the south of the site were occupied by Acheson and Glover pre stress concrete works which have now vacated the site. Further south is Northstone aggregates, and the Sandvik industrial equipment manufacturing business.

A road runs just beyond the northern boundary of the factory, Aghnagar Road, and this is elevated for most part, however becomes less elevated as you travel to the rear of the factory in an easterly direction along this road. Along this road there are a number of dwellings close to the factory boundary.

To the east of the factory is a small stream.

The factory site itself has quite an enclosed nature when compared to the surrounding area and this is mainly due to the nature of the surrounding hedgerows and vegetation along the north. The area surrounding the site exhibits a distinct industrial nature due to the economic land uses referenced above.

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

#### **Planning Act 2011**

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

#### **Area Plan**

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

#### **Key Planning Policy**

SPPS Strategic Planning Policy Statement

PPS21- Sustainable Development in the Countryside

PPS4- Planning and Economic Development

PPS3- Access, Movement and Parking

PPS2- Natural Heritage

#### **Relevant Planning History**

M/2014/0567/F Proposed development of an In Vessel Composting Facility (IVCF) comprising a reception building, enclosed tunnels, office, weighbridge/wheelwash, storage compound, access and ancillary site works, Lands at and to the south of No. 17 Aghnagar Road, Ballygawley, Co Tyrone. PERMISSION GRANTED 16.04.2015

LA09/2016/0729/NMC - Non material change (NMC) comprising relocating the approved position of the compost tunnel building, relocate and extend the bunker building while relocating water tanks and amending the internal access road relating to Planning Permission M/2014/0567/F, Lands at and South of no 17 Aghnagar Road, Ballygawley. NON MATERIAL CHANGE GRANTED.

LA09/2017/0576/F- Proposed clean rainwater harvested attenuation lagoon, culvert (access) and ancillary site works associated with approved and under construction In Vessel Composting Facility (IVCF), granted 05.09.2017

LA09/2019/1633/DC- Discharge of Planning Condition 10 of Planning Application M/2014/0567/F (Development of an In Vessel Composting Facility IVCF), condition partially discharged 06.01.2022

LA09/2021/0101/NMC- Proposed Non Material Change (NMC) application associated with Planning permission M/2014/0567/F (In Vessel Composting Facility (IVCF) comprising of reception building, enclosed tunnels, office , weightbridge/wheelwash, storage compound, access and ancillary site works ) relating to tunnel building- proposed changes include reorientation, addition and removal of windows and doors on two elevations (elevations B and D) alteration of cladding on all elevations and internal alteration of ancillary rooms, decision is pending.

LA09/2021/1474/F- Proposed air cooling unit and associated water tank (to optimise biofilter efficiency), decision pending at time of writing this report (07/04/2022)

LA09/2019/0147/CA- Development not in accordance with planning permission M/2014/0567/F Drawing No. 05 bearing the date stamp Granted 16/4/2015, and LA09/2016/0729/NMC Drawing No.02 and No.4Rev1 bearing the date stamp Granted 24/6/2016.

Unauthorised additional plant (consisting of external conveyor belts, chemical storage tanks, substation, additional vents, and other plant. The breach also includes additional floor space to the bunker building along with external alterations, and a raised platform serving Building 1).

Unauthorised De-watering Plant, drainage system associated with this and additional plant.

Breach of Condition 4 of planning approval M/2014/0567/F.

Breach of condition 5 of planning approval M/2014/0567/F.

#### Representations

I am satisfied that proper neighbour notification was carried out and that the application was advertised in the local press.

No 3rd party objections have been received.

#### Background to the application.

The issues surrounding this site are complex. A number of objections and complaints were received by Mid Ulster Council in relation to odour from this facility towards the end of 2020 and early 2021. In response to these complaints The Planning Department opened up an enforcement investigation which is currently ongoing, and details of the investigation cannot be disclosed at this stage. The Environmental Health Department of Mid Ulster Council also opened up their own odour investigation.

Engagement between a number of elected representatives representing objectors, Planning and Environmental Health representatives from Mid Ulster Council, and representatives from NIEA Regulation Unit began in early 2021 so that issues of odour at this site could be fully understood and a way forward agreed to resolve the ongoing odour issues at this site.

NIEA regulates the site under a Waste Management License ref WML37/16. Under this authorisation a Compliance Notice was issued on the site operator on 26/02/2021 in relation to odour.

This retrospective application is for the retention of works carried out by the site operator to regularise unauthorised development at the site that was not granted under previous permissions. Some of the works at the site were carried out to meet the requirements of the Corrective Notice served by the Regulation Unit of NIEA on this site. Planning application LA09/2021/1474/F is also for regulation of development at the site that does not benefit from planning permission and is for the retention of a cooling plant which aims to help with improving odour levels at this site and surrounding residential properties in response to the Corrective Notice.

NIEA in their most recent response dated 22/02/2022 state that inspections carried out by Regulation Unit Officers noted a reduction of malodours and as a result of these findings the notice was lifted on the 26/01/2022. The regulation unit advised that the applicant employ 'Best Available Techniques' (BAT) with regard to any further odour mitigation measures to be employed at the location. NIEA also advise that the proposal may require a modification to the extant Waste Management Licence/Working Plan and that the applicant is advised to contact RU for further advice and guidance. No planning conditions are suggested by NIEA to attach to any planning permission.

It seems that there is a higher level of protection on this site to address odour issues, and this is enforced by NIEA through the means of the Waste management Licence. NIEA also suggest that the licence may need to be reviewed and updated, especially if increased waste volumes are to be received at this site.

The additional works carried out at this site, part of which this planning application covers, seems to have improved the odour situation at the site, and the levels of objection and contact from elected representatives have significantly dropped in recent months. These works are located within the existing factory complex and do not result in any detrimental impacts on the existing rural character of this area given their location and grouping with the existing extensive factory, in an already heavily industrialised part of countryside.

### Assessment

The main policy consideration in relation to the expansion of this established use in the Countryside is Policy PED 3 of PPS4. The development does not result in a major expansion of an established industrial development use in the countryside and the scale and nature of the proposal does not harm the rural character or appearance of this area



of countryside, and the new development is in proportion with existing development and will integrate into the overall development. Policy PED 3 of PPS4 is met.

The proposal is also in accordance with PED 9 of PPS 4 in that; it will result in improvements to odour for neighbouring residents; it is compatible with surrounding land uses; will not adversely affect features of natural or built heritage; is not located within a flood risk area and will not exacerbate flooding elsewhere; environmental health were consulted and do not raise any concern over noise from the development and therefore will not create a noise nuisance; is now capable of dealing satisfactorily with emissions and effluent; DfI Roads were consulted over some minor changes to the internal layout of parking and circulating within the site and are now content with conditions, and no concern was raised over the existing road network or any other road safety issues; the design and layout are acceptable; the site is suitably enclosed; and there is sufficient landscaping on the existing boundaries.

While this overall compost manufacturing facility is classed as a waste management facility, the development in itself is not waste development, but is ancillary development to control odour levels at the site and to regularise unauthorised development. In my view, policies within PPS11 Planning and Waste Management do not have to be applied in this instance. The development in effect is introducing BAT to ensure the facility falls in line with the policy criteria of policies WMP 1 and 2 of PPS11.

As part of the consultation process of this application, Environmental Health have suggested that planning conditions in relation to odour be attached to any permission. I agree that these conditions be added, as an extra level of protection at this site. However, the higher level of protection will be from the enforcement of the Waste Management Licence (WML) which is governed by NIEA under separate legislation. Should the site operator not comply with the conditions of the WML then NIEA will have the legislative power to act, and indeed NIEA have stated in one of their consultation responses that should this application receive planning consent that this should not be construed that approval will automatically be given by NIEA.

As the works have improved the living conditions of residents in the area, with reduced odour levels, it is my view that this proposal should be approved.

#### Other Considerations

No land contamination has been identified by any consultees in relation to this development.

#### Habitat Regulations

SES were consulted and state that having considered the nature, scale, timing, duration and location of the project it is concluded that it is eliminated from further assessment because it could not have any conceivable effect on a European site.

Elimination Reason: The screening assessment has found no viable environmental pathway from the proposal to any European Site.

#### Environmental Impact Assessment

As the development is within category 13 (A) of Schedule 2 of the Planning (Environment Impact Assessment) Regulations (NI) 2015 the Council is obliged under Regulation 10(I) of these Regulations to make a determination as to whether the

application is for EIA development. The Council has determined as such that the planning application does not require to be accompanied by an Environmental Statement.

#### Representations

Given the high level of public interest in this facility last year I find it surprising that no 3rd party objections were received on this proposal. Given that the works are to improve the existing situation may be part of this reason. The proposal remains delegated and does not have to be presented to Members at Planning Committee at this time, however, given the level of public interest on this wider site it is recommended by the Service Director of Planning that this application be presented to Members for consideration.

#### Neighbour Notification Checked

**Yes**

#### Summary of Recommendation:

That planning permission is granted subject to the following conditions.

#### Conditions

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

Reason: This is a retrospective application.

2. Within 2 weeks of a written request by the Council following a justified complaint in relation to unacceptable odour levels from the occupant of a residential dwelling which lawfully exists at the time of the complaint, the current site operator shall investigate and undertake any identified remedial action within an agreed timeframe with Council, to achieve agreed odour levels. Any agreed remedial measures shall be carried out to the satisfaction of Council within an agreed timeframe, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To safeguard residential amenity from unacceptable odour.

3. Within 3 months of the date of the decision notice all parking / hard surface areas shall be constructed and permanently marked in accordance with the approved drawing No 08 date stamp received 11 May 2021 and shall be permanently retained unless otherwise agreed in writing with Council.

No part of these hard surfaced areas shall be used for any purpose at any time other than for parking and movement of vehicles.

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

#### 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. NIEA Land, Soil and Air advice;  
The regulation unit advise that the applicant employ ?Best Available Techniques? (BAT) with regard to any further odour mitigation measures to be employed at the location. NIEA aslo advise that the proposal may require a modification to the extant Waste Management Licence/Working Plan and that the applicant is advised to contact RU for further advice and guidance.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	29th January 2021
<b>Date First Advertised</b>	16th February 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b> The Owner/Occupier, 17 Aghnagar Road,Dungannon,Tyrone,BT70 2HP The Owner/Occupier, 19 Aghnagar Road Galbally Dungannon The Owner/Occupier, 21 Aghnagar Road,Galbally,Ballygawley,Tyrone,BT70 2HP	
<b>Date of Last Neighbour Notification</b>	2nd June 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:	



Comhairle Ceantair  
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**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0455/F	<b>Target Date:</b>
<b>Proposal:</b> Change of house type on sites 24 to 66 to include updated layout as per DFI Roads requirements	<b>Location:</b> 40m North East of Currans Brae and 120m North West of 92 Gorestown Road Moy
<b>Referral Route: Recommendation to approve, with 3rd party objections.</b>	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> MDK Construction 44C Eglisk Road Annaghmore Craigavon BT62 1NL	<b>Agent Name and Address:</b>
<b>Executive Summary:</b> Through amends in the overall layout and design, the proposal will now result in a quality residential environment (subject to planning conditions) and is in accordance with PPS7. Objectors concerns have been taken into consideration.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

### Representations:

Letters of Support	0
Letters of Objection	12
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### Summary of Issues

A number of 3rd party objections have been received on this application and raise the following issues;

- detrimental impact to private residential amenity through overlooking, over dominance, overshadowing and loss of light;
- detrimental impacts of overloading on Moy Waste Water Treatment Plant;
- unacceptable levels resulting in detrimental impacts on private amenity;

### Description of Proposal

The proposal is for Change of house type on sites 24 to 66 (22 units total) to include updated layout as per DFI Roads requirements.

### Characteristics of Site

The site is located at Gorestown Road & Currans Brae, Moy. The site is defined as white land in the Dungannon Area Plan, and is currently being cleared for development, with new housing units being erected on the wider construction site. Planning permission was granted on the wider site M/2008/0821/F- 63 dwellings in total - 23 detached, 22 semi-detached, and 18 apartments, on 18/02/2011.

The site rises in a steep gradient towards the north east from the Gorestown Road. From approach into the site from Currans Brae the site slopes downwards towards the south east. Clover Hill housing development is located to the east and north of the site (from Gorestown Road approach). Even No.s 16-36 Cloverhill Back onto the site and are all detached bungalows. Large detached houses fronting onto Gorsetown also back onto the site, with only the tops of the roofs visible from the site due to level difference.

Some new detached and semi-detached dwellings are well under construction at the entrance to the site from Gorsetown Road, these dwellings are not the subject of this application.

The boundaries to the NE and SE are shared with properties backing onto the site from Cloverhill and are a mix of fencing and hedging. One property in Clover Hill has no privacy boundary to protect existing rear amenity. The SW boundary of the site is defined by a mix of patchy vegetation and post and wire fencing.

The area is defined predominantly by a mix of dwelling types, mainly 2 storey detached and semi-detached along the Gorestown Road, single storey detached in Cloverhill and a mix of house types in Hunters Chase, including apartment blocks.

### 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.

#### Area Plan

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

The Dungannon & South Tyrone Area Plan does not zone this site for any particular purpose, it is part of a large swath of land that is white land within the settlement limits of Moy. Policy SETT1 allows for favourably consideration of development provided it meets a number of criteria.

#### Relevant Planning Policy

SPPS	Strategic Planning Policy Statement
PPS7	Quality Residential Environments
PPS8	Open Space, Sport and Outdoor Recreation
PPS6	Planning, Archaeology and the Built Heritage
PPS3	Access, Movement and Parking
PPS2	Natural Heritage
PPS15	Planning and Flood Risk (revised)

#### Planning History

M/2008/0821/F- Erection of 63 dwellings, accessed off 40m North East of 28 Currans Brae and off 120m North West of 92 Gorestown Road, comprising of 23 detached and 22 semi-detached and 18 apartments, granted 18/02/2011.

LA09/2018/0864/DC- Discharge of conditions 2 and 3 of application M/2008/0821/F (Sewage). These conditions were discharged by the MUDC Planning Department on 05/07/2018, therefore discharge consent to mains sewage was agreed with NIW for 63 units.

There have been other revised applications in other parts of the wider development site, but none are relevant to this particular planning application.

#### Representations

A number of 3rd party objections have been received on this application and raise the following issues;

- detrimental impact to private residential amenity through overlooking, over dominance, overshadowing and loss of light;
- detrimental impacts of overloading on Moy Waste Water Treatment Plant;
- unacceptable levels resulting in detrimental impacts on private amenity;

#### Recommendation

The site has previous permission for housing on it under M/2008/0821/F and the Strategic Planning Policy Statement provides no change in direction or clarification in relation to policies relevant to this application. The principle of housing on this site is acceptable.

Under M/2008/0821/F, 28 units (including dwellings and apartments) were granted on this corresponding application site. Under subject planning application, it is proposed to reconfigure the dwellings on the site which will result in 22 units (a reduction in 6 units), amend house types and to reconfigure the proposed access road at this part of the development.

In the reconfiguration, 3 sets of semi-detached dwellings will now back onto No.s 18, 20 and 22 Clover Hill. These dwellings in Clover Hill have shallow rear gardens measuring between 3m to 8m from the rear building line of dwellings to the rear boundary which is shared with this proposed housing development. This initially caused concern, as it was proposed to site 2 storey dwellings backing onto these properties and there was no illustration of where properties on Clover Hill were sited in relation to these properties. Plus there was no indication of levels or cross-sections provided by the developer so that an assessment could be made on overlooking, overshadowing and over dominance. The



gable end of dwellings on sites No 40 and 42 were also 3m and 2m from the rear boundaries of No.s 28 and 24 Clover Hill respectively.

Given the lack of information and level of concern being raised by neighbouring objectors, I requested additional information from the agent. The developer was asked by Council to provide greater separation distances between existing dwellings in Clover Hill and proposed properties within the new development. Level and cross section details were provided, along with privacy boundary treatments. This has provided greater clarity in the relationship between existing and proposed development. I am now satisfied that the revisions are acceptable and provide acceptable separation between existing and proposed properties and shared boundaries. The improved separation distances will not result in unacceptable impacts of overlooking, overshadowing, over dominance or loss of light.

The dwelling on site No. 40 has a similar relationship in terms of FFL and distance to the shared boundary with Clover Hill, to what was previously found acceptable under M/2008/0821/F, albeit this was to the rear of No. 30 Clover Hill and not No. 28 as is now the case. This relationship is now replicated to the rear of No. 24 Clover Hill and the proposed dwelling on site No. 42. Given that this type of relationship was found acceptable under M/2008/0821/F by the Department and Planning Policy remains the same, I am of the view that this is acceptable and that there will be no detrimental impacts of overlooking, overshadowing, over dominance or loss of light. The objectors concerns in this regard are not determining in this instance.

Sufficient rear amenity space has been provided for each proposed dwelling. No landscaping has been impacted. The proposal will not have a detrimental impact on built or natural heritage, and there are no identified archaeological constraints to this site. There is ample foot path provision and the road network can cater for a range of road users. Ample parking has been provided incurtilage. There is a net reduction in units from what was previously granted, resulting in a less density which I find acceptable.

The area of open space provision is not being impacted, and does not form part of this application site. However, condition 7 of M/2008/0821/F is currently in breach as dwellings in the lower part of the wider site are occupied and the area of open space indicated as area 'B' under M/2008/0821/F has not been provided in accordance with that condition. This area is currently being used as a temporary construction compound. I e-mailed the developer's Agent for clarification on this matter. The agent responded to state that the developer is content to proceed on the basis of a new condition that no houses within the current application be occupied until the open space area is put in place. On discussion with the Service Director for Planning, it was agreed that a new condition to this effect is an acceptable way forward.

Overall the site has a broadly similar layout to what was previously found acceptable by the Department. DfI Roads have also signed off on the new Private Street Layout at the fifth time of asking. In my view the proposal meets the criteria of PPS 7 will result in a quality residential environment, subject to conditions.

#### Other considerations

An objector raised concern over impacts of the development on the sewage system of Moy. As previous permission was granted for 28 units on this part of the site, and this

proposal now proposes to reduce the units to 22, then there will be a net decrease in potential loading capacity which NIW would have accounted for given the onsite permission. With this in mind, I have no concern over impacts on the sewage network in this instance. Plus, LA09/2018/0864/DC- Discharge of conditions 2 and 3 of application M/2008/0821/F (Sewage). These conditions were discharged by the MUDC Planning Department on 05/07/2018, therefore consent to mains sewage connection was agreed with NIW for 63 units. As the site is now for 6 units less, this will be a net decrease in loading to Moy WWTW.

Concern was also raised over surface water drainage and loading capacity of sewage infrastructure. In modern developments, storm water is diverted away from sewage infrastructure therefore there is no concern in this regard.

There are no identified issues of land contamination.

The site is not located within a sensitive area and there have been no identified pathways to environmental or human receptors that will cause likely significant impacts. Plus, given what can be developed on site under M/2008/0821/F, I find the impacts to be similar and are not significant.

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

That planning permission be 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. Prior to the occupation of each individual dwelling hereby approved, the boundary treatments defining each curtilage shall be constructed, completed and permanently retained, as detailed on drawings No. 03 rev2 date stamp received 18 MAR 2022, unless otherwise agreed by Council.

Reason: To assist in the provision of a quality residential environment and to safeguard existing and proposed residential amenity.

3. The dwellings hereby approved shall be built in accordance with levels indicated on drawings No. 03 rev2 date received 18 MAR 2022, and, No. 08 rev1 date received 01 NOV 2021, and shall be permanently retained at that level thereafter, unless otherwise agreed in writing with Council.

Reason: To safeguard existing and proposed residential amenity.

4. No units shall be occupied on site No.s 24-40 (even numbers) shown on drawing No. 03 rev2 date stamp received 18 MAR 2022 until a landscape management and maintenance plan has been submitted to and approved by the Council for all areas of

communal open space, including the area marked as 'terraced planting to be maintained by management company' on drawing No. 03 rev2 date stamp received 18 MAR 2022. The plan shall set out the period of the plan, long term objectives, management responsibilities, performance measures and maintenance schedules for all areas of landscaping and open space. The landscape management plan shall be carried out as approved.

Reason: To ensure successful establishment and ongoing management and maintenance (in perpetuity) of the open space and amenity areas in the interests of visual and residential amenity.

5. No units shall be occupied on site No.s 24-40 (even numbers) shown on drawing No. 03 rev2 date stamp received 18 MAR 2022 until Mid Ulster Council agrees in writing that an acceptable Management and Maintenance agreement has been signed and put in place with a suitable Landscape Management Company. The Landscape Management Company shall be responsible for the management and maintenance of all areas of communal open space, for the lifetime of the agreed landscape management plan. Should the agreed Landscape Management Company be changed or for any reason or cease to exist, then a new Landscape Management Company shall be agreed in writing with Mid Ulster Council within 3 months from that date for the agreed period of the plan.

Reason: To ensure that open space is provided, maintained and managed in accordance with PPS 7 - Quality Residential Environments and PPS8 - Open Space, Sport and Outdoor Recreation and to ensure its retention in perpetuity.

6. Prior to the occupation of any dwelling hereby approved being occupied, the amenity space 'B' shown on drawing No. 03 rev2 date stamp received 18 MAR 2022 shall be put in place and permanently retained thereafter. This area of open space shall be managed and maintained in accordance with details agreed under conditions 4 and 5 above, unless otherwise agreed in writing by Council.

Reason: To ensure that the public open space provision is completed prior to the occupation of certain phases of the development for the benefit of the occupiers and to aid the integration of the development into the local landscape as quickly as possible and to assist in the provision of a quality residential environment in accordance with PPS7 Quality Residential Development and PPS8 Open Space, Sport and Outdoor Recreation.

#### Private Street Conditions

PS1. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

The Department for Infrastructure hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 02 rev5 date stamp received 18 MAR 2022.

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

PS2. No dwelling hereby approved shall be occupied until that part of the service road which provides access to it, as shown on drawing No. 02 rev5 date stamp received 18 MAR 2022, has been constructed to base course. The final wearing course shall be applied on the completion of the development.

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

**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:**

ANNEX	
<b>Date Valid</b>	19th March 2021
<b>Date First Advertised</b>	6th April 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b> The Owner/Occupier, 1 Hunters Chase Moy Tyrone Shauna Grimley 18 Clover Hill Moy Tyrone The Owner/Occupier, 2 Hunters Chase, Moy, Tyrone, BT71 7FD The Owner/Occupier, 20 Clover Hill Moy Tyrone Charlie Rafferty 20, Clover Hill, Moy, Tyrone, Northern Ireland, BT71 7TP The Owner/Occupier, 21 Clover Hill Moy Tyrone The Owner/Occupier, 22 Clover Hill Moy Tyrone The Owner/Occupier, 23 Clover Hill Moy Tyrone The Owner/Occupier, 24 Clover Hill Moy Tyrone The Owner/Occupier, 26 Clover Hill Moy Tyrone Patrick Comac 28 Clover Hill Moy Tyrone Patrick Comac 28, Clover Hill, Moy, Tyrone, Northern Ireland, BT71 7TP The Owner/Occupier, 3 Hunters Chase, Moy, Tyrone, BT71 7FD Frances Magee 30 Clover Hill Moy Tyrone Catherine McCauley 32 Clover Hill Moy Tyrone Catherine McCauley 32, Clover Hill, Moy, Tyrone, Northern Ireland, BT71 7TP The Owner/Occupier, 34 Clover Hill Moy Tyrone The Owner/Occupier, 36 Clover Hill Moy Tyrone The Owner/Occupier, 90 Gorestown Road Dungannon Tyrone The Owner/Occupier, 92 Gorestown Road Dungannon Tyrone	

The Owner/Occupier, 94 Gorestown Road Dungannon Tyrone Frances Magee Email Address Charlie Rafferty Email Address Charlie Rafferty Email Address	
<b>Date of Last Neighbour Notification</b>	23rd November 2021
<b>Date of EIA Determination</b>	<b>06/04/2022</b>
<b>ES Requested</b>	No
<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> LA09/2021/0717/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed storage warehouse for use in association with proposed peat storage and distribution yard (currently being assessed under LA09/2020/1239/F) with associated single storey canteen ,toilets. office reception area and ancillary works (revised drainage information)	<b>Location:</b> 45 Cravenney Road Martray Ballygawley
<b>Referral Route: 3rd party objections</b>	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Harte Peat Ltd Leonards Island Clones	<b>Agent Name and Address:</b> P Cassidy B Arch 6 Willoughby Mews Enniskillen BT74 7EZ
<b>Executive Summary:</b> Meets planning policy, 3rd party objections received, recommendation to approve.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Representations:

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

### Summary of Issues

- detrimental impacts of noise;
- detrimental impacts of smell;
- working hours
- unacceptable traffic volume resulting in safety issues for all road users;
- procedural issues, application site approaches on neighbouring visibility splays;
- that the yard was never used as scrap yard

### Characteristics of site and area

The site is situated at 45 Cravenny Road, Ballygawley, Co. Tyrone. This area is categorised as countryside within the Dungannon & South Tyrone Area Plan 2010. The area surrounding the site exhibits a small element of undulation and can be described as a rural upland area with an element of discernible variation in elevation. This area of countryside is generally quite enclosed and areas around the site exhibit a degree of enclosure, particularly towards the south and south east which includes areas of mature vegetation and plantation. The site itself has quite an enclosed nature when compared to the surrounding area and this is mainly due to the nature of the surrounding landscape and its topography. The site is currently made up of a hard stand area and this includes a hard-core yard area. The previous use of the site, according to the agent, was a yard used by the then DRD for the storage of road maintenance vehicles. I do not dispute this. There is no planning



permission for this use but I do not dispute this. There are previous permissions on the site for a builders yard.

There are a number of residential dwelling houses in close proximity to the application site, including No. 48 Cravenney Road to the west and Nos 43 and 39 Cravenney Road to the south.

Adjacent and north of the site is a large a large yard that was previously used as a car scrap yard. This site is being redeveloped into industrial uses.

### **Description of proposal**

This is a full planning application for proposed storage warehouse for use in association with proposed peat storage and distribution yard (currently being assessed under LA09/2020/1239/F) with associated single storey canteen ,toilets. office reception area and ancillary works.

### **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.

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

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

The site is located in the open countryside and is not within any zoned or designated area. Policy IND 1 of the Area Plan concentrates more on existing and identified zoned industrial development and does not mention anything about the development of general or storage and distribution industrial uses in the countryside. The regional policy that covers industrial development in the countryside is covered by SPPS, PPS21 and PPS4 Planning and Economic Development.

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

1. Strategic Planning Policy Statement (SPPS).
2. Dungannon & South Tyrone Area Plan 2010.
3. Planning Policy Statement (PPS) 3 Access, Movement and Parking.
4. Planning Policy Statement (PPS) 4 Planning and Economic Development.
5. Planning Policy Statement (PPS) 21 - Sustainable Development in the Countryside.

#### **Representations**

3rd party objections have been received and are summarised as follows;

- detrimental impacts of noise;
- detrimental impacts of smell;
- working hours
- unacceptable traffic volume resulting in safety issues for all road users;
- procedural issues, application site approaches on neighbouring visibility splays;
- that the yard was never used as scrap yard

#### Relevant Planning History

LA09/2017/0588/F-Proposed general engineering workshop for the manufacture of quarry plant and general engineering, permission granted with conditions on 26.11.2018.

LA09/2020/1239/F- Change of use of enclosed yard from disused vehicular storage yard for DRD, to an area for the storage and bagging of peat. At time of writing this report the decision is pending.

#### Assessment

The Strategic Planning Policy Statement (SPPS) for Northern Ireland, Planning for Sustainable Development, is a material consideration. The SPPS supersedes the policy provision within Planning Policy Statement (PPS) 1, 5 and 9. The policy provision within PPS 3, PPS 4 and PPS 21 have been retained under transitional arrangements. PPS 21 sets out planning policies for development in the countryside, PPS 4 deals with Economic Development and the policy provision within PPS 3 deals with access, movement and parking.

It is important to note at this stage that there is a live planning permission on this site for a general industrial use and engineering workshop for the manufacture of quarry plant and general engineering. LA09/2017/0588/F is live until 26.11.2023, and therefore can be commenced up to that period, and is the current fall back position for this site. The planning policy context has not changed since this permission, nor has the new area plan for MUDC been adopted nor can the draft plan be given any determining weight at this time.

This current proposal is for a storage warehouse for use in association with proposed peat storage and distribution yard (currently being assessed under LA09/2020/1239/F) with associated single storey canteen ,toilets. office reception area and ancillary works. This is a different proposal to what was granted under the 2017 permission, and therefore will require a fresh assessment than what was considered under the previous permission. While the site layout and the design and scale of the proposed building is similar to the 2017 permission, the use of the building will be in association with a storage and distribution peat business (Class B4), and not for the assembly of quarry machines or use as general engineering, which is a different use class (Class B2 and B3).

There is some dispute over the previous use of the site between Planning Officers, the agent and objectors. What is clear is that there is a current live permission on the site, LA09/2017/0588/F for a Class B2 or B3 use, with permission for a general engineering building and that this permission can be implemented up to 26.11.2023. The site is also identified as a brownfield site in the countryside, in that there were previous industrial uses on the site over the years, most of which were unregulated and did not benefit from planning permission.

Under LA09/2017/0588/F it was considered by the case officer that the previous established use of the site was for the production of concrete reinforcing bars, which included a series of containers and materials located across the site area and lifting machinery throughout. This permission was assed under policy PED 4 of PPS4 - the redevelopment of an established economic development use in the countryside. I find PED 4 to be relevant in this current case also, and planning policy has not changed from this previous permission. The policy provision within PED 9 will also be pertinent in terms of assessing the proposal against the general criteria for economic development.

Policy PED 4 outlines that a proposal for the redevelopment of an established economic development use in the countryside for industrial purposes will be permitted where 4 policy tests (a-d) are met.

The first policy test relates to the scale and nature of the proposed works.

The site will not extend the current yard area to be redeveloped, and will use an existing access to the site, with the development including access improvements, storage area for peat with an impermeable surface, silt trap, a turning area for HGVs, and parking area, along with a building for storage of machinery and peat. Earth bunding approx. 2.5m high will be retained along the SW and SE boundaries as will existing mature trees beyond this bunding. The trees and bunding provide a buffer between the site and dwelling located beyond the SW boundary. The site is low lying and is well screened from the public road, I do not find the proposal will have any detrimental impact on visual amenity. Given that a sizable building and yard has been approved for the construction of quarry machinery and general engineering use has been proposed for this site, I do not find this proposal to be of a significantly greater detrimental impact on amenity than what can be built on site. In fact, from consultation replies, it seems that this use is more compatible with neighbouring amenity than what currently has permission, as there is less onerous conditions suggested for the design of the building. Environmental Health were consulted on the proposal and have raised no concern over Noise, Odour or Dust impacts subject to the inclusion of conditions. Peat is an odourless plant material that will be stored in a saturated state on the yard so that it will not blow away. The noise impact assessment states that bagging and vehicle movements will be less than 5 db above background noise levels. Environmental Health do not object to this, however has included a planning condition that in the event of a reasonable noise complaint that a noise assessment be carried out by the developer and if unacceptable noise is identified, to carry out agreed works to mitigate against this nuisance. A similar condition is suggested for an odour complaint which I find to be acceptable. Hours of operation are also suggested. These suggested conditions by EHD will help to protect existing residential amenity and control operations on the site to an acceptable degree. I find that rural character or appearance of the area will not be negatively impacted by this development subject to planning conditions. I find the objectors concerns in relation to noise and smell not to be determining in this instance, plus proposed hours of operation will limit nuisance to those times. Plus, given the proposed use to that which was granted under LA09/2017/0558/F, for production of quarry plant machinery and general industrial, I find this proposed use to be of less detriment to neighbouring amenity.

The second policy test contained within PED 4 relates to the environmental benefits associated with the scheme and the amplification attached to the policy outlines that this includes the opportunity for environmental improvement and the promotion of job

creation without creating a negative impact on the amenity of the countryside. The proposed works will allow for this area of industrial brown land in the countryside to be used whilst creating employment in the local area. I consider that this will be achieved without negatively impacting upon the amenity of the local area. EHD have attached a condition that should contaminated land or pollutants be identified when developing the site then this should be addressed by the developer and removed to an appropriate waste facility. Rainwater drainage and interceptors are being brought onto the site, to ensure the peat stockpiles do not become polluted, as this will render them useless for growing purposes. This will also ensure that surface water runoff will be properly dealt with before discharging to watercourses which will prevent any pollution of these watercourses.

The third policy test contained within PED 4 highlights that the redevelopment should deal with the full extent of the site. The full site is considered and is within the ownership of the developer. I am content that the proposal will fully consider the entire site and that it will result in the orderly development of the site without any parts of the site remaining undeveloped or untidy, that may result in the unsightly appearance of this area of countryside.

The final policy test under PED 4 relates to the visual impact of replacement buildings. While at present there are no building proposed to be built, the proposed building with associated site works will not have a significantly greater visual presence on the site when compared with what can be built under LA09/2017/0588/F. The site is also low-lying and well screened by existing trees when viewed from the surrounding road network. I consider that the proposal meets with the fourth and final policy test within PED 4.

#### PED 9

In addition to that above, Policy PED 9 of PPS 4, outlines that a proposal for economic development use, in addition to the other policy provisions of PPS 4, will be required to meet a set of criteria (a-m):

In consideration of that criteria it is noted that the proposal relates to a peat storage and bagging use on an existing brown field which has been used for industrial purposes and has a history of industrial planning approvals. The land to the north of the site are also used for industrial purposes and lands to the south and west of the site are residential in nature. I consider these land uses to be compatible.

In terms of the amenity of nearby residents, including the closest properties at Nos 39, 43, and 48 Craveny Road, Environmental Health (EHD) were consulted and they raise no objections subject to conditions.

Under the 2017 permission Historic Environment Division (HED) were consulted. HED returned comment (23/05/2017) highlighting that they were content with the proposal and no further historic interests have been identified in the intervening period. . As noted above the proposal is located on a brown field site and the works proposed do not involve the removal of any natural features. On the basis of that above, I am content that the proposal will not adversely impact upon any features of natural or built heritage. NIEA do not raise any concern with potential impacts on natural heritage. in this regard. I also note that the site sits outside of a flood plain.

On the basis of that above I am content that the proposal satisfactorily meets with the policy criteria contained within PED 9 of PPS 4.

### Access

As the application involves an intensification of use and an alteration to the existing access provision it was deemed necessary to consult with DFI Roads. Roads were consulted on this proposal and raise no objections to the proposal subject to conditions. DFI Roads do not raise any concern over impacts of traffic on road safety, and I find the objectors concerns in this respect not to be determining to the outcome of this application.

### Consideration of Objections

Most of the objectors concerns in terms of potential impacts on amenity have been considered above, and concluded that the proposal will not result in detrimental impacts to residential amenity. An additional level of protection will be provided to nearby residents in the form of planning conditions which will be added should permission be granted by Members. The planning conditions suggested by consultees, especially Environmental Health, are less onerous than what were attached to LA09/2017/0588/F which would suggest that the proposed use will have less of an impact on adjacent amenity than the 2017 permission. Going on what the agent has described as the day to day operations that will be carried out on site, I am also of the view that this proposal is likely to be a better neighbour than a general industrial use where quarry machine equipment is constructed.

In terms of the procedural issues, I am satisfied that these have been satisfactorily dealt with. The agent has completed Certificate C and served notice on appropriate landowners. An objector has raised concern that the splays required to implement the proposed development splays, will overlap with their visibility splays. It is likely that this land within the roadside verge is within control of DFI Roads, and therefore there is no requirement for the developer to notify DFI Roads in this instance. It would not be in either the objectors or developers interest to block existing splays as this could give rise to road safety issues and could lead to future enforcement action from DFI Roads or the Council's Planning Department. Should it be demonstrated that 3rd party land is required for the implementation of visibility splays or other development in relation to this permission, then this is a civil matter between the interested parties, and it is in the developers best interest to ensure that all necessary agreements are in place prior to commencement of development as this could prejudice the implementation of the permission.

### Further considerations

Land contamination conditions have been added to ensure that should any pollutants be discovered in the development of the site that these are adequately dealt with.

The proposed development is considered to be in compliance with the policy objectives of the SPPS, PPS 21, PPS 4 and PPS 3, and accordingly approval is recommended subject to the following conditions (see under Conditions heading).

To ensure that the Peat being received at this site is not from an unauthorised source, especially within Mid Ulster, the Service Director of Planning wanted reassurance from the agent before progressing the application any further. On 29 April 2022 the agent provided headed paper from Kalloveen, a peat supplier from Estonia, stating that they can and will supply O'Harte Peat with Estonian Peat Moss and that they are fully compliant with the Estonian extraction rules. The agent also provided evidence that

Kalloveen is a RPP (Responsibly Produced Peat) Registered Company. This information has been accepted by the Service Director.

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

### Summary of Recommendation:

That full planning permission be 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. The building and yard permitted shall be for the storage, distribution and bagging of peat only and for no other purpose that may be permitted under Use Class B4 Storage or Distribution of the Schedule to the Planning (Use Classes) Order (NI) 2015.

Reason: To control the use of the site in the interest of protecting nearby residential amenity from noise, nuisance and general disturbance.

3. The business hereby permitted, including all associated operations including site activity and deliveries, shall not operate outside 07:00 hours and 19:00 hours Monday to Friday and 09:00 hours to 13:00 hours on Saturdays, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect residential amenity from noise, nuisance and general disturbance.

4. The existing earth mounding, indicated on drawing No. 02 rev3 date stamp received 15 JUN 2021, shall be permanently retained along the south west and south east boundaries of the site at a height no less than 2.5m above ground level at that point, unless otherwise agreed in writing with Mid Ulster Council.

Reason: To safeguard residential amenity.

5. Within 4 weeks of a written request by the Council following a reasonable noise complaint from the occupant of a dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess the level from the development and demonstrate it complies with the noise levels contained within Doc 1: Noise Assessment Report date stamp received 01 APR 2021 and attached to this permission. Details of noise monitoring survey shall be submitted to Council for written approval prior to any monitoring commencing. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring. The Council shall then be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 4 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect residential amenity from noise.

6. Only raw peat or bagged peat shall be stored on this site, unless otherwise agreed in writing with Council.

Reason: To protect nearby residential amenity from negative impacts of odour.

7. Where peat is to be stored externally on the site, it shall only be stored within the area shown hatched on drawing No. 02 rev1 date stamp received 15 JUN 2021, and shall not be stored externally elsewhere on the site unless otherwise agreed in writing by Council.

Reason: In the interest of residential amenity, to protect the environment and to control the area of open storage on the site.

8. Within 4 weeks of a written request by the Council following a reasonable odour complaint from the occupant of a dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess the level of odour from the development. Details of odour monitoring survey shall be submitted to Council for written approval prior to any monitoring commencing. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the odour monitoring. The Council shall then be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 4 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect residential amenity from odour.

9. Any peat stored externally shall be in a dampened state at all times.

Reason: To safeguard surrounding residential amenity from negative impacts of dust.

10. Within 4 weeks of a written request by the Council following a reasonable dust complaint from the occupant of a dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess the level of dust from the development. Details of dust monitoring survey shall be submitted to Council for written approval prior to any monitoring commencing. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the dust monitoring. The Council shall then be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 4 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect residential amenity from dust

11. In the event that previously unknown contamination is discovered, falling outside the scope of previous assessment and remediation scheme, development on the Site shall cease, pending submission of a written report. The report shall appropriately investigate the nature and extent of that contamination and present the findings and conclusions of

the same additionally providing details of the appropriate measures to be taken as a result of the contamination, for the prior written approval of Planning Department (in consultation with the Environmental Health Department).

Reason: To protect the development from land contamination

12. It would be considered good practice for any material imported on site for use in reinstatement of excavations to be proven to be 'suitable for use'. Appropriate sampling should be undertaken & laboratory analysis presented within a verification report. If required, the applicant should seek authorisation from the Waste Management Licensing Team within NIEA and ensure the appropriate approvals are in place before works commence. All excavated materials should be removed in accordance with the appropriate waste management legislation.

Reason: To protect the development from land contamination

13. All existing trees indicated on drawing No. 02 rev1 date received 15 JUN 2021 shall be permanently retained at a height not less than 4 m above ground level at that point, unless otherwise agreed in writing by Mid Ulster Council.

Reason: To safeguard visual and residential amenity and to safeguard existing biodiversity.

14. The drainage of the site shall be in accordance with details indicated within Doc 2: Drainage Assessment date stamp received 02 SEPT 2021.

Reason: To ensure the site has adequate drainage and does not cause drainage problems elsewhere.

15. Prior to the commencement of development hereby approved, a Schedule 6 consent to discharge shall be provided to Council for agreement.

Reason: To safeguard the water environment.

16. No development shall take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW) or a Consent to discharge has been granted under the terms of the Water (NI) Order 1999, and details provided to Council for agreement.

Reason: This condition is both to ensure protection to the aquatic environment and to help the applicant avoid incurring unnecessary expense before it can be ascertained that a feasible method of sewage disposal is available. The applicant should note this also includes the purchase of any waste water treatment system.

17. The vehicular accesses, including visibility splays of 4.5 metres by 70.0 metres to the south direction & 4.5 metres by 45.0 metres to the north direction at the access on to the public Road, shall be provided in accordance with Drawing No 02 Rev 3 date stamp received 15 JUN 2021 prior to the commencement of any other development hereby permitted 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 permanently 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.

18. No other development hereby permitted shall become operational until the road widening to 6.0m indicated on Drawing No 02 Rev 3 date stamp received 15 JUN 2021 has been fully completed in accordance with the approved plans and permanently retained thereafter.

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

19. 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.

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

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

21. No operations hereby approved shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 02 Rev 3 date stamp received 15 JUN 2021. 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 facilities for parking, servicing and circulating within the site in the interests of road safety.

**Signature(s)**

**Date:**

ANNEX	
Date Valid	10th May 2021
Date First Advertised	25th May 2021
Date Last Advertised	
Date of Last Neighbour Notification	6th July 2021
Date of EIA Determination	
ES Requested	No



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> LA09/2021/0885/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for dwelling and domestic garage:- Based on Policy CTY10 (dwelling on a farm).	<b>Location:</b> 30m West of 102 Craigadick Road Maghera BT45 5DH.
<b>Referral Route:</b>  To Committee - Refusal - Contrary to CTY 1, 10 and 13 of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mrs Sharon Crooks 103 Craigadick Road Maghera BT46 5DH	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road The Creagh Toomebridge BT41 3SG
<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

### Representations:

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

### Summary of Issues

To Committee - Refusal - Contrary to CTY 1, 10 and 13 of PPS 21.

### Characteristics of the Site and Area

The application site is located approximately 1.2km north east of Tobermore, as such the site is located within the open countryside as per defined in the Magherafelt Area Plan 2015. The red line covers a portion of a much larger agricultural field which I note lies along the roadside along the Craigadick Road. I note that the is relatively flat in nature with a line of mature hedging along the roadside. The surrounding and immediate area are dominated by agricultural land uses with a scattering of residential properties.

#### Representations

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

## Description of Proposal

This is an outline application for a proposed site for dwelling and domestic garage:- Based on Policy CTY10 (dwelling on a farm), the site is located at 30m West of 102 Craigadick Road Maghera

## Planning Assessment of Policy and Other Material Considerations

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy  
 Strategic Planning Policy Statement (SPPS)  
 Magherafelt Area Plan 2015  
 PPS 1 - General Principles  
 PPS 3 - Access, Movement and Parking  
 PPS 21 - Sustainable Development in the Countryside  
 Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside  
 CTY 1 - Development in the Countryside  
 CTY 10 - Dwellings on the Farm

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

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

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

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

With respect to (a), a consultation was sent to DAERA with regards to the Farm Business, in their response confirmed that farm business identified in the P1C was closed in 2009 due to a death and that the lands were in association with another farm business. I note that this was referred to the agent, who responded to state that the applicant was unaware that the business had been closed but had continued to run the farm since the death of her father and have now applied for a new farm business number. Whilst I acknowledge the new business number being attained in October 2021 there has been insufficient evidence to demonstrate that there has been continued activity since 2009 to demonstrate a continuation of the previous farm business.

Given this I hold the view that the applicant has failed to demonstrate that there is an active and established farm business as per required by policy.

With respect to (b), upon review of the farm business I note that after reasonable checks were done I am content that no other approval for a farm dwelling have been attained in the last ten years nor has there been any development opportunities sold off in this time.

With respect to (c), I note that the registered address of the farm business sits approximately 265m south west of the proposed site, where I note that there are a number of farm sheds and a dwelling at this location. In addition, the applicants own dwelling sits 180m from the farm holding, where the applicant owns a number of lands around the farm holding and the applicants own dwelling. However the agent has confirmed that all these lands inclusive of the sheds/dwellings lies within a flood plain and the proposed site is the nearest parcel of land that lies outside the flood plain. I acknowledge this however there is a concern that given the level of development that already lies within the flood plain that a flood risk assessment could have been done to demonstrate whether or not lands closer to the farm would be able to be developed. However given the issue over the farm business it was not felt prudent to go down the avenue of requesting a flood risk assessment to rule out other lands. Despite this I hold the view that no demonstrable health and safety reasons or verifiable plans to expand have been submitted to justify a site away from the farm at present. As such I hold the view that the application fails under CTY 10 as a result.

I note that no other policy case has been put forward, upon a review of the policies under CTY 1 I hold that the view that the application would not meet any of these.

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 hold the view that a single storey dwelling with suitable landscaping, would not appear prominent in the landscape and be capable of successfully integrating into the landscape. Finally the application fails under CTY 13 as it is not visually linked or clustered with an established group of buildings on the farm.

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. Again an appropriately designed single dwelling would not result in a detrimental change nor erode the rural character of the area.

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

PPS 3 - Access, Movement and Parking;

A consultation was sent to DFI Roads, in their response confirmed that they had no objections subject to conditions and informatives. I am content that the access is acceptable under PPS 3.

I have no ecological or residential amenity concerns.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

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

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

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

**Signature(s)****Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	10th June 2021
<b>Date First Advertised</b>	22nd June 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 102 Craigadick Road Maghera Londonderry The Owner/Occupier, 98 Craigadick Road Maghera Londonderry	
<b>Date of Last Neighbour Notification</b>	9th July 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2021/0885/O Proposal: Proposed site for dwelling and domestic garage:- Based on Policy CTY10 (dwelling on a farm). Address: 30m West of 102 Craigadick Road, Maghera BT45 5DH., Decision: Decision Date:  Ref ID: H/1975/0252 Proposal: 11KV O/H LINE C.7308 Address: BALLYNAHONE BEG, 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	



**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> LA09/2021/0934/O	<b>Target Date:</b>
<b>Proposal:</b> Dwelling & Garage	<b>Location:</b> Approx 130m West of 16 Carncoise Road Moneymore.
<b>Referral Route:</b>  To Committee - Refusal - Contrary to CTY 1 and 10.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Gregory McGovern 36 Tirgan Road Moneymore	<b>Agent Name and Address:</b> CMI Planners Ltd 38 Airfield Road 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 - Omagh	Consulted in Error
Non Statutory	DAERA - Coleraine	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

### Summary of Issues

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

### Characteristics of the Site and Area

The application site is located approximately 5km south west of the development limits of Magherafelt but within an Area of Outstanding Beauty of the Sperrins, as such the site is located within the open countryside as per defined in the Magherafelt Area Plan 2015. The red line covers a portion of a much larger agricultural field but also a portion of the neighbouring field to

provide access to the site. I note that the laneway rises from the Carncoose Road to lead to a relatively flat but elevated site well screened by mature vegetation on all boundaries of the field. The surrounding and immediate area are dominated by agricultural land uses with a scattering of residential properties.

#### Representations

No representations were received.

### Description of Proposal

This is an outline application for a proposed dwelling garage, the site is located Approx. 130m West of 16 Carncoose Road, Moneymore.

### Planning Assessment of Policy and Other Material Considerations

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy  
Strategic Planning Policy Statement (SPPS)  
Magherafelt Area Plan 2015  
PPS 1 - General Principles  
PPS 3 - Access, Movement and Parking  
PPS 21 - Sustainable Development in the Countryside  
Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside  
CTY 1 - Development in the Countryside  
CTY 10 - Dwellings on the Farm

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

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

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

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

With respect to (a), a consultation was sent to DAERA with regards to the Farm Business, in their response confirmed that farm business identified in the P1C was allocated in 2012 however there are no claims in the last six years. The agent went on to provide a series of receipts to demonstrate a level of activity over the last six years. I note that the lands appeared during the site visit to be maintained in good agricultural condition, on balance it has been shown that the business is active and established as per policy.

With respect to (b), upon review of the farm business I note that there is only one field identified as part of the business. Upon review of this field shows that it was confirmed be in the ownership of the applicants father in planning application LA09/2019/0390/O. A land registry confirmed that field was in the ownership of TirCon Engineering, a company owned by the applicants father. Concern is that this is a subdivision of the fathers farm who has already attained planning permission for a farm dwelling. As such I hold the view the 1 in 10 years has already been used and I hold the view that the application has failed this part of the policy.

With respect to (c), I note that the registered address of the farm business sits approximately 0.5km west of the proposed site, where as noted that the site is the only lands in association with the farm business. I note that there are no buildings on this land. Given such it has been accepted that in the absence of buildings it goes to the best integrated site, which is easy in this case as there is only one field the dwelling could be located in. I note the policy states where practical to use an existing laneway however this is not possible and the intention of creating a new access seems the most practical option. Given the issue over whether this is a sub division of another farm business, I hold the view that this fails under CTY 10.

I note that no other policy case has been put forward, upon a review of the policies under CTY 1 I hold that the view that the application would not meet any of these.

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 hold the view that a dwelling with a ridge height no more than 6.5m with suitable landscaping, would not appear prominent in the landscape and be capable of successfully integrating into the landscape. On balance this application is able to comply under CTY 14.

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. I hold the view that an appropriately designed dwelling will not appear prominent with the view that it would not result in a detrimental change nor erode the rural character of the area.

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

PPS 3 - Access, Movement and Parking;

A consultation was sent to DFI Roads, in their response confirmed that they had no objections subject to conditions and informatives. I am content that the access is acceptable under PPS 3.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

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

2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case as this appears to be a sub-division of another farm business who has already attained an approval for a farm dwelling within 10 years of the date of this permission.

**Signature(s)****Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	17th June 2021
<b>Date First Advertised</b>	29th June 2021
<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>	No
<b>Planning History</b>  Ref ID: LA09/2020/0500/F Proposal: Proposed off Site Replacement Dwelling Address: Approx 210m NE of 31 Tirgan Road, Moneymore, Decision: Decision Date:  Ref ID: LA09/2021/0934/O Proposal: Dwelling & Garage Address: Approx 130m West of 16 Carncoose Road, Moneymore., Decision: Decision Date:  Ref ID: H/2000/0771/F Proposal: 11kv Overhead Line Address: Tirgan Road, Moneymore Decision: Decision Date: 18.12.2000	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	

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> LA09/2021/0958/O	<b>Target Date:</b>
<b>Proposal:</b> Dwelling and Garage	<b>Location:</b> Approximately 40 Metres East of 31 Macknagh Lane Maghera
<b>Referral Route:</b>  To Committee - Refusal - Contrary to CTY 1, 8, 10, 13 and 14 of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Paudraig McGuigan 27 Glenview Garvagh	<b>Agent Name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge
<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
Non Statutory	DAERA - Coleraine	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

### Summary of Issues

To Committee - Refusal - Contrary to CTY 1, 8, 10, 13 and 14 of PPS 21.

### Characteristics of the Site and Area

The application site is located approximately 1.16km west of the development limits of Upperlands from such it is located within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as 40 Metres East of 31 Macknagh Lane, Maghera in which the red line covers a large agricultural field. I note that the agricultural field has an undulating landform and it is bounded by a mix of mature hedging/trees and post and wire fencing on all boundaries. I note that within the immediate vicinity there is a number of residential dwellings but the wider setting is characterised by agricultural land uses.

**Representations**

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

**Description of Proposal**

This is an outline application for a Dwelling and Garage, the site is located at approximately 40 Metres East of 31 Macknagh Lane, Maghera.

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

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy  
Strategic Planning Policy Statement (SPPS)  
Magherafelt Area Plan 2015  
PPS 1 - General Principles  
PPS 3 - Access, Movement and Parking  
PPS 21 - Sustainable Development in the Countryside  
Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside  
CTY 1 - Development in the Countryside  
CTY 10 - Dwellings on the Farm

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

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

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

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

With respect to (a), a consultation was sent to DAERA with regards to the Farm Business, in their response stated that the business has been allocated in 2021. In their final response confirmed the business made claims in 2021, but prior to 2021 the site was associated with another farm business. The agent had submitted that this was a continuation of an uncles' farm business upon his death. After further discussions with DAERA and the agent it has been confirmed that a 'James Kearney' had a registered business up until his death in 2010 which was

subsequently closed. The business continued to submit claims 2010-2013 under a temporary business, Patrick JJ McGuickin Solicitor, Pers Reps of James Kearney under a temporary business which closed in 2013. From 2014-2020 the field was then claimed by Patrick & Pierce McGuigan under a separate business to now the field being claimed by the applicant under his own business number. The agent has confirmed that the applicant had farmed land in association with Patrick and Pierce but they were who claimed the payments until the applicant was able to get his own number. From such I am content that the field in question has been claimed for an excess of 6 years, ensuring activity. On balance I am content that whilst the farm business is only established in 2021 that it acts as a continuation of the uncle 'James Kearney' farm business, as this land was then given to the applicant.

With respect to (b), as this has been argued as continuation of an existing farm business, it was necessary to therefore check all the relevant business numbers that ensured the continuation. I am content that James Kearney never attained a farm approval under his business number. However I note that Patrick and Pierce McGuigan attained a farm dwelling approval under their business under LA09/2018/1127/O approved in 2018. Taking this into consideration I am of the view that the 1 in 10 has been used and the applicant must wait until 2028 to apply otherwise it is contrary to the policy.

With respect to (c), I note that the registered farm address sits in the development limits of Brockaghboy near Garavagh where the lands shown in the location plan are the only lands in association with the farm business. I note that there are no buildings located on this site and as been accepted in the Council that in the absence of buildings then it goes to the best-integrated site. With this in mind I note that any dwelling located on the northern section of the site has the capacity to be visually prominent. In terms of the southern section along the roadside whilst this would be acceptable in terms of visually integrating it has the capacity to extend a ribbon of development that would damage the rural character of the area. I note that the applicant has shown control of other lands, for example across the road from the site which sits on lower ground and has a strong backdrop of mature trees. Given the issues over the farm business using its 1 in 10, it would be worth reconsidering the siting and maybe relocating across the road. From such I hold the application has used its 1 in 10, and fails under CTY 10 as a result.

I note that no other case has been put forward in this application, upon review of CTY1 I hold the view that the application would not comply under the relevant policies contained within it. I note that a refusal has already been issued on this site under CTY 8, in that a dwelling has the capacity to extend a ribbon of development along the Macknagh Lane.

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 in LA09/2019/1540/O I hold a similar view that a dwelling in this location would be prominent feature in the landscape and the proposed site lacks long established natural boundaries/is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and the proposed building relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape. From this I hold the opinion that the application fails under 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. Again a dwelling in this location would have an issue in terms of prominence, and as stated there is a concern that a dwelling in this location would if permitted lead to the extension of a ribbon of development along the Macknagh Lane. Therefore I hold the view that the application has failed under CTY 14.

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

applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

PPS 3 - Access, Movement and Parking;

A consultation was sent to DFI Roads, in their response confirmed that they had no objections subject to conditions and informatives. I am content that the access is acceptable under PPS 3.

I have no ecological or residential amenity concerns.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

Reasons for Refusal:

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

2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that other dwelling(s)/development opportunities have not been sold off from the farm holding within 10 years of the date of the application.

3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building is a prominent feature in the landscape and the proposed site lacks long established natural boundaries/is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and the proposed building relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.

4. The proposal is contrary to Policy CTY 8 and 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted add to a ribbon of development along the Macknagh Lane and would therefore result in a detrimental change to the rural character of the countryside.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	23rd June 2021
<b>Date First Advertised</b>	6th July 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 3 Macknagh Lane Upperlands Maghera The Owner/Occupier, 31 Macknagh Lane Maghera Londonderry The Owner/Occupier, 5 Macknagh Lane Upperlands Maghera	
<b>Date of Last Neighbour Notification</b>	9th July 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2019/1540/O Proposal: Proposed infill dwelling and garage Address: Between 29 and 31 Macknagh Lane, Maghera, Decision: PR Decision Date: 13.10.2020  Ref ID: LA09/2021/0958/O Proposal: Dwelling and Garage Address: Approximately 40 Metres East of 31 Macknagh Lane, Maghera, Decision: Decision Date:  Ref ID: H/2006/0988/F Proposal: Proposed new lane way for appeal reference 2006/A0341 (planning reference H/2004/1024/O) Address: Land approx 150m east of No. 5 Macknagh Lane, Maghera Decision: Decision Date: 07.05.2008  Ref ID: H/2010/0047/F Proposal: Proposed new access laneway onto Mackagh Lane, Maghera to access previously approved dwelling H/2009/0222/F Address: Approx 70m south of no.94 Moneysharvin Road, Maghera Decision:	

Decision Date: 25.03.2010

Ref ID: H/1979/0521

Proposal: SITE OF BUNGALOW

Address: MONEYSHARVIN, MAGHERA

Decision:

Decision Date:

Ref ID: H/2001/0223/O

Proposal: Site of bungalow and garage

Address: Adjacent to 5 Macnagh Lane, Maghera

Decision:

Decision Date: 18.12.2001

Ref ID: H/1983/0085

Proposal: SITE OF BUNGALOW

Address: MACKNAGH LANE, OFF MONEYSHARVIN ROAD, MAGHERA

Decision:

Decision Date:

Ref ID: H/2002/0528/F

Proposal: Dwelling and Garage

Address: Adjacent to No 5 Macnagh Lane, Maghera

Decision:

Decision Date: 24.07.2002

Ref ID: H/1986/0233

Proposal: BUNGALOW

Address: MACKNAGH LANE, MONEYSHARVIN, MAGHERA

Decision:

Decision Date:

Ref ID: H/2006/0238/O

Proposal: Site for Rural Designed Dwelling.

Address: Approx. 65m N.E. of No.3 Macknagh Lane, Maghera.

Decision:

Decision Date: 28.01.2008

Ref ID: H/2009/0222/F

Proposal: Proposed farm dwelling & garage

Address: Approx 70m South of 94 Moneysharvin Road, Maghera

Decision:

Decision Date: 17.09.2009

Ref ID: H/1974/0146

Proposal: 11KV O/H LINE (C.3522)

Address: MONEYSHARVAN, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1974/0367

Proposal: 11KV O/H LINE (C.5537) Address: MACHNAGH AND MONEYSHARVEN, 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
<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> LA09/2021/1103/F	<b>Target Date:</b>
<b>Proposal:</b> Amendment of house design under construction as previously approved under LA09/2018/0294/F	<b>Location:</b> Adjacent to and the rear of 24 St Jeans Tullagh Cookstown
<b>Referral Route:</b> Objection received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Martin Rea 24 St Jeans Tullagh Cookstown BT80 8DQ	<b>Agent Name and Address:</b> J.Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b> Planning permission was granted for a dwelling under application LA09/2018/0294/F, the applicant has made changes to the dwelling and these have not had any significantly greater impact than those already approved.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Sight lines of 2.4m x 33.0m required

### Representations:

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

### Summary of Issues

Height of the building, window in utility room overlooking, loss of car parking space, potential to require more buildings, planting over right of way.

### Characteristics of the Site and Area

The application site is identified as being adjacent to the rear of No 24 St Jeans, Tullagh, Cookstown, which is within the settlement limits of Cookstown as per Cookstown Area Plan 2010. There is a garden associated with one of a pair of semi-detached dwellings. The topography of the slopes slightly towards the eastern boundary, approximately 5 - 5.5m in level difference. There is an existent hedgerow and mature trees within the site boundary especially along the southern and eastern boundaries. Within the north western corner of the site sits a semi-detached dwelling with associated outbuilding. On the north boundary there is another

semi-detached dwelling with a semidetached dwelling to the rear. On the southern boundary are similar layout; to the western boundary located on the opposite side of St Jeans is another pair of semi-detached dwelling; whilst on the eastern boundary immediately beyond the garden is Burn Brea estate consisting of detached residential dwellings, some are single storey while others are 2 storey.

### **Description of Proposal**

Full planning permission is sought for change of house type currently under construction as previously approved under LA09/2018/0294/F. Information pertaining to this application, including plans, maps and drawings are available on the Planning Register along with other associated documentation including statutory consultations and representations from third parties, which are available to view on [www.planningni.gov.uk](http://www.planningni.gov.uk)

Site History  
I/2007/0634/F - proposed alteration to existing access and erection of single storey dwelling with integral garage - lands adjacent to the rear of No 24 St Jeans, Tullagh, Cookstown - PG 21/05/2008;

I/2013/0073/F - change of house type to that approved under I/2007/0634/F - lands adjacent to the rear of No 24 St Jeans, Tullagh, Cookstown - PG 21/06/2013;

LA09/2018/0294/F - renewal of application reference I/2013/0073/F change of house type to that approved under I /2007/0634/F PG 28/08/2018;  
LA09/2021/0117/CA

#### **Consultees**

DFI Roads were consulted on this application and responded they recommend sight lines of 2.4m x 33.0m.

#### **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. One letter of objection was received from 13 Burn Brea Crescent raising concerns about the height of the building, window in utility room overlooking, loss of car parking space, potential to require more buildings, planting over right of way.

HRA Determination - (Natural Habitats, etc.) (Amendment)/ Regulations (Northern Ireland) 2015, there is no watercourse directly abutting this site, therefore 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.

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

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The Cookstown Area Plan 2010 acts as the local development plan.

Policy documents that have been considered in this proposal are:

Cookstown Area Plan 2010;

Strategic Planning Policy Statement (SPPS);

PPS 3 Access, Movement and Parking;

PPS 7 Quality Residential Environments;  
PPS7 Addendum – Safeguarding the Character of Established Residential Areas  
PPS 12 Housing in Settlements;  
Regional Development Strategy 2035;  
MUDC Draft Area Plan 2030  
DCAN 8 Housing in existing urban areas  
DCAN 15

This current application will be assessed primarily under the policy provisions of the Cookstown Area Plan 2010 along with SPPS, PPS 7 and PPS 12. The principle of development has already been established through the construction of foundations for LA09/2018/0294/F, therefore this report will examine if the amended house types is acceptable under prevailing planning policy. The land is not zoned, however it is within the development limit of Cookstown.

### **Policy Consideration**

The Cookstown Area Plan 2010 operates as the local development plan for the area where the application site is located. SETT1 provides a framework to assess applications against, which is broadly in line with those set out in regional policy QD1 of PPS7.

### **SPPS**

The Strategic Planning Policy Statement (SPPS) for Northern Ireland 'Planning for Sustainable Development, is a material consideration. The SPPS supersedes the policy provision within Planning Policy Statement (PPS) 1, 5 and 9. The policy provision within PPS 7 has been retained under transitional arrangements.

### **Mid Ulster Development Plan 2030 – Draft Plan Strategy**

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

### **PPS 7, PPS7 Addendum & DCAN 8**

Para 3.7 of PPS 7 refers to established residential development and the need to ensure that development proposals do not detract from environmental quality, residential amenity and the established character of the wider housing area. A similar approach is adopted within PPS7 Addendum and DCAN 8 which establishes that the following issues should be considered:

- Maintain and where possible enhance environmental quality;
- Respect the privacy and preserve the amenity of existing residents;
- Reinforce the character and qualities which make an area an attractive place to live and visit;
- Ensure good practice principles in the design of buildings and landscaping of surroundings; and
- Aim to provide a safe and secure environment.

Development has been approved in this site and commenced, therefor a fallback position exists for development on the site. The scheme currently before the members is for consideration of the changes, these include:

- hipped roof utility room and living room in place of car port,
- buildings east gable moved to west (away from Burn Brae) approx. 0.7m ,
- finished floor level raised by 0.5m and ridge height raised by 0.8m
- dining area extended into patio area
- changes to chimneys and
- some changes to windows and door opening sizes

A letter of objection was received dated 20/08/2021 and was acknowledged by MUDC Planning Department on 27/08/2021. The objector resides at No 13 Burn Brea who raised several points of concern. They are as follows:-

- discrepancies in design features from what was previously approved;
- overlooking concerns;
- loss of daylight;
- reduction in car parking provision resulting in potential for more buildings in the future to garage them
- landscaping over an old right of way

The amendments to the design of the dwelling do not, in my opinion, cause any significant issues in respect of the objectors property, over and above that previously approved. The proposed dwelling does have a higher ridge line, approx. 0.8m higher, however this is also moved 0.7m further away from their property. The existing mature trees are retained along this boundary, these, in my opinion, have a greater impact on light than the dwelling under consideration.

There are no windows proposed in the gable facing the objectors property. The utility window referred to is approx. 33m from the boundary, it is at ground level and as such I don't consider it will result in any undue overlooking, especially as the objectors property is another 10m from the boundary.

The drawing shows parking and turning for 2 cars, however the courtyard at the door could accommodate another car parking space here which is in line with Creating Places for a property of this size. Any additional buildings on the site will either meet with the householders Permitted Development Rights or will require a separate application which the neighbours will be notified of and given an opportunity to comment on, if they so wish.

This development is moved further away from the boundary and the referred to right of way. The carrying out of landscaping is not development and it is a matter for the applicant to ensure they have the required title to the land as members will be aware that planning permission does not itself confer title to land.

DFI Roads have recommended that sight lines of 2.4m x 33.0m are provided at the access for this site. Members are advised that under application I/2013/0073/F, the roads engineers at that time accepted sight lines of 2.4m x 16.0m to the north and 2.0m x 33.0m to the south. They have not provided any reasoning for requesting amended standards now. This is for similar development onto this cul de sac, close to the end of it and as such I do not consider it appropriate to request these amendments.

### **Conclusion**

I am satisfied that taking account of the previous permission and the amendments to the scheme, the dwelling under consideration is adequately sited and designed to avoid a significant adverse impact on landscape character or neighbour amenity.

My recommendation is to approve.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation:</b> Recommendation to approve as the proposed changes are not considered to significantly affect the impacts in the amenity of neighbouring properties.	
<b>Conditions</b>  1. This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011.  Reason: This is a retrospective application.  2. The vehicular access, including visibility splays of 2.0m x 33m south and 2.4m x 16m north, shall be provided in accordance with Drawing No. 02Rev1 bearing the date stamp 17 <sup>th</sup> FEB 2022, within 6 weeks of the date of this decision. 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.  3. All hard and soft landscape works shall be carried out in accordance with the approved details on drawing . 02Rev1 bearing the date stamp 17 <sup>th</sup> FEB 2022 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 dwelling.  Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.  Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.  <b>Informatives</b>  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.	
<b>Signature(s)</b>  <b>Date:</b>	

ANNEX	
<b>Date Valid</b>	29th July 2021
<b>Date First Advertised</b>	10th August 2021
<b>Date Last Advertised</b>	14th September 2021
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 13 Burnbrae Crescent Cookstown Tyrone Kenneth Kells 13, Burnbrae Crescent, Cookstown, Tyrone, Northern Ireland, BT80 8DU The Owner/Occupier, 15 Burnbrae Crescent Cookstown Tyrone The Owner/Occupier, 17 St Jeans, Cookstown, Tyrone, BT80 8DQ The Owner/Occupier, 23 St Jeans Cookstown Tyrone The Owner/Occupier, 23a St Jeans, Cookstown, Tyrone, BT80 8DQ The Owner/Occupier, 24 St Jeans Cookstown Tyrone The Owner/Occupier, 24a St Jeans Cookstown The Owner/Occupier, 25 St Jeans Cookstown Tyrone	
<b>Date of Last Neighbour Notification</b>	11th August 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2021/0387/F Proposal: Renewal of change of house type from 3 detached dwellings (approved under I/2014/0081/F) to 6 semi detached dwellings Address: 15, 15A and 16 St Jeans Cottages, Cookstown, Decision: Decision Date:   Ref ID: LA09/2021/1103/F Proposal: Amendment of house design under construction as previously approved under LA09/2018/0294/F Address: Adjacent to and the rear of 24 St Jeans, Tullagh, Cookstown,	

Decision:  
Decision Date:

Ref ID: LA09/2018/0294/F

Proposal: Renewal of application reference I/2013/0073/F (Change of house type to that approved under I/2007/0634/F - storey and a half dwelling and carport).

Address: Land adjacent to and the rear of 24 St Jeans, Tullagh, Cookstown,

Decision: PG

Decision Date: 30.08.2018

Ref ID: I/1993/0189

Proposal: Dwelling and Garage

Address: REAR OF 25 ST JEANS COTTAGES COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1991/6046

Proposal: Housing Development To rear of 24-26 St Jeans Cottages, Cookstown.

Address: To rear of 24-26 St Jeans Cottages,

Decision:

Decision Date:

Ref ID: I/1991/0369

Proposal: Site of Dwelling

Address: TO REAR OF 24 ST. JEANS COTTAGES FAIRHILL ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1993/0058

Proposal: Site of Dwelling

Address: TO REAR OF 25 ST JEAN'S COTTAGES COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1997/0205

Proposal: Extension to dwelling

Address: 24 ST JEANS AVENUE COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2007/0634/F

Proposal: Proposed alteration to existing access and erection of single storey dwelling with integral garage.

Address: Land adjacent to and to the rear of 24 St Jeans, Tullagh, Cookstown



Decision:

Decision Date: 21.05.2008

Ref ID: I/2013/0073/F

Proposal: Change of house type to that approved under I/2007/0634/F - storey and a half dwelling and carport

Address: Land adjacent to and to rear of 24 St Jeans, Tullagh, Cookstown,

Decision: PG

Decision Date: 18.06.2013

Ref ID: I/1984/0285

Proposal: ERECTION OF BUNGALOW

Address: ST JEAN'S, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2014/0081/F

Proposal: Replacement of 4 no existing dwellings with 4 no detached, two storey dwellings (Amended Plans to include House Types and Additional Boundary Treatment)

Address: 15, 15a, 16 and 18 St Jean's Cottages, Cookstown, Co Tyrone,

Decision: PG

Decision Date: 27.06.2014

Ref ID: LA09/2016/0323/F

Proposal: 6 No dwellings (3 x sets of semi detached dwellings)

Address: 15, 15A and 16 St Jeans Cottages, Cookstown,

Decision: PG

Decision Date: 26.04.2016

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No. 02 (REV-1)

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 04

Type: Proposed Elevations

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 03

Type: Proposed Floor 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	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/1268/F	Target Date:
Proposal: Dwelling and garage on a farm	Location: Adj to 36 and rear of 34 Killeenan Road Cookstown
Referral Route:  This application is being presented to Committee as it has attracted one letter of objection.	
Recommendation:	APPROVE
Applicant Name and Address: Shane Lagan 36 Killeenan Road Cookstown BT80 8JD	Agent Name and Address:
Executive Summary:	
Signature(s):	

## Case Officer Report

## Site Location Plan



## Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	DAERA - Omagh	Considered - No Comment Necessary
Non Statutory	NI Water - Single Units West - Planning Consultations	Substantive Response Received

## Representations:

Letters of Support	1
Letters of Objection	2

Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
<p>Summary of Issues</p> <p>One objections has been received in respect of this application and relates to the following issues:-</p> <ul style="list-style-type: none"> <li>• Loss of light or overshadowing;</li> <li>• Overlooking / loss of privacy;</li> <li>• Visual amenity (elevation difference between the two dwellings);</li> <li>• Planting schedule;</li> <li>• Topographical survey detail should be carried out to evaluate proposed design details;</li> <li>• Foul discharge;</li> <li>• Potential of hazardous materials to rear of 34 Kileenan Road;</li> <li>• Gradient elevations need addressed;</li> <li>• Protection of sewage pipes passing under laneway need protected, including consultation with adjacent landowner.</li> </ul> <p>The objector submitted a second representation advising that 'I have no objections, going forward to the recent application'. When asked if they were content to withdraw their objection, they stated that 'I feel strongly about objection to the planning', but did not advise that the objection was to be withdrawn. Therefore, the application is being presented to Committee on the basis of the single objection.</p> <p>Consideration of the issues raised above:-</p> <ul style="list-style-type: none"> <li>• Whilst the proposed dwelling is to be set on higher ground, it is positioned 35m from the objectors dwelling with a row of mature conifer trees between these. Therefore it is not accepted that the proposed dwelling will cause any loss of light or overshadowing;</li> <li>• As detailed above, given the separation distance between the two dwellings, it is not accepted that the proposed dwelling will cause any overlooking or loss of privacy;</li> <li>• The proposed dwelling is to be located on an elevated site, however, this has the benefit of rising ground and mature conifer trees to the rear, which will lessen the visual impact. Furthermore as the proposed dwelling is to be sited to both cluster and be visually linked with buildings on the farm it is considered acceptable in the respect;</li> <li>• The planting schedule as detailed on the site plan drawing no. 02/2 date stamped 15<sup>th</sup> March 2022 is considered acceptable;</li> <li>• A topographical survey is not considered necessary to allow the proposed design to be evaluated. The design as originally proposed was assessed and was considered unacceptable. This was then amended to the current design at the request of Council;</li> <li>• A consultation was issued to Environmental Health who did not raise any issues with regards to foul discharge. It is therefore considered to be acceptable;</li> </ul>	

- The objector did not elaborate on what hazardous materials they referred to. No such materials were evident at the time of site inspection and therefore I do not any weight to this issue;
- The proposed plans include cross-sections of the site. These sections clearly show the extent to which the proposed dwelling will be cut into the site with the aid of a low, 900mm high retaining wall to the rear and then graded lands beyond the wall. This is considered acceptable and will also help in reducing the visual impact of the dwelling in the surrounding landscape.
- The issue of protecting sewage pipes which pass under the laneway is a matter for the applicant and is not a planning matter.

#### Characteristics of the Site and Area

The site is located within a rural area and on a small site accessed via an existing laneway leading to a two storey farm dwelling and associated farmyard. The access laneway is paired with a second laneway leading to a bungalow at No.34, which sits at a lower level. There is a small mobile home on site on an area which has been excavated into the site to create a level platform for the mobile. The site levels are approximately 1.5m above the level of the access laneway. There are critical views of the site on approach along Kileenan Road from the East, however, these views will be set against the rising ground to the rear and are partially screened by the row of mature conifer trees along the front of the site, with additional mature conifers along both the southern and western boundaries.

#### Description of Proposal

This is a full application for dwelling and garage under PPS21 CTY10 and associated with a farm holding. The dwelling has a 18.3m frontage with a gable depth of 8.2m. The dwelling has a rear return extending back 5.75m and has a split ridge height dropping from 7.1m to 6.2m. There is a modest front porch centred on the front elevation with a vertical emphasis to the windows and a single chimney centred on the ridge. The external finishes are considered acceptable for the rural location.

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

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

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

The proposal accords with the Cookstown Area Plan 2010 insofar as it is for a site for a dwelling in the rural area and is linked to an established farm business.

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

#### CTY 10 – Dwellings on Farms

Planning permission will be granted for a dwelling house on a farm where all of the stated criteria are met:-

- DAERA's consultation response confirmed that the business has been in existence for more than 6 years. The business has claimed single farm payment or agri-environment payments in each of the last 6 years and the site is located on farmland which is currently being claimed by the farm business. This clearly demonstrated that the applicants farm business is active.
- A planning history check of the farm shows that no dwellings or development opportunities in the countryside have been sold off from the farm holding since 25<sup>th</sup> November 2008.
- Policy CTY 10 also requires any such new building to be visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access should be obtained from an existing lane.

The proposed site is located immediately adjacent to existing farm buildings and close to the existing farm dwelling. The proposed site is visually linked and sited to cluster with the applicants own farm outbuildings. The rising ground and mature trees to the south and west provide an acceptable backdrop when viewed from the critical viewpoints on the approach from the east along the Kileenan Road.

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

Although there will be critical views on approach from the east along the Kileenan Road, these will be set against the rising ground to the south and the mature trees on the southern and western boundaries. The proposed dwelling will also be visually linked and sited to cluster with the existing farm dwelling and farm buildings. This is therefore acceptable and the site is considered to achieve an acceptable degree of integration.

#### CTY 14 – Rural Character

This is an application for a site for a dwelling on a farm holding that is sited close to the existing farm buildings and therefore is not considered to cause a change in character. The access is acceptable as it utilises the existing access. Hedge removal to provide the necessary visibility splays should be kept to a minimum.

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

The proposal is to utilise the existing access. Transport NI advised that they have no objection to the proposed development subject to conditions.

#### Recommendation

On consideration of the above, it is my opinion that the proposal is acceptable subject to the following conditions:-

Neighbour Notification Checked	Yes
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Summary of Recommendation:
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Approve subject to the conditions listed below:-

Conditions:

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

Reason: Time Limit.

2. The existing natural screenings along the northern, southern and western boundaries of this site, shall be permanently retained, augmented where necessary and let grow unless necessary to prevent danger to the public in which case a full explanation shall be given to Mid Ulster District Council in writing, prior to the commencement of any works.

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

3. If any retained hedge/tree is removed, uprooted or destroyed or dies within 5 years from the date of the development hereby approved, becoming operational another hedge/tree or trees shall be planted at the same place and that hedge/tree(s) shall be of such size and species and shall be planted at such time as may be specified by Mid Ulster District Council.

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

4. All proposed planting as indicated on the stamped approved drawing no. 02/2 date stamped 15<sup>th</sup> March 2022 shall be undertaken during the first available planting season following occupation of the dwelling hereby approved.

Reason: To ensure the proposal is in keeping with the character of the rural area and in the interests of visual amenity.

5. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of Mid Ulster District 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 Mid Ulster District Council gives its written consent to any variation.

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

6. The vehicular access including visibility splays 2.4 x 70 metres and a 70 metre forward sight distance, shall be provided in accordance with Drawing No.02/2 bearing the date stamp 15<sup>th</sup> March 2022 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.

Signature(s)

Date:

#### ANNEX

Date Valid	31st August 2021
Date First Advertised	14th September 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) DOMINIC MULLIN 34 Killeenan Road Cookstown Tyrone The Owner/Occupier, 39 Killeenan Road Cookstown Tyrone The Owner/Occupier, 40 Killeenan Road Cookstown Tyrone The Owner/Occupier, 41 Killeenan Road Cookstown Tyrone The Owner/Occupier, 42 Killeenan Road Cookstown Tyrone The Owner/Occupier, 48 Killeenan Road Cookstown Tyrone Dominic Mullin Email Address	
Date of Last Neighbour Notification	1st April 2022
Date of EIA Determination	
ES Requested	Yes /No

## Planning History

Ref ID: LA09/2021/1268/F

Proposal: Dwelling and garage on a farm

Address: Adj to 36 and rear of 34 Killeenan Road, Cookstown,

Decision:

Decision Date:

Ref ID: I/2004/0003/F

Proposal: proposed replacement dwelling

Address: 52 Killeenan Road, Cookstown

Decision:

Decision Date: 24.02.2004

Ref ID: I/2000/0431/O

Proposal: Dwelling

Address: Site at 100m NW of 52 Killeenan Road Cookstown

Decision:

Decision Date: 05.01.2001

Ref ID: I/2004/0097/F

Proposal: Proposed dwelling and detached garage

Address: Land at junction opposite no 39 Killeenan Road and adjacent to no 36 Killeenan Road, Cookstown

Decision:

Decision Date: 14.07.2004

Ref ID: I/2000/0829/O

Proposal: Dwelling and detached garage

Address: Land at junction opposite 39 Killeenan Road and adjacent to 36 Killeenan Road Killeenan Cookstown

Decision:

Decision Date: 19.12.2001

Ref ID: I/2001/0261/O

Proposal: Proposed site for dwelling

Address: Adjacent to 40 Killeenan Road Cookstown

Decision:

Decision Date: 12.11.2001

## Summary of Consultee Responses

All consultees responded positively.

Drawing Numbers and Title

Drawing No. 06  
Type: Cross Sections  
Status: Submitted

Drawing No. 02/2  
Type: Site Layout or Block Plan  
Status: Submitted

Drawing No. 04  
Type: Garage Plans  
Status: Submitted

Drawing No. 05  
Type: Floor Plans  
Status: Submitted

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

Drawing No. 03  
Type: Proposed Elevations  
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> LA09/2021/1287/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for a dwelling & domestic garage based on Policy CTY 10 (dwelling on a farm).	<b>Location:</b> 20m West of 12a Tamnymartin Road Maghera BT46 5ET.
<b>Referral Route:</b>  To Committee - Refusal - Contrary to CTY 1, 10 and 13 of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mr Daniel Anderson 10 Tamneymartin Road Maghera BT46 5ET	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road The Creagh Toomebridge Bt41 3SG
<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

### Representations:

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

### Summary of Issues

To Committee - Refusal - Contrary to CTY 1, 10 and 13 of PPS 21.

### Characteristics of the Site and Area

The application site is located approximately 1.km east of the development limits of Maghera from such it is located within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as 20m West of 12a Tamnymartin Road, Maghera and it is accessed via an existing private laneway that serves other residential properties. The red line covers a triangular piece of land mixed of grass and gravel which is surrounded by mature trees on the northern and eastern boundary. I note that within the immediate vicinity there is a number of residential dwellings but the wider setting is characterised by agricultural land uses.

#### Representations

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

## Description of Proposal

This is an outline application for a site for a dwelling & domestic garage based on Policy CTY 10 (dwelling on a farm), the site is located at 20m West of 12a Tamnymartin Road, Maghera.

## Planning Assessment of Policy and Other Material Considerations

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy  
 Strategic Planning Policy Statement (SPPS)  
 Magherafelt Area Plan 2015  
 PPS 1 - General Principles  
 PPS 3 - Access, Movement and Parking  
 PPS 21 - Sustainable Development in the Countryside  
 Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside  
 CTY 1 - Development in the Countryside  
 CTY 10 - Dwellings on the Farm

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

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

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

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

With respect to (a), a consultation was sent to DAERA with regards to the Farm Business, in their response stated that the business has been allocated in 1991. Went on to confirm that the farm business has not made any claims in each of the previous six years, rather went on to say no claims submitted for either the Basic Payment Scheme (BPS) or Agri Environment Scheme in the last 6 years. However, claims submitted for Farm Woodland Scheme (FWS) during this period. After further discussions it has been agreed that this is sufficient in demonstrating that the farm business is active established as per required under policy.

With respect to (b), upon review of the farm business and after reasonable checks were completed, I note that an approval under H/2014/0450/F was approved in 2015. As such I hold the opinion that it fails under this part of the policy.

With respect to (c), I note that the registered farm address sits approximately 180m south east of the proposed site, in which at this location is a detached dwelling with a number of outbuilding where they constitute as an existing group of buildings on the farm. I note that the applicant owns sufficient lands around this group to accommodate a dwelling without the need to locate away from this group as in the proposed site. No justification was put forward after the agent found out the farm business had already attained a farm approval in the previous 10 years. As such I hold the view it has failed this part of the policy. The policy states that where practicable to use an existing laneway for access, I note that the intention is to use an existing laneway and create a new access onto the laneway which would be acceptable. I hold the view the application has failed under CTY 10.

I note that the agent has not provided any other policy consideration for this application, upon a review of CTY 1 I hold the view that this application would not comply with any of the relevant policies in the applications current form.

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 there are no exact design or siting details have been provided, however, I am content that an appropriately designed dwelling will not appear as visually prominent. I note that there is existing landscaping that should be retained. I note that new boundaries will need to be planted out therefore additional landscaping will be required where necessary which will ensure integration, as such a landscaping scheme should be submitted as part of any reserved matters application. Given the landform and surrounding development I feel it necessary to restrict any ridge height to 6m. As stated the proposed site is not located to visually link or cluster with an established group of buildings as such I hold the view the application has failed under CTY 13 respectively.

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 and it is able to respect the pattern of development in the area. In addition, a dwelling in this location is unlikely to additional dwellings through infilling. As such, I am of the opinion that this application is unlikely to cause detrimental change to the character of the area, complying under CTY 14.

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

PPS 3 - Access, Movement and Parking;

A consultation was sent to DFI Roads, in their response confirmed that they had no objections subject to conditions and informatives. I am content that the access is acceptable under PPS 3.

I have no ecological or residential amenity concerns.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation:</b>	
Refusal	
<b>Reasons for Refusal:</b> <ol style="list-style-type: none"> <li>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.</li> <li>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 an approval for a farm dwelling has been attained by the farm business in with the last 10 years and the proposed new building does not visually linked (or sited to cluster) with an established group of buildings on the farm</li> <li>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.</li> </ol>	
<b>Signature(s)</b>	
<b>Date:</b>	



<b>ANNEX</b>	
<b>Date Valid</b>	2nd September 2021
<b>Date First Advertised</b>	14th September 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 10 Tamney Martin Road Maghera Londonderry The Owner/Occupier, 12 Tamney Martin Road Maghera Londonderry The Owner/Occupier, 12a Tamney Martin Road Maghera	
<b>Date of Last Neighbour Notification</b>	20th September 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2021/1287/O Proposal: Proposed site for a dwelling & domestic garage based on Policy CTY 10 (dwelling on a farm). Address: 20m West of 12a Tamnymartin Road, Maghera BT46 5ET., Decision: Decision Date:  Ref ID: H/2014/0450/F Proposal: Proposed dwelling on a farm Address: Approx 40m North West of 12 Tamneymartin Road, Maghera, Decision: PG Decision Date: 12.05.2015  Ref ID: H/1990/0199 Proposal: REPLACEMENT BUNGALOW Address: 12 TAMNEYMARTIN ROAD MAGHERA Decision: Decision Date:  Ref ID: H/1988/0512 Proposal: REPLACEMENT DWELLING WITH GARAGE Address: 12 TAMNEYMARTIN ROAD MAGHERA Decision: Decision Date:	

Ref ID: H/1989/0407  
Proposal: REPLACEMENT BUNGALOW WITH GARAGE  
Address: 12 TAMNEYMARTIN ROAD MAGHERA  
Decision:  
Decision Date:

Ref ID: H/1992/0115  
Proposal: ALTS & ADDS TO BUNGALOW  
Address: 12 TAMNEYMARTIN ROAD MAGHERA  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

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

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

Date of Notification to Department:  
Response of Department:



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> LA09/2021/1299/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed semi-detached dwelling adjacent to 41 Waterfoot Road, Ballymaguigan	<b>Location:</b> Site adjacent to 41 Waterfoot Road Ballymaguigan Magherafelt
<b>Referral Route:</b>  Objections received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> James Sheridan 41 Waterfoot Road Ballymaguigan Magherafelt	<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	Historic Environment Division (HED)	Content
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

3 letters of objection have been received from the neighbour at No.43 Waterfoot Road. The concerns raised have all been considered as part of the assessment of this planning application. The points raised within the objections have been summarised below:

- Issues raised over lands contained within the red line.
- Issues regarding overlooking and privacy issues to No. 43
- Concerns over sewage and the initial proposal had included a septic tank. This has since changed to a proposed public connection.

I am content that all issues have been addressed throughout this application process. The red line was amended to include only lands contained within the applicants ownership. The initial proposal has changed and there will no issues with overlooking or loss of privacy. Any concerns regarding sewage the applicant will be aware that separate consent is required and this is not a planning issue.

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

The site is located within the settlement limits of Ballymaguigan as per the Magherafelt Area Plan 2015. The red line of the application site includes a single storey, detached dwelling which is set back slightly from the public road. The site also has two outbuildings located to the rear of the site. The site has a garden area to the front of the property with two access points at the roadside. The boundaries to the east and south of the site are defined by a mature hedgerow, which provides strong screening of the site. The surrounding area is a mix of residential dwellings and agricultural lands further beyond the site.

### **Description of Proposal**

This is a full planning application for a proposed semi-detached dwelling adjacent to 41 Waterfoot Road, Ballymaguigan, Magherafelt BT45 6LQ.

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

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement (SPPS)  
PPS 7: Quality Residential Environments  
PPS 3: Access, Movement and Parking

The site is located within the Settlement Limit of Ballymaguigan and has no other zonings or designations within the Plan. It is also located within an area identified as an Archaeological Site and Monument. Historic Environment Division (HED) were consulted and responded with no objection to the proposal.

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 QD1 of PPS 7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. I am content that the proposal respects the surrounding context and is appropriate to the character of the site in terms of layout and scale. It has a slightly higher ridge height than the dwelling adjacent, but I am content it will not over dominate. There are no features of archaeological and built heritage or landscape features that will be affected by the development.

I am content that given the proposal is located within the existing curtilage of the dwelling at No 41 there is adequate private open space for both properties. The boundaries of the site are existing and mature and aid integration with the surrounding area. As this is a single dwelling within the settlement limits of Ballymaguigan the proposal can access existing neighbourhood facilities. There is adequate provision for parking within the curtilage of the site.

In terms of the design of the dwelling, there has been a number of alterations to the proposal with it not being a semi-detached dwelling. Concerns were raised regarding potential overlooking and loss of privacy with No.41 however, it was agreed on balance it was acceptable as this was the applicants home. The proposed dwelling has been designed so that there is only two windows and a utility room door located at the rear of the property which would look onto the rear of 41. From this, I am content there will be no issues with overlooking or loss of privacy. Initial plans included a window on the first floor which looked towards No43 and the objector raised concerns. This has since been removed and the design does not cause any issues with regards overlooking the property No.43. In terms of the design, the proposed dwelling adjoins the

existing dwelling but will face east. It was agreed at an internal group meeting that the proposed design of the dwelling was acceptable within the settlement limits of Ballymaquigan. I have no concerns relating to crime.

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

DfI Roads were consulted and offered no objection subject to a condition being attached to any approval.

#### PPS 6: Planning, Archaeology and Built Heritage

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

#### **Other Material Considerations**

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

#### **Neighbour Notification Checked**

**Yes/No**

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

Approval 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. The vehicular access including visibility splays 2.4 x 60 metres and a 60 metre forward sight distance, shall be provided in accordance with Drawing No 02 Rev 03 bearing the date stamp 01 Apr 2022 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. The existing mature vegetation on the eastern and southern 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.

**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 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.
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 Planning Authority or other statutory authority.
5. 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.
6. 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.
7. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	3rd September 2021
<b>Date First Advertised</b>	21st September 2021
<b>Date Last Advertised</b>	3rd May 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 39a Waterfoot Road Magherafelt The Owner/Occupier, 41 Waterfoot Road Magherafelt Londonderry The Owner/Occupier, 43 Waterfoot Road Magherafelt Londonderry Eamon Close 43, Waterfoot Road, Magherafelt, Londonderry, Northern Ireland, BT45 6LQ Eamon Close 43, Waterfoot Road, Magherafelt, Londonderry, Northern Ireland, BT45 6LQ The Owner/Occupier, 44 Waterfoot Road Magherafelt Londonderry Eamon Close	
<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: LA09/2021/1299/F Proposal: Proposed dwelling in a cluster Address: Site adjacent to 41 Waterfoot Road, Ballymaguigan , Magherafelt, Decision: Decision Date:  Ref ID: H/2000/0545/O Proposal: Site of 4 No Dwellings Address: Approx. 50 m north of 26 Moss Road, Ballymaguigan, Magherafelt Decision: Decision Date: 02.03.2001  Ref ID: H/2001/0238/O Proposal: Site of dwelling Address: Waterfoot Road, Ballymaguigan, Magherafelt Decision: Decision Date: 15.05.2001  Ref ID: H/2001/0449/O Proposal: Site Of Dwelling Address: 120m S of 43 Waterfoot Road, Ballymaguigan, Magherafelt	



Decision:  
Decision Date: 18.12.2001

Ref ID: H/1993/0592  
Proposal: SITE OF BUNGALOW AND GARAGE  
Address: R/O 43 WATERFOOT ROAD MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/2001/0452/O  
Proposal: Site Of Dwelling  
Address: 80m S Of 43 Waterfoot Road, Ballymaguigan, Magherafelt  
Decision:  
Decision Date: 18.12.2001

Ref ID: H/1998/0273  
Proposal: DWELLING AND GARAGE  
Address: ADJACENT TO 41 WATERFOOT ROAD MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/2001/0451/O  
Proposal: Site Of Dwelling  
Address: 60m S of 43 Waterfoot Road, Ballymaguigan, Magherafelt  
Decision:  
Decision Date: 18.12.2001

Ref ID: H/1997/0487  
Proposal: SITE OF DWELLING  
Address: ADJACENT TO 41 WATERFOOT ROAD BALLYMAGUIGAN MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/1988/0283  
Proposal: SITE OF DWELLING AND GARAGE  
Address: WATERFOOT ROAD BALLYMAGUIGAN MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/1988/0567  
Proposal: BUNGALOW WITH GARAGE  
Address: WATERFOOT ROAD BALLYMAGUIGAN MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/2006/0775/F  
Proposal: Erection of a dwelling and detached garage  
Address: To rear of 43 Waterfoot Road, Ballymaguigan, Magherafelt  
Decision:  
Decision Date: 27.02.2007

Ref ID: H/2003/0699/O  
Proposal: Site of dwelling and garage.  
Address: To rear of 43 Waterfoot Road, Ballymaguigan, Magherafelt.  
Decision:

Decision Date: 23.03.2004

Ref ID: H/1974/0419

Proposal: 11KV O/H LINES (C.3459A)

Address: BALLYMAGUIGAN, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2007/0239/F

Proposal: Erection of a dwelling and detached garage

Address: To rear of 43 Waterfoot Road, Ballymaguigan, Magherafelt

Decision:

Decision Date: 21.06.2007

Ref ID: H/1993/0244

Proposal: SITE OF DWELLING

Address: ADJ TO 41 WATERFOOT ROAD BALLYMAGUIGAN

Decision:

Decision Date:

Ref ID: H/1985/0207

Proposal: BUNAGLOW

Address: WATERFOOT ROAD, BALLYMAGUIGAN, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1997/0322%

Proposal: CHANGE OF USE FROM AGRICULTURAL FIELD TO TRAINING  
FIELD WITH BALL STOPS ALSO FLOODLIGHTING ON MAIN PITCH

Address: SHORE ROAD BALLYMAGUIGAN MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2005/0420/RM

Proposal: Dwelling & Garage

Address: Junction Of Waterfoot Road & Shore Road, Ballymaguigan, Magherafelt

Decision:

Decision Date: 21.07.2005

Ref ID: LA09/2017/1224/NMC

Proposal: Removal of Access from Site to Moss Road

Address: 85 Meters West of 16 Moss Road, Ballymaguigan, Magherafelt,

Decision: WITHDR

Decision Date: 26.09.2017

Ref ID: LA09/2017/1322/F

Proposal: To vary condition No.2 of application LA09/2017/0167/F

Address: 85m West of 16 Moss Road, Ballymaguigan,

Decision: WITHDR

Decision Date: 14.11.2017

Ref ID: LA09/2021/0988/F

Proposal: Proposed dwelling within existing development limits

Address: 16A Moss Road, Ballymaguigan,

Decision: PG

Decision Date: 25.08.2021

**Summary of Consultee Responses**

**Drawing Numbers and Title**

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

Drawing No. 02 REV 03  
Type: Site Layout or Block Plan  
Status: Submitted

Drawing No. 03 REV 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

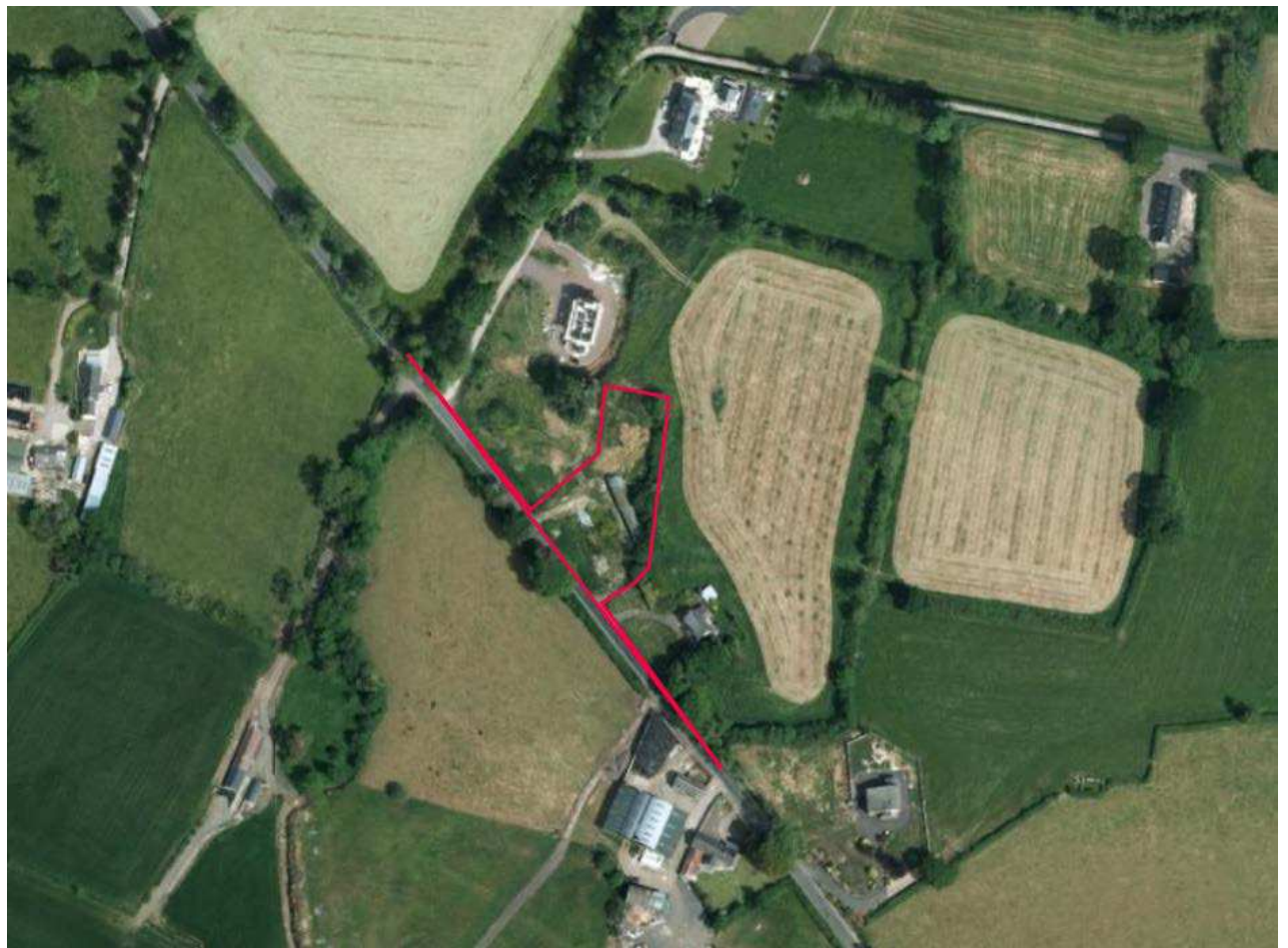
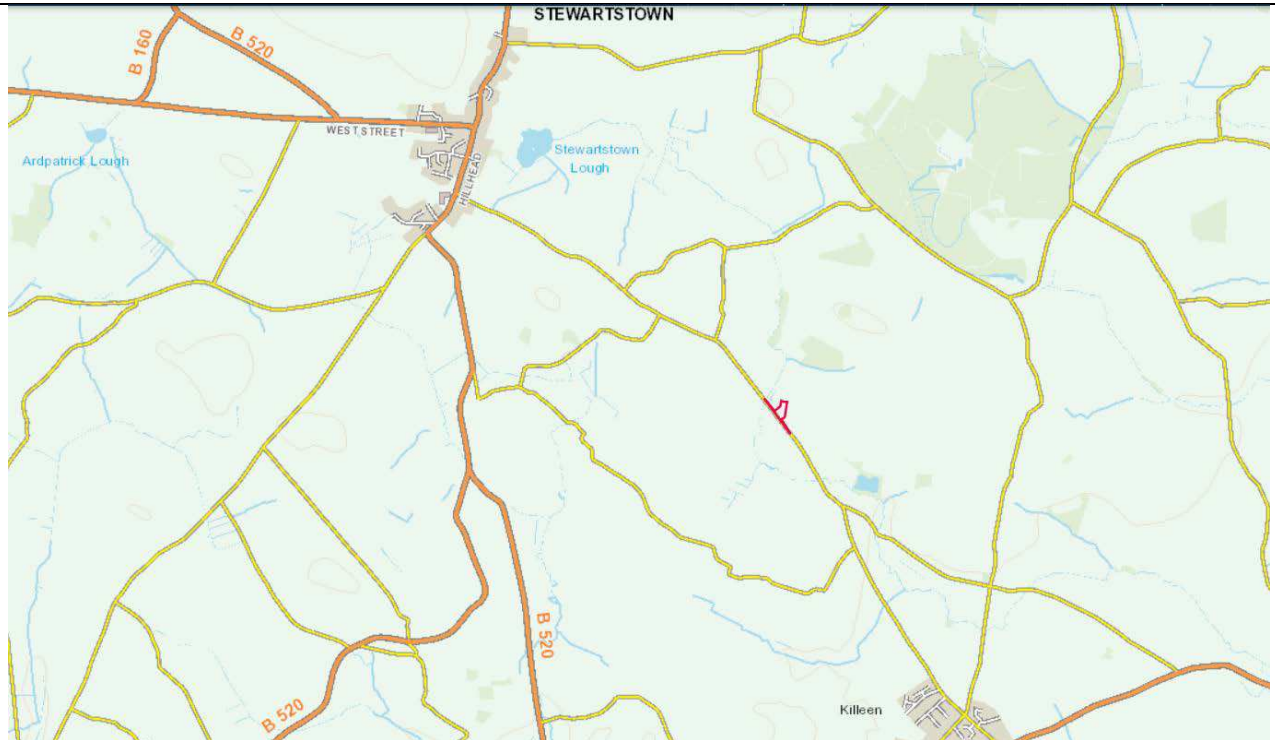
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1302/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed replacement dwelling and domestic double garage	<b>Location:</b> Approx 35m N.W. of 92 Lisacclare Road Stewartstown
<b>Referral Route: Refusal</b>	
<b>Recommendation: Refuse</b>	
<b>Applicant Name and Address:</b> James Coyle 54 North Street Stewartstown	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Site Visit Report

### Site Location Plan:



**Date of Site Visit:** 28<sup>th</sup> September 2021 & 27<sup>th</sup> April 2022



### Description of Proposal

This is a full planning application for a proposed replacement dwelling and domestic double garage to be located on lands approx. 35m NW of 92 Lisaclore Road Stewartstown.

### Characteristics of the Site and Area

The site is located in the rural countryside, as depicted within the Cookstown Area Plan, approx. ½ way between Stewartstown to the northwest and Killeen to the southeast.

The site is an irregular shaped plot comprising a roadside field. The field sits adjacent the Lisaclore Rd and contains a relatively centrally located single storey building of agricultural appearance. The building has an elongated rectangular floor plan and broken pitched roof construction with concrete walls, a corrugated metal roof part exposed (see Fig 1 below). The building, which comprises 3 attached units, runs relatively parallel to and is accessed off the Lisaclore Rd via 2 agricultural gates, one located adjacent the northwest boundary the other adjacent the southeast boundary. A wooden d-rail fence defines the roadside boundary of the site and a mix of mature tree and hedgerow vegetation defines the southeast/east and northern boundaries of the site. The boundaries to the east of the site are relatively open defined in part by post and wire fencing. Whilst the site sits just southeast of a hollow in the landscape with the land rising steeply along the Lisaclore Rd immediately to the southeast and steeply along the Lisaclore Rd just beyond the site to the northwest the land within the site is relatively flat.

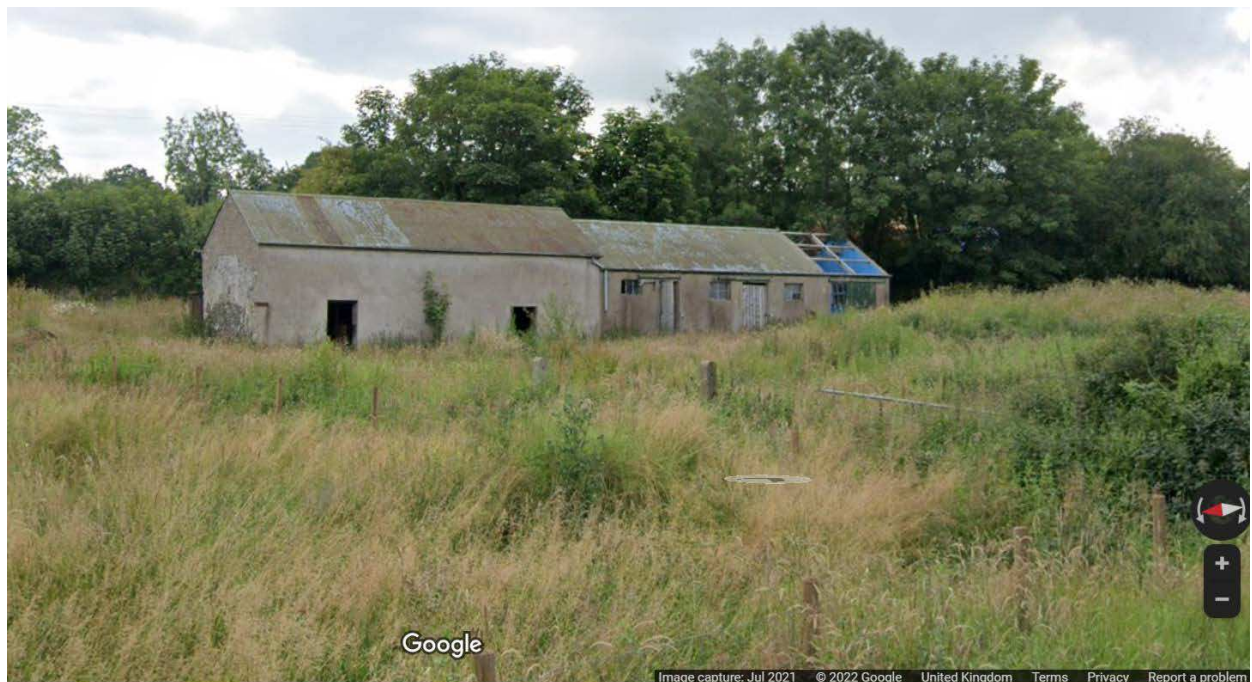


Fig 1: Building on site comprising 3 attached units

Due to vegetation bounding the site and within the wider vicinity, critical views of it are relatively short distant from the Lisaclore over a distant of approx. 100m before and passing along its roadside frontage on both approaches (see Figs 3 & 4 below).



Fig 2: View of site and building on it on southeast approach



Fig 3: View of site and building on it on northwest approach

The surrounding area is characterised primarily by agricultural lands interspersed with detached dwellings, ancillary buildings and farm groups. The site backs onto agricultural lands to the northeast; and is bound to the southeast by land containing a new 2-storey dwelling under construction (see 'Planning History' - LA09/2020/0671/F) and to the northwest by a field that appears recently opened up and in part gravelled (see 'Planning History' – most recently LA09/2021/0780/F).

No. 88 Lisaclore Rd, a 2-storey dwelling, sits just northwest of the site and a small number of dwellings in the wider vicinity including a farm group, no 95 Lisaclore Rd, located at the opposite side of the road and a 2-storey dwelling, no. 96 Lisaclore Rd, located to the other side of the aforementioned dwelling under construction.



### **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

Development Control Advice Note 15: Vehicular Standards

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. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DfI for them to cause an Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

### **Representations**

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

### **Relevant Planning History**

- LA09/2016/1707/O - Site for Farm Dwelling and Garage - 70m NW of 92 Lisclare Rd Stewartstown - Granted 20<sup>th</sup> March 2017
- LA09/2020/0067/F - Proposed Dwelling and Garage and an amendment to a previously approved access under LA09/2016/1707/O - 70M North West of 92 Lisclare Rd Stewartstown - Granted 1<sup>st</sup> June 2020
- LA09/2021/0780/F - Change of house type from that approved under LA09/2020/0067/F - 70m NW of 92 Lisclare Rd Stewartstown - Granted 5<sup>th</sup> August 2021

The above applications relate to gravelled lands immediately northwest of the site.

- LA09/2020/0671/F - Proposed replacement dwelling and garage - 92 Lisclare Rd Stewartstown Dungannon - Granted 5<sup>th</sup> November 2020

The above applications relate to a 2-storey dwelling under construction to the southeast of the site.

### **Consultees**

1. DfI Roads were consulted in relation to access arrangements as the proposal seeks to construct a new access onto the Lisclare Rd. DfI Roads responded raising no objections to the proposal, subject to standard conditions and



informatives. Accordingly, subject to these conditions and informatives I am content the proposal would comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

### **Consideration**

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 and all other policies relevant to this proposal have been 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. The current proposal has applied under one of these instances - a replacement dwelling in accordance with Policy CTY3.

Policy CTY3 – Replacement Dwellings states planning permission will be granted for a replacement dwelling where the building to be replaced exhibits all the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. For the purposes of this policy all references to 'dwellings' will include buildings previously used as dwellings. Buildings designed and used for agricultural purposes, such as sheds or stores, and buildings of a temporary construction will not however be eligible for replacement under this policy.

The building to be replaced under this proposal is largely intact albeit missing a small portion of roof towards the southeast gable (see Fig: 1, further above). However, its external appearance and internal layout appears agricultural in nature and to have always been used for this purpose. The entire building is divide into 3 units, the first unit (with a higher ridge to northwest side) and the second (middle) unit both contain cattle pens and the third unit contains electrics indicating last used as a milking parlour. Whilst a fireplace sits within a cattle pen in the first unit (see Fig 4, below) both internally and externally a flue is not visible. Whilst there are openings in both unit 1 and 2, the windows in unit 2 appear too high to be domestic in nature (see Fig 5, below). Unit 3's openings and electrics all indicate use as a milking parlour (see Fig 6, below). I am not convinced what appears to blocked up windows in unit 1 are enough to demonstrate this building was lasted used as a dwelling.



Fig 4 & 5: Fireplace located with cattle pen in unit 1 & windows in unit 2, respectively

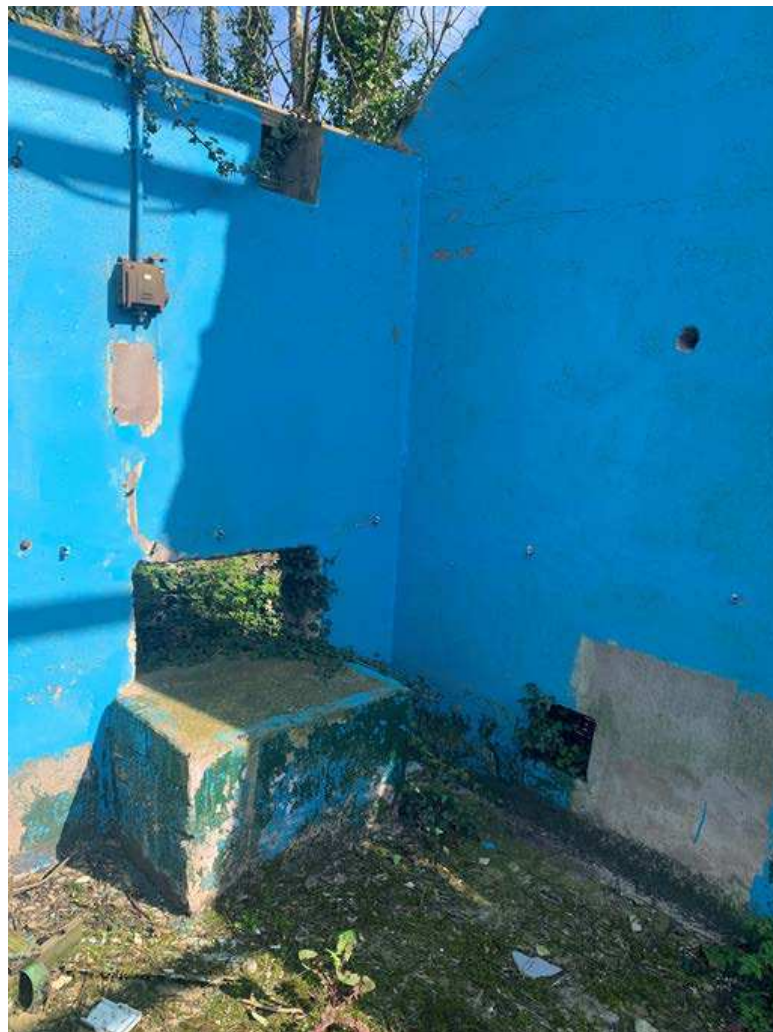


Fig 6: Internal of unit 3 showing location of compressor for tank cooling

Whilst Policy CTY 3 also states that favourable consideration will be given to the replacement of a redundant non-residential building with a single dwelling this is only where the redevelopment proposed would bring significant environmental benefits and provided the building is not listed or otherwise makes an important contribution to the heritage, appearance or character of the locality. I do not consider the replacement of the existing agricultural building on agricultural lands with a new dwelling including garage, residential curtilage and access would bring any environmental benefits in this instance. A replacement dwelling particularly as is the case here a 2-storey dwelling including garage, residential curtilage and new access would have a significantly greater visual impact when viewed from the Lisaclore Rd than the agricultural building typical of the countryside it is to replace.

Bearing in mind the above the agent was contacted and asked to provide clarification as to what Policy this application for a new dwelling and garage was being sought under and details how it complies. The agent was advised there does not appear to be an existing dwelling on site to replace therefore Policy CTY3 of PPS21 does not apply. He was also advised the SPPS and Policy CTY 4 of PPS21 allows for The Conversion and Reuse of Existing Buildings subject to criteria but not the replacement.

Subsequently, the agent advised the new dwelling and garage is being sought under replacement. That the existing building has windows, doors and a chimney still evident. He also submitted historical maps he advised showed the building in-situ in 1860 and the more recent imagery shows it, as it currently stands, in place in 2010 through to 2020.

The additional information submitted has been considered, however my opinion remains as before that there is insufficient information to demonstrate the building was a dwelling. Whilst the historical information submitted by the agent appears to show the footprint of the building to be replaced on site in part from 1846; in its entirety in 1900; and google maps from 2008 show it externally in its current state through to today, OSNI maps show there was another building just to its north as early as 1846. I consider the building to its north may have been the dwelling on site and the current building the associated farm building. OSNI indicates the building to the north may have been replaced around the same time a new house no. 92 Lisaclore Rd was erected to the south of the site and the building being sought for replacement (see Figs: & , below. Alongside my earlier consideration of the building on site and the historical maps / googles maps, I am still not convinced this building was constitutes a replacement dwelling.

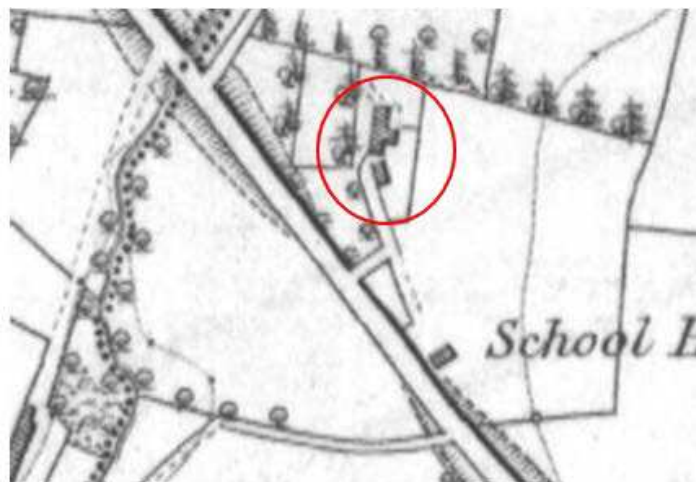


Fig 7: OSNI Historical Second Edition (1846-1862) showing two buildings on site the small appears to be the northwest (1<sup>st</sup>) unit



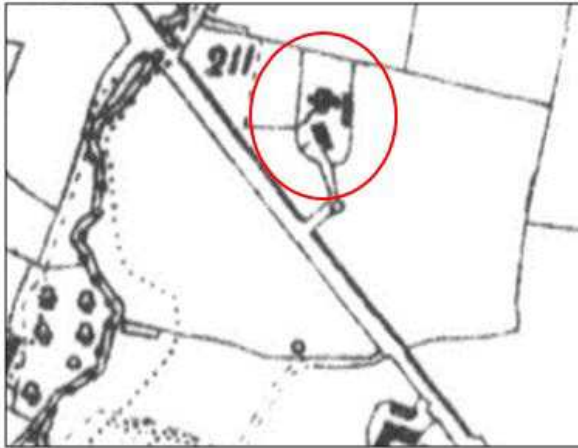


Fig 8 & 9: OSNI Historical Third Edition (1900 – 1907) & OSNI Historical Fourth Edition (1905 – 1957), respectively showing what appears to be extensions to the original 2 buildings.

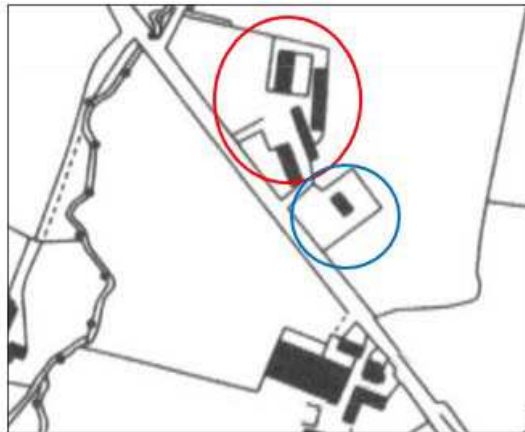


Fig 10: OSNI Historical Third Edition (1957 - 1986) appears to show original building on site to the north (see Fig 7) replaced with new farm shed and a new dwelling no. 92 Lisaclare Rd circled blue erected o southeast.

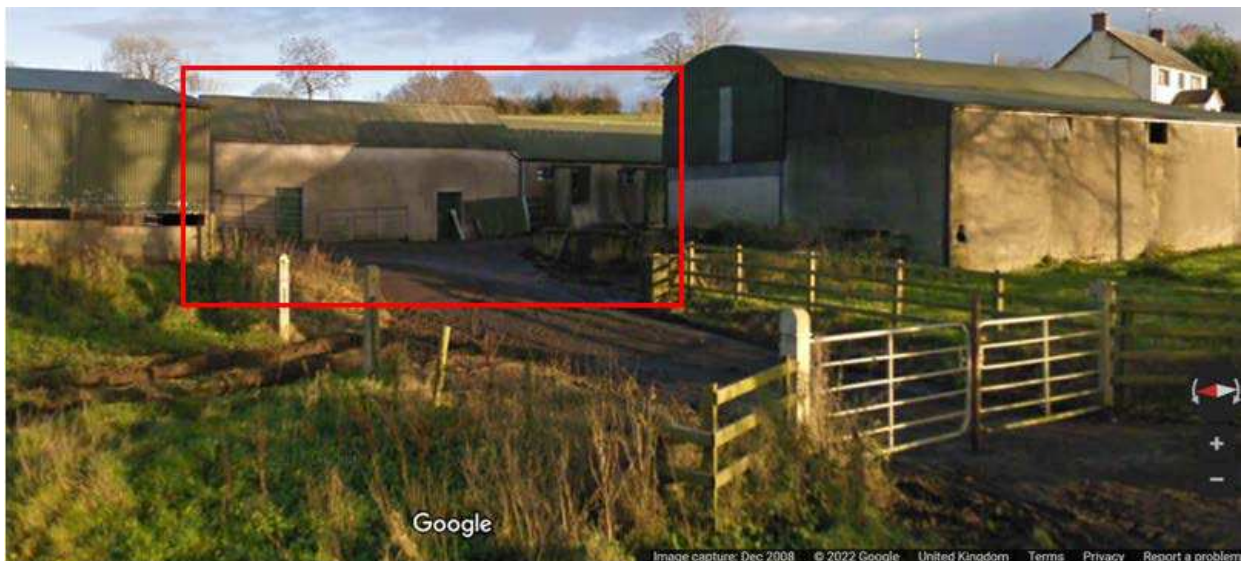


Fig 11: Google image of building as it stands today on site captured in December 2008. The surrounding agricultural building have since been removed and no. 92 Lisaclare Rd the associated dwelling see above to the northeast corner is in the process of being replaced under a recent planning permission.

**Additional considerations**

Had a replacement opportunity existed I would have had no significant concerns regarding the proposal adversely impacting the amenity of existing or potential neighbouring properties to any unreasonable degree given the mature trees and hedgerow vegetation bounding the site and separation distance that would be retained.

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

Flood Maps NI indicate no flooding on site.

**Recommendation:** Refuse

<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation:</b>	Refuse
<b>Refusal Reasons</b>	
1. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building to be replaced does not exhibit the essential characteristics of a dwelling and has been designed and used for agricultural purposes.	
<b>Case Officer Signature:</b>	
<b>Date:</b>	
<b>Appointed Officer Signature:</b>	
<b>Date:</b>	

**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 building to be replaced does not exhibit the essential characteristics of a dwelling and has been designed and used for agricultural purposes.

**Case Officer Signature:****Date:****Appointed Officer Signature:****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> 07/06/2022	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1307/F	<b>Target Date:</b>
<b>Proposal:</b> Variation of condition 1 of planning permission LA09/2017/1340/F to extend the completion date to 3 years from the 10th June 2021	<b>Location:</b> The Mills Washingbay Road Coalisland
<b>Referral Route:</b> 1. The wall at the entrance to The Mills development is under 1m so there is no reason why the applicant needs 3 years to complete the works as conditioned in LA09/2017/1340/F.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Farasha Properties Ltd 34 Culrevog Road Dungannon	<b>Agent Name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b> The applicant submitted a proposal to vary condition 1 of planning approval LA09/2017/1340/F to complete the visibility splays from 3 months to 3 years. The agent stated they needed 3 years as a retaining wall at the entrance needed 3 years for TAS approval. In subsequent discussions with DFI Roads it has been concluded the wall is under 1m and not does require approval. Roads have also recommended refusal in their consultation response.	
<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	1
Letters of Objection	5
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 an urban area and within the settlement limit of Coalisland as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is predominantly residential with older and newer housing developments on both sides of the road.

The application site is an entrance to an established housing development at 'The Mills' Coalisland which comprises large two storey detached dwellings.

### Description of Proposal

This is an application for a variation of condition 1 of planning permission LA09/2017/1340/F to extend the completion date to 3 years from the 10th June 2021.

### 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, 6 third party representations have been received.

A representation was received on the 22<sup>nd</sup> October 2021 from Danny and Margaret McStravick. They state they have lived on the development for more than 14 years and the development has been unfinished since it was first built 14 years ago. The objectors state there is not a top coat of tarmac on the development, man hole covers are sitting up causing damage to cars and why should another year be granted to complete the works.

A supporting statement was received from the agent from civil and structural engineers. This email was from the engineers to the agent and stated that TAS approval is required for retention of walls over 1m in height.

Two further objections were received on the 22<sup>nd</sup> February 2022 from Danny and Margaret McStravick and Aidan and Sinead Duffy who live at 3 The Mills Coalisland.

Aidan and Sinead Duffy have lived at The Mills for 12 plus years. The objection from Danny and Margaret McStravick raised the same issues as their initial objection on the 22<sup>nd</sup> October.

An objection was received on the 24<sup>th</sup> February 2022 from Deirdre and Paul Campbell who live at No. 2 The Mills.

An objection was received from a resident of The Mills on the 24<sup>th</sup> February 2022.

All objectors have raised the same issues about potholes, man hole covers, streetlighting and landscaping not maintained. Also, the objectors all state that as the development has not been finished many cannot sell their homes.

In rebuttal, the proposal in this application relates to the visibility splays at the entrance and issues around street lighting and road finishes are DFI Roads issues.

## **Planning History**

LA09/2017/1340/F - Alterations of "The Mills" housing development entrance, Washingbay Road, Coalisland as approved in M/2009/0954/F - The Mills Washingbay Road, Coalisland - Permission Granted 10.06.2021

M/2011/0419/F - Extension of time on condition 1 currently 6 months up to 18 months to allow time for completion of legal documentation prior to works commencing on site - Site entrance serving The Mills Housing Development Washingbay Road Coalisland – Permission Granted 07.12.2011

M/2009/0954/F - Alt. to entrance of existing "The Mills" Housing Development, Washingbay Road, Coalisland to include the demolition and repositioning of existing entrance wall to the left side of development entrance - Site Entrance serving "The Mills" Housing Development, Washingbay Road, Coalisland - Permission Granted 08.02.2011



M/2004/0343/F - Housing Development consisting of 14 no. dwellings and garages including access road - Lands between 16 & 24 Washingbay Road and to the north of 38 Washingbay Road, Coalisland - Permission Granted 18.12.2006

### **Mid Ulster Development Plan 2030 – Draft Plan Strategy**

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

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

The site is within the settlement limit of Coalisland as defined in the Dungannon and South Tyrone Area Plan 2010 so SETT 1 is the relevant policy which applies.

**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.

LA09/2017/1340/F granted approval for alterations to the entrance at The Mills development from what was approved in M/2009/0954/F. Condition 1 stated the visibility splays of 2.4m x 70m in both directions should be provided within 3 months of the date of the decision. This proposal is to extend the 3 months to a 3 year time period. Initially the applicant has stated in the description to vary the condition from 3months to 1 year. In an email received from the agent on the 16 December 2021 it was stated the retaining wall exceeds 1m in height and is within 6m of an adoptable road of footway. The agent had requested 1 year but had had discussions with DFI Roads and stated that TAS approval currently requires 24-36 month period. The senior planner had an on-site meeting on the 7<sup>th</sup> March 2022 with Roads and the agent to discuss the application. It was agreed that the retaining wall at the roadside did not exceed 1m so there is no need for TAS approval. The ground levels on the garden side of the wall can be up to 1m above the footpath side and the ground graded in a 1:2 slope away from the wall. On the 9<sup>th</sup> May 2022 DFI Road responded stating as the applicant has had almost a full year to complete 3 months' work DFI Roads do not recommend the extension of the completion date.

I consider as TAS approval is not needed to move the retaining wall there is no need for a time extension.

The proposal is recommended for refusal.

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

The proposal is recommended for refusal.

<b>Reasons for Refusal:</b>
1. The wall at the entrance to The Mills development is under 1m so there is no reason why the applicant needs 3 years to complete the works as conditioned in LA09/2017/1340/F.
<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> LA09/2021/1330/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed housing development (change of house types to that approved under H/2014/0351/F including reduction in dwelling numbers from 10no semi detached dwellings and 9 no townhouses - total 19 dwellings to 2 no detached dwellings and 16 no semi detached dwellings - total 18 dwellings)	<b>Location:</b> 3 Mullagh Lane Maghera
<b>Referral Route:</b>  To Committee - Approval - Applicant related to a member of staff of the Planning Department.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> JFM Construction Ltd 75 Loughbeg Road Toomebridge BT41 3TS	<b>Agent Name and Address:</b> JE McKernan and Son 12 Cennick Road Gracehill Ballymena BT42 2NH
<b>Executive Summary:</b>  Approval	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Water - Strategic Applications	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
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

To Committee - Approval - Applicant related to a member of staff of the Planning Department.

### Characteristics of the Site and Area

The proposed site is located within the settlement limits of Maghera, it is not located within any designated lands (white land) as per defined in the Magherafelt Area Plan 2015. I note that development limits of Maghera abuts the southern boundary of the site while the other three sides are surrounded by existing residential developments. The site is identified as 3 Mullagh Lane, Maghera wherein on the site sits a detached dwelling with the foundations excavated in the north western corner.

#### Relevant planning history

H/2014/0351/F - Proposed housing development of 10 semi detached houses, 9 townhouses and new site roadway with associated parking (renewal of previously approved permission H/2008/0196/F) - 3 Mullagh Lane, Maghera - Permission Granted - 01/07/15

H/2008/0196/F - Proposed housing development of 10 semi detached houses, 9 townhouses and new site roadway with associated parking - 3 Mullagh Lane, Maghera - Permission Granted - 15/10/09

#### Representations

There were 15 neighbour notification letters sent out however no objections have been received.

### Description of Proposal

This is a proposed full application proposed housing development (change of house types to that approved under H/2014/0351/F including reduction in dwelling numbers from 10no semi detached dwellings and 9 no townhouses - total 19 dwellings to 2 no detached dwellings and 16 no semi detached dwellings - total 18 dwellings), the site is located at 3 Mullagh Lane, Maghera.

### Planning Assessment of Policy and Other Material Considerations

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030 - Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 7: Quality Residential Environment

PPS 3: Access, Movement and Parking

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. The SPPS sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

Policy QD1 of PPS 7 states that planning permission will be granted for new residential development only where it is demonstrated that it will create a quality and sustainable residential environment. It indicates that housing will not be permitted in established residential areas where it would result in unacceptable damage to local character, environmental quality or residential amenity of these areas. I note that a proposal for 'Proposed housing development of 10 semi detached houses, 9 townhouses and new site roadway with associated parking' has already been approved under H/2008/0196/F then renewed under H/2014/0351/F respectively. I note that this proposal is for a change of housetype with a reduction from 19 to 18 houses. Given this I am content that the 18 dwellings are acceptable within the context of the wider setting. I am content that there is no conflict with any features of the archaeological and built heritage, and landscape. I am content that the proposal has provided sufficient amenity space for all properties without the need for public amenity space.

I am content that there is an acceptable movement pattern provided with good transport links in the area, with adequate parking provision provided for each dwelling. I note that there is a variety of housetypes in the near vicinity, where this application has appeared to draw inspiration from the development to the north and the previous approval. With this in mind I am content the proposed designs are acceptable. Furthermore, I am content that the proposed dwellings have been designed to ensure there is no conflict with any neighbouring amenity nor will it give rise to the potential for crime. I am content that the reduced scheme is acceptable in terms of PPS 7.



### A Planning Strategy for Rural Northern Ireland

Policy DES 2 Townscape requires development proposals in towns and villages to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials. When compared to what was previously approved I am content that the development is able to sensitive to the character of the area, wherein it will be read as part of the area.

### PPS 3: Access, Movement and Parking

A consultation was sent to DFI Roads and in their final response confirmed that they had no objections subject to conditions, I am content that the access is acceptable and complies under PPS 3.

A consultation was also sent to NI Water, who confirmed that they had no objections to 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. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

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

### Neighbour Notification Checked

Yes

### Summary of Recommendation:

Approval

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 02/1 bearing the date stamp 11/03/22 shall be carried out in the first planting season following the commencement of the construction of the development hereby approved.

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

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 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.

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 visibility splays of 4.5 metres by 90 metres west and 4.5 metres by 72 metres East at the junction of the proposed access road with the public road, shall be provided in accordance with Drawing No 11 bearing the date stamp 11 March 2022, prior to the commencement of any other works or other development.

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

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

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

1. The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 11 bearing the date stamp 11 March 2022

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

2. No other development hereby permitted shall be occupied until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing No 11 bearing the date stamp 11 March 2022. The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreements under Article 3 (4C) and Article 32.

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

#### 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 Department or other statutory authority. The developer's attention is expressly drawn to the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 which has application to the development hereby granted planning permission.

4. 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 for Infrastructure for which separate permissions and arrangements are required.

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

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

**Signature(s)**

**Date:**



<b>ANNEX</b>	
<b>Date Valid</b>	10th September 2021
<b>Date First Advertised</b>	21st September 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 10 Mullagh Close Ballymartin Down The Owner/Occupier, 10 Mullagh Close, Maghera, Londonderry, BT46 5GA The Owner/Occupier, 10 Mullagh Road, Maghera, Londonderry, BT46 5EB The Owner/Occupier, 11 Gortmore Maghera Londonderry The Owner/Occupier, 12 Gortmore Maghera Londonderry The Owner/Occupier, 13 Gortmore Maghera Londonderry The Owner/Occupier, 14 Gortmore Maghera Londonderry The Owner/Occupier, 15 Gortmore Maghera Londonderry The Owner/Occupier, 19 Mullagh Court Maghera Londonderry The Owner/Occupier, 20 Mullagh Court Maghera Londonderry The Owner/Occupier, 21 Mullagh Court Maghera Londonderry The Owner/Occupier, 22 Mullagh Court Maghera Londonderry The Owner/Occupier, 23 Mullagh Court, Maghera, Londonderry, BT46 5RH The Owner/Occupier, 24 Mullagh Court Maghera Londonderry The Owner/Occupier, 25 Mullagh Court Maghera Londonderry The Owner/Occupier, 25a Mullagh Court Maghera The Owner/Occupier, 26 Mullagh Court Maghera Londonderry The Owner/Occupier, 27 Mullagh Court Maghera Londonderry The Owner/Occupier, 28 Mullagh Court Maghera Londonderry The Owner/Occupier,	

8 Mullagh Close Maghera Londonderry The Owner/Occupier, 8 Mullagh Road, Maghera, Londonderry, BT46 5EB	
<b>Date of Last Neighbour Notification</b>	11th October 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  <p>Ref ID: H/1979/0155          Proposal: LAYOUT OF HOUSING DEVELOPMENT          Address: MULLAGH ROAD, MAGHERA          Decision:          Decision Date:</p> <p>Ref ID: H/2008/0196/F          Proposal: Proposed housing development of 10 No. semi-detached houses, 9 No. townhouses, &amp; new site roadway with associated parking          Address: 3 Mullagh Lane, Maghera          Decision:          Decision Date: 19.10.2009</p> <p>Ref ID: H/1978/0032          Proposal: BUNGALOW          Address: MULLAGH LANE, MAGHERA          Decision:          Decision Date:</p> <p>Ref ID: H/1999/6018          Proposal: DISPOSAL OF SURPLUS LAND CARRICKNAKIELT ROAD/MULLAGH ROAD MAGHERA          Address: CARRICKNAKIELT ROAD/MULLAGH ROAD          Decision:          Decision Date:</p> <p>Ref ID: H/1982/0085          Proposal: SITE OF BUNGALOW          Address: INISCARN ROAD, CULLION, DESERTMARTIN          Decision:          Decision Date:</p> <p>Ref ID: LA09/2021/1330/F          Proposal: Proposed housing development (change of house types to that approved under H/2014/0351/F including reduction in dwelling numbers from 10no semi detached</p>	

dwelling and 9 no townhouses - total 19 dwellings to 2 no detached dwellings and 16 no semi detached dwellings - total 18 dwellings)

Address: 3 Mullagh Lane, Maghera,

Decision:

Decision Date:

Ref ID: H/2014/0351/F

Proposal: Proposed housing development of 10 semi detached houses, 9 townhouses and new site roadway with associated parking (renewal of previously approved permission H/2008/0196/F)

Address: 3 Mullagh Lane, Maghera, BT45 5EF,

Decision: PG

Decision Date: 06.07.2015

Ref ID: H/1978/0023

Proposal: BUNGALOW

Address: TOBERMORE ROAD, DESERTMARTIN

Decision:

Decision Date:

Ref ID: H/2003/0891/O

Proposal: Site of housing development.

Address: Land South of Mullagh Court, Maghera.

Decision:

Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 05  
Type: Housing Concept Plan  
Status: Submitted

Drawing No. 06  
Type: Housing Concept Plan  
Status: Submitted

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

Drawing No. 07  
Type: Housing Concept Plan  
Status: Submitted

Drawing No. 08  
Type: Housing Concept Plan  
Status: Submitted

Drawing No. 03  
Type: Housing Concept Plan  
Status: Submitted

Drawing No. 04  
Type: Housing Concept Plan  
Status: Submitted

Drawing No. 10  
Type: Garage Plans  
Status: Submitted

Drawing No. 09  
Type: Housing Concept Plan  
Status: Submitted

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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> LA09/2021/1444/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage renewal of permission LA09/2016/0556/F	<b>Location:</b> Rear of 3 Loughinsholin Park Castledawson
<b>Referral Route:</b>  Objections received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Mark and Catherine Cooke 3 Loughinsholin Park Castledawson Magherafelt BT45 8DF	<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
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### 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

Two objections have been received. These have been considered within the assessment of this planning application and have been summarised below:

- Concerns relating to an increase in traffic
- Proposed dwelling would be directly in front of No.23 and would result in a loss of privacy.
- The design of the dwelling is not in keeping with the style of dwellings in the area.

### Characteristics of the Site and Area

The site is located within the settlement limit of Castledawson, as defined by the Magherafelt Area Plan 2015. There are no designations on the site.

This site is located within the rear garden of No. 3 Loughinsholin Park, a detached bungalow. Loughinsholin Park is a long established housing development, with a mix of dwelling types. The immediate locality of the site within the housing development is defined by a mix of detached bungalows and 1.5 storey dwellings.

The boundaries of the site are defined by mature vegetation. The boundary between the proposed site and No. 3 is as yet, undefined. A wooden fence also defines the boundary with No. 13 Loughinsholin Park.

### **Description of Proposal**

Proposed dwelling & domestic garage. Renewal of permission LA09/2016/0556/F.

### **Site History:**

H/2011/0183/F- Proposed Dwelling and Garage was previously approved on 5th July 2011

LA09/2016/0556/F- Proposed dwelling and garage renewal of Ref. H/2011/0183/F was approved on 4th October 2016.

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

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

PPS 7 Quality residential environments

PPS 7 Addendum - Safeguarding the character of established residential areas

In accordance with Policy SETT 2 of the Magherafelt Area Plan 2010, favourable consideration will only be given to proposals within the development limit, which are sensitive to the size and character of the settlement in terms of scale, form, design and materials.

The SPPS provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. The SPPS aims to increase housing density in settlements, promote sustainable development and encourage good design. The SPPS also endeavours to promote good quality housing within the settlement limits.

The proposed 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 the buildings. The immediate locality is characterised by primarily detached dwellings. The design of the proposed dwelling is compatible with existing surrounding development. The proposal is compatible with the general housing density of the surrounding area therefore, I consider that this proposal will not contribute to overdevelopment. It is my opinion that the proposed development will not result in damage to the local character or environmental quality of the area. Furthermore, it does not conflict with conservation interests and there are satisfactory arrangements for access, parking and sewage disposal.

The principle of development in this location was previously approved under H/2011/0183/F on 5th July 2011 with a condition of approval being that development should be commenced within 5 years of the date of planning permission. A planning application for renewal of H/2011/0183/F was received on 20th April 2016; before the original application expired. This application was then granted and had conditions attached to renew the timeframe for the commencement of development. This current application for renewal was made within 5 years of the date of approval. It is my opinion that the previous planning approval should be given determining weight in assessing this application. I recommend approval of this planning application, having regard to the local development plan and the other material considerations.

Concerning the objections received, it should be noted that as this is a renewal application the proposal is the same as what was previously approved. As such, the principle of development was established and the design remains the same.

### **Other Policy and Material Considerations**

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

As no plans have been submitted for this application as it is a renewal, planning officers have been instructed to, when dealing with renewal applications without plans the following condition and informative is to be attached

This decision relates to drawing Nos 01, 02, 03, 04, 05 date stamped 20/04/2016 previously approved under application LA09/2016/0556/F

**Neighbour Notification Checked**

**Yes/No**

### **Summary of Recommendation:**

Approval

### **Conditions**

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

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

2. The vehicular access, including visibility splays of 2.0 x 33m to the SW, and Forward Sight Distance of 33m shall be provided, prior to the commencement of any other works or other development hereby permitted.

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

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(s) shall not exceed 8% (1 in 12.5) over the first 5 m 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.

#### Informatives

1. The decision relates to Drawings No.01, 02, 03, 04 and 05 date stamped 20th April 2016 previously approved under application LA09/2016/0556/F.
2. 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.
3. 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.
4. Notwithstanding the terms and conditions of the Mid Ulster District Council 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 Transport NI Section Engineer whose address is Molesworth Plaza, Molesworth Street, Cookstown. A monetary deposit will be required to cover works on the public road.
4. This permission does not alter or extinguish or otherwise effect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands
5. 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.
6. 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.
7. The applicant is advised to contact NIW through its Customer Relations Centre on 08457 440088 or [waterline@niwater.com](mailto:waterline@niwater.com), upon receipt of this consultation to discuss any areas of concern. Application forms and guidance are also available via these means.
8. If during the course of developing the site the developer uncovers a pipe not previously evident, NIW should be notified immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the pipe. Notify NIW Customer Relations Centre on 08458 770002. Details of existing water and sewerage services may be obtained by submitting a Records Request application RR1-A257/A258 available at [www.niwater.com/servicesfordevelopers.asp](http://www.niwater.com/servicesfordevelopers.asp)

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	3rd October 2021
<b>Date First Advertised</b>	19th October 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Loughinsholin Park Castledawson Londonderry The Owner/Occupier, 11 Loughinsholin Park Castledawson Londonderry The Owner/Occupier, 13 Loughinsholin Park Castledawson Londonderry The Owner/Occupier, 15 Loughinsholin Park Castledawson Londonderry The Owner/Occupier, 23 Loughinsholin Park Castledawson Londonderry Z O'Neill 23, Loughinsholin Park, Castledawson, Londonderry, Northern Ireland, BT45 8DF Z O'Neill 23, Loughinsholin Park, Castledawson, Londonderry, Northern Ireland, BT45 8DF The Owner/Occupier, 25 Loughinsholin Park Castledawson Londonderry Stewart 25 Loughinsholin Park, Castledawson, BT45 8DF The Owner/Occupier, 5 Loughinsholin Park Castledawson Londonderry The Owner/Occupier, 7 Loughinsholin Park Castledawson Londonderry The Owner/Occupier, 9 Loughinsholin Park Castledawson Londonderry	
<b>Date of Last Neighbour Notification</b>	29th November 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b> Ref ID: H/1978/0147 Proposal: SITE OF PRIVATE HOUSING Address: MAGHERAFELT ROAD, CASTLEDAWSON Decision: Decision Date:  Ref ID: H/1996/0210 Proposal: EN-SUITE TO EXISTING BEDROOM Address: 3 LOUGHINSHOLIN PARK CASTLEDAWSON Decision:	

Decision Date:

Ref ID: H/2011/0183/F

Proposal: Proposed Dwelling and Garage

Address: Rear of 3 Loughinsholin Park, Castledawson,

Decision:

Decision Date: 07.07.2011

Ref ID: LA09/2021/1444/F

Proposal: Proposed dwelling and garage renewal of permission LA09/2016/0556/F

Address: Rear of 3 Loughinsholin Park, Castledawson,

Decision:

Decision Date:

Ref ID: LA09/2016/0556/F

Proposal: Proposed dwelling and garage renewal of Ref. H/2011/0183/F

Address: Rear of 3 Loughinsholin Park, Castledawson,

Decision: PG

Decision Date: 10.10.2016

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No.

Type:

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> LA09/2021/1474/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed air cooling unit and associated water tank (to optimise biofilter efficiency)	<b>Location:</b> Lands at Northway Mushrooms, 11C Aghnagar Road, Ballygawley
<b>Referral Route:</b> Third party interest on the wider site	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Northway Mushrooms Ltd Unit 10 Bridge Business Park Main Street Blackwatertown BT71 7HL	<b>Agent Name and Address:</b> Clyde Shanks Ltd 7 Exchange Place Belfast BT1 2NA
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	NIEA	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

This application is one of such in response to ongoing enforcement issues at this Northway site and to works carried out in response to a Corrective Notice served by NIEA on odour issues.

The proposal is in part to improve odour imissions on the wider site that has occurred and partly in response to 3rd party objections to unacceptable odour levels experienced on the wider site and neighbouring residential properties.

This application is being presented to Committee Members in tandem with LA09/2021/0141/F.

## Characteristics of the Site and Area

The site is located at Northway Mushrooms, which is accessed off the Aghnagar Road and is approximately 5.5 kilometres north east of Ballygawley. It sits just off and to the north of the old Ballygawley to Dungannon Road and is defined as countryside in the Dungannon & South Tyrone Area Plan (DSTAP). Although located in the rural countryside, the area surrounding the site exhibits a distinct industrial nature due to the presence of economic land uses. The lands to the south of the site were once occupied by Acheson and Glover Concrete Works who have now vacated the site. Further south is Northstone aggregates, and the Sandvik industrial equipment manufacturing business.

This application site measures under 0.01 ha and is a small section to the rear of an existing building. The site is within the existing In Vessel Composting Facility, which currently produces compost for the mushroom growing industry. This is a complex process and relies on several chemical processes and the mixing of different waste types to produce this compost. Straw, chicken litter and gypsum are used to produce the compost. The raw materials in themselves can be quite pungent, and the process to produce the compost can also produce unpleasant smells.

The Aghnagar Road runs just beyond the northern boundary of the factory and is elevated for most part, however it becomes less elevated as you travel to the rear of the factory in an easterly direction along this road. There are a number of dwellings close to the factory boundary along this stretch of the Aghnagar Road and a small stream runs to the east of the factory. The wider factory site itself is quite enclosed in comparison to the immediate surrounding area and this is mainly due to the nature of the surrounding hedgerows and vegetation along the north.

## Planning History

LA09/2021/0141/F - Proposed retention of alterations to in Vessel Composting Facility approved under M/2014/0567/F and LA09/2016/0729/NMC comprising additional bay and vent scoops to bunker building raised platform to tunnel building, bio filter enclosure, de watering plant, storage areas and ancillary plant, tanks, conveyors and ducting – under assessment

LA09/2021/0101/NMC - `Proposed Non Material Change (NMC) application associated with Planning permission M/2014/0567/F (In Vessel Composting Facility (IVCF) comprising of reception building, enclosed tunnels, office , weighbridge/wheel wash, storage compound, access and ancillary site works ) relating to tunnel building- proposed changes include reorientation, addition and removal of windows and doors on two elevations (elevations B and D) alteration of cladding on all elevations and internal alteration of ancillary rooms – Approval -13.04.2022

LA09/2021/0100/F - An application under section 54 of The Planning Act ( N.I.) 2011 to vary the wording of condition No.4 (parking and service areas) of approval M/2014/0567/F for an in vessel composting facility (IVCF) comprising a reception building, enclosed tunnels, office, weighbridge/wheel wash, storage compound, access and ancillary site works - Approval - 08.06.2021

LA09/2019/1633/DC - Discharge of Planning Condition 10 of Planning Application M/2014/0567/F (Development of an In Vessel Composting Facility IVCF) – *ongoing*

LA09/2017/0576/F - Proposed clean rainwater harvested attenuation lagoon, culvert (access) and ancillary site works associated with approved and under construction In Vessel Composting Facility (IVCF) - Approval - 05.09.2017

LA09/2016/0729/NMC - Non material change (NMC) comprising relocating the approved position of the compost tunnel building, relocate and extend the bunker building while relocating - - Approval - 24.06.2016

M/2014/0567/F - Proposed development of an In Vessel Composting Facility (IVCF) comprising a reception building, enclosed tunnels, office, weighbridge/wheel wash, storage compound, access and ancillary site works - Approval - 13.04.2015

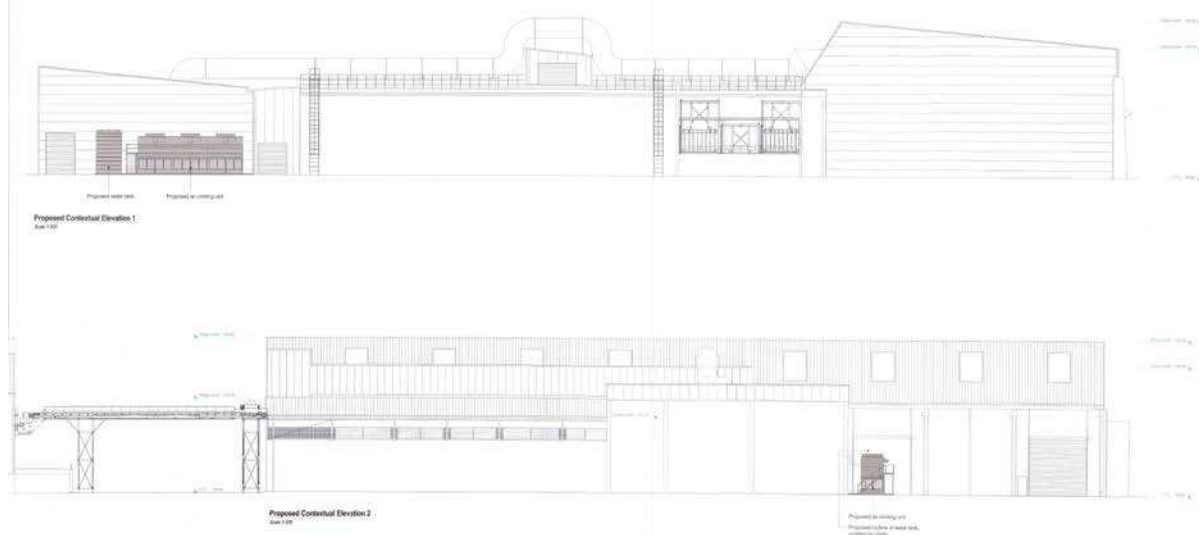
M/2014/0425/PREAPP - Proposed In-Vessel Composting Facility

M/2011/0204/PREAPP - Proposed development of an Integrated Waste Management Facility (IWMF) –

M/2008/0759/F - Proposed manufacturing workshop for building related products - Approval - 09.09.2008

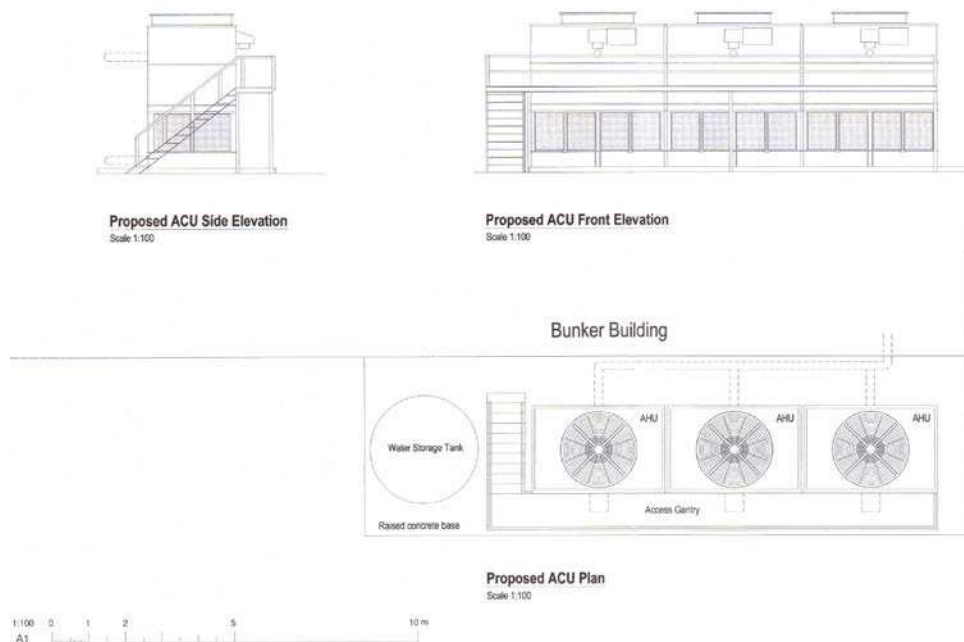
## Description of Proposal

This application seeks full planning permission for a proposed air cooling unit and associated water tank to optimise bio-filter efficiency at Northway Mushrooms, 11C Aghnagar Road, Ballygawley.



This Air Cooling Unit (ACU) was deemed necessary to demonstrate the appropriate odour limits are being complied with as per LA09/2021/0141/F which is currently under assessment. It will increase the retention time within the biofilter, allowing the bacteria within to work at an optimal level to remove odour from the air exhausted from the system.

It will protect the biofilter infrastructure increasing the efficiency of the existing odour control system, prolonging the life of the material within the biofilter while reducing the air pressure.



## Planning Assessment of Policy and Other Material Considerations

It is worth noting the background on this wider Northway Mushrooms site as there are numerous applications and issues surrounding the site are complex. A number of objections and complaints were received by Mid Ulster Council in relation to odour from this facility towards the end of 2020 and early 2021. In response to these complaints an Enforcement Case was opened by the Planning Section of the Council which is currently ongoing. The Environmental Health Department of Mid Ulster Council also opened up their own odour investigation into the site.

Engagement between a number of elected representatives representing objectors, representatives from Mid Ulster Council's Planning and Environmental Health sections, and representatives from NIEA Regulation Unit occurred aiming to resolve the ongoing odour issues at this site. The entire Northway Mushrooms site is regulated by NIEA under a Waste Management License ref WML37/16. Under this authorisation a Compliance Notice was issued on the site operator on 26/02/2021 in relation to odour.

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

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



Strategy closed at 5pm on 24th September 2020 and the period for Counter Representations closed on 18th December 2020. On the 28th May 2021, the Council submitted the draft Plan Strategy to DFI for them to carry out an Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

The Strategic Planning Policy Statement (SPPS) 2015 retains a number of Policy Statements, including PPS 21 Sustainable Development in the Countryside which provides the main policy considerations for this proposal. Policy CTY 1 of PPS 21 determines the range of types of development which in principle, are considered to be acceptable in the countryside and will contribute to the aims of sustainable development. One of these instances is Industry and Business Uses in accordance with PPS 4 Planning and Economic Development.

Policy PED 2 of PPS 4 relates to Economic Development in the Countryside and highlights that proposals for economic development uses in the countryside will be permitted in accordance with Policy PED 3 Expansion of an Established Economic Development Use.

Policy PED 3 outlines that the expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise. Proposals for expansion will normally be expected to be accommodated through the reuse or extension of existing buildings on site. Where it is demonstrated that this is not possible, new buildings may be approved provided they are in proportion to the existing building(s) and will integrate as part of the overall development. Any extension or new building should respect the scale, design and materials of the original buildings on the site and any historic or architectural interest the original property may have. Due to the small scale nature of this proposal and its purpose to increase the efficiency of the biofilter, I am satisfied it complies with the provisions of PED 3.

In addition to that above, Policy PED 9 sets out a list of General Criteria for Economic Development which all development proposals assessed under PPS 4 must comply with: I have no concerns as this proposal is compatible with surrounding land uses and will not harm the amenities of nearby residents, when in fact it should improve their outdoor amenities by reducing odour pollution from the site.

There are no natural or built heritage features close to this site to be impacted in any way by this proposal. The site is not located in an area at flood risk and nor would it cause or exacerbate flooding. There will be no noise nuisance, emission or effluent from this proposal.

The existing road network along with access arrangements, parking and manoeuvring areas will be unaffected by this proposal. As will the movement pattern, existing public rights of way and access to public transport.

The small scale of this development on a large industrial site will integrate into the site easily due to its position at the rear of an existing building and high quality technological design. It will not be conspicuous on the site and existing boundary treatment on site will provide adequate enclosure. I do not feel crime or promote personal safety will be impacted by this development and the materials utilised are suitable on this site.

This application will not create any additional waste to what is currently produced on the wider site. However as compost is deemed waste matter, it is important to look at the provisions of PPS 11 - Planning and Waste Management. I am satisfied this proposal is utilising Best Available Technology (BAT) and Best Available Means (BEM) to ensure the facility falls in line with the policy criteria of policies WMP 1 – Environmental Impact of a Waste Management Facility and WMP 2 – Waste Collection and Treatment Facilities in PPS 11.

### **Consultations and Representations**

NIEA Water Management Unit (WMU) were consulted and considered the impacts this proposal may have on the surface water environment. They have no objections to this proposal.

The Regulation Unit of NIEA have no concerns but advised if this application was approved, the applicant is required to submit an updated Working plan detailing the operation of the unit as part of the odour mitigation measures to the Regulation Unit.

The Environmental Health Department of Mid Ulster Council were consulted and they note that this site and its activities are under the regulation of the Waste Management Unit, in NIEA who have stated this proposal is part of the odour mitigation measures on site.

The supporting information submitted by Irwin Carr outlines that the proposed Air Cooling Unit is required to increase the effectiveness of the biofilter, therefore improving on the current odour control system onsite. Therefore Environmental Health have no objections and request the changes proposed in this application are thus reflected in NIEA's regulation of the Northway complex.

While NIEA have regulatory control of the site including control over odour, Mid Ulster Council would also like to take a joint approach to monitor the ongoing problem of odour at this site. While EHD offer a condition relating to a Working Plan for the site, I think it would be a wise approach to add odour conditions also given the past level of complaint at the site. With these odour conditions, the Council can continue to monitor the situation on the site and seek improvements. This of course will have to be a joint approach with NIEA as they are the regulatory body.

There were no neighbours to be notified about this proposal due to the small scale of the site area within a larger existing site. The application was advertised in the local press as is a statutory requirement and there were no objections received.

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

As the development is within Category 13 (A) of Schedule 2 of the Planning (Environment Impact Assessment) Regulations (NI) 2015 the Council is obliged under Regulation 10(I) of these Regulations to make a determination as to whether the

<p>application is for EIA development. Mid Ulster Council has determined as such that this planning application does not require to be accompanied by an Environmental Statement.</p>	
<p><b>Neighbour Notification Checked</b></p>	<p><b>N/A</b></p>
<p><b>Summary of Recommendation:</b></p> <p>As demonstrated above, a number of planning applications have been submitted on this Northway Mushrooms site in an attempt to regularise unauthorised development on the site that was not granted under previous permissions, and to meet the requirements of the Corrective Notice served by the Regulation Unit of NIEA on this site. As this proposal will optimise and mitigate odour and ammonia emissions within the biofilter onsite, and no objections have been received from consultees or the advertisement process, I recommend this application be granted permission.</p>	
<p><b>Conditions:</b></p> <p>1. This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011.</p> <p>Reason: This is a retrospective application.</p> <p>2. Within 2 weeks of a written request by the Council following a justified complaint from the occupant of a residential dwelling which lawfully exists, the operator of the approved shall, investigate and undertake remedial action immediately to adjust the process or activity to minimise those emissions.</p> <p>Reason: To protect neighbouring property from excessive odour</p> <p>3. Within 4 weeks of the written request outlined in Condition 2, the Council shall be provided with a suitable report detailing actions taken/to be taken and any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 8 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.</p> <p>Reason: To protect neighbouring property from excessive odour.</p> <p>4. The applicant must submit an updated Working Plan detailing the operation of the unit as part of the odour mitigation measures to the Regulation Unit in NIEA within 6 weeks of the date of this notice.</p> <p>Reason: To ensure all works on the site are relevant.</p>	
<p><b>Signature(s)</b></p>	
<p><b>Date:</b></p>	

ANNEX	
<b>Date Valid</b>	7th October 2021
<b>Date First Advertised</b>	19th October 2021
<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>	No
<b>Planning History</b>  Ref ID: M/2014/0567/F Proposal: Proposed development of an In Vessel Composting Facility (IVCF) comprising a reception building, enclosed tunnels, office, weighbridge/wheel wash, storage compound, access and ancillary site works Address: Lands at and to the south of NO 17 Aghnagar Road, Ballygawley, Co Tyrone, Decision: PG Decision Date:  Ref ID: LA09/2019/1633/DC Proposal: Discharge of Planning Condition 10 of Planning Application M/2014/0567/F (Development of an In Vessel Composting Facility IVCF) Address: Lands at & to the south of 17 Aghnagar Road, Ballygawley, Decision: Decision Date:  Ref ID: LA09/2016/0729/NMC Proposal: Non material change (NMC) comprising relocating the approved position of the compost tunnel building, relocate and extend the bunker building while relocating water tanks and amending the internal access road relating to Planning Permission M/2014/0567/O Address: Lands at and South of no 17 Aghnagar Road, Ballygawley, Decision: CG Decision Date:	

Ref ID: LA09/2021/1474/F

Proposal: Proposed air cooling unit and associated water tank (to optimise biofilter efficiency)

Address: Lands at Northway Mushrooms, 11C Aghnagar Road, Ballygawley,

Decision:

Decision Date:

Ref ID: M/2008/0759/F

Proposal: Proposed manufacturing workshop for building related products

Address: 230m east of 38 Aghnagar Road, Ballygawley

Decision:

Decision Date: 09.09.2008

Ref ID: M/2011/0204/PREAPP

Proposal: Proposed development of an Integrated Waste Management Facility (IWMF)

Address: Aghnagar Road, Dungannon,

Decision: EOL

Decision Date:

### **Summary of Consultee Responses**

NIEA - Water Management Unit - no objections.

NIEA - Regulation Unit – no objections, subject to Condition for an updated Working plan detailing the operation of the unit as part of the odour mitigation measures.

Environmental Health Department of Mid Ulster Council - no objections, subject to a condition that the changes proposed in this application are thus reflected in NIEA's regulation of the Northway complex.

### **Drawing Numbers and Title**

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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1487/F	<b>Target Date:</b>
<b>Proposal:</b> Erection of 4 two bed apartments	<b>Location:</b> Between 240 and 246 Mayogall Road Clady Portglenone
<b>Referral Route:</b> Applicant's daughter is Mid Ulster District Council Planning Department Employee.	
<b>Recommendation:</b>	<b>Approval</b>
<b>Applicant Name and Address:</b> JFM Construction Ltd 75 Loughbeg Road Toomebridge	<b>Agent Name and Address:</b> J E Mc Kernans & Son 12 Cennick Road Gracehill Ballymena BT42 2NH
<b>Executive Summary:</b> Proposal considered against prevailing planning policy and all material considerations below. It is considered the proposal complies with the relevant policy and no letters of representation received.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Substantive Response
Non Statutory	Environmental Health	Substantive Response
Non Statutory	NI Water	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 within the settlement limits of Clady village as defined in the Magherafelt Area Plan 2015. The site encompasses a strip of brownfield land to the rear and side of 244-246 Mayogal Road. The buildings immediately to the east have commercial units to the ground floor and residential above. There is a large 2 storey red brick building immediately to the west which appears to be derelict however there is a currently live permission for a light/industrial/manufacturing facility. The surrounding area is urban in character with a mix of land uses including residential, community and commercial services. The ground level within the site falls slightly to the NE. The western boundary is defined by metal security fencing and some mature trees. The roadside boundary is relatively open and the rear/northern boundary is defined by vegetation.

### Description of Proposal

This application seeks full planning permission for the erection 2no. Two storey buildings

each comprising 2no. Two bedroom Flats (four flats in total) located between 240 and 246 Mayogall Road, Clady.

### **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
- PPS 3 - Access, Movement and Parking
- PPS 7 - Quality Residential Environments
- Parking Standards
- Creating Places

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

### **Representations**

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

### **History on Site**

LA09/2017/0037/F - Proposed material change of use of buildings within the site from timber merchants/sales/storage buildings and distribution yard to light/industrial/manufacturing facility (Use Class B2), complete with ancillary office accommodation, car-parking and associated site-works together with replacement external elevational elements including roof finish, windows, doors and provision of feature entrance portico - 238-240 Mayogall Road, Glenone, Clady – Permission Granted 15/05/17

H/2010/0419/RM - Proposed residential development comprising 10 No houses and 7 No apartments with associated site works - 48 Glenone Road, Clady, Portglenone – Permission Granted 08/06/11

H/2004/1172/O - Site of Housing Development - 48 Glenone Road, Clady, Portglenone – Permission Granted 02/06/08

### **Key Policy Considerations/Assessment**



The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. SPPS sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

Magherafelt Area Plan 2015 is the statutory local development plan for the application site. The application site is located within the settlement limits of Clady. The settlement development limit of Clady is designated to provide development opportunities in line with the scale, character and role of this linear settlement, while preventing ribboning and urban sprawl into the surrounding countryside. Plan Policy SETT 2 Development within Development Settlement Limits states favourable consideration will be given to development proposals within settlement limits provided that the proposal:

- is sensitive to the size and character of the settlement in terms of scale, form, design and use of materials;
- is where applicable, in accordance with any key site requirements contained in Part 4 of the Plan.

The proposal site is not subject to any key site requirements. The scale, form, design and use of materials are considered acceptable and are considered in more detail below against the relevant prevailing planning policy.

Planning Policy Statement 7: Quality Residential Environments (PPS 7) is a retained policy document under the SPPS and provides the appropriate policy context. Policy QD 1 of PPS 7 sets out the policy framework under which applications of this nature in an urban setting should be assessed against. The proposal has been considered against all criteria outlined under Policy QD1.

- a) The proposal seeks permission for the erection of two separate buildings on site each accommodating 1no. Ground floor and 1no. First floor flat. The site is within the development limits of Clady with a mix of surrounding land uses. There is residential uses opposite the application site and it is noted the SPPS encourages housing in urban areas is encouraged. The scale, density and design is considered acceptable and in keeping with the character of the area.
- b) No protected archaeological or built heritage features identified have been identified within the site or in close proximity thus it is not considered that the proposal would have a significant impact on any local landscape features of built/archaeological interests.
- c) Due to its town centre location and the restrictions of the site, this proposal has limited areas for communal open space and provision of amenity space is minimal. Drawing 02 indicates a small area to the rear of each building as communal amenity space which equates to approx. 82m<sup>2</sup>. Creating Places minimum requirement states there should be 10m<sup>2</sup> per flat which this proposal complies with.

- d) The proposal site is situated within the settlement limits of Clady thus it is considered there is easy accessibility to local neighbourhood facilities. It is not considered the proposed development would significantly intensify or place unnecessary demands on the existing neighbourhood provisions and amenities within the area.
- e) It is noted that a footpath is located adjacent to the frontage of the application site which will support walking and cycling. The proposal is convenient to public transport and it is considered an acceptable movement pattern is provided in compliance with this criterion. Existing access arrangements are in place and DfI Roads have no objections to the proposal advising the access is to remain private and outside of DfI Roads remit. However DFI Roads have advised the doors to the existing apartment block will open directly onto the proposed private access road which is quite restricted in width and without a pedestrian buffer along the apartment blocks has potential for road safety conflict between vehicles and pedestrians along the private access road. This was considered at internal group and given that vehicular access is currently available and this is the current current width of access that pedestrians exiting the apartments are accessing on to this private access, this does create a greater road safety to warrant refusal.
- f) DFI Roads were consulted and have offered no objections. It is noted 6no. Vehicle spaces have been provided which accords with Parking Standards requirements.
- g) The proposed design is considered to be sympathetic to the existing built form and surrounding area. The proposed finish is external red brick which is in keeping with the large red brick building immediately to the west. I do not consider the proposed massing or detailing would negatively impact the surrounding character.
- h) The proposal is residential in nature, it is not considered the proposal will conflict with adjacent land uses. Environmental Health have been consulted and notes the site is overgrown and heavily littered with beer cans/bottles, tins and various other miscellaneous items and there is evidence of burnt material remains on site which may be attributable to previous anti-social behaviour. However, they have raised no concerns subject to informatives. It is noted that the proposal is located within an existing urban area and policy states few households can claim not to be overlooked to some degree. It is not considered that the proposal would give rise to unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light or overshadowing to warrant refusal. All flats are self-contained and sufficient bin storage has been provided. I have not identified any issues of noise, nuisance or general disturbance of existing or proposed amenity as a result of this proposal.
- i) I have no significant concerns in terms of crime or health and safety with respect the proposed design.

All proposed flats include windows to the front elevations which face onto the public road. Flat 1, 2 and 4 are accessed via the main door onto High Street, Apartment 3 and 5 are accessed to the rear of the property but each have their own private access.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

Having considered all relevant prevailing planning policy, the proposal is recommended for approval subject to the conditions below.

**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 northeast and west boundaries 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: In the interests of visual amenity.

3. If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of completion of the development it shall be replaced within the next planting season by another tree or trees in the same location of a species and size as specified by the Council.

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

**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.
4. The applicant's attention is drawn to Historic Environment Division Consultation Response dated 28<sup>th</sup> October 2020.

5. The applicant's attention is drawn to NI Water Consultation Response dated 19<sup>th</sup> November 2020.

**Signature(s)**

**Date:**



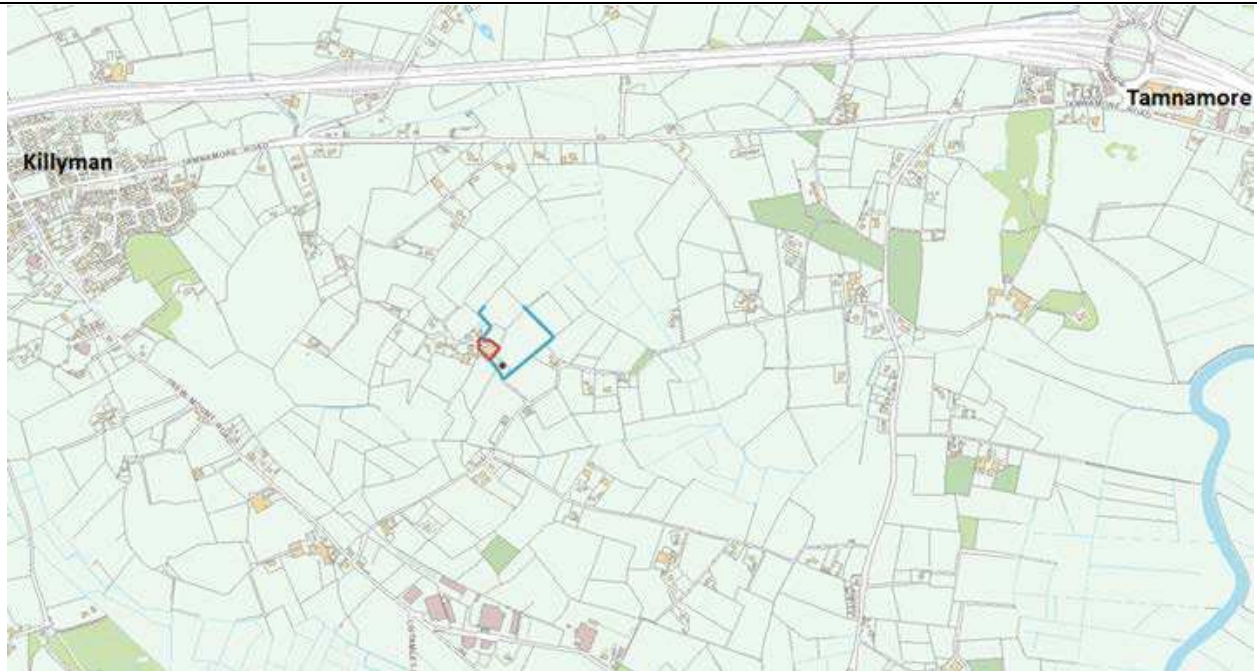
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1564/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of farm buildings & animal feed bin.	<b>Location:</b> 37m NW of 21 Dumard Cross Roads Dungannon Co Tyrone BT71 6RP.
<b>Referral Route:</b> Objection received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> J H Bradley 21 Drumard Cross Roads Dungannon BT71 6RP	<b>Agent Name and Address:</b> Holmes and Doran Ltd 1st Floor The Old Savings Bank 1 Victoria Street Armagh BT61 9DS
<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
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NIEA	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NIEA	No Objection

### Representations:

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

### Summary of Issues

-The underground slatted house and proximity to house causing severe noise, odour pollution as well as nuisance from insects

- The road usage caused by increased activity
- The location of the meal bin and proximity to neighbouring dwellings.

### Characteristics of the Site and Area

The site lies in the open countryside to the SE of the settlement limits of Killyman and the SW of the settlement limits of Tamnamore. In addition it lies outside all other areas of constraint as depicted by the Dungannon and South Tyrone Area Plan 2010.

The site is situated just north west of number 21 Drumard Cross roads, Dungannon. The red line constitutes a farm holding including a number of sheds, silos, barns a meal bin, yard area and a small triangular field. The application relates to the meal bin along the roadside to the south and the slotted cattle shed to the north of the site.



The site has non associated dwellings to the immediate north and west as well as the applicants own house to the south.

### Description of Proposal

The proposal seeks full planning permission for the retention of a farm building and animal field bin.



### **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

DSTAP 2010

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 21: Sustainable Development in the Countryside

### **Mid Ulster Development Plan 2030 - Draft Plan Strategy**

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

### **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, there is one objection from the neighbouring dwelling at number 25 Drumard Cross roads.

The objectors main concerns include:

- The underground slatted house and proximity to house causing severe noise, odour pollution as well as nuisance from insects
- The road usage caused by increased activity
- The location of the meal bin and proximity to neighbouring dwellings.

### **Consideration of representation.**

-The current slatted cattle shed is the main area of concern for the objector and at site visit it was evident that there was significant detrimental impact on the residential amenity of the dwelling at number 25. The applicant has subsequently amended the application to fill in the slatted house and use for the storage of farm machinery. It will be conditioned that housing of animals will be prohibited.

-The farm is currently active and in full use, the retention of these sheds will not unduly affect road usage. DFI Roads were consulted with no concerns subject to conditions.

-The meal bin is located along the roadside for ease of access for both filling and for day to day usage. In addition there had previously been a meal bin in a similar location. It is my opinion that this location does not cause a significant impact on the residential amenity, EHO were consulted and did not raise any concerns.

### **History on Site**

LA09/2020/0188/CA - Alleged erection of a farm shed (including underground slurry tank), two milking parlours and a meal storage bin - 21 Drumard Cross Road, Dungannon, Tyrone, BT71 6RP Current.

### **Key Policy Considerations/Assessment**

Dungannon and South Tyrone 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**, advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained. 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.

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

PPS21 is the overarching policy for development in the countryside. Policy CTY 12 Agricultural and Forestry Development states that planning permission will be granted for development on an active and established agricultural or forestry holding where the proposal satisfies all the stated criteria. Therefore it is necessary to first consider if the farm business is both active and if it has been established for more than the required period of 6 years. The farm is currently active and has been established for the required time, the historical orthos dating back to 2004 show the farm buildings in situ. The latest ortho from February 2019 show the new shed and the meal bin on site and the historical ortho from December 2016 show this development was not constructed at that point.

Subsequently it is necessary to assess the proposal against each of the policy tests as follows:-

-The proposed development is necessary for the businesses efficient use;

This is a retrospective planning application and on the date of the site inspection it was noted that the shed appeared to be agricultural purposes namely housing animals as well as storing some farm machinery. The application originally sought planning permission for a meal bin, a dairy and a slatted cattle house. Upon site inspection and after consultation with EHO it was clear that the proximity of the slatted cattle shed less than 10 metres from the objectors dwelling was not acceptable. The objector provided numerous photos and videos detailing the noise levels of mixing the tank as well as flies and other insects covering windows and doors of their property. At the time of site visit I visited the objectors property and experienced high levels of odour and flies as well as other insects. Upon discussions with the agent the application has been amended to change the slatted animal shed to a farm machinery storage shed. This was seen as a compromise to allow the main body of the shed to remain, however the use will be strictly conditioned to the storage of farm machinery only and restrict any housing of farm animals.



It is the applicants responsibility to adhere to all planning conditions and should the applicant be found to breach this planning condition, this will be a matter for the planning enforcement team.

-In terms of character and scale it is appropriate to its location;

The surrounding area is rural in character. This shed, dairy and meal bin are typical of an agricultural buildings in terms of its design, size, scale and materials and considered appropriate to its location.



-It visually integrates into the local landscape and additional landscaping is provided as necessary;

It is considered the proposed agricultural buildings and bin by their nature (including design, size, scale and materials) integrates onto the site and into the surrounding landscape without detriment to the character of the area. Given the location within the main cluster of the existing farm yard the proposed will fit in unobtrusively. The application site is at ground level and is clustered with existing farm buildings therefore additional landscaping is not considered necessary in this instance.

-It will not have an adverse impact on the natural or built heritage; and

No built or natural heritage interests have been identified on or in close proximity of the site have been identified which may to be impacted by this proposal.

-It will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution.

There are a number of third party occupied dwellings in close proximity to the proposal site which would be impacted by the original proposal. Given the changes to the proposal the main concerns surrounding the nuisances caused to the neighbours from a slatted house have been greatly reduced by replacing with a farm building for the storage of machinery, I am content that it will not result in a significant detrimental impact on residential amenity.

In cases where a new building is proposed, as is the case here, applicants will also need to provide sufficient information to confirm all of the following:

The applicant has no buildings on the holding that can be used;

I am content, based on the supporting statement and personal site inspection, that the other buildings on the applicants farm holding are at capacity and the proposed shed are necessary for secure storage of machinery.

The design and materials to be used are sympathetic to the locality and adjacent buildings; and The design and materials are typical of an agricultural shed and are considered acceptable to its rural setting.

The proposal is sited alongside existing farm buildings.

The proposed shed is sited beside the existing buildings on the applicant's farm holding.

I am content that this proposal complies with SPPS and PPS 21, including Policy CTY 13 and 14 as detailed below.

**Policy CTY 13** Integration and Design of Buildings in the Countryside and **Policy CTY 14** Rural Character of PPS 21 are also 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. It is considered the design and materials are traditional to farm buildings and are acceptable in that respect. Whilst the size and scale is considered large, the siting is acceptable and integrates into the locality without detrimental impact.

**Planning Policy Statement 3** (PPS 3 Revised Feb 2005) -The application site is accessed onto Drumard Cross Road via the existing access. DfI Roads have been consulted and have no objection subject to standard conditions. I am content the proposal meets DfI Roads requirements and PPS3 Access, Movement and Parking.

Recommendation Approval

**Neighbour Notification Checked**

**Yes**

### Conditions

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

Reason: This is a retrospective application.

2. The building identified as 'Machinery/farm storage' on drawing No. 1A, date stamped 16 MAR 2022 hereby approved, shall be used for agricultural storage purposes only. not for the housing of any animals.

Reason; To prevent an unacceptable use within this site.

3. Prior to commencement of the development hereby permitted, visibility splays of 2m x 33m shall be provided in accordance with the approved Drawing No.2 bearing the date stamp 31 JAN 2022, or as may otherwise be agreed in writing with the Council. The area within the visibility splays shall be cleared of all obstructions to a height of 250mm above the adjacent carriage and be permanently retained 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 gradient of the access 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.

5. The 'Machinery / farm storage' building hereby approved shall be filled to finished floor level with ....., this works shall be carried out within 8 weeks from the date of this decision notice.

Reason; In the interests of neighbouring residential 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. 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 for Infrastructure for which separate permissions and arrangements are required.

Notwithstanding the terms and conditions of the Councils 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 Infrastructures 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 Roads Service Section Engineer whose address is Main Street, Moygashel, Dungannon. A monetary deposit will be required to cover works on the public road.

Provision shall be made to the satisfaction of DFI Roads Service, to ensure that surface water does not flow from the site onto the public road.

Provision shall be made to the satisfaction of DFI Roads Service, to accommodate the existing roadside drainage and to ensure that surface water does not flow from the public road onto the site.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	28th October 2021
<b>Date First Advertised</b>	9th November 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 21 Drumard Cross Road,Dungannon,Tyrone,BT71 6RP The Owner/Occupier, 23 Drumard Cross Road Dungannon Tyrone Louise Bradley 25 Drumard Cross Road,Dungannon,Tyrone,BT71 6RP The Owner/Occupier, 29 Drumard Cross Road Dungannon Tyrone	
<b>Date of Last Neighbour Notification</b>	18th November 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2021/1564/F Proposal: Retention of farm buildings & animal feed bin. Address: 37m NW of 21 Dumard Cross Roads, Dungannon, Co Tyrone BT71 6RP.,  Ref ID: LA09/2018/0878/F Proposal: Dwelling and garage and associated site works. Address: 30m South West of 21 Drumard Cross Road, Killyman, Co Tyrone., Decision: PG Decision Date: 05.10.2018  Ref ID: M/1990/0328 Proposal: Farm Dwelling Address: 70M SOUTH EAST OF NO 23 DRUMARD CROSS ROADS DRUMARD CROSS DUNGANNON	
<b>Drawing Numbers and Title</b>	
Drawing No.2 Type: Status: Submitted  Drawing No. 01A Type: Site Location Plan Status: Submitted	

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



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

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

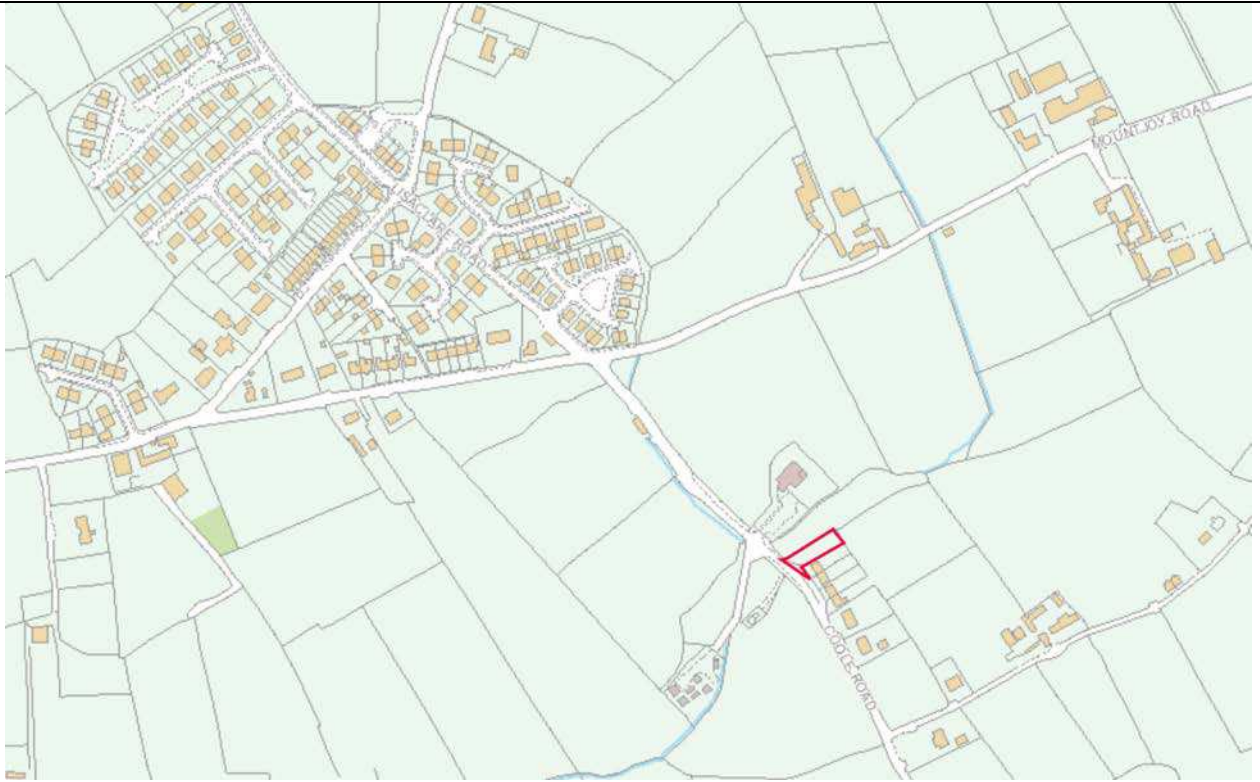
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1671/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed infill site for dwelling and garage	<b>Location:</b> Site adjacent to 1 Coole Cottages Coole Road Coalisland
<b>Referral Route: Approval contrary to NI Water</b>	
<b>Recommendation: Approve</b>	
<b>Applicant Name and Address:</b> Mr Martin Gordon 96 Mountjoy Road Coalisland	<b>Agent Name and Address:</b> McKeown and Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
<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	NI Water - Single Units West - Planning Consultations	Advice
Non Statutory	DETI - Geological Survey (NI)	No Objection
<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>Description of Proposal</b> This is an outline planning application for an infill dwelling and garage to be located on lands adjacent to 1 Coole Cottages Coole Road Coalisland.		
<b>Characteristics of the Site and Area</b> The site is located in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan, approx. 250m southeast of Killeen.  The site is a narrow rectangular shaped plot comprising the side / rear garden of no. 1 Coole Cottage, a semi-detached dwelling. No. 1 Coole Cottage is one of 4 modest single storey semis (2 pairs) running along, fronting over and accessed off the Coole Road via a small slip road. The side / rear garden of no. 1 Coole Cottage is enclosed on all sides, screened from neighbouring properties and the Coole Road, by a mix of mature trees and hedgerow vegetation. Hence, a mix of mature trees and hedgerow vegetation bound the site on all sides with the exception of the southeast boundary, which is open unto the host properties curtilage. The land within the site falls gradually from southeast to northwest t  The site sits within a line of existing roadside development consisting of a nursery school and 6 dwellings with ancillary outbuildings/garages extending along the northeast side of Coole Rd. The properties in this line all accessed directly off the road from northwest to southeast, include (1) no. 4 Coole Rd, 'Little Flower Nursery School'; (2, 3, 4 & 5) nos. 1-4 Coole Cottages, the aforementioned 4 semis; (6 &7) nos. 10 & 12 Coole Rd, 2 detached roadside bungalows. The site is located within the existing line of development between Little Flower Nursery School, located a narrow field to the northwest and nos. no. 1 Coole Cottages located immediately to the		

southeast. Nos. 2-4 Coole Cottages and nos. 10 & 12 Coole Rd extend further southeast, in that order.

Critical views of this site are limited until just before and passing along the roadside frontage of site due to its location within an existing line of development, which alongside existing vegetation on site and within the wider vicinity screens it.

Whilst the wider area surrounding the site is predominantly rural in nature characterised by agricultural land interspersed with detached dwellings, ancillary buildings and farm holdings the immediate area has come under some development pressure in recent times. As detailed above a line of development has formed to the northeast side of Coole Road and a sewage works exists to the southwest.

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 15 (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. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

### **History on Site**

M/2004/1829/O - 4 No Semi-detached Houses - 1 Coole Cottages & in adjacent land, Coole Rd Coalisland - Withdrawn April 2005

### **Consultees**

1. DfI Roads were consulted in relation to access arrangements and have raised no

objections to this proposal, subject to standard conditions and informatives. Accordingly, subject to these conditions and informatives I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

2. DETI Geological Survey of Northern Ireland (GSNI) were consulted as the site is located within an area of constraint on abandoned mines – GSNI responded that having assessed the above planning proposal in view of stability issues relating to abandoned mine workings. A search of the GSNI's "Shafts and Adits Database" indicates that the proposed site is not in an area of abandoned mines.
3. NI Water Single Units West were consulted and advised that there is insufficient waste water treatment capacity at present to service the proposed development. They also advised this application be refused as the proposed development may experience nuisance due to its proximity to the operations of the existing Wastewater Treatment Works (WWTW). Before NI Water would be prepared to recommend approval of this application confirmation the requirements of PPS11, particularly Policy WM5, can be satisfied. As the site is located wholly or partially within the WWTW 400m odour consultation zone boundary an Odour Encroachment Assessment is required to determine the compatibility of these proposals with the existing operation of the Wastewater Treatment Works. Depending on circumstances this may also require the procurement of an Odour Dispersion Model to NI Water specification.

In relation to NI Water's advice above the agent advised the applicant intends to use a private package treatment plant to address the capacity issue raised. I am content an indicative block plan submitted shows it can be sited within the site an adequate distance from the proposed dwelling and neighbouring properties and be dealt with under separate legislation to Planning and require a consent to discharge application. In relation to NI Water advising the proposed development be refused as it may experience nuisance due to its proximity to the operations of the WWTW's and additional information requested I consulted informally with Mid Ulster's Environmental Health Department. Environmental Health advised NI Water's request was excessive given the small scale nature of the WWTW's, it is not like Dungannon for example, and given there are other dwellings in the vicinity as close if not closer. Environmental Health considered it reasonable in this instance to attach an informative to any subsequent

decision notice making the developer / potential purchaser aware they may experience nuisance due to its proximity to the operations of the existing Wastewater Treatment Works (WWTW) including odour. Accordingly, I am content this proposal in the vicinity of existing WWTWs should not prejudice or unduly restrict activities permitted to be carried out within the waste management facility and not give rise to unacceptable adverse impacts in terms of people, transportation systems or the environment in accordance with Policy WM 5 of PPS11.

### **Consideration**

Dungannon and South Tyrone Plan 2010 – the site lies in the rural countryside outside any designated settlement limit.

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 are listed in Policy CTY1 of PPS21 - Development in the Countryside. It is my opinion the current proposal falls under one of these instances, the development of a small gap site in accordance with Policy CTY8 - Ribbon Development.

Policy CTY8 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 built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

I consider this application in principle acceptable under CTY8. It is my opinion that the current site constitutes a small gap site within an otherwise substantial and continuously built up frontage as it is located within a line of at least 3 buildings. The buildings include (1) no. 4 Coole Rd, 'Little Flower Nursery School'; (2, 3, 4 & 5) nos. 1-4 Coole Cottages, the aforementioned 4 semis; (6 & 7) nos. 10 & 12 Coole Rd, 2 detached roadside bungalows.

The site is located within the existing line of development between Little Flower Nursery School, located a narrow field to the northwest and nos. no. 1 Coole Cottages located immediately to the southeast. Nos. 2-4 Coole Cottages and nos. 10 & 12 Coole Rd extend further southeast, in that order, as detailed above in, 'Characteristics of the Site and Area.' I believe a dwelling and ancillary garage of an appropriate size, scale and design with a ridge height no greater than 6m similar to neighbouring properties including the nursey, should integrate onto this gap site with minimal disruption to the rural character of the area. Critical views of a dwelling and garage on this site will be limited until just before and passing along the roadside frontage of site (see 'Characteristics of the Site and Area' further above) whereby it would read within this existing line of development.

As this is an outline application, the details of the siting, size, scale and design of the dwelling and garage can be considered further under any subsequent reserved matter application. I believe a suitably designed scheme should not have any unreasonable impact on the neighbouring properties in terms of overlooking or overshadowing. Whilst this site will remove a substantial portion of the host property no. 1 Coole Cottages curtilage, I am content that sufficient space similar to nos. 2-4 Coole Cottages will be retained for recreational and domestic purposes including the parking and manoeuvring of vehicles shown on the indicative layout submitted.

### **Additional considerations**

Whilst Strategic Flood Maps NI indicate potential for a small amount of surface water flooding along part of the northwest boundary of the site this is along an existing hedge line which will be conditioned to be retained and would not prevent the remainder of the site being developed for a dwelling. I consider it reasonable to attach an informative to any subsequent decision notice to make the developer aware there is potential for a small amount of surface water flooding along part of the northwest boundary of the site.

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

The proposal will be conditioned to be under the 10.7m / 15.2m height threshold in this area requiring consultation to Defence Estates relating to Met Office - Radar. Additionally, the site is located within an area of constraint on wind turbines, however this proposal is for a dwelling and garage.

**Recommendation:** Approve

**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. Full particulars and detailed plans 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 no greater than 6m above finished floor level.

Reason: In the interest of visual amenity.

5. The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.35 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: In the interest of visual amenity.

7. The existing tree and hedgerows along the boundaries of the site as indicated in yellow on drawing no. 01(Rev.01) bearing the date stamp received 12 APR 2022 shall be retained intact and no lopping, topping, felling or removal shall be carried out without prior consent in writing to the Council.

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

8. A landscaping scheme shall be submitted simultaneously with the detailed drawings for the development hereby approved at the Reserved Matters stage. The scheme shall include a native species hedgerow to be planted to the rear of the visibility splays. 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 and residential amenity.

9. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1 and shall include sight splays of 2m x 33m in both directions onto the public road and a forward sight distance of 33m. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved and 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.

#### Informatives

1. Strategic Flood Maps indicate there is potential for surface water flooding along part of the northwest boundary of the site. Levels should not be raised within the area as it could impact on other development. It is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
4. 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. 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.
6. Please see DETI - Geological Survey (NI) consultation response dated and scanned to the planning portal on the 15<sup>th</sup> December 2021 for information purposes.
7. Please see NI Water-Single Units West consultation response dated and scanned to the planning portal on the 4<sup>th</sup> January 2022 for information purposes, including that:

The site is located in close proximity to an existing Wastewater Treatment Works (WWTW's) as such on occasions the occupier of the dwelling hereby approved may experience associated nuisance such as odour.



<b>Signature(s)</b>
<b>Date:</b>



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> LA09/2021/1684/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed portal framed shed for the dry storage of aggregate and the secure storage of the plant and equipment.	<b>Location:</b> Hamilton Aggregates 190m South of 60 Knockaleery Road Cookstown
<b>Referral Route:</b> The agent is an employee of Mid Ulster District Council	
<b>Recommendation:</b>	<b>Approval</b>
<b>Applicant Name and Address:</b> Hamilton Aggregates 47 Shivey Road Cookstown BT80 9HB	<b>Agent Name and Address:</b> PDC Chartered Surveyors 51 Tullyreavy Road Cookstown BT70 3JJ
<b>Executive Summary:</b> Proposal complies with relevant prevailing planning policy. No letters of representation received.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	NIEA	Content
Statutory	Rivers Agency	Advice
Non Statutory	Environmental Health	Substantive Response

### 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 site is located in the rural countryside, outside any settlement limits defined within the Cookstown Area Plan 2010. It is located approximately 7km west of Cookstown settlement. The site is located at Hamilton Aggregates on Knockaleery Road, Cookstown. It is located within an existing Quarry and seeks to utilise the existing access off a minor road. It sits on lower ground, in a natural basin, within the Quarry. The land is predominately rural in nature with an undulating landscape. The site is located in close proximity to a former landfill site and there are dispersed dwellings in proximity to the Quarry.

### Description of Proposal

This application seeks full planning permission for a portal framed shed to be used for the dry storage of aggregate and the secure storage of the plant and equipment located at Hamilton Aggregates, 190m South of 60 Knockaleery Road, Cookstown.

### **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 21: Sustainable Development in the Countryside
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 4: Planning and Economic Development
- A Planning Strategy for Rural Northern Ireland

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

### **Representations**

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

### **History on Site**

LA09/2021/0084/PAD – Proposed portal framed building to store aggregates plant and equipment in existing gravel pit - 60 Knockleery Road, Magheraglass, Cookstown – PAD Accepted

I/1995/0452 - Proposed sand and gravel pit – Adjacent to 60 Knockleery Road, Magheraglass, Cookstown

LA09/2020/1204/PAD -Potential commercial/industry or housing - Sand and Gravel Pit, Knockaleery Road, Cookstown, BT80 9EH - PAD Accepted

### **Key Policy Considerations/Assessment**

Cookstown Area Plan 2015 – 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 states that the guiding principle for policies and proposals for economic development in the countryside is to facilitate proposals likely to benefit the rural economy and support rural communities,

while protecting or enhancing rural character and the environment, consistent with strategic policy elsewhere in the SPPS. 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. SPPS does not introduce any new policy considerations which would impact on the assessment of this proposal, as such existing policy will be applied.

Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) is a retained policy document under SPPS and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. Policy CTY 1 of PPS 21 notes planning permission will be granted for mineral development in the countryside in accordance with the MIN policies of the Planning Strategy for Rural Northern Ireland. Industry and Business uses in the countryside that are in accordance with policies contained within PPS4- Planning and Economic Development.

PPS4 Economic Development Policy PED 2 provides circumstances where economic development is considered to be acceptable in the countryside. This includes expansion of an established economic development use if they meet the criteria set out in PED 3. Policy PED 3 states that expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise. Whilst the proposed shed has a floor space of approx. 900m<sup>2</sup>, I consider the new building is proportionate in scale to the existing operations within the quarry development and the proposal can be integrated within the overall site. The proposed development does not involve a major increase in the site area. It is not considered the proposal will result in a negative impact on visual amenity and is compatible with the existing land use. Given the topography and set back from the public road, it is considered the proposal will not harm rural character. The scale, nature and design is considered appropriate to the location and overall the proposal is considered to comply with Policy PED3.

Policy PED 9 General Criteria for Economic Development Proposals states economic development proposal are also required to meet criteria A – M. The proposed development is compatible with the existing industrial use on the site. The proposal does not affect features of identified natural or built heritage significance. It is noted that the site is located within an area of predicted pluvial flooding flood risk however as the proposal is under 1000m<sup>2</sup> a drainage assessment is not required as per PPS15 FLD3. Rivers Agency were consulted and did not raise any other flood risk concerns advising the developer should still be advised to carry out their own assessment of flood risk and construct in the appropriate manner that minimises flood risk to the proposed development and elsewhere. It is considered there is adequate separation distance between the proposed building and existing residential dwellings. Environmental Health were consulted and have not raised any concerns subject to a condition restricting the use to storage only, I consider this is appropriate and will be included on any forthcoming planning approval. The P1 Form does not indicate an increase in traffic visiting the site and I am content there are no issues of intensification. It is noted Drawing 02 indicated formalised parking of 5no. lorry spaces and 6no. car parking spaces. DFI Roads were consulted and have raised no concerns subject to conditions and informatives and in light of this I am content the proposal satisfies PPS3 and will not prejudice road safety. There is existing natural screening along the roadside and given

the land drops from the public road within the site, it is considered the proposed building will integrate into the existing landscape.

Planning Strategy for Rural Northern Ireland - As the proposal is ancillary development to an existing Quarry, the application falls to be considered against the MIN policies of the PSRNI. Given the application seeks permission for a storage building in conjunction with the Quarry, only policies MIN 6 and MIN 7 are applicable for this type of application. Policy MIN 6 focuses on the safety and amenity of neighbouring properties. The nearest 3rd party residential property is approximately 290m from the proposed development. As stated previously, Environmental Health were consulted and have no objections to the proposal. The proposal is for storage use only and will be conditioned as such. It is not considered the proposal will have an unacceptable impact on neighbouring properties in terms of amenity and safety. The design, scale, finishes and siting of the building are appropriate to its location. The shed has a footprint of approx. 900m.sq. There will be isolated views of the proposal when travelling westerly along Knockaleery Road, however given the topography and existing vegetation I do not consider the shed will have a negative impact upon the local landscape. Policy MIN 7 takes into consideration the safety and convenience of road users and the amenity of persons living in close proximity to the proposed site. Following consultation with DFI Roads, they have responded with no objections to the proposal. The proposed shed is for storage of aggregate, plant and equipment therefore intensification of vehicular traffic is not envisioned. I do not consider the proposal represents an intensification of use and consider the proposal is in compliance with policies MIN 7 and PPS 3.

PPS21 Sustainable Development in the Open Countryside Policy CTY 13 Integration and Design of Buildings in the Countryside and Policy CTY 14 Rural character assess the impact the proposal will have on the rural area by reason of design, siting, integration, landscaping and overall rural character of the local area. I am content that the rural character or appearance of the local area will not be adversely harmed. There will be limited visual impact due to the location of proposed building set back from the public road at a lower ground level and the presence of vegetation providing screening along the roadside. The proposed finishes and design are considered acceptable. In summary it is unlikely the rural character of this area will be eroded as a result of the proposal.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

Having considered the above, it is considered the proposal meets the relevant policy provisions and as such it is recommended planning permission is granted subject to the conditions below.

**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 development hereby approved shall be used only for the purposes specified in Class B4 – Storage Use, as defined in the Planning (Use Classes) Order (NI) 2015.

Reason: To prohibit a change to an unacceptable use within the rural area and protect residential amenity.

3. The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 02 bearing the date stamp 24/11/2021 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

### **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.
4. Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.
5. If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.
6. Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

7. Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.
8. Under the terms of Schedule 6 of the Drainage (Northern Ireland) Order 1973 the applicant must submit to DfI Rivers, for its consent for any proposal to carry out works which might affect a watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc. Failure to obtain such consent prior to carrying out such proposals is an offence under the aforementioned Order which may lead to prosecution or statutory action as provided for.
9. The Flood Hazard Map (NI) indicates that portions of the site lie within an area of predicted pluvial flooding. Therefore, the developer is advised to carry out their own assessment of flood risk and construct in the appropriate manner that minimises flood risk to the proposed development and elsewhere.
10. The applicant is advised to ensure that all plant and equipment used in connection with the development is so situated, operated and maintained as to prevent the transmission of noise & odour to nearby premises.
11. 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.
12. 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:**





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> LA09/2021/1737/O	<b>Target Date:</b>
<b>Proposal:</b> Rear offsite replacement dwelling and garage with retention of existing dwelling as domestic store ( previously approved under LA09/2018/0076/O).	<b>Location:</b> 163 Davagh Road Sixtowns Draperstown.
<b>Referral Route:</b>  To Committee - Approval - Applicant is related to a member of staff in the Planning Department.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mr F Quinn 5b Gortnaskea Road Draperstown BT45 5JX	<b>Agent Name and Address:</b>
<b>Executive Summary:</b>  Approve	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Advice
Non Statutory	NIEA	Substantive Response Received
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

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

### Characteristics of the Site and Area

This application is for an offsite replacement for a dwelling and domestic garage located at No. 163 Davagh Road, Sixtowns- Draperstown. The area is prominently hilly upland with vast areas of woodland and farms. The site consists of an elongated single storey former dwelling house attached to outbuildings with a projected front porch. The building is roadside and faces onto the Davagh Road, which is minor road. The application site relates to an offsite replacement dwelling with domestic garage situated at No. 163 Davagh Road, Sixtowns- Draperstown. Accessed point of the site is from the Davagh road, which is set back approx. 5 metres from the road edge. The site is located within a restricted confines where the topography to the rear of the building falls away in a north easterly direction. Boundaries comprise mature trees (Scotch pine) and other thick low level vegetation on the north east; post and wire fencing and sporadic vegetation

on the south-east. Part of the front is defined by a line of mature trees. The surrounding landform is one of undulating countryside and the land falls North West from Davagh Road. Immediately opposite the application site is a small outbuilding located to the south. Further east at No 156 is a modern dwelling with a series of farm outbuildings. There is mature and extensive vegetation between the proposed site and No 165 Davagh Road.

The area falls within an AONB (Area of outstanding Natural Beauty) as depicted in the Magherafelt Area Plan 2015 and located close to a registered Archaeological site and Monument.

#### Representations

No third party representations have been received in connection with this application.

#### Relevant Planning History

LA09/2018/0076/O - Rear offsite replacement dwelling and garage - 163 Davagh Road, Sixtowns, Draperstown - Permission Granted - 03.10.2018

### Description of Proposal

This is an outline application for a rear offsite replacement dwelling and garage with retention of existing dwelling as domestic store (previously approved under LA09/2018/0076/O), the site is located 163 Davagh Road, Sixtowns, Draperstown.

### Planning Assessment of Policy and Other Material Considerations

The key planning issues are as stated below and following policies/advice have been included in this assessment:

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan 2015

PPS 1 - General Principles

PPS 3 - Access, Movement and Parking

PPS 21 - Sustainable Development in the Countryside

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

CTY 1 - Development in the Countryside

CTY 3 - Replacement Dwellings

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 are acceptable in the countryside. In this instance the application is for a replacement dwelling and as a result it must be considered under CTY 3 of PPS 21. I note that a previous approval for the same thing is on the site and whilst I acknowledge that it has expired for a Reserved Matters to be submitted that the principle of development has already been

established under LA09/2018/0076/O. Given such the building is still standing as such I am content that the application is considered as a valid replacement opportunity and the off-site location has already been accepted therefore I am content this application complies under CTY 3.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Given the history of the site I am content that an appropriately designed dwelling will be visually integrate into the landscape in line 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 cause detrimental change or damage to the rural character in line with CTY 14.

#### Other policy and material considerations

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

A consultation was sent to DFI Roads who in their response confirmed that they were content subject to conditions and informatives, as such I am content that the access arrangements are able to comply under PPS 3.

A consultation was also sent to NIEA and HED respectively, taking NIEA first, referred the Planning Authority to their standing advice in dealing with single dwellings. In terms of HED, they responded to state Historic Environment Division (Historic Monuments) has considered this application and welcomes the retention of a non-listed vernacular building as part of the proposed development. Historic Environment Division (Historic Monuments) considers that a dwelling at this location can be acceptable under policy with the following provisions:

- Design - the proposed dwelling should be of low ridge height and vernacular-style design.
- Planting - any establishment/augmentation of boundaries, planting should be of locally prominent native species.

Went to request that HED were re-consulted with any amendments to this application and subsequent Reserved Matters applications to ensure that the detail of the proposed building is acceptable under PPS6 BH1.

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

I have no flooding, ecological or residential amenity concerns.

The proposal accords with the policy requirements of SPPS and PPS 21, therefore I recommend approval for this development.

#### Neighbour Notification Checked

Yes

#### Summary of Recommendation:

Approval

Conditions:

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

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

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

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

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

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

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

4. A plan at 1:500 scale (min.) shall be submitted as part of the reserved matters application, showing the access point including visibility splays of 2.4 metres x 60 metres in accordance with the attached form RS1 to be constructed prior to the commencement of any development hereby approved and as approved at Reserved Matters stage.

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

5. Upon occupation of the new dwelling, the dwelling to be replaced, coloured green on the approved plan No 01 date stamped 03rd December 2021, shall no longer be used or adapted for purposes of human habitation and may only be used for storage ancillary to the building of the approved dwelling house.

Reason: To ensure that the proposed development does not result in the creation of an additional dwelling in this Area of Outstanding Natural Beauty

6. A landscaping scheme shall be submitted to the Council at Reserved Matters stage indicating proposed planting and shall include a survey of all existing trees and hedgerows on the land, together with details of those 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. The work shall be carried out during the first available planting season after the occupation of the dwelling.

Reason: To ensure the provision of a high standard of landscape and ensure the development integrates into the countryside.

7. The proposed dwelling shall be sited in the area shaded Yellow on the drawing No. 01 stamp date 03rd December 2021.

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

**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.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	3rd December 2021
<b>Date First Advertised</b>	14th December 2021
<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: LA09/2021/1737/O Proposal: Rear offsite replacement dwelling and garage with retention of existing dwelling as domestic store ( previously approved under LA09/2018/0076/O). Address: 163 Davagh Road, Sixtowns, Draperstown., Decision: Decision Date:	
Ref ID: LA09/2020/1525/O Proposal: Dwelling on a farm, garage & associated siteworks. Address: Approx. 300m SW of 159 Davagh Road, Draperstown BT45 7BJ., Decision: PG Decision Date: 21.04.2021	
Ref ID: LA09/2018/0076/O Proposal: Rear offsite replacement dwelling and garage Address: 163 Davagh Road,Sixtowns,Draperstown, Decision: PG Decision Date: 03.10.2018	
Ref ID: H/2007/0505/F Proposal: Proposed change of house type from previously approved application H/2006/0745/RM Address: 163 Davagh Road, Sixtowns Decision: Decision Date: 23.10.2007	

Ref ID: H/2006/0745/F Proposal: Replacement Dwelling Address: 163 Davagh Road, Sixtowns Decision: Decision Date: 28.02.2007
<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:





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2022/0063/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed replacement dwelling and domestic garage	<b>Location:</b> Adjacent to 16 Roshure Road Desertmartin Magherafelt
<b>Referral Route:</b>  To Committee - Refusal - Contrary to CTY 1 and 3 of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mr Rodney Mc Knight 16 Roshure Road Desertmartin Magherafelt	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SG
<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

To Committee - Refusal - Contrary to CTY 1 and 3 of PPS 21.

### Characteristics of the Site and Area

The site is located 1.59km south east of the development limits of Desertmartin, as such the site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan. The red line covers the existing curtilage of No.16 Roshure Road inclusive of the building identified to be replaced. I note that the site is accessed via the existing access that serves No.16. The surrounding area is mainly agricultural in nature with single dwellings located sporadically throughout the area.

#### Representations

Two neighbour notifications were sent out however no third party representations have been received.

## Description of Proposal

This is an outline application for a proposed replacement dwelling and domestic garage located at Approx. Adjacent to 16 Roshure Road, Desertmartin, Magherafelt.

## Planning Assessment of Policy and Other Material Considerations

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy  
 Strategic Planning Policy Statement (SPPS)  
 Magherafelt Area Plan 2015  
 PPS 1 - General Principles  
 PPS 3 - Access, Movement and Parking  
 PPS 21 - Sustainable Development in the Countryside  
 Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside  
 CTY 1 - Development in the Countryside  
 CTY 3 - Replacement Dwellings

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 are acceptable in the countryside. In this instance the application is for a replacement dwelling and as a result it must be considered under CTY 3 of PPS 21. CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. Upon the site visit I note that there is an existing building on the site, however it did not appear to have the main characteristics of a dwelling. I note it did have a door way and windows, however there was no chimney nor fireplace upon internal inspection. As seen below.



In essence it appears to be an old byre or outbuilding wherein I am not content that a valid replacement opportunity exists. I note the agent has provided additional information to try and demonstrate that this was a house, however upon review of this I am still not content that this is sufficient to change my view.

In addition, the policy goes on to state that the proposed replacement should be sited within the established curtilage of the existing, unless either a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. I note that this is only an outline and only an indicative position has been provided where I note the building is located within the curtilage and yard of no. 14. As such I am content that the building should be replaced as close to the existing position as possible. But given the application has failed to demonstrate a valid replacement opportunity I hold the view it fails under CTY 3.

After further discussions he confirmed that this was the only case that was applicable, after a quick review of CTY 1, I hold that a dwelling would not be acceptable under the remaining policies.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I am content that an appropriately designed dwelling would not appear prominent and would be able to successfully integrate into the landscape. 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 would not cause detrimental harm to the rural character of the area. On a whole I am content that the proposed development complies with CTY 14.

PPS 3 - Access, Movement and Parking;

A consultation was sent to DFI Roads, in their response confirmed that they had no objections subject to conditions and informatives. I am content that the access is acceptable under PPS 3.

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

I have no flooding, ecological or residential amenity concerns.

The proposal fails under CTY 1 and 3 of PPS 21, as such I recommend refusal.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

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

2. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	18th January 2022
<b>Date First Advertised</b>	1st February 2022
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 14c Roshure Road, Desertmartin, Londonderry, BT45 5PB The Owner/Occupier, 16 Roshure Road, Desertmartin, Londonderry, BT45 5PB	
<b>Date of Last Neighbour Notification</b>	17th February 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2022/0063/O Proposal: Proposed replacement dwelling and domestic garage Address: Adjacent to 16 Roshure Road, Desertmartin, Magherafelt, Decision: Decision Date:  Ref ID: H/2002/0825/O Proposal: Site of Dwelling and Garage Address: Adjacent to 16 Roshure Road, Desertmartin Decision: Decision Date: 16.07.2003  Ref ID: H/1994/4030 Proposal: RENOVATIONS TO DWELLING Address: 16 ROSHURE 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

**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> LA09/2022/0122/O	<b>Target Date:</b>
<b>Proposal:</b> Dwelling in accordance with CTY7 of PPS21	<b>Location:</b> Land 20m South East of 96 Reenaderry Road Derrytresk Coalisland
<b>Referral Route: Refusal</b>	
<b>Recommendation: Refuse</b>	
<b>Applicant Name and Address:</b> Mr Stephen McCaffrey 8 Dernmore Close Clonoe	<b>Agent Name and Address:</b> Darcon Architectural Services 6 Ardean Close Moortown BT80 0JN
<b>Executive Summary:</b> The proposal is contrary to: Policy FLD 1 'Development in Fluvial (River) and Coastal Flood Plains' of PPS 15: Planning and Flood Risk in that the proposal is located within the 1 in 100 year fluvial flood and does not constitute an exception to the policy.  The Policy CTY7 of PPS 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated it is required in connection with an established non-agricultural business enterprise; and  Policy FLD 1 'Development in Fluvial (River) and Coastal Flood Plains' of PPS 15: Planning and Flood Risk in that the proposal is located within the 1 in 100 year fluvial flood and does not constitute an exception to the policy.	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	NIEA	Advice
Non Statutory	Shared Environmental Services	Substantive Response
Statutory	Rivers Agency	Advice
Statutory	Historic Environment Division (HED)	Advice
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

### **Description of Proposal**

This is an outline application for a proposed dwelling in accordance with CTY7 of PPS21 to be located on lands 20m South East of 96 Reenaderry Road Derrytresk Coalisland.

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

The site is located in the rural countryside as defined by the Cookstown Area Plan 2010, approx. 1.6km northeast of Tamnamore and adjacent the Reenaderry Rd.



Fig 1: View of site, identified by red arrow, on southwest approach along Reenaderry Rd.

The site is a relatively open and flat square shaped plot comprising a large roadside field albeit excluding a narrow strip of the field to the southwest of the site. The roadside portion of the excluded strip comprises a gravelled yard containing a mobile building and ancillary informal parking (see Fig 1, above).

Post and wire fencing and low hedging interspersed few trees defines the northwest (roadside), northeast and southeast (rear) boundaries of the site. The southwest



boundary of the site is open on the remainder of the host field and the aforementioned gravelled yard.



Fig 1: View of site, identified by red arrow, on northeast approach along Reenaderry Rd.

Critical views of the site are from the minor Reenadeery Rd over a short distance on southwest approach, longer distance on northeast approach and passing along its roadside frontage.

The immediate area is largely characterised by flat low-lying agricultural land interspersed with single dwellings, ancillary buildings and farm holdings; and its location just north of Coalisland Disused Canal, which connects into the River Blackwater. A modest (listed) dwelling sits immediately adjacent the Canal (archaeological site and monument) just southwest of the host field; and two bungalows (nos. 96 & 96a Reenaderry Rd) sits immediately northwest site to the opposite side of the road. The two bungalows are bound to the southwest and northeast respectively by what appear to be a large industrial shed with a gravelled yard to the front and another large industrial shed on a much larger gravelled yard containing no. of lorries / lorry trailers. The industrial sheds and yards noted alongside the small gravelled yard to the southwest of the site containing a mobile appear to be in association with 'McCaffrey Transport'.

### **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

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking  
Development Control Advice Note 15: Vehicular Standards  
Planning Policy Statement 21: Sustainable Development in the Countryside  
Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

### **Representations**

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

### **Planning History**

No relevant planning history

### **Consultees**

1. River's Agency (River's) were consulted as Flood Maps NI indicated the site was located within the fluvial floodplain. River's responded as follows from a drainage and flood risk aspect under PPS15 (Revised) Planning and Flood Risk, Policy:
  - FLD1 Development in Fluvial Flood and Coastal Plains - The Strategic Flood Map indicates the site lies entirely within the 1 in 100 year fluvial flood plain. Development within the flood plain is contrary to Policy FLD 1 and would require the Planning Authority to deem it an exception, then to allow proper consideration of flood risk to the site Rivers recommend the applicant undertakes a Flood Risk Assessment (FRA) appropriate to the scale of development. The FRA should be carried out under the direction of a qualified and competent professional. Taking into account the precautionary approach of PPS 15 it is recommend that any new development be allowed an additional freeboard of 600mm.
  - *FLD2 - Protection of Flood Defence and Drainage Infrastructure* – An undesignated watercourse flows along the eastern and southern boundary of the site. Under para. 6.32 of the policy a 5m maintenance strip is required unless the watercourse can be maintained from the opposite bank by agreement with the landowner.
  - *FLD3 - Development and Surface Water* - If the proposal involves an increase in hardstanding of 1000m<sup>2</sup> or more, then a Drainage Assessment is required. If a Drainage Assessment is not required by the policy the developer should still be advised to carry out their own assessment of flood risk and construct in the appropriate manner that minimises flood risk to the proposed development and elsewhere.

With regard to the above, specifically bullet point 1, Planning does not deem this proposal an exception under Policy FLD 1 of PPS15 therefore it is contrary to

Policy FLD 1 of PPS15 and the additional information required i.e. FRA has not been requested. The principle of this development has not been established.

2. DfI Roads were consulted in relation to access arrangements and raised no objection subject to standard conditions and informatives. Accordingly, I am content the proposal would comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
3. Historic Environment Division (HED) were consulted as the site is located within the buffer of an archaeological site and monument (TYR047:502 - Coalisland Canal) and in close proximity to a Listed Building (HB13/04/016 - Canal structure 'Lock House')
  - HED (Historic Buildings) considered the impacts of the proposal on the building and advised that it requires additional information to allow a substantive response under Paragraph 6.12 (setting) of SPPS for Northern Ireland and Policy BH 11 (Development affecting the Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.
  - HED (Historic Monuments) is content the proposal is acceptable to SPPS and PPS6 policy requirements subject to conditions and informatives.

As detailed further above, this proposal is contrary Policy FLD 1 of PPS15 Planning and Flood Risk. As such, the principle of this development has not been established and the additional information required by Historic Buildings has not been requested.

4. NIEA – were consulted as the site appears to connect to the Torrent River / Coalisland Canal to the south providing a potential pathway to designated sites (SACs / SPA / Ramsar sites).
  - Water Management Unit is content with the proposal subject to Conditions, the applicant noting the advice in the Explanatory Note, referring and adhering to Standing Advice and obtaining any relevant statutory permissions.
  - Inland Fisheries is content the application in principle is unlikely to have any significant impact on fisheries interests in the vicinity, but would require more detailed information.
  - Natural Environment Division (NED) has considered the impacts of the proposal and requires further information to be able to determine whether the proposal would have a likely significant effect on a protected sites. NED highlights the application site is within and hydrologically linked, to Lough Neagh and Lough Beg SPA and RAMSAR, which are designated under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended); and Lough Neagh ASSI which is declared under the Environment Order (Northern Ireland) 2002 (as amended). As such, NED recommend that that the applicant must demonstrate how they intend to ensure that there will be no adverse impacts upon the designated sites during the construction and operational phases of the development. Additionally, NED seeks a Preliminary Ecological Appraisal to assess the site for potential natural heritage interests and the location of the proposed septic tank and soakaway.

As detailed further above, this proposal is contrary Policy FLD 1 of PPS15 Planning and Flood Risk. As such, the principle of this development has not been established and the additional information required by Inland Fisheries and NED has not been requested.

5. Shared Environmental Services (SES) – considered this application in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). SES advised the proposed development is situated wholly within Lough Neagh and Lough Beg Ramsar site. It also lies within the fluvial flood plain. Watercourses adjacent to the site provide a potential pathway for likely significant effects to Lough Neagh and Lough Beg SPA. Further information is required to enable a Habitats Regulations Assessment (HRA) to be completed as follows:
  - DfI Rivers has requested that if the proposed development is to be considered as an exception to PPS15, a Flood Risk Assessment is required. This information is required to inform the HRA in respect of the proposal's location within the flood plain.

As detailed further above, this proposal is contrary Policy FLD 1 of PPS15 Planning and Flood Risk. As such, the principle of this development has not been established and the additional information required by SES has not been requested.

### **Consideration**

Dungannon and South Tyrone 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'. The applicant has applied under one of these instances Policy CTY 7 of PPS 21 - Dwellings for Non-Agricultural Business Enterprises.

Policy CTY 7 states planning permission will be granted for a dwelling house in connection with an established non-agricultural business enterprise where a site specific need can be clearly demonstrated that makes it essential for one of the firm's employees to live at the site of their work. Where such a need is accepted the dwelling house will need to be located beside, or within, the boundaries of the business enterprise and integrate with the buildings on the site. Planning permission granted under this policy will be subject to a condition restricting occupation of the dwelling for the use of the business.

The applicant's father submitted a letter on the 11<sup>th</sup> April 2022 to advise that he Martin McCaffrey, who resides at 96 Reenaderry Rd located opposite the site, is the director of McCaffrey Transport Ltd located adjacent the site. That he requires the presence of his son Stephen McCaffrey, on a full-time basis, fully engaged with their family run business. He states that due to the nature of the business out of hours attendance is required 7 days a week. That they have around 20 employees covering a range of shift patterns which his son Stephen assists and manages, as he is not present at all times. As well as managing the employees of the business, he states Stephen manages the financial aspects together with the maintenance and breakdowns. That this regularly requires Stephen to be on site to make and organise repairs at any time of the day or night. Stephen does not currently reside at the business address and this adds difficulty as he has a young family. Stephens' intention to build and reside with his young family will relieve a lot of pressure on him and the business as he also cares for his elderly mother who resides at the neighbouring property 96a Reenaderry Rd. As he devotes a lot of time to caring for his mother he intends to make Stephen a managing director of the business in the near future.

Whilst the information above has been taken into account it has not been demonstrated that in the first instance there is an established non-agricultural business enterprise on or neighbouring this site. Whilst as detailed in 'Characteristics of Site and Area a business 'McCaffrey Transport Ltd' sits adjacent to this site, over a no. of gravelled yards, no planning history for this business exists.

According, I consider this proposal as it stands contrary to Policies CTY1 and CTY7 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it does not merit being considered as an exceptional case as it has not been demonstrated it is in connection with an established non-agricultural business enterprise.

Bearing in mind all of the above. A the principle of this development has not been established under Policy FLD 1 of PPS 15: Planning and Flood Risk in that the proposal is located within the 1 in 100 year fluvial flood and does not constitute an exception to the policy, additional information to demonstrate there is a non-agricultural business enterprise has not been requested. Nor has additional information to address issues raised by HED, NIEA and SES (see 'Consultees' above).

#### Additional considerations

The site is located within SG Defence Estates relating to Met Office Radar however this proposal would be under the 15.2m height threshold for consultation to Defence Estates. The site is also located within an area of constraint on wind turbines however proposal is for a dwelling.

**Recommendation:** Refuse

<b>Neighbour Notification Checked</b>	Yes
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<b>Summary of Recommendation</b>	Refuse
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<b>Refusal reasons</b>
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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 CTY7 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated it is required in connection with an established non-agricultural business enterprise.
3. The proposal is contrary to Policy FLD 1 'Development in Fluvial (River) and Coastal Flood Plains' of Planning Policy Statement 15: Planning and Flood Risk in that the proposal is located within the 1 in 100 year fluvial flood and does not constitute an exception to the policy.

**Signature(s)**

**Date:**





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2022/0168/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed domestic dwelling and garage in a cluster	<b>Location:</b> 25m North of 2 Coltrim Lane Moneymore
<b>Referral Route:</b>  To Committee - Refusal - Contrary to CTY 1 and 2a of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mr Mark Hamilton 50 Cookstown Road Moneymore	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SG
<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

To Committee - Refusal - Contrary to CTY 1 and 2a of PPS 21.

### Characteristics of the Site and Area

The site is located approximately 1.1km south west of the development limits of Moneyore, from such the site is located in the open countryside as per defined by the Cookstown Area Plan 2010. The site is identified as 25m North of 2 Coltrim Road, Moneyore, in which the red line covers a portion of a much larger agricultural field. I note that the intention is to use an existing access that already serves a residential dwelling and go kart facility. I note that the immediate and surrounding area are predominately agricultural land uses with a scattering of residential dwellings and go kart facility nearby.

#### Representations

Four Neighbour notifications were sent out however no representations received in connection with this application.

## Description of Proposal

This is an outline application for a proposed domestic dwelling and garage in a cluster, the site is identified as 25m North of 2 Coltrim Lane, Moneymore.

## Planning Assessment of Policy and Other Material Considerations

Cookstown Area Plan 2010  
 Mid Ulster Local Development Plan 2030 -Draft Strategy  
 Strategic Planning Policy Statement (SPPS)  
 PPS 21: Sustainable Development in the Countryside  
 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. I note that this application has been applied for under CTY 2a. As such CTY 2a states that 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.

Upon review of the guidance I am content that the cluster lies outside a farm and consists of four or more buildings, wherein three of which are dwellings. I note that two sites have been approved to the north of No. 2 Coltrim Road however these are only outline approvals. However, given the distance between the dwellings it is not clear that the cluster appears as a visual entity.

In terms of a focal point, the agent has identified the 'go kart facility' north of the 50 Cookstown Road and the 'Bus park' along Coltrim Road as the second. I am content that both can be constituted as focal points in their own right. However taking the 'go kart facility' first, whilst I acknowledge that it has association with no. 50 Cookstown Road, it does not have any association with No.2 Coltrim Road given the separation distance between the two so cannot be seen to have association with the whole cluster. Likewise, the 'bus park' appears to have association with No.2 Coltrim Road but no association with Nos. 46 and 50 Cookstown Road. As such I hold the view that the application has failed to demonstrate an associated focal point with the cluster.

In terms of enclosure I note that the site bounds with two dwellings one on the eastern boundary and one on the southern boundary, wherein I am content that the site is suitably bounded and will subsequently be absorbed into the cluster without significantly altering the existing character of the area. Finally, I am content that a dwelling in this location is unlikely to have an adverse impact on residential amenity. Given the issues with being a visual entity and the focal point I hold the view that the application fails under CTY 2a.

I note that the agent confirmed that there were no other cases that this application could be considered under, upon review of the remaining policies under CTY 1 I would agree with this, as such it will be taken forward as a refusal.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I am content that an appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape. Additional landscaping will be required to aid integration therefore a landscaping scheme will be required in any reserved matters application. Taken into consideration the landform, surrounding development and I feel it necessary to restrict the ridge height to be no more than 8m from finish floor level. From which, I am content that the application is able to comply under 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. I am content that an appropriately designed dwelling will not have a detrimental impact on the character of the area and would be able to comply under CTY 14.

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

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and responded to state that there were content subject to conditions, I am content that this has shown compliance under PPS 3.

I have no flooding, ecological or residential amenity concerns.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
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<b>Summary of Recommendation:</b>
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Refusal
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<b>Reasons for Refusal:</b>
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<p>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.</p>
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2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster does not appear as a visual entity in the local landscape and the cluster is not associated with a focal point or is not located at a cross-roads.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	9th February 2022
<b>Date First Advertised</b>	22nd February 2022
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Coltrim Road, Moneymore, Londonderry, BT45 7QG The Owner/Occupier, 2 Coltrim Lane, Moneymore, Londonderry, BT45 7YZ The Owner/Occupier, 46 Cookstown Road Moneymore Londonderry The Owner/Occupier, 50 Cookstown Road Moneymore Londonderry	
<b>Date of Last Neighbour Notification</b>	24th February 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: I/2000/0190/F Proposal: Use of land for cart track Address: Adjacent to no 46 Cookstown Road Moneymore Decision: Decision Date: 20.12.2000  Ref ID: I/2000/0827/F Proposal: Replacement dwelling Address: Railway View Cookstown Road Moneymore Decision: Decision Date: 28.02.2001  Ref ID: LA09/2018/0500/LDP Proposal: Proposal for the erection of a new dwelling & garage. Address: Coltrim Lane, Moneymore (Approx. 220m from junction with cookstown road)., Decision: PR Decision Date:  Ref ID: LA09/2017/0810/F Proposal: New Dwelling Address: Coltrim Lane, Moneymore (approx. 220m from Junction with Cookstown Road),	

Decision: DEF  
Decision Date:

Ref ID: LA09/2020/1244/O  
Proposal: Proposed infill dwelling & garage (site 2).  
Address: 25m NE of 2 Coltrim Road Moneymore.,  
Decision: PG  
Decision Date: 02.03.2021

Ref ID: LA09/2017/1490/F  
Proposal: Retrospective widening of existing access and laneway (amended description)  
Address: Adjacent to 50 Cookstown Road, Moneymore,  
Decision: PG  
Decision Date: 07.06.2018

Ref ID: LA09/2020/1238/O  
Proposal: Infill dwelling & garage (site 1)  
Address: 70m NE of 2 Coltrim Road Moneymore,  
Decision: PG  
Decision Date: 15.02.2021

Ref ID: LA09/2016/1259/F  
Proposal: Variation of Condition No's 3 and 4 of Planning Approval I/2000/0565/F  
Address: Adjacent to 46 Cookstown Road, Moneymore,  
Decision: PG  
Decision Date: 27.06.2017

Ref ID: I/2002/0208/F  
Proposal: Reduction in the area of car parking area from that originally approved under planning permission I/2000/0565.  
Address: Cart Track, adjacent to No 46 Cookstown Road Moneymore  
Decision:  
Decision Date: 23.12.2002

Ref ID: I/2001/0619/F  
Proposal: Office and Store  
Address: Adjacent to 46 Cookstown Road Moneymore  
Decision:  
Decision Date: 13.01.2004

Ref ID: I/2000/0565/F  
Proposal: Use of land for cart track  
Address: Adjacent to 46 Cookstown Road Moneymore  
Decision:  
Decision Date: 18.06.2001

Ref ID: I/1999/0490/O  
Proposal: Dwelling house  
Address: Adjacent to no 46 Cookstown Road Moneymore  
Decision:  
Decision Date: 14.04.2000

Ref ID: I/2001/0257/F

Proposal: Bus parking area with ancillary facilities including small building - office,WC and canteen

Address: 120 metres south east of Coltrim Cross Roads Coltrim Lane Moneymore

Decision:

Decision Date: 01.10.2002

Ref ID: I/2000/0334/F

Proposal: Dwelling

Address: Adjacent to no 46 Cookstown Road Moneymore

Decision:

Decision Date: 08.11.2000

Ref ID: I/2004/0081/F

Proposal: Amendment to previous condition 03 on Planning Permission I/2000/0565 for the approval of 2No Karts (Rotax Leisure Kart) as tested and evaluated in accordance with guidelines agreed with statutory bodies

Address: Adjacent to no. 46 Cookstown Road, Moneynore

Decision:

Decision Date: 01.07.2004

Ref ID: LA09/2021/1594/F

Proposal: Part retrospective application for extension to existing car parking area

Address: 80m NW of 48 Cookstown Road, Moneymore,

Decision:

Decision Date:

Ref ID: LA09/2022/0168/O

Proposal: Proposed domestic dwelling and garage in a cluster

Address: 25m North of 2 Coltrim Lane, Moneymore,

Decision:

Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

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

Date of Notification to Department:

Response of Department:





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> LA09/2022/0272/F	<b>Target Date:</b>
<b>Proposal:</b> Private dwelling house	<b>Location:</b> Lands approximately 100m East of 10 Tralee Road Coagh
<b>Referral Route:</b>  Contrary to policy	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Brian Devlin Fairview House Druminard Coagh	<b>Agent Name and Address:</b> Manor Architects Stable Buildings Moneymore BT45 7PD
<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
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

Contrary to PPS 21

### Characteristics of the Site and Area

The site is located within the open countryside outside any settlement limits as per the Cookstown Area Plan 2010. The site is a rectangular shaped agricultural field, bounded by a mix of hedges and trees with the western boundary currently undefined. The field is relatively flat in nature. The surrounding area is agricultural in nature with agricultural fields and single dwellings located throughout the countryside. The site is accessed via the Tralee Road with the Mawillan Road running behind the site.

**Description of Proposal**

This is a full planning application for a private dwelling house.

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

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

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, sitting and plot size and meets other planning and environmental requirements. For the purpose 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 first step in determining whether an infill opportunity exists is to identify whether there is an otherwise substantial and continuously built up frontage present. The agent in their supporting statement contends that to the west the frontage includes No.10 Tralee Road, the garage and two agricultural buildings located on this site. However, I believe there are only two buildings with frontage to the road being the dwelling and the outbuilding to the east of the dwelling. The agent also contends that No.51 Mawillan Road to the east of the site is part of this substantial and built up frontage however as it faces north east onto the Mawillan Road and is separated by a link road between Tralee Road and Mawillan Road, it cannot be considered as part of the built up frontage. The agent also states the site approved under I/2010/0205/RM is part of the continuously built up frontage however when conducting a site visit the development consists of foundations and no substantial building works are completed to classify it as a dwelling so this cannot be included. Therefore, I do not believe there is a substantial and continuously built up frontage.

However, the application site is a sufficient size in that it could only accommodate one dwelling and it respects the existing development pattern in terms of siting and scale of the plot.

The proposed application site would add to the ribbon of development along the Tralee Road, and as such, fails to comply with 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. I am content that the proposal will not be a prominent feature within the landscape and with the existing boundaries of the site, it will integrate into the landscape. The design of the proposed dwelling is appropriate to its locality.

Policy 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 the area. I am content that a dwelling in this location would not be a prominent feature in the landscape and a well-designed dwelling would respect the pattern of development. However, as previously mentioned a dwelling in this location would result in ribbon development. Therefore, failing to meet the policy criteria set out in Policy CTY 14.

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

DfI Roads were consulted on the planning application and requested amendments to the proposal. At the time of writing amendments have not been received and as such the proposal in its current form, fails to comply with Policy AMP 2 of PPS 3.

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

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

**Other Material Considerations**

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

**Neighbour Notification Checked**

**Yes/No**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

The proposal is contrary to the SPPS 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.

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a gap site within a substantial and continuously built up frontage and would if permitted, create a ribbon of development.

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted create a ribbon of development.

The proposal is contrary to Planning Policy Statement 3, Development Control: Roads Considerations in that the applicant has not shown a safe access onto the Tralee Road.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	2nd March 2022
<b>Date First Advertised</b>	15th March 2022
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 51 Mawillian Road Cookstown Londonderry	
<b>Date of Last Neighbour Notification</b>	28th March 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: I/2004/0865/O Proposal: 2 Storey dwelling & garage Address: 150M West of junction of Tralee Road & Mawillian Road, Loup Decision: Decision Date: 10.11.2004  Ref ID: I/2004/0099/O Proposal: Two storey dwelling house and garage. Address: 150 Metres West of junction of Trelee Road and Mawillian Road, Loup, Moneymore. Decision: Decision Date: 29.03.2004  Ref ID: I/2005/0900/O Proposal: 2 storey dwelling house and garage Address: 150m West of junction of Tralee Road & Mawillian Road, Loup, Moneymore Decision: Decision Date:  Ref ID: LA09/2022/0272/F Proposal: Private dwelling house Address: Lands approximately 100m East of 10 Tralee Road, Coagh, 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: 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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2022/0362/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed rear extension to provide level accessed shower and toilet accommodation	<b>Location:</b> 4 Garden Terrace Magherafelt BT455DE
<b>Referral Route:</b>  To Committee - Approval - Agent works for Mid Ulster District Council.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> J P Cudden 4 Garden Terrace Magherafelt BT455DE	<b>Agent Name and Address:</b> PDC Chartered Surveyors 52 Tullyreavy Road Cookstown BT703JJ
<b>Executive Summary:</b>  Approve	
<b>Signature(s): Peter Henry</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
<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	

### Summary of Issues

To Committee - Approval - Agent works for Mid Ulster District Council.

### Characteristics of the Site and Area

The site is located within the existing settlement limits of Magherafelt, within undesignated white land as per defined in the Magherafelt Area Plan 2015. On the site sits a mid-terrace two storey dwelling that has a small yard and outbuilding to the rear. The immediate area is currently characterised by residential properties and the wider area is characterised by a mix of development inclusive of residential, recreational, public house and commercial land uses.

#### Neighbour Notification

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

### Description of Proposal

This is a full application for the proposed rear extension to provide level accessed shower and toilet accommodation, the site is located at 4 Garden Terrace, Magherafelt.

### Planning Assessment of Policy and Other Material Considerations

Strategic Planning Policy Statement (SPPS)  
 Mid Ulster Local Development Plan 2030 - Draft Plan Strategy  
 Magherafelt Area Plan 2015

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 EXT1 of Addendum to PPS7: Residential Extensions and Alterations states that planning permission will be granted for a proposal to extend or alter a residential property where all of the following criteria are met:

(a) Deals with scale, massing, design and external materials.

Upon review of the plans I note that it is a small single storey rear extension and it is seen as acceptable within the context of the existing dwelling in terms of scale, massing, design and use of external. Given such I am content that given the location of the extension that it is unlikely to have an adverse impact on the character of the surrounding area.

(b) In terms of any impact on neighbouring amenity, I note that the proposed extension is to replace the existing outbuilding that houses the oil tank. With this in mind and I acknowledge that it is of similar height that the extension is unlikely to result in any adverse impact on neighbouring amenity.

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

(d) I note that the proposed extension will result in a loss of the rear yard and outbuilding wherein the existing parking arrangements are unaffected, as such I am content that there will be sufficient space within the curtilage for recreational and domestic purposes inclusive of parking.

I am content that this proposal complies with Policy EXT1 of Addendum to PPS7: Residential Extensions and Alterations.

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

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approve

**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.

**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:**

<b>ANNEX</b>	
<b>Date Valid</b>	16th March 2022
<b>Date First Advertised</b>	29th March 2022
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 3 Garden Terrace Magherafelt Londonderry The Owner/Occupier, 48 Garden Street, Magherafelt, Londonderry, BT45 5DD The Owner/Occupier, 5 Garden Terrace Magherafelt Londonderry The Owner/Occupier, 50 Garden Street Magherafelt Londonderry The Owner/Occupier, 52 Garden Street Magherafelt Londonderry The Owner/Occupier, 54 Garden Street Magherafelt Londonderry The Owner/Occupier, 56 Garden Street Magherafelt Londonderry The Owner/Occupier, 6 Garden Terrace Magherafelt Londonderry	
<b>Date of Last Neighbour Notification</b>	18th March 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: H/2001/0849/F Proposal: Change Of Roof Type From Flat Roof To Pitched. Address: 4 Garden Terrace, Magherafelt. Decision: Decision Date: 14.12.2001  Ref ID: LA09/2022/0362/F Proposal: Proposed rear extension to provide level accessed shower and toilet accommodation Address: 4 Garden Terrace, Magherafelt, BT455DE, Decision: Decision Date:  Ref ID: LA09/2022/0211/F	

<p>Proposal: 2 storey extension to rear - kitchen with bedroom over</p> <p>Address: 3 Garden Terrace, Magherafelt,</p> <p>Decision:</p> <p>Decision Date:</p>
<p><b>Summary of Consultee Responses</b></p>
<p><b>Drawing Numbers and Title</b></p>
<p>Drawing No. 03  Type: Existing and Proposed Floor Plans  Status: Submitted</p> <p>Drawing No. 01  Type: Site Location Plan  Status: Submitted</p> <p>Drawing No. 02  Type: Site Layout or Block Plan  Status: Submitted</p>
<p><b>Notification to Department (if relevant)</b></p> <p>Date of Notification to Department:</p> <p>Response of Department:</p>