



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

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

## Deferred Consideration Report

| Summary   |  |
|---|--|
| <b>Case Officer:</b> Phelim Marrion   |  |
| <b>Application ID:</b> LA09/2020/0992/O   | <b>Target Date:</b> <add date>   |
| <b>Proposal:</b><br>Proposed dwelling and domestic garage   | <b>Location:</b><br>Site 150m West of 115 Clonavaddy Road<br>Aghnagar Cappagh Dungannon                          |
| <b>Applicant Name and Address:</b><br>Plunkett Nugent<br>126 Goland Road<br>Ballygawley<br>BT70 2LB   | <b>Agent Name and Address:</b><br>CMI Planners Ltd<br>38B Airfield Road<br>The Creagh<br>Toomebridge<br>BT41 3SQ |
| <b>Summary of Issues:</b><br><br>This application is one of 2 such applications for dwellings in substitution for sites that were approved on the A4 road line and were not built. One application was withdrawn to pursue this as a farming case. There is no policy to allow for this substitution, a considerable amount of time has passed and a farming cases was proposed but has not been provided for consideration.  |  |
| <b>Summary of Consultee Responses:</b><br>DFI Roads - provided standards for safe access  |  |
| <b>Characteristics of the Site and Area:</b><br><br>This application site is located approximately 150 metres west of No 115 Clonavaddy Road and 3.5 kilometres south of Cappagh village. It occupies a parcel of land measuring 0.5 hectares and has a road frontage of 68 metres. The site is situated in the rural countryside as defined in the Dungannon and South Tyrone Area Plan. The surrounding area is very rural in character with narrow roads winding through the undulating topography. Dwellings are interspersed throughout the locality with some single wind turbines taking advantage of the elevated surroundings. The site has been cleared with the southern roadside boundary is undefined on the ground. The |  |

western boundary of the site is hedgerow and separates this site from another application site for a dwelling and garage (LA09/2020/0991/O) for the same applicant. The eastern and northern boundaries are defined by hedgerow. The land beyond the eastern boundary has the frame of an agricultural building to the rear and this parcel of land has also been subject to some clearing also. The site is situated in the rural countryside as defined in the Dungannon and South Tyrone Area Plan. The surrounding area is very rural in character with narrow roads winding through the undulating topography. Dwellings are interspersed throughout the locality with some single wind turbines taking advantage of the exposed elevated surroundings

**Description of Proposal**

This application seeks outline planning permission for a dwelling and domestic garage at 150m West of 115 Clonavaddy Road, Cappagh in the townland of Aghnagar.

**Deferred Consideration:**

This application was before the Planning Committee in December 2020 where it was deferred for meeting with Dr Boomer to discuss the issues. At a meeting on 20 January the applicant had some difficulty joining online but was able to confirm he was aware of the issues and what was required. The application was brought back to Committee in October 2023 where it was deferred for as a new agent had been appointed and additional information was to be submitted. A reminder was issued in October 2024 and to date no new information has been submitted for consideration.

In light of the above and as set out in the previous reports it is my recommendation that planning permission is refused for this proposal.

**Conditions/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 Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated this is an established and currently active farm and a dwelling if approved would not be sited to cluster or visually link with a group of buildings on a farm.

**Signature(s)**

**Date:**



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| Summary   |   |
|---|---|
| <b>Case Officer:</b> Phelim Marrion   |   |
| <b>Application ID:</b> LA09/2020/0992/O   | <b>Target Date:</b> <add date>  |
| <b>Proposal:</b><br>Proposed dwelling and domestic garage   | <b>Location:</b><br>Site 150m West of 115 Clonavaddy Road<br>Aghnagar Cappagh Dungannon |
| <b>Applicant Name and Address:</b><br>Plunkett Nugent<br>126 Goland Road<br>Ballygawley<br>BT70 2LB   | <b>Agent Name and Address:</b>  |
| <b>Summary of Issues:</b><br><br>This application is one of 2 such applications for dwellings in substitution for sites that were approved on the A4 road line and were not built. There is no policy to allow for this substitution, a considerable amount of time has passed and a farming cases was proposed but is unable to be approved at this time.  |   |
| <b>Summary of Consultee Responses:</b><br>DFI Roads - provided standards for safe access  |   |
| <b>Characteristics of the Site and Area:</b><br><br>This application site is located approximately 150 metres west of No 115 Clonavaddy Road and 3.5 kilometres south of Cappagh village. It occupies a parcel of land measuring 0.5 hectares and has a road frontage of 68 metres. The site is situated in the rural countryside as defined in the Dungannon and South Tyrone Area Plan. The surrounding area is very rural in character with narrow roads winding through the undulating topography. Dwellings are interspersed throughout the locality with some single wind turbines taking advantage of the elevated surroundings. The site has been cleared with the southern roadside boundary is undefined on the ground. The western boundary of the site is hedgerow and separates this site from another application site for a dwelling and garage (LA09/2020/0991/O) for the same applicant. The eastern and northern boundaries are defined by hedgerow. The land beyond the eastern boundary has the frame of an |   |

agricultural building to the rear and this parcel of land has also been subject to some clearing also. The site is situated in the rural countryside as defined in the Dungannon and South Tyrone Area Plan. The surrounding area is very rural in character with narrow roads winding through the undulating topography. Dwellings are interspersed throughout the locality with some single wind turbines taking advantage of the exposed elevated surroundings

### **Description of Proposal**

This application seeks outline planning permission for a dwelling and domestic garage at 150m West of 115 Clonavaddy Road, Cappagh in the townland of Aghnagar.

### **Deferred Consideration:**

This application was before the Planning Committee in December 2020 where it was deferred for meeting with Dr Boomer to discuss the issues. At a meeting on 20 January the applicant had some difficulty joining online but was able to confirm he was aware of the issues and what was required.

Members will see from the previous case officer report this application was submitted as a substitution for a site which was on the line of the now constructed A4 dual carriageway near Goland Road, Balygawley. This is one of 2 applications that were submitted, the other (LA09/2020/0991/O) has been withdrawn with the applicant wishing to pursue this site. Members will be aware that in some cases a substitution of a site may be acceptable where it is within the time commencement period of an extant permission or planning permission has lawfully commenced on a site. In those cases, it is usually close to the original site and there are clearly justifiable reasons why the original cannot be built. This proposal is approx. 7.5kms from the previously approved site and there is no indication that a carte blanche acceptance of alternative sites would be forthcoming. While the applicant feels there was some agreement that alternatives would be accepted, there does not appear to be any records to advise this site would have been suitable. The applicant has advised he did not receive market value for the 2 sites but instead received only agricultural value for the lands. He provided information from DFI Roads – Lands Branch detailing the compensation that was awarded which was broken into land/property cost, injury to retained land and disturbance/temporary injurious affection. From the amounts set out it is clear the applicant did receive agricultural costs for the land however the more considerable injury to retained land costs may be a reflection of the value of the sites. This information can be provided to members in closed session if necessary.

Following further discussions with the applicant it appeared there may have been a farming case to be considered under CTY10. The applicant advised he has owned the lands here for a considerable time. Conacre agreements for years 2019 – 2022 were submitted, however no further information about the works carried out to keep the land in good agricultural condition were provided. The applicant advised that round bales were stored on the land. I visited the site and it is clear there is no current agricultural activity taking place on the lands. All the lands have been scraped back and soil stockpiled on them. I explained to the applicant that it did not appear that the farm is currently active and established and afforded the opportunity to provide additional information to establish the 6 years for farming and resoil the lands to allow it to be used for agricultural activity. This has not been done and as such I do not consider this is a currently active and established farm. No sites have been sold off the farm at this location that I am aware of. I do not have any other information about all the lands that may be owned by Mr Nugent to make the necessary checks. Therefore I cannot with certainty advise if there are any opportunities

sold off or other permissions granted within the last 10years. There is a large building to the east of the application site, which is set well back from the road and there is an appreciation of separation between the proposed site and that building. That said it is only one building and not a group of buildings. A dwelling on this site would not be sited to cluster with or visual link with an existing group of buildings on the farm.



Site viewed from west



Building on adjacent land

In light of the above it is my recommendation that planning permission is refused for this proposal.

#### Conditions/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 Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated this is an established and currently active farm and a dwelling if approved would not be sited to cluster or visually link with a group of buildings on a farm.

**Signature(s)**

**Date:**





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 District Council

## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b>  | <b>Item Number:</b>   |
| <b>Application ID:</b> LA09/2020/0992/O   | <b>Target Date:</b>   |
| <b>Proposal:</b><br>Proposed dwelling and domestic garage   | <b>Location:</b><br>Site 150m West of 115 Clonavaddy Road<br>Aghnagar Cappagh Dungannon |
| <b>Referral Route:</b><br><br>This application fails to meet any of the policy requirements of PPS 21 and refusal is recommended. |   |
| <b>Recommendation:</b>  |   |
| <b>Applicant Name and Address:</b><br>Plunkett Nugent<br>126 Goland Road<br>Ballygawley<br>BT70 2LB                               | <b>Agent Name and Address:</b>  |
| <b>Executive Summary:</b>   |   |
| <b>Signature(s):</b>  |   |

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

This application site is located approximately 150 metres west of No 115 Clonavaddy Road and 3.5 kilometres south of Cappagh village. It occupies a parcel of land measuring 0.5 hectares and has a road frontage of 68 metres. The site is situated in the rural countryside as defined in the Dungannon and South Tyrone Area Plan. The surrounding area is very rural in character with narrow roads winding through the undulating topography. Dwellings are interspersed throughout the locality with some single wind turbines taking advantage of the elevated surroundings. The site has been cleared with the southern roadside boundary is undefined on the ground. The western boundary of the site is hedgerow and separates this site from another application site for a dwelling and garage (LA09/2020/0991/O) for the same applicant. The eastern and northern boundaries are defined by hedgerow. The land beyond the eastern boundary has the frame of an agricultural building to the rear and this parcel of land has also been subject to some clearing also.





The site is situated in the rural countryside as defined in the Dungannon and South Tyrone Area Plan. The surrounding area is very rural in character with narrow roads winding through the undulating topography. Dwellings are interspersed throughout the locality with some single wind turbines taking advantage of the exposed elevated surroundings.

#### Planning History

There are a couple of relevant planning histories associated with this site.

In September 2004, application M/2004/0775/O for a two storey dwelling & domestic garage for Ms Marion Mallon at 140metres NW of 115 Clonavaddy Road was withdrawn. This was recommended for refusal due to failure to comply with DES 5 because of prominence and lack of integration.

Then in September 2005 another application M/2005/0490/O for a two storey dwelling & domestic garage for Ms Marion Mallon was withdrawn due to the same reasons as the previous application was.

In the field to the east of the site subject of this planning application, the frame of an agricultural building which was partially constructed in 2005/6 sits to the rear of the plot. Here application M/2006/0767/O was refused planning permission for a dwelling and domestic garage in October 2006 for Mr Plunkett Nugent. This was subsequently appealed (Ref No 2007/A0049) and the Planning Appeals Commission dismissed the appeal in March 2006. This was on the grounds that it failed to meet DES 5 and DES 6 of the DOE's Planning Strategy (PSRNI), in terms of prominence, lack of integration and build up.

## Description of Proposal

This application seeks outline planning permission for a dwelling and domestic garage at 150m West of 115 Clonavaddy Road, Cappagh in the townland of Aghnagar.

## 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 Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on 25th March and was to run for 8 weeks. Due to issues being faced with COVID-19, this period has been extended and it closed at 5pm on 24th September 2020.

In light of this the Draft Plan cannot currently be given any determining weight.

The Strategic Planning Policy Statement (SPPS) published in September 2015 does not have any impact this proposal as PPS 21 is retained and it is this policy which this application will be assessed under.

Development in the Countryside is controlled under the provisions of Planning Policy Statement (PPS) 21 Sustainable Development in the Countryside. Policy CTY1 provides clarification on which types of development are acceptable in the countryside and sets out where planning permission will be granted for an individual dwelling house in the countryside, subject to meeting certain criteria.

This application fails to meet the criteria of CTY 2 as the location of the site is not within a designated Dispersed Rural Community.

CTY 2a does allow permission for a dwelling in an existing cluster of development. A cluster is located at a crossroads or is associated with a focal point such as a social or community building/facility. Although St Patrick's Church would fulfil the community building part of this requirement, it is located on the Annagher Road and there is not an identifiable cluster of buildings surrounding it so it could be categorised as focal point in a cluster, thereby failing to fulfil CTY 2a.

CTY 3 - Replacement Dwellings is not applicable for this application. The applicant has not provided any information showing that the proposal would meet the essential needs of a Non-Agricultural Business Enterprise, thereby failing CTY 7. Development on a small gap site is assessed having regards to the particulars of CTY 8. No evidence has been provided to demonstrate this proposal would fulfil the criteria which is set out in CTY 10 for a dwelling on a farm. There are no non-residential buildings on the site which could be utilised thereby allowing the application to potentially fulfil the provisions of CTY4 - Conversion and Reuse of Existing Buildings.

The applicant did submit information as to why this application should be considered under CTY 6 - Special Personal and Domestic circumstances which is summarised below.

In November 2005, permission was granted for a dwelling and garage under application M/2004/1219/O (Site A) for M Nugent on lands at 200m SW of 126 Golan Road, Ballygawley. Another application M/2004/0804/O (Site B) was granted planning permission for Mr Seamus Nugent at 520m NW of 121 Golan Road, Ballygawley. Both applications were approved with siting restrictions as they met the provision requirements of PPS 14, which preceded PPS 21.

The applicant claims that while the decision of these applications were pending, the land was vested in 2005 by the DOE. This land was acquired as part of the A4 and A5 Road Scheme.

The applicant has claimed both these approved applications have had numerous Reserved Matters restrictions which were redundant due to the removal of hedges and topsoil by DOE Contractors working on the road scheme. He states he was unable to comply with the conditions and after discussions with the Planning Service, he was verbally told that alternative/compensatory applications on other sites would be dealt with ?sympathetically?.

Due to the absence of any written evidence confirming this claim, it is not substantiated. A planning history search at Site B shows application M/2004/1219/O was granted permission for a Dwelling and Garage for M Nugent at 200m South West of 126 Golan Road, Ballygawley in November 2005. Planning permission was refused for dwelling and garage for Plunkett Nugent on this site in May 2002. This was due to the extant permission on the site lapsing by 6 months and as PPS 21 was introduced in the interim, it failed to meet CTY 1 of the new policy. I am not satisfied the information put forward by the applicant satisfies the requirements of CTY 6, and thus refusal is recommended.

The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and RAMSAR sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats etc) Regulations (NI) 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.

Transport NI were consulted and have no objection to this application subject to the provision of visibility splays of 2.4 metres by 60 metres as part of a Reserved Matters application.

There were no objections to this proposal from the neighbour notification process or advertisement in the local media.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Having considered the criterion set out in CTY 1, this proposal fails to meet any of the criteria and therefore fails PPS 21.

**Reasons for Refusal:**

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

**Signature(s)**

**Date:**

| <b>ANNEX</b>  |                  |
|---|------------------|
| <b>Date Valid</b>   | 14th August 2020 |
| <b>Date First Advertised</b>  | 25th August 2020 |
| <b>Date Last Advertised</b>   |                  |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner/Occupier,<br>84 Aghnagar Road Galbally Dungannon  |                  |
| <b>Date of Last Neighbour Notification</b>  |                  |
| <b>Date of EIA Determination</b>  |                  |
| <b>ES Requested</b>   | Yes /No          |
| <b>Planning History</b><br><br>Ref ID: M/2004/0775/O<br>Proposal: Proposed two storey dwelling & domestic garage<br>Address: 140M N.W of 115 Clonavaddy Road, Galbally, Dungannon<br>Decision:<br>Decision Date: 07.09.2004<br><br>Ref ID: LA09/2020/0992/O<br>Proposal: Proposed dwelling and domestic garage<br>Address: Site 150m West of 115 Clonavaddy Road, Aghnagar, Cappagh, Dungannon,<br>Decision:<br>Decision Date:<br><br>Ref ID: M/2005/0490/O<br>Proposal: Proposed two storey dwelling & domestic garage.<br>Address: 140m North West of 115 Clonavaddy Road, Galbally, Dungannon.<br>Decision:<br>Decision Date: 13.09.2005 |                  |
| <b>Summary of Consultee Responses</b>   |                  |

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



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## Deferred Consideration Report

| Summary   |  |
|---|--|
| <b>Case Officer:</b> Phelim Marrion   |  |
| <b>Application ID:</b> LA09/2020/1387/O   | <b>Target Date:</b> <add date>   |
| <b>Proposal:</b><br>Dwelling and Domestic Garage  | <b>Location:</b><br>Site 40m East of 26 Washingbay Road<br>Coalisland  |
| <b>Applicant Name and Address:</b><br>Mr Declan McClure<br>26 Washingbay Road<br>Coalisland   | <b>Agent Name and Address:</b><br>CMI Planners Ltd<br>38B Airfield Road<br>The Creagh<br>Toomebridge<br>BT41 3SQ |
| <b>Summary of Issues:</b><br><br>This application is for a new dwelling in the settlement limits of Coalisland. The access to serve the site is substandard and requires upgrading. The applicant refers to another site that was approved and did not require the upgrade. Amendments have been requested no details have been provided.   |  |
| <b>Summary of Consultee Responses:</b><br>DFI Rivers - development not inside 1 in 100 year flood area<br>DFI Roads – could stop up lane and provide new access for some of the houses of the lane  |  |
| <b>Characteristics of the Site and Area:</b><br><br>The site is located within the development limits of Coalisland, as defined in the Dungannon and South Tyrone Area Plan 2010 situated between the Annagher Road and Washing Bay Road to the north and south of the site respectively. It is a square shaped plot measuring approx. 0.2 hectares and comprising of a large agricultural field located to the East of no 26 Washingbay Rd. It is proposed to be accessed from the Washingbay Rd via an existing access and shared laneway.<br>The site is currently bounded mainly by existing post and wire fencing with scattered |  |



trees along the boundary also. The site has a gradual incline from the south of the site towards the north. Lands at either side of the site are hatched blue indicating ownership. Whilst the is located within settlement limit of Coalisland, to the west is The Mills, a medium density housing development, as the lands within this zoning are largely undeveloped the area retains a rural feel overlooking agricultural lands on the outskirts of the town with a farm located just north of the site.

### **Description of Proposal**

Outline planning permission is sought for a dwelling and domestic garage.

### **Deferred Consideration:**

This application was before the Planning Committee on 2 March 2021 with a recommendation to refuse due to road safety concerns. At the meeting it was deferred for a meeting with the Planning Manager and at a meeting in March 2021 the agent was advised to enter discussion with DFI Roads to improve the laneway.

Members are advised the access off the existing lane is substandard as the required sight lines and turn in radii are not in situ. The proposal is intensifying the use of the lane and so Policy AMP2 indicates this must be upgraded. Planning permission was granted for a dwelling without requiring the upgrade of the access, this should have been requested and wasn't. Members are advised to allow another dwelling would compound the issues further.

A revised plan was submitted for a lane to serve this development. DFI Roads have no concerns in principle about this, however they wish to see details of the impacts on a bridge parapet wall before they can advise further. (Fig 1)



Fig 1 Revised Plan

Additional information was requested to show this in September 2023 and December 2023 and nothing has been provided. The applicant changed agent in June 2024 and despite a request to engage with the Planning Office in October 2024, no further information has been provided.

As it has not been demonstrated that a safe access can be achieved to serve this development the application is recommended for refusal.

Conditions/Reasons for Refusal:

- 1) The proposal is contrary to Planning Policy Statement 3 – Policy AMP 2 in that it has not been demonstrated a safe access can be provided to serve this development, the existing access road is not of an adequate standard to provide for additional dwellings in accordance with the provisions of Creating Places or DCAN 15 Vehicle access standards and if the dwelling were permitted it would further erode high way safety.

**Signature(s)**

**Date:**



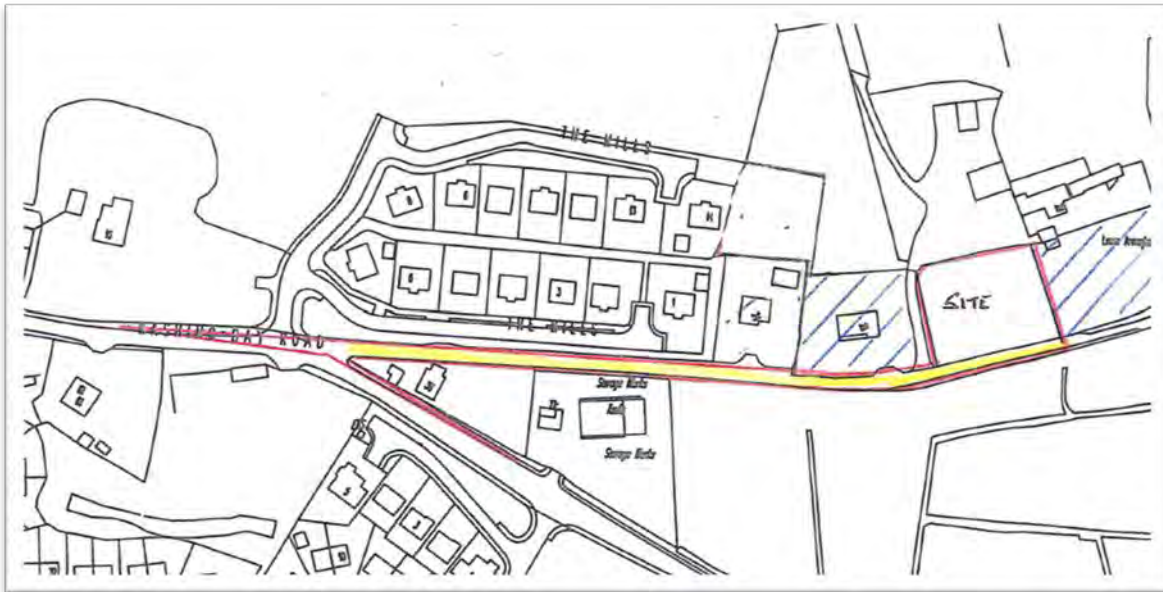
Comhairle Ceantair  
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District Council

**Development Management Officer Report  
Committee Application**

| Summary   |  |
|---|--|
| <b>Committee Meeting Date:</b>  | <b>Item Number:</b>  |
| <b>Application ID:</b> LA09/2020/1387/O   | <b>Target Date:</b>  |
| <b>Proposal:</b><br>Dwelling and Domestic Garage  | <b>Location:</b><br>Site 40m East of 26 Washingbay Road<br>Coalisland                              |
| <b>Referral Route: Contrary to DfI Roads</b>  |  |
| <b>Recommendation:</b>  | <b>Refusal</b>   |
| <b>Applicant Name and Address:</b><br>Mr Declan McClure<br>26 Washingbay Road<br>Coalisland | <b>Agent Name and Address:</b><br>McKeown and Shields<br>1 Annagher Road<br>Coalisland<br>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 |

### 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

There were no representations received in relation to the proposal.

### Characteristics of the Site and Area

The site is located within the development limits of Coalisland, as defined in the Dungannon and South Tyrone Area Plan 2010 situated between the Annagher Road and Washing Bay Road to the north and south of the site respectively. It is a square shaped plot measuring approx. 0.2 hectares and comprising of a large agricultural field located to the East of no 26 Washingbay Rd. It is proposed to be accessed from the Washingbay Rd via an existing access and shared laneway.

The site is currently bounded mainly by existing post and wire fencing with scattered trees along the boundary also. The site has a gradual incline from the south of the site towards the north. Lands at either side of the site are hatched blue indicating ownership. Whilst the is located within settlement limit of Coalisland, to the west is The Mills, a medium density housing development, as the lands within this zoning are largely undeveloped the area retains a rural feel overlooking agricultural lands on the outskirts of the town with a farm located just north of the site.

## Description of Proposal

Outline planning permission is sought for a dwelling and domestic garage.

## Planning Assessment of Policy and Other Material Considerations

### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 1, 2, 3, 4, 5, 6 The Mills and 16, 19, 24, 26, 38 Washingbay Road. At the time of writing, no third party representations have been received.

### Planning History

LA09/2019/0869/O - Site to the rear and North of 24 Washingbay Road, Lower Annagher, Coalisland - Proposed dwelling & domestic garage – PERMISSION GRANTED



### **Historical Approval – LA09/2019/0869/O**

*The above application relates to the most recent dwelling approved of the laneway proposed to serve the site, which is located NW of this application site. There is extensive history associated with the lands surrounding the site, relating to the Mills housing development and other development accessed off this lane. There is no other relevant planning history associated with this application site.*

### Planning Assessment of Policy and Other Material Considerations

- Dungannon and South Tyrone Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- PPS 7: Quality Residential Environments
- PPS 7 (Addendum) – Safe Guarding the Character of Established Residential Areas
- PPS 3: Access, Movement and Parking
- Local Development Plan 2030 - Draft Plan Strategy
- Creating Places
- DCAN 8: Housing in Existing Urban Areas
- DCAN 15: Vehicular Access Standards

**The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy**

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

The **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.

**Dungannon and South Tyrone Area Plan** is the extant Plan for the area and identifies the site as being within the settlement limits for Coalisland of Annagher Road and north of Washing Bay Road.

The proposal is for a dwelling and domestic garage. Details surrounding the design of the dwelling and garage have not been submitted as this application relates to outline planning consent only, however I find no reason why a modest sized dwelling could not be designed to respect the surrounding context and character of this area whilst remaining respectful in terms of layout, size and scale. In considering the surrounding context, there is a diverse mix of dwellings surrounding the site. In considering the surrounding context, there is an eclectic mix of dwelling sizes and designs.

There are no protected archaeological or built heritage features identified within the site or its surrounding setting and thus it is not considered that the proposal would have a significant impact on any local landscape features of built/archaeological interests. The proposal has no existing boundaries in terms of landscaping, however a landscaping scheme can be requested for further considered under any subsequent reserved matters application. Adequate private open space should be provided as part of the RM application. As the proposal is for a single dwelling and garage, it is considered that it would be unnecessary and inappropriate to ask the developer to provide additional neighbourhood facilities. The proposal would not significantly intensify or place unnecessary demands on the existing neighbourhood provisions and amenities within the area.

The site accesses onto the Washingbay Rd whereby footpaths link the development to services located within Coalisland and Clonoe. The location of this site within Coalisland allows for sustainable methods of travel for pedestrians and public transport users. Any potential issues surrounding parking and design would be identified at Reserved Matters stage subsequent to any planning approval. Given the dimensions of the site which are similar to the plots along the laneway at present, adequate in-curtilage parking for 2 vehicles could be accommodated. DFI Roads have raised no concerns in respect of parking. There is a mix of land uses in this area, with a substantial amount of the adjacent land uses being used for residential purposes, therefore it is not considered that there would be a conflict of land uses.

In terms of overlooking, loss of light and overshadowing, I consider that a dwelling could be designed at a proportionate size, scale and height to avoid causing any significant detrimental impact on neighbouring amenity. The proposal is within the settlement limits



of Coalisland and I have no reason to believe there would be any reasons why crime or personal safety would be an issue at this site.

The site is proposed to be accessed off the Washingbay Rd via an existing access and shared laneway with 6 other dwellings 5 within the settlement limits of Coalisland, with 1 just outside and 1 live outline planning approval. DFI Roads have been consulted and as detailed further below, advised roads servicing in excess of 5 units as is the case here should be brought up to adoptable standards. They also advised of the excessive width at the laneway entrance to the site and potential for piecemeal development. DFI Roads have advised that if the access is utilised correctly then the visibility splays are in situ, subsequently I think it is reasonable to approve this application. In terms of piecemeal development, I believe there is limited opportunity for further housing to be accessed off this lane. Adequate in-curtilage parking for 2 vehicles could be accommodated. I am therefore content that this proposal is in compliance with the policy provisions of PPS 3.

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

**DFI Roads** were consulted in relation to the access arrangement to the site and referred to their previous response for a similar type of application, LA09/2020/0869/O. This previous application was subsequently put to committee and was approved as an exception to policy. DFI stated the proposed site is situated within the settlement limits at Lands South of Annagher Road and North of Washing Bay Road, as illustrated in the Dungannon and South Tyrone Area Plan 2010. The section of access laneway within the settlement limits, appears to be currently serving five units and one additional single unit, outside the limit. Roads serving more than five dwellings must be determined in accordance with the Private Streets Order and the Layout of the Housing Roads design guide, "Creating Places". They have noted that they could not recommend approval for this application either given that it would be contrary to DCAN 15 and the guidance held within it relating to requirements of the Private Streets Order. Creating Places notes that all access roads serving new residential developments in excess of 5 dwellings will normally need to be designed and constructed to adoptable standards. This application would be the seventh dwelling located along this laneway taking into account the current live application and we are of the opinion that we cannot continue to allow further development to access of this laneway.

DFI advised that the approval of this proposal would exceed criteria where a road servicing in excess of 5 units should be designed in accordance with Creating Places. They noted in their previous response for LA09/2019/0869/O that the Council should consider the implications of any approval and the potential for further piecemeal development / applications being serviced via this un-adopted road. Their site inspection indicated an excessive width at the laneway entrance to the site of 13.5m. That visibility splays to the west comply with DCAN15, however visibility splays to the east vary due to possible points a vehicle can exit the laneway. Visibility splays of 2.4m x 60m are achievable if the distance is measured from 2m of the westerly point of the access however visibility splays of only 2.4m x 27.8m is achievable if the distance is measured from 2m of most easterly point of the access. Due to current design widths there is no

|  |     |
|--|-----|
| physical restraint to prevent vehicles exiting the entrance at the most easterly point, which could compromise road safety.  |     |
| <b>Neighbour Notification Checked</b>  | Yes |
| <b>Summary of Recommendation:</b><br><br>Given the road safety concerns provided by DfI Roads, the proposal is recommended for refusal.  |     |
| <b>Reasons for Refusal:</b><br><br>1. The road is not of an adequate standard to provide for additional dwellings in accordance with the provisions of Creating Places or DCAN 15 Vehicle access standards and if erected would further erode high way safety. |     |
| <b>Signature(s)</b><br><br><b>Date:</b>  |     |

| ANNEX   |                   |
|---|-------------------|
| <b>Date Valid</b>   | 6th November 2020 |
| <b>Date First Advertised</b>  | 1st December 2020 |
| <b>Date Last Advertised</b>   |                   |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner/Occupier,<br>1 The Mills, Coalisland, Tyrone, BT71 4UB<br>The Owner/Occupier,<br>16 Washingbay Road, Coalisland, Tyrone, BT71 4PU<br>The Owner/Occupier,<br>19 Washingbay Road, Coalisland, Tyrone, BT71 4PU<br>The Owner/Occupier,<br>2 The Mills, Coalisland, Tyrone, BT71 4UB<br>The Owner/Occupier,<br>24 Washingbay Road, Coalisland, Tyrone, BT71 4PU<br>The Owner/Occupier,<br>26 Washingbay Road, Coalisland, Tyrone, BT71 4PU<br>The Owner/Occupier,<br>3 The Mills, Coalisland, Tyrone, BT71 4UB<br>The Owner/Occupier,<br>38 Washingbay Road, Coalisland, Tyrone, BT71 4PU<br>The Owner/Occupier,<br>4 The Mills, Coalisland, Tyrone, BT71 4UB<br>The Owner/Occupier,<br>5 The Mills, Coalisland, Tyrone, BT71 4UB<br>The Owner/Occupier,<br>6 The Mills, Coalisland, Tyrone, BT71 4UB |                   |
| <b>Date of Last Neighbour Notification</b>  | 4th December 2020 |
| <b>Date of EIA Determination</b>  |                   |
| <b>ES Requested</b>   | Yes /No           |
| <b>Planning History</b><br><br>Ref ID: LA09/2017/1340/F<br>Proposal: Alterations of "The Mills" housing development entrance, Washingbay Road, Coalisland as approved in M/2009/0954/F<br>Address: The Mills Washingbay Road, Coalisland,<br>Decision:<br>Decision Date:  |                   |

Ref ID: LA09/2019/0869/O

Proposal: Proposed dwelling & domestic garage.

Address: Site to the rear and North of 24 Washingbay Road, Lower Annagher, Coalisland.,

Decision: PG

Decision Date: 20.08.2020

Ref ID: LA09/2020/1387/O

Proposal: Dwelling and Domestic Garage

Address: Site 40m East of 26 Washingbay Road, Coalisland,

Decision:

Decision Date:

Ref ID: LA09/2019/0781/F

Proposal: Removal of condition 3 from Planning Approval M/1978/0567.

Address: 26 Washingbay Road, Coalisland, BT71 4PU.,

Decision: PG

Decision Date: 11.09.2019

Ref ID: M/2000/1002/O

Proposal: Site for retirement dwelling

Address: Adjacent to 32 Washingbay Road Coalisland

Decision:

Decision Date: 15.02.2001

Ref ID: M/1979/0249

Proposal: RESIDENTIAL DEVELOPMENT

Address: LOWER ANNAGHER, COALISLAND

Decision:

Decision Date:

Ref ID: M/2012/0579/O

Proposal: Proposed Dwelling and Garage

Address: 30m South of 32 Washingbay Road, Coalisland,

Decision: PG

Decision Date: 08.01.2013

Ref ID: M/2013/0186/RM

Proposal: Proposed dwelling and garage

Address: 30m South of 32 Washingbay Road, Coalisland,

Decision: PG

Decision Date: 23.08.2013

Ref ID: M/1975/0203  
Proposal: ERECTION OF A SEWAGE PUMPING STATION  
Address: ANNAGHER, COALISLAND  
Decision:  
Decision Date:

Ref ID: M/2007/1520/Q  
Proposal: Alternative Access for proposed housing development  
Address: Washingbay Road, Coalisland  
Decision:  
Decision Date:

Ref ID: M/1998/0343  
Proposal: Erection of 6 No. Dwellings and construction of new roadway and alteration to existing roadway  
Address: WASHINGBAY ROAD COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1995/0594  
Proposal: Erection of Replacement Dwelling  
Address: APPROX 60M EAST OF 32 LOWER ANNAGHER COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1995/0594B  
Proposal: Proposed two storey dwelling  
Address: APPROX 60M EAST OF 32 LOWER ANNAGHER COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1990/0317B  
Proposal: Erection of dwelling  
Address: APPROX 150M WEST OF NO 28 WASHINGBAY ROAD COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1990/0317  
Proposal: Dwelling  
Address: APPROX 150M WEST OF 28 WASHINGBAY ROAD COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1992/0210  
Proposal: Site for Dwelling  
Address: ADJACENT TO NO 24 WASHINGBAY ROAD COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1978/0567  
Proposal: RETIREMENT DWELLING  
Address: WASHINGBAY ROAD, ANNAGHER  
Decision:  
Decision Date:

Ref ID: M/1986/0354  
Proposal: BUNGALOW  
Address: WASHINGBAY ROAD, COALISLAND  
Decision:  
Decision Date:

Ref ID: M/2011/0419/F  
Proposal: 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.  
Address: Site entrance serving The Mills Housing Development Washingbay Road Coalisland.,  
Decision:  
Decision Date: 07.12.2011

Ref ID: M/1990/4100  
Proposal: Alterations to dwelling  
Address: 28 WASHINGBAY ROAD COALISLAND  
Decision:  
Decision Date:

Ref ID: M/2009/0954/F  
Proposal: 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.  
Address: Site Entrance serving "The Mills" Housing Development, Washingbay Road, Coalisland  
Decision:  
Decision Date: 08.02.2011

Ref ID: M/1999/0170  
Proposal: Proposed Extension to Dwelling  
Address: ANNAGHER MILLS LOWER ANNAGHER 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:

### **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

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

## Deferred Consideration Report

| Summary  |   |
|--|---|
| <b>Case Officer:</b> Phelim Marrion  |   |
| <b>Application ID:</b> LA09/2020/1533/F  | <b>Target Date:</b> <add date>  |
| <b>Proposal:</b><br>Retention of steel framed building with cladded roof for storage for the public house. (Amended Proposal)  | <b>Location:</b><br>9-10 The Square Moy Co Tyrone BT71 7SH.   |
| <b>Applicant Name and Address:</b><br>Mr Barry McNeice<br>8 The Square<br>Moy<br>BT71 7SH  | <b>Agent Name and Address:</b><br>Paul Douglas<br>16 Collegelands Road<br>Charlemont<br>Moy<br>BT71 7SE |
| <b>Summary of Issues:</b><br><br>This application was submitted for the retention of change of use of lands to rear of existing public house to beer garden including steel framed building with cladded roof sitting area with acoustic fence to perimeter. The proposal has been amended to remove the beer garden element of the proposal and retain the existing steel framed building as a store associated with the public house. Objections were received to the original proposal and are laid out in the previous report to the committee. One further letter of objection has been received to the revised proposal's now under consideration. The bbuilding is not out of character and if used for store is unlikely to result in intensification of the use of a substandard access or adversely impact on residential amenity. |   |
| <b>Summary of Consultee Responses:</b><br>DfC HED – due to the distance and on site characteristics, no concerns offered about impacts on listed buildings<br>MUDC Environmental Health – no concerns if no plant or cooling equipment in the building<br>DFI Roads - confirmation of any traffic being generated by the building, access (onto Brick Lane) is substandard   |   |

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

The site is located in The Square in the settlement limit of Moy and also within the Moy conservation area, as defined in the Dungannon and South Tyrone Area Plan 2010. The site is located in a row of three-storey buildings that face onto a car parking area, The Square, in the Moy. The surrounding area has a mix of residential and retail/service uses such as beauty salon, antiques shop and restaurants.

The application site is a Grade 2 Listed building and is a three-storey mid terrace property with a pitched roof with natural slate tiles, a smooth render with a painted finish external walls and softwood painted sliding sash windows. The site is currently a public bar 'Tomneys' with the bar on the ground floor and living accommodation on the upper floors of the building.

The site also includes a long narrow rear garden area which has been laid in decorative stone, and D rail fencing along the sides and also separating off particular areas. There are a number of picnic tables in the upper part which is now used as a smoking area for the associated bar.

The site slopes from the roadside North to the rear and the rear portion of the site houses a large steel framed structure which is the subject of this revised proposal.

### **Description of Proposal**

Retention of steel framed building with cladded roof for storage for the public house.  
(Amended Proposal)

### **Deferred Consideration:**

This application was before the Planning Committee in June 2021 where it was deferred to allow the submission of acoustic reports which were under preparation. Since then the application has been amended with provision of additional acoustic barriers and finally the submission that is currently before the members for the retention of the steel framed building as a store for the public house.

Following the receipt of the current amended plans, the application was re-advertised in a local paper and the neighbours and other objectors were notified about the amended scheme. One additional letter of objection was received which raises issues in relation to how the use of the building will be controlled and that it will eventually be used for entertainment purposes. They also raise questions about access to the store as there is a gate beside their property which if used to service the site would adversely impact on their property and own access.

The building is located within the Settlement Limits of Moy where SETT1 policies in the Dungannon and South Tyrone Area Plan ( the extant plan for the area ) are in place. SETT1 is permissive and allows development provided it does not have adverse impacts on the appearance of the area, amenity of existing development other recognised conservation interests and has suitable arrangements for access, parking and sewage disposal. The site is also within Moy Conservation Area where Policy BH12 is a relevant consideration. There are a number of criteria in SETT1 and BH12 that are similar.

Historic Environment Division have assessed the proposal and given its location at the end of the long garden and sitting lower in the landscape, have no concerns the proposal

will adversely impact on Listed Buildings. The building is located within the Moy Conservation Area and is well enclosed by other development and existing vegetation. A glimpse of the roof is achievable from Diamond Court, the residential development to the west. From here the building is seen with other back land development and it has a simple style and appearance that I do not consider is out of character with this area. (fig 1)

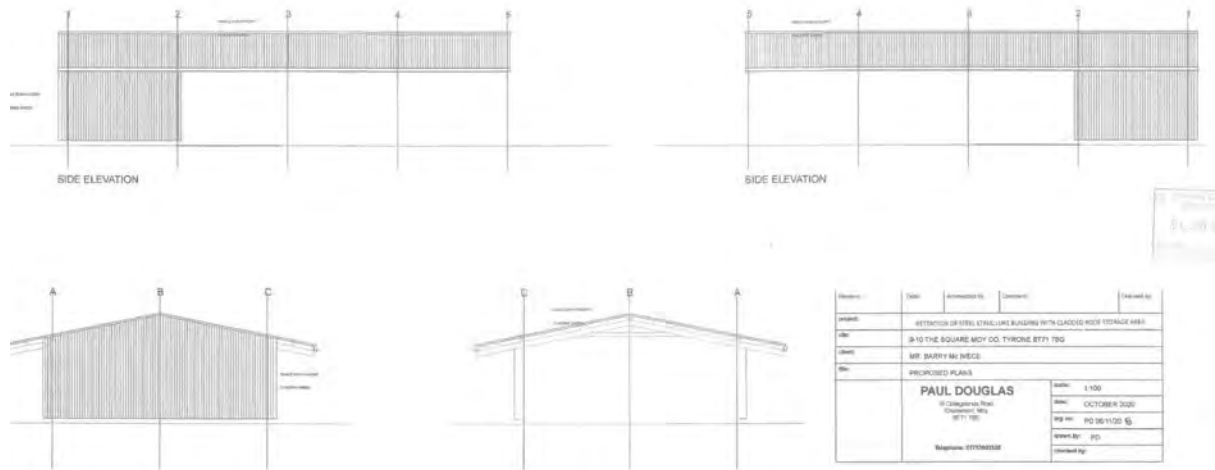


Fig 1 – proposed building

Access to the rear of the bar and the shop was already existing off Brick Lane and has been in place since before 2016, as can be seen on the attached aerial photograph (Fig 2). As this has been in place for over 5 years it is immune from enforcement action. DFI Roads advised the access is substandard and requested details of the traffic generation for this building. The agent confirmed it is only for the storage of the applicants vintage helicopter and furniture for the pub. The helicopter is not a functioning machine and it is not envisaged the proposal will result in any intensification of the use of the access. As the proposal does not involve the creation of or intensification of the use of the access, AMP2 of PPS3 is not a consideration and DFI Roads were not consulted further.



Fig 2 – 12 May 2016 and 9 August 2022

Members will be aware that planning conditions can be used to control development within buildings and on land. If a condition is not adhered to then enforcement action can be taken through the issuing of a breach of condition notice. Any uses within the building that are outside the scope of any conditions will be the subject of a separate application and this will require consideration and consultation. I consider it appropriate and necessary to restrict the use within the building to storage purposes only and that no cooling equipment or other noise emitting equipment or machinery shall be operated without the express consent of the Council, to allow assessment of any impacts on residential amenity.

### **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 18<sup>th</sup> December 2020. The Council submitted the Draft Plan Strategy to the Department for Infrastructure (DfI) on 28<sup>th</sup> May 2021 for them to carry out an Independent Examination. In light of this the draft plan cannot currently be given any determining weight.

As this amended scheme is now for storage only, it is simple in style and form, located away from public view, does not result in the intensification of use of a substandard access or result in loss of amenity to residential development, I recommend it is approved with a condition limiting its use.

### **Conditions/Reasons for Refusal:**

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

Reason: This is a retrospective application.

2. The building hereby approved shall be used solely for storage purposes associated with Tomney's Bar and for no other purpose. There shall be no cooling equipment or other noise generating equipment or noise generating machinery operated within in the building.

Reason: To protect the amenity of the adjacent residential properties.

**Signature(s)**

**Date:**



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

## Development Management Officer Report Committee Application

| Summary  |   |
|--|---|
| <b>Committee Meeting Date:</b>   | <b>Item Number:</b>   |
| <b>Application ID:</b> LA09/2020/1533/F  | <b>Target Date:</b>   |
| <b>Proposal:</b><br>Retention of change of use of lands to rear of existing public house to beer garden including steel framed building with cladded roof sitting area with acoustic fence to perimeter. | <b>Location:</b><br>9-10 The Square Moy Co Tyrone BT71 7SH.   |
| <b>Referral Route:</b> Objections received + contrary to policy  |   |
| <b>Recommendation:</b>   | Refusal   |
| <b>Applicant Name and Address:</b><br>Mr Barry McNeice<br>8 The Square<br>Moy<br>BT71 7SH  | <b>Agent Name and Address:</b><br>Paul Douglas<br>16 Collegelands Road<br>Charlemont<br>Moy<br>BT71 7SE |
| <b>Executive Summary:</b>  |   |
| <b>Signature(s):</b>   |   |



## Case Officer Report

### Site Location Plan



### Consultations:

| Consultation Type | Consultee                               | Response                      |
|-------------------|---|-------------------------------|
| Non Statutory     | Historic Environment Division (HED)     | Substantive Response Received |
| Non Statutory     | Environmental Health Mid Ulster Council | Substantive Response Received |

### Representations:

|   |                       |
|---|-----------------------|
| Letters of Support                              | None Received         |
| Letters of Objection                            | 13                    |
| Number of Support Petitions and signatures      | No Petitions Received |
| Number of Petitions of Objection and signatures | No Petitions Received |

### Summary of Issues

13 Objections were received. Concerns were;

- Impact on private amenity via;
- Noise nuisance
- Vibrations
- Smells from portaloos and chip van.
- Increase in anti-social behaviour
- Increase in littering in the area, bottles and other rubbish thrown into rear gardens

- Fear over personal safety due to patrons climbing over rear fences
- Traffic congestion via taxis using neighbouring estate for drop off points and Sewerage lorry blocking estate whilst emptying portaloos each weekend.
- Impact on wildlife along river
- Operating after hours
- Devaluation of property.

### Characteristics of the Site and Area

The site is located in The Square in the settlement limit of Moy and also within the Moy conservation area, as defined in the Dungannon and South Tyrone Area Plan 2010. The site is located in a row of three-storey buildings that face onto a car parking area, The Square, in the Moy. The surrounding area has a mix of residential and retail/service uses such as beauty salon, antiques shop and restaurants.

The application site is a Grade 2 Listed building and is a three-storey mid terrace property with a pitched roof with natural slate tiles, a smooth render with a painted finish external walls and softwood painted sliding sash windows. The site is currently a public bar 'Tomneys' with the bar on the ground floor and living accommodation on the upper floors of the building.



The site also includes a long narrow rear garden area which has been laid in decorative stone, and D rail fencing along the sides and also separating off particular areas. There are a number of picnic tables in the upper part which is now used as a smoking area for the associated bar.





The site slopes from the roadside North to the rear and the rear portion of the site houses a large steel framed structure with open sides and at the time of site visit the roof had not been completed.



## **Description of Proposal**

The proposal seeks full planning permission for the retention of change of use of lands to rear of existing public house to beer garden including steel framed building with cladded roof sitting area with acoustic fence to perimeter.

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

### **Planning History**

LA09/2019/0847/F - Tomneys Bar, 9-10 The Square, Moy - Extension of public house into the existing basement - PERMISSION GRANTED - 30.09.2019

LA09/2019/0850/LBC - Tomneys Bar, 9-10 The Square, Moy - Extension of public house into the existing basement - PERMISSION GRANTED - 27.09.2019

LA09/2020/0098/CA - Tomneys Bar, 9-10 The Square, Moy -Alleged unauthorised 'beer garden' to rear of Tomneys Bar – Ongoing.

- Strategic Planning Policy Statement (SPPS)
- Dungannon and South Tyrone Area Plan 2010
- Mid Ulster District Council Local Development 2030 - Draft Plan Strategy
- Planning Policy Statement 3 - Access, Movement and Parking.
- PPS 6 - Planning, Archaeology and the Built Heritage
- DCAN 7 Public Houses

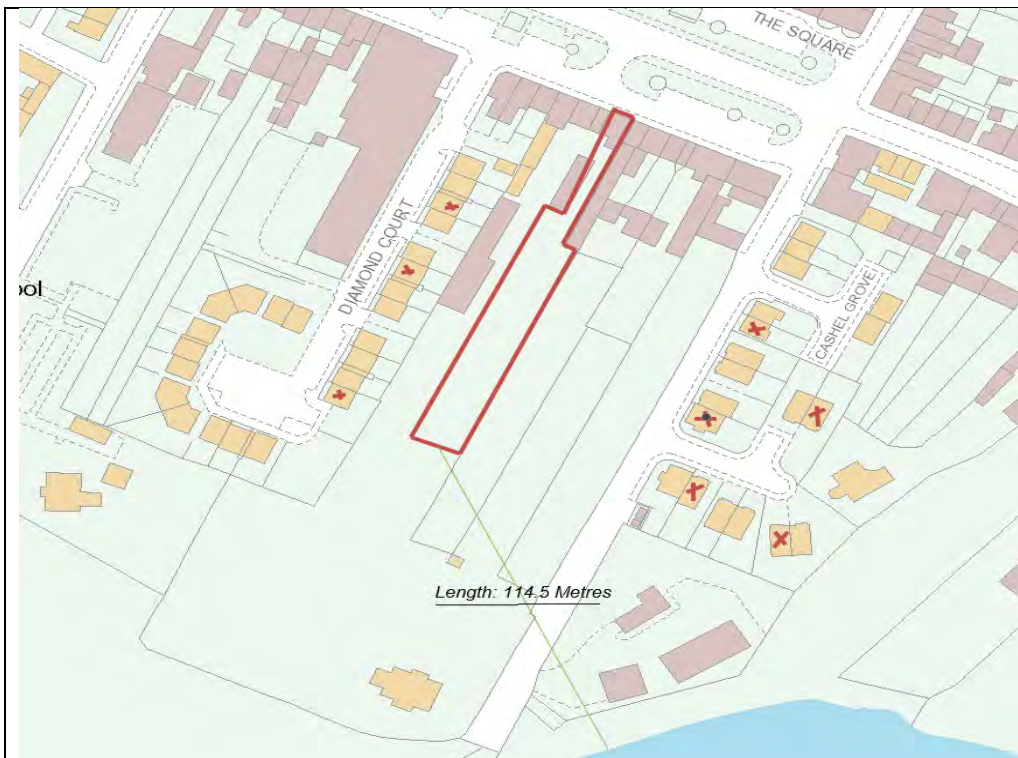
### **Representations**

A number of third party objections have been received from the local residents.

6 objections have been received from residents of Brick row to the East of the site including dwellings at no's 8, 12, 16, 22 and 2 x not numbered.

6 objections were received from residents of Diamond court to the West of the site including dwellings at no's 3, 6, 12 and 3 x not numbered.

1 objection was received from No.5 Cashel Court.



### Concerns

- Impact on private amenity via;
- Noise nuisance
- Vibrations
- Smells from portaloos and chip van.
- Increase in anti-social behaviour
- Increase in littering in the area, bottles and other rubbish thrown into rear gardens
- Fear over personal safety due to patrons climbing over rear fences
- Traffic congestion via taxis using neighbouring estate for drop off points and Sewerage lorry blocking estate whilst emptying portaloos each weekend.
- Impact on wildlife along river
- Operating after hours
- Devaluation of property.

### Consideration

The objectors raise a number of significant concerns which need thorough consideration. There is a considerable amount of detrimental impact on the private rear amenity of the residents in Diamond Court and Brick Row. The lack of any real partition gives weight to objectors concerns over noise, smells, littering, witnessing anti-social behaviour etc which would severely impact their amenity. EHO were consulted and re iterated these concerns. (discussed in detail below). The applicant has suggested an acoustic wall which may have reduced this impact however, as yet no details of this wall have been received. The operating hours would be dealt with by way of condition should the application receive approval. The river is over 110metres from the nearest part of the site and there would therefore be minimal impact on the wildlife at the river. It is also separated by 3 boundaries, a road, a dwelling and a yard and shed. Devaluation of property whilst understandable a concern for the residents is not a material consideration we as the council can accredit any weight.

**Strategic Planning Policy Statement (SPPS)**

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

The SPPS provides a regional framework of planning policy that is taken account of in the preparation of Mid Ulster Councils 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 encourages development in villages and small settlements of a scale, nature and design appropriate to the character of the settlement. In my opinion, the proposed change of use from rear yard area to beer garden including steel framed building with cladded roof sitting area with acoustic fence to perimeter will increase the amount of area for entertainment and services in Moy, however, these changes will not have a positive impact on the local area. Paragraph 6.278 states policies and proposals in villages and small settlements must be consistent with the aim, objectives and policy approach for town centres and retailing, meet local need (i.e. day-to-day needs), and be of a scale, nature and design appropriate to the character of the settlement.

**Mid Ulster Draft Plan Strategy 2030**

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

**Dungannon and South Tyrone Area Plan 2010**

The application site is located within the settlement limit for Moy as defined in the Plan. It is also located within the designated Moy Conservation Area. I consider if the proposal meets the policy in BH12 - new development in a conservation area and BH8 - extension or alteration of a listed building in PPS 6 it will also meet SETT 1 - Settlement Limit in Dungannon and South Tyrone Area Plan 2010.

**PPS 6 - Planning, Archaeology and the Built Heritage****Policy BH8 - Extension or Alteration of a Listed Building**

The proposal is to change the use of the rear yard area to beer garden including steel framed building with cladded roof sitting area with acoustic fence to perimeter.





These works include an acoustic fence along the full length of the sides, a large steel framed covered seating area in the most rear portion of the site and a stoned slope between the existing bar and the rear steel structure. This slope area is the beer garden space and is dotted with numerous picnic tables. The scale of the proposal massively increases the amount of overall area covered by the premises and would allow punters to roam freely the full length of the current rear yard. Consequently, it is my opinion that the essential character of the premises is affected and the works will have a negative impact on the local area.

**Historic Environment Division (HED)** were consulted as the building is listed building HB13/08/009B and is within the 200m buffer zone of an archaeological site and monument. HED had no objections with regards to the historic monument, however, have requested further information in regards to historic buildings. See HED HB comments below.

The application site is located to the rear of HB13/08/010, which together with a substantial number of the adjoining properties are listed in their own right. Therefore, consideration for any proposal which may affect the setting of all or any of these buildings needs careful evaluation.

As a consequence, HED – (Historic Buildings) requires further information on the following, before it would be in a position to provide a substantive response;

- Longitudinal site sections illustrating the proposal in context with the listing building (outline will suffice).
- Details of the physical size, including height, of the covered seating area. Please provide details of all external finishes.
- Landscaping proposals to indicate how the structure will assimilate into the existing garden area. Please confirm the composition of the existing boundaries of the Beer Garden and the extent to which they will be affected by this proposal.
- Further details on the proposed acoustic fence installation – including composition, height and colour.

\*To date none of this information has been received.

In conclusion, in my opinion the proposals would not respect the essential character of the existing listed building and its setting; the works do not make use of traditional and/or sympathetic building materials and techniques which match or are in keeping with those found on the building; and the architectural details do not match or are in keeping with the existing building. Therefore it is contrary to Policy BH8.

However, it must be noted that in the absence of the requested information, EHO have not provided a substantial response as yet and this is my assessment of the policy.

#### Policy BH12 - New Development in a Conservation Area

As stated earlier in the assessment there are no external works to the facade or extension proposed at the site and all works are for a change of use. I consider there will be no impact on the character and appearance of Moy Conservation Area.

The council will normally only permit development proposals for new buildings, alterations, extensions and changes of use in, or which impact on the setting of, a conservation area where all the following criteria are met:

- (a) the development preserves or enhances the character and appearance of the area;
- (b) the development is in sympathy with the characteristic built form of the area;
- (c) the scale, form, materials and detailing of the development respects the characteristics of adjoining buildings in the area;
- (d) the development does not result in environmental problems such as noise, nuisance or disturbance which would be detrimental to the particular character of the area;
- (e) important views within, into and out of the area are protected;
- (f) trees and other landscape features contributing to the character or appearance of the area are protected; and
- (g) the development conforms with the guidance set out in conservation area documents.

In consideration of the above the proposal will not preserve or enhance the character of the area, the large steel structure in particular would have a negative impact on the appearance of the area. In addition it would not have any sympathy to the surrounding built form, in terms of scale, form and materials. It would also result in noise, nuisance or disturbance which would be detrimental to the local area in particular the neighbouring residential properties on each side and therefore is contrary to policy BH12.

**Environmental Health** were consulted on this application and have recommended refusal. See comments from EHO below.

This department has visited the location on numerous occasions in the past year as the site and activities were subject to several noise complaints. During a most recent site visit it was observed that the steel frame is in place along with several areas of seating. There are domestic dwellings overlooking the garden area, with another residential properties within 20 metres along the other boundary. It is noted that the previous land use was a green/yard area to the rear of the established public house. The applicant has submitted additional information by way of a proposed acoustic barrier, however, no supporting information has been submitted.

It is the Environmental Health opinion that the barrier will be of limited effect in mitigating noise at residential receptors.

This department is of the opinion that the proposed would cause a disturbance due to noise from patrons and activities associated with outdoor socialising. It is the view of the



Environmental Health department that the land use is incompatible with the existing land use, which is predominately residential. Therefore, this department is of the opinion that this proposal be recommended for refusal.

#### EHO recommendations:

The proposed, if approved would result in an unacceptable level of disturbance to neighbouring properties due to noise levels from patrons and activities associated with outdoor socialising. It is the view of the Environmental Health department that the land use is incompatible with the existing land use, which is predominately residential.

*Reason; in the interests of protecting neighbouring residential amenity.*

#### Parking Standards

I am aware there can be issues with parking in Moy, especially at busy times. There are spaces to the front of the site at The Square, which are shared with other businesses and there is other on-street car parking within Moy.

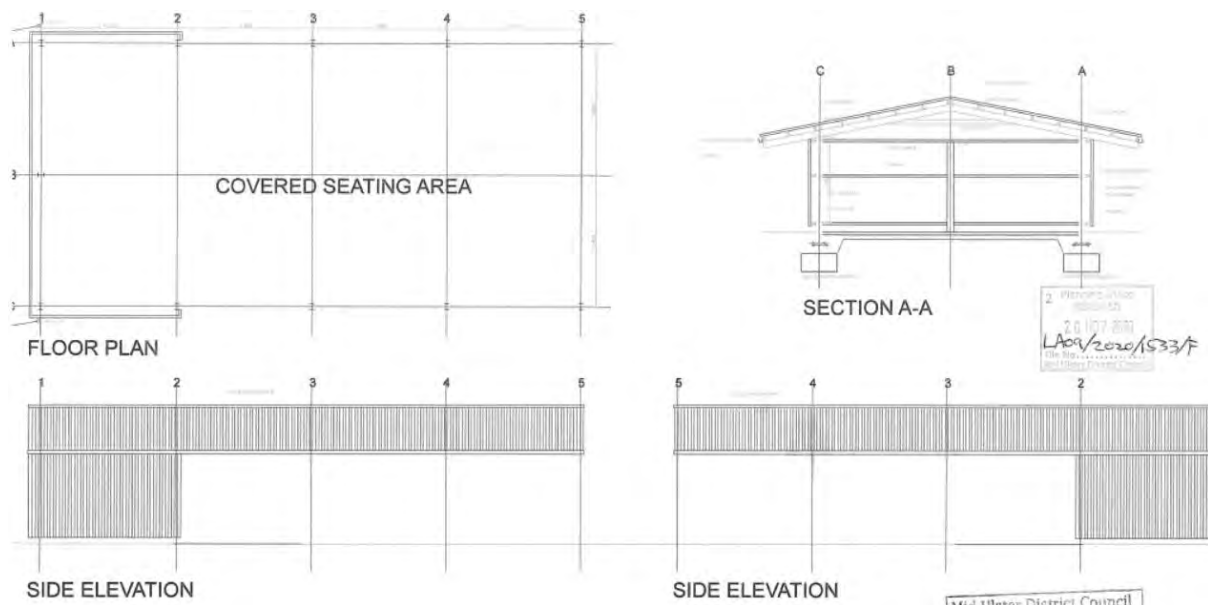
On balance, given the scale of the proposal and the type of development it relates to, I consider it will not significantly increase the need for parking provision within the village.

#### DCAN 7 Public Houses:

This development control advice note gives the council general guidance on the regulations of Public houses.

In this case the proposed changes include:

- Change of use from the existing rear yard to an outdoor beer garden
- Acoustic perimeter fence
- Steel framed building with cladded roof sitting area



There are no external changes to the existing building fronting on The Square.

#### Conclusion.

On balance it is my opinion that there will be a significant affect the privacy and private rear amenity of neighbouring residents. The proposed development would have an adverse impact upon the character of the surrounding area and outstanding information requested by HED HB has not been received, and for the reasons documented above I recommend Refusal.

Unacceptable level of disturbance to neighbouring properties  
 Incompatible with surrounding land uses.  
 PPS 6 bh8  
 PPS6 bh12  
 Lack of information

**Neighbour Notification Checked**

**Yes**

#### Refusal Reasons

1. The proposed, if approved would result in an unacceptable level of disturbance to neighbouring properties due to noise levels from patrons and activities associated with outdoor socialising. It is the view of the Environmental Health department that the land use is incompatible with the existing land use, which is predominately residential.

2.The proposal is contrary to Policy BH12 of the Council's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage in that the site lies within the Moy Conservation Area and the development would, if permitted, result in problems such as noise, nuisance or disturbance which would be detrimental to the particular character of the area. In addition the steel framed building is not in sympathy with the characteristic built form of the area in terms of scale, form and materials and does not conform with the guidance set out in the Moy Conservation Area document.

3. Having notified the applicant under Article 7 (4) of the Planning (General Development) Order (Northern Ireland) 1993 that further details regarding Historic Environment Division concerns were allowed the Council to determine the application, and having not received sufficient information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.

**Signature(s)**

**Date:**

| ANNEX  |                    |
|--|--------------------|
| <b>Date Valid</b>  | 2nd December 2020  |
| <b>Date First Advertised</b>   | 15th December 2020 |
| <b>Date Last Advertised</b>  |                    |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner/Occupier,<br>10 The Square,Moy,Tyrone,BT71 7SG<br>The Owner/Occupier,<br>10a,The Square,Moy,Tyrone,BT71 7SG<br>The Owner/Occupier,<br>11 The Square Moy Tyrone<br>B & K Grimley<br>12 Diamond Court, Moy, Tyrone, Northern Ireland, BT71 7TZ<br>Doreen Dowds<br>16 BRICK ROW, MOY, TYRONE, BT71 7UL<br>The Owner/Occupier,<br>16-19 ,The Square,Moy,Tyrone,BT71 7SG<br>C Fox<br>22 BRICK ROW, MOY, TYRONE, Northern Ireland, BT71 7UL<br>Stefano Zennaro<br>3 Diamond Court, Moy, Tyrone, Northern Ireland, BT71 7TZ<br>Greg Connolly<br>5 Cashel Grove, Moy, Tyrone, BT71 7UJ<br>The Owner/Occupier,<br>7 The Square Moy Tyrone<br>Kelly Little<br>8 BRICK ROW, MOY, TYRONE, Northern Ireland, BT71 7UL<br>The Owner/Occupier,<br>8 The Square,Moy,Tyrone,BT71 7SG<br>The Owner/Occupier,<br>8b ,The Square,Moy,Tyrone,BT71 7SG<br>The Owner/Occupier,<br>8c ,The Square,Moy,Tyrone,BT71 7SG<br>The Owner/Occupier,<br>9 The Square,Moy,Tyrone,BT71 7SG<br>The Owner/Occupier,<br>9 The Square,Moy,Tyrone,BT71 7SG<br>Wilfried Sharp<br>Email<br>R O'Neill<br>Email<br>A O'Neill<br>Email<br>Fintan Kelly |                    |

|  |    |
|--|----|
| Daisy O'Mahony<br>Ciaran Mullen<br>Brenda Nugent   |    |
| <b>Date of Last Neighbour Notification</b>   |    |
| <b>Date of EIA Determination</b>   |    |
| <b>ES Requested</b>  | No |
| <b>Planning History</b><br><br>Ref ID: LA09/2020/1533/F<br>Proposal: Retention of change of use of lands to rear of existing public house to beer garden including steel framed building with cladded roof sitting area with acoustic fence to perimeter.<br>Address: 9-10 The Square, Moy, Co Tyrone BT71 7SH.,<br>Decision:<br>Decision Date:<br><br>Ref ID: LA09/2019/0850/LBC<br>Proposal: Extension of Public House in to Existing Basement<br>Address: Tomneys Bar, 9-10 The Square, Moy, Dungannon, BT71 7SG,<br>Decision: CG<br>Decision Date: 27.09.2019<br><br>Ref ID: LA09/2019/0847/F<br>Proposal: Extension of public house into the existing basement<br>Address: Tomney's Bar, 9-10 The Square, Moy, Dungannon,<br>Decision: PG<br>Decision Date: 30.09.2019<br><br>Ref ID: M/1995/6182<br>Proposal: Refurbishment of properties 8,9,10,11 & 12 The Square Moy<br>Address: 8,9,10,11 & 12 The Square Moy<br>Decision:<br>Decision Date:<br><br>Ref ID: M/1995/0684<br>Proposal: Re-roofing of existing premises<br>Address: 9-12 THE SQUARE MOY<br>Decision:<br>Decision Date:<br><br>Ref ID: M/1995/0685<br>Proposal: Re-roofing of existing premises<br>Address: 9-12 THE SQUARE MOY<br>Decision:<br>Decision Date: |    |

Ref ID: M/1999/0636/F

Proposal: Change of use and alterations (including increase in height) to domestic store to create dwelling house.

Address: Store to rear of no.8 The Square, Moy

Decision:

Decision Date: 08.05.2001

### **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: Elevations and Floor Plans

Status: Submitted

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

Date of Notification to Department:

Response of Department:

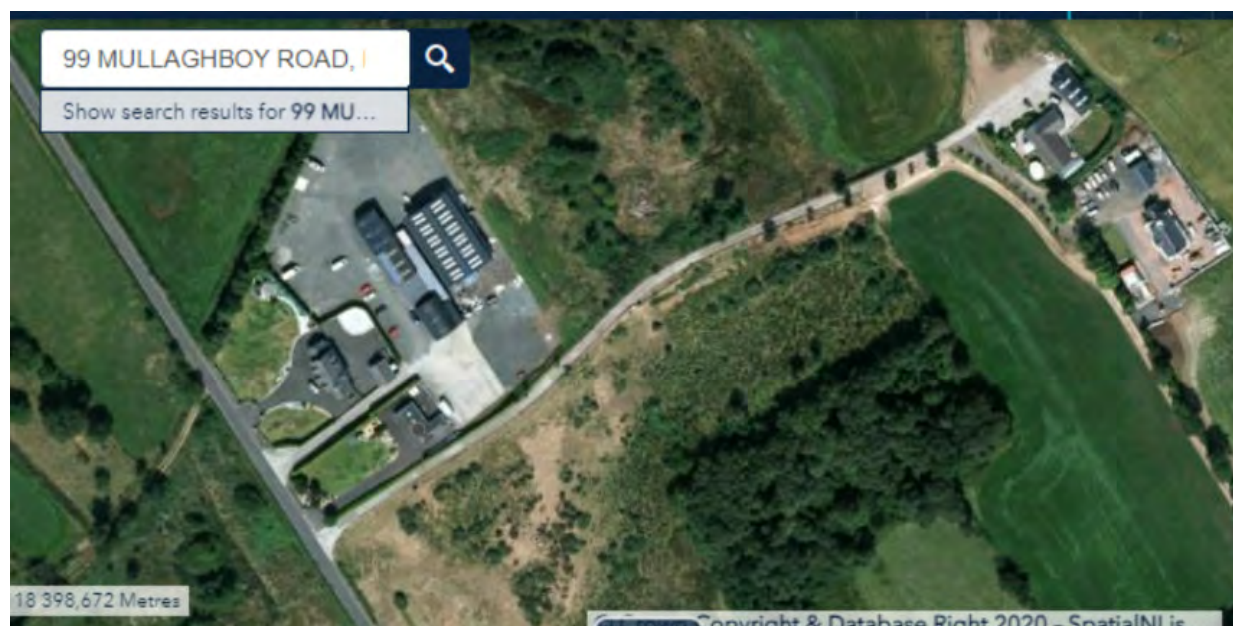


## Deferred Consideration Report

| Summary   |   |
|---|---|
| <b>Case Officer:</b> Karla McKinless  |   |
| <b>Application ID:</b> LA09/2022/0230/O<br><b>Recommendation:</b> Refuse  | <b>Target Date:</b> 20 April 2022   |
| <b>Proposal:</b><br>Proposed site for dwelling and garage   | <b>Location:</b><br>Lands Approx. 30M South East Of 99 Mullaghboy Road Bellaghy       |
| <b>Applicant Name and Address:</b><br>Mr Hugh Glackin<br>99 Mullaghboy Road<br>Bellaghy   | <b>Agent Name and Address:</b><br>Cmi Planners Ltd<br>38 Airfield Road<br>Toomebridge |
| <b>Summary of Issues:</b><br><p>This application was first presented as a refusal to Members at April 2023 Planning Committee. It was considered that the proposal did not meet the criteria for a Farm Dwelling under Policies CTY 1 and CTY 10 of PPS 21. It was also considered that the development, if approved, would create a ribbon of development and have a negative impact on the rural character of the area and as such was contrary to Policies CTY 8 and CTY 14 of PPS 21. Members agreed to defer the application for an office meeting which was facilitated on the 21<sup>st</sup> April 2023. Following this meeting and a subsequent site inspection the application was presented to Members for a 2<sup>nd</sup> time at September 2023 Planning Committee with a recommendation to refuse for the same reasons. Members agreed to defer the application again to allow the applicant to submit additional information to support his farm case. Having considered this information my opinion remains unchanged and I recommend that the application be refused for the reasons stated below. My justification for this recommendation is detailed further in this report.</p> |   |
| <b>Summary of Consultee Responses:</b><br><p>No additional or new consultations were issued to inform this deferred consideration.</p>  |   |

## Description of Proposal

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



### **Deferred Consideration:**

This is an outline application for a farm dwelling. Under Policy CTY 10 of PPS 21 the first test is whether or not there is a currently active and established farm business for at least 6 years. This is normally demonstrated with evidence such as a DAERA Business Number. The applicant does have a business number which DAERA have confirmed is a category 3 business number assigned in October 2022. A category 3 business number is awarded for veterinary purposes and enables a person to obtain a herd/flock/pig number, however with a category 3 number a person cannot make any claims or receive grants. He has not made any claims. The business number is registered to an address 6 Bells Terrace, Castledawson. This is not the address of the application site. The farm map submitted shows 5.28 hectares of farm lands, with name on the map being Mrs Kathleen Glackin and her business number (now deceased). Following the office meeting the applicant was given the opportunity to provide additional evidence to demonstrate that there is an active and established farm business for the required 6 year period. This was not forthcoming. After being brought back to a second Planning Committee, Members agreed to give the applicant another opportunity to provide information to demonstrate an active and established farm business. What has now been submitted is a Solicitors letter which states that the farmland South of 99 Mullaghboy Road is now in the ownership of Hugh Glackin (the applicant) having previously been owned by his mother, Mrs Kathleen Glackin. In my opinion this letter is only stating change in ownership of the lands that I assume to be the lands shown on the farm map submitted with the application. The letter does not demonstrate evidence that the farm business is currently active nor does it set out any evidence that the farm business has been established in excess of 6 years. Having viewed the site on the ground I witnessed no evidence of active farming. There were no farm animals, farms sheds housing equipment, animals or feed and no other evidence has been submitted to demonstrate otherwise. As such, I remain of the opinion that the proposal fails to meet the first test under CTY 10 of PPS 21.

It would appear from a planning history search of the farm lands identified on the farm map that no dwellings or development opportunities have been sold off the holding in the past 10 years and so the second policy test of CTY 10 has been met.

The third test of the policy relates to siting a dwelling so it clusters/visually links with an established group of buildings on the farm. CTY 10 does not state that these buildings have to be agricultural and Members have previously accepted dwellings and garages as buildings on the farm - as long as there is a group of buildings.

The business number details provided with this application gives the address of the farm business as being in Castledawson which is some distance away from the application site. The site location submitted with the application identifies the land owned by the applicant and on this land are 2 dwellings and sheds to the rear of number 99 Mullaghboy Road. These sheds relate to a business identified as FG Plumbing and Heating. Having reviewed the policy again and the fact that the sheds to the rear of number 99 Mullaghboy Road are on lands confirmed by a solicitor as being on farm land in Hugh Glackin's ownership, I would now take the view that a



dwelling on the application site would visually link with these buildings. There is no longer any conflict with this policy criteria.

It does remain that the applicant hasn't demonstrated that he has an active or established farm business and for this reason conflict remains with Policy CTY 10.

All applications for development listed in CTY 1 of PPS 21 must also be assessed under Policies CTY 13 - Design and Integration and CTY 14 - Rural Character.

If a dwelling were approved on this location it would extend a ribbon of development along this section of the Mullaghboy Road. This ribbon would consist of the 2 dwellings to the immediate NW as well as the accompanying development to the rear and if a dwelling were approved it would add a third dwelling to this frontage - which is clearly a ribbon as defined in Policy CTY 8 of PPS 21. This in turn would have a negative impact on rural character. For this reason the development is also considered contrary to policies CTY 8 and CTY 14 of PPS 21.

To conclude, it is my recommendation that Members refuse this application as it fails to meet policies CTY 1, CTY 8, CTY 10 and CTY 14 of PPS 21

#### **Conditions/Reasons for Refusal:**

##### **Refusal Reasons**

###### **Reason 1**

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

###### **Reason 2**

The proposal is contrary to Policy CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the farm business is currently active and has been established for at least 6 years

###### **Reason 3**

The proposal is contrary to Policy CTY 8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, extend a ribbon of development along the Mullaghboy Road and negatively impact on the rural character of the area.

**Signature(s):**Karla McKinless

**Date:** 19 November 2024





## Deferred Consideration Report

| Summary  |   |
|--|---|
| <b>Case Officer:</b> Karla McKinless   |   |
| <b>Application ID:</b> LA09/2022/0230/O<br><b>Recommendation:</b> Refuse   | <b>Target Date:</b> 20 April 2022   |
| <b>Proposal:</b><br>Proposed site for dwelling and garage  | <b>Location:</b><br>Lands Approx. 30M South East Of 99 Mullaghboy Road Bellaghy       |
| <b>Applicant Name and Address:</b><br>Mr Hugh Glackin<br>99 Mullaghboy Road<br>Bellaghy  | <b>Agent Name and Address:</b><br>Cmi Planners Ltd<br>38 Airfield Road<br>Toomebridge |
| <b>Summary of Issues:</b><br><br>This application was presented as a refusal to Members at April 2023 Planning Committee. It was considered that the proposal did not meet the criteria for a Farm Dwelling under Policies CTY 1 and CTY 10 of PPS 21. It was also considered that the development, if approved, would create a ribbon of development and have a negative impact on the rural character of the area and as such was contrary to Policies CTY 8 and CTY 14 of PPS 21. Members deferred the application for an office meeting with Dr Boomer. Following this meeting and a subsequent site inspection by the Senior Officer the application is before Members again with a recommendation to Refuse. The justification for this recommendation is detailed further in this report. |   |
| <b>Summary of Consultee Responses:</b><br><br>No additional or new consultations were issued to inform this deferred consideration.  |   |
| <b>Description of Proposal</b><br><br>This is an outline planning application for a proposed site for a dwelling and garage.   |   |
| <b>Relevant Site History</b><br>LA09/2021/1583/O- Proposed site for dwelling and garage. Lands Approx. 30M South East Of   |   |

99 Mullaghboy Road Bellaghy. Application withdrawn.

LA09/2021/0213/F- Retrospective application for existing storage unit & associated works to include car parking. 55M Ne Of 99A Mullaghboy Road Bellaghy. Permission Granted.

LA09/2021/0214/F- Part retrospective application for existing offices, storage and associated works to include car park. 30M Ne Of 99A Mullaghboy Road Bellaghy. Permission Granted.

LA09/2021/0330/LDE- Existing offices and existing storage unit. 25M Ne Of 99A Mullaghboy Road Bellaghy. Permission Granted.

LA09/2022/0627/F- Application for storage unit and associated works. 25M North Of 99A Mullaghboy Road, Bellaghy. Permission Granted.

### **Deferred Consideration:**

This is an outline application for a farm dwelling. Under Policy CTY 10 of PPS 21 the first test is whether or not there is an active and established farm business for at least 6 years. This is normally demonstrated with evidence such as a DAERA Business Number. The applicant does have a business number which DAERA have confirmed is a category 3 business number assigned in October 2022. A category 3 business number is awarded for veterinary purposes and enables a person to obtain a herd/flock/pig number, however with a category 3 number a person cannot make any claims or receive grants. He has not made any claims. The business number is registered to an address 6 Bells Terrace, Castledawson. This is not the address of the application site. The farm map submitted shows 5.28 hectares of farm lands, with name on the map being Mrs Kathleen Glackin and her business number (now deceased). Following the office meeting the applicant was given the opportunity to provide additional evidence to demonstrate that there is an active and established farm business for the required 6 year period. This has not been forthcoming and as such the proposal fails to meet the first test under CTY 10 of PPS 21. It would appear that no dwellings or development opportunities have been sold off the holding in the past 10 years and so the second policy test of CTY 10 has been met. The third test of the policy relates to siting a dwelling so it clusters/visually links with an established group of buildings on the farm. The business number details provided with this application gives the address of the farm business as being in Castledawson. No case has been provided to consider an alternative siting. It is also noted that the applicant has identified sheds at the rear of number 99 Mullaghboy Road as being part of the farm. These buildings in fact relate to a business identified as FG Plumbing and Heating. The business is established under LA09/2021/0330/LDE and other planning approvals. As such, they cannot be relied upon for siting or clustering with and the proposal fails to meet this test of CTY 10.

All applications for development listed in CTY 1 of PPS 21 must also be assessed under Policies CTY 13 - Design and Integration and CTY 14 - Rural Character.

If a dwelling were approved on this location it would extend a ribbon of development along this section of the Mullaghboy Road. This ribbon would consist of the 2 dwellings to the immediate NW and if a dwelling were approved it would add a third dwelling to this frontage - which is clearly a ribbon as defined in Policy CTY 8 of PPS 21. This in turn would have a negative impact on rural character. For this reason the development is also considered contrary to

policies CTY 8 and CTY 14 of PPS 21.

To conclude, it is my recommendation that Members refuse this application as it fails to meet policies CTY 1, CTY 8, CTY 10 and CTY 14 of PPS 21

**Conditions/Reasons for Refusal:**

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the farm business has been active and established for at least 6 years and, the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

**Reason 3**

The proposal is contrary to Policy CTY 8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, would extend a ribbon of development along the Mullaghboy Road

**Signature(s):**Karla McKinless

**Date:** 16 August 2023

## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>4 April 2023  | <b>Item Number:</b><br>5.4  |
| <b>Application ID:</b><br>LA09/2022/0230/O  | <b>Target Date:</b> 20 April 2022   |
| <b>Proposal:</b><br>Proposed site for dwelling and garage                               | <b>Location:</b><br>Lands Approx. 30M South East Of 99<br>Mullaghboy Road<br>Bellaghy |
| <b>Referral Route:</b> Refuse is recommended  |   |
| <b>Recommendation:</b> Refuse   |   |
| <b>Applicant Name and Address:</b><br>Mr Hugh Glackin<br>99 Mullaghboy Road<br>Bellaghy | <b>Agent Name and Address:</b><br>Cmi Planners Ltd<br>38 Airfield Road<br>Toomebridge |
| <b>Executive Summary:</b>   |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type          | Consultee                      | Response   |
|----------------------------|--------------------------------|--|
|                            | DFI Roads - Enniskillen Office | Substantive:<br>TBCResponseType: PR              |
|                            | DAERA - Coleraine              | Substantive:<br>TBCResponseType: FR              |
| Non Statutory<br>Consultee | DAERA - Coleraine              | Consultee Response LA09-2022-0230-O (No. 2).DOCX |

### Representations:

|   |   |
|---|---|
| Letters of Support                              | 0 |
| Letters of Objection                            | 0 |
| Letters Non Committal                           | 0 |
| Number of Support Petitions and signatures      |   |
| Number of Petitions of Objection and signatures |   |

### Summary of Issues

Proposal is contrary to policy

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

The site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan. The red line of the application site is the roadside portion of a larger agricultural field which is a flat agricultural field with some scrub hedges located within the field. The north eastern and south eastern boundaries are currently undefined. The south west and north western boundaries are defined by a low level hedge and post and wire fence with a shared laneway running between dwelling No.99 Mullaghboy and the application site. The surrounding area is a mix of land uses, with residential dwellings, business sheds and agricultural lands.

### **Representations**

No third party written representations have been received.

## **Description of Proposal**

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

### **Relevant Site History**

LA09/2021/1583/O- Proposed site for dwelling and garage. Lands Approx. 30M South East Of 99 Mullaghboy Road Bellaghy. Application withdrawn.

LA09/2021/0213/F- Retrospective application for existing storage unit & associated works to include car parking. 55M Ne Of 99A Mullaghboy Road Bellaghy. Permission Granted.

LA09/2021/0214/F- Part retrospective application for existing offices, storage and associated works to include car park. 30M Ne Of 99A Mullaghboy Road Bellaghy. Permission Granted.

LA09/2021/0330/LDE- Existing offices and existing storage unit. 25M Ne Of 99A Mullaghboy Road Bellaghy. Permission Granted.

LA09/2022/0627/F- Application for storage unit and associated works. 25M North Of 99A Mullaghboy Road, Bellaghy. Permission Granted.

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

### **Policy Consideration**

Magherafelt Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS3: Access, Movement and Parking

Mid Ulster Local Development Plan 2030- Draft Plan Strategy



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

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

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

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.

The agent originally completed the application form in which they provided a farm business No. for a Ms. Kathleen Glackin and a consultation was issued to DAERA on this business ID who confirmed the business has been in existence for more than 6 years but that no claims have been made on the farm business in any of the last 6 years, No further evidence of farming/business activity was provided. It was then brought to the attention of the planning department that the business ID holder had passed away prior to this application being made, therefore we needed further information regarding the farm business. The agent then submitted further info with a new farm business ID assigned to Hugh Glackin of 6 Bells Terrace, Castledawson. (It should be noted that this is the same name as the applicant but a different address as provided in the application form.) DAERA were then reconsulted on this new business ID and confirmed it was

assigned on October 2022 as a category 3 and no payments have been claimed in any of the last 6 years. As it was only assigned in the last 6 months, the farm business has not been established for at least 6 years and no further information has been provided to indicate otherwise. Therefore, the proposal is contrary to CTY 10.

No dwellings or development opportunities have been sold off from the farm holding within the last 10 years. The farm business has only been established since October 2022.

With regards criteria C the agent has identified existing farm sheds at the rear of 99 Mullaghboy Road. However, there is extensive planning history for these buildings and surrounding which relate to the business identified as FG Plumbing & Heating. LA09/2021/0330/LDE sought a certificate of lawfulness for the existing business and subsequent applications were submitted and approved for the business here. As such from this there are no existing farm buildings which the proposed dwelling can visually link with or cluster with. Therefore, the proposal fails to meet criteria C of CTY 10.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been provided however, I am content a dwelling with a maximum ridge height of 6m above finished floor level would not be a prominent feature in the landscape. A dwelling of this size would integrate into the landscape and the existing dwellings adjacent and the business to the rear of these dwellings provide a backdrop when travelling north west. Additional planting would be required but the site would not primarily rely on new landscaping for integration. As previously mentioned the dwelling is not visually linked or sited to cluster with an established group of buildings on a farm and fails Policy CTY 13.

Policy CTY 14 states, planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, no design details were submitted. As previously mentioned a dwelling with a ridge height of no more than 6m would ensure it is not a prominent feature. However, criteria (d) refers to creating or adding to a ribbon of development which I feel if a dwelling was approved here it would extend a ribbon of development along the Mullaghboy Road. Therefore, the proposal fails to comply with CTY 8 and CTY 14 of PPS 21.

### **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 an Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

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

#### **Reason 2**

The proposal is contrary to Policy CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the farm business ID provided has not been established for at least 6 years and, the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

#### **Reason 3**

The proposal is contrary to Policy CTY 8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, would extend a ribbon of development along the Mullaghboy Road

**Signature(s):** Ciaran Devlin

**Date:** 21 March 2023

| ANNEX  |                  |
|--|------------------|
| <b>Date Valid</b>  | 23 February 2022 |
| <b>Date First Advertised</b>   | 8 March 2022     |
| <b>Date Last Advertised</b>  | 8 March 2022     |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>101B Mullaghboy Road Bellaghy Londonderry BT45 8JH<br>The Owner / Occupier<br>101A Mullaghboy Road Bellaghy Londonderry BT45 8JH<br>The Owner / Occupier<br>101 Mullaghboy Road Bellaghy Londonderry BT45 8JH<br>The Owner / Occupier<br>99A Mullaghboy Road Bellaghy Londonderry BT45 8JH   |                  |
| <b>Date of Last Neighbour Notification</b>   | 9 March 2022     |
| <b>Date of EIA Determination</b>   |                  |
| <b>ES Requested</b>  | <events screen>  |
| <b><u>Planning History</u></b><br><br>Ref: H/2003/1173/O<br>Proposals: Site of replacement dwelling and garage.<br>Decision: PG<br>Decision Date: 23-MAR-04<br>Ref: H/2005/0370/O<br>Proposals: Site of Dwelling and Garage<br>Decision: PG<br>Decision Date: 05-OCT-06<br>Ref: H/1986/0426<br>Proposals: SITE OF BUNGALOW MULLAGHBOY ROAD, MULLAGHBOY, BELLAGHY.<br>Decision: HISAPP<br>Decision Date:<br>Ref: LA09/2021/0204/F<br>Proposals: Existing offices & existing storage unit associated with established business.<br>Decision:<br>Decision Date:<br>Ref: LA09/2021/0213/F<br>Proposals: Retrospective application for existing storage unit & associated works to include car parking. |                  |

Decision: PG

Decision Date: 31-MAR-22

Ref: H/2004/0463/O

Proposals: Site of New Dwelling and Garage.

Decision: PR

Decision Date: 24-NOV-05

Ref: LA09/2021/0214/F

Proposals: Part retrospective application for existing offices, storage and associated works to include car park.

Decision: PG

Decision Date: 31-MAR-22

Ref: LA09/2022/0230/O

Proposals: Proposed site for dwelling and garage

Decision:

Decision Date:

Ref: H/2004/0160/O

Proposals: Site of dwelling and garage.

Decision: PR

Decision Date: 28-NOV-05

Ref: H/2005/0107/F

Proposals: Dwelling and garage (amended house type from that approved under H/2002/0565/)

Decision: PG

Decision Date: 05-JUL-05

Ref: LA09/2021/0725/F

Proposals: Change of house type & garage to previously approved site H/2009/0535/F with sma extension of site curtilage.

Decision: PG

Decision Date: 17-AUG-21

Ref: LA09/2021/1583/O

Proposals: Proposed farm dwelling and Garage

Decision: PG

Decision Date: 02-FEB-22

Ref: H/2007/0220/RM

Proposals: Proposed replacement dwelling.

Decision: PG

Decision Date: 24-AUG-07

Ref: H/1998/0164

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

Ref: H/2009/0535/F

Proposals: Re-positioning of replacement dwelling approved under H/2003/1173/O and H/2007/0220/RM and removal of foundations and re-instatement of land and proposed detached domestic garage

Decision: PG

Decision Date: 12-OCT-09  
Ref: H/1979/0285  
Proposals: BUNGALOW  
Decision: PG  
Decision Date:  
Ref: LA09/2021/0330/LDE  
Proposals: Existing offices and existing storage unit  
Decision: PG  
Decision Date: 03-MAR-22  
Ref: H/2011/0550/F  
Proposals: Proposed dwelling and garage for residential purposes  
Decision: PG  
Decision Date: 05-JUL-12  
Ref: H/1993/0258  
Proposals: SITE OF BUNGALOW  
Decision: PR  
Decision Date:  
Ref: H/1989/0302  
Proposals: DWELLING  
Decision: PR  
Decision Date:  
Ref: H/2002/0565/F  
Proposals: Dwelling and Garage  
Decision: PG  
Decision Date: 16-SEP-02

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR  
DAERA - Coleraine-Substantive: TBCResponseType: FR  
DAERA - Coleraine-Consultee Response LA09-2022-0230-O (No. 2).DOCX

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not Applicable





## Deferred Consideration Report

| Summary   |   |
|---|---|
| <b>Case Officer:</b> Karla McKinless  |   |
| <b>Application ID:</b> LA09/2023/0340/F<br><b>Recommendation:</b> Approve   | <b>Target Date:</b> 11 July 2023  |
| <b>Proposal:</b><br>Proposed Dwelling and Garage  | <b>Location:</b><br>Lands Approx 40M South of 117 Cavanakeeran Road<br>Pomeroy                          |
| <b>Applicant Name and Address:</b><br>Ms Kate McAleer<br>117 Cavanakeeran Road<br>Pomeroy<br>BT70 2TB   | <b>Agent Name and Address:</b><br>Mr Aidan Begley<br>76 Main Street<br>Pomeroy<br>Dungannon<br>BT70 2QP |
| <b>Summary of Issues:</b><br><br>This application was first before Members at June 2024 Planning Committee. It was recommended for refusal under policies CTY 13 and CTY 14 of PPS 21 due to prominence and design concerns. Members agreed to defer the application for an office meeting which was facilitated on the 13 <sup>th</sup> June. Following a site inspection and submission of an amended design the proposal is now being recommended for approval and my justification for this is detailed further in this report. |   |
| <b>Summary of Consultee Responses:</b><br><br>No new or additional consultations have been issued to inform this deferred consideration   |   |
| <b>Description of Proposal</b><br><br>This is a full application for a proposed dwelling and garage at lands approximately 40m South of No. 117 Cavanakeeran Road, Pomeroy.   |   |





dwelling had a ridge height of 8m which is in excess of the 6m ridge height conditioned under the outline approval. For this reason the initial case officer considered that the dwelling was of a scale too excessive for the site. It was also considered that the proposed designed did not reflect the traditional rural dwelling designs in the locality.

Following the deferred office meeting the applicant agreed to submit a revised drawing dealing with the concerns raised over the design. The designed now has removed the semi circular front projection, reduced the amount of glazing and introduced a 3rd first floor dormer instead of a double door opening. Whilst the design now proposed is slightly more in keeping with modern rural examples throughout the countryside it is important to acknowledge the limited visual impact a dwelling on this site will have. Having carried out a site inspection it is evident that the public interest in the site will be minimal. Any views are transient and short term. Existing boundary vegetation to the SE screens the site from any long term critical views travelling out of Pomeroy. The road bend and rising landform to the NW screens the site when travelling in the opposite direction. The dwelling has also been slightly reduced in height. For these reasons it is my opinion that the dwelling as proposed will not appear overly prominent and the design is more compatible with what is considered traditional and rural for the purposes of policies CTY 12 and CTY 14.

It is recommended that approval is granted subject to the conditions set out below.

### **Conditions/Reasons for Refusal:**

#### **Approval Conditions**

##### **Condition 1**

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

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

##### **Condition 2**

The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 02 rev 03 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.

##### **Condition 3**

The existing natural screenings of this site, as identified on drawing No 02 Revision 3 shall be permanently retained.

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

##### **Condition 4**

During the first available planting season after the occupation of the dwelling hereby approved, all landscaping as detailed on drawing 02 revision 3 shall be provided.

Reason: To ensure the development integrates into the countryside

**Signature(s):**Karla McKinless

**Date:** 20 November 2024



## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>4 June 2024   | <b>Item Number:</b><br>5.4  |
| <b>Application ID:</b><br>LA09/2023/0340/F  | <b>Target Date:</b> 11 July 2023  |
| <b>Proposal:</b><br>Proposed Dwelling and Garage  | <b>Location:</b><br>Lands Approx 40M South of 117<br>Cavanakeeran Road<br>Pomeroy                       |
| <b>Referral Route:</b> Refuse is recommended  |   |
| <b>Recommendation:</b> Refuse   |   |
| <b>Applicant Name and Address:</b><br>Ms Kate McAleer<br>117 CAVANAKEERAN ROAD<br>POMEROY<br>BT70 2TB   | <b>Agent Name and Address:</b><br>Mr Aidan Begley<br>76 MAIN STREET<br>POMEROY<br>DUNGANNON<br>BT70 2QP |
| <b>Executive Summary:</b><br><br>The current application for a dwelling and domestic garage is presented as a refusal as it fails to meet Policy CTY 13 and Policy CTY 14 of PPS 21: Sustainable Development in the Countryside:<br>- This proposal fails to meet Policy CTY 13 of PPS 21 as the proposed dwelling would appear as a prominent feature in the landscape, it cannot be visually integrated into the surrounding landscape, and it is not of an appropriate design for the site and its locality.<br>- This proposal fails to meet Policy CTY 14 of PPS 21 as the proposed dwelling would be unduly prominent in the landscape. |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type   | Consultee                      | Response                |
|---------------------|--------------------------------|-------------------------|
| Statutory Consultee | DFI Roads - Enniskillen Office | Response Template.docx  |
| Statutory Consultee | DFI Roads - Enniskillen Office |                         |
| Statutory Consultee | DFI Roads - Enniskillen Office | Roads Consultation.docx |

### Representations:

|   |   |
|---|---|
| Letters of Support                              | 0 |
| Letters Non Committal                           | 0 |
| Letters of Objection                            | 0 |
| Number of Support Petitions and signatures      |   |
| Number of Petitions of Objection and signatures |   |

### Summary of Issues

### Characteristics of the Site and Area

The application site is located within the open countryside, outside any defined settlement limits as per the Cookstown Area Plan 2010. The site comprises a small paddock to the south of No. 117. The site gently slopes downwards in southerly direction

towards the Cavanakeeran Road. There is an existing shared access onto Cavanakeeran Road which it is proposed be modified to serve the new dwelling. The frontage along Cavanakeeran Road on the western side comprises a grassed bank with a line of mature trees and hedgerow. The eastern boundary is defined by a concrete lane bordered and a post and wire fence. A post and wire fence provides the northern boundary; the western boundary is comprised of mature trees and thick hedge; whilst the southern is undefined. No. 222 Cavanakeeran Road located to the south bisected by Cavanakeeran Road consists of a modern single storey dwelling, and Nos. 170 and 180 Cavanakeeran Road are detached dwellings, lie adjacent and west of the application site. To the north lies No. 117 Cavanakeeran Road, a chalet bungalow.

It is important to note there is a recent outline planning approval on this site under planning reference LA09/2019/1081/O.

### **Description of Proposal**

This is a full application for a proposed dwelling and garage at lands approximately 40m South of No. 117 Cavanakeeran Road, Pomeroy.

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

#### **Policy Consideration**

##### Representations

Four neighbour notification letters were issued in relation to this application; however no representations were received.

##### Relevant Planning History

LA09/2019/1081/O – Site for dwelling under PPS21 CTY2A. Site 40M South Of 117 Cavanakeeran Road, Pomeroy. Permission granted – 19.02.2020.

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

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

Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 - Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 1: General Principles

PPS 3: Access, Movement and Parking

PPS 21: Sustainable Development in the Countryside

CTY 1 – Development in the Countryside

CTY 2a – New Dwellings in Existing Clusters

CTY 13 – Integration and Design of Buildings in the Countryside

## CTY 14 – Rural Character

### Building on Tradition – A Sustainable Design Guide for Northern Ireland Countryside

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

The 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. 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 are acceptable in the countryside. In this instance the application is for a new dwelling in an existing cluster therefore this development must be considered under CTY 2a of PPS 21. Policy 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.

Planning application LA09/2019/1081/O was approved on this site for a dwelling at an existing cluster, and no planning policy has changed since this time, therefore we must hold material weight to that approval, and as I am content this application complies with



CTY 2a of PPS 21.



*Image 1 – Photo of application site*

This application must also comply with CTY 13 and CTY 14 of PPS 21. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. Policy CTY 14 states planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.

It is important to note, that the outline approval on this site had a condition attached that the proposed dwelling shall have a ridge height of less than 6 metres above finish floor levels to ensure that the development is satisfactorily integrated into the landscape.



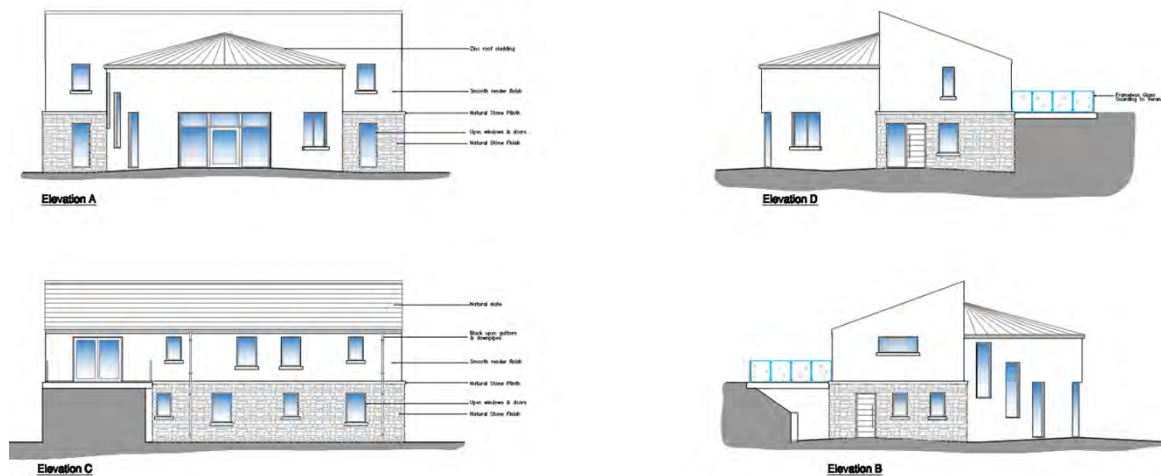


Figure 1 – Original design, Drawing No. 03 (received 27<sup>th</sup> March 2023)

In terms of the design of the building, the original design of the building was received 27<sup>th</sup> March 2023. The proposed dwelling had a ridge height of approximately 8m above finish floor levels, and the dwelling was not traditional or rural in form. When discussed at group discussion, it was considered by officers that this design was unacceptable. There was a 6m ridge height condition attached to the outline approval on site to ensure that the development is satisfactorily integrated into the landscape, and officers agreed with the original decision to attach this condition. The site cannot take a dwelling with an 8m ridge height, and the scale is too excessive for the site. The design of the dwelling should represent a dwelling that is traditional and rural in form in line with Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside. The previous case officer recommended a redesign to the agent.

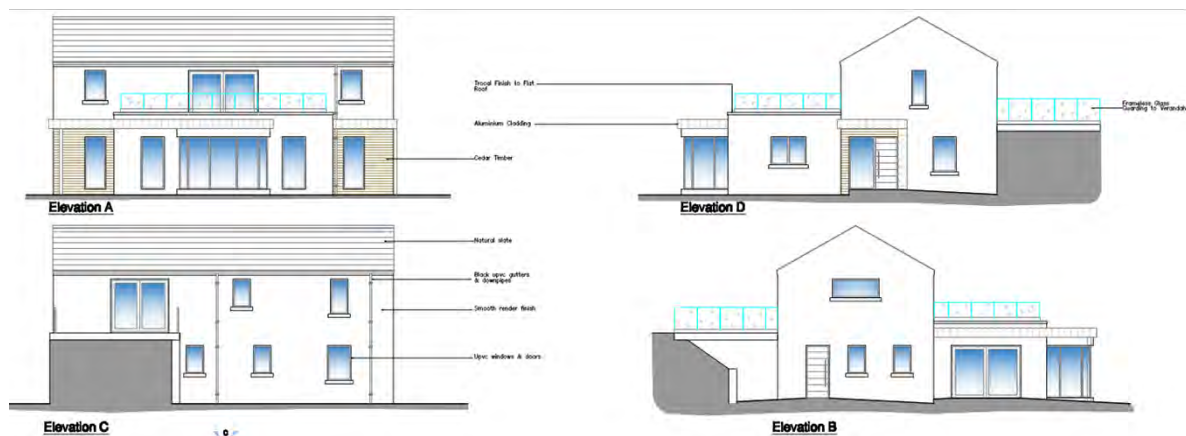


Figure 2 – Revised Drawing No. 03 Rev 01 (received 1<sup>st</sup> September 2023)

The agent submitted a revised design on 1<sup>st</sup> September 2023. This redesign was

discussed by officers at group discussion, and the officers were still of the opinion that the design was unacceptable, and that the redesign did not address any concerns that had previously been noted. The ridge height had only been reduced slightly to approximately 7.6m, the scale of the dwelling was still excessive, and the design was not traditional and rural in form. The original opinion from the previous group discussion still remained. Officers believed that the design of the dwelling was inappropriate for the site and its locality. A further redesign was recommended to properly address these concerns, specifically reducing the ridge height (noting to the agent to bear in mind that a 6m ridge height was conditioned under the outline permission).

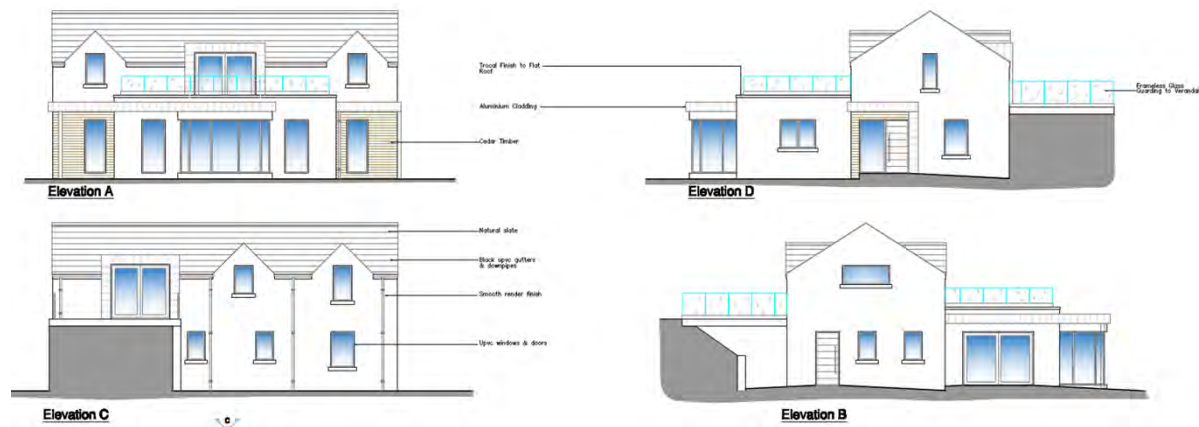


Figure 2 – Revised Drawing No. 03 Rev 02 (received 15<sup>th</sup> February 2024)

Revised drawings were received from the agent on 15<sup>th</sup> February 2024. The ridge height had been reduced slightly to approximately 7m, and the scale and form of the dwelling had not changed significantly. This amended design was discussed at group discussion and the officers were of the opinion that this design did not adequately address the original concerns that were relayed to the agent numerous times at this point. The scale of this proposed dwelling is too excessive for this site, and it would make it dominant in the local landscape. The design of the dwelling is not traditional, and is inappropriate for its rural location. It would not integrate harmoniously with the surrounding area.

Officers are of the opinion the design of the proposed dwelling is not in line with Building on Tradition – A Sustainable Design Guide for the Northern Ireland Countryside. Officers are of the opinion that the proposal would appear as a prominent feature in the landscape, it cannot be visually integrated into the surrounding landscape, and it is not of an appropriate design for the site and its locality, and for these reasons fails to comply with Policy CTY 13 of PPS 21. Officers are of the opinion that the proposed dwelling would be unduly prominent in the landscape and for this reason it fails to comply with CTY 14 of PPS 21. For these reasons, it is recommended that this application is refused.

**Other policy and material considerations****PPS 3: Access, Movement and Parking**

DfI Roads were consulted, and their response confirmed that they had no objection, subject to conditions. I am content that the access is acceptable under PPS 3.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons****Reason 1**

This proposal is contrary to Policy CTY 13 of Planning Policy Statement 21: Sustainable Development in the Countryside as the proposed dwelling would appear as a prominent feature in the landscape, it cannot be visually integrated into the surrounding landscape, and it is not of an appropriate design for the site and its locality.

**Reason 2**

This proposal is contrary to Policy CTY 14 of Planning Policy Statement 21: Sustainable Development in the Countryside as the proposed dwelling would be unduly prominent in the landscape.

**Signature(s):** Seáinín Mhic Íomhair

**Date:** 17 May 2024

|   |                 |
|---|-----------------|
| <b>ANNEX</b>  |                 |
| <b>Date Valid</b>   | 28 March 2023   |
| <b>Date First Advertised</b>  | 11 April 2023   |
| <b>Date Last Advertised</b>   | 11 April 2023   |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>222 Termon Road Pomeroy Tyrone BT70 2TA<br>The Owner / Occupier<br>170 Loughmallon Road Pomeroy Tyrone BT70 2SY<br>The Owner / Occupier<br>180 Loughmallon Road Pomeroy Tyrone BT70 2SY<br>The Owner / Occupier<br>117 Loughmallon Road, Pomeroy, Tyrone, BT70 2SY                                      |                 |
| <b>Date of Last Neighbour Notification</b>  | 14 April 2023   |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: I/1990/0359<br>Proposals: Bungalow<br>Decision: PR<br>Decision Date:<br><br>Ref: I/2006/0364/O<br>Proposals: Site for dwelling<br>Decision: PR<br>Decision Date: 15-JAN-07<br><br>Ref: I/1994/0249<br>Proposals: Dwelling<br>Decision: PG<br>Decision Date:<br><br>Ref: LA09/2023/0340/F<br>Proposals: Proposed Dwelling and Garage<br>Decision: |                 |

Decision Date:

Ref: I/1998/0316

Proposals: Proposed Extension and Repairs to Dwelling

Decision: PG

Decision Date:

Ref: I/2005/1389/F

Proposals: Proposed sun-lounge extension

Decision: PG

Decision Date: 08-MAR-06

Ref: I/2002/0172/F

Proposals: Extension to Dwelling

Decision: PG

Decision Date: 17-JUN-02

Ref: I/1979/0031

Proposals: EXTENSION TO DWELLING HOUSE

Decision: PG

Decision Date:

Ref: I/1999/0413/O

Proposals: Dwelling House (Replacement) Store and Garage to House Classic Cars/Tractors - Garage and Store 80' x 25' approx - Domestic Use Only.

Decision: PG

Decision Date: 29-OCT-99

Ref: I/2000/0718/RM

Proposals: Single Storey replacement dwelling

Decision: PG

Decision Date: 13-DEC-00

Ref: LA09/2019/1081/O

Proposals: Site for dwelling under PPS21 CTY2A

Decision: PG

Decision Date: 19-FEB-20

Ref: I/1985/0338

Proposals: DWELLING

Decision: PR

Decision Date:

Ref: I/1986/0338

Proposals: BUNGALOW

Decision: PG

Decision Date:

Ref: I/2003/0651/O

Proposals: Proposed replacement two-storey dwelling and domestic garage

Decision: PG

Decision Date: 11-SEP-03

Ref: I/1991/0135

Proposals: Change of use from agricultural land to golf course

Decision: WITHDR

Decision Date:

Ref: I/1995/0301

Proposals: Site for dwelling

Decision: PR

Decision Date:

Ref: I/1990/0217

Proposals: Erection of Bungalow

Decision: WITHDR

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Response Template.docx

DFI Roads - Enniskillen Office-

DFI Roads - Enniskillen Office-Roads Consultation.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Elevations Plan Ref: 03

Garage Plans Plan Ref: 04

Proposed Elevations Plan Ref: 03 Rev 01

Site Layout or Block Plan Plan Ref: 02 Rev 01

Proposed Elevations Plan Ref: 03 Rev 02

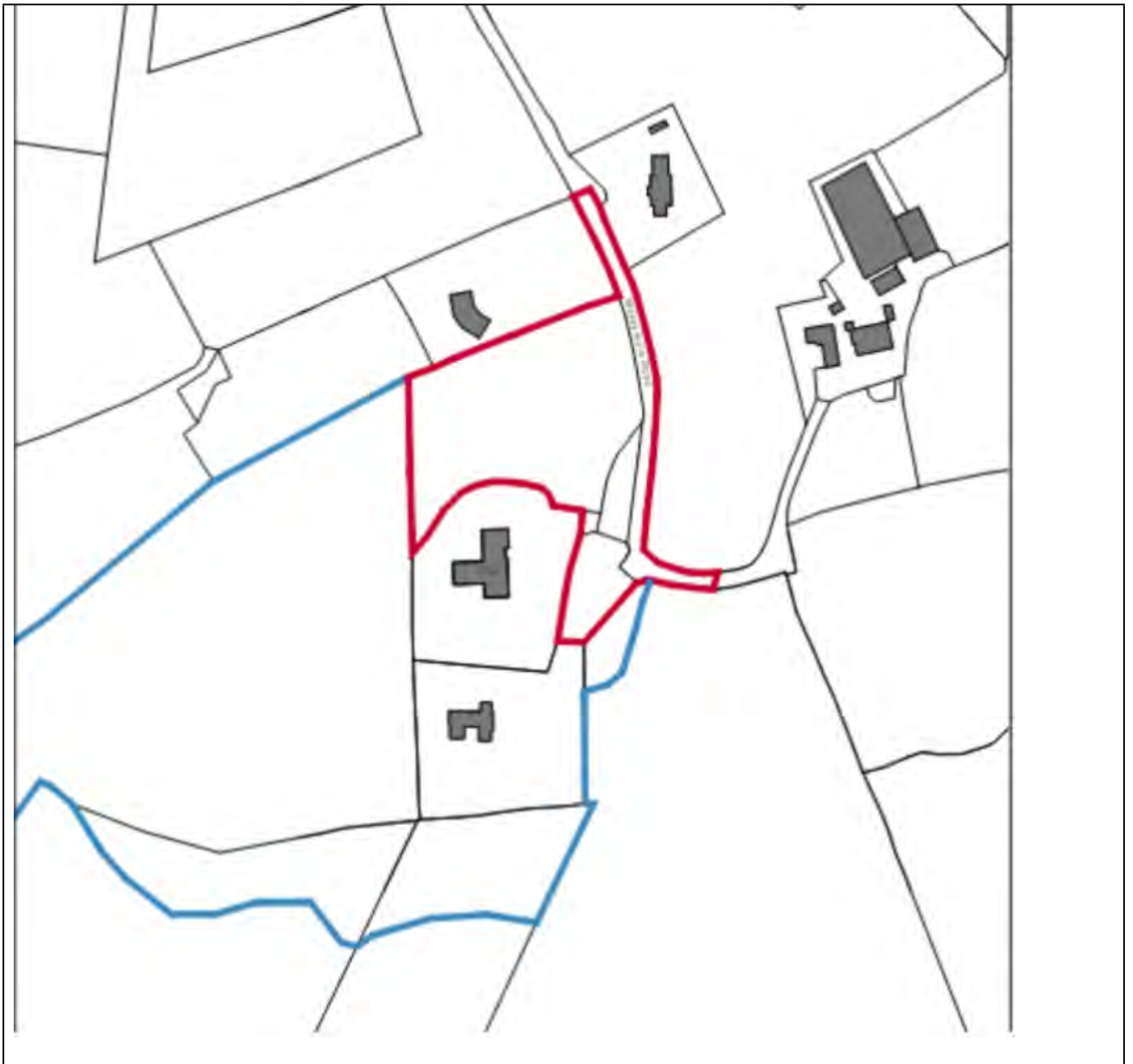
### **Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

| Summary  |  |
|--|--|
| <b>Case Officer:</b> Karla McKinless   |  |
| <b>Application ID:</b> LA09/2023/0659/O<br><b>Recommendation:</b> Approve  | <b>Target Date:</b> 27 September 2023  |
| <b>Proposal:</b><br>Infill site for dwelling and garage under CTY 8  | <b>Location:</b><br>Lands Approx. 50M North of 152 Moneymore Road, Magherafelt                     |
| <b>Applicant Name and Address:</b><br>Mrs Dorothy Bradley<br>152 Moneymore Road<br>Magherafelt<br>BT45 6HL   | <b>Agent Name and Address:</b><br>Mrs Katherine McCann<br>1a Loves Road<br>Magherafelt<br>BT45 6NP |
| <b>Summary of Issues:</b><br><br>This application was first before Members at May 2024 Planning Committee with a recommendation to refuse. It was considered that the proposal was contrary to Policy CTY 8 of PPS 21 in that it didn't represent an infill opportunity along a road frontage site. It was also considered contrary to Policy CTY2A of PPS 21 in that there was no valid focal point to merit it being assessed as a dwelling in an existing cluster of development. Members agreed to defer the application for an office meeting, which was facilitated on the 13 <sup>th</sup> June 2024. Following this meeting, the carrying out of a site inspection and a reconsideration of the application, I now recommend that the application be approved. The justification for this revised recommendation is detailed further in this report. |  |
| <b>Summary of Consultee Responses:</b><br><br>No new or additional consultations have been issued to inform this reconsideration   |  |
| <b>Description of Proposal</b><br><br>This is an outline application for a proposed infill site for a dwelling and garage under Policy CTY 8.  |  |







APPLICATION NUMBER – LA09/2023/0659/O  
ACKN



### **Deferred Consideration:**

This outline application for a dwelling has been applied under infill policy (CTY 8) however it has also been assessed under cluster policy (CTY2A). I would agree with the previous case officer that the Bed and Breakfast located to the immediate North of the site would not meet the requirement of being considered a focal point for the purpose of the CTY2A policy test. As all the criteria listed in policy CTY2A are not being met it remains that the proposal must be considered under Policy CTY8 of PP21.

CTY 8 clearly states that permission will be refused for a building which creates or add to a ribbon of development. It does have an exception which allows for the development of a small gap site within a substantial and built up frontage. The policy defines a road frontage as a line of 3 or more buildings along a road frontage without accompanying development to the rear. The previous case officer had concern that 2 of the dwellings being relied upon, numbers 152 and 152a Moneymore Road, didn't have a direct road frontage. Having carried out a site inspection I can confirm that number 152 would have a direct road frontage if it wasn't for a large copse of shrub and trees located just to the North of the entrance to the site. Number 152a is set back off the Moneymore Road but utilises the same access point as number 152. It is a slightly convoluted access arrangement onto the Moneymore Road for both dwellings but if the existing boundary treatment were to be removed the curtilage of number 152 would extend down to the road edge. It is actually evident on the ground that entrance lighting is located in this area. It would appear that the applicant has just decided to keep the vegetation in this area in order to provide some screening for the existing dwelling. It would be a very harsh application of policy to consider that the dwellings at 152 and 152a did not having a road frontage and for this reason I would consider the application site as a gap site within a substantial built up road frontage and recommend that Members approve this application subject to the conditions set out below.

### **Conditions/Reasons for Refusal:**

#### **Approval Conditions**

#### Condition 1

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

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

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

#### Condition 2

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

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

#### Condition 3

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

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

#### Condition 4

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council. Development shall be carried out in accordance with the approved levels

Reason: To ensure the dwelling integrates into the landform

#### Condition 5

The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity

#### Condition 6

No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation. -

Reason: In the interest of visual amenity and to ensure the provision, establishment and maintenance of a high standard of landscape

**Condition 7**

The existing natural screenings of this site shall be permanently retained, except where it is necessary to provide sight splays.

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

**Condition 8**

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

Reason: To ensure the amenity afforded by existing hedges is maintained and to encourage biodiversity

**Condition 9**

The proposed dwelling shall have a ridge height of less than 6.5 metres above finished floor level

Reason: To ensure that the development satisfactorily integrates.

**Condition 10**

No vegetation clearance/removal of hedgerows, trees or shrubs/demolition of buildings or structures shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance/demolition and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds

**Signature(s):** Karla McKinless

**Date:** 19 November 2024



## Development Management Officer Report Committee Application

| Summary   |  |
|---|--|
| <b>Committee Meeting Date:</b><br>7 May 2024  | <b>Item Number:</b><br>5.9   |
| <b>Application ID:</b><br>LA09/2023/0659/O  | <b>Target Date:</b> 27 September 2023  |
| <b>Proposal:</b><br>Infill site for dwelling and garage under CTY 8   | <b>Location:</b><br>Lands Approx. 50M North of 152 Moneymore Road, Magherafelt                     |
| <b>Referral Route:</b> Refuse is recommended  |  |
| <b>Recommendation:</b> Refuse   |  |
| <b>Applicant Name and Address:</b><br>Mrs Dorothy Bradley<br>152 Moneymore Road<br>Magherafelt<br>BT45 6HL  | <b>Agent Name and Address:</b><br>Mrs Katherine McCann<br>1a Loves Road<br>Magherafelt<br>BT45 6NP |
| <b>Executive Summary:</b><br><br>This application is brought before the planning committee with a recommendation for refusal. The proposal is contrary to Policies CTY 8 and CTY 14 of PPS 21 in that it is not located within a substantial and continuously built up frontage and if approved would create a ribbon of development. The proposal is also contrary to CTY 2a of PPS 21 for a cluster dwelling, in that the cluster does not appear as a visual entity in the local landscape and nor does it have a valid focal point. |  |



## Case Officer Report

### Site Location Plan

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### Consultations:

| Consultation Type   | Consultee                      | Response          |
|---------------------|--------------------------------|-------------------|
| Statutory Consultee | DFI Roads - Enniskillen Office | Outline resp.docx |

### Representations:

|   |   |
|---|---|
| Letters of Support                              | 0 |
| Letters Non Committal                           | 0 |
| Letters of Objection                            | 0 |
| Number of Support Petitions and signatures      |   |
| Number of Petitions of Objection and signatures |   |

### Summary of Issues

### Characteristics of the Site and Area

The site is located in the rural countryside approximately 1.5 miles south and outside of the Magherafelt settlement limit as defined in the Magherafelt Area Plan 2015. The red-lined site boundary encompasses a 0.84 hectare area, hilly agricultural field which is adjacent to, though completely screened from the Moneymore Road. Adjacent and north of the site is dwelling no. 148D. Adjacent and south of the site is dwelling no. 152, followed by no. 152a south of this again. The site is enclosed by thick screening in the form of mature trees along all boundaries. The wider surrounding environment consists mostly of agricultural fields with a number of dwellings and farm buildings dotted along this stretch of road, particularly toward the southern end.

### Description of Proposal

This is a full application for a proposed infill site for a dwelling and garage under Policy CTY 8.

### Planning Assessment of Policy and Other Material Considerations

#### Policy Consideration

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

considerations indicate otherwise.

### Planning Histories

H/2002/0628/O – Site of dwelling and garage – south west of 150 Moneymore Road, Magherafelt – Permission Granted 21/11/2002

H/2003/0447/F – Dwelling and garage with attached granny flat – south west of 150 Moneymore Road, Magherafelt – Permission Granted 05/03/2004

H/2012/0430/F – Retirement dwelling and garage within a farm grouping utilising existing access lane within existing cluster like pattern to Moneymore Road

### Representations

To date no third party representations have been received.

### Magherafelt Area Plan 2010

The site is located in the rural countryside approximately 1.5 miles south and outside of the Magherafelt settlement limit as defined in the Magherafelt Area Plan 2015.

### Mid Ulster District Council Draft Plan Strategy 2030

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and 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 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 and must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

### Planning Policy Statement 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. The proposal involves the construction of a new access to a public road. A consultation was made to DfI Roads who provided no objection to the proposed. In light of this, I am content that the proposed complies with PPS 3.

#### PPS 21 – Sustainable Development in the Countryside

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY 1 states that planning permission 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 in accordance with Policy CTY 8. This application is therefore considered under CTY 8 – Ribbon Development.

In terms of the plot size, I am content that the site would be able to accommodate a dwelling. For the purposes of this policy, the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. I am content that there are 3 substantial buildings; these are no. 148D adjacent and north of the site, no. 152 adjacent and south, and no. 152A south of this again. While it is considered that these buildings are substantial, only the curtilage of no. 148D adjacent and north of the site has a road-fronting boundary. The curtilages of nos. 152 and 152A to the south of the site are set back and separated from the road by a thick forested area of mature trees which are not deemed to be a part of the domestic curtilages of these properties. Ortho satellite imagery supports this finding. It is therefore the case that the application is without a substantial and built up frontage that includes a line of 3 or more buildings along a road frontage. The proposed fails to comply with Policy CTY 8 of PPS 21.

Consideration is also afforded to Policy CTY 2a, which allows for a dwelling at an existing cluster of development subject to criteria as addressed below:

From a satellite perspective it can be argued that there is a cluster of four buildings (of which at least three are dwellings). These can include no. 148D adjacent and north of the site, nos. 152 and 152A to the south of the site and 148a to the north east of the site on the other side of the road. However, I do not believe that the cluster appears as a visual entity in the local landscape. This is notable when driving south along the Moneymore Rd where the mature road-side screening renders nos. 152 and 152a out of sight, meaning there is no apparent cluster of buildings. Contrary to the supporting statement provided by the agent, I do not agree that the Air BnB at no. 148D (Blanket Nook) is a valid focal point for the purposes of a social / community building / facility. The application site is bounded on two sides, north and south, by other development. 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 I believe a well designed dwelling with an appropriate ridge height would not adversely impact on residential amenity.

The proposal fails to meet Policy CTY 2a in that it does not appear as a visual entity in the local landscape and nor does it have a valid focal point.



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. It is considered that a dwelling could blend in successfully with its immediate and wider surroundings if it were of a design, size and scale that is comparable to the dwellings in the vicinity. The site is complete with strong natural boundaries in the form of mature trees along all its boundaries which renders it completely out of site from the main road. In the event of an approval of a dwelling at this site, it is expected that most of these trees could be retained to provide for excellent screening. The site would not rely heavily on new landscaping for integration. The proposal complies with CTY 13 at this outline stage.

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. As provided above, a dwelling at this site would not appear prominent in the landscape. However, given the proposal creates a ribbon of development, the proposal does not comply with Policy CTY 14.

#### Other Considerations

This site is not located within or adjacent to any protected areas, including SACs, SPAs and Ramsar sites.

The site is not located within or adjacent to any listed building / structures.

There are no issues pertaining to amenity at the site.

#### Recommendation

Having carried out an assessment of the planning policy and other material considerations pertaining to this proposal, I recommend that this application is refused on the grounds that it does not meet Policies CTY 2a, CTY 8 and CTY 14 of PPS 21.

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

Refuse is recommended

#### **Refusal Reasons**

##### **Reason 1**

The proposal is contrary to Policy CTY 8 and Policy CTY 14 of PPS 21 in that it is not located within a substantial and continuously built up frontage and if approved would create a ribbon of development.

Reason 2

The proposal is contrary to CTY 2a of PPS 21 in that the cluster does not appear as a visual entity in the local landscape and nor does it have a valid focal point.

**Signature(s):** Benjamin Porter

**Date:** 17 April 2024

|   |                 |
|---|-----------------|
| <b>ANNEX</b>  |                 |
| <b>Date Valid</b>   | 14 June 2023    |
| <b>Date First Advertised</b>  | 27 June 2023    |
| <b>Date Last Advertised</b>   | 27 June 2023    |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>152 Moneymore Road Magherafelt Londonderry BT45 6HL<br>The Owner / Occupier<br>148A Moneymore Road Magherafelt Londonderry BT45 6HL<br>The Owner / Occupier<br>150 Moneymore Road Magherafelt Londonderry BT45 6HL<br>The Owner / Occupier<br>152A Moneymore Road Magherafelt Londonderry BT45 6HL<br>The Owner / Occupier<br>148D Blanket Nook Moneymore Road Magherafelt Londonderry BT45 6HL |                 |
| <b>Date of Last Neighbour Notification</b>  | 6 November 2023 |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: H/2005/0618/O<br>Proposals: Site of Dwelling and Garage<br>Decision: PG<br>Decision Date: 21-OCT-05<br><br>Ref: H/2002/0423/O<br>Proposals: Site of dwelling<br>Decision: PR<br>Decision Date: 05-JUN-03<br><br>Ref: H/2003/1109/O<br>Proposals: Site of dwelling and garage.<br>Decision:<br>Decision Date:<br><br>Ref: H/2009/0136/F   |                 |

Proposals: Revised house type to approved dwelling ref: H/2008/0014/RM. - Revisions include natural stone finish and 1.3m increase to ridge height and reduced house footprint.

Decision: PG

Decision Date: 28-MAY-09

Ref: LA09/2023/0659/O

Proposals: Infill site for dwelling and garage under CTY 8

Decision:

Decision Date:

Ref: H/2003/0447/F

Proposals: Dwelling and garage with attached granny flat

Decision: PG

Decision Date: 05-MAR-04

Ref: H/2012/0430/F

Proposals: Retirement dwelling and garage within a farm grouping utilising existing access lane within existing cluster like pattern to Moneymore Road.

Decision: PG

Decision Date: 10-DEC-13

Ref: H/2002/0628/O

Proposals: Site of Dwelling and Garage

Decision: PG

Decision Date: 21-NOV-02

Ref: H/2005/1284/F

Proposals: 11kv Supply

Decision: PG

Decision Date: 03-APR-06

Ref: H/2000/0287/O

Proposals: Site of single storey split-level dwelling

Decision: PG

Decision Date: 17-OCT-00

Ref: H/2008/0014/RM

Proposals: Erection of 1no. dwelling

Decision: PG

Decision Date: 18-AUG-08

## **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx

|   |
|---|
|   |
| <b>Drawing Numbers and Title</b>                |
| Site Location Plan   Plan Ref: 01               |
| <b>Notification to Department (if relevant)</b> |
| Not Applicable                                  |

Site Location Plan   Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



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

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

## Deferred Consideration Report

| Summary  |  |
|--|--|
| <b>Case Officer:</b> Phelim Marrion  |  |
| <b>Application ID:</b> LA09/2023/0752/F  | <b>Target Date:</b> 20 October 2023  |
| <b>Proposal:</b><br>LA09/2020/0318/RM Proposed domestic bungalow with domestic garage. Condition No. 2. Proposed to be changed to: 'The vehicular access shall be improved and maintained in accordance with drawing 2318/A01. 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'.<br>Background and justification set out by transport consultants letter attached with application. | <b>Location:</b><br>63B Anneeter Road<br>Coagh<br>Cookstown                                      |
| <b>Applicant Name and Address:</b><br>Mr Oliver Conlon<br>63b Anneeter Road<br>Coagh<br>Cookstown<br>BT80 0HZ  | <b>Agent Name and Address:</b><br>Les Ross Planning<br>14 King Street<br>Magherafelt<br>BT45 6AR |
| <b>Summary of Issues:</b><br><br>This application is for amendment of a condition in relation to the provision of sight lines for an access for a dwelling. The dwelling has been built and is breach of a condition of the planning permission. Amendments have been provided, these propose to remove a telegraph pole to improve the sight lines, this has not been done and does not meet the minimum standard for an access for a dwelling.   |  |

**Summary of Consultee Responses:**

DFI Roads - the proposal does not meet the minimum standard for a new access and DFI Roads cannot recommend approval

**Characteristics of the Site and Area:**

The site, which lies outside any settlement defined under the Cookstown Area Plan 2010, is located in the rural countryside approx. 1 mile northeast of Moortown and just a short distance west of Lough Neagh and a Commercial Fishing Quay.

The site is a relatively flat square shaped plot containing a detached dwelling and its curtilage set back approx.150 metres from and accessed off the Anneeter Road via an existing concrete lane serving 2 existing dwellings and the Fishing Quay to its east. Whilst the site was approved for a dwelling and garage under previous planning applications LA09/2019/0344/O and LA09/2020/0318/RM, respectively, the pre commencement access arrangements of 2.4m x 45m, off the Anneeter Road, were not put in place as conditioned and are now the subject of this application.

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

**Description of Proposal**

Variation of Condition 2 (sight lines) of LA09/2020/0318/RM Proposed domestic bungalow with domestic garage.

**Deferred Consideration:**

This application was before the Planning Committee in November 2023 with a recommendation to refuse as the proposal was considered to be unsafe as it could not meet the access standard of 2.4m x 45.0m sight lines to the north, required to provide a safe access. The application was deferred for a meeting with the Service Director to explore the issues further.

At a meeting on 16 November 2023 a DFI Roads representative advised, due to the speed of traffic on the road, the amount of traffic on the road and the amount of traffic using the access they would accept the minimum standard for sight lines of 2.0m x 33.0m to the north.

The roads engineer acting for the applicant advised the access cannot be improved to this standard as they are unable to obtain land from the neighbour to the north, to provide any additional sight lines. The engineer advised this lane has been used to serve a quay on Lough Neagh and other existing dwellings with much reduced sight lines of 2.4m x 5.0m. The use of the access has decreased as the quay is not used to the same extent as it was. The applicant has improved the standards here already and the policy only refers to

improving the access. A Planning Appeal Decision (2020/R0004) has been quoted as a precedent as has a housing development in Chancellors Road in Newry.

Following the meeting I visited the site to see the access and noted there is a telegraph pole in the sight line that blocks views to the north. (Photos 1 and 2). The applicant was asked to explore removing this pole and provide some indication of how the removal of the pole would affect the sight lines. (Fig1) The applicant has engaged with Openreach in relation to the alterations to the BT Infrastructure and they have advised they intend to relocate the pole within 6 weeks of the 24 October 2024.



Photos 1 and 2 – view to north from access and view from near side of the public road from 33.0m north of the access looking towards the access



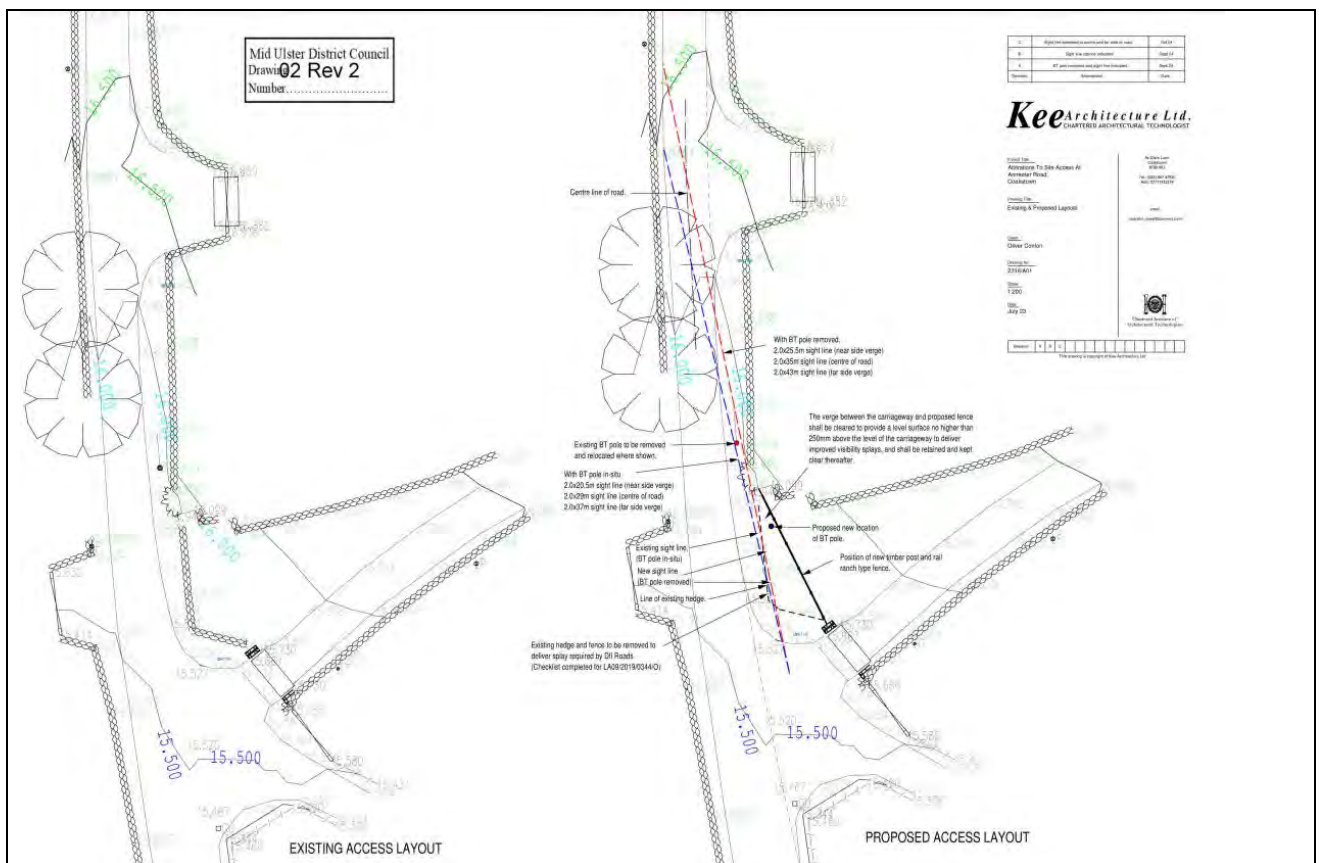


Fig 1 – access before any improvements on left, access with telegraph pole in situ and with telegraph pole removed on right.

The relevant policy for members to consider is Policy AMP 2 in PPS3. That policy states 'Planning permission will only be granted for a development proposal involving direct access, or 'the intensification of the use of an existing access', onto a public road where:

- a) such access will not prejudice road safety or significantly inconvenience the flow of traffic .....

The policy then sets out that accesses will be assessed against the published guidance (DCAN1) and 5 stated factors that will also be given consideration (see below).

The acceptability of access arrangements, including the number of access points onto the public road, will be assessed against the Departments published guidance. Consideration will also be given to the following factors:

- the nature and scale of the development;
- the character of existing development;
- the contribution of the proposal to the creation of a quality environment, including the potential for urban / village regeneration and environmental improvement;
- the location and number of existing accesses; and
- the standard of the existing road network together with the speed and volume of traffic using the adjacent public road and any expected increase.

Extract from AMP2 of PPS3

Members are advised this is an existing lane that provides access to other development, and it is accepted the applicant has improved the access from 2.4m x 5.0m to 2.4m x 20.0m in the northerly direction. It has already been considered that while the quay does not have the same traffic generation as there was previously, there is nothing to prevent this from increasing again. It has been accepted by all parties this dwelling has resulted in intensification of the use of the lane. DCAN15 sets sight lines of 2.0m x 33.0m as a safe minimum standard for an access of this type. It is clear the applicant cannot achieve this standard.

Members may take into account the standard of the existing road network together with the speed and volume of traffic approaching the access from the north. Facts that may be taken into account are the low road speeds due to:

- the road being approx. 3.0m in width (measured on site)

This is only suitable for a single vehicle at a time and the neighbouring property has large white painted rocks in the grass verge to discourage drivers from pulling onto the verge, therefore ensuring the vehicles stay on the road (Photo 2)

- a near 90 degree bend in the road approx. 95 metres to the north of the access

This restricts views around the corner and encourages low road speeds (Photo 3)

- the position of a driver of a vehicle approaching from the north (Photo 4),

Any driver will be on the opposite side of the road. Currently the lamppost opposite and north of the driveway of the neighbouring property is visible from the lane (Photo 1). This is approx. 45 metres away (measured on site). If the telegraph pole is removed the view in that direction will be increased further and subsequently the view of drivers approaching the lane and those exiting the lane will be increased.



Photo 3 – view of bend in road to the north of the access



Photo 4 – View from opposite side of the road approx. 33.0m from the access.

DFI Roads engineers were asked to comment on these facts and they advised their standard is to measure from the nearside of the public road and this could set a precedent. They cannot recommend anything below the minimum standard and they have advised cyclists or motorcyclists on the road would not be visible if close to the hedge on the nearside.

Members will be aware that precedent is set where the circumstances of the case are considered to be the same and is quoted in legal decisions as ‘being on all fours’. The cases quoted by the agent relate to

- 2020/R0004 is an appeal against the Roads Order in relation to moving the access for a single dwelling in Belfast, an urban location with footpaths both sides of the road, in this case the access standards of 2.0m x 35.0m were achieved
- 2003/A039/A041 is co-joined appeals in relation to an access for one house in a housing development in Newry. The Department did not consider any enforcement action could be taken on the access or a wall that was erected blocking the sight lines. The Commissioner identified issues in relation to the precision of the conditions and the enforceability of them,

I do not consider these comparable, the access condition here is enforceable and precise, it is in a rural location and the minimum standard is not being met.

That said, in this case the facts are

- it is an existing lane leading to a quay which could be a significant traffic generator and has been in the past,
- it provides access to a number of other existing dwellings and has resulted in improvement to the sight lines in the northerly direction,
- this is a single track rural road and the access is close to a sharp right hand bend, vegetation along the road is closed in to reduce visibility around that corner, resulting in low road speeds of traffic approaching from that direction.

In my opinion these factors would limit any potential precedent if this condition was amended to the access standards proposed. I understand DFI Roads concerns about motorcyclists and cyclists on the road potentially being close to the nearside verge. However motorcyclists would also be travelling at low speeds due to the factors on the

road and cyclists are unlikely to be able to travel at any great speed here to create a danger.

Following the receipt of amended plans a comment was received which indicates there is poor broadband connection and to be aware of this when considering the application. The applicant has contacted the infrastructure owner and they will be responsible for any relocation of the pole and any connections. Moving the pole may disrupt broadband or telephone service, however this is not a planning matter and is for the service provider to resolve for the consumer.

In light of the above factors, while the access does not meet the minimum standard in DCAN15, where sight lines are measured to the near side of the road. It is noted there are no recorded accidents here that have been made known. The proposal is improving the sight lines and the applicant has engaged the infrastructure provider to move the existing telegraph pole which will further improve the sight lines.

I recommend to members this condition is amended to state: 'Within 6 weeks of the date of this decision the vehicular access, including visibility splays of 2.0m x 25.5m to the north and relocation of the telegraph pole, shall be provided in accordance with the details as set out on Drawing No.02 Rev 2 received dated 25 October 2024. 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.'

The other condition in relation to landscaping should also be restated on the decision.

Conditions:

2. Within 6 weeks of the date of this decision the vehicular access, including visibility splays of 2.0m x 25.5m to the north and relocation of the telegraph pole, shall be provided in accordance with the details as set out on Drawing No.02 Rev 2 received dated 25 October 2024. 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 scheme of planting hereby approved shall be carried out in accordance with drawing no. 02a date stamped 2nd September 2020 during the first available planting season after the commencement of development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Mid Ulster District Council gives written consent to any variation.

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

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





## Development Management Officer Report Committee Application

| Summary   |  |
|---|--|
| <b>Committee Meeting Date:</b><br>7 November 2023   | <b>Item Number:</b><br>5.23  |
| <b>Application ID:</b><br>LA09/2023/0752/F  | <b>Target Date:</b> 20 October 2023  |
| <b>Proposal:</b><br>LA09/2020/0318/RM Proposed domestic bungalow with domestic garage. Condition No. 2. Proposed to be changed to: 'The vehicular access shall be improved and maintained in accordance with drawing 2318/A01. 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'. Background and justification set out by transport consultants letter attached with application. | <b>Location:</b><br>63B Anneeter Road<br>Coagh<br>Cookstown                                      |
| <b>Referral Route:</b> Refuse is recommended  |  |
| <b>Recommendation:</b> Refuse   |  |
| <b>Applicant Name and Address:</b><br>Mr Oliver Conlon<br>63b Anneeter Road<br>Coagh<br>Cookstown<br>BT80 0HZ   | <b>Agent Name and Address:</b><br>Les Ross Planning<br>14 King Street<br>Magherafelt<br>BT45 6AR |
| <b>Executive Summary:</b>   |  |

## Case Officer Report

### Site Location Plan

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### Consultations:

| Consultation Type   | Consultee                      | Response                           |
|---------------------|--------------------------------|------------------------------------|
| Statutory Consultee | DFI Roads - Enniskillen Office | Roads Consultation - RESPONSE.docx |
| Statutory Consultee | DFI Roads - Enniskillen Office | DC Checklist 1.doc                 |
| Statutory Consultee | DFI Roads - Enniskillen Office |                                    |

### Representations:

|   |   |
|---|---|
| Letters of Support                              | 0 |
| Letters Non Committal                           | 0 |
| Letters of Objection                            | 3 |
| Number of Support Petitions and signatures      |   |
| Number of Petitions of Objection and signatures |   |

### Summary of Issues

### Characteristics of the Site and Area

The site, which lies outside any settlement defined under the Cookstown Area Plan 2010, is located in the rural countryside approx. 1 mile northeast of Moortown and just a short distance west of Lough Neagh and a Commercial Fishing Quay.



Fig 1: Site outlined red

The site is a relatively flat square shaped plot containing a detached dwelling and its



curtilage set back approx. 150 metres from and accessed off the Anneeter Road via an existing concrete lane serving 2 existing dwellings and the Fishing Quay to its east.

Whilst the site was approved for a dwelling and garage under previous planning applications LA09/2019/0344/O and LA09/2020/0318/RM, respectively, the pre commencement access arrangements of 2.4m x 45m, off the Anneeter Road, were not put in place as conditioned and are now the subject of this application.



Fig 2: Existing access off Anneeter Road viewed from north and south, respectively



Fig 3: Google image of access captured June 2023 from west.

Views of the existing access, which as can be seen above is paired with another access serving a no. of dwellings, are limited on both the northern and southern approach (see Fig 2, further above) until passing it due to its recessed nature, the mature trees/vegetation bounding it to the north and the mature roadside vegetation and development running to its north and south in the wider vicinity screen it.

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

## **Description of Proposal**

This is a full planning application to change condition 2 of previous planning application LA09/2020/0318/RM which granted permission for a bungalow and garage on lands south of 63 Anneeter Road Coagh Cookstown on the 10<sup>th</sup> November 2020.

The approved dwelling has been constructed and occupied on site however the pre-commencement access arrangements (condition 2) have not been put in place as conditioned and the applicant is seeking their reduction.

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

### **Policy Consideration**

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

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

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

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.

### **Relevant Planning History**

- LA09/2019/0344/O - Proposed domestic bungalow with separate domestic garage to allow access for commercial fisherman to his places of work - Site adjacently south of 63 Anneeter Road Cookstown - Granted 5<sup>th</sup> June 2019
- LA09/2020/0318/RM - Proposed domestic bungalow with domestic garage - Site South Of 63 Anneeter Road Coagh Cookstown - Granted 10<sup>th</sup> November 2020
- LA09/2021/0205/CA - Alleged Breach of Condition 2 of planning permission LA09/2020/0318/RM (visibility splays not in place) - Enforcement Investigation Ongoing.

### **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 3 objections were received:

- 1 from Mr & Mrs J McLernon the owners / occupiers of no. 65 Anneeter Road, the dwelling located immediately adjacent and north of the proposed access to the site off Anneeter Road.
- 1 from Mr & Mrs B Quinn the owners / occupiers of no. 59 Anneeter Road, the two-storey

dwelling located on lands immediately adjacent and south of the access.

- 1 from Mr J Quinn the owner / occupier of no. 59A Anneeter Road, a bungalow also located on lands immediately adjacent and south of the access. This bungalow sits just between the access and no. 59.

Mr & Mrs McLernon objected, as they had previously on the outline and reserved matters application on site, to the sight lines of the dwelling approved on site encroaching on their property; and that again the applicant had completed Certificate A of the application form stating that he is in actual possession of all lands connected with the application, which he is not. Mr & Mrs B Quinn and Mr J Quinn raised the same concerns that the sight lines encroached on their properties, that they did not give the applicant such permission, and that he should have completed Certificate C serving notice on relevant parties.

### Consultees

1. DFI Roads were consulted in relation to the access arrangements proposed and made the following comments for Planning to consider prior to decision, taking account of MRA Partnership consultant's report submitted in support of the proposal:
  - a. The site is accessed from an existing established laneway. MRA Partnership consultant's report demonstrated previous vehicular usage of this laneway once used as a fishing boat docking area has been significantly reduced.
  - b. Priority road speed is 20-25mph and vehicular movements are at a minimal rate per day as such DCAN 15's bracketed figure of 2m x 33m can be used, reduced from the 2.4m x 45m conditioned.
  - c. MRA Partnership consultant's report demonstrated that a site visit on the 18<sup>th</sup> May 2023 a sight visibility line of 2.4m x 24m was achievable.
  - d. DfI Roads site visit on the 10<sup>th</sup> October 2023 established a visibility line to the north approx. 20m. DCAN 15's minimal requirements are 2m x 33m the sight visibility line to the north is sub-standard.
  - e. Objections from adjacent landowner to north said the sight visibility line crosses, and would require a hedge and or fence to be set back to obtain the minimal sight visibility line to the north.

In conclusion DfI Roads advise whilst improvements have been made to the lane; it has been demonstrated vehicular movements have been significantly reduced, a reduction in the requirements of DCAN 15 to the minimum of 2m x 33m is reasonable from the 2.4m x 45m previously conditioned however achieving a 33m Y distance to the North may require 3<sup>rd</sup> party consent for any hedge or fence removal and or setback of same.

**Cookstown Area Plan 2010** - The site is located in the open countryside as defined by the Plan. Development in the countryside is controlled under the provisions of the Strategic Planning Policy Statement for Northern Ireland and Planning Policy Statement 21 Sustainable Development in the countryside.

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



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

PPS 21 is the overarching policy for development in the countryside. Policy CTY1 of PPS 21 outlines a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aim of sustainable development. It highlights all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. That access arrangements must be in accordance with the Departments published guidance.

**Planning Policy Statement 3: Access, Movement and Parking**

Policy AMP 2 Access to Public Roads outlines planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where: a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes. The acceptability of access arrangements, including the number of access points onto the public road, will be assessed against the Departments published guidance. Consideration will also be given to the following factors: the nature and scale of the development; the character of existing development; the contribution of the proposal to the creation of a quality environment, including the potential for urban / village regeneration and environmental improvement; the location and number of existing accesses; and the standard of the existing road network together with the speed and volume of traffic using the adjacent public road and any expected increase.

As outlined previously this full planning application seeks to change condition 2 of previous planning application LA09/2020/0318/RM which granted permission for a bungalow and garage on lands south of 63 Anneeter Road Coagh Cookstown on the 10<sup>th</sup> November 2020.

The approved dwelling has been constructed and occupied on site however the pre-commencement access arrangements (condition 2) have not been put in place as conditioned and the applicant is seeking their reduction.

Condition 2 of LA09/2020/0318/RM was that:

- Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 45m and a 45m forward sight line, shall be provided in accordance with the details as set out on Drawing No.01a dated 20<sup>th</sup> August 2020. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter. Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

This application seeks to change condition 2, above, to:

- The vehicular access shall be improved and maintained in accordance with drawing 2318/A01. 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.

Drawing 2318/A01 seeks to reduce the previously conditioned visibility splays to their current state, which as detailed in the main body of this report (see 'Planning Assessment of Policy and Other Material Considerations') is less than the 2m x 33m minimal requirements set out in DCAN 15.

MRA Partnership Consultant's submitted a report alongside and in support of this application to reduce the access arrangements conditioned under previous outline and reserved matters applications to serve the dwelling on site and highlighted the following key points:

- There is no intensification of the access to serve the dwelling approved on site. The access serving the dwelling accesses a quay on Lough Neagh that used to accommodate 10 boats per day but with a declining fishing industry now only 3. Now considerably less vehicles per day use the access.
- Intensive use of the access took place with poor visibility splays. A high, overgrown hedge with fence within limited the north splay to approx. 2.4m x 15.5m when the previous applications on site were assessed.
- No known collision history here despite theoretically low splays. Traffic speeds on road are low. Whilst it has a 60mph speed limit, approach speeds are estimated to be 25mph and 20mph from the south and north, respectively.
- DfI Roads under previous applications on site sought 2.4m x 45m site splays in both directions. These seemed high for an existing access on a slow road but were not challenged at the time for good reason. DfI Roads DC checklist detailed they were content the south splay was in place and the north splay would need the fence removed. There were no concerns the splays were undeliverable at this point. Subsequently a neighbour (Mr McLernon to the north) noted the required splay encroached on his garden and an amended P2 certificate of ownership was submitted to address this.
- The applicant implemented the access DfI Roads sought by removing the fence and hedge to the north delivering splay improvement but not full 2.4m x 45m sought. The north splay on the 18 May 2023 was 2.4 x 24m. PPS 3 AMP2 notes substandard existing accesses need to be improved. The fence removal substantially improved the splay from 2.4m x 15.5m. A splay of 2 x 26m was achieved also commensurate with the splay at the next access to the south satisfactorily serving a commercial fishing business.
- The improved north splay has since been diminished by a metal panel erected and protruding 600mm over the public verge and an adjacent hedge not being maintained.
- PPS3 recognises not always practicable to comply fully with appropriate visibility splays. The 2.4 x 45m splays sought are appropriate for a new access to 1000 vehicles per day onto a busy road (greater than 300 vehicles per day). This is not a new access but a long established, historically busier access. It will be exceptionally quiet and Anneeter Rd is not a busy, well below 3000 vehicles per day threshold in DCAN 15 allowing lesser splays.
- When measured against DCAN15 requirements the existing access of 2.4m x 24m to north is substandard, because the minimum is 2m x 33m. However, the access has been the access to a potentially busy quay, and the 2.4 x 15.5 m splays served this adequately. Planning policy seeks improvement, which has been delivered. Visibility from lane has been improved considerably by the applicant for all lane users. Improvement is the key requirement for existing accesses within in AMP2.
- There is an absence of harm – there is no known collision history, nor would any be expected because the splays have been improved and use of quay lane reduced despite construction of the additional dwelling on site. The applicant was already using the lane to access the quay. Now that he lives on the lane, he no longer needs to use the access to get to work. Indeed, were he to vacate the dwelling he would still be using the lane to travel to and from work.

Having taken account of MRA Partnership Consultant's report above in support of this application to reduce the access arrangements conditioned under the previous outline and

reserved matters applications on site to serve the dwelling already constructed and occupied on site; having taken account of the objection letters received (see 'Representations' further above); and having consulted with DfI Roads (see 'Consultees' further above) I consider this proposal contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the minimum access requirements of 2m x 33m sight splays in both directions onto the public road, as per DfI Roads advice, has not been provided in accordance with the standards contained in the Department's Development Control Advice Note 15. It cannot be demonstrated that there is no intensification of use of the access. Whilst the access may not be busy at present there is nothing to stop it being used in the future to access the Quay. The access splay to the north has not been achieved and cannot be achieved without encroachment onto neighbouring lands. The owner of the lands Mr & Mrs J McLernon advised they have not given permission for this. The applicant was made aware of the need to provide the conditioned visibility splays under the previous applications and the need for third party land before commencing the house. It is the applicant's responsibility to ensure that he controls all the lands necessary to carry out the proposed development. Whilst I note that there is no collision history and DfI Roads accept that the splays conditioned could be reduced from 2.4m x 45m to the minimum specified in DCAN 15 of 2m x 33m in this instance these are not available and cannot be provided.

**Recommendation:** Refuse

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the minimum access requirements of 2m x 33m sight splays in both directions onto the public road has not been provided in accordance with the standards contained in the Department's Development Control Advice Note 15.

**Signature(s):** Emma Richardson

**Date:** 26 October 2023

|   |                 |
|---|-----------------|
| <b>ANNEX</b>  |                 |
| <b>Date Valid</b>   | 7 July 2023     |
| <b>Date First Advertised</b>  | 25 July 2023    |
| <b>Date Last Advertised</b>   | 25 July 2023    |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>63 Anneeter Road Cookstown Tyrone BT80 0HZ<br>The Owner / Occupier<br>Fish Processing Plant Anneeter Road Cookstown Tyrone BT80 0HZ<br>The Owner / Occupier<br>65 Anneeter Road Cookstown Tyrone BT80 0HZ<br>The Owner / Occupier<br>59 Anneeter Road Cookstown Tyrone BT80 0HZ<br>The Owner / Occupier<br>63A Anneeter Road Cookstown Tyrone BT80 0HZ<br>The Owner / Occupier<br>59A Anneeter Road Cookstown Tyrone BT80 0HZ |                 |
| <b>Date of Last Neighbour Notification</b>  | 14 July 2023    |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: I/2006/0970/F<br>Proposals: Private Access Lane Lighting<br>Decision:<br>Decision Date:<br><br>Ref: I/1985/0461<br>Proposals: ERECTION OF DOMESTIC GARAGE AND STORE<br>Decision: PG<br>Decision Date:<br><br>Ref: LA09/2015/0318/F<br>Proposals: Alterations and Extension to rear of existing dwelling<br>Decision: PG  |                 |

Decision Date: 16-SEP-15

Ref: I/2002/0299/F

Proposals: Proposed dwelling and domestic garage

Decision: PG

Decision Date: 29-AUG-02

Ref: I/1985/0265

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: I/2004/0083/O

Proposals: Site for Dwelling

Decision: PG

Decision Date: 16-APR-04

Ref: I/2006/1231/RM

Proposals: Domestic dwelling

Decision: PG

Decision Date: 10-MAY-07

Ref: LA09/2020/0318/RM

Proposals: Proposed domestic bungalow with domestic garage.

Decision: PG

Decision Date: 10-NOV-20

Ref: LA09/2023/0752/F

Proposals: LA09/2020/0318/RM Proposed domestic bungalow with domestic garage.

Condition No. 2. Proposed to be changed to: 'The vehicular access shall be improved and maintained in accordance with drawing 2318/A01. 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'. Background and justification set out by transport consultants letter attached with application.

Decision:

Decision Date:

Ref: LA09/2019/0344/O

Proposals: Proposed domestic bungalow with separate domestic garage to allow access for commercial fisherman to his places of work.

Decision: PG

Decision Date: 05-JUN-19

Ref: I/1990/0158B

Proposals: Dwelling



Decision: PG  
Decision Date:

Ref: I/1980/0318  
Proposals: EXTENSION TO DWELLING  
Decision: PG  
Decision Date:

Ref: I/1990/0158  
Proposals: Dwelling  
Decision: PG  
Decision Date:

Ref: I/2002/0768/F  
Proposals: Domestic Double Garage  
Decision: PG  
Decision Date: 15-JAN-03

#### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Roads Consultation - RESPONSE.docx  
DFI Roads - Enniskillen Office-DC Checklist 1.doc  
DFI Roads - Enniskillen Office-

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

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02

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

Not Applicable

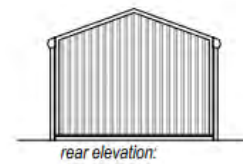
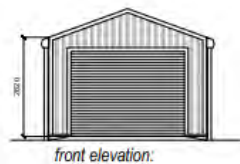
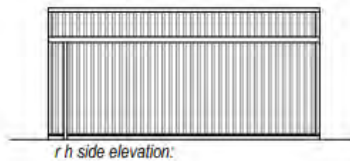
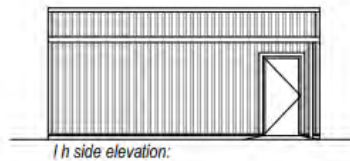


## Deferred Consideration Report

| Summary  |   |
|--|---|
| <b>Case Officer:</b> Karla McKinless   |   |
| <b>Application ID:</b> LA09/2023/1279/F<br><b>Recommendation:</b> Approve  | <b>Target Date:</b> 8 March 2024  |
| <b>Proposal:</b><br>Extension to curtilage to provide garden space and domestic storage shed   | <b>Location:</b><br>96 Mullan Road<br>Coagh   |
| <b>Applicant Name and Address:</b><br>Mr Terence Maynes<br>86 Mullan Road<br>Coagh<br>BT80 0JF   | <b>Agent Name and Address:</b><br>CMI Planners<br>38A Airfield Road<br>Antrim<br>BT41 3SQ |
| <b>Summary of Issues:</b><br><p>This application was first before Members at April 2024 Planning Committee with a recommendation to refuse. It was considered that the proposal was contrary to the Addendum to PPS7 in terms of scale and massing and how the development would detract from the surrounding area. It was also considered that the proposal was contrary to policies CTY 13 and CTY 14 of PPS 21 in terms of prominence, integration and impact on rural character. The addition to an existing ribbon of development was also a concern and a CTY 8 refusal reason was also cited. Members agreed to defer the application for an office meeting which was facilitated on the 22nd April 2024. The agent has since submitted a revised scheme to deal with the policy concerns and I am now recommending that the application be approved. The justification for this recommendation is detailed further in this report.</p> |   |
| <b>Summary of Consultee Responses:</b><br><p>No new or additional consultations have been issued to inform this deferred consideration.</p>  |   |
| <b>Description of Proposal</b><br><p>This is a full application for the proposed extension of curtilage to provide garden space and a domestic storage shed at 96 Mullan Road, Coagh.</p>  |   |



| EXTERNAL FINISHES |  |
|-------------------|--|
| ROOF              | - Single skin cladding panel<br>Colour - Grey  |
| EXTERNAL WALLS    | - Single skin cladding panel<br>Colour - Cream |
| RAINFALL GOODS    | - uPVC gutters and downpipes                   |
| DOORS             | - Metal door & frames                          |



**CMI Planners Ltd.**  
38 Ashford Road  
The Cragh  
Trompsburg  
BT16 5BQ  
Tel: 028 7965 1759

|                |   |              |                |              |      |
|----------------|---|--------------|----------------|--------------|------|
| Client:        | Mr Terence Mayne.   | Scale/Sheet: | 1:100 (2 of 3) | Drawing no.: | L03  |
| Project:       | Extension to curtilage to provide garden space & Domestic Storage Shed at No 96 Mullan Road, Cough - BT16 6UE | Date:        | Oct 2023       | Reason:      |      |
| Drawing Title: | Proposed Shed Details   | Job No.:     | 1154           | Drawn By:    | MM&C |

### **Deferred Consideration:**

The application is to extend the existing domestic curtilage to the NE of the existing dwelling, taking in a portion of an adjacent agricultural field. The initial proposal sited the domestic shed obtrusively and removed from the dwelling which was resulting in concerns regarding integration and rural character. The proposal now under consideration has re-sited the domestic shed closer to the dwelling. This has resulted in a development that is visually more acceptable. The shed will cluster and read with the host dwelling and will not detract from the rural character of this area.

Whilst it will introduce another building along this road frontage, the level of development existing on this section of the Mullan Road has resulted in rural character that has somewhat been eroded already. The proposed minor extension of the domestic curtilage and the introduction of a small domestic shed would not further erode this character given how close it will be situated to the existing dwelling at number 96. To bring the shed closer to the road would locate it forward of the existing building line and this would not be characteristic of the pattern of development in this area and would in effect detract from the existing dwelling. For these reasons it is considered that the addition of this building will not extend an existing ribbon of development that will negatively impact on the rural character of this area.

The proposed shed is not excessive in terms of scale and massing. It measures 4.1m in width x 7.1m in length x 3m in height. This would be considered domestic in scale and with the revised siting moving it closer to the dwelling, along with proposed planting, it will not appear overly prominent on this roadside site.

I have no policy concerns with this proposal and recommend that Members approve the application subject to conditions to ensure proposed planting along the new site boundaries and to ensure its use is domestic and ancillary to the dwelling at 96 Mullan Road.

### **Conditions/Reasons for Refusal:**

#### **Approval Conditions**

##### **Condition 1**

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

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

##### **Condition 2**

During the first available planting season after the occupation of the building for its permitted use, trees shall be planted along the new boundaries of the site in accordance with drawing no 02 rev A, uploaded on the Planning Portal on the 28th October 2024

Reason: To ensure the development integrates into the rural area

Condition 3

The building and yard hereby approved shall be used only for domestic purposes ancillary to the dwelling located at 96 Mullan Road, Coagh.

Reason: To prevent the introduction of an unacceptable use in the countryside

**Signature(s):**Karla McKinless

**Date:** 19 November 2024



## Development Management Officer Report Committee Application

| Summary  |   |
|--|---|
| <b>Committee Meeting Date:</b><br>9 April 2024   | <b>Item Number:</b><br>5.15   |
| <b>Application ID:</b><br>LA09/2023/1279/F   | <b>Target Date:</b> 8 March 2024  |
| <b>Proposal:</b><br>Extension to curtilage to provide garden space and domestic storage shed   | <b>Location:</b><br>96 Mullan Road<br>Coagh   |
| <b>Referral Route:</b> Refuse is recommended   |   |
| <b>Recommendation:</b> Refuse  |   |
| <b>Applicant Name and Address:</b><br>Mr Terence Maynes<br>86 Mullan Road<br>Coagh<br>BT80 0JF   | <b>Agent Name and Address:</b><br>CMI Planners<br>38A Airfield Road<br>Antrim<br>BT41 3SQ |
| <b>Executive Summary:</b><br><br>This case is being brought before members for refusal, due to the proposal failing to meet requirements of Paragraphs A11 and A13 of 'Addendum to PPS7: Residential extensions and alterations' and CTY policies 13 and 14 under PPS21: Sustainable Development in the Countryside. |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type | Consultee | Response |
|-------------------|-----------|----------|
|                   |           |          |

### Representations:

|   |   |
|---|---|
| Letters of Support                              | 0 |
| Letters Non Committal                           | 0 |
| Letters of Objection                            | 0 |
| Number of Support Petitions and signatures      |   |
| Number of Petitions of Objection and signatures |   |

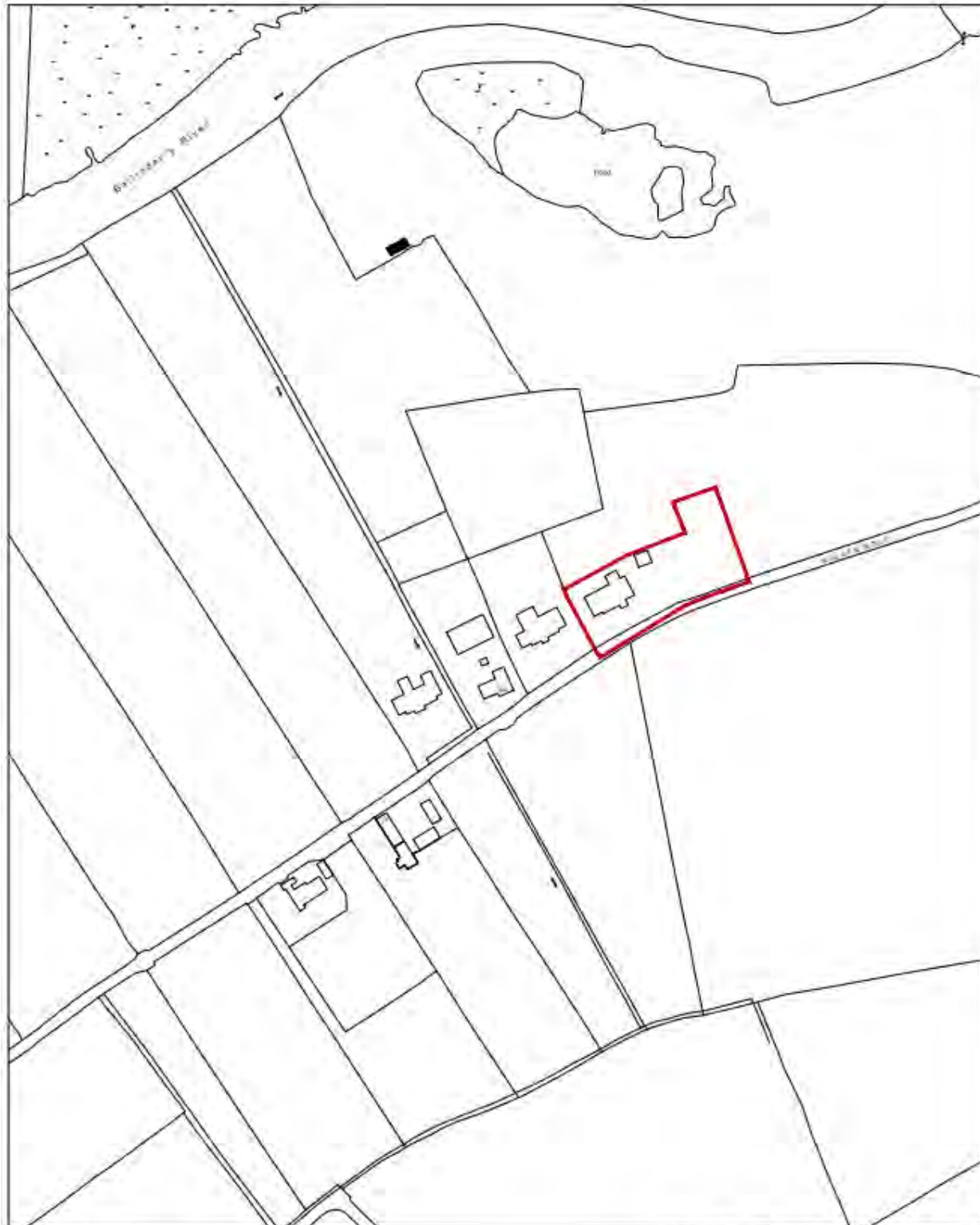
### Summary of Issues

### Characteristics of the Site and Area

This site is located approximately 3.84 Miles from the the village of Coagh and is located in the open countryside as per the Cookstown area plan 2010. The site is identified as 96 Mullan Road, Coagh. The area is rural in character, consisting mostly of agricultural fields with a few dwellings present, the site is also close to the shore of Lough Neagh,



putting it within the CTY2/02 countryside policy area: Lough Neagh Shore, Cookstown.



Location Plan  
Scale 1:2500

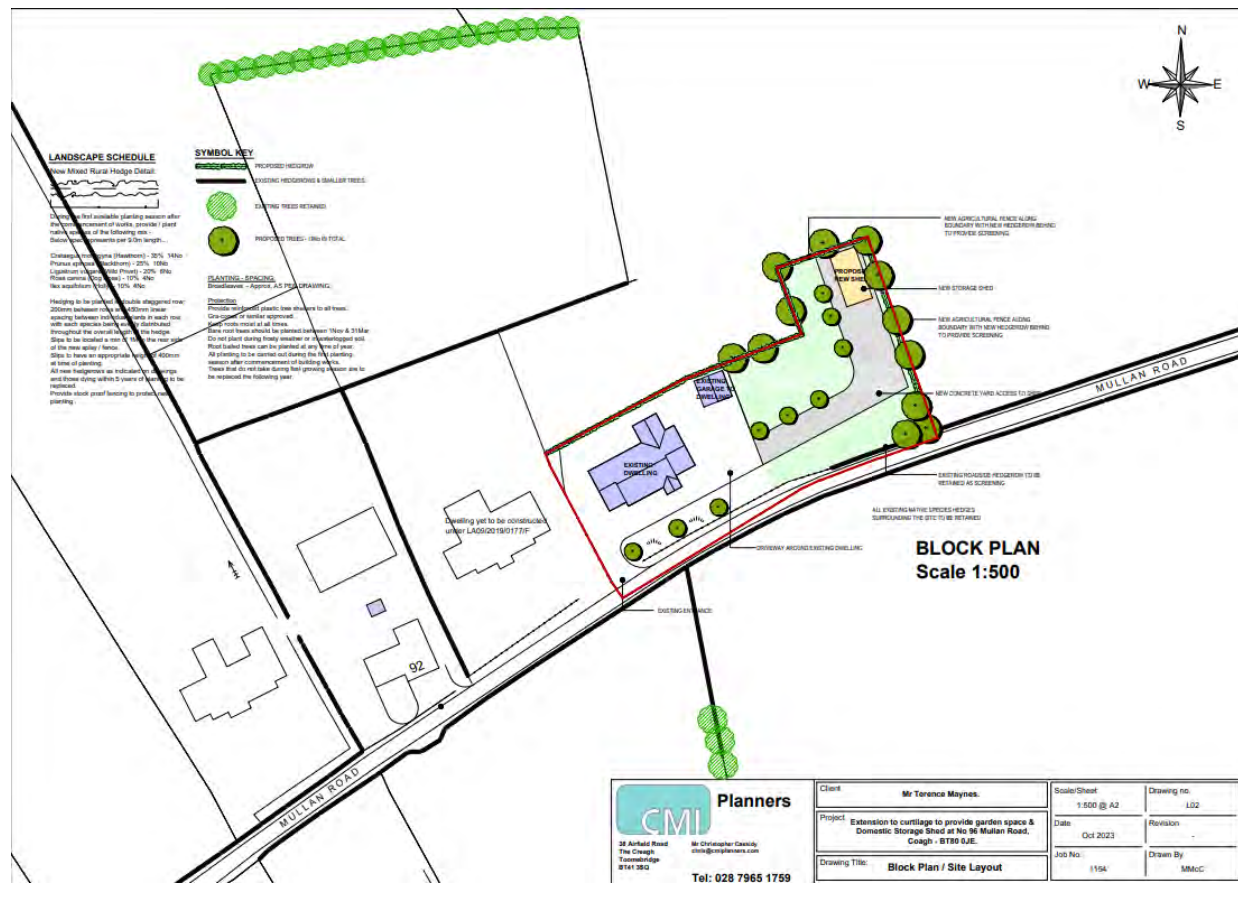
O.S. Map Ref: 110-13 NE & 110-13 SE

## Description of Proposal

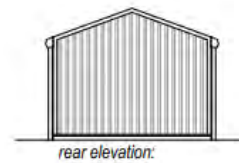
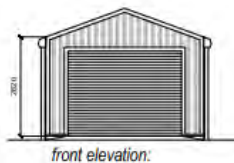
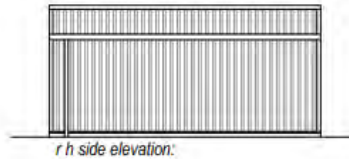
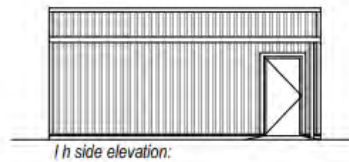
APPLICATION NUMBER – LA09/2023/1279/F  
ACKN



This is a full application for the proposed extension of curtilage to provide garden space and a domestic storage shed at 96 Mullan Road, Coagh.



| EXTERNAL FINISHES: |  |
|--------------------|--|
| ROOF               | - Single skin cladding panel<br>Colour - Grey  |
| EXTERNAL WALLS     | - Single skin cladding panel<br>Colour - Cream |
| RAINWATER GOODS    | - uPVC gutters and downpipes                   |
| DOORS              | - Metal door & frame                           |



|               |  |             |            |             |       |
|---------------|--|-------------|------------|-------------|-------|
| Client        | Mr Terence Mayne.  | Scale/Sheet | 1:100 @ A3 | Drawing no. | 1.03  |
| Project       | Extension to curtilage to provide garden space & Domestic Storage Shed at No 96 Mullan Road, Coagh - BT96 5UE. | Date        | Oct 2023   | Revision    |       |
| Drawing Title | Proposed Shed Details  | Job No.     | 1154       | Drawn By    | MMACJ |

## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

#### Site History (Last 5 years)

**LA09/2015/0792/LDP**

Proposed Agricultural Shed

Permission Granted

**LA09/2017/0710/F**

25M And 50M North East Of 92 Mullan Road

Coagh, Proposed infill/gap site for 2 dwellings and domestic garage based on policy CTY8

Permission Granted

**LA09/2019/1005/NMC**

Site 2 - 50M North East Of 92 Mullan Road., To raise finished floor and ground levels on site 2 by 350mm from approved  
NMC Granted

**LA09/2019/0177/F**

25M North East Of No. 92 Mullan Road, Coagh  
BT800JE, Proposed change of house type for that originally approved under application no. LA09/2017/0710/F.  
Permission Granted

**Other Histories****LA09/2017/0096/CA**

50M North East Of 92 Mullan Road  
Unauthorised building, hardcore and access.  
Enforcement Case closed

**Representations**

In line with Statutory Neighbour Notification Procedures, 2 neighbouring properties were notified of this application. To date, there have been no letters of objection received in respect of the proposal.

This application was advertised in the Derry Post on the 5<sup>th</sup> of December 2023.

No official body or organization was consulted for this application.

**Cookstown Area Plan 2010**

This site is located approximately 3.84 Miles from the village of Coagh and is located in the open countryside as per the Cookstown area plan 2010. The site is not subject to any development plan designations relevant to this assessment.

**The SPPS**

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. As this development is being proposed in the countryside, policies CTY 13 and 14 of PPS21 will be material considerations. As well as this, Addendum to PPS 7: Residential Extensions and Alterations will be another aspect of retained policy used for consideration.

### **Local Development Plan**

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

### **Addendum to PPS 7 – Residential Extensions and Alterations**

Addendum to PPS 7 - Residential Extensions and Alterations states that when dealing with proposed garages and other associated outbuildings, proposals within the residential curtilage, such as, garages, sheds and greenhouses can often require as much care in siting and design as works to the existing residential property.

They should be subordinate in scale and similar in style to the existing property, taking account of materials, the local character and the level of visibility of the building from surrounding views. The use of false pitches should be avoided as these often detract from the appearance of these buildings, particularly when viewed from the side.

The proposal includes an extension to the curtilage eastwards towards the loughshore, and it is in the northeastern corner of this expansion where the shed and concrete yard also proposed for this application will be sited. The proposed Shed will be 7.18 Metres long, 4.17 Metres wide, and 2.62 Metres tall from floor height. It will be sited approximately 46.4 Metres from the existing dwelling, or 30.5 Metres from the smaller shed that currently exists between the proposed site and existing dwelling. These particular dimensions, scale and position of the proposed shed give it the impression of being too far removed and separate from the existing dwelling to be considered a domestic structure, or to be associated with the Dwelling at No.96.

Considering this, I believe that the proposal will have a negative impact upon the surrounding area and does not accord with the policy criteria set out specifically, paragraphs A11 (“They should be subordinate in scale and similar in style to the existing property, taking account of materials, the local character and the level of visibility of the

building from surrounding views.”) and A13 (“In the countryside, ancillary buildings should be designed as part of the overall layout to result in an integrated rural group of buildings”).

### **PPS 21 – Sustainable Development in the Countryside**

As this proposal is a development in the countryside, PPS 21 applies, specifically CTY policies 13 and 14. As the dwelling that this application relates to (96 Mullan Road) was approved under CTY 8, we will also consider it.

### **CTY 8 – Ribbon Development**

Planning permission will be refused for a building which creates or adds to a ribbon of development.

The dwelling to which this application for curtilage extension relates (96 Mullan Road) was approved under CTY 8 in the application LA09/2017/0710/F, as an infill dwelling based on the presence of an agricultural shed (previously approved under LA09/2015/0792/LDP). This proposal to extend the curtilage and build a new shed will significantly extend the ribbon of development eastwards and past the site of the original shed that was a material consideration in 96 Mullan Road previously being approved as an Infill dwelling, particularly of relevance to this expansion of the development ribbon is the siting of the proposed shed. The size and scaling of this proposal would also be contrary to CTY 8, as it does not respect the existing development pattern along the road frontage (Dwellings presenting first towards the roadside, with sheds and garages sited to their rear).

Considering the above, I do not believe this proposal meets the criteria required to meet CTY 8.

### **CTY 13: Integration and design of buildings in the countryside**

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.

A new building will be unacceptable where:

- (a) it is a prominent feature in the landscape; or
- (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or
- (c) it relies primarily on the use of new landscaping for integration; or
- (d) ancillary works do not integrate with their surroundings; or
- (e) the design of the building is inappropriate for the site and its locality; or
- (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural

features which provide a backdrop; or

(g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on the farm.

The proposed siting of the shed (approximately 46 metres away from the existing dwelling, and on higher ground as seen in site photos) means it will sit apart from the existing dwelling and consequently fails to blend with the landform and existing buildings already present on site while also being a prominent feature in the local landscape, breaching points (f) and (a) respectively. The design of the proposed driveway will not integrate with the sites surroundings and appears to be excessively hard-cored, breaching point (d). The proposal also relies primarily on the use of new landscaping for integration rather than appropriate siting and scaling of ancillary works, therefore breaching point (b).

For these reasons, I am not content that this proposal meets the criteria of CTY 13.

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

A new building will be unacceptable where:

- (a) it is unduly prominent in the landscape; or
- (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or
- (c) it does not respect the traditional pattern of settlement exhibited in that area; or
- (d) it creates or adds to a ribbon of development (see Policy CTY 8); or
- (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.

The proposed siting of the shed; a 4.17m wide x 7.18m long x 2.62m tall structure sited approximately 46 metres from the existing dwelling and on higher ground, will make it unduly prominent in the landscape, breaching point (a). The proposed design and placement also does not respect the traditional pattern of settlement exhibited in the area (due to the proposed shed being located so far from the dwelling it should be visually linked to, it is too far removed and separate to be considered a domestic shed), and the impact of ancillary works (specifically the implementation of the new drive and scheme of planting) will damage the rural character of the local area, breaching points (c) and (e) respectively.

For these reasons I do not believe this proposal meets the criteria of CTY 14.

#### **Other Considerations**

A Habitats Regulations Assessment (HRA) was conducted to determine any potential

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

**Summary of Recommendation:**

Refuse is recommended

I believe that this proposal should not be approved, as it breaches multiple points of CTY13 and CTY14 under PPS21, and paragraphs A11 and A13 of Addendum to PPS7: Residential Extensions and Alterations.

**Refusal Reasons**

**Reason 1**

The proposed development is contrary to Policy EXT 1 of the Addendum to Planning Policy Statement 7, as it is considered the scale and design of the proposal will detract from the appearance and character of the surrounding area.

**Reason 2**

The proposed development is contrary to Policy CTY 13 of Planning Policy Statement 21, as it is considered the proposal will be a prominent feature in the landscape, the ancillary works will not integrate with their surroundings, the proposal will fail to blend with the landform and it relies primarily on the use of new landscaping to integrate into this rural area.

**Reason 3**

The proposed development is contrary to Policy CTY 14 of Planning Policy Statement 21, as it is considered the proposal will be unduly prominent, it will not respect the traditional pattern of settlement in the area, it will add to a ribbon of development and the impact of the ancillary works will damage the rural character of this area.

**Reason 4**

The proposed development is contrary to Policy CTY 8 of Planning Policy Statement 21, as the siting of the proposed building will add to a ribbon of development.

**Signature(s):** Ciaran O'Neill

**Date:** 22 March 2024



|  |                  |
|--|------------------|
| <b>ANNEX</b>   |                  |
| <b>Date Valid</b>  | 24 November 2023 |
| <b>Date First Advertised</b>   | 19 December 2023 |
| <b>Date Last Advertised</b>  | 19 December 2023 |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>92 Mullan Road Coagh Tyrone BT80 0JF<br>The Owner / Occupier<br>94 Mullan Road Coagh Tyrone BT80 0JF   |                  |
| <b>Date of Last Neighbour Notification</b>   | 28 November 2023 |
| <b>Date of EIA Determination</b>   |                  |
| <b>ES Requested</b>  | <events screen>  |
| <b><u>Planning History</u></b><br><br>Ref: LA09/2017/0710/F<br>Proposals: Proposed infill/gap site for 2 dwellings and domestic garage based on policy CTY8<br>Decision: PG<br>Decision Date: 11-JUN-18<br><br>Ref: LA09/2023/1279/F<br>Proposals: Extension to curtilage to provide garden space and domestic storage shed<br>Decision:<br>Decision Date:<br><br>Ref: I/1977/0310<br>Proposals: 11 KV O/H LINE<br>Decision: PG<br>Decision Date:<br><br>Ref: LA09/2019/1005/NMC<br>Proposals: To raise finished floor and ground levels on site 2 by 350mm from approved<br>Decision: CG<br>Decision Date: 25-SEP-19<br><br>Ref: LA09/2019/0177/F |                  |

Proposals: Proposed change of house type for that originally approved under application no. LA09/2017/0710/F.

Decision: PG

Decision Date: 14-MAY-19

Ref: LA09/2015/0792/LDP

Proposals: /Proposed agricultural isolation and storage building

Decision: PG

Decision Date: 27-NOV-15

### **Summary of Consultee Responses**

-

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Plans Plan Ref: 03

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

Not Applicable



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

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

## Deferred Consideration Report

| Summary  |   |
|--|---|
| <b>Case Officer:</b> Phelim Marrion  |   |
| <b>Application ID:</b> LA09/2023/1286/F  | <b>Target Date:</b> 12 March 2024   |
| <b>Proposal:</b><br>Proposed extension and alterations to dwelling.  | <b>Location:</b><br>22 Ballynagowan Road<br>Stewartstown<br>BT71 5ET  |
| <b>Applicant Name and Address:</b><br>Mr and Mrs Enda and Nuala Devlin<br>22 Ballynagowan Road<br>Stewartstown<br>Dungannon<br>BT71 5ET  | <b>Agent Name and Address:</b><br>Mr Seamus Donnelly<br>80A Mountjoy Road,<br>Aughrimderg<br>Coalisland<br>BT71 5EF |
| <b>Summary of Issues:</b><br>This application was originally for a large 3 storey extension onto the existing house. The scheme has been reduced to a one and half storey. The extension now meets the policy for extensions as set out in PPS7 Addendum.  |   |
| <b>Summary of Consultee Responses:</b><br><br>None necessary   |   |
| <b>Characteristics of the Site and Area:</b><br><br>The site is located in the rural countryside, as defined by the Cookstown Area Plan 2010, approx. 4.5km east and 2.7km west of Stewartstown and Lough Neagh, respectively. The site is an irregular shaped plot located adjacent the Ballynagowan Road. It comprises a modest single storey dwelling and its curtilage including a small no. of ancillary outbuildings, and part of an adjoining roadside field to its north. The dwelling and its curtilage, no 22 Ballynagowan Road, is well set back from and accessed off the Ballynagowan Road via an existing lane that runs to the west side of a large building of agricultural appearance approved under planning application LA09/2019/0037/F as a |   |

domestic garage and private art studio in association with and just to the northwest of no. 22 Ballynagowan Road. The dwelling on site has a rectangular shaped floor plan and a pitched roof construction with 3 stacked chimneys expressed along its ridgeline and a small flat roofed front porch. Finishes to the dwelling include a mix of render, stone and brick to its walls and red tiles / slates to its roof. An outbuilding of similar size, scale and finish exists to the east side of, and runs perpendicular, to the dwelling. The dwelling has a hard cored driveway /amenity area to its west side and rear with a substantial garden running right round the property to the outside of this area. The curtilage of the dwelling is enclosed to the rear and sides by a mix of post and wire fencing, hedging and mature trees; and to the front by wooden d-rail fencing. The portion of field located immediately to the north of the dwelling that has been included within this application to accommodate the extension and a new access lane to serve the resultant dwelling is defined to its most outer sides by a mix of well-established trees and hedging and to its inner sides by post wire fencing enclosing the curtilage of the aforementioned domestic garage and private art studio and newly planted trees.

Views of the dwelling on site are largely screened on the east approach along the Ballynagowan Road and passing along its roadside frontage by vegetation along the roadside and the within the wider vicinity. A view of the dwelling, sitting to the rear of the large domestic garage and private art studio exists, over a short distance on the west approach to the site along the Ballynagowan Road.

The area surrounding the site is predominantly rural in nature with a scattering of single dwellings and farm holdings located along the roadside.

### Description of Proposal

This is a full planning application for the proposed extension and alteration of an existing single storey dwelling located at 22 Ballynagowan Road Stewartstown. The proposal includes a new laneway and parking area to the front of the proposed extension.



Fig 1 – proposed extension

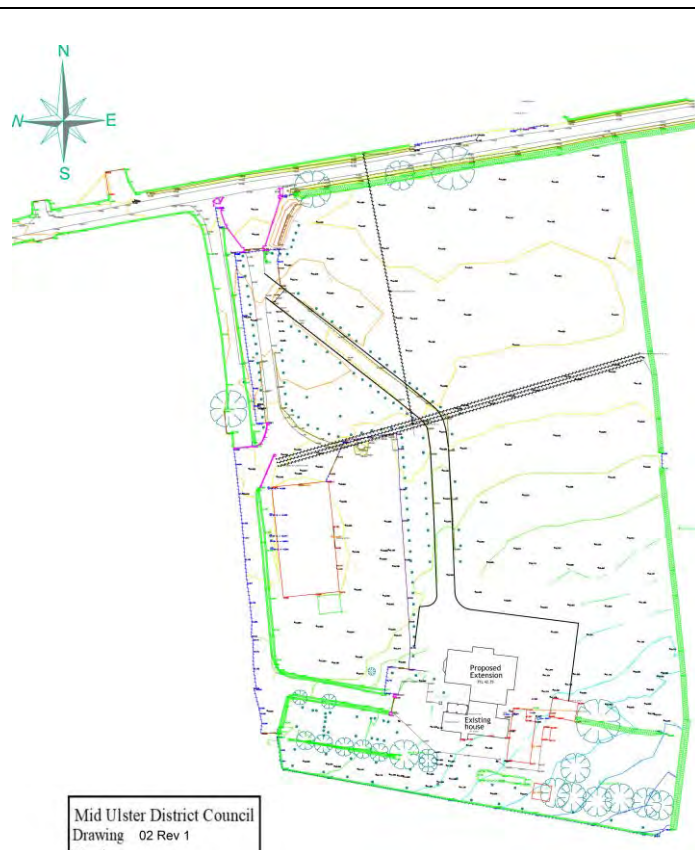


Fig 2 – site layout

### Deferred Consideration:

This application was before the Planning Committee in February 2024 where it was recommended for refusal due to the sizescale and massing of the proposed extension. At that meeting it was deferred for a meeting with the Service Director. Since then the applicant has revised the scheme to provide an extension which is approx. 7.0m high and attached to the front of the existing dwelling (Fig 1 and 2 above).

Following the submission of the revised plans, neighbours and contributors were notified about the changes. As it is a reduction to the original scheme, no press advertisement was deemed necessary. One further letter of objection has been received to the revised proposal. The objection refers to PPS21 Policies CTY13 and CTY14 stating the extension is out of character, window design and chimneys are not in keeping with the surrounding area, it is prominent and lacks integration and does not respect the development pattern in the area. Members are advised CTY1 of PPS21 sets out the overarching Policy for development in the Countryside. It permits extensions to dwellings provided they meet with Policy EXT1 of PPS7 Addendum – Residential Extensions and Alterations. The SPPS is silent in relation to Extension to Dwellings in the Countryside, though it does advise that development should integrate and cluster or group with existing established buildings.

EXT1 of PPS 7 sets out 4 criteria that should be met. In this case the proposed development is set within its own grounds well away from other residential development, it does not propose to impact on any established trees or landscape features and the

Criteria a states; the scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area. Guidance in Annex A of PPS7 Addendum recognises there may be occasions where larger extension are required to allow small rural dwellings, such as this (Fig 3), to be upgraded.



A photograph showing a dense, overgrown field of green vegetation, likely a meadow or pasture. The foreground is filled with thick, low-lying green plants. In the background, a line of trees and a building are visible under a cloudy sky. The image is slightly blurred, suggesting it might be a still from a video or a low-resolution photo.

Photo 1 – view from the Ballygowan Road to the east



Photo 2 – view from entrance to the site, walls and piers have planning permission



Photo 3 site viewed from west on Ballygowan Road, to rear of and on the other side of the shed in the middle of the photo

There may be a glimpse of the development from Mountjoy Road to the south, this is distant and the development is again well screened by trees and unlikely to be prominent in the landscape. (Photos 4 & 5).



Photo 4 & 5 view from Mountjoy Road site approx positioned in blue

Whilst the extension is larger than the house, I consider it respects it in terms of the finishes and appearance. The dormers at the rear will not be visible or dominant and in my opinion the proposal will be well integrated and grouped with the existing buildings here so as not to be prominent in the landscape.

As the extension will be well enclosed and grouped with existing buildings, I do not consider it would detract from the appearance or character of the surrounding area. I recommend this application is approved.

#### Conditions/Reasons for Refusal:

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.

**Signature(s)**

**Date:**

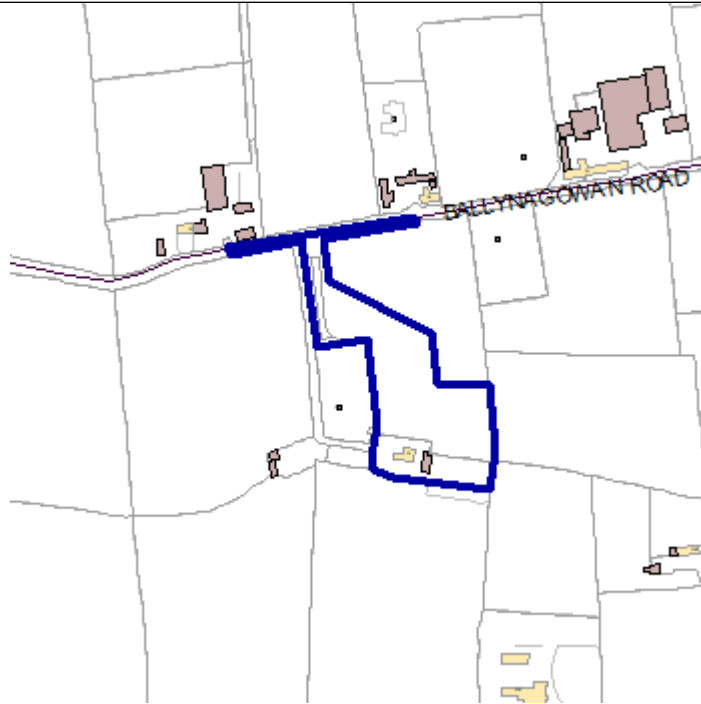


## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>6 February 2024   | <b>Item Number:</b><br>5.33   |
| <b>Application ID:</b><br>LA09/2023/1286/F  | <b>Target Date:</b> 12 March 2024   |
| <b>Proposal:</b><br>Proposed extension and alterations to dwelling  | <b>Location:</b><br>22 Ballynagowan Road<br>Stewartstown<br>BT71 5ET  |
| <b>Referral Route:</b> Refuse is recommended  |   |
| <b>Recommendation:</b> Refuse   |   |
| <b>Applicant Name and Address:</b><br>Mr and Mrs Enda and Nuala Devlin<br>22 Ballynagowan Road<br>Stewartstown<br>Dungannon<br>BT71 5ET | <b>Agent Name and Address:</b><br>Mr Seamus Donnelly<br>80A Mountjoy Road,<br>Aughrimderg<br>Coalisland<br>BT71 5EF |
| <b>Executive Summary:</b>   |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type | Consultee | Response |
|-------------------|-----------|----------|
|                   |           |          |

### Representations:

|   |   |
|---|---|
| Letters of Support                              | 0 |
| Letters Non Committal                           | 0 |
| Letters of Objection                            | 1 |
| Number of Support Petitions and signatures      |   |
| Number of Petitions of Objection and signatures |   |

### Summary of Issues

### Characteristics of the Site and Area

The site is located in the rural countryside, as defined by the Cookstown Area Plan 2010, approx. 4.5km east and 2.7km west of Stewartstown and Lough Neagh, respectively.



Fig 1: Site outlined red



Fig 2: Site outlined red





Fig 3: Dwelling to be extended and altered.

The site is an irregular shaped plot located adjacent the Ballynagowan Road. It comprises a modest single storey dwelling and its curtilage including a small no. of ancillary outbuildings, and part of an adjoining roadside field to its north.

The dwelling and its curtilage, no 22 Ballynagowan Road, is well set back from and accessed off the Ballynagowan Road via an existing lane that runs to the west side of a large building of agricultural appearance approved under planning application LA09/2019/0037/F as a domestic garage and private art studio in association with and just to the northwest of no. 22 Ballynagowan Road.

As seen above in Fig 3 the dwelling on site has a rectangular shaped floor plan and a pitched roof construction with 3 stacked chimneys expressed along its ridgeline and a small flat roofed front porch. Finishes to the dwelling include a mix of render, stone and brick to its walls and red tiles / slates to its roof. An outbuilding of similar size, scale and finish exists to the east side of, and runs perpendicular, to the dwelling. The dwelling has a hard cored driveway /amenity area to its west side and rear with a substantial garden running right round the property to the outside of this area. The curtilage of the dwelling is enclosed to the rear and sides by a mix of post and wire fencing, hedging and mature trees; and to the front by wooden d-rail fencing as in Fig 3, further above.

The portion of field located immediately to the north of the dwelling that has been included within this application to accommodate the extension and a new access lane to serve the resultant dwelling is defined to its most outer sides by a mix of well-established trees and hedging and to its inner sides by post wire fencing enclosing the curtilage of the aforementioned domestic garage and private art studio and newly planted trees.



Figs 4 & 5: View of dwelling from the Ballynagowan Road on the west approach and same view zoomed in, respectively. Dwelling sits to rear of the large domestic garage and private art studio.

Views of the dwelling on site are largely screened on the east approach along the Ballynagowan Road and passing along its roadside frontage by vegetation along the roadside and the within the wider vicinity. A view of the dwelling, sitting to the rear of the large domestic garage and private art studio exists, over a short distance on the west approach to the site along the Ballynagowan Road as seen in Figs 4 & 5, above.

The area surrounding the site is predominantly rural in nature with a scattering of single dwellings and farm holdings located along the roadside.

### **Description of Proposal**

This is a full planning application for the proposed extension and alteration of an existing single storey dwelling located at 22 Ballynagowan Road Stewartstown.

As seen below in Figs 6 & 7 a substantial unit of accommodation comprising a mix of ridge heights and styles up to three storeys, which for all intents and purposes could function as a standalone dwelling, is proposed to be attached to the front of the existing property via a single storey flat roofed orangery. The orangery will in effect act as a link corridor between the old and new part of the resultant dwelling.

The existing dwelling has a ridge height approx. 5m above FFL. The highest ridge height of the proposed extension will be approx. 15.5m above the FFL of existing dwelling.

Finishes to the proposal which includes two hipped roofs incorporating roof dormers, will have finishes in keeping with the existing property.

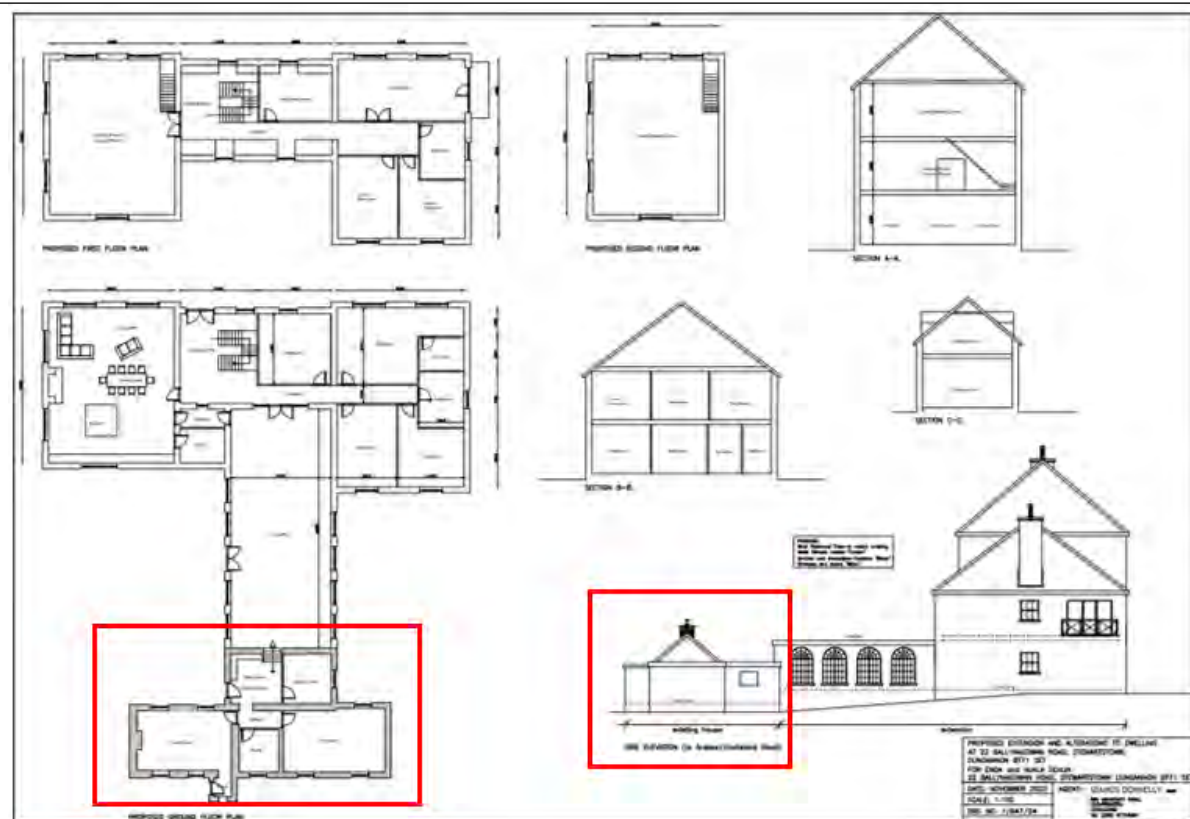


Fig 6: Proposed floor plans and west side elevation of of the resultant dwelling with the existing dwelling identified by red box.



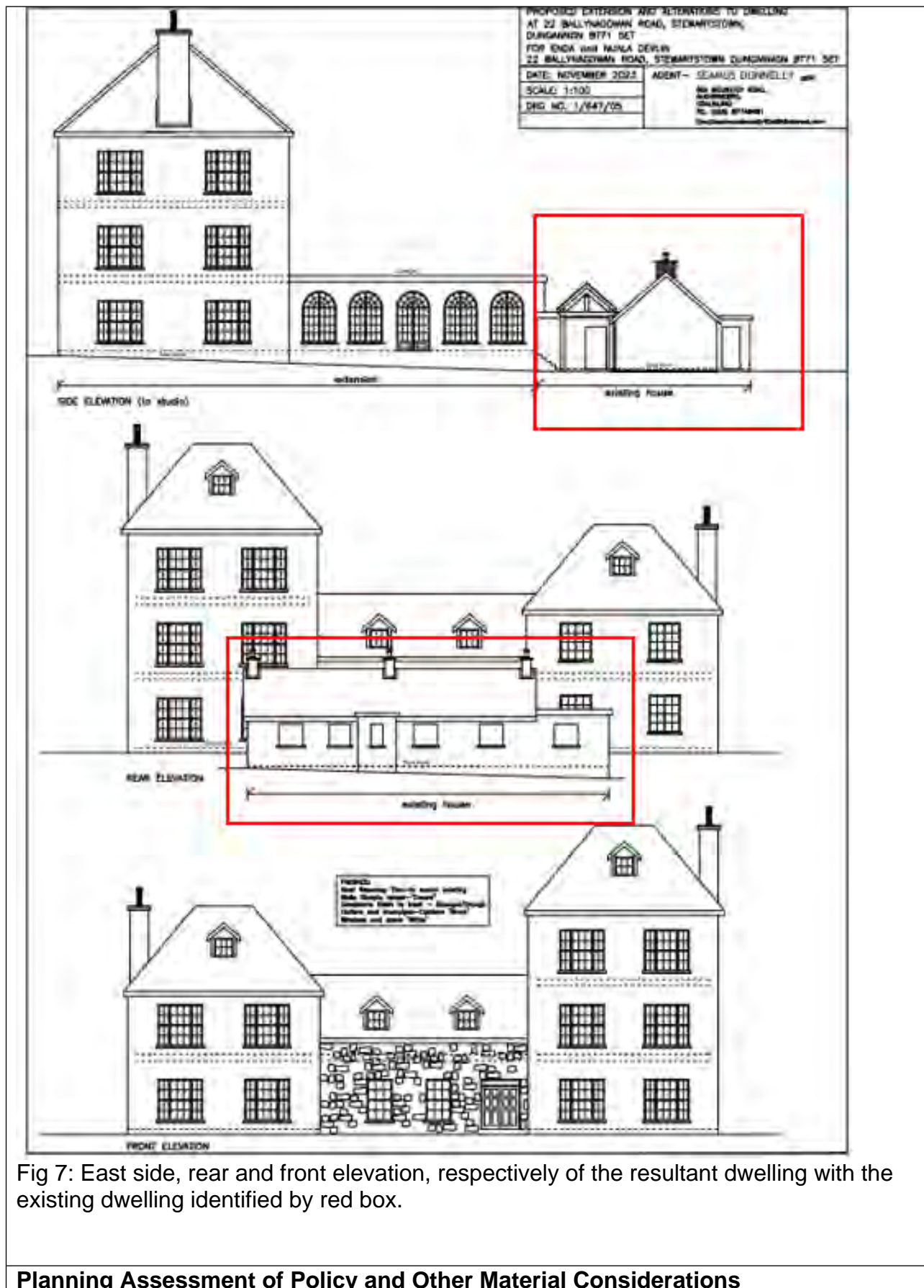


Fig 7: East side, rear and front elevation, respectively of the resultant dwelling with the existing dwelling identified by red box.

## Planning Assessment of Policy and Other Material Considerations

## **Policy Consideration**

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

### **Key Policy Context**

Regional Development Strategy

Cookstown Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 21: Sustainable Development in the Countryside

Addendum to Planning Policy Statement 7: 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 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.

### **Relevant Planning History on Site**

- I/1978/0150 - Improvements to dwelling - Granted (Historical Decision)
- LA09/2019/0037/F - Proposed domestic garage and private art studio - Granted 7<sup>th</sup> May 2019
- LA09/2021/1497/F - Retention of existing access, walls and pillars - Granted 11<sup>th</sup> October 2022

### **Consultees**

N/A

**Cookstown Area Plan 2010** – The site is located in the rural countryside outside any settlement limit identified within the Plan.

**Strategic Planning Policy Statement for Northern Ireland** - sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

**Planning Policy Statement 21 Sustainable Development in the Countryside** - Policy CTY1 of Planning Policy Statement 21 allows for extensions in the countryside where they meet with Policy EXT1 of the Addendum to Planning Policy Statement 7: Residential Extensions and Alterations.

### **Addendum to Planning Policy Statement 7 Residential Extensions and Alterations**

- Policy EXT 1 of this policy outlines planning permission will be granted for a proposal to extend or alter a residential property where all of the following criteria are met:

- a) the scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area;
- b) the proposal does not unduly affect the privacy or amenity of neighbouring residents;
- 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; and
- d) sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.

With regards to the above, I am content that this proposal meets criteria b), c) and d) in that: it should not unduly affect the privacy or amenity of neighbouring residents in terms of overlooking or overshadowing given there are no properties in close proximity; DAERA's Natural Environment Map Viewer available online was checked and identified no natural heritage features of significance on site and the extension is to be located on improved grasslands as such will not cause any loss of, or damage to, trees or other landscape features contributing significantly to local environmental quality; and sufficient space will be retained within the curtilage of the existing dwelling for recreational and domestic purposes including the parking and manoeuvring of vehicles and additional space is to be provided through the extension of the properties curtilage.

The above said, it is not considered that the proposal meets criteria a) in that the scale, massing, design and external materials of the proposal are not considered sympathetic with the built form and appearance of the existing modest property and will detract from the appearance and character of the surrounding area.

The addendum to PPS 7 seeks to ensure a proposal to extend or alter a dwelling in the countryside is sensitive to its setting within the rural landscape. It encourages high quality design solutions irrespective of whether the approach followed seeks to mirror the style of the existing property or adopts a contemporary modern design approach. It outlines that to ensure good design any extension or alteration will need to complement the host building and respect its location and wider setting.

This 3 - storey extension with a hipped roof construction incorporating roof dormers is not of a scale, massing and design in keeping with the existing modest single storey pitched roof dwelling on site, which it is to be located to the front of. The extension, which will project significantly above the ridge line of the existing dwelling not usually considered acceptable, is considered so large and prominent that it will dominate the host property and its wider surroundings when viewed from the Ballynagowan Road. This is despite the site benefitting from a good sense of enclosure provided by vegetation in the wider vicinity, on and along the boundaries of the site and a large domestic garage and private art studio. A critical view of this proposal will be over a short distance on the west approach to the site along the Ballynagowan Road as seen in Figs 4 & 5, further above. On this approach, whilst the large domestic garage and private art studio provide some screening to the proposed extension, at approx. 15.5m above the

FFL of existing dwelling it is considered it will tower above the shed and be prominent in skyline.

In relation to the access arrangements, I am content there is no intensification here and that the proposal will utilise an existing unaltered access onto the public road. Whilst I acknowledge that the curtilage extension to accommodate the proposed extension and new access lane as part of this proposal was not detailed in the description of proposal used for neighbour notifying / advertising I have considered this ancillary development. In my opinion had the dwelling on site only sought this curtilage extension and new access lane, given the low-lying level of such development and enclosed nature of the site, it would not be visually apparent in the landscape when viewed from the public road.

### **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, one third-party objections had been received on the 7<sup>th</sup> December 2023. Whilst the letter was signed, the objector's name could not be made out, and no address was provided to acknowledge receipt. A summary of the issues raised is provided below:

- The design of proposal including its 3 storey's, hipped roof construction and style of windows is contrary to MUDC Draft Plan and plan policy, is not in keeping with the character of existing property or the local area and if granted would be a prominent focal point in the sky and set a precedent for similar proposals contrary to policy within the district. No evidence submitted to explain how design is appropriate to dwelling and area. Design should be rethought to be sympathetic to the existing house and surrounding context. There is no need for curtilage extension to property, as there is scope within it, consideration should be given to keeping the extension within.
- The new lane proposed to serve the dwelling, off the existing lane; and the increase to the dwelling's curtilage, requiring planning permission, has not been mentioned.
- The new lane and curtilage extension proposed will create an infill opportunity under Policy CTY 8 of PPS 21 for a minimum of 3 future sites as seen below:



- The proposal will lead to the loss of agricultural land in an area dependent on land for farming.
- No need for this development as there is scope to meet local housing need as 3 sites in close proximity with foundations poured but not yet developed.

I have considered the objection above and would agree that the design of the proposed extension is contrary to policy in its current form in that it is not in keeping with the character of existing property or the local area as detailed further above in my assessment of the proposal. That said in my opinion had the dwelling on site only sought the curtilage extension and new access lane, given the low-lying level of such development and enclosed nature of the site, it would not be visually apparent in the landscape when viewed from the public road and thus acceptable. Albeit I acknowledge that the curtilage extension to accommodate the proposed extension and new access lane as part of this proposal was not detailed in the description of proposal used for neighbour notifying / advertising. In relation to bullet point 3 the new lane and curtilage extension proposed would not in my opinion create an infill opportunity. Policy CTY 8 – Ribbon Development Planning only permits the development of a small gap site sufficient to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of 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 location of the 3 sites identified are not located within a gap as defined. In relation to the last two bullet points above, the applicant's have detailed they own these lands and have the right to apply for planning permission.

### **Additional Considerations**

In addition to checks on the planning portal Historic Environment Division (HED) map viewer available online has been checked and no built heritage assets of interest were identified on or near the site.

Flood maps indicate no flooding on site.

**Case Officer recommendation:** Refuse

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary Policy EXT1 of the Addendum to Planning Policy Statement 7 Residential Extensions and Alterations in that the scale, massing, design and external materials of the proposal are not sympathetic with the built form and appearance of the existing property and will detract from the appearance and character of the surrounding area.

**Signature(s):** Emma Richardson

**Date:** 25 January 2024

|   |                  |
|---|------------------|
| <b>ANNEX</b>  |                  |
| <b>Date Valid</b>   | 28 November 2023 |
| <b>Date First Advertised</b>  | 12 December 2023 |
| <b>Date Last Advertised</b>   | 12 December 2023 |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>22A Ballynagowan Road Stewartstown Tyrone BT71 5ET<br>The Owner / Occupier<br>19 Ballynagowan Road Stewartstown Tyrone BT71 5AF<br>The Owner / Occupier<br>25 Ballynagowan Road Stewartstown Tyrone BT71 5ET<br>The Owner / Occupier<br>21 Ballynagowan Road Stewartstown Tyrone BT71 5ET   |                  |
| <b>Date of Last Neighbour Notification</b>  | 21 December 2023 |
| <b>Date of EIA Determination</b>  |                  |
| <b>ES Requested</b>   | <events screen>  |
| <b><u>Planning History</u></b><br><br>Ref: I/2007/0769/RM<br>Proposals: Proposed single storey dwelling and domestic double garage<br>Decision: PG<br>Decision Date: 19-MAY-08<br><br>Ref: LA09/2023/1286/F<br>Proposals: Proposed extension and alterations to dwelling<br>Decision:<br>Decision Date:<br><br>Ref: LA09/2021/1497/F<br>Proposals: Retention of existing access, walls and pillars (amended plans)<br>Decision: PG<br>Decision Date: 18-OCT-22<br><br>Ref: LA09/2019/0036/F<br>Proposals: Proposed domestic garage and private art studio |                  |



Decision:

Decision Date:

Ref: LA09/2019/0037/F

Proposals: Proposed domestic garage and private art studio

Decision: PG

Decision Date: 07-MAY-19

Ref: I/1978/0150

Proposals: IMPROVEMENTS TO DWELLING

Decision: PG

Decision Date:

Ref: I/2005/0675/O

Proposals: 1 No dwelling house

Decision: PG

Decision Date: 14-JUL-05

Ref: I/2006/0370/O

Proposals: Site for dwelling & detached garage

Decision: PG

Decision Date: 16-OCT-06

### **Summary of Consultee Responses**

-

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Floor Plans Plan Ref: 03

Proposed Elevations Plan Ref: 04

Existing Plans Plan Ref: 05

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

Not Applicable



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

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

## Deferred Consideration Report

| Summary   |  |
|---|--|
| <b>Case Officer:</b> Phelim Marrion   |  |
| <b>Application ID:</b> LA09/2024/0536/O   | <b>Target Date:</b> 21 August 2024   |
| <b>Proposal:</b><br>Proposed site for a dwelling and domestic garage based on Policy CTY2a (Cluster)  | <b>Location:</b><br>30M North of Sessiagh Lodge<br>80 Annaghone Road<br>Stewartstown<br>Tyrone<br>BT80 8SW       |
| <b>Applicant Name and Address:</b><br>Mr James Wilkinson<br>42 Kilcronagh Road<br>Cookstown<br>BT80 9HG   | <b>Agent Name and Address:</b><br>CMI Planners Ltd<br>38B Airfield Road<br>The Creagh<br>Toomebridge<br>BT41 3SQ |
| <b>Summary of Issues:</b><br><br>This application is for a dwelling and garage in the countryside. The application is being assessed against CTY2a, clustering policy.  |  |
| <b>Summary of Consultee Responses:</b><br>DFI Roads - provided standards for acceptable access<br>NI Water – standard comments  |  |
| <b>Characteristics of the Site and Area:</b><br><br>The application site is situated in open countryside, approximately 3 km southeast of Cookstown and 1 km northeast of the village of Tullyhogue as defined within the Cookstown Area Plan 2010. This rectangular site measures approximately 0.95 hectares and abuts the crossroads of Annaghone Road and Sessiagh Road and forms part of a larger agricultural field. Adjacent to and south of the application site, across the Sessiagh Road is a large, detached dwelling at 80 Annaghone Road, with dual access points. There is a row of three detached dwellings adjacent to and north of the site on |  |

the opposite side of the road at 46, 48 and 50 Lower Grange Road.

In terms of the topography, the site rises towards the west, with the low point nearest the crossroads and also falls further to the north. The southern boundary is well defined by native species hedging at a height of approximately 1.5 metres; the eastern boundary near the crossroads comprises a sparse complement of vegetation which thickens further northwest on the Lower Grange Road defined by native species hedging. The northern and western site boundaries are undefined. The predominant land use of this wider rural area is for agricultural purposes.

### **Description of Proposal**

Proposed site for a dwelling and domestic garage based on Policy CTY2a (Cluster).

### **Deferred Consideration:**

This application was before the Planning Committee in October 2024 where it was being recommended for refusal, at the meeting the application was deferred for a meeting with the Local Planning Service Lead. A meeting was held on 10 October and the agent provided additional information and clarification about the potential siting of any dwelling and access to the site.

I carried out a site inspection and noted the site is outside of a farm cluster and reads with 2 bungalows and a 2 storey hipped roof dwelling with associated outbuildings to the opposite side of Annaghone Road/Lower Grange Road and a 2 storey dwelling and outbuildings to the opposite side of Sessiagh Road. I consider the proposal meets the first criteria in CTY2a. On approach from the north east, the site and the group of buildings do read as a visual entity in the local landscape as they are quiet close together. I consider the second criteria in CTY2a is met. Immediately to the north east of the site at its north east corner is the intersection between Sessiagh Road which travels north east-south west and Annaghone Road/Lower Grange Road which travels north west -south east. As this is a crossroads I am satisfied the third criteria in CTY2a has been met. The site is part of a larger agricultural field, it rises to the south east away from the road. The site is screened on approach from the south west (Sessiagh Road) due to the landform, it is screened from the south east by Sessiagh Lodge and it is screened from the north east by the 2 storey dwelling and mature conifers on the opposite side of the road. The site has development on its northeast and south east boundaries. I am of the opinion the fourth criteria has been met. A dwelling located in line with Sessiagh Lodge or in front of that line would, in my opinion be absorbed into this cluster of development and as it is screened as described above, I do not consider there would be wide ranging views or appear to significantly expand the cluster here. I consider the fifth criteria has been met. This application is for outline permission and so there are no details of the house type. That said, the site is separated from other residential development by public roads, I am content a dwelling here would not adversely impact on amenity of these residential development if properly designed and sited. The sixth criteria has been met and I am content his application meets the policy for a dwelling in a cluster.

Policy NH5 of PPS2 relates to the protection of priority habitats. The biodiversity checklist is an aid to identify if there are any priority habitats and it indicates if there are mature trees or 30m of field hedge at risk then a biodiversity checklist should be completed. Access to the site will be from Grange Lower Road on the northeast boundary. Any

access from Sessiagh Road would require the removal of a significant amount of roadside hedge and extensive site works to dig down to the road level. One mature tree is located on the boundary with Grange Lower Road/Anaghnone Road. The tree is sited immediately adjacent to the road and its trunk is at the road edge. The tree will have to be removed to accommodate the sight lines for any dwelling here. The remainder of the road frontage is post and wire fence with loose hedging and briars. This is not a priority habitat and as there is only one tree I do not consider the biodiversity checklist requires further information to be provided. I do recognise that biodiversity will be displaced and I consider it reasonable to replace the hedge to the rear of the site lines with a native hedge row and also along the new boundaries of the site as mitigation for the loss of the tree.



In light of all of the above I consider the proposal does meet the clustering test and a dwelling and garage may be approved on this site.

#### Conditions/Reasons for Refusal:

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. Details of existing and proposed levels within the site, levels along the roadside, and the finished floor level of the proposed dwelling shall be submitted for approval at Reserved Matters stage. The dwelling shall be built in accordance with levels agreed at Reserved Matters stage.

Reason: To ensure that the dwelling integrates into the surrounding countryside.

4. The dwelling hereby approved shall be sited in the area indicated in yellow of the approved drawing No 01 Rev 2 received 19 June 2024.

Reason: In the interest of visual amenity and to ensure the dwelling integrates into the cluster.

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

Reason: In the interest of visual amenity and to assist with integration.

6. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4mx 80.0m and an 80.0m forward sight distance shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

**Signature(s)**

**Date:**



## Development Management Officer Report Committee Application

| Summary  |  |
|--|--|
| <b>Committee Meeting Date:</b><br>1 October 2024   | <b>Item Number:</b><br>5.21  |
| <b>Application ID:</b><br>LA09/2024/0536/O   | <b>Target Date:</b> 21 August 2024   |
| <b>Proposal:</b><br>Proposed site for a dwelling and domestic garage based on Policy CTY2a (Cluster)   | <b>Location:</b><br>30M North of Sessiagh Lodge<br>80 Annaghone Road<br>Stewartstown<br>Tyrone<br>BT80 8SW |
| <b>Referral Route:</b> Refuse is recommended   |  |
| <b>Recommendation:</b> Refuse  |  |
| <b>Applicant Name and Address:</b><br>Mr James Wilkinson<br>42 Kilcronagh Road<br>Cookstown<br>BT80 9HG  | <b>Agent Name and Address:</b><br>CMI Planners<br>38B Airfield Road<br>Toomebridge<br>BT41 3SG             |
| <b>Executive Summary:</b><br><br>This application is recommended for Refusal and requires Planning Committee oversight. The proposal is contrary to CTY 1, CTY 2A, CTY 13 and CTY 14 of PPS 21; contrary to Policy NH 5 of PPS 2 Natural Heritage. There is no existing cluster of development; the cluster does not appear as a visual entity in the landscape; the site cannot be absorbed into the existing cluster through rounding off and consolidation; will visually intrude into open countryside; the site is reliant upon new landscaping for integration; the site lacks long established boundaries; the site will be unduly prominent; does not respect the existing pattern of settlement; will result in a detrimental change to or further erode the rural character; and it has not been demonstrated that priority species and priority habitats will not be harmed by this proposal. |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type | Consultee                      | Response  |
|-------------------|--------------------------------|---|
|                   | DFI Roads - Enniskillen Office | DC Checklist 1.docRoads Outline.DOCXFORM RS1 STANDARD.doc |
|                   | NI Water - Single Units West   | LA09-2024-0536-O.pdf                                      |

### Representations:

|   |   |
|---|---|
| Letters of Support                              | 0 |
| Letters Non Committal                           | 0 |
| Letters of Objection                            | 0 |
| Number of Support Petitions and signatures      |   |
| Number of Petitions of Objection and signatures |   |

### Summary of Issues

### Characteristics of the Site and Area

The application site is situated in open countryside, approximately 3 km southeast of Cookstown and 1 km northeast of the village of Tullyhogue as defined within the



Cookstown Area Plan 2010. This rectangular site measures approximately 0.95 hectares and abuts the crossroads of Annaghone Road and Sessiagh Road and forms part of a larger agricultural field. Adjacent to and south of the application site, across the Sessiagh Road is a large, detached dwelling at 80 Annaghone Road, with dual access points. There is a row of three detached dwellings adjacent to and north of the site on the opposite side of the road at 46, 48 and 50 Lower Grange Road.

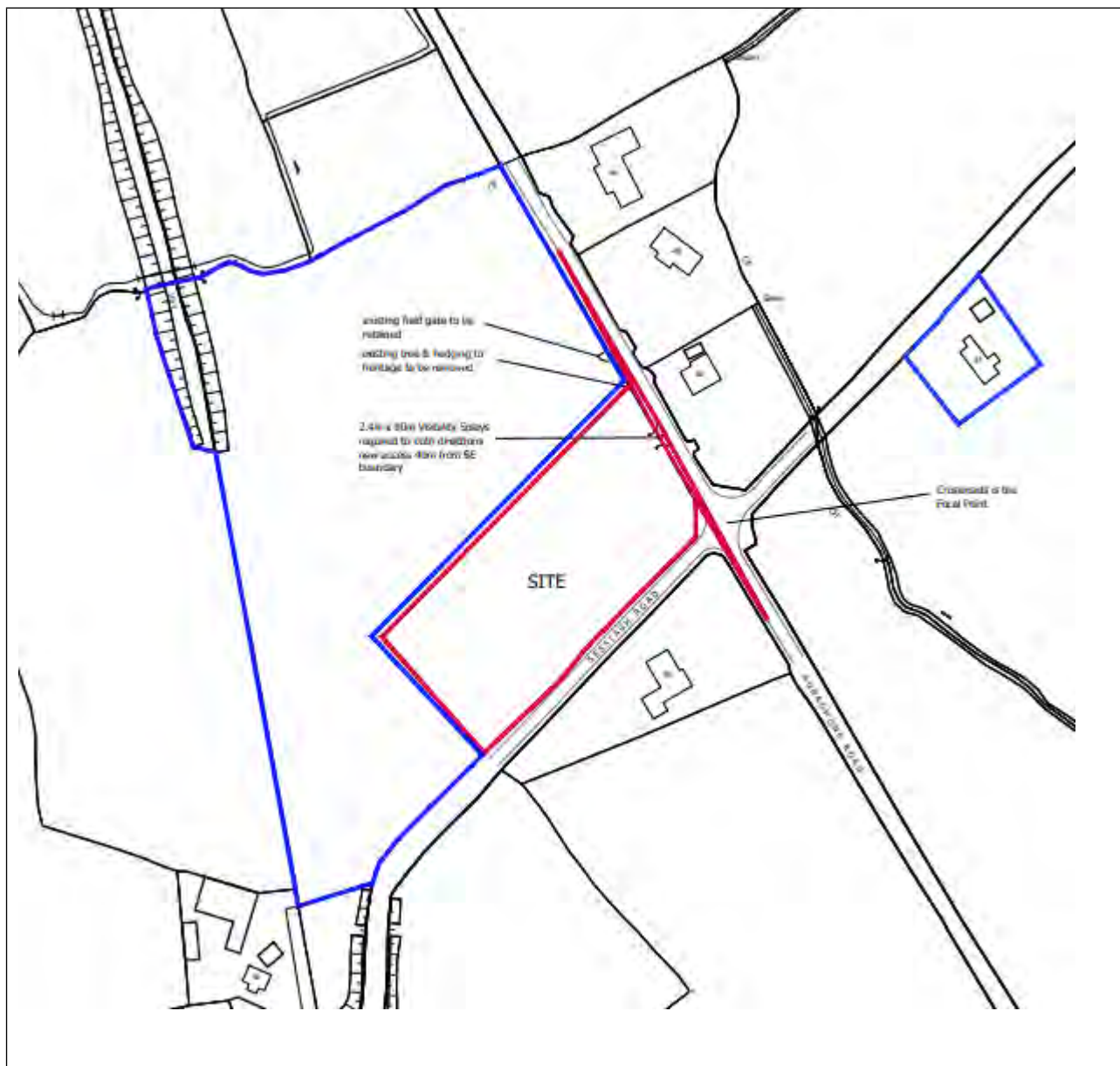
In terms of the topography, the site rises towards the west, with the low point nearest the crossroads and also falls further to the north. The southern boundary is well defined by native species hedging at a height of approximately 1.5 metres; the eastern boundary near the crossroads comprises a sparse complement of vegetation which thickens further northwest on the Lower Grange Road defined by native species hedging. The northern and western site boundaries are undefined. The predominant land use of this wider rural area is for agricultural purposes. The application site is shown below indicated by a yellow arrow.



### **Description of Proposal**

Proposed site for a dwelling and domestic garage based on Policy CTY2a (Cluster).

**Site Location map Drawing 01 Rev 2.**



## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

#### **SPPS – Strategic Planning Policy Statement.**

The SPPS provides a regional framework of planning policy that will be considered in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted and 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 new dwellings in existing clusters. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and must not have an adverse impact on the rural character of the areas and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

## **Mid Ulster Local 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> of May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

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

PPS 21 outlines planning policies for development in the countryside, i.e. land that is outside of the settlement limits as defined within the respective Development Plans. Policy CTY 1 of PPS 21, states that all development proposals within the countryside must be sited and designed to integrate sympathetically with their surroundings.

The regional strategic policy within the SPPS is a lesser test than the current operational Policy CTY 2a in that it does not state that the proposed site should be bounded on at least two sides with other development in the cluster. However, at paragraph 1.12, the text states, *“where the SPPS is silent or less prescriptive on a particular planning policy matter than retained policies this should not be judged to lessen the weight to be afforded to the retained policy”*. In accordance with the SPPS’s transitional arrangements, retained policy applies.

This application requires assessment against Policy CTY 2a New dwellings in Existing Clusters of PPS 21 and must meet all six criteria specified therein.

- 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 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.

Following a site visit on the 25<sup>th</sup> of June 2024; internal Group discussions with a Principal Planner; and having studied current orthophotography for this locus and documentation submitted with the application, I am not persuaded that this site represents an ‘existing cluster of development’. I concede that there is no justification or amplification text in Policy CTY 2a to define what can constitute a cluster of development. However, the first

three criterion give an indication of the intended meaning.

In this case, there is a ribbon of development north of the application site on the opposite side of the road comprising three detached dwellings at 46, 48 and 50 Lower Grange Road, each with their own road frontage. Beyond the sites southern boundary across the road is the detached dwelling at Sessiagh Lodge, 80 Annaghone Road. There is a further dwelling around 120 metres east of the site's eastern boundary (37 Sessiagh Road), however the separation distance and field boundaries means there is little or no visual linkage with the application site. In relation to the first criteria, there are four buildings, all of which are dwellings that lie outside of a farm, and as such the first criteria is met.

The second criteria require the cluster to appear as a visual entity in the landscape. However, some of the buildings relied upon have no visual relationship with one another. For example, 80 Annaghone Road is approximately 170m south of 46 Lower Grange Road and around 143 metres south of 48 Lower Grange Road. In addition, there are mature trees along the road frontage and surround 50 Lower Grange Road, which further expels the notion of there being a cluster of development or there being a visual entity in the landscape. The below imagery from Google Streetview in 2022, travelling along the Annaghone Road in a northwest direction, 80 Annaghone Road is on the left, with 50 Lower Grange Road on the right and the dwellings at 46 and 48 Lower Grange Road cannot be seen from this viewpoint. When considering the visual relationship between 80 Annaghone Road, and the nearest dwelling within the 'proposed cluster', the extended garden of 80 Annaghone Road results in a minimal visual connection with the next nearest property, with the distance between the two buildings being approximately 96 metres.



Similarly, travelling towards the site along Lower Grange Road in a south eastern direction, the existing ribbon of development (46, 48 and 50) is visible on the left, with 80 Annaghone Road visible on an elevated location on the right of the below image. These buildings when viewed together from this different vista, again do not represent a discrete visual unit in the local landscape. The mature roadside vegetation and undeveloped agricultural lands creates a visual break between the buildings, which negates the notion of there being an existing cluster of development or there being a visual entity in the landscape.





Again, on approach to the site from the northeast on Sessiagh Road near number 37, mature trees obscure views of both the application site and the dwellings relied upon to constitute a cluster of development. Likewise, approaching the crossroads from the southwest, with the garden at 80 Annaghone Road on the right, the ribbon of dwellings are largely hidden behind mature trees, and coupled with the elongated garden of number 80, there is a distinct physical separation, and the buildings do not read as a visual entity in the landscape. There is a ribbon of development opposite the application site which does not read as a visual entity in the landscape. The proposal therefore fails to satisfy the second criteria of CTY 2a.



The third criteria demand that the cluster to be associated with a focal point. Notwithstanding the fact that there is no cluster, the application site is beside a crossroads, which is permissible, and the proposal meets this requirement.

In relation to the fourth criteria, the chosen site forms part of a larger agricultural field and despite being bounded on at least two sides by other development (80 Annaghone Rd and 50 Lower Grange Rd), the western and northern site boundaries are undefined, which means that the site does not benefit from a suitable degree of enclosure and fails to meet this criterion.

The fifth criterion of Policy CTY 2a reads ‘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’. In the first instance, internal Group deliberations do not consider there is an existing cluster of development at this locus and consequently this proposal fails at the first element of this criterion. There is no opportunity to absorb a dwelling through ‘rounding off and consolidation’ given a cluster does not exist here and permitting a dwelling in this location would result in a visual intrusion into open countryside and potentially alter the existing rural character.

The sixth criteria require that the development will not adversely impact the residential amenity of neighbouring properties. Taking account of the separation distances and existing vegetational complements, I am satisfied that an appropriately designed and sited dwelling would not have a detrimental impact on the residential amenity of nearby properties.

For the reasons outlined above, the proposal fails to comply with four of the six criteria outlined within Policy CTY 2a of PPS 21 and must be refused.

### **PPS 21, CTY 13 Integration & Design of Buildings in the Countryside.**

The main driver of CTY13 with respect to a building in the countryside is to ensure the new building is not a prominent feature in the landscape, integrates successfully within the existing landform and is of an appropriate design for its location.

Although this is an Outline application, the proposed design is not a consideration within this application type. This large rectangular plot adjacent to a crossroads sits above the level of most of the surrounding lands and lacks long and established natural boundaries. The southern boundary along Sessiagh Road is well defined; however, the eastern boundary provides an intermittent degree of enclosure along the Lower Grange Road frontage, although the roadside vegetation does thicken further away from the cross roads, with the northern and western boundaries undefined. A dwelling approved on this site would be heavily reliant on proposed landscaping in order to integrate successfully. While I acknowledge the sloping nature of the site, it would prove very difficult to site a dwelling in this field without adjusting the landform, and the ridge line would likely protrude above the natural slope of the field. An approval would result in a prominent build that fails to blend with the existing landform and could not avail itself of the sites topography to act as a backdrop, and therefore contrary to CTY 13 of PPS 21.

### **CTY 14 – Rural Character.**

Policy CTY14 of PPS 21 states that, “planning permission will be granted for a building in the countryside where it does not cause a detrimental change to or further erode the rural character of an area”.

A dwelling on this exposed and elevated piece of land would likely be a prominent landscape feature as the proposal would be sited on its own within a larger agricultural field. The proposal would therefore result in an isolated form of development that significantly exceeds the plot sizes of dwellings in the vicinity and would not respect the traditional pattern of settlement in the area. For this reason, the proposal does not comply with Policy CTY 14 of PPS 21.

**PPS 2 Natural Heritage, Policy NH 5, Habitats, species or features of Natural Heritage importance.**

Planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to known:

- ☐ priority habitats.
- ☐ priority species.
- ☐ active peatland.
- ☐ ancient and long-established woodland.
- ☐ features of earth science conservation importance.
- ☐ features of the landscape which are of major importance for wild flora and fauna.
- ☐ rare or threatened native species.
- ☐ wetlands (includes river corridors); or
- ☐ other natural heritage features worthy of protection.

A development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features may only be permitted where the benefits of the proposed development outweigh the value of the habitat, species or feature. In such cases, appropriate mitigation and/or compensatory measures will be required.

DfI Roads whilst not raising an objection to the proposal, have indicated that native species hedging and a large mature tree along the Lower Grange Road frontage will need removed to achieve the necessary sightlines. DAERA issued guidance in 2017 which emphasised the importance of hedgerows, and how all hedgerows are a priority habitat due to their significant biodiversity value. It is important to note also that the large tree identified by DfI Roads, while not a priority habitat, could potentially be home to a protected species, for example Bats.





Furthermore, a Court of Appeal Decision (*Gordon Duff versus Newry, Mourne and Down District Council, Ref TRE12475*) also impressed the importance of protecting Natural Heritage features with specific reference to hedgerows as a priority habitat. The extent of the perceived loss of hedgerows is a material consideration in the determination of such application types and must be factored into any decisions arrived at. The sites road frontage measures around 60 metres, although the first ten metres or so didn't appear to contain any native species hedging during a site visit on the 25<sup>th</sup> of June 2024. The large tree sits beyond the sites red line boundary (although within lands under the applicant's control), the extent of the sightlines extends beyond the large tree shown above. A conservative estimate of roadside hedge removal would be in the region of 40 – 50 metres.

In this case, despite the site area exceeding the 0.5 hectares that triggers the submission of a Biodiversity Checklist it was considered unnecessary to request this information from the Agent / Applicant given our recommendation to Refuse.

Based on the above assessment, the proposal would also be contrary to Policy NH 5 of PPS 2.

**Other material considerations:**

The site is not impacted by any Listed Buildings or Listed Structures.

The site is not impacted by any fluvial flooding, nor has any evidence of surface water flooding come to light.

No representations have been received to date (13/09/24).

**Recommendation:**

Having carried out an appropriate assessment of this development proposal against prevailing planning policy and other material planning considerations, the Group consensus is that the proposal is contrary to CTY 1, CTY 2a, CTY 13 and CTY 14 of PPS 21; and contrary to Policy NH 5 of PPS 2, and I therefore recommend this application be Refused.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons****Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, in that the proposed dwelling is not located with an existing cluster of development resulting in an isolated form of development; the cluster does not appear as a visual entity in the local landscape; the site cannot be absorbed into the existing cluster through rounding off and consolidation and will significantly alter its existing character through visual intrusion into the open countryside.

**Reason 3**

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site lacks long established natural boundaries; is reliant upon new landscaping for integration; and will be a prominent feature in the landscape.

**Reason 4**

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

**Reason 5**

The proposal is contrary to Policy NH 5 of PPS 2 Natural Heritage, in that it has not been demonstrated that this development would not cause harm to a priority habitat or priority species.

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|                                   |
| <b>Signature(s):</b> Ruairi OKane |
| <b>Date:</b> 13 September 2024    |

|   |                 |
|---|-----------------|
| <b>ANNEX</b>  |                 |
| <b>Date Valid</b>   | 8 May 2024      |
| <b>Date First Advertised</b>  | 4 June 2024     |
| <b>Date Last Advertised</b>   | 21 May 2024     |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>RNN Sessiagh Lodge 80 Annaghone Road Stewartstown Tyrone BT80 8SW<br>The Owner / Occupier<br>46 Lower Grange Road Cookstown Tyrone BT80 8SL<br>The Owner / Occupier<br>48 Lower Grange Road Cookstown Tyrone BT80 8SL<br>The Owner / Occupier<br>50 Lower Grange Road Cookstown Tyrone BT80 8SL<br>The Owner / Occupier<br>30 Sessiagh Road Cookstown Tyrone BT80 8SN |                 |
| <b>Date of Last Neighbour Notification</b>  | 22 May 2024     |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: LA09/2024/0536/O<br>Proposals: Proposed site for a dwelling and domestic garage based on Policy CTY2a (Cluster)<br>Decision:<br>Decision Date:   |                 |
| <b>Summary of Consultee Responses</b><br><br>DFI Roads - Enniskillen Office-DC Checklist 1.docRoads Outline.DOCXFORM RS1 STANDARD.doc<br>NI Water - Single Units West-LA09-2024-0536-O.pdf  |                 |

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01 Rev 2  
Site Location Plan Plan Ref: 01 Rev 01  
Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable