



06 October 2020

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Magherafelt and by virtual means Council Offices, Ballyronan Road, Magherafelt, BT45 6EN on Tuesday, 06 October 2020 at 19:00 to transact the business noted below.

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

Yours faithfully

Anthony Tohill  
Chief Executive

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## AGENDA

### OPEN BUSINESS

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

### Matters for Decision

#### Development Management Decisions

4. Receive Planning Applications 7 - 326

	Planning Reference	Proposal	Recommendation
4.1.	LA09/2017/1279/F	2 Broiler Poultry sheds with 4 feed bins, 2 gas tanks and an office changing and standby generator building at Land approx. 50m SW of 40 Edendoit Road Pomeroy for Mr Eric Black.	APPROVE
4.2.	LA09/2018/0211/F	Free range organic poultry shed with 2 feed bins and a standby generator building (poultry shed to contain 6,000 free range organic egg laying hens) at land	APPROVE

		approx. 200m NE of 72 Sessiagh Scott Road, Dungannon, for Jim Hamilton.	
4.3.	LA09/2018/0391/F	Dwelling adjacent to and 15m S of 3 Park Lane, Dungannon, for Arlene Jardine.	APPROVE
4.4.	LA09/2018/0652/F	Housing development for 5 detached units with private access road and 1 no detached dwelling with separate access from Loves Road at lands S of 1 Loves Road, Magherafelt, for FP McCann Ltd.	APPROVE
4.5.	LA09/2019/0060/F	2 holiday villas to match previously approved (I/2012/0159/F) at 60m E of 62 Loughbracken Road, Pomeroy for Karl Heron.	REFUSE
4.6.	LA09/2019/0562/F	Residential Development of 20 dwellings; includes site access, access roads, landscaping, car parking, driveways, garages and all associated site works and the retention of existing dwelling with new front boundary and access at 9a Slieve Gallion Drive, Magherafelt Road, Draperstown, for Viva Bingo Hall Ltd.	APPROVE
4.7.	LA09/2019/0966/F	Access for goods vehicles to enter and exit onto the B34 Dungannon Road from Sandvik site, at Sandvik Mining and Rock Technology, Tullyvannon, Ballygawley for Sandvik Ltd.	APPROVE
4.8.	LA09/2019/1567/F	Retention of extension to work shop, store, mobile office, canteen and welfare facilities at 67A Farlough Road,, Newmills Dungannon, for Mr Kenny Archer.	APPROVE
4.9.	LA09/2019/1624/F	5 Self-catering tourist accommodation units at lands 250m NE of 5 Old Loughry Road, Cookstown, for Jason Currie.	REFUSE
4.10.	LA09/2019/1630/F	Section 54 application regarding a proposed conversion of a redundant building to form one dwelling house approved under LA09/2016/0889/F. Application seeks to vary condition 3 of the	REFUSE

		approval - removing the need for a forward sight distance at 40m SW of 38 Lisnamuck Road Tobermore for Mr Hopper.	
4.11.	LA09/2020/0034/O	Dwelling at an existing cluster adjacent to and SW of 150a Washingbay Road, Upper Meenagh, Coalisland for Patrick Brady.	REFUSE
4.12.	LA09/2020/0089/F	Conversion of existing natural stone barn to dwelling at 20m W of former Ulster Bank premises 26-27 The Square Stewartstown for Ryan Smith Properties Ltd.	APPROVE
4.13.	LA09/2020/0093/O	Dwelling and garage on a farm 60m E of 43 Carnaman Road, Gulladuff, for Mr James Mc Erlean.	REFUSE
4.14.	LA09/2020/0213/F	Restructuring and alterations of vehicular access, at 18 Cookstown Road, Dungannon for Mr Barry O'Neill.	REFUSE
4.15.	LA09/2020/0331/O	Site for a dwelling and domestic garage approx 15m NE of 153 Sixtowns Road, Owenreagh, Draperstown for Ms Lisa Murray.	REFUSE
4.16.	LA09/2020/0415/F	Change of use from domestic garage to beauty salon at 17 Lurgaboy Lane, Dungannon for Paul Lavery.	APPROVE
4.17.	LA09/2020/0433/F	Single storey extension to existing suspended ground floor of the bakery at 169 Ballagh Road Fivemiletown for Scotts Bakery Ltd.	APPROVE
4.18.	LA09/2020/0449/F	Extension of existing residential care home facility with 7 no individual care units, communal building, staff area with associated car parking and landscaping at 19 Rocktown Lane, Knockloughrim, Magherafelt for Inspire 2 Care Ltd.	APPROVE
4.19.	LA09/2020/0461/F	Extensions to existing office and factory buildings at 26b Station Road, Magherafelt for Bloc Blinds Ltd.	APPROVE

4.20.	LA09/2020/0484/O	Offsite replacement dwelling garage at approx 60m N of 18 Ballynakilly Road, Cookstown for Seamus Nugent.	APPROVE
4.21.	LA09/2020/0550/O	Replacement Dwelling at site 100m E of 2 Halfgayne Road, Maghera, for Seamus Logue.	REFUSE
4.22.	LA09/2020/0561/F	Unit for valeting and cleaning of cars, 15m SE of 82 Corr Road, Dungannon for Dan McNulty.	REFUSE
4.23.	LA09/2020/0603/F	Upgrade to existing parking area and path from carpark to Forest Road. New path within Forest towards the River. Trail furniture and timber Play Equipment. Walking trail extending from Rath Dubh Community Centre towards the River at Moydamlaght Forest, Moydamlagh Road, (Approx. 5 miles NW of Draperstown). Agricultural land to the NE of Rath Dubh community Centre, Moneyneaney Road for Mid Ulster District Council.	APPROVE
4.24.	LA09/2020/0604/F	Mountain bike trail to include: New blue and red grade mountain trails, all necessary crossings, bridge structure and boardwalk, Gravity bike trail, Jump track and Trail signage/waymarker posts at Davagh Forest, Davagh Road, Omagh, for Mid Ulster District Council.	APPROVE
4.25.	LA09/2020/0630/O	Site for 2 storey dwelling and garage opposite and S of 23 Tulnacross Road, Cookstown for Mr Black & Miss Bradley.	APPROVE
4.26.	LA09/2020/0634/F	2 storey extension to side and single storey rear extension with disabled adaptations at 98 Drumbolg Road, Maghera, for Carla Kennedy / Ciaran Bennett.	APPROVE
4.27.	LA09/2020/0677/F	Change of house type and garage (to approval LA09/2016/1557/F) at 40m SW of 9 Ballyhagan Road, Maghera, for Mr E Kelly.	APPROVE
4.28.	LA09/2020/0692/O	Dwelling in an infill site at land	REFUSE



		adjoining 57 Kinturk Road, Moortown, for Adrian McNally.	
4.29.	LA09/2020/0979/F	Installation of play park with play equipment, picnic bench, bins, seating bench, accompanying wet pour 1.2m high bow top fence to be installed around the perimeter of park and an asphalt concrete path at lands off Barrack Road, and adjacent to O'Neill Park, Ballymaguigan, for Mid Ulster District Council.	APPROVE

## 5. Receive Deferred Applications

327 - 402

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2018/1153/F	General purpose farm/storage shed and animal welfare unit associated with existing established farm business, 55m N of 3 Killycolpy Road, Carnan, Stewartstown for Mr Francis Gallagher.	APPROVE
5.2.	LA09/2019/1376/O	Site for dwelling and garage within a gap site 50m South of 39 Baladoogh Lane, Cookstown for Patrick McAleer.	REFUSE
5.3.	LA/2019/1394/O	Dwelling and detached garage 40m East of 12 Newline Road, Cookstown for Laura Rafferty	APPROVE
5.4.	LA09/2019/1540/O	Infill dwelling and garage between 29 and 31 Macknagh Lane, Maghera for Mr Padraig Mc Guigan.	REFUSE
5.5.	LA09/2019/1553/F	Retention of a two storey seminar/ training room, office and store associated with the expansion of an established emergency medical supplies (EMS) business (amended plan) at 12 Ballynahone Road, Maghera 12 Ballynahone Road, Maghera for Emergency Medical Services (N.I) Ltd.	APPROVE

## Matters for Information

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

Matters for Decision

7. Receive Enforcement Report

Matters for Information

8. Confidential Minutes of Planning Committee held on 1  
September 2020
9. Enforcement Cases Opened
10. Enforcement Cases Closed



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

Development Management Officer Report  
Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1279/F	Target Date:
<b>Proposal:</b> Proposed 2 Broiler Poultry sheds with 4 feed bins, 2 gas tanks and an office changing and standby generator building (to contain in total 74000 broilers)	<b>Location:</b> Land approx. 50m South West of 40 Edendoit Road Pomeroy
<b>Referral Route:</b>  This application is being presented to Committee as it has attracted 5 no. objections.	
<b>Recommendation:</b>	APPROVE
<b>Applicant Name and Address:</b> Mr Eric Black 77 Aghafad Road Pomeroy	<b>Agent Name and Address:</b> Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

## Site Location Plan



## Consultations:

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

Non Statutory	Shared Environmental Services	Substantive Response Received
Statutory	NIEA	Advice
Non Statutory	Rivers Agency	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	NIEA	Advice
Non Statutory	Shared Environmental Services	
Non Statutory	Shared Environmental Services	No Objection
Statutory	NIEA	Advice
Statutory	NIEA	
Non Statutory	Shared Environmental Services	
Statutory	NIEA	
Non Statutory	Shared Environmental Services	
Statutory	NIEA	
Non Statutory	Shared Environmental Services	
Advice and Guidance	Shared Environmental Services	
Non Statutory	Shared Environmental Services	
Non Statutory	Shared Environmental Services	
Statutory	Historic Environment Division (HED)	Content
Statutory	Historic Environment Division (HED)	
Statutory	NIEA	Advice
Representations:		
Letters of Support	None Received	
Letters of Objection	5	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	

### Issues arising

Five similar objections were received in respect of the proposed development and relate to the following issues:-

- The proposal is producing 481,000 broiler chickens per year in close proximity to and ASSI and an SAC and the site is hydrologically linked to two ASSI's and a RAMSAR site;
- The environmental information is significantly flawed;
- The HRA undertaken by Shared Environmental Services is based on an inappropriate screening policy;
- The MPLUS provides no certainty as to the destination of the waste produced and therefore its adverse impact on protected sites is unknown;
- The MPLUS agreement did not have a Strategic Environmental Assessment completed at the time of its approval as required by law;
- The MPLUS agreement includes export of waste to another member state but there is no certainty that these destinations will be available post Brexit;
- There is no evidence that the Planning Authority has consulted with another Member State as per the ESPOO Convention which is in contravention of the Planning (Environmental Impact Assessment) Regulations;
- The Anaerobic Digestion plants cited as potential processing facilities for this waste did not have EIA or Habitat Assessments completed at the time of approval and therefore may be operating unlawfully;
- The screening policy of not undertaking an i-combination or cumulative assessment is flawed;
- Non-regulated intensive agriculture sites are screened out from appropriate assessment by SES;
- An appropriate assessment of this site must include cumulative and in-combination impacts of this project and other projects and plans on European site in NI, in other Member States and in particular Trans-boundary sites;
- Of the 179 AD waste treatment plants approved in NI 69 are currently in operation. These approvals were unlawful as the Planning Authorities failed to undertake an appropriate assessment and they cannot therefore be relied upon as sustainable outlets for waste from the proposed site;
- The Environmental information is flawed as it only considered one harmful emission - Ammonia and failed to others such as Phosphates and particulate matter such as dust, fungi, bacteria and viruses;
- 98% of SAC's exceed critical levels of Nitrogen deposition, 47% of rivers failed water quality standards, 34% of rivers failed Water Framework Directive standards for Phosphates, 57% of lakes failed water quality standards for phosphates. 67% of marine waters failed WFD standards for E. coli and 64% failed WFD standards for Nitrogen;
- The European Court of Justice ruling C-117/00 ECR I-5335 against the Republic of Ireland concluded that habitats subject to degradation must be given time to recover. The addition of further pollutants from this project and others;
- Given the level of gaps in evidence in contravention of Annex IV of the EIA Directive and the degree of maladministration, it would be unlawful for the Planning Authority to approve this project.

### Characteristics of the site and area

The site is located in the rural area and within a large agricultural field with few natural boundaries. The landform falls gently from the road level towards the open watercourse running along the western boundary. There are redundant farm buildings adjacent to the north-eastern corner of the site with a recently constructed 2 storey detached dwelling to the northern corner.

There is a dry ditch extending along the southern part of and within the site outline.

### Description of Proposal

This is a full planning application for 2 Broiler Poultry sheds with 4 feed bins, 2 gas tanks and an office changing and standby generator building (to contain in total 74000 broilers).

### Planning Assessment of Policy and Other Material Considerations

#### Relevant planning history

Although there is no relevant planning history on this particular site, the following has been approved on this same farm under the following applications:-

I/1977/0071 - Erection of silo, cattle house and accommodation for manure;

I/2005/0179/O - Replacement dwelling and garage (Site);

I/2007/0577/RM - Replacement dwelling and garage.

#### Relevant Planning Policy

The regional Development Strategy (RDS)

Cookstown Area Plan 2010 - unzoned land in the open countryside.

Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 2 Natural Heritage

Planning Policy Statement 3 Access, Movement and Parking

- Policy AMP 2 Access to Public Roads

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

- Policy CTY 1 Development in the Countryside

- Policy CTY 12 Agricultural and Forestry Development.

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

- Policy CTY 14 Rural Character

#### Consultation responses

DfI Road advised that following receipt of requested amendments that they have no objection subject to conditions to ensure the visibility splays are completed in accordance with the drawings which show 2.4m x 90m in a southerly direction and 2.4m x 80m in a northerly direction.

Environmental Health noted that the applicant submitted an odour modelling assessment indicating that the proposal should not negatively impact nearby residents with regard to odour. A Farm Management Plan was also submitted outlining measures the applicant proposes take to control various potential Environmental problems associated with this

proposal. These were considered to be acceptable and consequently Environmental Health offered no objections to this proposal subject to the suggested condition.

NIEA – Water Management Unit have no objections and would refer the applicant to Standing Advice which outlines their statutory requirements under the relevant legislation.

The Industrial Pollution and Radiochemical Inspectorate advised that the applicant will be required to apply for and be granted a PPC permit variation prior to stocking the proposed poultry housing. When submitted, this will need to include a demonstration that the proposal will have an acceptable environmental impact, including (a) impacts of odour, ammonia and dust emissions on sensitive local receptors, (b) utilisation of manures produced from the proposed installation.

Regulation Unit (Waste Management) advised that it is likely this site would be regulated by NIEA under a permit and as such any disposal of waste litter from the site would be regulated via this mechanism, ie. Any movement or use of poultry waste must be to a suitably authorised site.

Natural Environment Division advised that conditions are required in relation to Natural Heritage concerns.

Rivers Agency advised that the Flood and Drainage Risk Assessment provided is appropriate to the scale and nature of the proposed development and the risks involved. As part of the drainage design, the applicant has committed to using a storm water attenuation system in the form of a swale for the safe management of stormwater. As the final discharge point for the swale is not to a watercourse, it is beyond the remit of DfI Rivers to comment on this aspect.

DAERA – no objection. Farm business ID has been in existence for more than 6 years and business claims subsidies therefore it is established and currently active.

Shared Environmental Services advised that the planning application was considered in light of the assessment requirements of Regulation 43 (6) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), by Shared Environmental Service on behalf of Mid Ulster District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations. Having considered the nature, scale and location of the project it is concluded that, provided appropriate mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site.

#### Key Policy Consideration

Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

One of these types of development is agricultural and forestry development in accordance with Policy CTY 12. Provisions of the SPPS do not impact on this policy.



Policy CTY 12 states that planning permission will be granted for development on an active and established agricultural and forestry holding where it is demonstrated that:

a) It is necessary for the efficient use of the agricultural holding.

The applicant has an existing farm which includes the site and adjoining lands. Details of this farm business accompany the application and DAERA have confirmed that the business ID has been in existence for more than 6 years and that the farm business claims subsidies. Therefore there is an active and established farm business. This poultry house is an investment opportunity for the applicant and I am of the opinion that this proposal supports the needs of the existing business.

b) It is appropriate to the location in terms of character and scale.

The surrounding area is rural in character. Although hen houses in general are large scale, these are agricultural buildings which are typical of the rural area. Given the nature of this proposal, and its purpose to house poultry, it is considered appropriate to the location. The materials and finishes are typical of this type of building and are acceptable in the rural area.

c) It visually integrates into the local landscape and additional landscaping is provided as necessary.

The proposed poultry shed will benefit from a low lying site which falls from road level towards the west before rising more steeply further west. The integration of the site is also aided by the forest area directly opposite the site on the eastern side of the Edendoit Road. It is my view this shed will satisfactorily integrate into the landscape.

d) It will not have an adverse impact on the natural or built heritage.

There are no built heritage features on the site or adjacent to the site.

NIEA, Shared Environmental Services and Rivers Agency were consulted on this proposal. The Consultees considered the environmental reports, including an air quality impact assessment, a drainage assessment, a farm management plan, a bio-diversity checklist and ecological assessment and litter utilisation information in order to assess the full impact of this proposal on the natural environment, to ensure no significant impact would result. HED (Historic Monuments) has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements. The proposed development will not create any adverse impact on the setting of the nearby historic demesne.

e) It will not result in a detrimental impact on the amenity of residential dwellings outside the holding.

As the only dwelling within 100m of the proposed building is within the ownership of the applicant, no neighbours have been consulted. The proposed development was advertised in the local press and 5 no. objections have been received. However, all were received via e-mail and only one objector gave their address which is in Limavady and in excess of 40 miles from the site. Environmental Health have been consulted and have no objections as odour levels fall below maximum acceptable level at the nearest sensitive receptor. This proposal is unlikely to result in a detrimental impact on the amenity of nearby residents if operated in accordance with best practice farm management.

In the case where a new building is proposed the following points should be met:

-There are no suitable existing buildings;

No suitable buildings exist on the applicants holding. These types of buildings need to be of a particular size, shape and internal environmental standard to create optimum conditions for poultry rearing.

-The design and materials are sympathetic to the locality;

The poultry house is of a simple design and buildings of this style are characteristic of the rural area.

-It is sited beside existing farm buildings.

The Ministers Review into the Operation of Planning Policy Statement 21 recognised there would be a significant number of planning applications for poultry houses to supply the agri-food sector. This statement does not provide any policy guidance but it does clearly recognise this industry is a key economic driver for the rural economy which I consider is supportive of this type of development. In many examples throughout Northern Ireland similar proposals have been approved where the proposed poultry house is sited away from the main grouping. This is sometimes required for bio security reasons so that cross contamination does not occur, and may be to protect surrounding residential amenity from noise and/or smell. For these reasons I find this siting acceptable in this instance and it will integrate into the landscape.

Policy CTY 13 allows for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

As detailed in my assessment above, these points have been covered.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.

The poultry house is agricultural in nature and will benefit from an acceptable backdrop of gently rising ground in addition to the mature forest area. The character of this area will still remain rural and the proposal will not cause a detrimental change to the rural character of this area.

Having weighted up the above policy and material considerations I am of the opinion that this application should be recommended for approval subject to the following conditions.

It is worth noting that an EIA screening exercise was also carried out and given that the proposal is unlikely to have a significant environmental impact, the need for an ES was screened out.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approve subject to the conditions listed below:-

Conditions

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

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

2. The vehicular access, including visibility splays of (2.4m x 80m) in Northern splay and (2.4m x 90m) in Southern splay, shall be in place, in accordance with Drawing No. 02A bearing the date stamp 04th December 2017, prior to the commencement of any other works or other development hereby permitted.

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

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

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

4. The poultry housing hereby approved shall not be utilised until a PPC permit is in place under Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 (The PPC (IE) Regulations).

Reason: To ensure no adverse effects on site integrity of any European designated site.

5. The Farm Management Plan submitted for this proposal and dated 21 September 2017 shall be fully implemented and adhered to at all times.

Reason: In the interest of residential amenity.

Signature(s)

Date:

ANNEX	
Date Valid	21st September 2017
Date First Advertised	5th October 2017
Date Last Advertised	
<p>Details of Neighbour Notification (all addresses)</p> <p>Gwyneth McQuiston 11, Drumalief Road, Limavady, Londonderry, Northern Ireland, BT49 0QS</p> <p>Cormac McAleer via E-mail</p> <p>Joanne Lusby – via E-mail</p> <p>Diane Greer via E-mail</p> <p>Ciaran McClean via E-mail</p>	
Date of Last Neighbour Notification	None
Date of EIA Determination	21.01.2019
ES Requested	No
<p>Planning History</p> <p>Ref ID: LA09/2017/1279/F Proposal: Proposed 2 Broiler Poultry sheds with 4 feed bins, 2 gas tanks and an office changing and standby generator building (to contain in total 74000 broilers) Address: Land approx. 50m South West of 40 Edendoit Road, Pomeroy, Decision: Decision Date:</p> <p>Ref ID: I/2005/0179/O Proposal: Replacement dwelling &amp; garage. Address: Lands/dwelling at Edendoit Road, Derryhash, Pomeroy. Decision: Decision Date: 23.05.2005</p> <p>Ref ID: I/1977/0071 Proposal: ERECTION OF SILO, CATTLE HOUSE AND ACCOMMODATION FOR MANURE Address: DERRYHASH, POMEROY Decision: Decision Date:</p> <p>Ref ID: I/2007/0577/RM</p>	

Proposal: Replacement dwelling and garage Address: Lands at Edendoit Road, Derryhash, Pomeroy Decision: Decision Date: 17.10.2007
Summary of Consultee Responses  All consultees responded positively.
Drawing Numbers and Title
Drawing No. 01 Type: Sign Details Status: Submitted  Drawing No. 02 Type: Block/Site Survey Plans Status: Submitted  Drawing No. 03 Type: Proposed Elevations Status: Submitted
Notification to Department (if relevant)  Date of Notification to Department: Response of Department:



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0211/F	<b>Target Date:</b> 01/06/18
<b>Proposal:</b> Proposed free-range organic poultry shed with 2no. feed bins and a standby generator building (poultry shed to contain 6,000 free range organic egg laying hens)	<b>Location:</b> Land approx. 200m NE of 72 Sessiagh Scott Road Dungannon BT70 3JU
<b>Referral Route:</b>  2no. Objections received	
<b>Recommendation:</b>	<b>Approval</b>
<b>Applicant Name and Address:</b> Mr Jim Hamilton 72 Sessiagh Scott Road Dungannon BT70 3JU	<b>Agent Name and Address:</b> Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
<b>Executive Summary:</b>  Proposal complies with relevant prevailing planning policy. 2No. objections received and considered below.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	NIEA	Advice
Non Statutory	DAERA – Coleraine	Substantive Response
Non Statutory	Environmental Health Mid Ulster	Substantive Response
Statutory	Shared Environmental Services	Advice
Statutory	DFI Roads - Enniskillen	Advice
Non Statutory	Rivers Agency	Substantive Response
Non Statutory	NI Water – Single Units	No Objection
Non Statutory	Environmental Health Mid Ulster	Substantive Response
Statutory	NIEA	Advice
Statutory	NIEA	Advice
Statutory	Shared Environmental Services	Content

### Representations:

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

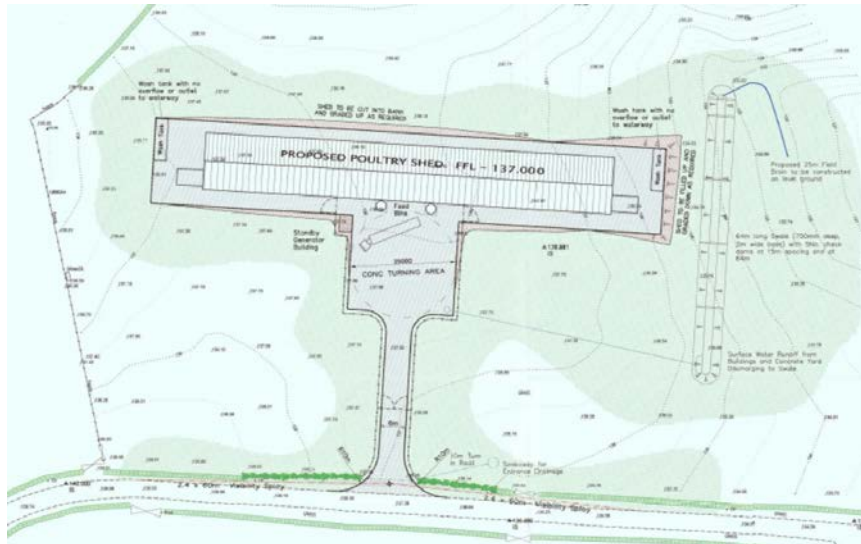
### Characteristics of the Site and Area

The application site lies outside any defined settlement limits as defined in the Cookstown Area Plan 2010. The site is located in the rural area and within a large agricultural field with a road frontage along the southern boundary. The settlement of Rock is located approx. 2.4 metres east of the application site as the crow flies. The topography of the site is relatively flat with a gentle incline to the north of the site and beyond the red line. The surrounding landscape consists of roaming hills and valleys mostly in grass. The surrounding landscape comprises agricultural fields, dispersed single dwellings and there is an existing presence of large poultry houses in the locality. The front boundary is well defined with existing mature vegetation, the remaining boundaries of the site are currently undefined however the western boundary of the field

is bound by post and wire fencing and the northern and eastern boundaries of the field are defined by established hedging.

### Description of Proposal

Full application for 'Proposed free range organic poultry shed with 2 no. feed bins and a standby generator building (poultry shed to contain 6000 free range organic egg laying hens)' at land approx. 200m NE of 72 Sessiagh Scott Road, Dungannon.



### Planning Assessment of Policy and Other Material Considerations

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Cookstown Area Plan 2010

PPS 2: Natural Heritage

PPS 3: Access, Movement and Parking

- Policy AMP 2 Access to Public Roads

PPS 21: Sustainable Development in the Countryside

- Policy CTY 1 Development in the Countryside

- Policy CTY 12 Agricultural and Forestry Development.

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

- Policy CTY 14 Rural Character

Mid Ulster Development Plan 2030 Draft Plan Strategy was launched on the 22nd February 2019. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25<sup>th</sup> March for 8 weeks. The re-consultation period will close on 5pm on 24<sup>th</sup> September 2020. In light of this, the draft plan cannot currently be given any determining weight.



## Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, 2 objection letters were received which detail the following concerns:

- Proximity to dwellings may result in health impacts and detrimental impact on residential amenity – noise, disturbance, smell, dust, vermin and flies.
- No mention of the control of animal waste
- Size and scale overbearing and loss of privacy
- Hazard to road safety

## Consideration of concerns

- NIEA, SES and Environmental Health have been consulted on this application to ensure there will be no detrimental impacts on the environment or nearby residents. Various additional environmental reports were submitted and considered by these consultees in order to assess the full impact of this proposal and all consultees have now responded with no objections. A Nutrient Management Plan which details the use of the poultry manure has been submitted and considered and can be conditioned to any forthcoming approval to ensure adherence and appropriate control of the animal waste. The proposed building is set back approx. 70m from the public road and 130 metres from the nearest neighbour. Environmental Health have considered the proposal and raised no objections by way of noise, pests or odour levels from the proposed development. The applicant lives in close proximity to the proposed development and it will be their responsibility to ensure the efficient and safe running of the poultry unit. It is considered the proposal is unlikely to result in a detrimental impact on the amenity of nearby residents if operated in accordance with the Code of Good Agricultural Practice and the submitted Farm Management Plan.
- The size and scale of the proposed shed are considered in greater detail in the case officer's report below including integration into the surrounding landscape. However, it is not considered the proposal will result in a loss of privacy to neighbouring properties located more than 130 metres away.
- A transport assessment was completed and sent to DfI roads, the competent authority in terms of road safety. DfI Roads have responded and have not outlined any road safety concerns with respect the proposed development subject to conditions.

## Consultations

DfI Roads have responded with no objections subject to conditions to ensure the necessary vehicular access, including visibility splays of 2.4m x 60m in both directions, are provided.

Rivers Agency advised that provided that the drainage works described in the Drainage Assessment, and noted on Drainage Layout Drawing 02 within the report, are implemented the proposed development should not increase the risk of flooding to the development or elsewhere. Therefore, DfI Rivers cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective.

SES have considered the nature, scale, timing, duration and location of the project and concluded that, provided mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site.

Environmental Health considered the submitted Air Quality Assessment dated 31<sup>st</sup> August 2018 and Farm Management Plan dated 21<sup>st</sup> February 2018 and have offered no objections subject to conditions.

NIEA Water Management Unit considered the impacts of the proposal on the surface water environment and on the basis of the information provided is content with the proposal subject to conditions, the applicant referring and adhering to standing advice and any relevant statutory permissions being obtained. Natural Environment Division considered the impacts of the proposal on the designated sites and on the basis of the information provided is content that the proposal is in line with DAERA's operational protocol on nitrogen emissions.

### **History on Site**

Although there is no planning history on this particular site, the applicant has had several other poultry houses approved on the same farm unit under the following application:

LA09/2017/1657/F Proposed free range organic unit (layers) max 6000 birds with 2 meal bins - Approx 110m North West of 117 Edendoit Road, Bardahessiagh, Pomeroy - Approved 15.01.2019.

I/2012/0296/F - Proposed free-range poultry shed (to contain 6000 organic free-range egg laying hen) with 2no. feed bins and a standby generator building - Approved 20.11.2012

LA09/2015/0423/F - Proposed free-range poultry shed with 2no. feed bins and a standby generator building (poultry shed to contain 6000 free range organic egg laying hens) - Approved 20.06.2016

### **Key Policy Considerations/Assessment**

Cookstown Area Area Plan 2015 – the site lies in the rural countryside outside any designated settlement with no other specific designations or zonings.

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained. The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. Policy CTY 1 provides clarification on circumstances in which development will be permitted in the countryside. Policy CTY12 relates to Agricultural and Forestry Development and states Planning permission will be granted for development on an active and established agricultural or forestry holding where it is demonstrated that:

- a) it is necessary for the efficient use of the agricultural holding or forestry enterprise;
- b) in terms of character and scale it is appropriate to its location;

- c) it visually integrates into the local landscape and additional landscaping is provided as necessary;
- d) it will not have an adverse impact on the natural or built heritage; and
- e) it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution.

The applicant has an existing farm which includes the site and adjoining lands. Details of this farm business accompanied the application. The proposal is for an additional poultry unit on the applicants farm, approx. 110 metres from the applicants existing poultry shed (Permission Granted 20/11/12) and approx. 320 metres on the opposite side of the road to the applicants main farm group. A review of historical Ortho map viewer shows the main farm holding established on site in 2006. Further east within the applicant's ownership, on the Edendoit Road, there is an additional poultry unit (Permission Granted 20/06/2016) approx. 340 metres from the proposed unit. This poultry house is an investment opportunity for the applicant and I am of the opinion that this proposal supports the needs of the existing established business. It is accepted that the proposed poultry house is large in scale. However, the proposal is located in a rural area in which large agricultural buildings are typical, with a number of similar developments in the locality. The design, materials and finishes is typical to hen house construction in the countryside across Northern Ireland and is considered acceptable in this rural location. The proposal benefits from a relatively flat topography with land rises further north and sited to group with an adjacent poultry shed to the west. The front and rear boundaries are defined by mature hedging which will assist with integration and it is considered appropriate to condition the retention of this established vegetation to any forthcoming approval. There are no built heritage features identified on the site or adjacent to the site. A number of environmental reports have been submitted to fully assess the impact of the proposal on the natural environment. All additional information received has been considered by the relevant statutory consultees, NIEA, Shared Environmental Services and Rivers Agency, and their responses have been summarised in the report above. It has been considered based on the information provided there will be no adverse impact on the environment resulting from the proposal. Two objection letters have been received from neighbouring properties which have also been considered above. Environmental Health have been consulted and have not raised any objections regarding either odour, noise or pest control. I consider the proposal is unlikely to result in a detrimental impact on the amenity of nearby residents if operated in accordance with best practice farm management.

In cases where a new building is proposed, applicants will also need to provide sufficient information to confirm:

- there are no suitable buildings on the holding or the enterprise that can be used;
- the design and materials to be used are sympathetic to the locality and adjacent buildings; and
- the proposal is sited beside existing farm buildings.

The applicant has an existing large farm holding, some 320 metres west of the proposal site, however the farm unit is a confined and would not be able to accommodate the space for free-range chickens to roam freely. For a scheme such as this, it is considered the re-use of an existing building would not be appropriate as a particular size and

internal environment is required and to avoid cross-contamination and bio security risks. The design and material are considered appropriate to the locality and in keeping with the existing agricultural buildings in close proximity. The proposal is sited to cluster with an existing poultry house on the holding approx. 110 metres west.

Policies CTY 13 Design and Integration and CTY 14 Rural Character of PPS 21 are also applicable to this type of development in the Countryside. The proposal is typical of the type of poultry house you would find throughout the district and in the surrounding area. I have no concerns with its design or finishes. It will not appear overly prominent in the local landscape due to the topography of the site and clustering with an existing poultry shed. The poultry house is agricultural in nature and will benefit from decent boundary vegetation cover. I therefore consider the proposal will integrate into the surrounding landscape without detracting from the rural character of the area. The character of this area will still remain rural and it will not result in an unacceptable suburban type build-up of development in this rural location nor will it create or add to ribbon development.

#### PPS2 Natural Heritage

I am satisfied that this proposal will not have a detrimental impact on Natural heritage interests and does not offend any policy considerations contained within this planning policy statement.

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

DfI Roads have been consulted and have raised no objections to the proposal subject to conditions. Therefore, it is not consider the proposal satisfies Policy AMP2 of PPS3 and would not prejudice road safety or significantly inconvenience the flow of traffic.

#### Additional considerations

An EIA screening exercise was also carried out and given that the proposal is unlikely to have a significant environmental impact, the need for an ES was screened out.

#### **Neighbour Notification Checked**

**Yes**

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

Having weighted up the above policy and material considerations I am of the opinion that this application should be recommended for approval subject to the following conditions.

#### **Conditions**

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

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

2. The vehicular access, including visibility splays of 2.4m x 60m in both directions, shall be in place, in accordance with Drawing No. 02 bearing the date stamp 16<sup>th</sup> February 2018, prior to the commencement of any other works or other development hereby permitted.

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

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

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

4. The gradients and levels of the site, and, the finished floor levels of the development hereby permitted shall be as shown on drawing No 02 bearing the date stamp received 16th February 2018, unless otherwise agreed in writing by Council.

Reason: To ensure the development integrates into the surroundings.

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

Reason: To ensure the maintenance of screening to the site.

6. The maximum number of chickens within the proposed facility should not exceed 6,000 free range layers at any time (as stated within the AQIA date stamped 25/02/2019), without prior written consent from the Planning Authority.

Reason: To ensure the development does not adversely impact on the surrounding environment.

7. The applicant must adhere to all mitigation and disposal methods for poultry litter generated by this proposal and all litter should be utilised as detailed in the Nutrient Management Plan Part 1 and 2 date stamped 25<sup>th</sup> February 2019.

Reason: To ensure that the poultry litter arising from this proposal will be utilised in a sustainable manner and in compliance with legislative requirements, therefore providing protection of the aquatic environment and to ensure emissions from the proposal are reflective of the Air Quality Impact Assessment.

8. Applicant shall not deviate from the signed Litter Disposal Agreements and Nutrient Management Plans bearing the date stamp 25/02/2019 without the prior written consent of the Planning Authority.

Reason: To prevent any adverse effect to Upper Ballinderry River SAC.

9. All contaminated run-off (from the facility, concrete apron and areas surrounding the popholes) must be directed to an appropriate collection tank, with no overflow or outlet to any waterway or soakaway.

Reason: To prevent polluting discharges entering and impacting on the environment.

10. A suitable buffer of 10 metres shall be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and

washing areas, storage of machinery/aterial/ spoil etc and any watercourse or soakaways.

Reason: To prevent polluting discharges entering and impacting on the environment.

11. The steps outlined in the Farm Management Plan date stamped 16/02/18 should be fully implemented. A record of all checks for pests, and treatments carried out should be kept in a suitable logbook, and the logbook stored on site at all times.

Reason: To ensure no detrimental impact to neighbouring residents.

### **Informatives**

1. This approval notice relates to Drawing No's. 01 and 02 which were received on 16<sup>th</sup> February 2018, and 03 Rev 1 received 25<sup>th</sup> February 2018.
2. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by Mid Ulster District Council or other statutory authority.
3. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent property for the removal of or building on the party wall or boundary whether or not defined.
4. Agricultural developments may result in the generation of slurry and dirty water. The applicant is reminded of the responsibilities under the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (SSAFO) (Northern Ireland) 2003 and The Nitrates Action Programme (NAP) Regulations (Northern Ireland) 2014 as detailed within standing advice notes for agricultural developments.
5. The applicant should refer and adhere to the precepts contained in the following standing advice documents: Pollution Prevention Guidance, Sustainable Drainage Systems, Discharges to the Water Environment, Agricultural Developments and Livestock Installations and Ammonia.
6. The applicant's attention is drawn to the response from NIEA Water Management Unit under the Water and Air Section of NIEA's response received 06/06/2019.
7. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
8. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
9. The applicant's attention is drawn to the response from Northern Ireland Water received 11/04/2018.
10. The applicant is advised that under Article 11 of the Roads Order (NI) 1993, the Department for Infrastructure is empowered to take measures to recover any reasonably incurred expenses in consequence of any damage caused to the

public road/footway as a result of extraordinary traffic generated by the proposed development.

11. Notwithstanding the terms and conditions of the Planning Authority's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the Transport NI Section Engineer whose address is DfI Roads & Rivers, 49 Tullywiggan Road, Cookstown, Co. Tyrone, BT80 8SG. A monetary deposit will be required to cover works on the public road.
12. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. which is deposited on the road as a result of the development, must be removed immediately by the operator/contractor.
13. All construction plant and materials shall be stored within the curtilage of the site.
14. It is the responsibility of the developer to ensure that
  - Surface water does not flow from the site onto the public road
  - The existing roadside drainage is accommodated and no water flows from the public road onto the site
  - Surface water from the roof of the development hereby approved does not flow onto the public road, including the footway
  - The developer should note that this planning approval does not give consent to discharge water into a transportni drainage system.
15. Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.
16. Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.
17. Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for. nlf, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.

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





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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0391/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling	<b>Location:</b> Adjacent to and 15m South of 3 Park Lane Dungannon
<b>Referral Route:</b> Objections received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Arlene Jardine 3 Park Lane Dungannon	<b>Agent Name and Address:</b> Lenaghan Design 30 Moss Park Richhill BT61 9PT
<b>Executive Summary:</b> Proposed dwelling acceptable. A number of objections were received, therefore requiring the application to be presented to committee. The proposed dwelling is the side garden of an existing detached dwelling, complies with planning policy.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

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

#### Representations:

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

### Summary of Issues

Road concerns have been raised, the objector has concerns over the degrading of the road through extra use and during the construction phase of any approved dwelling. DFI Roads were consulted and had no concerns. It is my opinion that an additional dwelling would not lead to any significant road safety concerns.

A further concern raised was that when they bought their site that they signed a legal agreement that no other houses were to be built on the site and were under the assumption that the other sites were sold as same. This however, is a legal matter and not one to be material to the council.

Concerns were raised that the proposal was not in keeping with the area in terms of design and plot size, however, in terms the design the proposed is not to dissimilar to the existing dwelling on the site. It is also noted that the plot site will be halved, however, there will still be sufficient remaining private amenity for both dwellings, there will be no harm on neighbouring amenity and it is also necessary to consider the precedent that has been set in the adjacent development of Ballynorthland Demesne, within this development the sites were all of similar plot sizes to Park Lane and there has been approvals for further development in side gardens resembling this application.

Another concern was the loss of vegetation and the topography of the land, firstly the proposal is for a split level dwelling to blend into the slope and will mimic the existing dwelling situated on the same slope. In addition there will be very minimal impact on the surrounding vegetation and a scheme has been submitted and agreed by the Councils Tree preservation officer to ensure no unnecessary damage occurs.

Finally, they raised concerns that if this were to be approved it would open the door for all others within the development to follow suit, unfortunately that is not a material planning consideration and as discussed the precedent has been set in the surrounding developments.

### Characteristics of the Site and Area

The site forms part of an existing rear and side garden area to No. 3 Park Lane with a proposed access onto Moy Road Dungannon. The site measures approx. 45m long and 20m wide, the N, S and W boundaries are defined by mature trees and hedges, with the remaining boundary open to the remainder of rear amenity to No. 4 and the access point to Park Lane. The site slopes quite rapidly from the NE to the SW with Dungannon Park area to the rear.



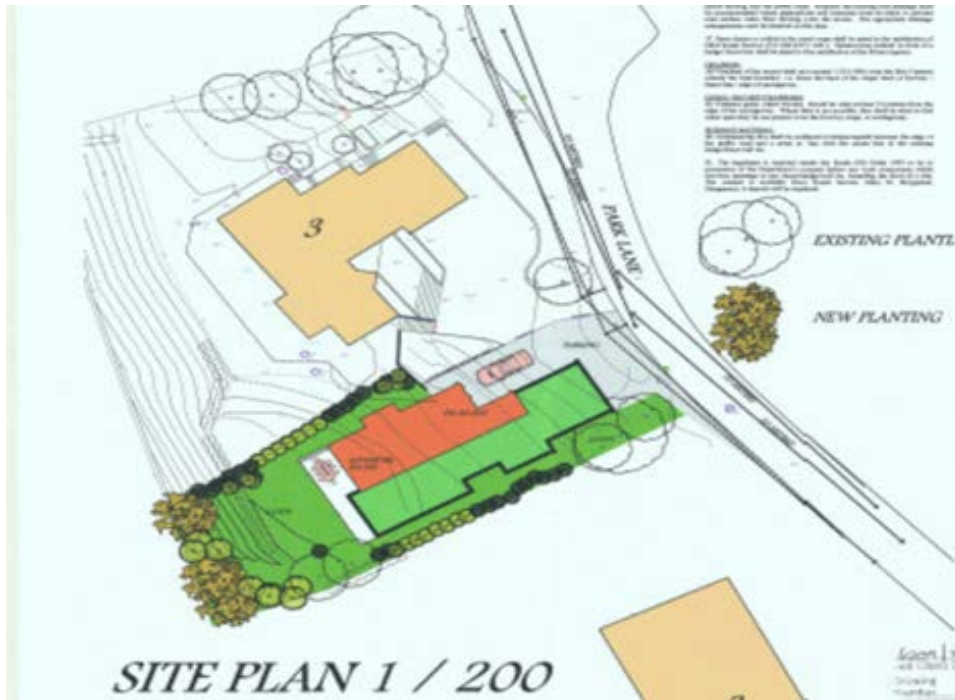
Housing in the area is defined by large detached dwellings on sizable mature plots. When travelling along Moy Road there is no dwellings clearly visible accessing onto the road due to mature vegetation, trees and stonewall along the roadside boundaries. To the west lies Dungannon Park, to the southeast is a busy petrol filling station and traffic light cross roads. Windmill wood is across the road to the NE and the development of Ballynorthland Demesne is just a short distance to the SE.





### Description of Proposal

The proposal seeks full planning permission for the erection of a dwelling.



### Planning Assessment of Policy and Other Material Considerations

Planning Assessment of Policy and Other Material Considerations

#### Area Plan

Dungannon and South Tyrone Area Plan 2010: The site is located within the development limits of Dungannon. Land is not zoned. The predominant land use in the area is housing.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020.

In light of this the draft plan cannot currently be given any determining weight.

#### History

There is no relevant Planning History to consider.

#### Key planning Policy

The site is located within the existing development limits of Dungannon. The Single Planning Policy Statement advises that the policy provisions of PPS7 will stand until such times as an up-to-date Area

Plan is in place. Under Policy QD1 of PPS 7- Planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas.



In terms of QD1 of PPS7, Proposals are expected to meet the following criteria:

- (a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;

The proposal is a full application for one split level dwelling. The dwelling is a modern design with a mix of finishes including render, stone and timber. The dwelling has a part flat roof and part mono pitch and is gable ended to the entrance. There is a small balcony to the rear with the garage entrance to the front. In terms of the existing character of the area, no dwellings are visible along this area from the Moy Road, with sizable dwellings sited on generous plot sizes with mature roadside boundaries. The proposal would involve splitting the site in half, however, further south of the site precedent for increased densities within this area has already been set.

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

The site is the subject of a provisional Tree Preservation Order, however, it appears that all the trees on the site are to be retained and should remain unaffected. The councils tree preservation officer has been consulted for comment and is now content with the proposal. No archaeological or built heritage features identified on GIS search.

(c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;

Due to its size and scale and proximity to Dungannon Park there is no requirement for public open space. The indicative layout shows existing trees to remain and considerable planned landscaping and planting to soften the visual impact of a new dwelling.

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

The proposal is for 1 No. dwellings. No additional facilities are required due to the size and scale of the proposal and a petrol filling station and associated convenience store is located nearby.

(e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;

The site is located adjacent to a footpath network and is close to Dungannon Park. The site also fronts onto an existing peripheral cycle route identified in the Area Plan.

(f) adequate and appropriate provision is made for parking;  
There is no issue with parking and turning, DFI roads have been consulted and have no concerns.

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

The design of the dwelling is modern and involves the use of various materials, however, it is not dissimilar to other dwellings surrounding, and makes use of the site and its natural features.

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

In terms of overlooking of neighbouring properties, the site faces the property at number 3 which is under the ownership of the applicant. There is an existing hedgerow along the boundary divide which is to be supplemented with new planting. The whole site has the benefit of mature trees and it is my view that the proposed property will not suffer from loss of light due to existing tree coverage. Under the principles of sustainable development, tree loss should be kept to minimum and Council would be keen to see as many trees retained as possible, this has also been demonstrated in the latest drawings as requested by the councils Tree preservation officer.

(i) the development is designed to deter crime and promote personal safety.  
There is no reason to assume this would be an issue.

In terms of PPS 7 (Addendum) - Safeguarding the Character of Established Residential Area, the proposed housing density would be slightly denser, there are four plots within Park lane all of considerable size, this proposal would halve one of those sites, and therefore the pattern of development may not be in keeping with the overall character and environmental quality of the established residential area. It is also necessary to consider the precedent that has been set in the adjacent development of Ballynorthland Demesne, within this development the sites were all of similar plot sizes to Park Lane and there has been approvals for further development in side gardens resembling this application.



3rd party **objections** have been received and raise the following issues;

Road concerns have been raised, the objector has concerns over the degrading of the road through extra use and during the construction phase of any approved dwelling. DFI Roads were consulted and had no concerns. It is my opinion that an additional dwelling would not lead to any significant road safety concerns.

A further concern raised was that when they bought their site that they signed a legal agreement that no other houses were to be built on the site and were under the assumption that the other sites were sold as same. This however, is a legal matter and not one to be material to the council.

Concerns were raised that the proposal was not in keeping with the area in terms of design and plot size, however, in terms the design the proposed is not to dissimilar to the existing dwelling on the site. It is also noted that the plot site will be halved, however, there will still be sufficient remaining private amenity for both dwellings, there will be no harm on neighbouring amenity and it is also necessary to consider the precedent that has been set in the adjacent development of Ballynorthland Demesne,



within this development the sites were all of similar plot sizes to Park Lane and there has been approvals for further development in side gardens resembling this application.

Another concern was the loss of vegetation and the topography of the land, firstly the proposal is for a split level dwelling to blend into the slope and will mimic the existing dwelling situated on the same slope. In addition there will be very minimal impact on the surrounding vegetation and a scheme has been submitted and agreed by the Councils Tree preservation officer to ensure no unnecessary damage occurs.

Finally they raised concerns that if this were to be approved it would open the door for all others within the development to follow suit, unfortunately that is not a material planning consideration and as discussed the precedent has been set in the surrounding developments.

#### **Other considerations**

The site is not subject to flooding and there are no contamination or human health issues to consider.

#### **Neighbour Notification Checked**

**Yes**

#### **Conditions**

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

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

2. Prior to commencement of the development hereby permitted, visibility splays of 2m x 33m and any forward sight distance shall be provided in accordance with the approved drawing No.04A bearing date stamp 14/05/18, or as may otherwise be agreed in writing with the Council. The area within the visibility splays shall be cleared of all obstructions to a height of 250mm above the adjacent carriage and be permanently retained clear thereafter.

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

3. Prior to the commencement of any site works all tree works completed as per submitted arboricultural impact assessment dated 14.08.2020; Ref; 20-047-04\_v2; Tree Sheet Survey Recommendations and in accordance with BS3998;2010; Tree works recommendations.

Reason; To protect and conserve the high quality public visual amenity value of retained protected trees (TPO.2018.0012.LA09)

4. Prior to the commencement of any site works, required protective fencing must be in situ as per Tree impact and protection plan Ref; 20-047-03\_2, specifically to protect trees numbered 16, 12, 8, 5, 4 and appropriate signage shall be in place to indicate Construction exclusion zone, in accordance with BS5837;2012 Trees in relation to design, development and construction recommendations.

Reason; To protect and conserve the high quality public visual amenity value of retained protected trees (TPO.2018.0012.LA09)

5. Within the Construction exclusion zone no construction materials of any form shall be stored nor any fires lit.

Reason; To protect and conserve the high quality public visual amenity value of retained protected trees (TPO.2018.0012.LA09)

**Informatives**

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

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

3. The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department for Infrastructure for which separate permissions and arrangements are required.

Notwithstanding the terms and conditions of the Councils approval set out above, you are required under Article 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructures consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the Roads Service Section Engineer whose address is Main Street, Moygashel, Dungannon.

A monetary deposit will be required to cover works on the public road.

Provision shall be made to the satisfaction of DFI Roads Service, to ensure that surface water does not flow from the site onto the public road.

Provision shall be made to the satisfaction of DFI Roads Service, to accommodate the existing roadside drainage and to ensure that surface water does not flow from the public road onto the site.

4. In undertaking works to trees, the Councils planning department draw your attention to your responsibilities under the Wildlife(NI) Order 1985.

It is important to note the permission of the landowner is obtained before any of the work is commenced.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	20th March 2018
<b>Date First Advertised</b>	5th April 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 2 Park Lane Dungannon Tyrone The Owner/Occupier, 3 Park Lane Dungannon Tyrone The Owner/Occupier, 4 Park Lane Dungannon Tyrone Alison McFarland 4 Park Lane, Ballynorthland,Dungannon,BT71 6JL Alison McFarland 4 Park Lane, Ballynorthland,Dungannon,BT71 6JL M & E McClure 4 Park Lane, Dungannon, Tyrone, Northern Ireland, BT71 6JL E McClure 4 Park Lane, Dungannon, Tyrone, Northern Ireland, BT71 6JL E McFarland 4 Park Lane, Dungannon,BT71 6JL The Owner/Occupier, 8 Moy Road,Dungannon,Tyrone,BT71 6BS, Mervyn Watley Apartment 8 Ecosse Apartments Victoria Terrace Portstewart County Londonderry	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/0391/F Proposal: Proposed dwelling Address: Adjacent to and 15m South of 3 Park Lane, Dungannon,  Ref ID: M/1988/0074 Proposal: HOUSING DEVELOPMENT Address: DUNGANNON PARK, MOY ROAD, DUNGANNON  Ref ID: M/1988/0074C Proposal: Dwelling	

<p>Address: SITE NO.2 PARK LANE MOY ROAD DUNGANNON</p> <p>Ref ID: M/1988/0074B</p> <p>Proposal: Dwelling</p> <p>Address: SITE NO3 PARKLANE MOY ROAD DUNGANNON</p>
<b>Drawing Numbers and Title</b>
<p>Drawing No. 01 Type: Status: Submitted</p> <p>Drawing No.02 Type: Status: Submitted</p> <p>Drawing No. 03 Type: Status: Submitted</p> <p>Drawing No. 04A Type: Status: Submitted</p>
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:



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

**Development Management Officer Report**  
**Committee Application**

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0652/F	<b>Target Date:</b>
<b>Proposal:</b> Erection of housing development for 5 no detached units with private access road and 1 no detached dwelling with separate access from Loves Road including all associated site works	<b>Location:</b> Lands South of 1 Loves Road Magherafelt
<b>Referral Route: One objection received</b>	
<b>Recommendation: Approval.</b>	
<b>Applicant Name and Address:</b> FP McCann Ltd 16-18 Quarry Road Knockloughrim BT45 8NR	<b>Agent Name and Address:</b> Kann Architects 2 Mullaghboy Glen Magherafelt BT45 5GX
<b>Executive Summary: Proposal complies with prevailing planning policy and the local area plan. One local objection on flood / drainage risks.</b>	
Signature(s): M.Bowman	

**Case Officer Report****Site Location Plan****Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Non Statutory	Environmental Health Mid Ulster Council	No Objection
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection

Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Shared Environmental Services	Advice
Non Statutory	NIEA	Substantive Response Received
Statutory	Shared Environmental Services	Advice
Statutory	Shared Environmental Services	
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	Rivers Agency	Advice
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	Rivers Agency	Advice
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	1	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b> - approval of residential use recommended. One local objection to consider.		
<b>Characteristics of the Site and Area.</b>		
This site occupies development land within the settlement limits of Magherafelt. MT03/10 Applies to the site. A local landscape policy area also occupies the site extending to wrap around the north and SE of the towns limits of development. (MT34 applies).		

Currently agricultural lands with the northern most part of the site occupied by a large and imposing detached dwelling house (1 Loves Road)

#### **Description of Proposal**

Erection of housing development for 5 no detached units with private access road and 1 no detached dwelling with separate access from Loves Road including all associated site works

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

MAP 2015

SPPS

PPS7

PSRNI

PPS 2 /6

PPS3

The Magherafelt Area Plan 2015 applies zoning MT03/10 to this site. This is a committed housing site of 2.41h in total, this application is 1.9h. These committed sites include sites only with approval or potential for 10 dwellings or more. The plan does not stipulate key site requirements for these sites as future development will be subject to the conditions attached to relevant planning permissions, or in cases where permissions have lapsed, impose new ones. Previous permission on this site is under 2005/1230/RM for 30 units. The Council more recently refused application H/2014/0024/F for 4 houses within the grounds of No 1 Loves Road .

The LLPA designation does not prevent development, however, all development proposals in this area must not give rise to any significant adverse effects on the intrinsic environmental value and character interests of these sites. MT34 in so far as it relates to this location states that several stream corridors act as wildlife corridors often with visually significant treed banks contributing to the quality landscape. This development achieves this, assisted by an area of flood risk forcing development away from the watercourse.

#### **SPPS**

#### **Housing in Settlements**

6.133 Good quality housing is a fundamental human need that plays a significant role in shaping our lives and our communities. A home is a vital part of people's lives and contributes to creating a safe, healthy and prosperous society. The planning system can play a positive and supporting role in the delivery of homes to meet the full range of housing needs of society, within the wider framework of sustainable development.



**PPS7****Policy QD 1 Quality in New Residential Developments**

Planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas. In Conservation Areas and Areas of Townscape Character housing proposals will be required to maintain or enhance their distinctive character and appearance.

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

- (a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;

This proposal for a total of 6 units represents a lesser density than that approved under the now expired 2005 RM. This had the added benefit of being able to better respect this LLPA and overall represents the towns rural interface in a more appropriate and sensitive way. House types are of 2st with good a good design approach. No local distinctiveness here to draw upon.



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

The layout keeps development away from the river corridor and retains all notable boundary vegetation. No objections from NIEA. SES were consulted and provided the following response: *Having considered the nature, scale, timing, duration and location of the project it is concluded that further assessment is not required because it would not have a likely significant effect on the selection features, conservation objectives or status of any European site. The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site.*

- (c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;

This will be a small unadopted development and as such no public open space areas are necessary. All units have appropriate levels of private space and the access road, whilst running along the outside edge of the limit of development has been suitably buffered and will be conditioned as such.

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

Not a requirement for this level of small residential development.

- (e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;

The sites location at the outer edge of the town may struggle with access to public transport. Again this is small private development likely to be more reliant on the car.

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

DFI Roads are content with the internal arrangements.

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

There is no strong local design distinctiveness at this eastern edge of the town . The proposed house types represent a modern approach and sensitive use of stone work , glass and render and will represent a quality development when complete. As such Policy DES2 of the PSRNI is also complied with given the schemes ability to provide a positive contribution to the area.



Rear Elevation [South Eastern]



Side Elevation [South Western]

### House Type 1

- (h) the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance; and
- (i) the development is designed to deter crime and promote personal safety.

No immediate adjoining residential property is likely to be impacted upon in a negative way by the proposal.

Any proposal for residential development which fails to produce an appropriate quality of design will not be permitted, even on land identified for residential use in a development plan.

### **Consideration of Local Objections.**

Objection has been received from the occupants of No 47 Aughrim Road which also includes adjacent landowners to the site. The central concern is that the development is to be built within the Q100 fluvial floodplain and that Rivers Agency have not been consulted. The concern is that infilling will push the flood risk onto other lands. Further objection relates to the precise location of the connection point to the adjacent Ballymoghna Drain and no consent or access will be provided for same.

In response Rivers Agency asked for:

*FLD1 - Development in Fluvial Flood Plains* - The Flood Hazard Map (NI) indicates that a portion of the western part of the site lies within the 1 in 100 year fluvial flood plain which has an approximate level at this location of 50.32m O.D. DfI Rivers advises that development within the 1 in 100 year flood plain is contrary to revised PPS 15, Planning and Flood Risk, FLD 1.

The applicant should produce a contoured site plan, based on pre-development ground levels, demonstrating that all of the development is outside the 50.32m O.D. Belfast contour.

The Council received this contour map and Rivers Agency were again consulted and responded on the 1 Sept to state:

*FLD1 - Development in Fluvial Flood Plains* – Contoured site plan, stamped drawing No. 12 shows the development to have a suitable freeboard above the 1 in 100 year fluvial and 1 in 200 year coastal flood plains. The area of fluvial flood plain is to be left undeveloped. It should be a condition of planning that this area of floodplain, if designated as open space by Planning Service under FLD 1(f) of Revised Planning Policy Statement 15, should not be raised or the flood storage capacity and flood conveyance route reduced by unsuitable planting or obstructions.

**Under the terms of Schedule 6 of the Drainage (NI) Order 1973, any proposals either temporary or permanent, in connection with the development which involves interference with any watercourses such as culverting, bridging, diversion, building adjacent to or discharging storm water etc requires the written consent of DfI Rivers. This should be obtained from the Western Regional Office at 3a St Julians Road, Lisnamallard, Omagh, Co Tyrone, BT79 7HQ.**

The proposal does appear to show no development in a fluvial floodplain. It has not been identified as an area of 'open space' given this small size of this development and therefore is not to be formally developed.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation: Approval subject to conditions.</b>	
<p><b>Conditions</b></p> <p>1.The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.</p> <p>Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.</p> <p>2.The vehicular access for the private road including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 02/2 bearing the date stamp 08 May 2019 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.</p> <p>REASON: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.</p> <p>3. The vehicular access for the single dwelling access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 02/2 bearing the date stamp 08 May 2019 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.</p> <p>REASON: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.</p> <p>4. The access gradient(s) to the dwelling(s) hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary.</p> <p>REASON: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.</p>	

5. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any part of the development.

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

6. None of the dwellings hereby permitted shall be occupied until the (sewage disposal/drainage) works have been completed in accordance with the submitted plans

REASON: In the interest of public health

7. None of the dwellings shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved by the Department.

REASON In the interests of public health.

8. Development shall not begin until drainage works have been carried out in accordance with details submitted to and approved in writing by the Department.

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

**Signature(s)** M.Bowman

**Date:** 18<sup>th</sup> Sept 2020

<b>ANNEX</b>	
<b>Date Valid</b>	14th May 2018
<b>Date First Advertised</b>	31st May 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Loves Road Magherafelt Londonderry The Owner/Occupier, 3 Loves Road Magherafelt Londonderry Mark McMaw 3rd Dimension, Email Address	
<b>Date of Last Neighbour Notification</b>	6th August 2020
<b>Date of EIA Determination</b>	22 Sept 2020
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/0652/F  Proposal: Erection of housing development for 5 no detached units with private access road and 1 no detached dwelling with separate access from Loves Road including all associated site works  Address: Lands South of 1 Loves Road, Magherafelt,  Decision:  Decision Date:	



Ref ID: H/2003/0522/O

Proposal: Site of housing development.

Address: Lands around 3 Loves Road, Dunamoney, Magherafelt.

Decision:

Decision Date:

Ref ID: H/2005/1230/RM

Proposal: Proposed development of 30 No. Dwellings

Address: Lands extending from Aughrim Road to approximately 100m North of 7 Loves Road, Magherafelt.

Decision:

Decision Date: 14.08.2009

Ref ID: H/2007/0017/F

Proposal: Retrospective application for dwelling with integrated garage amended from previous approval H/2003/0480/F

Address: Site 40m East of No.47 Aughrim, Magherafelt.

Decision:

Decision Date: 17.06.2008

Ref ID: H/1989/0060

Proposal: ROAD IMPROVEMENT SCHEME

Address: AUGHRIM ROAD/POUND ROAD/LOVES ROAD MAGHERAFELT

Decision:

Decision Date: 13.04.1989

Ref ID: H/2003/0480/F

Proposal: Replacement dwelling and garage.

Address: Site at junction of Aughrim Road & Loves Road, Magherafelt.

Decision:

Decision Date: 19.08.2005

Ref ID: H/2002/0270/F

Proposal: 5 No. Dwellings and Garages

Address: Adjacent to 3 Loves Road, Dunamoney, Magherafelt

Decision:

Decision Date: 21.03.2007

Ref ID: H/1986/0178

Proposal: H V O/H LINE (BM 7766)

Address: DUNAMONEY, TOWNPARKS, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2014/0024/F

Proposal: 4no houses, including access and adoptable road

Address: The grounds of 1 Loves Road Magherafelt,

Decision:

Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 08

Type: Proposed Plans

Status: Submitted

Drawing No. 07

Type: Proposed Plans

Status: Submitted

Drawing No. 06

Type: Proposed Plans

Status: Submitted

Drawing No. 05

Type: Proposed Plans

Status: Submitted

Drawing No. 09

Type: Proposed Plans

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Drawing No. 02

Type: Proposed Plans

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 04

Type: Proposed Plans

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b> 6/10/2020	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0060/F	<b>Target Date:</b> 30/4/2019
<b>Proposal:</b> Proposed 2 No. holiday villas to match previously approved (I/2012/0159/F)	<b>Location:</b> 60m East of 62 Loughbracken Road Pomeroy
<b>Referral Route:</b> Refusal recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Karl Heron 11 The Dales Cookstown	<b>Agent Name and Address:</b> APS Architects LLP Unit 4 Mid Ulster Business Pk Cookstown BT80 9LU
<b>Executive Summary:</b> This proposal fails to comply with Policies CTY 1 of PPS 21, TSM 5 (B) of PPS 16 and paragraph 6.260 of the SPPS. Refusal is therefore recommended.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received
Statutory	NIEA	Advice
Statutory	Historic Environment Division (HED)	Content
Non Statutory	Shared Environmental Services	Substantive Response Received
Statutory	NIEA	Content

### Representations:

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

## Summary of Issues

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. All relevant neighbouring properties have been notified. To date there have been no objections to this proposal from any third party or consultee.

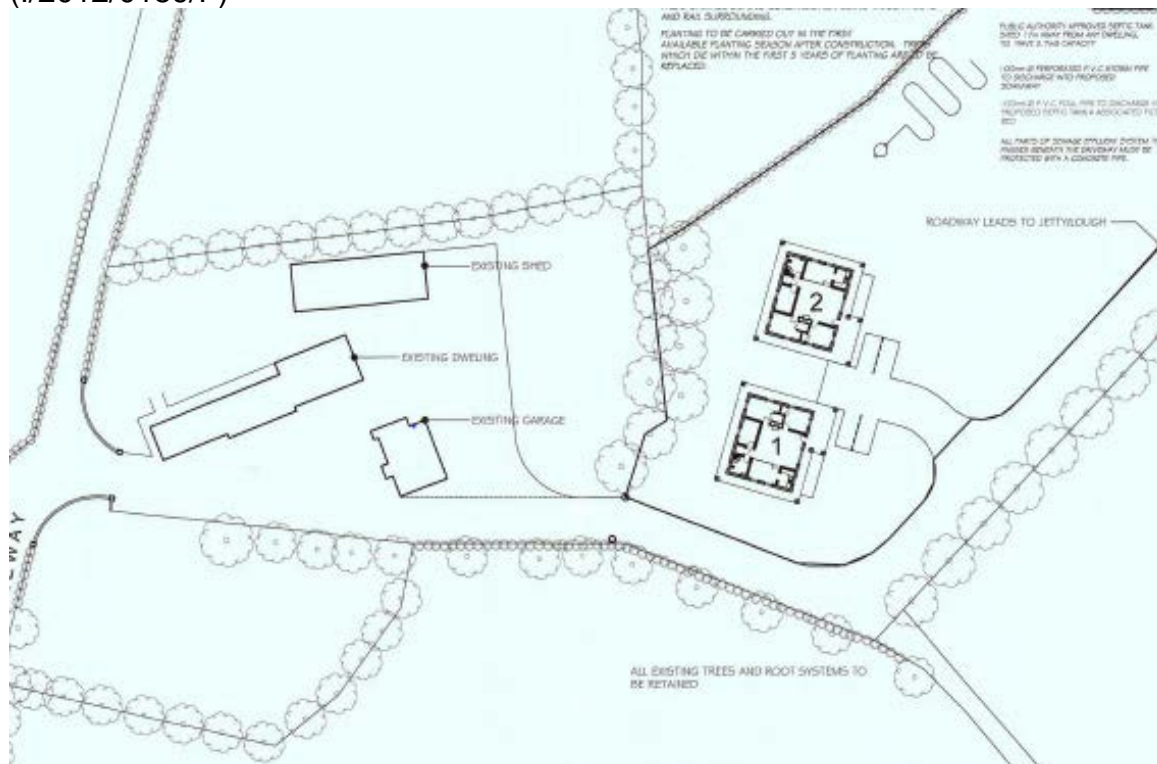
## Characteristics of the Site and Area

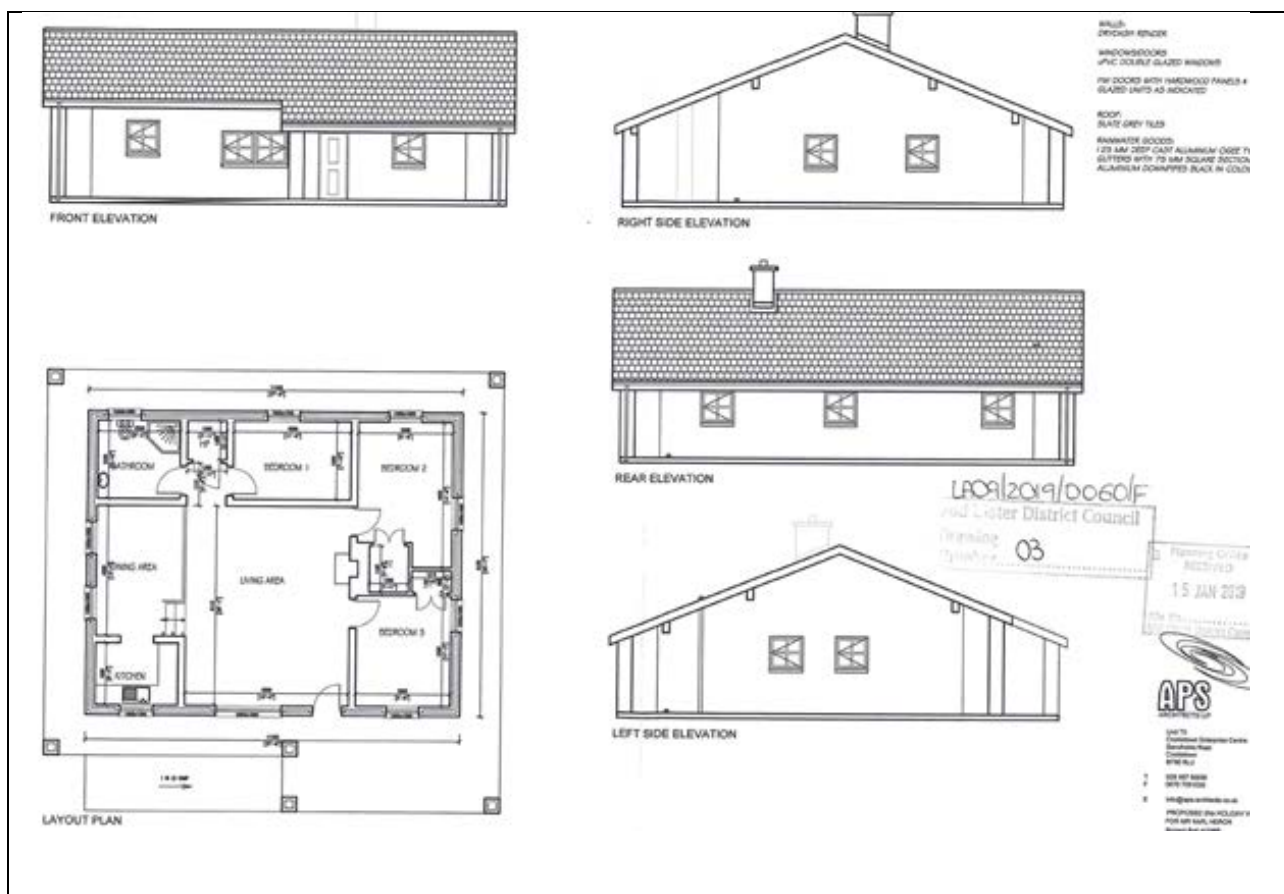
The application site is a 0.9 hectare parcel of land located 60m East of an unoccupied dwelling at 62 Loughbracken Road, Pomeroy. It is outside the development limits of any settlement defined in the Cookstown Area Plan 2020. The site is accessed via a long laneway which is also used to gain access to Loughbracken, a small lake which lies just to the NE of the site. The Western, Southern and South Eastern boundaries of the site are defined by thick gorse hedgerow. The remaining are undefined on the ground.

This area is very rural in character with a dispersed settlement pattern. There is a two storey detached dwelling and several outbuildings located to the immediate West of the site. The dwelling is currently unoccupied. This area is recognised as being an area of archaeological importance (TYR 037:048)

## Description of Proposal

This is a full application for 2 No. holiday villas to match previously approved (I/2012/0159/F)





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

### **Relevant Planning History**

- I/2011/0381/F - 235m NE of 62 Loughbracken Road, Pomeroy. Proposed retention of jetty and slip way. Approved 17.02.2012
- I/2012/0159/F - 60m East of no 62 Loughbracken Road, Pomeroy. Proposed 2 no holiday villas. Approved 12.04.2013

### **Policy Consideration**

The following policies will be considered in this assessment:

- Strategic Planning Policy Statement (SPPS)
- Cookstown Area Plan 2010
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Planning Policy Statement 3 - Access, Movement and Parking.
- Planning Policy Statement 16 - Tourism
- Planning Policy Statement 21 - Sustainable Development in the Countryside
- Parking Standards



## **SPPS - Strategic Planning Policy Statement for Northern Ireland**

The SPPS gives provision for development in the countryside subject to a number policy provisions, including policy for Tourism Development. It does not present any major change in policy direction from that contained in existing tourism policy PPS 16. Paragraph 6.260 of the SPPS states that self catering accommodation, particularly in areas where tourist amenities and accommodation have become established will be acceptable. It has not been demonstrated that this is an area where a tourist amenity is established. This will be discussed in more detail further in this report. As such, this proposal is at conflict with the SPPS.

## **Cookstown Area Plan 2010**

This site is outside the development limits of any settlement defined in the Cookstown Area Plan 2010 and is not subject to any Area Plan designations or zonings.

## **Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy**

The Draft Plan Strategy was launched on Friday 22nd February 2019. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020. In light of this the draft plan cannot currently be given any determining weight.

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves the use of an existing unaltered access on to the Loughbracken Road. DFI Roads have been consulted and have no concerns regarding road safety or traffic flow resulting from this proposal subject to provision of 2.4m x 45m splays and a 45m Forward Site Distance. This can be dealt with by planning condition.

Each holiday villa provides 2 in-curtilage parking spaces. This is in compliance with Parking Standards.

## **PPS21 - Sustainable Development in the Countryside**

Policy CTY 1 of PPS 21 sets out the different types of residential and non residential development which in principle is acceptable in the Countryside. With regards to Tourism Development it states it must be in accordance with the TOU policies in the PSRNI. This has now been superseded by PPS 16.

Policies CTY 13 Design and Integration and CTY 14 Rural Character are also relevant policy considerations under PPS21. The proposed holiday villas are small single storey buildings located on a low lying site that is set well back from the public road. They can not be viewed from the public road and they will not be prominent in the local landscape. The site benefits from fairly substantial boundary treatment which will help integrate the proposed villas. No ancillary works are proposed. In terms of design the villas reflect a

suburban type bungalow rather than a traditional rural building however their design was deemed acceptable under I/2012/0159/F so it would be difficult to sustain a refusal reason under CTY 13 as there has been no change in policy since the previous approval. Given the minor nature of the proposal, the lack of critical views into the site and the fact that the construction of these villas will not create a ribbon or unacceptable build up of development, I am satisfied that there will be no negative impact on the rural character of this area.

## **PPS 16 - Tourism**

This proposal is for 2 number self catering holiday villas in the Countryside. Policy TSM 5 Self Catering Accommodation in the Countryside is therefore the relevant policy test. TSM 5 permits self catering accommodation in certain circumstances one of which is a cluster of 3 or more new units at or close to an existing or approved tourist amenity that is/will be a significant visitor attraction in its own right. From the outset this criteria is not being complied with as the proposal is for 2 villas and not 3. Only limited weight can be afforded to the previous approval for 2 villas as they were approved under a different policy (PSRNI) which had a lesser test. The previous approval has also expired.

TSM 5 also states that the units must be close to an existing/approved significant tourist amenity. The applicant has submitted 2 separate supporting statements to show compliance with this criteria however both fail to adequately demonstrate how Loughbracken is a significant tourist amenity in its own right. Reference has been made to the approved jetty and slipway however these features do not back up the applicants argument as they don't appear to be utilised to a significant extent. In the supporting statements more emphasis has been placed on other tourist amenities within the District (eg) Dark Skies Project at Davagh, however it is my opinion that the other amenities are too far removed from the application site.

Members are advised that internal consultation has been carried out with the Councils Head of Tourism who has advised that he would be supportive of the application as there is a need for more tourist accommodation in the District, however it is important that these type of proposals comply with the policy tests set out in PPS 16. This will avoid random development throughout the countryside and will safeguard the value of our tourism assets.

Policy TSM 5 also requires the overall design and layout of self catering schemes to deter permanent residential use. They should have an informal layout without designated car parking. Units must also be appropriately designed for holiday use (eg) rural cottage style. It is my opinion that the layout and design of these units replicate dwellings that would be permanently lived in. They are like dwellings that you would find in a housing development in any village or town throughout the District. Both have two formal parking spaces clearly annotated on the site layout. I do acknowledge that this layout and design was accepted under I/2012/0159/F but members are advised that the policy context is now different and it is the current policy that most hold determining weight.

Policy TSM 7 sets out general criteria for all Tourism proposals. This scheme will primarily support vehicular movements but could also be accessed on foot or by bicycle albeit there are no formal footpaths to or from the site. My concern with layout and design is referred to above. Some new planting is proposed and existing vegetation is shown to be retained.

No outside storage is proposed. Foul sewage will be disposed off via a septic tank and water obtained via mains. These are subject to separate Legislation outside the remit of Planning. No flood lighting is proposed however in-curtilage parking is being provided. The scheme is minor in nature and is generally compatible with the existing area. The site is located in an area where there may be natural heritage features. NIEA (Natural Heritage) were consulted with a Preliminary Ecological Assessment and a Bio-Diversity Checklist and they have advised that they have no concerns. They have recommended a condition is respect of the retention of existing boundary vegetation. Shared Environmental Service have also been consulted and have advised that the proposal will not have any conceivable effect on any European Site. The site is in an area of archaeological importance. Historic Environment Division have been consulted and have raised no concerns about this proposal from an archaeological viewpoint. There are no listed buildings in close proximity to the site.

The closest third party dwelling to the application site is approx. 60m to the East. Given the nature of this proposal and separation distance between the units and this third party dwelling, I have no concern about the impact of the proposal on residential amenity.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

On the basis of the above assessment I recommend that this application be refused.

**Refusal Reasons**

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

2.This proposal is contrary to Policy TSM 5 (B) of Planning Policy Statement 16 - Tourism in that the scheme is for less than 3 units and it has not been adequately demonstrated that the units are at or close to an existing or approved tourist amenity that is/will be a significant visitor attraction in its own right. Furthermore, the overall design of the units and layout would not deter permanent residential use.

3.This proposal is contrary to paragraph 6.260 of the SPPS, in that it has not been demonstrated that this is an area where a tourist amenity is established or is likely to be provided as a result of tourism initiatives.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	16th January 2019
<b>Date First Advertised</b>	31st January 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 62 Loughbracken Road Pomeroy Tyrone	
<b>Date of Last Neighbour Notification</b>	23rd January 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: I/2005/0120/O Proposal: Dwelling Address: Lands approximately 140 metres North of 62 Loughbracken Road, Pomeroy Decision: Decision Date: 15.03.2005  Ref ID: I/2007/0001/RM Proposal: Proposed dwelling and garage for domestic use. Amended plans. Address: 110m North of 60 Loughbracken Road, Pomeroy Decision: Decision Date: 20.09.2007  Ref ID: I/2005/0009/O Proposal: Dwelling and Garage Address: 110m North of 60 Loughbracken Road, Pomeroy Decision: Decision Date: 14.03.2005  Ref ID: I/2012/0159/F Proposal: Proposed 2 no holiday villas Address: 60m East of no 62 Loughbracken Road, Pomeroy, Decision: PG	

Decision Date: 12.04.2013

Ref ID: I/2006/0991/F

Proposal: Proposed Dwelling and Garage

Address: Lands Approx 160m North of 60 Loughbracken Road, Pomeroy, Co.Tyrone

Decision:

Decision Date: 23.03.2007

Ref ID: I/2011/0381/F

Proposal: Proposed retention of jetty and slip way

Address: 235m NE of 62 Loughbracken Road, Pomeroy,

Decision:

Decision Date: 17.02.2012

Ref ID: LA09/2019/0060/F

Proposal: Proposed 2No, holiday villas to match previously approved (I/2012/0159/F)

Address: 60m East of 62 Loughbracken Road, Pomeroy,

Decision: RL

Decision Date:

Ref ID: I/2008/0208/RM

Proposal: Dwelling and garage

Address: Lands approx 140 metres North of 62 Loughbracken Road Pomeroy Co Tyrone

Decision:

Decision Date: 18.08.2008

Ref ID: I/2011/0384/F

Proposal: Proposed renovations to dwelling and retention of rebuilt extensions and rebuilt kids play room / study

Address: No 62 Loughbracken Road, Pomeroy,

Decision:

Decision Date: 16.02.2012

Ref ID: I/2006/0494/F

Proposal: Proposed dwelling and garage

Address: Lands approx. 180 metres north west of 62 Loughbracken Road, Pomeroy, Co.Tyrone

Decision:

Decision Date: 19.12.2006

**Summary of Consultee Responses**

- DFI Roads - No Objections
- EH - No Objections
- NIW - No Objections
- SES - No Objections
- NIEA - No Objections
- HED - No Objections
- Tourism Dept - In favour of the proposal

**Drawing Numbers and Title**

Drawing No. 01  
Type: Technical Specification  
Status: Submitted

Drawing No. 04  
Type: Proposed Plans  
Status: Submitted

Drawing No. 03  
Type: Proposed Plans  
Status: Submitted

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0562/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed Residential Development of 20 No. Dwellings (12 No. Detached & 8 No. Semi-detached). Proposal includes site access, access roads, landscaping, car parking, driveways, garages and all associated site works and the retention of existing dwelling. (No. 9a Slievegallion Drive) with new front boundary and access.	<b>Location:</b> 9a Slieve Gallion Drive Magherafelt Road Draperstown BT45 7JR.
<b>Referral Route:</b> Local objections received.	
<b>Recommendation: Approval</b>	
<b>Applicant Name and Address:</b> Viva Bingo Hall Ltd 49-55 Union Street Cookstown BT80 0NN	<b>Agent Name and Address:</b> HERE Architects 4-6 Linenhall Street Ballymoney BT53 6DP
<b>Executive Summary:</b>	
<b>Signature(s): M.Bowman</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Rivers Agency	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received



Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	NIEA	Substantive Response Received
Non Statutory	Rivers Agency	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	NIEA	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	SES	Content

**Representations:**

Letters of Support	None Received
Letters of Objection	98
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

**Summary of Issues** Local objection to proposed housing development.

**Characteristics of the Site and Area**

This site occupies the grounds of a large detached dwelling (No 9a) Slievegallion Drive, Draperstown. This large imposing dwelling sits on significant grounds between existing housing areas to the west (Glenshane gardens and Glenshane Park) and east (Slievegallion Drive) via which access to the existing dwelling and the proposed development is proposed. It is to be retained and remain within the proposed housing development. To the north of the site is a greenfield site which has a partial frontage onto the Magherafelt Road. No 45 Magherafelt Road is cut out of this field to the NE corner. No 9a and its grounds sit within 'white lands' as per the local area plan with the field just referenced to the north being zoned for housing (DN05). South of the application site the land opens out into the countryside over agricultural lands. Adjacent

housing developments are low to medium density reflecting the locations position within Draperstown towards the edge of the settlement limits.

Boundaries to the site are of neat leylandii mix with occasional close board fencing along the rear boundary with 3/5/7/11 Slievegallion Drive. Other boundaries largely defined with small dispersed trees.





LA09/20



Mid Ulster  
Drawing  
Number...







*No 9a (existing dwelling to remain within the development)*

### **Description of Proposal**

Proposed Residential Development of 20 No. Dwellings (12 No. Detached & 8 No. Semi-detached). Proposal includes site access, access roads, landscaping, car parking, driveways, garages and all associated site works and the retention of existing dwelling. (No. 9a Slievegallon Drive) with new front boundary and access.

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

The site is within the development limits of Draperstown as defined in the Magherafelt Area Plan 2015 and whilst not zoned for housing sits within 'white land' amidst a long established residential area to the west and east of medium density housing stock

Assessment of planning policies and other considerations

The relevant policies for consideration of this application are:

Magherafelt Area Plan 2015

Mid-Ulster Council's Draft Plan Strategy

Strategic Planning Policy Statement

Planning Policy Statement 3 - Access, Movement and Parking.

Planning Policy Statement 7 - Quality Residential Environments.

Planning Policy Statement 12 - Housing in Settlements

Planning Policy Statement 13 - Transportation and Land Use

Creating Places

PAD case.

LA09/2019/0083/PAD represents earlier Pre-application with the Council for housing on this site. It proposed residential development for 23 dwellings (15 detached and 8 semi detached) Proposal includes retention of existing dwelling (9A Slieve Gallion Drive) site access .access road, landscaping, car parking and all associated site works. The conclusion of the PAD was to recognise the sites locations in area plan terms, inform the developer of the relevant planning criteria and guidance and identify and highlight the importance of respecting separation distances from properties in Slievegallion Drive, 9a itself and to note the DFI position.

**The SPPS** (Supporting Good Design and Positive Place-Making) provides direction towards this aspect of all development:

4.27 Where the design of proposed development is consistent with relevant LPD policies and/or supplementary design guidance, planning authorities should not refuse permission on design grounds, unless there are exceptional circumstances. Planning authorities will reject poor designs, particularly proposals that are inappropriate to their context, including schemes that are clearly out of scale, or incompatible with their surroundings, or not in accordance with the LDP or local design guidance.

In addition, The SPPS (Housing in settlements) states the following:

6.133 Good quality housing is a fundamental human need that plays a significant role in shaping our lives and our communities. A home is a vital part of people's lives and contributes to creating a safe, healthy and prosperous society. The planning system can play a positive and supporting role in the delivery of homes to meet the full range of housing needs of society, within the wider framework of sustainable development.

6.134 The Regional Development Strategy 2035 (RDS) acknowledges that housing is a key driver of physical, economic and social change and emphasises the importance of the relationship between the location of housing, jobs, facilities, services and infrastructure. The RDS recognises that there are significant opportunities for new housing on appropriate vacant and underutilised land, and sets a regional target of 60% of new housing to be located in appropriate 'brownfield' sites within the urban footprints of settlements greater than 5,000 population.

6.135 The regional strategic objectives for housing in settlements, consistent with regional guidance in the RDS, are to: • manage housing growth to achieve sustainable patterns of residential development;

- support urban and rural renaissance; and
- strengthen community cohesion.

## **Magherafelt Area Plan 2015.**

The Local Area Plan Objectives contain the following:

- To facilitate appropriate development within existing urban areas that will promote urban renaissance, create ease of access to services and community facilities, and to maximise the use of existing infrastructure;
- To facilitate sustainable patterns of growth and development throughout the Plan Area in accordance with the sustainability related strategic objectives of the RDS;
- To promote compact urban forms that respect the individual character and identity of settlements, avoid urban sprawl and conserve the countryside;

The villages of Bellaghy, Castledawson, Draperstown and Tobermore currently perform a lesser, but locally significant role, in providing housing, employment and services for their residents and the wider rural community.

#### Designation DN01 Settlement Development Limit

A settlement development limit is designated as identified for Draperstown. The settlement development limit is designated to take account of land with extant planning permission for housing. The settlement development limit also takes account of the role of the settlement whilst protecting its natural setting. The Settlement Development Limit excludes the important landscapes to the north of the village, and south of the Presbyterian Meeting House, the stream corridor, linear park and visually associated land, between Moykeeran Gardens, to the east and Derrynoyd Road, to the west, and Best and Most Versatile (BMV) agricultural land. The settlement development limit also prevents ribbon development on the Derrynoyd Road around Woodbine Cottage.

Designation DN05 Housing Land Use Policy Area is located on land between the application site and the Magherafelt Road. It sets out the following key site requirements

Land to rear of 45 Magherafelt Road 0.43 hectare of land to the rear of 45 Magherafelt Road is designated as a Housing Land Use Policy Area as identified on Map No. 9 - Draperstown. Part 4 | Settlements | Villages 146 • Contemporaneous with the new development, a 5 metre planted landscape belt consisting of indigenous tree and hedgerow species to be provided along the southern boundary to ensure a well defined edge to development and to assist the integration of buildings with the open countryside. • Retention of the existing vegetation alongside the lane which defines the western boundary of the site. Designation DN07 Housing Land Use Policy Area Land at Back Lane to rear of High Street 0.13 hectare of land at Back Lane to rear of High Street is designated as a Housing Land Use Policy Area as identified on Map No. 9 - Draperstown. Key Site Requirements • The design, finishes and materials of the proposed dwellings shall be appropriate to the site's location within a designated Conservation Area and full account shall be taken of the design guidance contained within the Draperstown Conservation Area Design Guide. • Mature trees and vegetation along the eastern boundary shall be retained. Key Site Requirements • Housing development to be a minimum gross site density of 15 dwellings per hectare. • Land will be required outside of the site boundary, along the Magherafelt road frontage, in order to meet sight line requirements. • Access to the properties on either side of the site access must be relocated off the development road. • The line of mature trees along the western boundary of the site is to be retained and no housing development is to take place within the crownspread of these trees.

The application site occupied unzoned 'white lands' in the Plan. It is in my entirely appropriate to consider proposal to develop these lands for housing given that this is the predominant surrounding land use and context at this location within the settlement.

#### PPS 7 Quality Residential Environments

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

The proposed development is assessed against these criteria as follows:-

(a) The proposal meets the first of these criteria in that it respects the surrounding context in terms of layout as the density is similar to the surrounding housing developments. The initial scheme submitted on the 24 April 2019 proposed 23 No. dwellings within the site. Whilst this density of layout was not that far removed from the residential density of the surrounding area, upon further consideration of the ability to conceptually also develop the adjacent residential lands DN05, the agent was asked to consider providing open space and to recognise the relatively small plot sizes of plots A, B and D which appeared small and out of keeping with surrounding context, as well as the need presented for maintaining an agricultural means of access through the new development. As a result, and following a meeting with the architect on 3 Dec 2019, amended plans were submitted in Feb 2020 reducing the scheme by 3 units, providing some central open space and improving separation distances with existing dwellings in Slievegallion Drive (Nos 5 and 7)







- (b) Although there are no features of archaeological heritage close to the site,
- (c) This layout has been reduced in numbers and is now is for 20 dwellings. In terms of the provision of open space, this has been satisfactorily provided on Feb 2020 plans. All dwellings have adequate private amenity space arrangements.
- (d) As the site is close to and within walking distance of the centre of Draperstown, the provision of neighbourhood facilities are not deemed necessary within the site;
- (e) The site has access onto the Magherafelt Road via Slievegallion Drive. Local residents of Slievegallion drive continue to object to this arrangement, a matter which I will expand upon later in my report. There remains potential to provide a direct vehicular link to the Magherafelt via road via the adjoining DN05 zoned housing site and an amended concept plan has shown provision for this. Critically DFI Roads have raised no objections to the proposed developments reliance on access via Slievegallion Drive. The application therefore provides an acceptable movement pattern which should also enable occupants to access public transport routes and the public network system;
- (f) Adequate provision can be made for parking of vehicles with all sites having the ability to have incurtilage parking. This is achieved and is on accordance with DFI standards.
- (g) the design of the development draws upon the best local traditions of form, materials and detailing;

In this regard the proposal proposes a variety of house types ranging from single story where the development adjoins Slievegallion Drive to typical and well proportioned and finished 2st units and semis along the southern edge of the site. A buffer between the western edge of the site and Glenshane gardens exists due to the presence of No 32 and its curtilage.



HT C1



(h) the proposal will not create a conflict with adjacent land uses in my view and there is no anticipated unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance. As the existing land uses are residential, this proposal for a similar land use is not anticipated to have any detrimental impact on existing land uses. House types have I feel been carefully selected to pay regard to neighbouring occupied dwellings in Slievegallion Drive in particular. HT C1 above is a typical example of this.

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

#### Extent and consideration of local objections.

There has been a significant amount of local objection to this proposal. Current records show 98 objections from residents located primarily within the adjacent housing area of Slievegallion Drive. A wide range issues have been raised over the lifetime of the application and to its amended form. A meeting was arranged with myself, the case officer and concerned residents on the 15<sup>th</sup> Oct 2019. A copy of this is on the planning portal.

As I see it the main issues of objection to the proposal are as follows:

- 1) How the neighbour notification process has been handled.  
Written correspondence has been issued to the objectors by the Council on the neighbour notification's legislative requirements to notify adjoining property and how the number of objections are recorded on the planning portal. All properties which were entitled by Legislation to be notified have been and in content there is no issue with this. As to how objections are recorded on the portal from individuals and those residing within the same household has also been explained.
- 2) The matter of the need for future occupants to access and exit the development via the road network within Slievegallion Drive, including agricultural traffic and DFIs consideration of this. Conflicts with current use and safety of current occupants of Slievegallion Drive.

A request was made of the developer to consider an alternative means of agricultural access. This has not been offered in any subsequent revised layout. DFI Roads have not

presented any road safety grounds on which this should be fatal to the proposal and, whilst being beneficial, it is perhaps a matter which will only arise occasionally and I understand already does potentially arise on occasion arise within Slievegallion Drive to access farmlands to the south.

- 3) Future connectivity via the adjoining DN05 zoned site in relation to access and need for open space.

The Council do regard there to be a need to create connectivity with the adjacent zoned housing site (DN-O5 as identified in the area plan). It was simply put to the agent that any overall comprehensive development which triggered a figure of 25 units or more will normally result in the requirement for communal open space to be shown. It has been shown as you have referred to. Any grant of this permission imposes no commitment on the zoned section other than a need for Planning to have regard in a more loose conceptual way that it notionally can be achieved.

- 4) The proposals impact on the quality of life and amenity of dwellings on the boundary with the development, light pollution, privacy in particular the personal circumstances relating to No 7

The agents amended proposals of Feb 2020 have improved the overall layout and in doing so has also taken into consideration Nos 5 and 7 Slievegallion Drive, the 2 properties which are more likely to have been in close proximity to dwellings C1 and C. House types here are also chalet type therefore avoiding any overlooking and have been orientated to be gable end onto existing property. I am of the view that this, along with additional boundary vegetation augmentation, will lead to a satisfactory relationship between these future units and Nos 3,5, and 7.

- 5) visibility/splay issue between Slievegallion Drive and the passageway which currently provides access to numbers 5 and 9A Slievegallion Drive. The widening outside number 5 making the ingress and egressing of that property even more difficult.

DFI Roads are not offering any basis on which Planning should be refused for the scheme as currently presented. I understand an assessment has been carried out by more than one officer to the site from DFI Roads who were also tasked at examining the very issues raised at the objector's office meeting. It is judged by DFI that access to and from Slievegallion Drive meets standards. Any impediment to visibility created by existing hedges and vegetation overgrowing the footway are potentially a matter, as I understand it, for DFI to enforce against under their Legislative provisions.

- 6) the indication and position of parking bays within the development.  
These were later removed from plans.

- 7) Slievegallion Drive is a private development within which residents have all personally financed service provision / therefore how can this 'private road' be used for access. Whilst I have no reason to doubt the assurances made in relation to the earlier provision of services within Slievegallion Drive, it is nonetheless a DFI adopted road via which DFI have accepted that this proposal can safely also access Magherafelt Road.

- 8) Health impacts of construction / construction traffic damage to surrounding area  
As with all development proposals, construction phases are likely to be shortlived and I do not share the view that this in itself should be a reason to refuse the application. Env Health Department of the Council have offered no objections.

- 9) Impacts on existing wildlife / there is potential to disturb protected species  
NIEA and SES have considered carefully the potential of the proposal to impact on species and other wider sensitive sites and offer no objection subject to conditions.
- 10) Impacts on an AONB within 1.8km of the site / and 3 SLNCIs  
I do not consider the proposal will detract from the AONB given its urban footprint and its rather discreet location being sandwiched between existing low to medium existing housing stock. SES have not raised issue with any habitat assessment or hydrological link risks.
- 11) Overall development will be out of keeping with character and scale of development in the area  
I do not share this view, the scheme which now proposes 20 units and the house types shown represent an acceptable transition between residential densities in Glenshane Gardens to the west and Slievegallion Drive to the east.
- 12) Sewerage and drainage concerns.  
NI Water comments do not raise any issues which cant be reasonably achieved by the developer. There is available WWTW capacity.
- 13) Personal circumstances in relation No 7 and impact of the development  
The position, orientation and house type (C1) which will sit gable end to No 7 will in my view not hamper the amenity presently enjoyed by the occupant of this property, access is not hindered either.
- 14) Local amenities are not suitable for walking to /no local transport for the village  
The proposal, whilst located towards the eastern edge of the village, is within reasonable walking distance to the village centre which offers a range of convenience and other retail / service provision.
- 15) Possibility of even more development, possibly including No 45 Magherafelt Road.  
The Area Plan provides for future development of DN/05 – future development proposal will be considered on their individual merits.
- 16) Video / imagery showing traffic conflict between slievegallion drive and the site access.  
In this regard, DFI Roads offer no issues with carriageway width at this point or indeed any other point within the existing road network.
- 17) Amended plans remain objectionable /concerns that existing footways require widening outside Nos 3/4/5 (  
This was later clarified this related to footways within the proposed development and not slievegallion drive)
- 18) That the proposed development has not been named ' Slievegallion heights' –  
It was later clarified that this had been a typo in e-mail correspondence.
- 19) The current grounds of No 9a are to be protected as open / greenspace.  
The current grounds associated with No 9a are substantial but offer no public access. Whilst the ability to publically access such space is not the only test of the value and contribution of open space, I do not form a view that this is the type of space which PPS8 would be intended to protect.
- 20) Why is open space now included in the amended plans  
This was requested by Planning to loosen the development somewhat and improve its quality, this is of course one of the central aims of PPS7.
- 21) That DFI Roads have not applied sufficient due diligence in commenting on earlier plans  
Having met with DFI and indeed specifically put to them the residents concerns, and following what I know have been a number of inspections of the local access, I have no reason to share any view that DFI have not carefully considered the proposal.

**Recommendation**

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

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation: Approval with conditions.**

**Conditions.**

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

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

2. No units/Dwellings shall be occupied until a landscape management and maintenance plan has been submitted to and approved by the Council. The plan shall set out the period of the plan, long term objectives, management responsibilities, performance measures and maintenance schedules for all areas of landscaping and open space. The landscape management plan shall be carried out as approved.

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

3. The existing natural screenings of the site, as indicated on approved drawing ref 06/4, date stamped received 12 Feb 20, including those trees located along the SE boundary of the site shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

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

4. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any part of the (development).

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

5. There shall be no external lighting on the site until a Lighting Plan has been submitted to and approved in writing by the Planning Authority. The approved Plan shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority. The Plan shall include the following:

- a) Specifications of lighting to be used across the site
- b) All measures to mitigate for the impacts of artificial lighting on bats, including low lighting levels to be used across the site
- c) A map showing predicted light spillage across the site (isolux drawing)
- d) Bat foraging, commuting, and/or potential roosting habitat to be kept free from any artificial lighting

**Reason:** To minimise the impact of the proposal on bats.

#### 6. PSD CONDITIONS

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

The Council hereby determines that the width, position and arrangement of the streets, a and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 42 rev2 bearing the date stamp 10 February 2020

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

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

No other development hereby permitted shall be commenced until the works necessary for the improvement of the public road network have been completed in accordance with the details outlined blue on Drawing No. 42 rev2 bearing the date stamp 10 February 2020. The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

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

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

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

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

REASON: In the interest of public health

11. All services within the development should be laid underground.

REASON: In the interests of visual amenity

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

REASON: In the interest of public health

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

REASON: In the interest of public health

**Signature(s) M.Bowman**

**Date: 18<sup>th</sup> Sept 2020**

<b>ANNEX</b>	
<b>Date Valid</b>	25th April 2019
<b>Date First Advertised</b>	9th May 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) ANGELA MCSORLEY 1 Slieve Gallion Drive Draperstown Londonderry AUSTIN MCSORLEY 1 Slieve Gallion Drive Draperstown Londonderry Angela McSorley and Austin McSorley 1 Slieve Gallion Drive, Draperstown, Magherafelt, BT45 7JR Angela McSorley 1 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR Austin McSorley 1 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR Angela McSorley 1 Slieve Gallion Drive, Draperstown, BT45 7JR Austin McSorley 1 Slieve Gallion Drive, Draperstown, BT45 7JR Austin McSorley 1, Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR Angela McSorley 1, Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR Angela & Austin McSorley 1, Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR The Owner/Occupier, 10 Glenshane Gardens, Draperstown, Londonderry, BT45 7JB Mary O'Kane 10 Slieve Gallion Drive, Draperstown, Magherafelt, BT45 7JR Joel O'Kane 10 Slieve Gallion Drive, Draperstown, Magherafelt, BT45 7JR Joe O'Kane 10 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR Mary O'Kane 10 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR Joe O'Kane 10 Slieve Gallion Drive, Draperstown, BT45 7JR Mary O'Kane 10 Slieve Gallion Drive, Draperstown, BT45 7JR Joe O'Kane 10, Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR Mary O'Kane 10, Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR The Owner/Occupier, 11 Slieve Gallion Drive Draperstown Londonderry	



Anne Marie McAuley  
 12 Slieve Gallion Drive, Draperstown, BT45 7JR  
 Mark McAuley  
 12 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Mark McAuley  
 12 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Eugene & Anne-Marie McAuley  
 12 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Connor McAuley  
 12 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Anne Marie McAuley  
 12 Slieve Gallion Drive, Draperstown, BT45 7JR  
 Eugene McAuley  
 12 Slieve Gallion Drive, Draperstown, BT45 7JR  
 Mark McAuley  
 12 Slieve Gallion Drive, Draperstown, BT45 7JR  
 Eugene McAuley  
 12 Slieve Gallion Drive, Draperstown, BT45 7JR  
 Connor McAuley  
 12 Slieve Gallion Drive, Draperstown, BT45 7JR  
 Mark McAuley  
 12, Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Conor McAuley  
 12, Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Anne Marie McAuley  
 12, Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Andrew McAuley  
 12, Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Eugene McAuley  
 12, Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 The Owner/Occupier,  
 3 Slieve Gallion Drive Draperstown Londonderry  
 Kevin and Serena Toner  
 3 Slieve Gallion Drive, Draperstown, BT45 7JR  
 Mary McGlade  
 3 Slieve Gallion Drive, Draperstown, BT45 7JR  
 John McGlade  
 3 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Mary McGlade  
 3 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Kevin Toner  
 3 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Serena Toner  
 3 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Kevin Toner  
 3 Slieve Gallion Drive, Draperstown, BT45 7JR  
 John McGlade  
 3 Slieve Gallion Drive, Draperstown, BT45 7JR  
 Serena Toner  
 3 Slieve Gallion Drive, Draperstown, BT45 7JR

Mary McGlade  
 3, Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 John McGlade  
 3, Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Fiona Hegarty  
 32 Glenshane Park Draperstown Londonderry  
 Francis Hegarty  
 32 Glenshane Park Draperstown Londonderry  
 Fiona and Francis Hegarty  
 32 Glenshane Park, Draperstown, Londonderry, Northern Ireland, BT45 7JW  
 The Owner/Occupier,  
 37 Magherafelt Road Draperstown Londonderry  
 Patrick Hegarty  
 37A Magherafelt Road, Draperstown, Co. Derry, BT45 7AF  
 Mairead Hegarty  
 37A Magherafelt Road, Draperstown, Co. Derry, BT45 7AF  
 The Owner/Occupier,  
 37a Magherafelt Road, Draperstown, Co. Derry, BT45 7AF  
 The Owner/Occupier,  
 39 Magherafelt Road Draperstown Londonderry  
 The Owner/Occupier,  
 45 Magherafelt Road Draperstown Londonderry  
 The Owner/Occupier,  
 47 Magherafelt Road Draperstown Londonderry  
 Stan Heron  
 47 Magherafelt Road, Draperstown, Londonderry, Northern Ireland, BT45 7JT  
 Anne-Marie Heron  
 47 Magherafelt Road, Draperstown, Londonderry, Northern Ireland, BT45 7JT  
 Stan Heron  
 47 Magherafelt Road, Draperstown, Londonderry, Northern Ireland, BT45 7JT  
 Anne-Marie Heron  
 47 Magherafelt Road, Draperstown, BT45 7JT  
 Stan Heron  
 47 Magherafelt Road, Draperstown, BT45 7JT  
 Anne Marie & Stan Heron  
 47, Magherafelt Road, Draperstown, Londonderry, Northern Ireland, BT45 7JT  
 The Owner/Occupier,  
 5 Slieve Gallion Drive Draperstown Londonderry  
 Kieran McWilliams  
 5 Slieve Gallion Drive, Draperstown, Magherafelt, BT45 7JR  
 Bernadette McWilliams  
 5 Slieve Gallion Drive, Draperstown, Magherafelt, BT45 7JR  
 Kieran McWilliams  
 5 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Joe McWilliams  
 5 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Bernie McWilliams  
 5 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Kieran McWilliams  
 5 Slieve Gallion Drive, Draperstown, BT45 7JR

Bernie McWilliams  
 5 Slieve Gallion Drive, Draperstown, BT45 7JR  
 Joe McWilliams  
 5 Slieve Gallion Drive, Draperstown, BT45 7JR  
 Joe McWilliams  
 5, Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Bernadette McWilliams  
 5, Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Kieran McWilliams  
 5, Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Jim and Marie Halferty  
 6 Slieve Gallion Drive, Draperstown, BT45 7JR  
 Jim Halferty  
 6 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Marie Halferty  
 6 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Stephen Halferty  
 6 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Jim Halferty  
 6 Slieve Gallion Drive, Draperstown, BT45 7JR  
 Marie Halferty  
 6 Slieve Gallion Drive, Draperstown, BT45 7JR  
 Marie Halferty  
 6 Slieve Gallion Drive, Draperstown, BT45 7JR  
 Stephen Halferty  
 6 Slieve Gallion Drive, Draperstown, BT45 7JR  
 Stephen Halferty  
 6 Slieve Gallion Drive, Draperstown, BT45 7JR  
 Jim Halferty  
 6 Slieve Gallion Drive, Draperstown, BT45 7JR  
 The Owner/Occupier,  
 7 Slieve Gallion Drive Draperstown Londonderry  
 Chris Rogers  
 7 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Brenda Rogers  
 7 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Brenda Rogers  
 7 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Christopher Rogers  
 7 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Brenda Rogers  
 7 Slieve Gallion Drive, Draperstown, BT45 7JR  
 Chris Rogers  
 7 Slieve Gallion Drive, Draperstown, BT45 7JR  
 Chris Rogers  
 7, Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 Brenda Rogers  
 7, Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR  
 The Owner/Occupier,  
 8 Glenshane Gardens Belfast Antrim

Sharon McWilliams 8 Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR Justin McWilliams 8 Slieve Gallion Drive, Draperstown,BT45 7JR Sharon McWilliams 8 Slieve Gallion Drive, Draperstown,BT45 7JR Justin McWilliams 8 Slieve Gallion Drive,Draperstown,BT45 7JR Justin McWilliams 8 Slieve Gallion Drive,Draperstown,BT45 7JR Sharon McWilliams 8 Slieve Gallion Drive,Draperstown,BT45 7JR Sharon McWilliams 8, Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR Justin McWilliams 8, Slieve Gallion Drive, Draperstown, Londonderry, Northern Ireland, BT45 7JR Justin McWilliams Email Stan and Anne Marie Heron Email Address Justin McWilliams Email Address	
<b>Date of Last Neighbour Notification</b>	27th February 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2019/0562/F Proposal: Proposed residential development of 23No. Dwellings (15no. Detached & 8no. Semi-detached).  Proposal includes site access, access roads, landscaping, car parking, driveways, garages and all associated site works and the retention of existing dwelling. (no.9a Slievegallion Drive) with new front boundary and access. Address: 9a Slieve Gallion Drive, Magherafelt Road, Draperstown, BT45 7JR., Decision: Decision Date:  Ref ID: LA09/2019/0083/PAD Proposal: Proposed residential development for 23 dwellings (15 detached and 8 semi detached) Proposal includes retention of existing dwelling (9A Slieve Gallion Drive) site access .access road, landscaping, car parking and all associated site works Address: 9a Slieve Gallion Drive Magherafelt Road Draperstown, Decision: Decision Date:	

Ref ID: LA09/2015/0363/F

Proposal: Proposed single storey extension to side of existing dwelling

Address: 5 Slievegallion Drive, Draperstown, BT45 7JS,

Decision: PG

Decision Date: 23.09.2015

Ref ID: H/1987/0019

Proposal: BUNGALOW AND GARAGE

Address: SLIEVEGALLION DRIVE MAGHERAFELT RD DRAPERSTOWN

Decision:

Decision Date:

Ref ID: H/1991/0399

Proposal: SITE OF DWELLING

Address: SLIEVE GALLION DRIVE MAGHERAFELT ROAD DRAPERSTOWN

Decision:

Decision Date:

Ref ID: H/1992/0096

Proposal: HOUSE WITH GARAGE

Address: SLIEVE GALLION DRIVE MAGHERAFELT ROAD DRAPERSTOWN

Decision:

Decision Date:

Ref ID: H/1993/0088

Proposal: ALTS TO PREVIOUS PERMISSION FROM PUBLIC SERVICE ROAD TO PRIVATE DRIVEWAY

Address: SLIEVE GALLION DRIVE MAGHERAFELT ROAD DRAPERSTOWN

Decision:

Decision Date:

Ref ID: H/1991/0527

Proposal: SITE OF DWELLING

Address: SLIEVE GALLION DRIVE MAGHERAFELT ROAD DRAPERSTOWN

Decision:

Decision Date:

Ref ID: H/1989/0179

Proposal: HOUSE WITH GARAGE

Address: SLIEVEGALLION DRIVE DRAPERSTOWN

Decision:

Decision Date:

Ref ID: H/1992/0333  
 Proposal: BUNGALOW  
 Address: SLIEVE GALLION DRIVE DRAPERSTOWN  
 Decision:  
 Decision Date:

Ref ID: H/1986/0319  
 Proposal: BUNGALOW WITH GARAGE  
 Address: 5 SLIEVE GALLION DVE DRAPERSTOWN  
 Decision:  
 Decision Date:

Ref ID: H/1984/0247  
 Proposal: SITE OF 5 DWELLINGS  
 Address: MAGHERAFELT ROAD, DRAPERSTOWN  
 Decision:  
 Decision Date:

**Summary of Consultee Responses – No objections raised.**

**Drawing Numbers and Title**

Drawing No. 20  
Type: Proposed Floor Plans  
Status: Submitted

Drawing No. 02  
Type: Existing Plans  
Status: Submitted

Drawing No. 22  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 23  
Type: Proposed Floor Plans  
Status: Submitted

Drawing No. 24  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 25  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 26  
Type: Proposed Floor Plans  
Status: Submitted

Drawing No. 27  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 28  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 29  
Type: Proposed Floor Plans  
Status: Submitted

Drawing No. 30  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 31  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 32  
Type: Proposed Floor Plans  
Status: Submitted

Drawing No. 33  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 34  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 35  
Type: Proposed Floor Plans  
Status: Submitted

Drawing No. 36  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 37  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 38  
Type: Photograph  
Status: Submitted

Drawing No. 39  
Type: Garage Plans  
Status: Submitted

Drawing No. 40  
Type: Proposed Plans  
Status: Submitted

Drawing No. 41  
Type: Cross Sections  
Status: Submitted

Drawing No. 42  
Type: Site Layout or Block Plan  
Status: Submitted

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

Drawing No. 03  
Type: Existing Plans  
Status: Submitted



Drawing No. 04  
Type: Site Appraisal or Analysis  
Status: Submitted

Drawing No. 05  
Type: Photograph  
Status: Submitted

Drawing No. 06  
Type: Site Layout or Block Plan  
Status: Submitted

Drawing No. 07  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 08  
Type: Proposed Floor Plans  
Status: Submitted

Drawing No. 09  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 10  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 11  
Type: Proposed Floor Plans  
Status: Submitted

Drawing No. 12  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 13  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 14  
Type: Proposed Floor Plans  
Status: Submitted

Drawing No. 15  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 16  
Type: Proposed Elevations

Status: Submitted

Drawing No. 17

Type: Proposed Floor Plans

Status: Submitted

Drawing No. 18

Type: Proposed Elevations

Status: Submitted

Drawing No. 19

Type: Proposed Elevations

Status: Submitted

Drawing No. 21

Type: Proposed Elevations

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



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

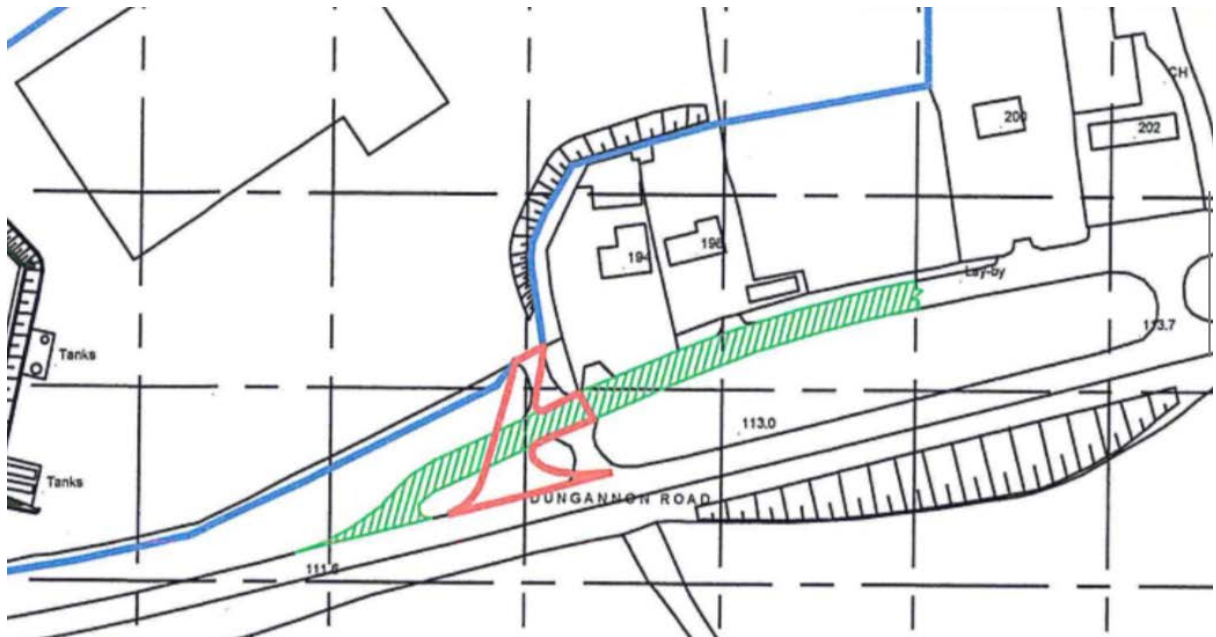
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

## Committee Application

Summary	
<b>Committee Meeting Date:</b> 06/10/2020	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0966/F	<b>Target Date:</b>
<b>Proposal:</b> The proposed development is to get access for goods vehicles to enter and exit onto the B34 Dungannon Road from Sandvik site, Approximately 60 HGV's and LGV's per day will used the entry/exit. An existing security gate will remain at this point.	<b>Location:</b> Sandvik Mining and Rock Technology Tullyvannon Ballygawley Dungannon
<b>Referral Route:</b> Objection from third party.	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Sandvik Ltd Aughnagar Road Ballygawley Dungannon	<b>Agent Name and Address:</b> Campbell Engineering and Design Ltd Valley Business Centre 67 Church Road Newtownabbey BT36 7LS
<b>Executive Summary:</b> The proposal is to create a new 2-lane access road off an existing access at the Sandvik site. The new access road will enter and exit onto the B34 Dungannon Road and is for goods vehicles. Approximately 60 HGV and LGV vehicles will use the access road and there is no intensification in the number of vehicles. The vehicles are delivering parts to Sandvik and HGV transporting machines such as Crushers and Screeners.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	Rivers Agency	Advice
Non Statutory	Environmental Health Mid Ulster Council	Content
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

### Representations:

Letters of Support	None Received
Letters of Objection	7
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### Characteristics of the Site and Area

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character with predominantly agricultural fields and detached dwellings. Immediately east of the site

are two detached dwellings that have a frontage onto a slip road. To the north of the site is Sandvik manufacturing plant which comprises a tarmacked car park, offices and industrial buildings. The northern portion of the site comprises the access point from the yard at Sandvik and fronts onto a lay-by road which joins the Dungannon Road between Dungannon and Ballygawley.

### **Description of Proposal**

This is a full application for an access for goods vehicles to enter and exit onto the B34 Dungannon Road from Sandvik site, approximately 60 HGV's and LGV's per day will be used for the entry/exit. An existing security gate will remain at this point.

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

#### **Planning History**

LA09/2018/0121/LDE – The application relates to re-using an existing gate for lorry/van exit only. Our stores operations have increased and we need to re-use this gate to ease congestion within the site. I have included a reply to this issue from the planning office Ref COR00101 - Access gate onto layby at 196 Dungannon Road, from Sandvik Premises – Application Required

In this CLUD it was established the access which is the subject of this application has been in existence for over 5 years as it was shown on orthophotography. However, sufficient evidence was not submitted to demonstrate the use of the gates for vehicles is an established use.

#### **Representations**

The proposal was advertised in the local press and neighbour notified according to our statutory duty and at the time of writing 7 representations have been received.

7 copies of the same objection letter were received on the 16<sup>th</sup> July 2020. The letters are from addresses at No. 192, 194, 196, 198a, 200, 204, 206 Dungannon Road. The nearest dwellings to the Sandvik site are 192 and 194, and the remaining dwellings are to the east of the site along the lay-by.

The objectors refer to statements in the Air Quality Expert Group on Particulate Matter in the United Kingdom report that short and long-term exposure to particulate matter causes respiratory and cardiovascular illness and even death. It is stated the primary source of these particles is road transport. The objectors state this is particularly relevant to the neighbouring properties beside the Sandvik site and health concerns are the main issue with this proposal. In addition, the objectors state there is an issue with road safety at the new access and there already is an access at the Sandvik site for the goods vehicles. Reference is made to the 60 vehicles in and 60 vehicles out of the site every day and the opening hours of the access. The objectors state this will equate to one HGV/LGV every 5 minutes. The main issue is that this number of vehicle movements will create a considerable level of safety issues and noise disturbance.

In rebuttal to the issues about the effect on health and road safety the applicant has stated on the P1 form there are currently 60 goods vehicles entering/exiting the Sandvik site on a daily basis and there is no expected increase in the number of vehicle movements due to the proposed access. In terms of air quality, the same number of vehicles are already

visiting the site so I consider there will not be a greater impact on air quality than the existing situation. There is an existing access runs along the western boundary of the property at No. 192 and the proposal will create a new access road that runs in a southwest direction. The new access will divert the HGVs and LGVs in a direction away from the neighbouring dwellings. As shown in figure 1 below there are currently 2 accesses off the B34 Dungannon Road to the access gates and the proposal will block up these accesses and create a new 2-lane access road in a more straight direction to the main road. I consider this will improve road safety as the new layout minimises access onto the public road and agreed in consultation with DFI Roads. Currently, the HGVs use an access off Aghnagar Road but the agent has stated this is not feasible as a long-term solution as the lorries have to travel through a staff car parking area. The main objective of this application is to separate staff parking and the lorries that enter/exit the Sandvik site. The agent has stated there is a need for a second exit for lorries for health and safety due to the size of the Sandvik site. The objectors had expressed concern why the lorries need to be entering/exiting from this access if there already is an access and this will create unacceptable road safety so close to their dwellings. As shown on drawing 04 Rev 1 date stamped 25 FEB 2020 existing vegetation along the Sandvik boundary will be retained and the flow of traffic is diverted away from the dwellings. Environmental Health stated in their consultation response that the background noise level at the new exit/entry is 44dB during the day and the proposal will result in 45dB noise levels at the nearest dwelling. As Environmental Health have no concerns about impact on noise at the site, I consider the proposal will not create an unacceptable neighbour amenity.

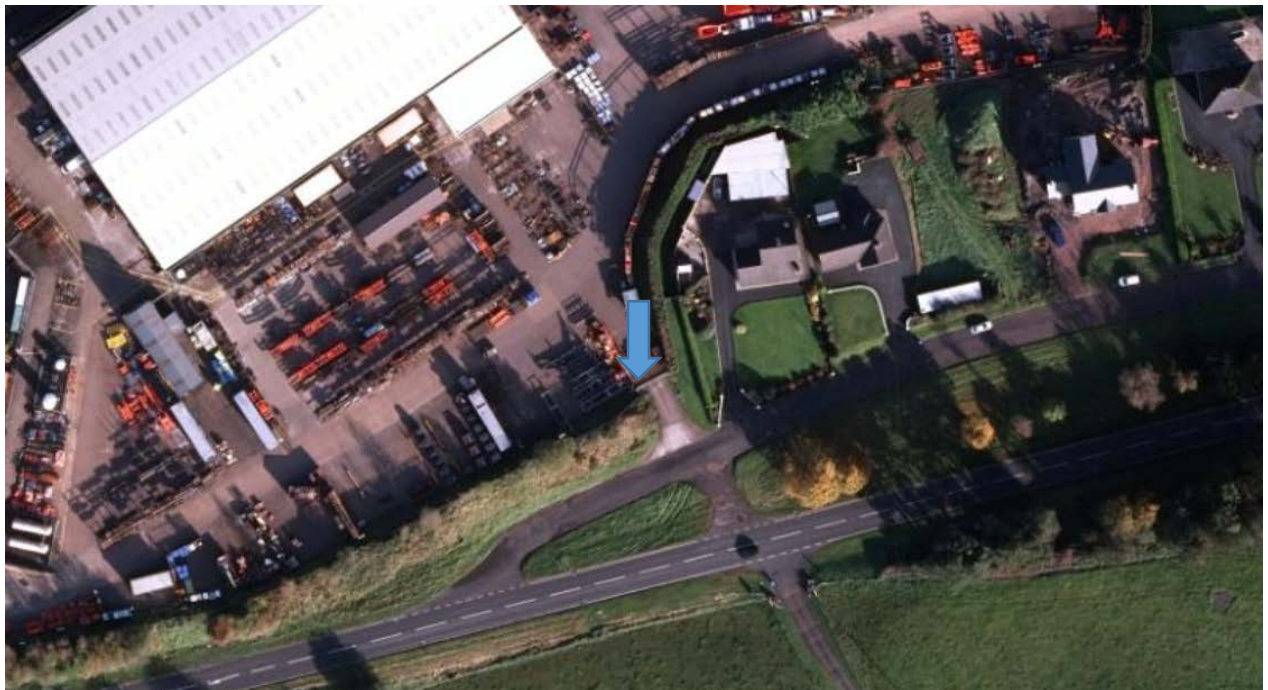


Figure 1 – Orthophotography of the existing access layout at Sandvik.

### **Consultees**

Mid Ulster Environmental Health sent a consultation response on the 12<sup>th</sup> November 2019 requesting further information. Environmental Health requested a Noise Impact Assessment given the proximity of the nearest neighbours. A Noise Impact Assessment was received on the 25<sup>th</sup> February 2020. Following consideration by Environmental Health

a final response was sent on the 21<sup>st</sup> July 2020 and they were content that the proposal was acceptable subject to conditions. In their response Environmental Health state, the loading activity using a side loader and HGV in the yard has an average sound level of 61 DbA at 10m which is considered low. In addition, it was concluded the proposed access road will result in 45Db for the nearest neighbour at No. 192 Dungannon Road.

DFI Roads sent a consultation response on the 25<sup>th</sup> March 2020 stating they were content with the revised scheme subject to conditions.

### **Planning Policy Consideration**

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.

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

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22<sup>nd</sup> February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at **10am on the 25th March** and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at **5pm on 24<sup>th</sup> September 2020**.

In light of this the draft plan cannot currently be given any determining weight.

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

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

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9.

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

Policy AMP 2 (Access to Public Roads) is the relevant policy test in this instance. AMP 2 states that planning permission will only be granted for a development involving direct access, or in the intensification of the use of an existing access, onto a public road where:

#### **It will not prejudice road safety or significantly inconvenience the flow of traffic**

As shown in figures 2 - 5 below there already is an existing minor road off the Dungannon Road with 2 access points from the road to the Sandvik site and neighbouring dwellings. Drawings were submitted for the alteration of an existing access to Sandvik beside No. 192 Dungannon Road. The proposal would create a 2 lane access road from the existing gate at Sandvik to the B34 Dungannon Road. Initially, the applicant proposed to create a sweeping 2-lane access road from the existing gates to the furthest southwest access just



off the Dungannon Road. DFI roads felt this proposal was unacceptable as the new access road would be creating a further 2 access points onto the Dungannon Road as well as the existing access points. Revised drawings were submitted by the applicant on the 25<sup>th</sup> February 2020 proposing to close the existing access points to the B34 Dungannon Road and create a new direct 2-lane access road to the Dungannon Road, as shown in drawings 02 Rev 1 and 03 Rev 1 date stamped 25 FEB 2020. The new access will still maintain access to the dwellings immediately west of the Sandvik site. DFI Roads are content with this proposal subject to conditions. The conditions are that the existing accesses are permanently closed within 1 week of the new access being operational and a detailed programme of works is submitted prior to commencement of any works.



Figure 2 - view of the existing access onto the B34 Dungannon Road





Figure 3 – view of the existing access onto the B34 Dungannon Road



Figure 4 – view of the existing road towards No. 192 and neighbouring dwellings



Figure 5 – Existing access gates

**The proposal does not conflict with Protected Routes Policy**

The B34 Dungannon Road is not a protected route so there is no impact on the protected routes policy.

Overall I am content the proposal meets the criteria in AMP 2 in PPS 3.

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

The proposal is recommended for approval as it complies with all the criteria in policy AMP 2 in PPS 3 Access, Movement and Parking.

**Conditions**

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

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

2. A detailed programme of works and any required / associated traffic management proposals shall be submitted to and agreed by DfI Roads, prior to the commencement of any element of road works.

Reason: To facilitate the convenient movement of all road users and the orderly progress of work in the interests of road safety

3. The existing accesses indicated on the approved drawing 02 Rev 1 bearing the date stamp 25 February 2020 shall be permanently closed and the carriageway / verge properly reinstated to DfI Roads satisfaction within 1 week of the new access being operational.

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

4. The noise level from the activity of loading of machinery, good vehicles egress and exit from the area outlined in red on drawing number 01 Rev 1 date stamped 25 FEB 2020 shall not exceed 42dB  $L_{Aeq1hr}$  when measured at the façade of No 192 Dungannon Road.

Reason: To protect neighbour amenity.

5. Prior to the use of the route for access and egress, and the repositioned fence shall be erected along the site's boundary as outlined in Drawing 04 Rev 1 date stamped 25 FEB 2020. This should be permanently retained.

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

6. The barrier as outlined in Drawing 04 Rev 1 date stamped 25 FEB 2020 shall be constructed and maintained in such a manner as to provide at least 10dB noise reduction.

Reason: To protect neighbour amenity.

7. Any changes to the use of the area outlined in red on drawing number 01 Rev 1 date stamped 25 FEB 2020, shall be subject to a revised acoustic assessment and submitted in writing with the Planning Department for assessment.

Reason: To protect neighbour amenity.

8. The proposal shall be restricted to the following hours of usage:
  - Daily- 08:00hrs-20:00hrs

Reason: To protect neighbour amenity.

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

Reason: To protect neighbour amenity.

9. If the report(s) submitted, as per condition 7, indicates that noise levels exceed noise levels stated within condition 4, a scheme outlining corrective action with

proposed timescales for their implementation shall be agreed in writing with the Planning Department

Reason: To protect neighbour amenity.

**Informatives**

1. No work shall commence on site until the appropriate Abandonment Order is initiated and processed to the satisfaction of DfI Roads
2. Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the DfI Roads consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Main Street, M. A monetary deposit will be required to cover works on the public road
3. Highway design shall be in accordance with the current relevant standards of the Design Manual for Roads and Bridges.
4. The developer is required to enter into a licence agreement with the DfI Roads for the carrying out of the road works approved, prior to the commencement of any works to the public road network. The developer should allow up to three months for completion of the licence. Accordingly, the developer is advised to make an early personal application for the issue of the licence. He should also initiate early discussions for the satisfactory programming of the road works with DfI Roads.

**Signature(s)**

**Date:**



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

## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1567/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of extension to work shop, store, mobile office, canteen and welfare facilities	<b>Location:</b> 67A Farlough Road Newmills Dungannon
<b>Referral Route:</b> Objections Received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Mr Kenny Archer 67 Farlough Road Newmills Dungannon	<b>Agent Name and Address:</b> Building Design Solutions 75 Main Street Pomeroy BT70 2QP
<b>Executive Summary:</b>  <p>The proposal seeks permission to retain workshop, store, office and welfare facilities. The A number of objections were received, therefore requiring the application to be presented to committee.</p> <p>The proposal has been considered in terms of planning policy, Environmental health and DFI Roads have been consulted and responded with no objections. Approval recommended.</p>	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



#### Consultations:

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

#### Representations:

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

Number of Petitions of Objection and signatures	No Petitions Received
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### Characteristics of the Site and Area

The application site is located within the open countryside designated by the DSTAP, just north of the defined settlement limit of Coalisland Town. No other relevant area plan designations apply.

The red line of the application site extends to 1.25ha and comprises a dwelling and a number of agricultural/domestic and commercial buildings operated by Nelson Hydraulics as well as areas of associated hard standing.



Access to the site is via the Farlough Road and the site has a 192m frontage to the road. The site levels fall from northwest to southeast, away from the road. The site is surrounded by mature trees and other vegetation especially along the roadside, which in combination with the lower level of the site means that critical views of the site are minimal.

The main building on the site is a large, double-pitched, permanent building with a half block, rendered base and dark green/blue corrugated cladding upper, measuring approx. 1090sqm with ridge heights of 5.3m and 6.5m. The other three buildings are a small, flat roofed portable structures extending to 16sqm, 16sqm and 25sqm respectively with heights of less than 3.2m.

## Description of Proposal

The current planning application seeks full planning permission for the retention of the extension to the work shop that was granted approval under M/2009/1038/F (Building A) as well as an ancillary mobile office (Building B), canteen (Building C) and welfare facilities (Building D): See below.



## Planning Assessment of Policy and Other Material Considerations

### Site History

M/2009/0137CA - Unauthorised change of use of farm building to car body repair workshop at adjacent to 67 Farlough Road, Newmills, Dungannon, Co. Tyrone. - ENFORCEMENT CASE CLOSED

M/2009/1038/F - Retention of car body repair shop - 67 Farlough Road, Dungannon - PERMISSION GRANTED - 08.07.2010



## Assessment of Policy

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 4- Planning and Economic Development.

Planning Policy Statement 21: Sustainable Development in the Countryside

### SPPS

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

### PPS21

Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) is a retained policy document under SPPS and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. One of these is Industry and Business uses in the countryside that are in accordance with policies contained within PPS4- Planning and Economic Development.

### Background

The existing business on site was established over 10 years ago (Nelson Hydraulics) and operated from the original agricultural buildings on site. The previous 2009 application named above established permission for the change of use from agricultural shed to car body repair shop, this permission did not specify by condition, restricting the use of the building, therefore planning permission is not required for any use within the same use class as a car body repair.

### Objection

At the time of writing two representations have been made by persons residing at 14 Lisnastraine Road, Coalisland. The main concerns raised include;

**-PPS4- PED3;** *(Points raised by objector in italics)*

*-there is a major increase in site area*

*-disagrees that the land within the red line should be considered the site area*

*-the site should just be considered as the building seeking change of use.*

*-The proposal involves a 1090m<sup>2</sup> increase in floor area and therefore must be a major increase.*

With regards to the above 4 points raised it is my opinion that the objector is correct in that whole red line should not be considered as part of the site, moreover, I would also agree that the proposed increase in floor space would contend that this is a major increase in site area and therefore should be subject to the Exceptional circumstances test.

*- The proposal harms the rural character and appearance of the local area.*



Having visited the site and inspected the surrounding areas, added to the topography of the site with the ground levels much lower (over 6 metres) than that of the roadside, and the considerable mature roadside hedge, there is very limited views of the site when driving past. As can be seen from above and below photos little more than the roof level can be seen.



- The exceptional circumstances test must therefore apply and also fails in that;*
- Due to size it could relocate elsewhere*
- Fails to demonstrate contribution to local economy*
- Undermines rural character*

The applicant has since the time of the objection submitted a further statement of case which the objector has been notified of and I am awaiting reply. However, the supporting statement tackles the exceptional circumstances test and therefore the above points in depth. In my view, the proposal meets the exceptional circumstances test in that the statement provides a logical approach to the consideration of suitable alternative sites in the nearby settlement and industrial sites, it also clearly explains the significant economic benefits to the local economy and has also provided a robust assessment of the proposals impact on rural character. In light of the statement I am of the view that it complies with the exceptional test.

**- PED 9;**

- A. *It is not compatible with surrounding area*
- G. *Road is not suitable for the extra traffic*
- H. *Access is not adequate*
- J. *No landscaping proposals*
- K. *No boundary treatment*
- M. *It does not integrate*

With regards to A. it is important to take into consideration the context of the surrounding area, along this stretch of Farlough road there a number of commercial and large agricultural buildings similar in size and scale. The site itself has historically been occupied by large agricultural buildings as well as the existing workshop. Env Health have also been consulted and they have confirmed that any adverse impacts can be restricted with limiting the use class on site to B2. It is my opinion that the proposal is compatible with the area.

With regards to G and H. DFI Roads have been consulted on a number of occasion and after assessing the most recent drawings submitted and are content subject to conditions.

With regards to the remaining three points, all boundary vegetation is proposed to be retained, this vegetation provides a high level of cover and screening to the site and in my opinion allow it to satisfactorily integrate into the landscape.

Environmental health were also consulted and were content with the proposal subject to conditions, namely, the appropriate business class use (restricted to class B2 light industrial) is assigned to ensure no loss of amenity.?

*- PPS3 - Fails policy test AMP 2 as the access is inadequate and AMP 7 in that car parking and service arrangements were not u to standard.*

DFI Roads have been consulted on a number of occasion and after assessing the most recent drawings submitted and are content subject to conditions, namely visibility splays of 2.4 x 90m in both directions and No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked.

Recommendation Approval

#### Neighbour Notification Checked

Yes

#### Conditions

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

Reason: This is a retrospective application.

2.The development hereby permitted shall be used only for purposes specified in Use Class B2 of the Schedule to the Planning (Use Classes) Order (NI) 2015.

Reason: To prohibit a change to an unacceptable use and to prevent intensification of use of the site.

3.The vehicular access, including visibility splays of 2.4m x 90m in both directions, and forward sight distance of 90m shall be provided in accordance with the approved drawing No.02C bearing date stamp 11/05/2020, or as may otherwise be agreed in writing with the Council. The

area within the visibility splays shall be cleared of all obstructions to a height of 250mm above the adjacent carriage and be permanently retained clear thereafter.

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

4.The gradient of the access shall not exceed 8% (1 in 12.5) over the first 10m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

5.No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 2C dated 11/05/2020 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

6. The proposed store, mobile office, canteen and welfare facilities, hereby approved shall remain ancillary to and form part of the planning unit defined by the works.

REASON; To ensure all works remain ancillary to the existing business and prohibit a change to an unacceptable use.

### **Informatives**

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

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

3.The applicant is advised that under Article 11 of the Roads (NI) Order 1993, the Department for Infrastructure is empowered to take measures to recover any reasonably incurred expenses in consequence of any damage caused to the public road as a result of extraordinary traffic generated by the proposed development.

The applicant should contact DfI Roads at Moygashel Depot, Main Street, Moygashel, BT71 7QR, in order that an agreement may be reached regarding maintenance costs and incurred expenses in consequence of any damage caused to the public road.

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

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

The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land

owned or managed by the Department Infrastructure for which separate permissions and arrangements are required.

It is the responsibility of the developer to ensure that

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

Notwithstanding the terms and conditions of the Mid Ulster District Council's approval set out above, you are required under Article 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Moygashel Depot, Main Street, Moygashel, BT71 7QR. A monetary deposit will be required to cover works on the public road.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	2nd December 2019
<b>Date First Advertised</b>	17th December 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) Pat Dooley 14 Lisnastrane Road, Coalisland, BT71 5DE Pat Dooley 14, Lisnastrane Road, Coalisland, Tyrone, Northern Ireland, BT71 5DE The Owner/Occupier, 41 Farlough Road Dungannon Tyrone The Owner/Occupier, 43 Farlough Road Dungannon Tyrone The Owner/Occupier, 46 Farlough Road Dungannon Tyrone The Owner/Occupier, 64a Farlough Road Dungannon The Owner/Occupier, 67 Farlough Road,Dungannon,Tyrone,BT71 4DU The Owner/Occupier, 67a ,Farlough Road,Dungannon,Tyrone,BT71 4DU The Owner/Occupier, 68a Farlough Road Dungannon The Owner/Occupier, 68c ,Farlough Road,Dungannon,Tyrone,BT71 4DU	
<b>Date of Last Neighbour Notification</b>	20th August 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2019/1567/F Proposal: Retention of extension to work shop, store, mobile office, canteen and welfare facilities Address: 67A Farlough Road, Newmills, Dungannon,  Ref ID: M/2009/1038/F Proposal: Retention of car body repair shop Address: 67 Farlough Road, Dungannon Decision Date: 08.07.2010	

Ref ID: M/1977/0327  
 Proposal: IMPROVEMENTS TO DWELLING  
 Address: 67 FARLOUGH ROAD, DUNGANNON

Ref ID: M/1974/0055  
 Proposal: ERECTION OF SUBSIDY BUNGALOW  
 Address: FARLOUGH, NEWMILLS, DUNGANNON

Ref ID: M/1990/0062  
 Proposal: 11 KV. system improvement (part 4)  
 Address: TOWNLANDS OF CULLION, FARLOUGH, BRACKAVILLE, LISNASTRANE  
 DUNGANNON

### **Drawing Numbers and Title**

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

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

Drawing No. 03  
 Type: Existing Elevations  
 Status: Submitted

Drawing No. 04  
 Type: Existing Elevations  
 Status: Submitted

Drawing No. 05  
 Type: Existing Elevations  
 Status: Submitted

Drawing No. 06  
 Type: Existing Plans  
 Status: Submitted

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

Date of Notification to Department:  
 Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6/10/20	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1624/F	<b>Target Date:</b> 25/03/20
<b>Proposal:</b> 5No Self catering tourist accommodation units	<b>Location:</b> Lands 250m North East of 5 Old Loughry Road Cookstown
<b>Referral Route:</b> Refusal Recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Jason Currie 33 Drum Road Cookstown	<b>Agent Name and Address:</b> Eamonn Moore Architect Ltd 18 Westbury Gardens Cookstown BT80 8WE
<b>Executive Summary:</b> The proposal fails to comply with Policies CTY 1, CTY 13 and CTY 14 of PPS 21, Policy TSM 5 (b) of PPS 16 and Paragraph 6.260 of the SPPS. Refusal is therefore recommended.	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



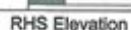
#### Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested
Non Statutory	NI Water - Multi Units West - Planning Consultations	Consulted in Error
Statutory	Historic Environment Division (HED)	Content

<b>Representations:</b>	
Letters of Support	None Received
Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
<b>Summary of Issues</b> There have been no objections to this proposal from any third party or consultee.	
<b>Characteristics of the Site and Area</b>  <p>The application site is a 0.25 hectare agricultural field located approximately 250m NE of a dwelling at 5 Old Loughry Road, Cookstown. It sits at the junction of the Old Loughry Road and Strifehill Road and is outside the development limits of any settlement defined in the Cookstown Area Plan 2010. The site is flat and benefits from a mature tree lined Northern boundary. The remaining boundaries are defined by wire and post fencing and low level hedgerow.</p> <p>The immediate area is rural in character and has a low and dispersed settlement pattern. There is a small industrial yard located to the immediate SW of the site which is within the applicants ownership. Further to the SW is Lafarge Cement works and Quarry. Opposite and to the NE of the site are pockets of thick mature trees. The Dungannon Road (A29), which is a Protected Route, runs to the East of the site and further to the East is Mid Ulster Sports Arena (MUSA).</p>	
<b>Description of Proposal</b>  <p>This is a full application for 5 No. Self-Catering tourist accommodation units.</p>	



Front Elevation





## Planning Assessment of Policy and Other Material Considerations

### Planning History

- LA09/2019/0925/PAD - Old Loughry Road, Cookstown. Proposed tourist units on Old Loughry Road, Cookstown.
- LA09/2018/0899/F - Lands 220m NE of 5 Old Loughry Road, Cookstown. New storage shed for commercial storage use. Approved 31.10.2018
- LA09/2017/1809/LDE - Lands 220m North East of 5 Old Loughry Road, Cookstown. Extension of existing commercial storage yard, including a hard standing yard for commercial storage use. Approved

### Policy Consideration

The following policies will be considered in this assessment:

- Strategic Planning Policy Statement (SPPS)
- Cookstown Area Plan 2010
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Planning Policy Statement 3 - Access, Movement and Parking
- Planning Policy Statement 6 - Planning, Archaeology and The Built Heritage
- Planning Policy Statement 16 - Tourism
- Planning Policy Statement 21 - Sustainable Development in the Countryside
- Parking Standards

## **SPPS - Strategic Planning Policy Statement for Northern Ireland**

The SPPS gives provision for development in the countryside subject to a number policy provisions, including policy for Tourism Development. It does not present any major change in policy direction from that contained in existing Tourism Policy PPS 16. Paragraph 6.260 of the SPPS states that self catering accommodation, particularly in areas where tourist amenities and accommodation have become established will be acceptable. It has not been demonstrated that this is an area where a tourist amenity is established. This will be discussed in more detail further in this report. As such, this proposal is at conflict with the SPPS.

## **Cookstown Area Plan 2010**

This site is outside the development limits of any settlement defined in the Cookstown Area Plan 2010 and is not subject to any Area Plan designations or zonings.

## **Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy**

The Draft Plan Strategy was launched on Friday 22nd February 2019. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020. In light of this the draft plan cannot currently be given any determining weight.

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves the construction of a new access on to the Old Loughry Road. DFI Roads have been consulted and have no concerns regarding road safety or traffic flow resulting from this proposal subject to provision of 2.4m x 60m splays. This can be dealt with by planning condition. A mix of in-curtilage and communal parking spaces, 13 in total, are being provided. No concern has been raised by Roads in respect of parking provision.

## **PPS21 - Sustainable Development in the Countryside**

Policy CTY 1 of PPS 21 sets out the different types of residential and non-residential development which in principle is acceptable in the Countryside. With regards to Tourism Development it states it must be in accordance with the TOU policies in the PSRNI. These have now been superseded by PPS 16.

Policies CTY 13 Design and Integration and CTY 14 Rural Character are also relevant policy considerations under PPS21. The proposed self catering units are small single storey lodges located on a flat roadside site. Whilst they will be subject to short term views from the Old Loughry Road their scale and massing will not result in them being prominent in the local landscape. The site benefits from a mature tree lined Northern boundary which will provide a good backdrop but only a limited degree of integration and enclosure. The remaining boundaries will also provide only limited enclosure. In terms of design the units



do not reflect a traditional type rural building as required under CTY 13. They are more reflective of a modular type building found in an urban location.

In terms of rural character it is acknowledged that there is a quarry and cement works in the wider locality along with other industrial type development, both of which have eroded rural character to a degree. However the immediate locality surrounding the site does retain some degree of rural character, helped by the groupings of mature vegetation to the NE, East and South of the site. The proposal will introduce what appears as a small housing development at the junction of 2 public roads in the countryside. This will clearly be detrimental to rural character of this area by way of creating a suburban style build up of development.

### **PPS 16 - Tourism**

This proposal is for 5 no. self catering holiday lodges in the Countryside - 1 no. 3 bed and 4 no. 2 bed. Policy TSM 5 Self Catering Accommodation in the Countryside is therefore the relevant policy test. TSM 5 permits self catering accommodation in certain circumstances one of which is a cluster of 3 or more new units at or close to an existing or approved tourist amenity that is/will be a significant visitor attraction in its own right (TSM 5 (b)). The initial criteria is being complied with in that the proposal is for a cluster of 5 self catering holiday lodges, however the latter criteria which states that the units must be at or close to an existing/approved significant tourist amenity is not being met.

Paragraph 7.24 of PPS 16 advises that when assessing whether a tourist amenity is a significant attraction in its own right the planning authority should consider the nature and scale of the tourist amenity. Relevant considerations are likely to include visitor numbers and provision of facilities.

The applicant has submitted 2 separate supporting statements to show compliance with this criteria however both fail to adequately demonstrate how this proposal is at or close to a significant tourist amenity in its own right. Reference has been made to the proximity of the site to various visitor attractions including Davagh Dark Skies Observatory (13 miles away), Tullyhogue Fort (2.2 miles away), Hill of the O'Neill (8.6 miles away), Lissan House (5.4 miles away), Killymoon Castle (5.4 miles away), Springhill House (8.3 miles away). Reference has also been made to local business and educational attractions and leisure attractions.

It is my opinion that Davagh Dark Skies is most probably the most significant of the tourist attractions referenced and at some 13 miles away it can not be considered ?at or close to? the application site. If a 13 mile catchment area was accepted by Council then that would open the flood gates for this type of development within this catchment which would be clearly contrary to paragraph 7.24 of PPS 16 which states that the policy aims to provide sustainable environmental benefit.....avoiding random development throughout the countryside and safeguarding the value of tourism assets.

The applicant goes on to make a case that the Mid Ulster Area is the significant visitor attraction in its own right. Whilst that statement does ring true with the Councils Tourism Strategy, policy TSM 5 of PPS 16, in my opinion, would direct us to a more specific and standalone tourist amenity. Reference is also made by the applicant to an appeal (2018/A0213) in which the PAC attached determining weight to the Cookstown Area Plan

2010 over PPS 16 in respect of a conversion of an outbuilding to tourist accommodation. Members are advised that this is not comparable as the proposal before us is for new build accommodation and not conversion.

Policy TSM 5 also requires the overall design and layout of self catering schemes to deter permanent residential use. They should have an informal layout without designated car parking. Units must also be appropriately designed for holiday use (eg) rural cottage style. It is my opinion that the layout of these lodges replicate the formal layout of a small housing development that would be permanently lived in. Designated spaces are being provided. The design of each lodge is quite suburban and far removed from a traditional rural cottage.

Policy TSM 7 sets out general criteria for all Tourism proposals. This scheme will primarily support vehicular movements but could also be accessed on foot or by bicycle albeit there are no formal footpaths to or from the site. My concern with layout and design is referred to above. Some new planting is proposed and existing vegetation is shown to be retained. No outside storage is proposed. Foul sewage will be disposed off via a package treatment plant and water obtained via mains. No flood lighting is proposed however in-curtilage parking is being provided. The scheme is minor in nature and is generally compatible with the existing area. The site is in an area of archaeological importance. Historic Environment Division have been consulted and have raised no concerns about this proposal from an archaeological viewpoint. There are no listed buildings in close proximity to the site. The closest third party dwelling to the application site is approx. 250m to the NE (number 5 Old Loughry Road). There are also commercial storage buildings located immediately to the SW of the site. Given the nature of the proposal it will not give rise to any issues that will affect the amenity of number 5 Old Loughry Road. Environmental Health have been consulted with the application and have not raised any concerns about the impact of the adjacent storage buildings on the proposed lodges. They have requested the submission of additional information in respect of the package treatment plant. I have not requested this information as the proposal is not acceptable in principle (in my opinion)

Internal consultation has been carried out with the Councils Head of Tourism who has advised that he would be supportive of the application as there is a need for more self catering tourist accommodation in the District and that it would facilitate local attractions such as Tullyhogue Fort. Whilst support is there from our Tourism Department, it is necessary for any proposal to comply with the relevant planning policy for this type of development.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refuse

**Refusal Reasons**

- The proposal is contrary to Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed design of the self catering lodges are inappropriate for this rural site and the locality.
- The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed scheme would result in a suburban style build up of development which would be detrimental to the rural character of this area.
- This proposal is contrary to Policy TSM 5 (B) of Planning Policy Statement 16 - Tourism in that it has not been adequately demonstrated that the units are at or close to an existing or approved tourist amenity that is/will be a significant visitor attraction in its own right. Furthermore, the overall design of the units and layout would not deter permanent residential use.
- This proposal is contrary to paragraph 6.260 of the SPPS, in that it has not been demonstrated that this is an area where a tourist amenity is established or is likely to be provided as a result of tourism initiatives.

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



<b>ANNEX</b>	
<b>Date Valid</b>	11th December 2019
<b>Date First Advertised</b>	14th January 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 3 Old Loughry Road, Cookstown, Tyrone, BT80 9AG The Owner/Occupier, 5 Old Loughry Road Cookstown Tyrone	
<b>Date of Last Neighbour Notification</b>	3rd January 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2019/0925/PAD Proposal: Proposed tourist units on Old Loughry Road, Cookstown. Address: Old Loughry Road, Cookstown., Decision: Decision Date:  Ref ID: LA09/2018/0899/F Proposal: New storage shed for commercial storage use Address: Lands 220m NE of 5 Old Loughry Road, Cookstown, Decision: PG Decision Date: 31.10.2018  Ref ID: LA09/2017/1809/LDE Proposal: Extension of existing commercial storage yard ,including a hard standing yard for commercial storage use Address: Lands 220m North East of 5 Old Loughry Road, Cookstown, Decision: PG Decision Date:  Ref ID: LA09/2019/1624/F Proposal: 5No Self catering tourist accommodation units Address: Lands 250m North East of 5 Old Loughry Road, Cookstown,	

Decision:  
Decision Date:

Ref ID: I/2009/0629/F

Proposal: Proposed erection of storage building to allow landlord to store unused furniture and appliances and demolition of existing structures

Address: Lands 220m north east of no.5 Old Loughry Road, Cookstown

Decision:  
Decision Date:

Ref ID: I/2011/0114/LDE

Proposal: Commercial storage use, storage building, hardstanding and containers (total combined storage area of containers and shed = 97.91sq/m) at lands at Old Loughry Road, Cookstown

Address: Lands 220m North East of no 5 Old Loughry Road, Cookstown,

Decision:  
Decision Date:

Ref ID: I/1989/0394

Proposal: Erection of dwelling, stables and store

Address: STRIFEHILL COOKSTOWN

Decision:  
Decision Date:

Ref ID: I/1986/0182

Proposal: DWELLING AND GARAGE

Address: STRIFEHILL, COOKSTOWN

Decision:  
Decision Date:

Ref ID: I/1987/0502

Proposal: DWELLING, STORE, STABLES AND MACHINERY COMPOUND

Address: STRIFEHILL, COOKSTOWN

Decision:  
Decision Date:

Ref ID: I/1977/0481

Proposal: OFFICE AND STORAGE ACCOMMODATION FOR M AND E MAINTENANCE UNIT

Address: ROCKHEAD, COOKSTOWN

Decision:  
Decision Date:

Ref ID: LA08/2018/0155/DC

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

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

Decision: AL

Decision Date:

Ref ID: LA08/2018/1710/DC

Proposal: Discharge of Condition 29 (Construction Method Statement) of Planning Permission LA08/2016/1328/F

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

Decision: AL

Decision Date:

Ref ID: LA08/2019/1403/DC

Proposal: Discharge of condition 24 of planning permission LA08/2016/1328/F

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

Decision:

Decision Date:

Ref ID: LA08/2019/0022/DC

Proposal: Discharge of Condition 5 (works affecting A5WTC preferred route) of planning permission LA08/2016/1328/F

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

Decision: AL

Decision Date:

Ref ID: LA08/2017/1126/DC

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

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale,

Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Pressu

Decision: AL

Decision Date:

Ref ID: LA08/2018/0965/DC

Proposal: Discharge of Condition 4 (Traffic Management Plan) of planning permission LA08/2016/1328/F - Gas to the West. (HP Line - RDX80: Ballagh Road section)

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

Decision: AL

Decision Date:

Ref ID: LA08/2016/1328/F

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

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

Decision: PG

Decision Date:

Ref ID: LA08/2018/1354/DC

Proposal: Ecological Monitoring Report relating to Condition 24 of Planning Permission LA08/2016/1328/F

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

Decision:

Decision Date:

Ref ID: LA08/2018/0964/DC

Proposal: Discharge of Condition 4 (Traffic Management Plan) of Planning Permission LA08/2016/1328/F - Gas to the West (HP Line - RDX19: Pedan's Road Section)

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale,

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

Ref ID: LA08/2018/0146/DC

Proposal: Discharge of Condition 21 (Habitat Management Plan) of Planning Permission LA08/2016/1328/F - Gas to the West (Traditional Orchard locations)

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

Decision: AL

Decision Date:

Ref ID: LA08/2018/0157/DC

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

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

Decision: AL

Decision Date:

Ref ID: LA08/2017/1016/DC

Proposal: Discharge of Conditions 20 (CEMP), 21 (HMP) and 22 (ECOW) of planning permission LA08/2016/1328/F.

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

Decision: AL

Decision Date:

Ref ID: LA08/2018/0156/DC

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

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

Decision: AL

Decision Date:

Ref ID: LA08/2018/1467/DC

Proposal: Discharge of Condition 29 (Construction Method Statement) of Planning Permission LA08/2016/1328/F

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

Decision: RL

Decision Date:

Ref ID: LA08/2017/1352/DC

Proposal: Discharge of Condition 15 of planning permission LA08/2016/1328/F.

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

Decision: AL

Decision Date:

Ref ID: LA09/2016/0468/PAN

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

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

Decision:

Decision Date:

Ref ID: LA08/2017/1619/DC

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

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

Decision: RL

Decision Date:

Ref ID: LA08/2018/1422/DC

Proposal: Discharge of condition 5 (works affecting the A5 preferred route) of planning permission LA08/2016/1328/F

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale,

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

Ref ID: LA08/2018/0145/DC

Proposal: Discharge of Condition 21 (Habitat Management Plan) of planning permission LA08/2016/1328/F - Gas to the West. (3 areas of Purple Moor Gass and Rush Pasture)  
 Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Press  
 Decision: AL  
 Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

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

Date of Notification to Department:

Response of Department:



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

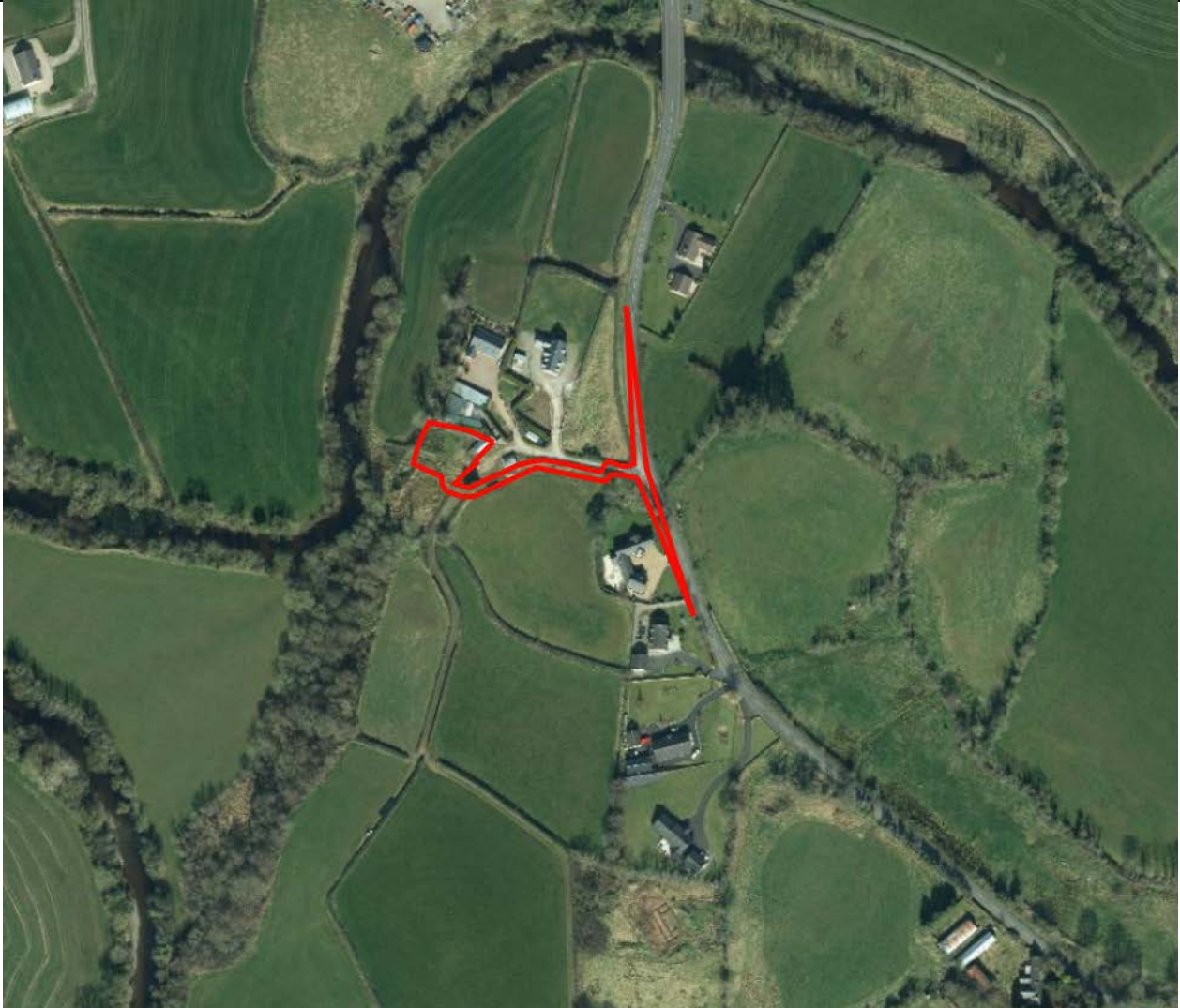
Development Management Officer Report  
Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1630/F	Target Date:
<b>Proposal:</b> This is a section 54 application regarding a proposed conversion of a redundant building to form one dwelling house approved under LA09/2016/0889/F. This application seeks to vary condition 3 of the approval to which planning approval was granted removing the need for a forward sight distance	<b>Location:</b> 40m South West of 38 Lisnamuck Road Tobermore
<b>Referral Route:</b>  This application is being presented to Committee as it is being recommended for Refusal	
Recommendation:	REFUSE
<b>Applicant Name and Address:</b> Mr Hopper 31 Draperstown Road Tobermore	<b>Agent Name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SG
Executive Summary:	
Signature(s):	



## 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	1
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

## Summary of Issues

No representations have been received in respect of this application.

## Characteristics of site and area

The site is located on the Lisnamuck Road approximately 2.0Km north west of Tobermore. The existing laneway serves two existing dwellings in addition to agricultural lands. The existing access is on the outside of a sweeping bend.



*Exiting existing access, looking right*



*Exiting existing access, looking left*

### Description of Proposal

This is a section 54 application regarding a proposed conversion of a redundant building to form one dwelling house approved under LA09/2016/0889/F. This application seeks to vary condition 3 of the approval to which planning approval was granted removing the need for a forward sight distance.

### Planning Assessment of Policy and other Material Considerations

The main policy consideration is the assessment of this proposal are:-

Magherafelt Area Plan 2015

Planning Policy Statement 3 – Access, Movement and Parking

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020.

In light of this the draft plan cannot currently be given any determining weight.

PPS 3 Policy AMP 2 - Access to Public Roads

Planning permission will only be granted from a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

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.

The proposal is seeking to remove the need for the forward sight distances as approved in Condition 03 of the previous application LA09/2016/0889/F.

LA09/2016/0889/F sought approval to convert a redundant building to a single dwelling.

There is planning history on this site for the approval of a conversion under H/2009/0710/O which expired in May 2016 but this full application was submitted within 5 years from the date of the outline approval. The 2009 application was originally sought on the basis of a replacement dwelling with an initial opinion to refuse the application resulting in the applicant amending the proposal to a conversion which was approved.

Following the deferred office meeting amended drawings were received which included the following changes:

- Rather than two separate accesses onto the Lisnamuck Road the applicant proposed to utilise the existing access and then create a new laneway, parallel to the existing laneway, to access the proposed dwelling.



During the consultation process for LA09/2016/0889/F, DfI Roads advised that they had no objection to the conversion of the redundant building to form one dwelling subject to the inclusion of the following conditions in relation to the access;

1. The vehicular access, including visibility splays of 2.4m x 80m in both directions, shall be in place, in accordance with Drawing No 02/1 bearing the date stamp 20th March 2017, prior to the commencement of any other works or other development hereby permitted.

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

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

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

It is clear therefore that the previous application for the conversion of the redundant building to a single dwelling would not have been approved without the conditions as noted above in respect of the proposed access.

DfI Roads have now advised that DCAN 15 paragraph 3.1 outlines the standards for the Forward Sight Distance required for new access and roads standards.

In order to create a safe access onto Lisnamuck Road (B class road) which meets the standards set out in PPS3 and DCAN 15 then the 2.4 x 80m sightlines and 80m Forward Sight Distance as conditioned on the application LA09/2016/0889/F applies.

Council should be aware that third party lands are required to achieve the 80m FSD and sightlines in both directions for the proposed access. Some facing back of hedge and tree removal for the 2.4 x 80m in the southern sight splay will be necessary.

Therefore, without the necessary forward sight distance as approved under LA09/2016/0889/F, the development cannot provide a safe access as required under PPS 3 Policy AMP 2.

DfI Road's comments regarding the need for the full visibility splays and the forward sight distance was copied to the agent on 3rd February 2020 seeking amended plans and again on 12th August 2020, but to date no response has been received.

Notwithstanding the lack of a response from the agent regarding submission of the amended plans as requested, it is obvious from DfI Roads consultation response that the Forward Sight Distance is required to enable a safe access to be provided to the approved development. Therefore in my opinion, I cannot see any alternative but to refuse this application which seeks to allow that same development to be provided without the need for the safe access in accordance with Planning Policy.

I recommend that the application be refused for the following reason:

Neighbour Notification Checked	Yes
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Summary of Recommendation:

Refuse for the reason stated.

Refusal Reasons

1. The proposed development would, if permitted, prejudice the safety and convenience of road users since adequate forward sight distance is not available on the public road at the proposed access.

Signature(s)

Date:

ANNEX	
Date Valid	12th December 2019
Date First Advertised	14th January 2020
Date Last Advertised	
<p>Details of Neighbour Notification (all addresses)</p> <p>The Owner/Occupier, 31 Lisnamuck Road,Tobermore,Londonderry,BT45 5QF</p> <p>The Owner/Occupier, 34a Lisnamuck Road,Tobermore,Londonderry,BT45 5QF</p> <p>The Owner/Occupier, 34b Lisnamuck Road,Tobermore,Londonderry,BT45 5QF</p> <p>Barry Henderson 36 Lisnamuck Road,Drumcrow,Tobermore,Magherafelt,BT45 5QF</p> <p>The Owner/Occupier, 36 Lisnamuck Road,Tobermore,Londonderry,BT45 5QF</p> <p>The Owner/Occupier, 38 Lisnamuck Road,Tobermore,Londonderry,BT46 5LD</p>	
Date of Last Neighbour Notification	3rd January 2020
Date of EIA Determination	N/A
ES Requested	No
<p>Planning History</p> <p>Ref ID: LA09/2019/1630/F</p> <p>Proposal: This is a section 54 application regarding a proposed conversion of a redundant building to form one dwelling house approved under LA09/2016/0889/F. This application seeks to vary condition 3 of the approval to which planning approval was granted removing the need for a forward sight distance</p> <p>Address: 40m South West of 38 Lisnamuck Road, Tobermore,</p> <p>Decision:</p> <p>Decision Date:</p> <p>Ref ID: LA09/2016/0889/F</p> <p>Proposal: Proposed conversion of a redundant building to form one dwelling</p> <p>Address: 40m South West of 38 Lisnamuck Road, Tobermore, Magherafelt,</p> <p>Decision: PG</p> <p>Decision Date: 04.03.2019</p> <p>Ref ID: H/1974/0349</p> <p>Proposal: 11KV AND MV O/H LINES C.5416</p> <p>Address: DRUMCROM AND MONEYSHANERE, MAGHERAFELT</p>	

Decision:  
Decision Date:

Ref ID: H/2009/0710/O  
Proposal: Proposed conversion of existing building to dwelling house with associated extension and alterations.  
Address: 40m South West of 30 Lisnamuck Road, Tobermore, Magherafelt  
Decision: PG  
Decision Date: 24.05.2013

Ref ID: H/2006/0916/O  
Proposal: Site of proposed dwelling and garage  
Address: Lands 80m South West of No.38 Lisnamuck Road, Tobermore  
Decision:  
Decision Date:

Ref ID: H/2010/0275/LDE  
Proposal: Attic conversion to dwelling  
Address: 30 Lisnamuck Road, Maghera  
Decision:  
Decision Date:

Ref ID: H/1996/0025  
Proposal: DWELLING AND GARAGE  
Address: BEHIND 30 LISNAMUCK ROAD MAGHERA  
Decision:  
Decision Date:

Ref ID: H/2006/0231/F  
Proposal: Replacement Dwelling  
Address: Formerly 30 Lisnamuck Road, Tobermore, Magherafelt  
Decision:  
Decision Date: 24.10.2006

Ref ID: H/1995/0545  
Proposal: SITE OF DWELLING AND GARAGE  
Address: BEHIND 30 LISNAMUCK ROAD MAGHERA  
Decision:  
Decision Date:

Ref ID: H/1995/0341  
Proposal: SITE OF DWELLING AND GARAGE  
Address: BEHIND 30 LISNAMUCK ROAD MAGHERA  
Decision:  
Decision Date:

Ref ID: H/1996/0322  
Proposal: ALTS AND ADDS TO DWELLING  
Address: 30 LISNAMUCK ROAD TOBERMORE  
Decision:

Decision Date:
Summary of Consultee Responses  DfI Roads advised that the Forwards Sight Distance is required and requested amended drawings to show this.
Drawing Numbers and Title
Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted  Drawing No. 01 Type: Site Location Plan Status: Submitted
Notification to Department (if relevant)  Date of Notification to Department: Response of Department:





**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0034/O	<b>Target Date:</b>
<b>Proposal:</b> Outline Permission for a proposed dwelling at an existing cluster.	<b>Location:</b> Adjacent to and SW of 150a Washingbay Road Upper Meenagh Coalisland Co Tyrone BT71 4QE.
<b>Referral Route:</b> Refusal - Contrary to CTY 2a of PPS 21.	
<b>Recommendation:</b>	REFUSAL
<b>Applicant Name and Address:</b> Patrick Brady 154 Washingbay Road Upper Meenagh Coalisland BT71 4QE	<b>Agent Name and Address:</b> Blackbird Architecture Ltd 4 Glenree Avenue Dungannon BT71 6XG
<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

No third party representations received.  
Contrary to PPS 21 - CTY2a.

## Characteristics of the Site and Area

The site is located adjacent and SW of 150a Washingbay Road, Upper Meenagh, Coalisland. The site is located within the countryside as designated within the Dungannon and South Tyrone Area Plan 2010. The site's current use is agricultural land. The site sits at lands lower than No. 150A and has a mix of boundary treatments including mature trees, post and wire fencing and a grass bank. The immediate surrounding land uses is made up of single dwellings and associated outbuildings. Beyond that, the lands are predominantly agricultural fields with dispersed dwellings and outbuildings.

## Description of Proposal

Outline planning permission is sought for a proposed dwelling at an existing cluster.

## Planning Assessment of Policy and Other Material Considerations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 150A, 150B, 154, 152, 150, 148C and 146 Washingbay Road. At the time of writing, no representations were received.

### Planning History

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

### Planning Assessment of Policy and Other Material Considerations

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

The Dungannon and South Tyrone Area Plan 2010 identify the site as being outside any defined settlement limits, located North East of Annaghmore Settlement Limits. There are no other zonings or designations within the Plan.

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020. In light of this the draft plan cannot currently be given any determining weight.

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations.

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

range of examples are set out in CTY 1 detailing different cases which would allow for planning permission in the countryside, one of these being new dwellings in existing clusters in accordance with CTY 2a.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided that a number of criteria are met. The cluster of development lies outside of a farm and consists of four or more buildings. There are two dwellings north and north east of the red line of the site (150A and 150B) and there is a further dwelling which is derelict south of the site. The agent has also noted on the site location plan the indicative footprint of dwelling with outline planning permission LA09/2017/1756/O however I would note that weight is only given to substantially complete buildings rather than permissions or foundations. I am content that there is at least three dwellings within the cluster. The cluster is read together and appears as a visual entity in the local landscape. The first and second criteria of CTY 2a have been met.



*The red arrow shows the proposed application site.*



*The derelict dwelling south of the site.*



The third criterion of CTY 2a requires the cluster to be associated with a focal point such as a social/community building/facility, or is located at a cross roads. The agent has provided justification for the site and has noted a water pump (known locally as “Morris’s Pump” as stated in planning statement) as the focal point. The agent has provided a further testimony from the applicant which explores further why they consider the water pump as a focal point. The testimony notes that in the past, local families would have gathered at the pump as it was the only water supply for all the households in the townland. From my site visit and from the information provided by the agent/applicant, I am not convinced that the water pump referred to can be considered as a focal point at present. Consequently, it is considered that there is no focal point and therefore the third criterion of CTY 2a has not been met. Policy CTY 2a states that all criteria must be met, therefore the proposal is contrary to policy and as such refusal is recommended.



*The focal point the agent refers to – Water Pump “Morris’s Pump”.*

The proposed site is located South and South West of the existing dwellings on site (150B and 150A) and is set back some distance from the public road, therefore public views would be somewhat limited. There is an existing agricultural shed SW of the site and thus I consider that the site is bounded on at least two sides with other development in the cluster and therefore the proposal meets the fourth criterion of Policy CTY2a. I feel that the proposed site could be developed to be absorbed into the existing cluster through rounding off and consolidation and site wouldn’t alter the existing character or visually intrude into the open countryside if approval was to be forthcoming.



*Cluster of dwellings surrounding site  
(Note: No.05 is an outline permission only – nothing built on site)*

I am also satisfied that the proposed site would not have significant adverse impact on neighbouring amenity, this would be further considered at RM stage if approval was to be forthcoming. The sixth criterion of CTY 2a has been met.

Policies CTY 13 and CTY 14 are also applicable in relation to the proposal. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. However, given the limited views available of the site from public view points and existing landscaping, it is considered that the impact of a suitably designed dwelling would be minimal at this site if approval was forthcoming.

DfI Roads were consulted and have requested further information including the number of vehicles per day (VPD) in line with DCAN 15, the access details and sight splays within the red line. The agent responded to their consultation response noting that they can assume that the site would generate a further 10 VPD and that given that the two dwellings which use the current lane were previously approved under replacement policy and therefore it was not compulsory to improve or upgrade the existing access to the road. It was not considered necessary to request any further information given that the

site failed to meet all of the policy requirements of CTY 2a of PPS 21 and would be recommended for refusal to the Committee.	
<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation:</b>  It is considered the proposal is contrary to the relevant planning policy and thus refusal is recommended.	
<b>Conditions/Reasons for Refusal:</b>  Refusal Reasons  1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.  2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point or is not located at a cross-roads.	
<b>Signature(s)</b>  <b>Date:</b>	

ANNEX	
<b>Date Valid</b>	10th January 2020
<b>Date First Advertised</b>	21st January 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 146 Washingbay Road, Coalisland, Tyrone, BT71 4QE The Owner/Occupier, 148c , Washingbay Road, Coalisland, Tyrone, BT71 4QE The Owner/Occupier, 150 Washingbay Road, Coalisland, Tyrone, BT71 4QE The Owner/Occupier, 150A Washingbay Road, Coalisland, Tyrone, BT71 4QE The Owner/Occupier, 150B Washingbay Road, Coalisland, Tyrone, BT71 4QE The Owner/Occupier, 152 Washingbay Road, Coalisland, Tyrone, BT71 4QE The Owner/Occupier, 154 Washingbay Road, Coalisland, Tyrone, BT71 4QE	
<b>Date of Last Neighbour Notification</b>	20th January 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2017/0483/RM Proposal: Replacement Dwelling Address: 310m West of 158 Washingbay Road, Upper Meenagh, Coalisland, Decision: PG Decision Date: 02.08.2017  Ref ID: LA09/2018/1434/F Proposal: Storey and a half and detached garage with a maximum ridge height of 6.5m Dwelling to consist of 2 pitched roof elements with flat roof link and to a split level ground floor Address: 70m South West of 156 Washingbay Road, Upper Meenagh, Coalisland, Decision: PG Decision Date: 11.06.2019	



Ref ID: LA09/2017/0388/RM

Proposal: Replacement dwelling and detached garage.

Address: 70m Souht West of 158 Washing Bay Road, Upper Meenagh, Coalisland,

Decision: PG

Decision Date: 26.06.2017

Ref ID: LA09/2020/0034/O

Proposal: Outline Permission for a proposed dwelling at an existing cluster.

Address: Adjacent to and SW of 150a Washingbay Road, Upper Meenagh, Coalisland, Co Tyrone, BT71 4QE.,

Decision:

Decision Date:

Ref ID: LA09/2017/1756/O

Proposal: Replacement dwelling

Address: 30m South West of 152 Washingbay Road, Upper Mennagh, Coalisland,

Decision: PG

Decision Date: 09.03.2018

Ref ID: M/2014/0574/O

Proposal: Replacement dwelling

Address: 310m West of 158a Washingbay Road, Upper Meenagh, Coalisland,

Decision: PG

Decision Date: 31.03.2015

Ref ID: M/2014/0326/O

Proposal: Outline planning permission for a replacement dwelling

Address: 70m South West of 158 Washing Bay Road, Upper Meenagh, Coalisland, BT71 4QE,

Decision: PG

Decision Date: 08.08.2014

Ref ID: M/1994/0680

Proposal: Site for Dwelling and Garage

Address: OPPOSITE 148 WASHINGBAY ROAD MEENAGH COALISLAND

Decision:

Decision Date:

Ref ID: M/1998/0841

Proposal: Proposed Replacement Dwelling

Address: 50M SOUTH WEST OF 152 WASHINGBAY ROAD COALISLAND

Decision:

Decision Date:

Ref ID: M/2004/0974/O  
 Proposal: Dwelling House  
 Address: 50 Meters South West of 154 Washingbay Road Upper Meenagh Coalisland  
 Dungannon  
 Decision:  
 Decision Date: 21.01.2005

Ref ID: M/2011/0257/F  
 Proposal: Dwelling & Garage  
 Address: Approx. 45M West of 154 Meenagh Road, Coalisland, BT71 4QE,  
 Decision:  
 Decision Date: 15.11.201

Ref ID: M/1980/0418  
 Proposal: ERECTION OF BUNGALOW  
 Address: UPPER MEENAGH, COALISLAND  
 Decision:  
 Decision Date:

### **Summary of Consultee Responses**

Dfl Roads: Requesting more information.

### **Drawing Numbers and Title**

Drawing No. 02  
 Type: Photograph  
 Status: Submitted

Drawing No. 04  
 Type: Site Layout or Block Plan  
 Status: Submitted

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

Drawing No. 03  
 Type: Site Layout or Block Plan  
 Status: Submitted

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

Date of Notification to Department:  
 Response of Department:



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

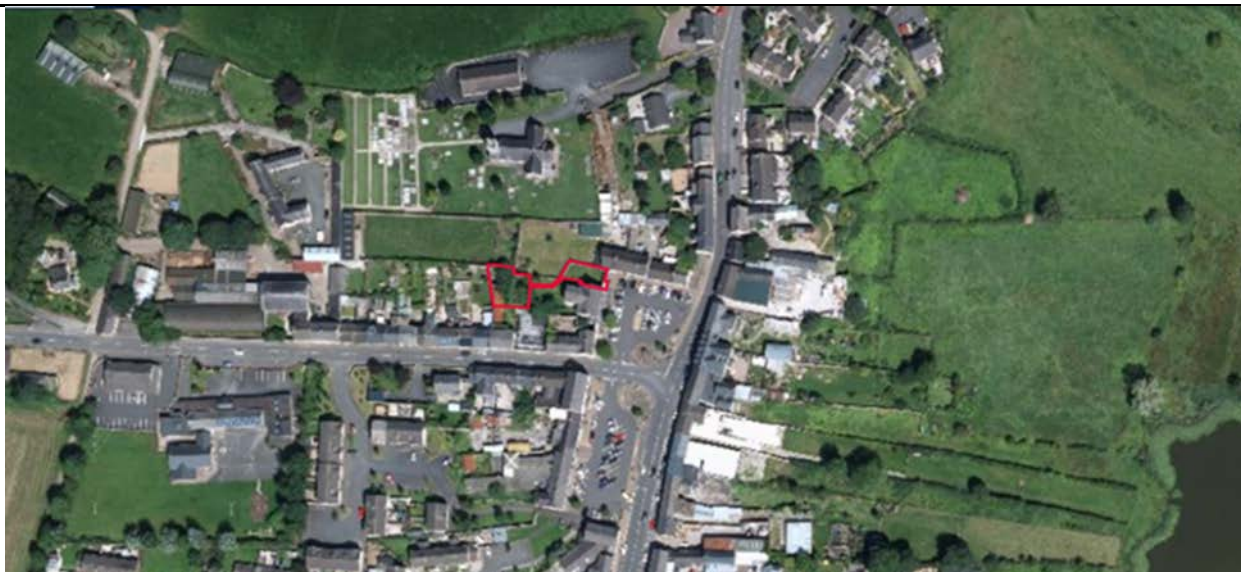
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0089/F	<b>Target Date:</b>
<b>Proposal:</b> Material change of use , conversion of existing natural stone barn to dwelling	<b>Location:</b> Stone Barn 20m West of former Ulster Bank premises 26-27 The Square Stewartstown
<b>Referral Route: Objection</b>	
<b>Recommendation: Approve</b>	
<b>Applicant Name and Address:</b> Ryan Smith Properties Ltd 1 North Street Stewartstown Dungannon	<b>Agent Name and Address:</b> T/A T4 Architects 169 Coagh Road Drumbonaway Stewartstown BT71 5LW
<b>Executive Summary:</b> Barn conversion to dwelling deemed acceptable.  1 third party objection received from Mr Coyle, owner / occupier of no. 25 The Square, the end terrace property adjacent an existing gated entrance to the north side of the former bank, accessing the yard the barn sits within. Mr Coyle objected to vehicular access to the site via the gated entrance adjacent his property and parking within the site on the grounds of safety; and damage to his property.  Due to Planning's concerns regarding the restricted nature and safety of the initially proposed access into the site for purposes of in-curtilage parking; and subsequently Mr Coyle's letter the agent was contacted to consider removing the in-curtilage parking from this proposal. The agent subsequently submitted an amend drawing on the 2 <sup>nd</sup> September 2020 to show the development no longer proposes to provide in-curtilage car parking.  Whilst it is unusual for parking to be so far removed from the property, given the very particular circumstances surrounding the restricted access; and in the interests of providing an opportunity to convert this building on balance this arrangement is felt to be acceptable subject to condition.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection

### Representations:



Letters of Support	None Received
Letters of Objection	1
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
<b>Summary of Issues</b> - 1 objection letter received see 'Planning Assessment of Policy and Other Material Considerations' for further details.	

### Description of Proposal

This is a full planning application for a material change of use of an existing building located to the rear of the former Ulster Bank premises at 26-27 The Square, Stewartstown.

The existing building a natural stone barn is proposed to be converted to a 3 bedroom dwelling.



Fig. 1 Barn to be converted

Whilst what remains of the internal structure will be re-configured to accommodate this change of use, the external structure will largely remain as is and where required be rebuilt/made good in materials to match the existing. All existing door and window openings in the external walls of the building will be retained and new doors and windows will be inserted given none are currently present.

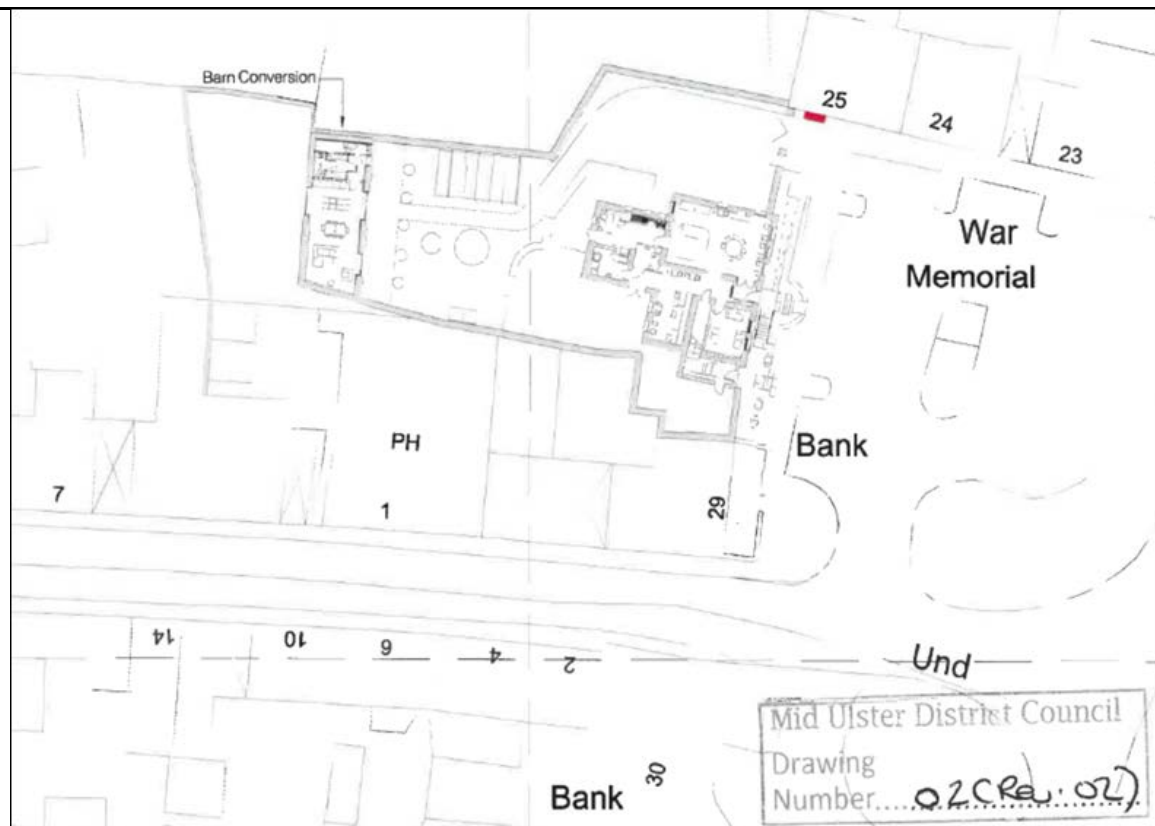


Fig.2 Block plan showing barn located to rear of former bank



Fig. 3 Proposed elevations of dwelling

**Characteristics of the Site and Area**

The site is located within the development limits of Stewartstown and an Area of Townscape Character, defined in the Cookstown Area Plan 2010.

The site contains an existing 2 storey (approx. 6.5m above FFL) stone barn, the subject of this application, situated within an enclosed yard to the rear of the former Ulster Bank Premises at 26-27 The Square, Stewartstown.

The former bank is a large two-storey building with the appearance of a former dwelling. It fronts onto 'The Square' to its east, which comprises an area of communal car parking within the centre of the village. The yard to the rear of the bank, which the barn sits in, is bound to its south side by a line of terraced development running along West Street; and a wall to its north side and west side / rear behind the barn.

The barn which has fallen into a state of disrepair has a simple rectangular floor plan and had a pitched roof construction however much of the roof has collapsed as has some of its external structure. That said all external walls of the barn and openings within are largely intact. It has three large arched doorways in the ground floor and 3 small rectangular windows in the upper floor of its front elevation; one large arched doorway and one small rectangular window in the upper floor of its rear elevation; and no doors or windows in its gable ends.

The length of the barn is the full depth of the yard it sits within as such the barns frontage screens a small yard to its rear. This small yard on the date of site inspection appeared to contain rubble from the demolition of a building previously on and running along the back boundary of the site.

The barn / yard it is located within is accessed off The Square car park via an existing gated entrance to the north side of the former bank, between it and no. 25 The Square, a 2-storey end terrace dwelling. Access to this entrance off The Square is over a dropped kerb footpath along the front of no. 25's front entrance porch, which sits on the footpath. There is also a public right of way accessing the site off West Street via a covered alley between nos.1 and 3 West Street.

The surrounding context is urban with a mix of uses ranging from residential, retail, a church and a public house. Noted there was a recent planning approval (LA09/2019/0564/F) to change the use of part of the former bank premises adjacent the site to a ground floor sandwich bar/coffee shop with the remainder 1st and 2nd floor to residential apartment, and these works are underway.

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

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

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

Cookstown Area Plan 2010

SPPS – Strategic Planning Policy Statement for Northern Ireland

PPS 3 – Access, Movement and Parking

PPS 6 – Planning, Archaeology and the Built Heritage

PPS 6 (Addendum): Areas of Townscape Character

PPS 7 – Quality Residential Environments

PPS 7 (Addendum) - Safe Guarding the Character of Established Residential Areas  
Creating Places

DCAN 8 Housing in Existing Urban Areas

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22<sup>nd</sup> February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25<sup>th</sup> March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24<sup>th</sup> September 2020. In light of this the draft plan cannot currently be given any determining weight.

**History on Site**

On Site

- I/1994/0374 - Extension to Bank - 26/27 The Square Stewartstown – Granted 11<sup>th</sup> November 1994
- I/1994/0405 - Projecting Sign - 26/27 The Square Stewartstown – Granted 16<sup>th</sup> November 1994
- I/2004/1246/F - Provision of ramp, steps and handrail to provide DDA compliant access to bank. Provision of new external lights at entrance, ramp and ATM - 26/27 The Square Stewartstown - Granted 5<sup>th</sup> January 2005
- I/2005/0713/LB - External facade to be painted; Non-illuminated white letters with white acrylic returns pin mounted to facade; New externally illuminated suspended projecting sign; New ATM Surround to match facade: Two no. New Aluminium signs either side of door fixed to side of building - 26/27 The Square Stewartstown - Consent Granted 10<sup>th</sup> August 2005
- I/2005/0714/A - External facade to be painted; Non-illuminated white letters with white acrylic returns mounted to facade; New externally illuminated suspended projecting sign; New ATM Surround to match facade; Two no. aluminium signs either side of door fixed to building - 26/27 The Square Stewartstown - Consent Granted 10<sup>th</sup> August 2005
- I/2006/1045/A - Internally illuminated letters on a background panel. Externally illuminated projecting sign on fascia. Welcome / security / ATM signage - 27 The Square, Stewartstown – Consent Granted 15<sup>th</sup> February 2007



- LA09/2018/0021/F - Removal of external ATM and signage and infilling of exposed ATM aperture with material to match the existing elevation - Ulster Bank 27 The Square Stewartstown - Granted 15<sup>th</sup> February 2018
- LA09/2019/0563/A - External facade to be painted; Non-Illuminated white letters and logo with white acrylic returns pin mounted to facade as per previous Ulster Bank Limited signage - Former Ulster Bank Premises 26-27 The Square, Stewartstown - Consent Granted 27<sup>th</sup> June 2019
- LA09/2019/0564/F - Proposed change of use of part of former Ulster Bank premises to ground floor sandwich bar/coffee shop with the remainder 1st and 2nd floor to residential apartment - Former Ulster Bank Premises 26-27 The Square, Stewartstown - Granted 27<sup>th</sup> June 2019

#### Adjacent Site

- I/1996/0305 - Replacement Antique Shop - 1 West Street Stewartstown - 11<sup>th</sup> September 1996
- I/2000/0191/F - Replacement Stores and Repair Area - Rear of 1 West Street Stewartstown - 15<sup>th</sup> November 2000
- LA09/2019/0808/F - Demolition of an existing commercial building and redeveloped with a residential building containing 5 no 2 bed apartments - Silver Saddle Antiques 1 West Street Stewartstown - Granted 2<sup>nd</sup> October 2019

#### **Consultations**

1. DfI Roads were consulted in relation to the access arrangement to the site. Roads responded that the red outline of the site does not abut the public road network. That DfI Roads do not maintain or have responsibility for the Square Car Park therefore have no comment to make on the practicalities and control of the applicant maintaining access of the private drive access onto the car park.
2. NI Water – Single Units West were consulted and raised no objections.

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

Cookstown Area Plan 2010 – Cookstown Area Plan is the extant Plan for the area and identifies the site as being within the settlement limits of Stewartstown and within an Area of Townscape Character.

The Plan has defined the settlement limits and allows for development within these limits provided it meets with regional policy requirements of Policy SETT 1 (Settlement Limit's) and Policy CON 7 (Areas of Townscape Character ATC's).

Policy SETT 1 gives favourable consideration to development proposals within settlement limits subject to general criteria including the proposal being in accordance with prevailing regional planning policy and the policies, requirements and guidance contained in Part 3 of the Plan. Policy CON 7 only allows development proposals in ATC's where they are sympathetic to the building traditions of the area in terms of

scale, form, massing and design and will not detract from the overall character and appearance of the area.

I consider if the development complies with the following policies which I consider most relevant, it will meet with the requirements of the Plan: the SPPS; PPS 3 Access, Movement and Parking; PPS 6 Planning, Archaeology and the Built Heritage; PPS 6 (Addendum): Areas of Townscape Character; PPS 7 Quality Residential Environments; and the addendum to PPS 7 Safe Guarding the Character of Established Residential Areas.

The Strategic Planning Policy Statement (SPPS) 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.

In term of housing, the SPPS gives specific provision for Housing in Settlements subject to a number policy provisions. It highlights the need to deliver sustainable forms of development, that the use of greenfield land for housing should be reduced and more urban housing accommodated through the recycling of land and buildings and the encouragement of compact town and village forms. In addition, in terms of ATC's the SPPS advocates that new development should maintain or enhance the ATC and respect its built form.

The SPPS does not present any change in policy direction with regards to Housing in Settlements or ATC's as such, existing policies will be applied, primarily PPS 3 Access, Movement and Parking; PPS 6 Planning, Archaeology and the Built Heritage; PPS 6 (Addendum): Areas of Townscape Character; PPS 7 Quality Residential Environments; and the addendum to PPS 7 Safe Guarding the Character of Established Residential Areas.

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

a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;

I am content this development respects the surrounding context and is appropriate to the character and topography of the site. As this is a change of use of an existing building with works to its external appearance only to restore it in finishes to match. I believe the proposed works will enhance the appearance of the existing building and in turn the immediate area. It will also bring a disused building back into use

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

In addition to the above policy ATC 2 of the addendum to PPS 6 outlines new development will only permitted in an ATC where it maintains or enhances its overall character and respects the built form of the area. It also requires that any trees, archaeological or other landscape features which contribute to the distinctive character of the area are protected and integrated in a suitable manner into the design and layout of the development

I am content the proposal will not impact features of archaeological heritage or landscape features, as there is none on site. And whilst St Patrick's Church of Ireland a Listed Building and it's curtilage is located approx. 35m north of the site I am content given the separation distance, location of the site and the nature of the works they should not have affect the setting of the Church. I believe the design respects the listed building in terms of scale, height, massing and alignment; sympathetic building materials and techniques, which respect those found on the building; and the nature of the use proposed respects the character of the setting of the building. And as outlined above as this is a change of use of an existing building with works to its external appearance only to restore it in finishes to match. I believe the proposed works will enhance the appearance of the existing building and in turn the immediate area. It will also bring a disused building back into use

c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;

Public open space is not a requirement for this type of proposal. And I am content private amenity space to the rear of the dwelling at approx. 175m<sup>2</sup> well in excess of the 70m<sup>2</sup> promoted in creating places has been provided within the yard to the rear of the property.

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

I am dealing solely with an application for a single dwelling in which local neighbourhood facilities in their own right would not be required.

e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;

This proposal will support walking and cycling, and help meets the needs of people whose mobility is impaired by reason of its village centre location which will provide the

occupiers of the dwelling with adequate and convenient access to existing services and facilities within the village including public transport to wider afield.

f) adequate and appropriate provision is made for parking;

The proposed development does not propose to provide any in-curtilage car parking and ordinarily some should be provided in accordance with the Car Parking Standards. Ancillary parking I am content can be catered for within the 'The Square', car park to the east of the site. Whilst it is unusual for parking to be so far removed from the property given the very particular circumstances (see 'Representations' below) surrounding the restricted access; and in the interests of providing an opportunity to convert this building on balance this arrangement is felt to be acceptable subject to condition as below:

- All access and parking for future occupants of the development hereby approved shall be via available on street provision only. Reason: Due to the restricted nature of the existing access to the site and in the interests of safety and convenience of adjoining properties.

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

The design and finishes of the proposed development are considered acceptable to the site and locality. As aforementioned whilst what remains of the internal structure of the building will be re-configured to accommodate this change of use, the external structure will remain and where required be rebuilt/made good in material to match the existing. All existing door and window openings in the external walls are to be retained with new doors and windows to be inserted given none are currently present.

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

I am content this proposal should not create conflict with adjacent land uses. See 'Planning History' above regarding potential development adjacent the east and south side of the site LA09/2019/0564/F and LA09/2019/0808/F respectively. And, there should be no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance by the nature of this change of use proposal.

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

I am satisfied that the resultant dwelling is located within the village centre of Stewartstown whereby there enough properties close by to deter crime to some degree.

On the basis of the above assessment it is clear that the proposal under consideration complies with all the criteria set out in policy QD 1 of PPS 7.

#### PPS 7 (Addendum) - Safe Guarding the Character of Established Residential Areas

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

#### **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty.

At the time of writing, 1 third party objections was received from Mr Coyle, the owner / occupier of no. 25 The Square, the end terrace property adjacent an existing gated entrance to the north side of the former bank, accessing the yard the barn sits within.

Mr Coyle outlined his family have resided at no. 25 The Square for over 60 years. That whilst he welcomes the redevelopment of the bank and associated buildings he objects to vehicular access to the site via the gated entrance adjacent his property and parking within the site on the grounds of safety; and damage to his property. He raised the following concerns/issue:

- the entrance was never a public access it has only been used for maintenance to the properties on site since the troubles started in the early 70s. The bank manager at that time who lived in the bank used it for his car and delivery of coal. Vehicles from that era were considerably smaller than today's hence use of the entrance being be a tight squeeze is an understatement. If you look at the rest of the entrances on The Square, which require vehicles to cross the pavement, they have paving to support vehicle weight. There is none of this in front of my house, because no vehicles have been taken into the bank grounds in over 45 years.
- since work began to the bank there has been damage caused to my property because of vehicles having trouble getting through the entrance gates; and the footpath adjacent has been in a state of disrepair despite attempts by workers to patch it, it remains uneven and a danger to walk on; and someone could get knocked down leaving / entering his house.

Prior to the objection above the agent had submitted a supporting statement/additional information on the 29<sup>th</sup> June 2020 in relation to the use of the access referred to above as Planning had already concerns over it use for this proposal. Upon receipt of the supporting statement/additional information received Planning opinion remained the proposal was intensification of a restricted access. Accordingly, due to Planning's concerns regarding the restricted nature and safety of the initially proposed access into the site for purposes of in-curtilage parking particularly due to its close proximity to Mr Coyle's front porch; and subsequently Mr Coyle's letter the agent was contacted to consider removing the in-curtilage parking from this proposal.

The agent subsequently submitted and amend drawing on the 2<sup>nd</sup> September 2020 to show the development no longer proposes to provide in-curtilage car parking, which I am content should address both Planning and the Mr Coyle's concerns above. Neighbours

were re-neighbour notified of the amended drawing on 7<sup>th</sup> September 2020 and to date no further objections, have been received.

As stated earlier in the report, whilst it is unusual for parking to be so far removed from the property, given the very particular circumstances surrounding the restricted access; and in the interests of providing an opportunity to convert this building on balance this arrangement is felt to be acceptable subject to condition as below:

- All access and parking for future occupants of the development hereby approved shall be via available on street provision only. Reason: Due to the restricted nature of the existing access to the site and in the interests of safety and convenience of adjoining properties.

### **Other Considerations**

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

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

<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation</b>	Approve
<b>Conditions</b>	
<p>1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.</p> <p>Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.</p> <p>2. All access and parking for future occupants of the development hereby approved shall be via available on street provision only.</p> <p>Reason: Due to the restricted nature of the existing access to the site and in the interests of safety and convenience of adjoining properties.</p> <p><u>Informatives</u></p> <p>1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.</p> <p>2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.</p> <p>3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under</p>	

other prevailing legislation as may be administered by the Council or other statutory authority.

**Signature(s)**

**Date:**





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0093/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage on a farm	<b>Location:</b> 60m East of 43 Carnaman Road Gulladuff
<b>Referral Route:</b>  To Committee - Refusal - Contrary to CTY 1 and 10 of PPS 21.	
<b>Recommendation:</b>	refuse
<b>Applicant Name and Address:</b> Mr James Mc Erlean 35 Carnaman Road Gulladuff	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge Magherafelt BT41 3SG
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

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

### Characteristics of the Site and Area

The site is located approximately 2.2km east of the development limits of Gulladuff, from which the site is located within the open countryside as per the Magherafelt Area Plan 2015. The red line covers an agricultural field which has a heavy tree cover, in which is accessed via an existing access. I note that the immediate and surrounding area is characterised by agricultural land uses with a scattering of residential dwellings.

#### Representations

One neighbour notification was sent out however no representations were received in connection with this application.

## Description of Proposal

This is an outline application for a proposed dwelling and garage on a farm the site is identified as 60m east of 43 Carnaman Road, Gulladuff.

## Planning Assessment of Policy and Other Material Considerations

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

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

Mid Ulster Local Development Plan 2030 - Draft Strategy

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 10 - Dwellings on Farms

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

CTY14 - Rural Character

PPS 3 - Access, Movement and Parking;

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

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

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

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

With respect to (a) a consultation was sent to DAERA with regards to the Farm Business, in their response stated that the business has been allocated in 1991, however went on to confirm that the farm business is closed. From this I am of the opinion that the farm business cannot be used. I note that there has been no details on how the farm business is active even despite the business number being closed, no information has been forthcoming.

With respect to (b), I first note that an up to date farm map was requested given the map sent in being from 2006. I note that this has never been submitted. In using the original map and doing an initial checks that, it does not appear that there are any development opportunities attained or sold off the farm business.

With respect to (c), I first note that the registered farm address is located approximately 280m north of the site, however around the site there are two old farm buildings that are in need of repair. After discussions with the SPTO, it was agreed that despite the state of the buildings that these could still constitute as an existing group of buildings on the farm. With this in mind, I am content that the site would be able to group with this existing group. I note that the policy does where practicable that access should be taken from an existing lane, I note that the intention is to alter an existing access which I am content that this is still acceptable.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore there are no design or layout details however I am content that an appropriately designed dwelling would not appear as a prominent feature in the landscape. I note that a number of trees would be removed as part of the application wherein as much of the existing landscaping should be retained where possible and supplemented with additional landscaping to aid integration. Therefore, a landscaping plan will be needed I any reserved matters application. Given the development pattern I feel it necessary to restrict the ridge height of any dwelling to have a ridge height of no more than 6.5m above finish floor level. From which, I am content that the application is able to comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As stated that an appropriately designed dwelling would not appear as visually prominent. I am of the opinion that the proposed dwelling would not result in a suburban style build-up of development when viewed with existing and approved buildings. I am content that this application is unlikely to lead to further development through infilling. From all of this it has been agreed that the application is able to comply with CTY 14 on balance.

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020.

<p>Other policy and material considerations</p> <p>PPS 3 - Access, Movement and Parking; DFI Roads were consulted and responded to state that they have no objections subject to conditions and informatives.</p> <p>I have no ecological, flooding or residential amenity concerns.</p>	
<p><b>Neighbour Notification Checked</b></p>	<p><b>Yes</b></p>
<p><b>Summary of Recommendation:</b></p> <p>Refusal</p>	
<p>Reasons for Refusal:</p> <p>1.The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.</p> <p>2.The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active.</p>	
<p><b>Signature(s)</b></p> <p><b>Date:</b></p>	

ANNEX	
<b>Date Valid</b>	21st January 2020
<b>Date First Advertised</b>	11th February 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 43 Carnaman Road Knockcloghrim Magherafelt	
<b>Date of Last Neighbour Notification</b>	29th January 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/0093/O Proposal: Proposed dwelling and garage on a farm Address: 60m East of 43 Carnaman Road, Gulladuff, Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	
Drawing No. 01 Type: Site Location Plan Status: Submitted	
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:	



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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0213/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed restructuring and alterations of vehicular access	<b>Location:</b> 18 Cookstown Road Dungannon
<b>Referral Route: Refusal</b>	
<b>Recommendation:</b>	Refuse
<b>Applicant Name and Address:</b> Mr Barry O'Neill 18 Cookstown Road Dungannon	<b>Agent Name and Address:</b> McKeown and Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

**Case Officer Report****Site Location Plan**

**Date of Site Visit:** 13/03/2020

**Representations:** None Received

**Description of proposal**

The proposal seeks full planning permission for the proposed restructuring and alterations of vehicular access, to provide visibility splays of 4.5m by 120m to the south and 2.4m by 100m to the north.

**Characteristics of site and area**



The application site is located at 18 Cookstown Road, Dungannon within the Dungannon Green Belt and outside any settlement limits as identified within the Dungannon and South Tyrone Area Plan 2010. The application site incorporates land at the existing access point of No. 18 onto the existing public road and land along the roadside to the north and south of the access which is required to provide improvements to the existing visibility splays.

There are a number of buildings and businesses located adjacent and west of the site, most seem to be used for storage, however uses are mixed and include retail and industrial. The wider surrounding context is predominantly rural in character with green fields, as well as dispersed dwellings, farm holdings and industrial works in proximity. The site is accessed via the A29 protected route.

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

Under the provisions of the Planning Act (Northern Ireland) 2011, all decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise. Dungannon and South Tyrone Area Plan 2010 is the relevant, extant Development Plan for the site. Account will also be taken of the relevant provisions of the SPPS and retained Planning Policy Statements (PPSs). The Strategic Planning Policy Statement for Northern Ireland (SPPS) published in September 2015 confirms that until such time as a Plan Strategy for the whole of the Council Area has been adopted the Council should continue to apply existing policy and guidance contained in retained PPSs and other relevant documents together with the provisions of the SPPS itself.

Dungannon and South Tyrone Area Plan 2010: The access is onto a Protected Route as defined in the area plan (A29 between Dungannon and Cookstown). The area plan states that PPS 3 is the regional policy which will be taken into account in determining planning applications involving development which affects the public road network and public safety. There is no conflict between SPPS and any of the current policies of PPS3 Access, Movement and Parking.

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. No conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and those of retained policies regarding issues relevant to this application.

PPS 3: Access, Movement and Parking: sets out the Department's planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning.

### **RELEVANT PLANNING HISTORY**

LA09/2019/1183/F- Proposed Retention of Building to Provide Communal Site Canteen, Locker Room + First Aid Facilities, Pending (Deferred for Office Meetings)

LA09/2017/1258/F- Proposed retention of building as a domestic garage, incidental to the domestic usage of Dwelling at 18 Cookstown Road, Dungannon. Refused 13.06.2019 in that;

- The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy EXT 1 of the Addendum to Planning Policy Statement 7 Residential Extensions and Alterations in that the development would, if permitted, be inappropriate in terms of scale, massing, siting and design and would not appear subordinate or sympathetic with the existing property;

- The proposal is contrary to Planning Policy Statement 3: Access, Movement and Parking in that it has not been demonstrated that a safe and satisfactory access can be gained to the site from the public road, including visibility splays of 4.5m by 120.0m in both directions.

It is noted that originally the above application description of proposal was amended from Agricultural to domestic garage.

2017/E0050 - Lands 10m west and 10m north of No. 18 Cookstown Road, Dungannon, specifically identified as units 4 and 11, Ross Beg, Dungannon - Unauthorised change of use of: unit 4 to a dance studio with associated gymnasium; and unit 11 to a vehicle repair business - Enforcement Notice Upheld 13/08/18 including the following reasons for refusal (other reasons were upheld but these are relevant to this application);

The proposal is contrary to policy AMP2 of PPS3 in that the access is substandard and would require significant improvements to provide visibility splays of 4.5 metres x 120 metres at the access with the public road (protected route) in both directions. The average speed and volume of vehicles at this location is high; given the location of the access on an incline TAS approval would be required in order to achieve visibility splays and forward sight distance. It is in the interests of road safety that public safety is not prejudiced by substandard accesses onto the public highway.

The proposal is contrary to policy AMP 3 of PPS 3, in that, the development represents an intensification of an existing access onto a protected route using a substandard access. The A29 is a Protected Route between two principle towns within the Council area. The development compromises the free and safe movement of traffic at a location which includes an incline and a dangerous bend therefore accesses which compromise the safety and convenience of road users must be severely restricted in the public interest.

LA09/2017/1618/LDE, Retention of existing Units, a certificate of lawfulness was granted for this existing development on 01.02.2018.

M/2006/1985/F - Approx. 60 metres East of 18 Cookstown Road, Derraghadoan, Dungannon, Bt71 4BG - Free Standing Hoarding - Permission Refused 19/02/07

M/2004/1534/F - Adjacent to 18 Cookstown Road, Dungannon - Proposed multi-purpose shed/store - Permission Granted 12/04/06

**CONSULTATION**

DfI Roads were consulted and responded on 19/03/2020 requesting 4.5m by 120.0m visibility splays in both directions.

**REPRESENTATION**

No 3rd party representations received.

**ASSESSMENT OF PLANNING ISSUES/MATERIAL CONSIDERATION**

The current situation on this site is that there is live enforcement proceedings which relates only to a newly constructed building on this site. Enforcement proceedings have been suspended until the outcome of planning application LA09/2019/1183/F- Proposed Retention of Building to Provide Communal Site Canteen, Locker Room + First Aid Facilities, Pending (Deferred for Office Meetings). This application relates to the unauthorised building.

Prior to the submission of the above application LA09/2017/1258/F was submitted in an attempt to retain this subject building for ancillary residential storage. Permission was refused for the reasons stated above including road safety. This decision was not appealed to the PAC.

A recent enforcement appeal was upheld on this site (2017/E0050 see above). The notice, insofar as it relates to the use of the 2 buildings, has been upheld as the unauthorised uses have ceased and there are currently no uses being carried out from these buildings. Under this appeal the PAC Commissioner made her own assessment of the access to the site and upheld a number of reasons for refusal drafted by Council (with some slight amendments), including both reasons stated above. In this appeal DfI Roads and Mid Ulster Council suggested planning conditions of 2.4m by 160m splays in both directions. However, the Commissioner changed these splay requirements to 4.5m by 120m in both directions after her detailed assessment.

All other buildings and uses on the site are immune from enforcement action and have been rectified under LA09/2017/1618/LDE.

This subject application has been submitted to rectify the substandard access to this site, which is located at a fast blind corner when travelling along a Protected Route from Cookstown towards Dungannon, which makes the access position and lack of splays particularly dangerous. Vehicles exiting the site and turning right towards Dungannon are particularly vulnerable. Given that the Planning Appeals Commission carried out a detailed assessment over road speeds, road alignment and traffic on this stretch of road, I would be reluctant to allow anything less than 4.5m by 120m, especially in a northern direction.

I agree with the assessment carried out by the PAC. While this application is for access provision only, it will improve the existing situation. However, the improvements will still result in a substandard access onto a protected route. This is not acceptable. Approving a sub-standard access to this site that could result in a fatality would be reckless of Council. The proposal is contrary to policy AMP2 of PPS3.

As the site accesses onto a Protected Route it also falls for consideration under policy AMP 3 of PPS3 Other Categories of Development. The A29 is a Protected Route between two principle towns within the Council area, Dungannon and Cookstown. The development compromises the free and safe movement of traffic at a location which includes an incline and a dangerous bend therefore accesses which compromise the safety and convenience of road users must be severely restricted in the public interest.

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

**Summary of Recommendation:**

That permission is refused for the following reasons;

**Reasons for Refusal:**

1. The proposal is contrary to policy AMP2 of PPS3 in that the proposed access is substandard and would require significant improvements to provide visibility splays of 4.5 metres x 120 metres at the access with the public road (protected route) in both directions. The average speed and volume of vehicles at this location is high; given the location of the access on an incline TAS approval would be required in order to achieve visibility splays and forward sight distance. It is in the interests of road safety that public safety is not prejudiced by substandard accesses onto the public highway.

2. The proposal is contrary to policy AMP 3 of PPS 3, in that, the development represents a substandard access onto a protected route. The A29 is a Protected Route between two principle towns within the Council area. The development compromises the free and safe movement of traffic at a location which includes an incline and a dangerous bend therefore accesses which compromise the safety and convenience of road users must be severely restricted in the public interest.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	17th February 2020
<b>Date First Advertised</b>	3rd March 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 18 Cookstown Road,Dungannon,Tyrone,BT71 4BG The Owner/Occupier, 19 Cookstown Road,Dungannon,Tyrone,BT71 4BG The Owner/Occupier, 3 Coal Pit Road,Dungannon,Tyrone,BT71 4BH The Owner/Occupier, Bed Store,18 Cookstown Rd, Dungannon BT71 4BG The Owner/Occupier, Construction Fastteners,18 Cookstown Rd, Dungannon BT71 4BG	
<b>Date of Last Neighbour Notification</b>	20th March 2020
<b>Date of EIA Determination</b>	<b>NA</b>
<b>ES Requested</b>	No



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6/10/2020	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0331/O	<b>Target Date:</b> 16/6/2020
<b>Proposal:</b> Proposed site for a dwelling and domestic garage based on policy CTY 8	<b>Location:</b> Approx 15 meters North-East of No. 153 Sixtowns Road, Owenreagh, Draperstown
<b>Referral Route:</b> Refusal is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Ms Lisa Murray 18 Cavanreagh Road Sixtowns BT45 7BS	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>  The proposal fails to comply with Policies CTY 1, CTY 8 and CTY 14 of PPS 21. The site does not represent a gap within a substantial and built up road frontage and if a dwelling were approved on this site it would have a detrimental impact on the rural character of this Area of Outstanding Natural Beauty. Refusal is therefore recommended.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. All relevant neighbouring properties have been notified. To date there have been no objections to this proposal from any third party or consultee.

### Characteristics of the Site and Area

The application site is a 0.2 hectare parcel of land cut out of a larger agricultural field and is approximately 15m NE of a detached dwelling at number 153 Sixtowns Road, Draperstown. The site is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015. It falls gently in a NW direction from the level of the public road. The roadside boundary is defined by a semi mature native species hedgerow. The boundary with the adjacent dwelling and the remaining boundaries are void of any established boundary treatment.

This is an upland area which is rural in character and has a dispersed settlement pattern. The predominant form of development being detached dwellings and agricultural

buildings. Further to the NE of the site is an agricultural building. It is designated as an Area of Outstanding Natural Beauty in the Magherafelt Area Plan.

### **Description of Proposal**

This is an outline application for a site for an infill dwelling and domestic garage.

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

#### **Planning History**

There are no planning histories on or adjacent to this site to be considered in this assessment.

#### **Policy Consideration**

The following policies will be considered in this assessment:

- Strategic Planning Policy Statement (SPPS)
- Magherafelt Area Plan 2015
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Planning Policy Statement 3 - Access, Movement and Parking.
- Planning Policy Statement 21 - Sustainable Development in the Countryside

#### **Strategic Planning Policy Statement (SPPS)**

The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. Compliance with the Area Plan will be considered further in this report. The application site is not in an area where there are interests of acknowledged importance (eg) nearby Listed Buildings or areas of archaeological importance. Given the nature and location of the proposal it is not anticipated that it will give rises to any amenity issues.

#### **Magherafelt Area Plan 2015**

The application site is outside the development limits of any settlement defined in the Area Plan and is therefore not subject to any key site requirements. It is located within a designated AONB, however the Area Plan does not contain any specific policies in respect of AONB's.

#### **Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy**

The Draft Plan Strategy was launched on Friday 22nd February 2019. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8



weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020. In light of this the draft plan cannot currently be given any determining weight.

### **Planning Policy Statement 3 - Access, Movement and Parking.**

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves the construction of a new access onto the Sixtowns Road. DFI Roads have been consulted with the proposal. They have no objections subject to a condition being attached to any decision to ensure the provision of splays (2.4m x 70m) and a Forward Site Distance (70m).

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

Policy CTY 1 of PPS 21 identifies the different types of development that are acceptable in the countryside, one of which is the development of a gap site in line with the provisions of policy CTY 8. The applicant has applied for an infill dwelling to be assessed under Policy CTY 8.

Policy CTY 8 - Ribbon Development, states that planning permission will be refused for a building which creates or adds to a ribbon of development.

It goes on to advise that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of 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.

It is my opinion that the frontage in question can not be considered substantial or built up to include a line of 3 or more buildings. The frontage includes a detached dwelling at number 153 Sixtowns Road. There is a gap which could accommodate a max of two dwellings based on the plot size of number 153. There is then an agricultural building, which I do acknowledge appears to be made up of 3 different interlinked blocks. However it very clearly reads as 1 singular building and on this basis can only be considered as the second building along the frontage. For this reason, the proposal is at conflict with the provisions of CTY 8 and refusal is recommended.

Policies CTY 13 - Design and Integration and CTY 14 - Rural Character are also considerations in this assessment. This is an outline application and no specific ridge height has been applied for. It is my opinion that single storey dwelling on this site would not appear overly prominent in this local landscape. It would benefit from a backdrop of rising land further to the NW and it would only be subject to short term localised views. The site does benefit from a fairly substantial roadside boundary but this would require removal to provide adequate visibility. The remaining boundaries are void of any vegetation. New planting would therefore be required to aid integration, but would not be the primary means of integration. The dwelling would read with the existing dwelling at number 153 which would provide a degree of enclosure. As this is an outline application the impact of design on the AONB is not a consideration at this stage.

<p>With regards to rural character it is my opinion that if a dwelling was approved on this site it would result in the creation of another potential 3 infill sites. This would create a ribbon of development along this section of the Sixtowns Road which would be clearly detrimental to the rural character and appearance of this area which is a designated an AONB characterised by a very dispersed settlement pattern.</p>	
<p><b>Neighbour Notification Checked</b></p>	<p><b>Yes</b></p>
<p><b>Summary of Recommendation:</b></p> <p>Refusal is recommended</p>	
<p><b>Refusal Reasons</b></p> <p>The proposal is contrary to Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.</p> <p>The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site is not located within a substantial and built up road frontage of 3 or more buildings</p> <p>The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that if a dwelling was approved on this site it would have a detrimental impact on the rural character of the area by creating a Ribbon of Development along this section of the Sixtowns Road.</p>	
<p><b>Signature(s)</b></p> <p><b>Date:</b></p>	

<b>ANNEX</b>	
<b>Date Valid</b>	6th March 2020
<b>Date First Advertised</b>	17th March 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 150 Sixtowns Road, Draperstown, Londonderry, BT45 7BG The Owner / Occupier 153 Sixtowns Road, Draperstown, Londonderry, BT45 7BG	
<b>Date of Last Neighbour Notification</b>	20th March 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2020/0331/O Proposal: Proposed site for a dwelling and domestic garage based on policy CTY 8 Address: Approx 15 meters North-East of No. 153 Sixtowns Road, Owenreagh, Draperstown, Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  DFI Roads - No objections	
<b>Drawing Numbers and Title</b>	
Drawing No. 01 Type: Status: Submitted	
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:	





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

## Committee Application

Summary	
<b>Committee Meeting Date:</b> 06/10/2020	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0415/F	<b>Target Date:</b>
<b>Proposal:</b> Change of use from Domestic Garage to Beauty Salon	<b>Location:</b> 17 Lurgaboy Lane Dungannon
<b>Referral Route:</b> The proposal is contrary to the retail policy in the SPPS as classified as retail and not with the primary retail core or the town centre of Dungannon as defined in the Dungannon and South Tyrone Area Plan 2010. The proposal is an exception to policy.	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Paul Lavery 17 Lurgaboy Lane Dungannon BT71 6JU	<b>Agent Name and Address:</b> Paul Lavery 14 Bernagh Gardens Dungannon BT71 4AP
<b>Executive Summary:</b> The proposal is for the change of use from a domestic garage to a beauty salon. The application site comprises an existing single storey dwelling and detached garage. In the SPPS, there is a sequential test for retail to be located within the town centre/primary retail core. The site is on Lurgaboy Lane and not with the primary retail core or the town centre of Dungannon. However, I consider the retention of a beauty salon at this site is an exception to policy as mitigation has been provided in the conditions to minimise the impact on Dungannon town centre. Also, there will not be an unacceptable impact on neighbour amenity and the occupier of the dwelling lives within the same curtilage operates the beauty salon.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	NI Water - Single Units West - Planning Consultations	Content
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

### Characteristics of the Site and Area

The site is within the settlement limit of Dungannon as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is predominantly residential in character with cul-de-sacs of detached and semi-detached dwellings abutting all boundaries of the site. The application site is a rectangular shaped plot on a flat topography with a roadside frontage onto Lurgaboy Lane. The site comprises a single-storey detached dwelling, which has an L-shaped form. The external finishes are red brick and white roughcast render external walls, natural slate roof tiles and white upvc windows. There is a tarmacked driveway surrounding the dwelling and a grassed area along the east side of the plot. Along the west boundary is a single-storey detached garage that has the same external finishes as the existing dwelling. The garage has three doors on the front elevation and is set back from the roadside by a grassed area. There is a driveway through the middle of the site and a 1m hedgerow abuts the roadside boundary.

### Description of Proposal

This is a full application for a change of use from a domestic garage to a beauty salon at 17 Lurgaboy Lane Dungannon.

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

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

### **Representations**

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

### **Planning History**

No recent planning histories at the application site.

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

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22<sup>nd</sup> February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at **10am on the 25th March** and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at **5pm on 24<sup>th</sup> September 2020**.

In light of this the draft plan cannot currently be given any determining weight.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. The SPPS sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

The proposal is for the change of use from a domestic garage to a beauty salon, which incorporates a nail bar, 3 treatment rooms and a hairdressing salon. A beauty salon classified as a shop and falls under Class A1: shops of the Planning (Use Classes) Order (Northern Ireland) 2015. Therefore, the town centre and retailing policy in the SPPS applies. The SPPS applies a sequential test that any retail development should be directed to the primary retail core, then the town centre and then edge of centre locations. The proposal is within the settlement limit of Dungannon but not within the town centre or primary retail core designation.

It states on Facebook that the existing use as a hairdressers and beauty salon has been operating from the premises at 17 Lurgaboy Lane, Dungannon since 29<sup>th</sup> May 2019. The hairdressers/beauty salon has been operating from a detached garage along the western boundary of the site, within the curtilage of the existing dwelling. Checks on



orthophotography on Spatial NI demonstrate the building has been on site for over 5 years and thus is immune from enforcement action. The front façade of the building changed from garage doors to 2 windows and 2 sets of glass double doors. I am content the works to the façade of the building are sensitive to the character of the property and surrounding area. I have no concerns about the scale and design of the external works as shown in figure 1 below. The garage is set back from the public road and the only critical views is when directly in front of the site.



Figure 1 - The garage where the beauty salon is located.

The agent submitted a supporting statement where it states the applicant had operated the same beauty salon from premises within the Dungannon area for over 15 years and had recently moved to the garage at her own property. The basis of this application for relocation is to downsize the business from the previous site in Dungannon and operate on a part time basis. The applicant has provided no other justification why the retail business cannot be located within the town centre of Dungannon. In addition, no trade figures have been submitted to complete a full assessment of the economic impact on Dungannon town centre. I do not consider there to be sufficient evidence to justify a business premises outside the town centre. As stated in the SPPS the overall aim is to sustain the vitality and viability of town centres by promoting the town centre as the first choice location for businesses. Within Dungannon beauticians and hairdressers are located within the town centre and have a role to play in increasing footfall and economic activity within this designation. That said, the application has been submitted on the basis the applicant is downsizing and reducing their hours of operation. The proposal would, in my view, operate just above the threshold of what could be considered as home working in Annex A of PPS4. Due to this limited level of operations I do not consider approving this development here would have a negative impact on the town centre of Dungannon. I



would however recommend placing a number of conditions on any approval to mitigate the negative impacts on Dungannon town centre. I consider the building should only be used as a beauticians and hairdressers' business so no other retail outlets can open at the premises such as a shop at a later date.

Members should also be aware there is another beauty salon 'Cleopatra' 250m east of the site at the junction of Lurgaboy Lane with the Coalisland Road. Checks on google street view demonstrate there has been a beauty business in place for a number of years at this site under various owners. 80m west of the site is another business 'Music City' that operates from the detached garage to the rear of the site. Considering the context of the site and that there are already retail businesses along this road, I am content this proposal will not have an unacceptable impact on the character of the area.

In terms of neighbour amenity, the applicant has stated on the P1 form there will be 2 staff and 3 to 4 customers visiting the premises every day. I consider, as there is a hairdressers, nail bar and 3 treatment rooms there would be more than 2 members of staff on site. The beauty salon operates full time hours and covers a range of treatments from nails, massage and hairdressing. I consider the figure of 3 to 4 customers is an underestimate and there will be at least double that number every day. I am content this use will not have an unacceptable increase in smells, loss of privacy or light from the proposal. The main issue is the number of vehicles movement leading to unacceptable neighbour amenity. According to DCAN 15, a dwelling would have on average 10 vehicle movements a day and this business will lead to an intensification of the number of vehicles at the site. I consulted DFI Roads and they are content there are no issues with the visibility splays or the access. I am content there are sufficient parking spaces at the site. The existing dwelling and garage has a frontage onto Lurgaboy Lane but is within a residential area with dwellings all-round the premises. However, the premises has been open for over a year and there have been no complaints to enforcement. The garage is also located within a large curtilage as shown in figure 2 below.



Figure 2



Figure 3 – the surrounding curtilage of the application site showing the existing dwelling at No. 17

**Dungannon and South Tyrone Area Plan 2010**

The application site is located within the settlement limits of Dungannon as identified in the Development Plan. Policy SETT 1 of the Development Plan details favourable consideration will be given to development proposals within settlement limits provided the proposal is sensitive to the size and character of the settlement and will not impact on amenity.

#### **PPS 4 Planning and Economic Development – Annex A Homeworking**

I consider this proposal could be considered just above the threshold for homeworking as the building is within the curtilage of the existing dwelling and the agent has demonstrated in a supporting statement the business is run by the applicant who lives in the dwelling. However, the impact on Dungannon town centre has also been considered in the assessment as discussed in the SPPS earlier.

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

There are satisfactory arrangements for access, parking and sewage disposal. The existing garage building is 86m<sup>2</sup> so according to Parking Standards for a non-food retail use needs 5 vehicle spaces. I am content there is sufficient parking at the site to accommodate the business and there will not be an unacceptable overflow of traffic parking on the footpath in the neighbouring residential area. DFI Roads were consulted as I consider there is an intensification of the use at the site. Roads in their consultation response stated they were content adequate visibility splays are in place subject to conditions about the provision of hard surfaced areas.

**Neighbour Notification Checked** Yes

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

The proposal is recommended for approval as an exception to the town centre and retail policy within the SPPS.

#### **Conditions:**

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

Reason: This is a retrospective application.

2. The business hereby approved shall be operated on an appointment only basis and shall not operate outside the hours of 9.00 am to 6.00 pm on Mondays to Fridays and 9.00 am to 3.00 pm on Saturdays or at any times on Sundays, bank holidays or public holidays.

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

3. This permission is solely limited to the use as a hairdressers and beauty salon and for no other purpose as specified in Class A1 of the Planning (Uses Classes) Order (NI) 2015 and shall remain not be separated from the domestic curtilage of the dwelling known as 17 Lurgaboy Lane.

Reason: To protect the vitality and viability of Dungannon Town Centre

**Signature(s)**

**Date:**



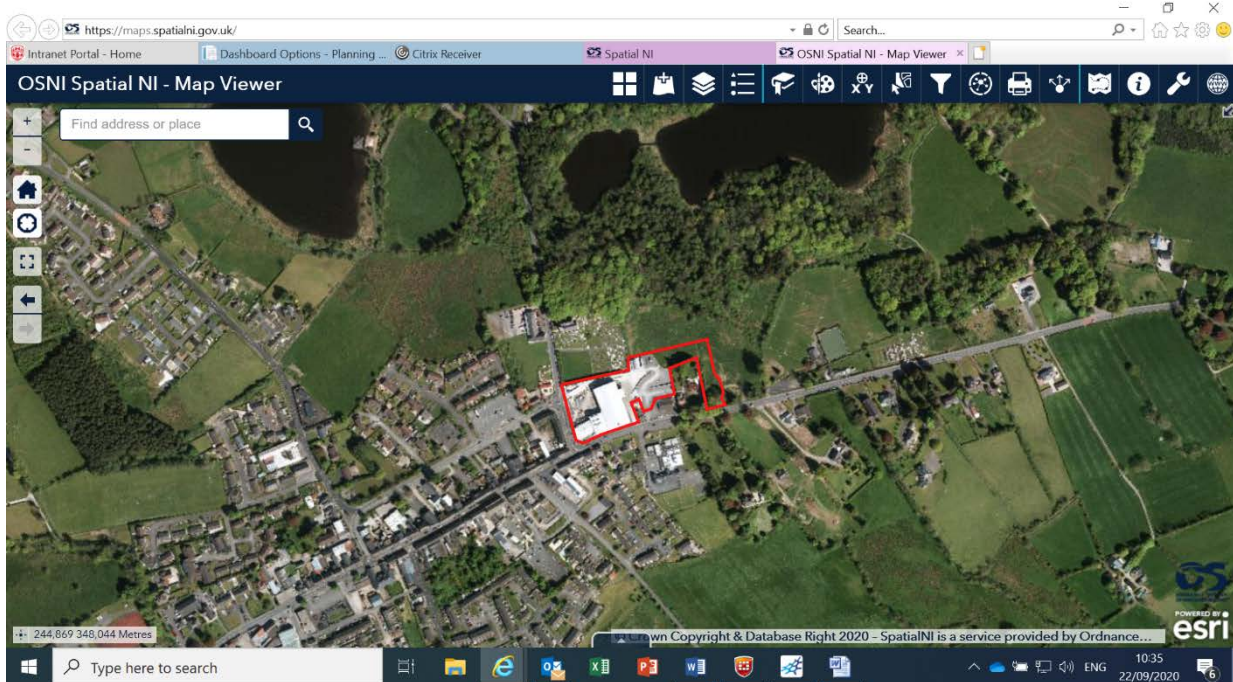
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0433/F	<b>Target Date:</b> 21/9/20
<b>Proposal:</b> Single storey extension to existing suspended ground floor of the bakery	<b>Location:</b> Scotts Bakery Ltd 169 Ballagh Road Fivemiletown BT75 0QP
<b>Referral Route:</b>  Major application	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Scotts Bakery Ltd 169 Ballagh Road Fivemiletown BT75 0QP	<b>Agent Name and Address:</b> Kenneth J Pryce 11 Lord Wardens Crescent Bangor BT19 1YJ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Details of the Proposal:

Single storey extension to existing suspended ground floor of the bakery at Scotts Bakery Ltd 169 Ballagh Road Fivemiletown in compliance with Planning Policy Statement 4 (PPS 4): Planning and Economic Development.

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

The site is located within the settlement limits for Fivemiletown, as defined within the Dungannon Area Plan (DAP) 2010 and on the eastern edge of the town. Set adjacent to the main Enniskillen / Ballygawley Road and on the corner of the Ballagh and Murley Road junction the site is extensive with access to and from both Ballagh and Murley Roads. On site at present is a raised open floor with the main complex buildings to the east and south of same.

Within the general area and mainly on the opposite side of Ballagh and Murley Roads are a mixture of land uses including residential, school, church and sports facilities. The bakery complex consists of various buildings, single and two storey in form with associated offices, car parking and traffic control systems.

### **Relevant Site Histories:**

No recent relevant site planning history apart from the Pre Application Notice LA09/2029/1675/ PAN and Pre application Discussion application LA09/2019/1677/PAD.

### **Representations:**

No representations received from press notice or neighbourhood notification. Consultation with Department for Infrastructure - Roads, Department for Infrastructure - Rivers, Environmental Health Department, Department for Communities – Historic Environment Division and Northern Ireland Water has raised no concerns subject to conditions and informatives.

### **Planning Assessment of Policy and other Material Considerations:**

The site is located within the limit of development for Fivemiletown as defined by the Dungannon Area Plan 2010 (DAP) where Planning Policy Statement 4 (PPS 4): Planning and Economic Development applies.

Policy PED 1 Economic Development in Settlements is the main consideration where policy states in relation to Extensions that a development proposal to extend an existing economic development use or premises within settlements will be determined on its individual merits having regard to Policy PED9.

Policy PED 9 of PPS 4: provides general criteria for assessing all applications relating to the location in siting and design: impact on residents and the environment, access and movement improvement. This proposal is compatible with the existing use. However since this is opposite to residential property attention needs to be given to the neighbours amenities. It is my opinion that as the scale of the building is not greater than that of the existing neighbouring building and there will not be a significant adverse impact on neighbouring amenity. The activity in the building remains as currently on site and therefore shall not result in a rise in noise or nuisance as advised by Environmental Health.



It is my opinion that this is an acceptable extension, there are no issues relating to traffic movement and there would be sufficient space for additional car parking and turning. The site is not in an area of flood risk and there is no need to dispose any additional effluent. The design is satisfactory for the type of use already in existence and the design of current buildings with the bakery complex.

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

This application being for full permission provides details of external materials to be used in its construction, which in my opinion will be acceptable at this location and relate to the existing complex.

In addition, the complex, being close to a listed building consideration has to be given to Planning Policy Statement 6: Planning, Archaeology and the Built Heritage as well as Paragraph 6.12 (setting) of Strategic Policy Planning Statement for Northern Ireland. Consultation has taken place with the Historic Environment Division of the Department for Communities and subject to condition, the proposal has been deemed acceptable

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

The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site. The Department of the Environment has published its Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development. This policy is a consolidation of some twenty separate policies however the policy provisions of Planning Policy Statement 4: (PPS 4): Planning and Economic Development and Planning Policy Statement 6: (PPS 6): Planning, Archaeology and the Built Heritage is retained until such time as the Mid Ulster Council adopt a Plan Strategy for the Council area, no other issues have been identified.

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

I recommend that planning permission is granted subject to conditions.

### **Conditions**

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

Reason: Time Limit.

2. No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently



marked in accordance with the approved drawing No 03 dated 23/03/2020 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

3. The maximum ridge height of the proposed extension shall be no higher than that of the existing building, as illustrated on planning drawing 09 and.

Perimeter planting along the northern site boundary shall be as detailed under (Section 4) of additional information published 11.08.2020.

Reason: To ensure that the detailed design respects the character of the listed building in terms of scale, height, massing, the use of appropriate materials and that the detailed design is compliant with Policy BH11 (Development affecting the Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning,

#### Informatives

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

2. Department for Infrastructure Rivers Informatives:

DfI Rivers comments under each policy heading of PPS15 from a drainage and flood risk perspective are as follows.

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

FLD2 - Protection of Flood Defence and Drainage Infrastructure : This site is unaffected by any watercourse known to DfI Rivers however if a watercourse is discovered during any development works then DfI Rivers should be contacted and FLD2 will apply to the site.

FLD3 - Development and Surface Water : Section 2.3 of the Drainage Assessment (DA) states that , Following the addition of the proposed bakery extension, existing drainage will remain largely unchanged. As the permeable/impermeable areas of the site do not change, we do not expect an increase in surface run off.

Table 4.1 of the report also states ; The proposed site for the extension has always been 100% impermeable - concrete as part of the yard. As this will not change, surface run off will remain the same.

DfI Rivers has no reason to disagree with these statements and therefore has no further comment to make regarding this proposal.

FLD4 - Artificial Modification of watercourses : This policy is not applicable to this site.

FLD5 - Development in Proximity to Reservoirs : This policy is not applicable to this site.

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

Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.

Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site: - such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.

### 3. Northern Ireland Water comments:

See Northern Ireland Water sheet dated 8/7/20

### 4. Department for Communities : Historic Environment Division comment:

#### Legislation & policy

1. The Planning Act (NI) 2011
2. Planning Policy Statement 6 ? Planning, Archaeology and the Built Heritage.
3. Strategic Planning Policy Statement for Northern Ireland (SPPS NI) : Planning for Sustainable Development.

#### Guidance

4. Development Practice Note 5 ; Historic Environment , September 2017 -

<https://www.planningni.gov.uk/index/advice/practice-notes/dmpn05-historicenvironment.pdf>

5. Guidance on making changes to Listed Buildings: Making a better application for listed building consent - <https://www.communities-ni.gov.uk/publications/guideconsulting-hed-development-management-applications-and-guidance-listed-buildingconsent>

6. Consultation Guide -

<https://www.communitiesni.gov.uk/sites/default/files/publications/communities/consulting-hed-developmentmanagement-applications-consultation-guide.pdf>

7. Please also see HED guidance

<https://www.communities-ni.gov.uk/sites/default/files/publications/communities/ourplanning-services-and-standards-framework.pdf>

8. HED Setting Guidance, Feb 2018

<https://www.communitiesni.gov.uk/publications/guidance-setting-and-historic-environment>

The application for ;Single storey extension to existing suspended ground floor of the bakery (LA09/2020/0433/F) at Scotts Bakery Ltd, 169 Ballagh Road, Fivemiletown, BT75 0QP is in proximity to St John's Church, Fivemiletown (Grade B+) which is of special architectural and historic interest and is protected by Section 80 of the Planning Act (NI) 2011.

Historic Environment Division : (Historic Buildings) has considered the impact of the application on St John's Church and on the basis of the additional information provided, advises that it is content with the proposal, with conditions.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	23rd March 2020
<b>Date First Advertised</b>	26th May 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Murley Court, Fivemiletown, Tyrone, BT75 0QS The Owner/Occupier, 10 Ballagh Road, Fivemiletown, BT75 0QP The Owner/Occupier, 12 Ballagh Road, Fivemiletown, BT75 0QP The Owner/Occupier, 159 Ballagh Road, Fivemiletown, Tyrone, BT75 0QP The Owner/Occupier, 161 Ballagh Road, Fivemiletown, Tyrone, BT75 0QP The Owner/Occupier, 163 Ballagh Road, Fivemiletown, Tyrone, BT75 0QP The Owner/Occupier, 165 Ballagh Road, Fivemiletown, Tyrone, BT75 0QP The Owner/Occupier, 166a Fivemiletown Nursery School Ballagh Road Fivemiletown The Owner/Occupier, 168 Ballagh Road, Fivemiletown, Tyrone, BT75 0QP The Owner/Occupier, 17 Main Street, Fivemiletown, Tyrone, BT75 0PG The Owner/Occupier, 177 Ballagh Road, Fivemiletown, BT75 0QP The Owner/Occupier, 179 Ballagh Road, Fivemiletown, BT75 0QP The Owner/Occupier, 2 Murley Court, Fivemiletown, Tyrone, BT75 0LA The Owner/Occupier, 3 Murley Court, Fivemiletown, Tyrone, BT75 0QS The Owner/Occupier, 4 Ballagh Road, Fivemiletown, BT75 0QP The Owner/Occupier, 4 Murley Court, Fivemiletown, Tyrone, BT75 0QS The Owner/Occupier, 5 Murley Court, Fivemiletown, Tyrone, BT75 0LL The Owner/Occupier, 6 Murley Court, Fivemiletown, Tyrone, BT75 0QS The Owner/Occupier, 6 Murley Road, Fivemiletown, Tyrone, BT75 0QS The Owner/Occupier, 7 Murley Court, Fivemiletown, Tyrone, BT75 0QS	

The Owner/Occupier, 8 Ballagh Road, Fivemiletown, BT75 0QP The Owner/Occupier, 8 Murley Court, Fivemiletown, Tyrone, BT75 0QS The Owner/Occupier, Fivemiletown Primary School 166 Ballagh Road Fivemiletown The Owner/Occupier, Fivemiletown Roman Catholic Church 152 Ballagh Road Fivemiletown	
<b>Date of Last Neighbour Notification</b>	5th June 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: M/2014/0329/F Proposal: Construction of new access and associated mini roundabout at the A4, Murley Road, Main Street junction including the reconfiguration of the existing bakery access (A4) to exit only. Address: 169, Ballagh Road, Fivemiletown, Decision: PG Decision Date: 20.10.2015  Ref ID: LA09/2019/1675/PAN Proposal: Proposed development of existing site for development of new parking facility and associated site works, to support future manufacturing capacity Address: 169 Ballagh Road, Fivemiletown, Decision: PANACC Decision Date:  Ref ID: LA09/2019/1677/PAD Proposal: Proposed development of existing site for development of new packing facility and associated works to support future manufacturing facility. Address: 169 Ballagh Road, Fivemiletown, Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  Consent subject to condition and informatives	
<b>Drawing Numbers and Title</b>	

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

Drawing No. 02  
Type: Proposed Plans  
Status: Submitted

Drawing No. 03  
Type: Proposed Plans  
Status: Approved

Drawing No. 04  
Type: Proposed Plans  
Status: Submitted

Drawing No. 05  
Type: Proposed Plans  
Status: Approved

Drawing No. 06  
Type: Proposed Plans  
Status: Approved

Drawing No. 07  
Type: Proposed Plans  
Status: Approved

Drawing No. 08  
Type: Proposed Plans  
Status: Approved

Drawing No. 09  
Type: Proposed Plans  
Status: Approved

Drawing No. 10  
Type: Proposed Plans  
Status: Approved

**Notification to Department (if relevant)**

Date of Notification to Department: N/A  
Response of Department:


**Development Management Officer Report**  
**Committee Application**

<b>Summary</b>	
<b>Committee Meeting Date:</b> 6 <sup>th</sup> Oct 2020	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0449/F	<b>Target Date:</b>
<b>Proposal:</b>  Proposed extension of existing residential care home facility with 7 no individual care units, communal building, staff area with associated car parking and landscaping	<b>Location:</b>  19 Rocktown Lane Knockloughrim Magherafelt
<b>Referral Route:</b> Approval recommended - local objection received.	
<b>Recommendation:</b> Approval	
<b>Applicant Name and Address:</b>  Inspire 2 Care Ltd  Mountview Retreat  19 Rocktown Lane  Magherafelt  BT45 8QF	<b>Agent Name and Address:</b>  Newline Architects  48 Main Street  Castledawson  BT45 8AB
<b>Executive Summary:</b> Proposal meets with current planning policy and guidance. Local objection considered.	
<b>Signature(s):</b> M.Bowman	

**Case Officer Report****Site Location Plan****Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Non Statutory	NI Water - Strategic Applications	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	Historic Environment Division (HED)	Content
Non Statutory	NI Water - Multi Units West - Planning Consultations	Consulted in Error



<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	2	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b>		
<p><b>Characteristics of the Site and Area.</b></p> <p>Rural location - site currently occupied by a long established care home at 19 Rocktown Road, Knockloughrim.</p> <p>Adjacent private residential dwelling at No 17.</p> <p>Access is existing and runs parallel to No 17s with open grassland occupying the current front half of the site. Staff and visitor car parking in place just North of No 17. Existing further buildings currently joined to No 19 and separate to the NE also.</p> 		
<p><b>Description of Proposal</b></p> <p><b>Proposed extension of existing residential care home facility with 7 no individual care units, communal building, staff area with associated car parking and landscaping</b></p>		



## **The SPPS**

### **Improving Health and Well-Being**

4.3 The planning system has an active role to play in helping to better the lives of people and communities in Northern Ireland and in supporting the Executive's key priority of improving health and well-being. For the purpose of the SPPS the Department supports the World Health Organisation's definition of health as 'a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity'.

4.4 It is widely recognised that well designed buildings and successful places can have a positive impact on how people feel. The way in which places and buildings are configured, patterns of movement in the space around us and the level of access to quality open space are all factors that can make us feel good. Successful places also influence the choices we make which may contribute positively to improving our health and well-being e.g. whether to walk or cycle, or whether to stay longer in a good place.

### **Regional Strategic Objectives**

6.66 The policy objectives for development in the countryside are to:

- manage growth to achieve appropriate and sustainable patterns of development which supports a vibrant rural community;
- conserve the landscape and natural resources of the rural area and to protect it from excessive, inappropriate or obtrusive development and from the actual or potential effects of pollution;
- facilitate development which contributes to a sustainable rural economy; and
- promote high standards in the design, siting and landscaping of development.

### **DCAN 9 - RESIDENTIAL AND NURSING HOMES**

Types of Planning Application Applications for residential and nursing homes fall into the following categories:

- (1) New development. This covers situations where new home is to be built on an undeveloped site or a site which is due for redevelopment.
- (2) Change of use of a building to a residential or nursing home. Detached dwellings are likely to be the most acceptable for this type of use, particularly if they are substantial villas or mansions set in reasonably large grounds with mature landscaping.
- (3) Extension to an existing residential or nursing home.

3.2 With regard to rural areas, "normally buildings erected for community use should be provided in existing settlements, but it is recognised that exceptionally there may be a need for such buildings in a rural area'.

3.3 Planning permission is only likely to be granted for nursing or residential homes in the countryside in exceptional circumstances. In considering what might be exceptional it is necessary to weigh the relevant considerations. These fall into 2 categories:

(1) The need to locate in the countryside.

(2) Impact on the countryside.

3.4 The Need to Locate in the Countryside Residential and nursing homes should not normally be located in the countryside where such locations can be a disadvantage due to the absence of service facilities near at hand. Convenient public transport is desirable for visitors and relatives. Exceptionally there may be circumstances where the peace and quiet of the countryside might be particularly appropriate eg for the nursing of the terminally ill or convalescent cases.

3.5 Impact on the Countryside

Planning considerations such as location, siting, traffic aspects, amenity, design, layout and landscaping referred to in paragraph 2.3 above are important. In addition in rural areas it is important to ascertain that satisfactory drainage and sewerage arrangements can be provided.

3.6 The nature of the proposal will also be important. Whilst a change of use and limited alterations or extension of a large rural house in extensive grounds may be acceptable in particular circumstances, new building or extensive additions to modest buildings would normally not be permitted.

3.7 The question of precedent may also be an important one. If the proposal is likely to lead to a number of similar proposals then this will be a factor in determining an application.

Comparing the Outline approved site plan above and the current proposal below exposes some key differences in the design approach. The need for independent living units is reinforced with an additional 3 units, of which are now tucked into the NE corner of the site. There is connection throughout the site via a covered walkway to these units and directly to the communal building. Associated landscaped buffers help to soften this building and its car park area is broken up with pockets of new tree planting.







proposed side elevation  
units 01 + 02  
1:100



proposed rear elevation  
units 01 + 02  
1:100

LA09/20/0449  
Mid Ulster Planning Office  
31/01/2021

## Units 1 and 2 elevations



proposed front elevation  
communal building  
1:100



## Communal building elevation / floorplans

The arrangement of the buildings on site, as with the Outline permission, will require buildings to be constructed into the greenfield which lies between the Rocktown Road and the existing home. This area, whilst being fairly open to view, this is a passing view however and lacks any long or more distant views which would lead to any unacceptable change to rural character. The smaller elevation communal building helps to 'bookend' the entire proposal and will so this successfully. The plans could have benefitted from a soft buffer of planting running along the SW edge of the new car park area. I feel a condition should be attached to any approval to deliver this prior to the facility becoming operational.

All proposed buildings show a good quality design approach which has attempted to respect the more rural setting of this location. The Communal buildings use of cladding and stone work will be well presented. In all I consider the policy requirements of CTY13 and 14 of PPS21 are met.

#### Consideration of objections.

2 letters of objection have been received, both from the occupants of No 17 which abuts the site at its SE corner.

The key issues of concern raised are:

1. The side windows of unit 5 compromise privacy.
2. The plans show removal of a garage which is attached to a farm building owned by No 17 – we are concerned about structural integrity of this building.
3. There is further substantial demolition and we are concerned about the effects of collapsing rubble into areas of the farm as well as excessive noise, vibration and dust to farm workers and livestock.
4. there is a septic tank which currently serves part of the premises. Whilst plans do show a new tank we would require confirmation that the current tank will no longer be used.
5. Plans don't show enough details in relation to boundary definition, especially in the areas of Units 5 and the side of Unit 7 considering the boundary is next to the farm yard and land owned by us.

In response, the agent provided an amended plan and rebuttal statement dated 4 Aug 2020.

1. All first floor windows to side elevation of unit 5 now removed and ground floor kitchen window adjacent to boundary removed.
2. All works to remove the adjoining garage building to be carried out to ensure stability is maintained and to ensure the farm building is retained.
3. All works to be carried out with HSE NI guidelines.
4. The septic tank within the grounds of No 17 will no longer be utilised, however pipework to the adjoining watercourse will still be used for the removal of storm water from the property.
5. The boundary to the rear of unit 5 will be blockwork to protect No 17. Unit 7 is to have a softer treatment in the form of a 2m high landscaped fence.

These amendments were re-consulted to No 17 who responded on the 11 Aug making the further comments:

1. Whilst the agent has attempted to answer our points we still have the following concerns:
  - there is a steel beam supporting the structure which is built into the gable of the garage, therefore this wall will need to be retained.

- Confirmation is required as to how any damage caused will be rectified.
- Wall weathering will be required once the wall is taken away.
- That whilst HSENI guidelines will be followed we would expect that the 2016 Regs will be followed for all works
- Our concrete yard area is at risk of cracking.
- That there is insufficient storm drainage as the existing arrangements are at capacity and the applicant should consider alternative arrangements

In considering all of the above, many of the structural integrity issues in my view appear to stray outside planning control and will eventually in all likelihood be overseen by building control and other regulations. Any reputable builder will be required to carry out works in accordance with the HES regulations applicable at that time. The amended plans dated 4 Aug have improved the amenity relationship between unit 5 and No 17 and in my view this is a satisfactory arrangement, along with the boundary treatment.

The proposal falls below the threshold for a Drainage assessment and I note that NI Water comments specifically on storm water will ensure arrangements are put in place prior to the occupancy of the premises. The developer may require other consents from Rivers Agency for example for any alternative storm discharges to a watercourse. I note that the plans do propose a new 'storm crate' soakaway system.

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

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

In concluding, and bearing in mind the previous grant of Outline planning permission for the expansion of this existing facility, I am of a view that approval should be granted subject to the conditions attached below.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:** Approval subject to conditions.

**Conditions.**

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

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

2. A 2m wide planted buffer using native species shall be provided along the SW edge of the new car park prior to the occupancy of the new communal building premises hereby approved and shall be permanently retained thereafter.



Reason: In the interest of visual amenity of this area of countryside.

3. The occupancy and use of the individual care units hereby approved shall be limited to Class C3: (a and b) 'Residential institutions' of The Planning (Use Classes) Order (NI) 2015 only and shall remain ancillary to the overall primary care function of the facility

Reason: To accord with current rural planning policy.

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

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

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

REASON: In the interest of public health

6. The vehicular access including minimum visibility splays of 2.4 x 60 metres, shall be provided 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.

7. No operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 01 bearing date stamp 27 March 2020 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

8. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any part of the development

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

## Informatives

### **Septic Tank**

1. A Consent to Discharge Sewage Effluent being obtained from Water Management unit, The Northern Ireland Environment Agency, as required by the Water (Northern Ireland) Order 1999.
2. Any new or existing septic tank unit being a minimum of 15 metres from the proposed development or any other habitable dwelling/building such as an office or such dwelling/building in the course of construction or the subject of a planning approval.
3. A legal agreement being obtained in relation to lands used in connection with any septic tank/drainage arrangement where such lands are outside the ownership of the applicant or outside the area marked in red which is the subject of this application. This agreement must ensure that the lands in question will always be available for the intended purpose and also that any occupier/owner of the proposed development will have access to these lands for maintenance/improvement works as required. Such legal agreement should be included in any planning approval as a planning condition.
4. The applicant ensuring that the proposal does not compromise any existing drainage arrangements serving existing neighbouring premises or developments not completed/commenced which are the subject of a planning approval.
5. Planning department receiving confirmation from Northern Ireland Water that a mains water supply is available and that it is feasible for the proposed development to be connected to same. Where mains water supply is not available, the applicant/agent is strongly advised to contact this department before any detailed plans are prepared. (The District Council cannot approve plans for housing development unless a satisfactory water supply is available).

**Signature(s) M.Bowman**

**Date: 21 Sept 2020**

<b>ANNEX</b>	
<b>Date Valid</b>	30th March 2020
<b>Date First Advertised</b>	26th May 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses)  The Owner/Occupier, 16 Rocktown Lane Knockcloghrim Magherafelt  The Owner/Occupier, 17 Rocktown Lane Magherafelt Londonderry Colm & Sarah McMullan 17, Rocktown Lane, Magherafelt, Londonderry, Northern Ireland, BT45 8QF  The Owner/Occupier, 18 Rocktown Lane, Magherafelt, Londonderry, BT45 8QF  Sarah McMullan  Email Address	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/0449/F  Proposal: Proposed extension of existing residential care home facility with 7 no individual care units, communal building, staff area with associated car parking and landscaping	

Address: 19 Rocktown Lane, Knockloughrim, Magherafelt,

Decision:

Decision Date:

Ref ID: LA09/2016/1684/O

Proposal: Expansion of existing care home facility to provide 4no individual care units and a new dwelling and garage in connection with the existing business enterprise

Address: Lands immediately SW of 19 Rocktown Lane, Knockloughrim,

Decision: PG

Decision Date: 14.12.2017

Ref ID: H/2015/0030/F

Proposal: Alterations to existing domestic road access (new private access to serve dwelling)

Address: Lands at 17 Rocktown Lane, Knockloughrim, Magherafelt, BT45 8QF,

Decision: PG

Decision Date: 28.05.2015

Ref ID: H/1986/0149

Proposal: CHANGE OF USE PART OF DWELLING TO PRIVATE RESIDENTIAL HOME

Address: 19 ROCKTOWN LANE, KNOCKLOUGHRIM, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1998/0423

Proposal: SITE OF DWELLING

Address: ADJACENT TO 19 ROCKTOWN LANE MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2001/0517/F

Proposal: Bungalow And Garage.

Address: Adj. To 19 Rocktown Lane.

Decision:

Decision Date: 21.08.2001

Ref ID: H/1998/0033

Proposal: PORCH EXTENSION TO RESIDENTIAL HOME

Address: 19 ROCKTOWN LANE MAGHERA

Decision:

Decision Date:

Ref ID: H/1992/0093

Proposal: EXTENSION TO RESIDENTIAL HOME

Address: 19 ROCKTOWN LANE GULLADUFF MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1992/0454

Proposal: EXT TO RESIDENTIAL HOME

Address: 19 ROCKTOWN LANE GULLADUFF

Decision:

Decision Date:

Ref ID: H/1991/6110

Proposal: ALTERATIONS AND ADDITIONS TO RESIDENTIAL HOME 19 ROCKTOWN LANE MAGHERAFLT

Address: 19 ROCKTOWN LANE

Decision:

Decision Date:

Ref ID: H/1991/6067

Proposal: CHANGE OF USE FROM STORE TO HAIRDRESSING SALON 19 ROCKTOWN LANE  
KNOCKLOUGHRIM

Address: 19 ROCKTOWN LANE

Decision:

Decision Date:

**Summary of Consultee Responses**

**Drawing Numbers and Title**

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



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

**Development Management Officer Report**  
**Committee Application**

Summary	
<b>Committee Meeting Date:</b> 6 Oct 2020	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0461/F	<b>Target Date:</b>
<b>Proposal:</b> Extensions to existing office and factory buildings	<b>Location:</b> 26b Station Road Magherafelt
<b>Referral Route:</b> objection received.	
<b>Recommendation:</b> Approval.	
<b>Applicant Name and Address:</b> Bloc Blinds Ltd 26b Station Road Magherafelt	<b>Agent Name and Address:</b> Manor Architects Manor House 30a High Street Moneymore BT45 7PD
<b>Executive Summary:</b> Proposal satisfies Policy – local objection relating to alleged noise nuisance considered.	
<b>Signature(s):</b> M.Bowman	

**Case Officer Report****Site Location Plan****Consultations:**

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	Rivers Agency	To comment on D.A



Non Statutory	Environmental Health Mid Ulster Council	No objections
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	1	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b>		
<p><b>Characteristics of the Site and Area.</b></p> <p>Proposal is within the established grounds of Bloc Blinds located within an area of 'white land' located adjacent to Industrial zoning MT26 in the Magherafelt Area Plan.</p> <p>Access via Station Road with site backing onto existing residential housing in Derramore Drive. Some trees demarcate this shared boundary with Derramore with a close board fence for part of this boundary. At the time of the site visit a Marquee structure was on the approximate footprint of the proposed industrial extension for the purposed of PPE production.</p>		
<p><b>Description of Proposal</b></p> <p>Extensions to existing office and factory buildings</p>		
<p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p>Magherafelt Area Plan 2015</p> <p>SPPS</p> <p>PPS4</p> <p>PPS3</p> <p>PSRNI</p> <p>Given that we are located within an established industrial location the provisions of PPS4 are most relevant to this application, namely PED1 and PED9.</p> <p>The preamble to PPS4 states the following wider aims:</p>		

1.1 Economic growth is considered the Executive's top strategic priority in its first Programme for Government (PfG), in order to raise the quality of life for the people of Northern Ireland, through increasing economic opportunities for all, on a socially and environmentally sustainable basis. The Executive considers it essential to create a vibrant economy, to produce employment and wealth for the future, if a cohesive, inclusive and just society is to be achieved.

1.2 A key concern for government, therefore, is to continue restructuring the Region's economy from a low-wage, low-value added to a high-wage, high-value added, knowledge-based economy which can meet the challenges of a highly competitive, global environment.

1.3 The planning system has a key role to play in achieving a vibrant economy. It seeks to promote sustainable economic development through supportive planning policies, zoning land for development, identifying and protecting development opportunities and integrating employment generation with essential supporting provision in terms of housing and infrastructure.

1.4 The key aim of this PPS is to facilitate the economic development needs of the Region in ways consistent with protection of the environment and the principles of sustainable development. Safeguarding of environment, and the fostering of a 'clean, green image', can provide economic advantages and employment in itself in terms of the promotion of, for example, tourism, recreation, agri-food and quality of life attractions. Greater use of renewable energy sources will also contribute to protection of the environment and sustainability.

### **Policy PED 1**

Economic Development in Settlements /Cities and Towns

Class B2 Light Industrial Use and Class B3 General Industrial Use

A development proposal for a Class B2 light industrial use or Class B3 general industrial use will be permitted in an area specifically allocated for such purposes in a development plan or in an existing industrial /employment area provided it is of a scale, nature and form appropriate to the location. Elsewhere in cities and towns such proposals will be determined on their individual merits.

Most recent planning history is H/2014/0299/F Proposal: Change of use and extension of existing maintenance depot to provide new factory unit for manufacturing purposes (skylight and window blinds) approved in Mar 2015.

This proposal for a Class B2 use is in such an area and with a proposed addition of approx. 1981sq.m gross floorspace is of a scale and nature appropriate to the existing enterprise and the wider location. There are 2 main elements, the extension of the office block to the southern portion of the site and the new factory extension to the NW corner of the site.

The proposed factory element at 10m to ridge level is taller by some 2m from the adjoining factory buildings. This is acceptable in my view and is still maintaining an approx. 20m separation distance from residential property. Finishes are in keeping with the existing factory

being kingspan composite cladding. 2 roller shutter doors are located on the rear elevation to add to the existing 4 on the main existing façade here.

The office extension wraps around the existing office building and introduces a fibre cement clad modern façade over 2 stories.





## Policy PED 9

### General Criteria for Economic Development

A proposal for economic development use, in addition to the other policy provisions of this Statement, will be required to meet all the following criteria:

(a) it is compatible with surrounding land uses;

The proposal, being an extension of the existing facility is compatible with surrounding uses despite the intensification of the site.

(b) it does not harm the amenities of nearby residents;

EHO have analysed a revised noise report as a result of the proposal. The hours of operation appear to have traditionally not been restricted by any earlier planning approval. A revised noise assessment was sought to clarify the hours of operation which appears to meet British standards. Local objection relating to noise has been received from the occupant of No 29 Derramore, a dwelling just to the Northern edge of the site. The objection raises the following concerns:

1. That multiple complaints have been made to Bloc blinds about noise and type of noise from the site and that the Council have not adequately dealt with a complaint in relation to cutting and grinding and a roller shutter door being left open.
2. That the noise report supplied with the application does not capture the full level and nature of noise from the site.
3. That due to a period of travel restriction that reading from the previous 2014 application were used and no sound measurements appear to have been carried out at the premises.
4. that references to noise levels inside the building are not very load are contested.
5. that 1.8 saw events every minute can be heard from the front and rear gardens of No 29 and can be heard walking down the hill into Derramore.
6. That the Ulsterbus depot alongside the site is already a main contributor of the noise climate and with the planned expansion of Bloc Blinds this will be further exacerbated.
7. That the first noise report states the company do not operate at night, however current hours appear to be from 6am until after midnight.
8. No impact assessment appears to have been carried out at the dwellings located at Derramore heights.

The above series of concerns have been considered by EHO who, subject to conditions, have raised no objection to the proposal. These conditions will include hours of operation until 23:00, the requirement to increase an approved 1.8m high noise barrier in the 2014 application to 2.2m, and by doing this EHO have accepted that this will permit compliance with a condition limiting noise to 42dbA at this boundary (this was also a condition of the 2014 approval for the site). I

understand the Council are investigating the alleged non compliance with the 2014 permissions requirement to provide the 1.8m high noise barrier around the SW, NW and N boundary of the present site. I suggest a specific condition be attached to any further grant of permission requiring the now 2.2m high noise barrier to be constructed prior to the commencement of any development being now approved and in accordance with the location as identified within the revised noise report which has been neighbour notified. EHO also require a condition to be included requiring within 4 weeks of a reasonable complaint that the operator at his expense employs a competent person to assess noise levels and if necessary carry out remedial measures. The matter of keeping roller shutter doors has also been addressed via a condition. In relation to another matter, contaminated land, the previous 2014 application contained a report. Conditions are required that development shall not commence until the recommendations in that report are implemented.

(c) it does not adversely affect features of the natural or built heritage;  
None anticipated being located within an area mostly already of yard area. Little evidence of natural habitat disturbance.

(d) it is not located in an area at flood risk and will not cause or exacerbate flooding;  
A drainage assessment awaits the comments of Rivers Agency but given the existing ground conditions and extent of hardcore I would not anticipate an issue in this regard. A condition can be attached, given the above, that the development is not commenced until such agreement is reached with Rivers Agency.

(e) it does not create a noise nuisance;  
I have addressed the primary likely possible nuisance, namely noise, at criteria b above. No other nuisance is anticipated.

(f) it is capable of dealing satisfactorily with any emission or effluent;  
No issues are anticipated here, this is an extension to the existing facility which already will have measures in place.

(g) the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified;

(h) adequate access arrangements, parking and manoeuvring areas are provided;

In relation to g and h, DFI Roads, whilst advising the Council of a shortfall in parking within the site, have raised no objections subject to conditions. In relation to parking levels, I note the 2014 permission was also approved with a shortfall in parking spaces. The submitted TAF states the provision of some 79 spaces to address an additional 30 employees. This car parking amount is an increase from a present stated 40 vehicles to an anticipated 60. This would appear to be below established parking requirements but I note the 2014 approval also permitted development in exceedance of internal parking levels. My observations on site did not lead me to be concerned about internal parking pressures within the site or overspill onto the public road.

(i) a movement pattern is provided that, insofar as possible, supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way and provides adequate and convenient access to public transport;

The site is conveniently located and has adequate access to public transport and pedestrian movements

(j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;

The sites location does not lend itself to the need for a significant amount of soft landscaping, the site plan submitted does propose to soften additional car parking areas.

(k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;

The primary public view are from Derramore. Some existing vegetation marks this boundary and a 2.2m will also in improving amenity from noise and potentially visually.

(l) is designed to deter crime and promote personal safety; and  
The existing site appears secure in this regard.

(m) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.

N/A in this case.

### **Summary of Recommendation: Approval subject to conditions below.**

#### **Conditions.**

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

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

2. The business hereby permitted shall not operate outside 07:00-23:00 hrs Monday to Friday and 09:00-13:00hrs on a Saturday, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To safeguard nearby residential amenity.

3. The total noise level at the boundary of the nearest dwelling due to production and on-site traffic shall not exceed 42 dB L<sub>Aeq</sub>, 10min.

Reason: To protect nearby residential amenity.

4. Prior to the development hereby approved commencing, the mitigation measures outlined within pages 14, 15 and 22 of the Grainger Acoustics report dated April 2020 shall be completed and permanently retained and maintained for the duration of the development, specifically a 2.2m high noise barrier designed with a minimum self-weight of at least 10 Kg/m<sup>2</sup>, as shown and detailed on pages 14 and 15 of the report which shall be provided and retained permanently in the position shown on Page 15.

Reason: To protect nearby residential amenity.

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

Reason: To protect nearby residential amenity.

6. All roller shutter doors on the western and northern facades shall remain closed during the hours of operation except for the ingress or egress of materials and shall be fitted with fast close devices which will be permanently retained and maintained for the duration of the development.

Reason: To protect nearby residential amenity.

### **Contaminated Land**

7. The development shall not be occupied until remedial measures, as per section 10.2 of McLorinan Consulting Ltd – Report No. P800-1, November 2014, have been implemented to the satisfaction of Mid Ulster District Council.

Reason: To protect the development from land contamination

8. Validation documentation shall be submitted in the form of a validation report and agreed with Mid Ulster District Council and the Northern Ireland Environment Agency. The report shall describe all the remediation and monitoring works undertaken and shall demonstrate the effectiveness of the works in managing and remediating all the risks posed by contamination.

Reason: To protect the development from land contamination

9. In the event that previously unknown contamination is discovered falling outside the scheme of the approved revised remediation scheme, development on the site shall cease pending submission and agreement of a written report, detailing the proposed investigation, risk assessment and remediation scheme, by Mid Ulster District Council and the Northern Ireland Environment Agency. Development works shall not resume until the approved written report has been fully implemented to the satisfaction of Mid Ulster District Council and the Northern Ireland Environment Agency.

Reason: To protect the development from land contamination

10. No development shall take place until Rivers Agency have agreed the findings of a Drainage Assessment for the site.

Reason: In the interests of securing an adequate and acceptable means of site drainage

11. All hard and soft landscape works shall be carried out in accordance with the approved plans prior to the occupation of any of the development hereby approved.

Reason: In the interests of visual amenity and convenience of occupants of the premises.

**Signature(s) M.Bowman**

**Date: 25<sup>th</sup> Sept 2020**



ANNEX	
<b>Date Valid</b>	3rd April 2020
<b>Date First Advertised</b>	26th May 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses)  The Owner/Occupier, 10 DERRAMORE DRIVE, TOWN PARKS OF MAGHERAFELT, MAGHERAFELT, LONDONDERRY, BT45 5RG The Owner/Occupier, 10 Derramore Drive Magherafelt Londonderry The Owner/Occupier, 10 The Spires, Magherafelt, Londonderry, BT45 5TS The Owner/Occupier, 12 The Spires, Magherafelt, Londonderry, BT45 5TS The Owner/Occupier, 15 Station Road, Magherafelt, Londonderry, BT45 5DN The Owner/Occupier, 16 Station Road Magherafelt Londonderry The Owner/Occupier, 16a , Station Road, Glebe Industrial Estate, Magherafelt, Londonderry, BT45 5DN The Owner/Occupier, 17 Station Road Magherafelt Londonderry The Owner/Occupier, 18 Station Road, Magherafelt, Londonderry, BT45 5DN The Owner/Occupier, 19 Station Road, Magherafelt, Londonderry, BT45 5DN The Owner/Occupier, 2, DERRAMORE DRIVE, TOWN PARKS OF MAGHERAFELT, MAGHERAFELT, LONDONDERRY, BT45 5RG	

The Owner/Occupier,  
20 Station Road, Magherafelt, Londonderry, BT45 5DN

The Owner/Occupier,  
20a Station Road Magherafelt

The Owner/Occupier,  
20b Station Road Magherafelt

The Owner/Occupier,  
21 Station Road, Magherafelt, Londonderry, BT45 5DN

The Owner/Occupier,  
22 Station Road Magherafelt Londonderry

The Owner/Occupier,  
22a , Station Road, Magherafelt, Londonderry, BT45 5DN

The Owner/Occupier,  
22b , Station Road, Magherafelt, Londonderry, BT45 5DN

The Owner/Occupier,  
22c , Station Road, Magherafelt, Londonderry, BT45 5DN

The Owner/Occupier,  
22d , Station Road, Magherafelt, Londonderry, BT45 5DN

The Owner/Occupier,  
23 Station Road, Magherafelt, Londonderry, BT45 5DN

The Owner/Occupier,  
24 Station Road, Magherafelt, Londonderry, BT45 5DN

The Owner/Occupier,  
24c Station Road Magherafelt

The Owner/Occupier,  
25 DERRAMORE DRIVE, TOWN PARKS OF MAGHERAFELT, MAGHERAFELT,  
LONDONDERRY, BT45 5RG

The Owner/Occupier,  
25 Station Road Magherafelt Londonderry

The Owner/Occupier,  
27 Station Road, Magherafelt, Londonderry, BT45 5DN

The Owner/Occupier,

31 Station Road, Magherafelt, Londonderry, BT45 5DN The Owner/Occupier, 31 Station Road, Magherafelt, Londonderry, BT45 5DN The Owner/Occupier, 4, DERRAMORE DRIVE, TOWN PARKS OF MAGHERAFELT, MAGHERAFELT, LONDONDERRY, BT45 5RG The Owner/Occupier, 7 Derramore Drive Magherafelt Londonderry The Owner/Occupier, 9 DERRAMORE DRIVE, TOWN PARKS OF MAGHERAFELT, MAGHERAFELT, LONDONDERRY, BT45 5RG The Owner/Occupier, 9 Derramore Drive Magherafelt Londonderry Allan Stewart Email Address The Owner/Occupier, Unit 1, 16a, Station Road, Glebe Industrial Estate, Magherafelt, Londonderry, BT45 5DN The Owner/Occupier, Unit 2, 16a, Station Road, Glebe Industrial Estate, Magherafelt, Londonderry, BT45 5DN The Owner/Occupier, Unit 3, 16a, Station Road, Glebe Industrial Estate, Magherafelt, Londonderry, BT45 5DN The Owner/Occupier, Unit 4, 16a, Station Road, Glebe Industrial Estate, Magherafelt, Londonderry, BT45 5DN	
<b>Date of Last Neighbour Notification</b>	18th September 2020
<b>Date of EIA Determination</b>	25 Sept 2020
<b>ES Requested</b>	No

## Planning History

Ref ID: LA09/2019/0467/F

Proposal: Refurbishment and alteration of existing workshop.

Address: 20B Station Road, Glebe Industrial Estate, Magherafelt,

Decision: PG

Decision Date: 05.02.2020

Ref ID: LA09/2020/0461/F

Proposal: Extensions to existing office and factory buildings

Address: 26b Station Road, Magherafelt,

Decision:

Decision Date:

Ref ID: LA09/2018/1194/F

Proposal: Widening of access to facilitate articulated lorries

Address: 26B Station Road, Magherafelt,

Decision: PG

Decision Date: 14.11.2018

Ref ID: LA09/2018/0344/PAD

Proposal: Mixed use scheme consisting of industrial units and residential development.

Address: Lands at Station Road, Magherafelt: Industrial Zoning (MT26).,

Decision:

Decision Date:

Ref ID: H/2008/0212/Q

Proposal: Development of a small section of their land to provide dwelling for a family member

Address: 21 Union Road, Magherafelt

Decision:

Decision Date:

Ref ID: H/1992/0658

Proposal: ALTS AND ADDS TO MAINTENANCE DEPOT

Address: DOE WATER SERVICE DEPOT STATION RD MAGHERAFELT

Decision:

Decision Date: 15.12.1992

Ref ID: H/1992/0377

Proposal: VEHICLE MAINTENANCE DEPOT

Address: DOE WATER SERVICE STATION RD MAGHERAFELT

Decision:

Decision Date: 15.10.1992

Ref ID: H/1981/0269

Proposal: MAINTENANCE DEPOT

Address: STATION ROAD, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1997/0136%

Proposal: 2 NEW LIGHT INDUSTRIAL WORKSHOPS

Address: OLD COUNCIL YARD STATION ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1995/0452

Proposal: PACKAGING AND DISTRIBUTION CENTRE

Address: OLD COUNCIL YARD STATION ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2001/0348/F

Proposal: Replacement of Existing Industrial Units with 2 No Light Industrial Workshop

Address: Old Council Yard, 20B Station Road, Magherafelt

Decision:

Decision Date: 25.06.2001

Ref ID: H/2010/0236/F

Proposal: Provision of 2200 litre/1000kg underground LPG (propane) tank to provide central heating facilities to 5 No Apartments located on site.

Address: 22 Station Road, Magherafelt

Decision:

Decision Date: 23.07.2010

Ref ID: H/2005/0101/F

Proposal: Proposed 5 no apartments and parking

Address: 22 Station Road, Magherafelt

Decision:

Decision Date: 10.11.2006

Ref ID: H/2005/0415/F

Proposal: New site access point & amendment to approved access point

Address: Adj 22 Station Road, Magherafelt

Decision:

Decision Date: 23.08.2005

Ref ID: H/1984/0222

Proposal: CHANGE OF USE FROM AGRICULTURAL STORAGE SHED TO LIGHT  
ENGINEERING WORKSH

Address: STATION ROAD, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1995/6055

Proposal: PROPOSED INDUSTRIAL SITE STATION ROAD MAGHERAFELT

Address: STATION ROAD

Decision:

Decision Date:

Ref ID: H/1996/0171

Proposal: PRIVATE SERVICE ROAD AND INDUSTRIAL UNIT

Address: ADJ TO 22 STATION ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2001/0290/F

Proposal: New Dwelling

Address: Adjacent to 22 Station Road, Magherafelt

Decision:

Decision Date: 27.06.2001

Ref ID: H/1995/0585

Proposal: INDUSTRIAL UNIT WITH SHOP AND SERVICE ROAD FOR  
INDUSTRIAL ESTATE

Address: ADJACENT TO 22 STATION ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1975/0032

Proposal: HOUSE

Address: STATION ROAD, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2014/0299/F

Proposal: Change of use and extension of existing maintenance depot to provide new factory  
unit for manufacturing purposes (skylight and window blinds)

Address: 26B to 28C Station Road Magherafelt (5m North of 22 Station Road Magherafelt),

Decision: PG

Decision Date: 10.03.2015

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**



<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:



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

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

## Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0484/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed offsite replacement dwelling garage	<b>Location:</b> Approximately 60m North East of 18 Ballynakilly Road Cookstown County Tyrone BT80 9BX
<b>Referral Route:</b> Objection from a third party.	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Seamus Nugent 5 Rockdale Close Dungannon BT70 3PX	<b>Agent Name and Address:</b> Trevor Hutton T/A T4 Architects 169 Coagh Road Stewartstown Dungannon BT71 5LW
<b>Executive Summary:</b> The proposal is for a replacement dwelling and garage which will be located off site in the adjacent field. The applicant has stated the dwelling will be off-site to provide a distance from the poultry sheds across the road and not create an unacceptable impact on their amenity.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Characteristics of the Site and Area

The site is in the countryside and outside any settlement limits as defined in the Cookstown Area Plan 2010. The surrounding area is rural in character and is characterised by agricultural fields, farm complexes and detached dwellings on single plots. There is minimal development pressure in this immediate area for the construction of single dwellings in relation to other rural areas within Cookstown. Abutting the southern boundary of the application site is a large 2-storey dwelling, No. 18 Ballynakilly Road. The access road to No. 18 runs along the southern boundary of the site. Across the public road and to the east of the site is an agricultural shed and 3 no. poultry houses.

The application site is a large irregular shaped plot, which comprises of portions of 2 agricultural land and is 1.7 hectares in size. At the north of the site are the remains of a derelict building which has no roof on it and the stonework is up to the top of the window

level with both gables up to the peaks. The building has a direct frontage onto the Ballynakilly Road with its own access and curtilage. To the south of the buildings is an agricultural field where the topography slopes downwards from the public road towards the northeast boundary. There is 2m high-established hedgerows along the roadside and southern boundary with No. 18. Along the northeast boundary of this field are a row of established trees and there is a row of trees through the middle of the field. To the north, the site includes a cut-out of another agricultural field and the topography slopes downwards from the row of trees to the north east boundary of the application site. There are established trees along the southern boundary with No. 18.

### **Description of Proposal**

This is an outline application for an off-site replacement dwelling and garage 60m north east of No. 18 Ballynakilly Road, Cookstown.

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

#### **Planning History**

I/2013/0089/F - Two-storey domestic garage with first floor games room and personal art studio (amended proposal) - Ballynakilly Road, Sandholes, Cookstown – Permission Granted 20<sup>th</sup> May 2013.

I/2010/0070/F - Single dwelling house - 375m SW of 24 Ballynakilly Road, Cookstown, Townland: Ballynakilly – Permission Granted 26<sup>th</sup> January 2011.

The above approvals relate to the dwelling immediately south of the application site at No. 18 Ballynakilly Road.

#### **Planning 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.

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

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22<sup>nd</sup> February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at **10am on the 25th March** and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at **5pm on 24<sup>th</sup> September 2020**.

In light of this the draft plan cannot currently be given any determining weight.

#### **Cookstown Area Plan 2010**

The plan offers no specific policy relevant to this application as the site lies outside any settlement limit defined in the Cookstown Area Plan 2010.

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



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

### **Planning Policy Statement 21 – Sustainable Development in the Countryside CTY 3 – Replacement Dwellings**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the Countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In this instance, the application is for a replacement dwelling and as a result, it must be considered under CTY 3 of PPS 21.

The building to be replaced is single storey and has a long rectangular shape. There is no roof on the building however, both gables are up to the ridgeline and it is obvious this was a single storey building. The gables are substantially intact and the side walls are up to nearly the head level of the windows. I am satisfied that the external walls are substantially intact as shown in figures 1 to 6 below. . There is a space to the front of the building where the doorway would have been and there are window openings on both sides of the building. Inside there are the remains of a chimney at the southern end of the building. I am satisfied this and the window fenestration would suggest this building was a dwelling. Therefore, I am content the building meets the criteria to be considered for replacement.





Figure 1



Figure 2



Figure 3





Figure 4



Figure 5





Figure 6

I consider the dwelling is a non-listed vernacular building as it has a long rectangular form and the depth of the house is less than 6m. There is small opening for a door on the front elevation and the windows are primarily on the front and back walls. There are critical views of the building on both directions along this stretch of the Ballynakilly Road but as the building is already half derelict I am content it is not reasonably capable of being made structurally sound and does not make a significant contribution to the character or heritage of the area. Therefore, I do not consider it is necessary to be retained.

The proposed replacement dwelling and garage is not sited within the defined curtilage of the existing dwelling. There are 3 poultry sheds approximately 18m south and across the road from the dwelling to be replaced. When I completed my site visit, I was aware there is a strong odour from these buildings and if the replacement dwelling was sited on the footprint of the dwelling to be replaced there is potential for odour issues. The applicant has proposed to site the replacement dwelling 120m across the road and west of the poultry houses. The proposed location is sufficient distance from the poultry houses for there not to be issues with odour from the buildings. I consulted Environmental Health and in their consultation response dated 4<sup>th</sup> August 2020 they noted the poultry houses may give rise to offensive conditions and a resulting impact upon the amenity enjoyed by the proposed development due to odour.

The existing curtilage of the dwelling to be replaced is also restricted and would not accommodate a modern family sized dwelling with access and amenity space. So some form of extension of curtilage or off-site replacement is needed at the site. The proposed replacement dwelling and garage is sited along the same building line as No. 18 and there is a row of established trees that will block any direct views along the Ballynakilly Road in both directions.



The agent submitted a supporting statement dated 15<sup>th</sup> July 2020 to demonstrate the case for siting the proposed dwelling 120m away from the poultry houses and existing building. The agent states if the proposed dwelling was sited on the footprint of the existing dwelling it is 18m from 5 poultry houses which are in total just over 6750m<sup>2</sup> in floorspace. Although 2 of these sheds are set back from the public road in a southeast direction. It is stated that the proposed dwelling is sited 100-150m away from the poultry houses for amenity benefits. There are a number of odours and emissions from the poultry houses such as ammonia and hydrogen sulphide. In addition, the agent states there is a prevailing wind and the proposed site of the dwelling is as close to the 'upwind' of the poultry farm as possible. I accept the reasoning why the proposed dwelling has been sited off site for amenity benefits.

In the supporting statement, it is claimed there is also landscape benefits to siting the proposed dwelling in the corner of the field northeast of No. 18 Ballynakilly Road. The dwelling is sited behind a row of mature trees, which will be retained as shown in figure 3 below. There are no critical views of the site in both directions along Ballynakilly Road. Along the Rockdale Road, there are long distance views of the proposed dwelling cut into the hill but the dwelling will only be visible when directly in front of the site. In addition, the dwelling is visible in long distance views from 3 fields back from the Rockdale Road.



Figure 7 – view of the site from the Ballynakilly road and dwelling sited behind row of trees

On balance, I am satisfied there are landscape and amenity benefits to siting the dwelling in the proposed location.

As this is an outline application, no floor plans or designs have been submitted. At the location of the proposed replacement dwelling and garage, the topography of the site falls away from the row of established trees along the southeast boundary. At the trees, the existing level is 89m and towards the northern boundary, the existing level is 81.5 that is a drop of nearly 8m. On drawing 03 date stamped 16 APR 2020, a section is shown through the site with a dwelling of a ridge height of 8m. I am content a 2-storey dwelling could be accommodated at the site without being a prominent feature in the landscape. Even-though the dwelling to be replaced is a single storey dwelling and the proposed dwelling is 2-storey I am satisfied this is acceptable. There is already a large 2-storey dwelling at No. 18 and as there are minimal critical views I am content the dwelling will not be prominent.

A new access runs through the middle of an agricultural field and runs along a row of established trees, which are within the applicant's control. It is a long access lane to the site but No. 18 has an access with a similar distance so I do not consider it will detract from the character of the surrounding area.

Overall, I am content the proposal complies with all the listed criteria in CTY 3.

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

The proposed dwelling and garage is set back from Ballynakilly Road by approximately 100m. The topography of the site slopes downwards from the public road towards the row of established trees along the southeast boundary of the siting of the dwelling. There are no critical views of the dwelling and garage in both directions along Ballynakilly Road as shown in figure 9. Along Rockdale Road, the dwelling will be visible in long distance views but only when in front of the site as shown in figure 8 below.

Figure 8 – long distance views from the Rockdale Road

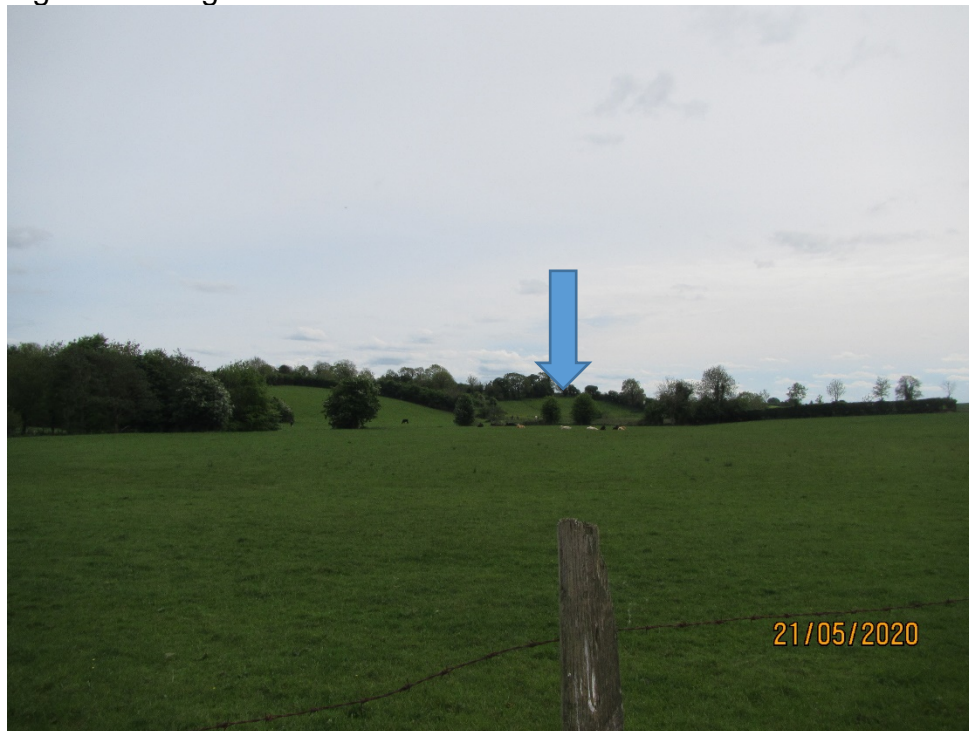




Figure 9 – view from the entrance of No. 18 along Ballynakilly Road

There is a row of established trees along the southeast boundary of the site which will be retained as shown on drawing No 01 date stamped 16 APR 20. There is also a hedgerow between the boundary with the site and No. 18. There are no other natural boundaries at the site as it is a portion of an agricultural field. I would recommend more landscaping along the remaining boundaries to assist with integration and protect neighbour amenity.

As discussed previously in the assessment of CTY 3 I consider a 2-storey dwelling can be accommodated at the site.

#### **CTY 14 – Rural Character**

I am content the proposal will not be a prominent feature in the landscape as there are will be no views along the Ballynakilly road and only long distance views from Rockdale Road. I am content a 2-storey dwelling can be accommodated at the site. It will not add or create a ribbon of development. A new access is proposed but I consider it will not damage rural character.

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

A new access is proposed through the middle of the site and DFI Roads were consulted and had no issues subject to visibility splays of 2.4m x 60m. The applicant can achieve this as the land is within their control. There is a row of established trees along the northern



boundary of the access lane that I will be retained and will assist in integration of the new access lane.

### **Representations**

The proposal was advertised and neighbour notified and at the time of writing 1 representation has been received.

An objection letter was received from the neighbouring property to the site of the proposed dwelling at No. 18 Ballynakilly Road. The letter was received on 2<sup>nd</sup> July 2020 and the letter was submitted by an agent on their behalf.

The objector stated the proposal is contrary to the SPPS, CTY 3 and CTY 13 of PPS 21 and there is no justification for the proposed off-site location. As stated in the assessment I am content the existing building has external walls that are substantially complete and has the features of a dwelling. I consider there is an acceptable case for siting the dwelling off-site to mitigate against unacceptable odour from the poultry houses.

The objector also raised issues about the impact of the ground works and the visual impact of the proposed dwelling and driveway. The critical views from the Rockdale Road are long distance and there are minimal views from the Ballynakilly Road. The proposed laneway will run alongside an existing row of trees within the applicant's control.

The proposal will involve some cutting and infilling into the slope but this is mitigated against by existing trees and there are only long distance views of the dwelling. In discussions it had been proposed to site the dwelling in the field where the access will run but the topography of the field slopes downwards and will still involve cutting and filling in the landscape.

Finally, the objector raised issue with the increase in curtilage size. I acknowledge the curtilage will be increased from the existing site but the dwelling at No.18 has a similar curtilage so this proposal will not be out of character for the area.

### **Other Considerations**

I am content there are no NED, HED or flooding issues at the site.

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

The proposal is recommended for approval as it complies with policies CTY 3, CTY 13 and CTY 14 in Planning Policy Statement 21.

### **Conditions**

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

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 (herein thereafter called the "Reserved Matters", shall be obtained from Mid Ulster Council in writing before any development is commenced.

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

3. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 60m in both directions 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.

4. The proposed dwelling shall have a ridge height of no greater than 8 metres above finished floor level.

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

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

Reason: In the interest of visual amenity.

6. The existing natural screenings of the site shall be retained unless necessary to prevent danger to the public and in which case a full explanation shall be submitted to Mid Ulster District Council.

Reason: To ensure the development integrates into the countryside.

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

Reason: In the interests of visual amenity.

8. The dwelling hereby permitted shall not be occupied until the existing building, coloured green on the approved plan 01 date stamped 16 APR 2020 is demolished, all rubble and foundations have been removed (and the site restored in accordance with a scheme to be submitted to the Council and approved in writing / in accordance with the details on the approved plans.)

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

9. The proposed dwelling and garage, excluding the access shall be sited in the area indicated green on the approved plan 01 date stamped 16 APR 2020.

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

### **Informatives**

1. This permission does not alter or extinguish or affect any existing right of way crossing.
2. This permission does not confer title. It is the responsibility of the developer to ensure he controls all the land necessary to carry out the proposed development.
3. A Consent to Discharge Sewage Effluent being obtained from Water Management unit, The Northern Ireland Environment Agency, as required by the Water (Northern Ireland) Order 1999.
4. Any new or existing septic tank unit being a minimum of 15 metres from the proposed development or any other habitable dwelling/building such as an office or such dwelling/building in the course of construction or the subject of a planning approval.
5. A legal agreement being obtained in relation to lands used in connection with any septic tank/drainage arrangement where such lands are outside the ownership of the applicant or outside the area marked in red which is the subject of this application. This agreement must ensure that the lands in question will always be available for the intended purpose and also that any occupier/owner of the proposed development will have access to these lands for maintenance/improvement works as required. Such legal agreement should be included in any planning approval as a planning condition.
6. The applicant ensuring that the proposal does not compromise any existing drainage arrangements serving existing neighbouring premises or developments not completed/commenced which are the subject of a planning approval.
7. Planning department receiving confirmation from Northern Ireland Water that a mains water supply is available and that it is feasible for the proposed development to be connected to same.

**Signature(s)**

**Date:**





**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0550/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed Replacement Dwelling	<b>Location:</b> Site 100m E of 2 Halfgayne Road Maghera BT46 5PB
<b>Referral Route:</b>  Refusal - To Committee - Contrary to CTY 3 of PPS 21.	
<b>Recommendation:</b>	refuse
<b>Applicant Name and Address:</b> Seamus Louge 6 Halfgayne Road Maghera BT46 5PB	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
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### Representations:

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

### Summary of Issues

Refusal - To Committee - Contrary to CTY 3 of PPS 21.

### Characteristics of the Site and Area

The site is located approximately 2.9km north west of the development limits of Maghera, in which the site is located within the open countryside as per the Magherafelt Area Plan 2015. I note that the red line covers the building to be replaced and a small portion of the much larger agricultural field. I note that the building to be replaced is accessed via an existing access which appears more as an agricultural access. Given the nature of the red line most of the boundaries of the site are undefined with the agricultural field being more defined by a line of a mix of mature trees and hedging. I note that the immediate and surrounding area is characterised by predominately agricultural land uses with a scattering of residential properties.

### Representations

One neighbour notification was out on this one with no representations were received.

**Description of Proposal**

This is an outline application for a proposed replacement dwelling at Site 100m E of 2 Halfgayne Road, Maghera.

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

The key planning issues are as stated below and following policies/advice have been included in this assessment:

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan 2015

PPS 1 - General Principles

PPS 3 - Access, Movement and Parking

PPS 21 - Sustainable Development in the Countryside

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

CTY 1 - Development in the Countryside

CTY 3 - Replacement Dwellings

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the Countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In this instance the application is for a replacement dwelling and as a result it must be considered under CTY 3 of PPS 21. CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. For the purposes of this policy all references to 'dwellings' will include buildings previously used as dwellings. Buildings designed and used for agricultural purposes, such as sheds or stores, and buildings of a temporary construction will not however be eligible for replacement under this policy. Policy states that if the dwelling does not make an important contribution to the heritage, appearance or character of the locality, planning permission will be granted for a new dwelling. In such cases the retention of the existing structure will be accepted where it is sympathetically incorporated into the layout of the overall development scheme, for example as ancillary accommodation or a store, to form an integrated building group.

I first note that upon site visit that the building on the outside appears an agricultural shed. However once inside the building, it is clear that there have been a number of

works completed to turn the building into an agricultural store/building. This was confirmed by the agent in that when the original building became in disrepair they repaired it with cheaper materials. In doing so, from the site visit it is unclear as to how much of the existing stone building still remains, from such it is difficult to determine that the original building is substantially intact once the new works have been discounted. In addition to this, I note that yes at one point it may have been a dwelling but it is just not fully clear if this was the case and given the ambiguity over this I cannot constitute as a valid replacement. The agent tried to provide additional information to demonstrate that this was a dwelling in the way of census data along with historical maps but even this is still unclear and given the level of ambiguity that this cannot constitute as a replacement.

In addition, the policy goes on to state that the proposed replacement should be sited within the established curtilage of the existing, unless either a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. Despite the issues whether or not this is a replacement or not I note that there isn't much of the way of an existing curtilage however in note that the intention is to locate any dwelling beside the existing buildings which would be acceptable. As stated given the ambiguity over the building I am of the opinion that it does not comply under CTY 3.

I note that a farm dwelling was mentioned as an alternative however there has been recent approvals (LA09/2015/0208/F & H/2012/0101/O) that would discount this as a viable option.

The proposed development must also comply with policies CTY 13 and 14, in that CTY 13 states that the proposed development is able to visually integrate into the surrounding landscape and be of appropriate design. As this is an outline application the exact design and siting details have not been provided at this time however I am of the opinion that an appropriately designed dwelling will not appear prominent in the landscape. From such and given the context of the wider setting of the site and the existing landscaping I feel it necessary to restrict the ridge height of any proposed dwelling to 6m from finished floor level. I note that as much of the existing landscaping should be retained where possible and supplemented with additional landscaping to ensure integration, therefore a landscaping plan will be required in any 'Reserved Matters' application. From this I am content that the application is able to comply with CTY 13.

CTY 14 states that planning permission will be granted for a building where it does not cause a detrimental change to, or further erode the rural character of the area. Given the landform I am content that an appropriately designed will not be unduly prominent in the landscape. In addition, I am content that a dwelling in this location will not result in a suburban style build-up of development. From this I am of the opinion that this development is able to respect the traditional pattern of settlement exhibited in the area. From this I am content that the local landscape has the capacity to absorb the development and in addition the proposal will not result in the creation of additional development opportunities that already exist. I am therefore content that the proposal is able to comply with the criteria of CTY 14.

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

I note that the intention is to use an existing unaltered access, which upon review may require upgrading.

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020.

I have no flooding, ecological or residential amenity concerns.

The proposal has failed under PPS 21 and I recommend refusal.

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

Refusal

**Reasons for Refusal:**

1.The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling and all external structural walls are not substantially intact

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

ANNEX	
<b>Date Valid</b>	14th May 2020
<b>Date First Advertised</b>	26th May 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 2 Halfgayne Road, Maghera, BT46 5PB	
<b>Date of Last Neighbour Notification</b>	29th May 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/0550/O Proposal: Proposed Replacement Dwelling Address: Site 100m E of 2 Halfgayne Road, Maghera BT46 5PB, Decision: Decision Date:  Ref ID: H/1985/0038 Proposal: SITE OF DWELLING Address: HALFGAYNE ROAD, MAGHERA Decision: Decision Date:  Ref ID: H/1984/0308 Proposal: BUNGALOW Address: HALFGAYNE ROAD, MAGHERA Decision: Decision Date:  Ref ID: H/1986/0112 Proposal: HV O/H LINE BM 7847 Address: HALFGAYNE ROAD, MAGHERA Decision: Decision Date:	

<b>Summary of Consultee Responses</b>
<b>Drawing Numbers and Title</b>
Drawing No. 01 Type: Site Location Plan Status: Approved  Drawing No. 02 Type: Site Location Plan Status: Approved
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:





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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0561/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed unit for valeting and cleaning of cars	<b>Location:</b> 15m SE of 82 Corr Road Dungannon
<b>Referral Route: Refusal</b>	
<b>Recommendation:</b>	Refuse
<b>Applicant Name and Address:</b> Dan McNulty 82 Corr Road Dungannon BT71 6HH	<b>Agent Name and Address:</b> CMI Planners LTD 38b Airfield Road Toomebridge Magherafelt BT41 3SG
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



**Representations:** None Received

#### Description of proposal

This is a full planning application for a proposed unit for valeting and cleaning of cars.

#### Characteristics of site and area

This is a rectangular shaped plot located adjacent and east to No. 82 Corr Road, and is flanked between Corr Road to the north and Ballynakilly Road to the south, with access from Corr Road. Along the roadside boundary adjacent to Corr Road there is a 2m high vertical timber fence and access gate. To the south west boundary adjacent to Ballynakilly Road there is a roadside verge and 2m high paladin security fencing. The eastern boundary is not clearly defined and is open to a wooded area of trees boundary

beyond the site to the east. A vertical timber fence marks the NW boundary and is a shared boundary with the curtilage of No. 82 Corr Road.

Currently on site there is a sizable pitched roofed building/shed with roof lights. There is an external staircase on the eastern gable providing access to first floor. Along the northern elevation there is a sunroom type projecting with glazed wall panels and roof and a garage type roller shutter door opening. To the southern elevation is a large roller shutter door opening. In the NW corner of the site is a newly constructed small prefab garage type single storey shed with roller shutter door to one gable. Most of the site remainder of the site is defined by a large gravel yard hardstand. Between the large building and Corr Road is an open yard defined by concrete apron.

Due to the positioning of the timber fence line at Corr Road sight splays onto this minor road are limited and substandard. In my view access from this site onto the road poses a danger to road safety due to limited visibility.

Adjacent and west of the site is a single storey dwelling with generous garden area which is enclosed by existing tree lined boundaries. Land in the area is used mostly for agricultural purposes and is defined by dispersed single dwellings and farm holdings.

Approx. 1km to the SE of the site is the Cohannon Inn and associated petrol filling station and other retail and food facilities. This also serve as Motorway Services.

Approx. 1km to the NW is McNulty Motors, the owner of which is the applicant of this proposal.

St. Marys GAA grounds is located approx.. 1/2km west of the site.

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

Under the provisions of the Planning Act (Northern Ireland) 2011, all decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise. Dungannon and South Tyrone Area Plan 2010 is the relevant, extant Development Plan for the site. Account will also be taken of the relevant provisions of the SPPS and retained Planning Policy Statements (PPSs). The Strategic Planning Policy Statement for Northern Ireland (SPPS) published in September 2015 continue to apply existing policy and guidance contained in retained PPSs and confirms that until such time as a Plan Strategy for the whole of the Council Area has been adopted the Council should other relevant documents together with the provisions of the SPPS itself. Where a conflict arises between a retained Planning Policy Statement and the SPPS then the provisions within the SPPS shall prevail.

The Mid Ulster District Council Local Development Plan 2030 ? Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020. In light of this the draft plan cannot currently be given any determining weight.

Dungannon and South Tyrone Area Plan 2010: the site is located in the open countryside, old green belt, and policies PPS21 Sustainable development in the countryside and Strategic Planning Policy Statement (SPPS) apply.

### **Relevant Planning Policy**

SPPS- Strategic Planning Policy Statement  
 PPS21- Sustainable Development in the Countryside  
 PPS4- Planning and Economic Development  
 PPS3- Access, Movement and Parking  
 PPS2- Natural Heritage  
 PPS15 (revised)- Planning and Flood Risk

### **Planning History**

M/1981/0240- retirement dwelling, replacement shop, filling station and general meal store, permission granted.

M/1991/0481- Petrol filling station/shop and dwelling, permission refused.

### **3rd party representations/objections**

None received at the time of report writing

### **Consideration**

This proposal is a full planning application for a valeting and cleaning of cars business in the countryside. There is no conflict between policy contained within SPPS and PPS21 or PPS4 in relation to this planning application.

PPS21 is the overarching policy for all development in the countryside. Policy CTY1 of PPS21 sets out the type of development that is considered acceptable in the countryside, including;

- the reuse of an existing building in accordance with Policy CTY4; and
- non-residential development such as industry and business uses in accordance with PPS4 Planning and Economic Development.

Policy CTY4 states that planning permission will be granted to proposals for the sympathetic conversion, with adaptation if necessary, of a suitable building for a variety of alternative uses, including use as a single dwelling, where this would secure its upkeep and retention. The justification and amplification then goes on to state that there are a range of older buildings in the countryside, including some that have been listed, that are no longer needed for their original purpose. These can include former school houses, 19 churches and older traditional barns and outbuildings. The reuse and sympathetic conversion of these types of buildings can represent a sustainable approach to development in the countryside and for certain buildings may be the key to their preservation. Part (b) of CTY4 also states that where the reuse or conversion would maintain or enhance the form, character and architectural features, design and setting of the existing building and not have an adverse effect on the character or appearance of the locality.

Therefore my interpretation of this policy is that the aims of CTY4 is to protect older vernacular style buildings in the countryside that are of a certain architectural merit or feature. The building that exists on site is a modern looking building at looks like it was build around the same time as the dwelling located to the west. It is of pitched roof construction, with a single storey corrugated

Perspex lean-to extension added at a later stage. Its walls are plastered brick/block construction. The plan of the building is square, measuring approx. 15m by 15m. Openings to the building are defined by roller shutter door opening and modern pvc window and door openings. There is outdoor metal stair case providing access to the loft of the building. There as been a modern sunroom extension added to the northern elevation of this building with glass wall and roof panelling, which also has the appearance of modern construction. I am of the view that this building is not a suitable building for conversion that the aims of CTY4 had in mind, and can therefore discount this policy.

Policy PED 2- Economic Development in the Countryside of PPS4 sets out the circumstances where proposals for economic development use/business use are considered to be acceptable in the countryside and include;

- The Expansion of an Established Economic Development Use - Policy PED 3
- The Redevelopment of an Established Economic Development Use - Policy PED 4
- Major Industrial Development - Policy PED 5
- Small Rural Projects - Policy PED 6

In support of this application the agent has provided the following information;

- A supporting statement date stamp received 24 Aug 2020 stating that the site was last used by a business trading as Glass D?cor (allegedly from approx.. 1994 to 2017);
- A number of ortho and Google Earth photos to demonstrate that the site was in commercial use for the said period;
- Accounts dated 1997;
- Invoices dated 2000-2005;
- A case made by the agent that the proposal should be assessed under policy PED4 given that an economic use was established on the site since 1997.
- The agent has indicated that this business will be used as ancillary to the applicants existing business, McNulty Car Sales, which is located approx. 1km NW of the application site. The agent has also stated that there will be no car sales from this proposed site, that there will only be a car valeting and car wash facility at the site, and that members of the public can also drop in to have their cars washed and/or valeted.
- The power wash facility will use simple soap and water. Cleaning products will be used for the internal cleaning of cars.

Due to the sensitive nature of the invoices and accounts data provided this information has not been uploaded to the Planning Portal.

At the time of my site visit I could not get into the site as the wooden gated access from Corr Road into the site was secured and locked. 5 cars were parked between the large building on site and Corr Road in the North Western corner. A further 5 or 6 cars were parked on the far side of the building between it and Ballynakilly Road. There was no sign of any business or activities taking place at the yard or within any of the buildings on site.

There is no clear planning history on this site for any commercial use, except back in 1981 when there was permission for a retirement dwelling, replacement shop, filling station and general meal store, permission granted (M/1981/0240). In 1991 permission was refused on this site for a Petrol filling station/shop and dwelling (M/1991/0481). This planning history does not establish any commercial use on this site.

While there may have been a Glass Decor business operating for this site in the past, it is not clear which part of the site or buildings this was from or if it was carried out from the adjacent dwelling site, No. 82. Plus the accounts/invoices are only up to 2005 and there has been no evidence submitted to show that this use was in operation up to 2017.

Ortho images of the site from over the years indicate that the hardstand and large building have been in place for a period of well over 5 years and are established on this site. These ortho images however are not conclusive that this building and associated yard were used as a commercial business.

The small pre-fabricated building located in the northern corner of the site does not appear in any ortho images. There is no planning permission in place for this building and I have alerted our enforcement team to this.

In my view, the evidence provided is not sufficient to demonstrate that a commercial use is established on this site, and the appearance for the ortho images would suggest that the shed and yard could have just as easily be used as ancillary to the existing dwelling on site. While a commercial use may have operated from part of the site in 2005, it may be that this use ceased and the buildings and yard reverted to an ancillary residential use to the main dwelling. In previous orthos the dwelling and subject site seemed to be as one, and only recently a fence has been erected to separate the property into two separate units.

Policy PED 4 is only applicable where it has been demonstrated that there is an established economic development use on the site therefore this policy is not applicable.

Therefore, this application has to be assessed as a new economic development use in the countryside. While there is scope under policies PED 5 and 6 of PPS4 for new economic development uses in the countryside it is my view the proposal does not represent either a major industrial development or small rural project therefore policies PED5 and 6 are not applicable.

The agent has not provided any more information to demonstrate why this proposal should be allowed at this location and not within the limits of a settlement. I therefore recommend that this application be refused as it is contrary to PPS21 policy CTY1 and PPS4 Policy PED2.

In terms of the integration, the large building and yard are both immune from enforcement therefore can remain in permanence. A new building is proposed on this site measuring apporx. 19m long and 9.5m wide and a ridge height of 4.5m high. This building has a mono pitched roof, and the materials and design are out of character with existing established buildings on this site. In my view this building will not integrate onto this site and will look out of character and should therefore be refused in terms of its design in accordance with CTY13 of PPS21.

### **PPS3**

Dfl Roads were consulted on this proposal initially and raised concern over existing visibility splays. The agent provided his own revised block plan to show improved visibility and Dfl Roads responded raising no objections to the proposal subject to planning informatives. However no planning conditions were attached to this response.

The agent has demonstrated that splays of 2.4m by 84m in both directions can be achieved. Should permission ever be granted for this proposal I advise that a condition is put in place that within 3 months from the date of the permission that splays of 2.4m by 84m be put in place in both directions in accordance with drawing No. 02 rev1 and shall be permanently retained thereafter.

## **PPS2**

I sent Shared Environmental Services an e-mail to comment on potential impacts of this proposal on European protected sites. SES replied in June stating the following; -'I have reviewed this application which is 2.5km upstream of Lough Neagh Ramsar site. There is a ditch about 1 - 2 m wide adjacent to the east of the site which is 5m from the car parking and 28 m from the building to be constructed. P1 form states 'nil' water requirement but also states that foul sewage will be treated via a treatment plant. Is this an existing treatment plant for the current dwelling and building with a discharge consent. If so then I am satisfied that there will be no emissions from the site that could have a likely significant impact on Lough Neagh Ramsar site/SPA'.

The agent has indicated in his statement of case that a power car wash will be located at the site so I have sent a formal consultation to SES for comment. At present the agent has not demonstrated that the proposal will not have a detrimental impact on the surrounding natural environment.

NIEA have been consulted and state that they are unable to assess the potential impacts of the proposal on the water environment and require a full Drainage Assessment. As I find the proposal not acceptable in principle I have not requested this additional information.

As there is insufficient information to demonstrate otherwise I find the proposal to be currently contrary to policy NH1 European and Ramsar Sites of PPS2.

## **PPS15 (revised)**

I consulted Rivers Agency for comment as there is an open watercourse adjacent to the eastern boundary and the site is surrounded by Flood Plain. Rivers Agency indicate that the site is not located within a flood plain and that they do not require a Drainage Assessment, however they do require that a 5m maintenance strip is maintained along the open water course to the east.

## **Other Considerations**

There are no issues of land contamination identified by any consultees.

Environmental Health raise no concern over potential impacts of noise, nuisance or general disturbance from this proposal on the adjacent residential development. The block plan includes the adjacent dwelling to be within the same ownership as the application site. Given that both properties are within the same ownership it is unlikely that there will be any complaints. While the owners are the same at present, this may not always be the case so a noise assessment may be required, or at the very least a condition restricting hours of operation should permission be granted. Environmental Health indicate that the nearest sensitive receptor is a dwelling over 200m away and that there will be likely no residential amenity impacts from this proposal.



<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation:</b> That permission is refused subject to the following reasons for refusal.	
<b>Refusal Reasons</b> <ol style="list-style-type: none"> <li>1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the proposal falls within any of the range of types of development which in principle are considered to be acceptable in the countryside and therefore does not contribute to the aims of sustainable development.</li> <li>2. The proposal is contrary to Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that building to be converted is a suitable building in terms of form, character or architectural features and its conversion would not represent a sustainable approach to development in the countryside.</li> <li>3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the design of the proposed new building is inappropriate for the site and locality and would not integrate into the landscape.</li> <li>4. The proposal is contrary to policy PED2 Economic Development in the Countryside of PPS4 Planning and Economic Development in that it has not been demonstrated that the proposal falls within any of the range of developments where an economic development use is considered to be acceptable in the countryside.</li> <li>5. The proposal is contrary to policy NH1 European and Ramsar Sites- International of PPS2 Natural Heritage in that a Drainage Plan has not been provided to demonstrate that the proposal will not have a significant effect on Lough Neigh.</li> </ol>	
<b>Signature(s)</b>  <b>Date:</b>	

ANNEX	
<b>Date Valid</b>	19th May 2020
<b>Date First Advertised</b>	2nd June 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 82 Corr Road,Dungannon,BT71 6HH	
<b>Date of Last Neighbour Notification</b>	12th June 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Notification to Department (if relevant): NA</b>  Date of Notification to Department: Response of Department:	



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0603/F	<b>Target Date:</b> 09/09/2020
<b>Proposal:</b> Upgrade to existing parking area and path from carpark to Forest Road. New path within Forest towards the River. Trail furniture and timber Play Equipment. Walking trail extending from Rath Dubh Community Centre towards the River	<b>Location:</b> Moydamlaght Forest Moydamlagh Road BT45 7ES (Approx 5 miles North West of Draperstown). Agricultural land to the North east of Rath Dubh community Centre Moneyneaney Road
<b>Referral Route:</b>  MUDC / RDP Moydamlaght Forest	
<b>Recommendation:</b>	APPROVE
<b>Applicant Name and Address:</b> MUDC Burn Road Cookstown BT80 8DT	<b>Agent Name and Address:</b> McAdam Design 1c Montgomery House 478 Castlereagh Road Belfast BT5 6BQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Rivers Agency	Substantive Response Received
Statutory	Historic Environment Division (HED)	Error
Non Statutory	DAERA - Forestry Division	No Objection
Non Statutory	NIEA	
Non Statutory	NIEA	
Statutory	Historic Environment Division (HED)	Content
Non Statutory	Rivers Agency	Substantive Response Received

### Representations:

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

### Summary of Issues

Upgrade to existing parking area and path from car park to Forest Road. New path within Forest towards the River. Trail furniture and timber Play Equipment.  
Walking trail extending from Rath Dubh Community Centre towards the River

## Characteristics of the Site and Area

The application site is identified as lands incorporating Moydamlagh forest with access onto the Moydamlagh Road. The site is approx. 1.2km northwest of the settlement of Moneyneany, Draperstown. The site represents an extensive forest area owned and operated by the NI Forestry Service. Within the forest there is an extensive network of forest tracks and walkways that prove popular with locals and tourists. There is a small car park at the south west corner of the forest accessing on the Moydamlaght Road.

Agricultural land to the North east of Rath Dubh community Centre forms part of the site with access. Site boundaries are undefined with the perimeter agricultural fencing. The surrounding landform is one of mountainous upland countryside where the land has a steep elevation. The site is located with an Area of Outstanding Natural Beauty and Site of Local Nature Conservation Importance as per the Magherafelt Area Plan 2015

## Description of Proposal

The applicant is seeking full planning permission for the upgrade to existing parking area and path from car park to Forest Road. New path within Forest towards the River. Trail furniture and timber Play Equipment. Walking trail extending from Rath Dubh Community Centre towards the River.

### Proposed development:

The proposed walking trail creates a route of about 1.5 km. The northern part commences at the existing informal car park on Moydamlaght Road, where a new 14-space car park will be created along with a timber activity trail. The trail then traverses commercial forestry plantation and broad-leaved woodland before crossing Altalacky River and continuing through agricultural land to the community centre on Moneyneany Road.

A significant part of the trail will be along existing forest roads within the forest, with no need for upgrades. After 300m, a new route will be built through mature conifers towards Altalacky River. The route then follows an existing rough trail parallel to the river for about 500m before crossing the river and traversing the southern bank through rough grassland for 300m before turning away from the river through agricultural fields for 350m and reaching the community centre. In general, the construction of the new trails and upgrading of existing trails will not involve direct damage to existing trees except where fallen trees have blocked paths or require some cutting back. Existing larger trees will be skirted and will not need to be felled.

It is planned to erect two footbridges, one over Altalacky River and another over a deep gully on the north bank.

- using existing tracks and forest roads with no need for upgrade;
- using existing tracks but requiring upgrades;
- rationalising desire lines;

- complete new build.

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

### **Representations.**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. At the time of writing no objections or representations were received. This application was initially advertised in the local press on w/c 8th June 2020 (publication 9th June 2020). Two (2) neighbouring properties were notified on 25th June 2020; all processes were in accordance with the Development Management Practice Note 14 (April 2015).

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

HRA Determination - (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2015, It is noted the site is within Area of Outstanding Natural Beauty and Site of Local Nature Conservation. The Altalacky River abutting this site however it is unlikely that there will be any adverse effects from development works on integrity of the river.

**Relevant planning:** None

### **Statutory Consultees:**

DFI Rivers Planning Advisory & Modelling Unit: Rivers were consulted and raised issues that the site included an area that was in the flood plain. Amended plans removed this part of the site and Rivers were re-consulted and responded with no objection.

Department for Communities: HED Archaeological and Built Heritage were consulted and responded that the proposal had no adverse impact on archaeological or built heritage issues.

Forest Services were consulted and offered no objections.

DFI Roads were consulted on this application. Following discussions with senior planners it was deemed not necessary to consult Road.

NIEA NED were consulted on 23 June 2020 and a follow up reminder was sent on 11 August 2020. A generic email was issued stating that due to Covid-19 restrictions a NED had a substantial case load and was unable to respond. The Case Officer telephoned on 19th August and 23rd September 2020 to seek further clarification and was told circumstances had not changed since the email of 24th August 2020.

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

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The Magherafelt Area Plan 2015 does not contain provided by PPS 21 and the SPPS.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020.

In light of this the draft plan cannot currently be given any determining weight.

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

PPS 21: Sustainable Development in the Countryside  
Regional Development Strategy 2035  
Magherafelt Area Plan 2015  
Strategic Planning Policy Statement  
PPS 6: Planning, Archaeology and the Built Heritage  
PPS 16: Tourism

Planning Policy Statement 21: Sustainable Development in the Countryside  
PPS 16 Policy TSM 6 New and Extended Holiday Parks in the Countryside

In terms of Policy TSM 6- Planning permission will be granted for a new holiday park or an extension to an existing facility where it is demonstrated that the proposal will create a high quality and sustainable form of tourism development. The location, siting, size, design, layout and landscaping of the holiday park proposal must be based on an overall design concept that respects the surrounding landscape, rural character and site context.

Proposals for holiday park development must be accompanied by a layout and landscaping plan (see guidance at Appendix 4) and will be subject to the following specific criteria:

(a) The site is located in an area that has the capacity to absorb the holiday park development, without adverse impact on visual amenity and rural character; (b) Effective integration into the landscape must be secured primarily through the utilisation of existing natural or built features. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist its integration with the surrounding area; (c) Adequate provision (normally around 15% of the site area) is made for communal open space (including play and recreation areas and landscaped areas), as an integral part of the development; (d) The layout of caravan pitches / motor homes is informal and characterised by discrete groupings or clusters of units separated through the use of appropriate soft landscaping; (e) The design of the development, including the design and scale of ancillary buildings and the design of other elements including internal roads, paths, car parking areas, walls and fences, is appropriate for the site and the locality, respecting the best local traditions of form, materials and detailing; (f) Environmental assets including features of the archaeological and built heritage, natural habitats, trees and landscape features are identified and, where appropriate, retained and integrated in a suitable manner into the overall design and layout; (g) Mains water supply and sewerage services must be utilised where available and practicable.

I am content that the proposed development complies with the above policy criteria.



In terms of PPS Under Policy OS 3 of PPS 8 - Outdoor Recreation in the Countryside, development for proposals of outdoor recreational use in the countryside, where there is no adverse impact on features of importance to nature, conservation, archaeology and built heritage. The proposal takes advantage of existing vegetation. I am content the proposal incorporating upgrading existing facilities will integrate into the forested area.

In the absence of NIEA NED not responding statutory consultations MUDC's Biodiversity Officer visited the site and highlighted that that he had no ecological concerns. NI Biodiversity Checklist. The Northern Ireland Biodiversity Checklist was completed for the project. Also worth noting an Ecological Appraisal was carried by an Environmental Consultant Mr Dermot Hughes on behalf of Mid Ulster District Council.

I note the Ecological Appraisal was issued with the Tender documents and the Contractor will be required to comply with the requirements as outlined below in the contract data:

- The Contractor shall be responsible for planning and implementing all mitigation measures as detailed in the documents. The Contractor shall engage a qualified Ecologist who is suitably experienced in conducting works similar in nature, scale and complexity to the works to complete any surveys and advise the Contractor where necessary on ecological issues and mitigation measures. All surveys should be documented once completed and submitted to the Employer for record;
- The Contractor shall ensure that all mitigation measures are included in a Construction Environmental Management Plan, including any advice from the Contractors Ecologist. This plan should be submitted to the Employer prior to any construction works starting on site.

#### **Assessment.**

The proposed development of a walking trail in Moydamlaght Forest is considered in relation to its potential for negative impact on priority habitats, priority species and designated sites. A significant amount of the newly installed trail will be within coniferous forest of low conservation value within active forestry subject to cyclical harvesting operations. Sections of the trail pass through deciduous and mixed woodland of higher nature conservation importance, as well as crossing a small river with semi-natural woodland on both banks.

An analysis of priority habitats and species and designated areas highlights some possible conflicts between the creation of the trail and some species such as pine marten, badger, otter, red squirrel and breeding birds.

A range of mitigation measures are proposed that will render any remaining risks to priority habitats and species negligible. Development of protocols and training of construction personnel will be carried out to ensure that mitigation measures will be adhered to. As part of this, a Protected Species Management Plan has been developed. These protocols also will instruct the contractor to suspend work and to seek professional ecological advice if and when the need arises.

#### **Neighbour Notification Checked**

**Yes**

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

I am content that the proposed development is of a minor nature and approval is recommend.

**Conditions:**

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

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

2.All construction activity shall be confirmed within the site boundaries and the boundary of the designated area shall not be disturbed in any way without written consent from Mid Ulster District Council

Reason: To protect the integrity of the ASSI and any encroachment therein.

**Informatives**

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

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

3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	27th May 2020
<b>Date First Advertised</b>	9th June 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 51 Moneyneany Road Draperstown Londonderry The Owner/Occupier, 53 Moneyneany Road Draperstown Londonderry	
<b>Date of Last Neighbour Notification</b>	25th June 2020
<b>Date of EIA Determination</b>	<b>N/A</b>
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/0603/F Proposal: Upgrade to existing parking area and path from carpark to Forest Road. New path within Forest towards the River. Trail furniture and timber Play Equipment. Walking trail extending from Rath Dubh Community Centre towards the River Address: Moydamlaght Forest, Moydamlagh Road, BT45 7ES (Approx. 5 miles North West of Draperstown).,Agricultural land to the North east of Rath Dubh community Centre, Moneyneaney Road, Decision: AL Decision Date:	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	

Drawing No. 02 (REV-1)  
Type: Block/Site Survey Plans  
Status: Submitted

Drawing No. 03A  
Type:  
Status: Submitted

Drawing No. 05  
Type: Site Appraisal or Analysis  
Status: Submitted

Drawing No. 06  
Type: Site Appraisal or Analysis  
Status: Submitted

Drawing No. 07  
Type: Site Appraisal or Analysis  
Status: Submitted

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

Drawing No. 03  
Type: Site Appraisal or Analysis  
Status: Submitted

Drawing No. 04  
Type: Site Appraisal or Analysis  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0604/F	<b>Target Date:</b>
<b>Proposal:</b> Construction of a mountain bike trail to include: New blue and red grade mountain trails including all necessary crossings, bridge structure and boardwalk Gravity bike trail Jump track Trail signage/waymarker posts	<b>Location:</b> Davagh Forest, Davagh Road, Omagh. BT79 8JH
<b>Referral Route:</b>  Approval - To Committee - Applicant is Mid Ulster District Council.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> MUDC Burn Road Cookstown BT80 8DT	<b>Agent Name and Address:</b> McAdam Design 1c Montgomery House 478 Castlereagh Road Belfast BT5 6BQ
<b>Executive Summary:</b> Approve	
<b>Signature(s):</b> Peter Henry	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DAERA - Forestry Division	Content
Statutory	NIEA	Content
Statutory	Historic Environment Division (HED)	Content
Statutory	Shared Environment Services	

### Representations:

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

### Summary of Issues

Approval - To Committee - Applicant is Mid Ulster District Council.

### Characteristics of the Site and Area

The red line covers a portion of the overall Davagh Forest Site, the site runs through the Forest with undulating landform throughout. The MUDC Dark Sky Observatory, recently completed is in close proximity to the red line. Davagh Forest is in an area designated as an Area of Outstanding Natural Beauty (AONB), Tourism Opportunity Zone (TM1), Area

of Significant Archaeological Interest, Countryside Policy Area and Area of Constraint on Mineral Development all of which are designations in the Cookstown Area Plan 2010. The Davagh Water, one of the headwaters of the Owenkillew River (SAC) runs through the forest and connects to the River Foyle and Tributaries (SAC).

#### Representations

No representations were received.

### Description of Proposal

This is a full application for construction of a mountain bike trail to include: New blue and red grade mountain trails including all necessary crossings, bridge structure and boardwalk Gravity bike trail Jump Track Trail signage/waymarker posts located at Davagh Forest Davagh Road Omagh.

### Planning Assessment of Policy and Other Material Considerations

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

#### Strategic Planning Policy Statement (SPPS)

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

Cookstown Area Plan 2010

PPS 21 - Sustainable Development in the Countryside

PPS 2 - Natural Heritage

PPS 6 - Planning, Archaeology and the Built Heritage

PPS 8 - Open Space, Sport and Outdoor Recreation

SPPS -Strategic Planning Policy Statement for Northern Ireland

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

This site is not located near any residential properties therefore it will have no impact on residential amenity. It is located close to a Hydrological Link to a designated site. It is also located in an area where there are protected flora and fauna. An ecological appraisal report has been submitted and NIEA have been consulted. They have no objections to the proposal from a natural heritage perspective.

#### Cookstown Area Plan 2010

As referred to earlier in this report, this site is located in an area subject to several Area Plan designations. The plan does not include any specific AONB criteria, this will be dealt with under PPS 2. The site is located within a Tourism Opportunity Zone (TM1). This policy states that development in these areas must provide adequate infrastructure



which won't have a detrimental impact on conservation. The site is also located within an Area of Significant Archaeological Interest (CON4).

## PPS 2 - Natural Heritage

Given the site being located within a number of designations, in which, NIEA were consulted. In their response, Natural Environment Division has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to recommendations.

Went on to confirm, that the application site is adjacent to and hydrologically linked to the following national, European and international designated sites: Owenkillew River SAC, which is designated under the EC Habitats Directive (92/43/EEC on the conservation of natural habitats and of wild fauna and flora) and Owenkillew River ASSI and Teal Lough and Slaghtfreeden Bogs which is declared under the Environment Order (Northern Ireland) 2002 For European Sites. In accordance with the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), the Competent Authority should ensure an assessment is carried out to determine if the proposal, either alone or in combination, is likely to have a significant effect on a European site and the qualifying features, in line with the site conservation objectives.

NED has considered the proposal and highlights the following as potential impacts on the designated sites;

NED has reviewed all relevant documents to date (04/08/2020) which have been uploaded to the NIPP. The proposal involves the creation of mountain bike trails within Davagh Forest, adjacent to streams which are hydrologically linked to Owenkillew ASSI/SAC. NED notes that the Ecological Appraisal report (date stamped 07/04/2020) has not included Teal Lough and Slaghtfreeden Bogs ASSI, being adjacent to the proposed development (~60m), in its assessment. However, due to the hydrology and the topography of the land, NED considers that Teal Lough and Slaghtfreeden Bogs ASSI is unlikely to be significantly impacted. NED acknowledge mitigation measures within the Ecological Appraisal report and Protected Species Management Plan report (date stamped 07/04/2020) for qualifying features such as otter/Atlantic salmon/freshwater pearl mussel and prevention of pollution and sediment entering the aquatic environment. NED considers that provided mitigation measures within the documents mentioned above and recommendations below are adhered to, that it is unlikely that the proposed development will significantly impact any designated site.

Using the information submitted, the site and surrounding area is likely to support, badgers, pine marten, red squirrel and breeding birds, protected under the Wildlife (Northern Ireland) Order 1985. Bats and otters are also potentially using the site, these are both European protected species protected under the Conservation (Natural Habitats etc.) Regulations (Northern Ireland) 1995 (as amended). NED notes that the site walkover for the Ecological Appraisal included looking for signs of protected species along the route of the proposed trails and that no evidence was found. While this site walkover does not constitute a full protected species survey for any of the potential species likely to be present, NED is now content that adequate mitigation measures are proposed such that any significant impacts or harm to protected/priority species is unlikely. The PSMP proposes that an ecologist will carry out further protected species surveys along the route of the trails and within appropriate buffers (25m) once they have

been marked out. Micro-siting of the trail will be implemented to avoid any impacts to the resting places of potential species. An ecologist with the power to halt works will be appointed to oversee works for the duration of the construction and will brief consultants regarding the implementation of the PSMP. Providing the PSMP is implemented as described NED considers the proposal is unlikely to have a significant adverse impact or cause harm to any protected and/or priority species.

With regards to the bird related issues, NED notes that there are historical records of Hen Harrier (EU Birds Directive: Annex 1) having nested within the forest boundary. This has not occurred between 2014 and 2018 but data for 2019 and 2020 are not currently available. A single male of this species appeared to hold a territory to the south of the forest during the 2016 breeding season but no evidence of nesting was obtained. It is possible that roosting by wintering Hen Harriers occurs within the forest. The closest recent nesting (2016) by Merlin (EU Birds Directive: Annex 1) was more than 1km from the development, outside the forest boundary. A former Peregrine (EU Birds Directive: Annex 1) nest site around 400m from the forest edge was occupied by only a single adult at the time of the last national census in 2014 and there have been no subsequent records of this species breeding in the vicinity.

Two tetrads centred within the forest boundary each held pairs of Curlew (Red-listed species of conservation concern in Ireland) during fieldwork for the 2011. Although the exact location of these observations within the respective tetrads is unknown, it is highly probable that these birds were associated with the heathland habitat outside the forest. Suitable nesting habitat for this species within the forest is scarce or absent and nesting within the boundary appears very unlikely. Any current Curlew territories in proximity to the forest edge will be screened from the proposed trails by trees and significant disturbance would not be anticipated.

The potential for disturbance to birds is largely confined to those parts of the development not based on existing trails or where trails require upgrading. In addition to construction of the trails themselves, works will also include installation of culverts at stream crossings and erection of signage. There appears to be a lack of consistency in estimating the amount of felling involved in the project between the Ecological Appraisal and the Protected Species Management Plan (PSMP). The Ecological Appraisal (Section 2) states that 'In general, the construction of any new trails and upgrading of existing trails will not involve direct damage to existing trees except where fallen trees have blocked paths or require some cutting back. Existing larger trees will be skirted and will not need to be felled'. The PSMP (Section 4) states, however, that parts of the trail routes pass 'through semi-mature unthinned plantation requiring some felling of immature trees'. Despite this inconsistency it is clear that there will be no extensive felling of mature trees. Mitigation in relation to vegetation clearance will be required.

Provided the Protected Species Management Plan is fully implemented, NED is content that this project can proceed without having a significant adverse impact upon sensitive bird species using adjacent habitats. Our chief concern would be the potential presence of breeding or roosting Hen Harriers in the vicinity of the trail routes. We are satisfied that the proposed mitigation measures will prevent disturbance during the construction phase but it should be borne in mind that similar measure may need to be applied during operation in the event of harriers returning to breed in the forest. It is therefore recommended that checks for breeding activity by this species are carried out annually,

early in the breeding season, by suitably experienced personnel. The results should inform management of the use of the various trails to minimise disturbance, if necessary.

NED notes that the trail will go through plan plantation woodland and is content with the information available that the proposed development is unlikely to significantly impact Northern Ireland Priority Habitats.

SES were consulted and responded that due to work load pressures that they were currently unable to respond. However after further discussions and based on the Habitats assessment submitted along with this application on 07<sup>th</sup> April 2020; that I am content that the can be carried out without adverse impact. As long as the mitigation measures are carried out in accordance with the Protected Species Management Plan. However as previously stated a Construction Environmental Management Plan will be required to ensure that appropriate construction methods are carried out. SES have been advised of this and were provided ample opportunity to object prior to a decision being made at Committee.

#### PPS 6 - Planning, Archaeology and the Built Heritage

I note that a consultation was sent to HED, in their response states that HED (Historic Monuments) has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements. While this application is within the Beaghmore Area of Archaeological Significance (ASAI) it will not provide any adverse impact upon the setting of the ASAI due to the nature of the proposed development and its location within Davagh Forest. Archaeological mitigation is not required as the potential for uncovering buried archaeological remains is considered to be low. From this, I am content that the application has met the relevant policy requirements of PPS 6.

#### PPS 8 - Open Space, Sport and Outdoor Recreation

In terms of the proposed development Policy OS 3 - Outdoor recreation in the Countryside. In which the policy states the following that development for outdoor recreational use in the countryside will be permitted if the following criteria is met:

(i) there is no adverse impact on features of importance to nature conservation, archaeology or built heritage;

I note that consultations went out to both NIEA and HED; in which HED confirmed that they were content that the proposal satisfies the policy requirements of SPPS and PPS 6.

(ii) there is no permanent loss of the best and most versatile agricultural land and no unacceptable impact on nearby agricultural activities;

Given the location of the site within an existing forest I am content that the proposal is unlikely to result in the permanent loss of the most versatile agricultural land and it is unlikely to have an unacceptable impact on nearby agricultural activities.

(iii) there is no adverse impact on visual amenity or the character of the local landscape and the development can be readily absorbed into the landscape by taking advantage of existing vegetation and/or topography;

I am content that this type of development is typical in the Forest setting and that the proposal is unlikely to have an adverse impact on the visual amenity or the character of the area.

(iv) there is no unacceptable impact on the amenities of people living nearby; Given the separation distances between the site and any residential properties I am content that it is unlikely to impact on neighbouring amenity.

(v) public safety is not prejudiced and the development is compatible with other countryside uses in terms of the nature, scale, extent and frequency or timing of the recreational activities proposed; I am content that public safety is unlikely to be prejudiced given the necessary crossings and sign posts etc. I am content that this development is compatible with the uses within the site and the wider countryside.

(vi) any ancillary buildings or structures are designed to a high standard, are of a scale appropriate to the local area and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment; I am content that all relevant structures - bridges, boardwalks, bike trail etc. will be built to a high standard and will be absorbed into the local area.

(vii) the proposed facility takes into account the needs of people with disabilities and is, as far as possible, accessible by means of transport other than the private car; and I note that the existing site at the Davagh Forest already has adequate accessibility.

(viii) the road network can safely handle the extra vehicular traffic the proposal will generate and satisfactory arrangements are provided for access, parking, drainage and waste disposal. I am content that the local road network will be able to cope with any additional traffic generated from the proposal and the existing arrangements within Davagh Forest in terms of access, parking, drainage and waste disposal is adequate.

I note that a consultation was also sent to Forest Service who did not offer any objections to the application subject to informatives.

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approve

Conditions:

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

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

2. A suitable buffer of at least 5m should be retained between the location of refuelling, storage or oil/fuel/construction materials and any watercourse.

Reason: To prevent any pollution in the watercourse.

3. A Construction Environmental Management Plan (CEMP) shall be submitted by the applicant/approved contractor to the Planning Authority prior to the commencement of any works. This should identify the perceived risks to the aquatic environment, potential pollution pathways and mitigation measures to negate such risks.

Reason: To ensure implementation of mitigation measures for protected species

4. No development activity shall commence until a competent ecologist has been appointed to oversee construction works and the implementation of the Protected Species Management Plan, and details of the appointed ecologist, including duties, responsibilities and timings of visits, has been submitted to the Council and agreed in writing.

Reason: To ensure implementation of mitigation measures for protected species

5. No vegetation clearance or removal of trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance 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

6. Unplanted areas in proximity to the trail routes will be checked prior to the commencement of works during the breeding season for nesting Hen Harriers. If breeding activity by this species is detected within 500m of the works area, construction will be suspended until after fledging and dispersal. CS recommends that searches for breeding harriers also include any areas of second rotation forest at the pre-thicket stage as these can also be used for nesting.

Reason: To protect breeding birds

7. Prior to the commencement of works in winter, areas of suitable habitat will be checked for roosting by Hen Harriers. Work will be suspended if a roost site is identified within 500m. Winter works will also finish one hour before sunset to avoid deterring any harriers gathering to roost in the wider area.

Reason: To protect breeding birds.

8. The development hereby permitted shall be constructed in accordance with the Protected Species Management Plan date stamped received 07<sup>th</sup> April 2020.

Reason: To ensure sufficient mitigation and that appropriate construction methods are carried out.

**Informatives**

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

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

3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.

4. Please see attached information note from NIEA.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	27th May 2020
<b>Date First Advertised</b>	9th June 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier,	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/0604/F Proposal: Construction of a mountain bike trail to include: New blue and red grade mountain trails including all necessary crossings, bridge structure and boardwalk Gravity bike trail Jump track Trail signage/waymarker posts Address: Davagh Forest, Davagh Road, Omagh. BT79 8JH, Decision: Decision Date:  Ref ID: I/2014/0413/F Proposal: Construction & Operation of a Windfarm comprising 5 no. three bladed wind turbines with a maximum base blade to tip height of 126.5 metres. Ancillary developments include a permanent lattice anemometer mast of 80 metres height; turbine transformers; turbine bases, foundations and hardstands; widening and strengthening of existing tracks and construction of new access tracks, junctions and turning areas; a 33kV switch room control building with communications equipment, car parking and compound area; underground electrical cables and communication lines connecting wind turbines to the switch room control building; on site drainage works; upgrade of an existing entrance off Beltonanean Road for light vehicle use, use of the existing entrance to Davagh Forest off Slaght Road for main infrastructure traffic, with access tracks options through Davagh Forest; temporary set down areas, temporary material deposition areas, temporary construction compound; and all ancillary and associated development and infrastructure including general and excavation works at Beltonanean.	

The proposed development also includes temporary works along the transport route to facilitate the delivery of turbine components including a realignment of a section of the Feegarran Road and widening of the junction of Feegarran and Slaght Roads, in the townlands of Ballynagilly and Beltonanean, Cookstown. (Tourism report and amended Noise report received)

10 year permission is sought. (amended description)

Address: Beltonanean, Ballynasollus, Beleevna-More and Ballynagilly Townlands, Cookstown, Co Tyrone,

Decision: PR

Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

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

Date of Notification to Department:

Response of Department:





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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0630/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for a new 2 storey dwelling and garage	<b>Location:</b> On Tulnacross Road Doons Opposite and South of 23 Tulnacross Road Cookstown
<b>Referral Route:</b>  Applicant is an Elected Member on MUDC	
<b>Recommendation: APPROVE</b>	
<b>Applicant Name and Address:</b> Kyle Black & Miss Adele Bradley 2a Maloon Road Cookstown BT80 9RA	<b>Agent Name and Address:</b> Rodney Henry Architecture 2 Liscoole Cookstown BT80 8RG
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

This is an outline planning application for a dwelling south of No 23 Tulnacross Road, Cookstown. Neighbour Notification and press advertisement has been carried out in line with the Council's statutory duty. There were no objections received and all other material considerations have been addressed within the determination below

### Characteristics of the Site and Area

The application site is identified as lands opposite and south of No 23 Tulnacross Road, Cookstown County Tyrone. The proposed site forms the front portion of a grass field with an access opening onto Tulnacross Road, wherein the topography is relatively flat. The site boundaries comprise post and wire fencing, mature vegetation with intermittent trees and low

level vegetation abutting the boundary with public road. Located to the west boundary is a lane which serves farmland to the south, whilst to the north is a two storey dwelling with a series of farm buildings located to the rear.

The proposed site is situated in a rural location outside any settlement limits as depicted within the Cookstown Area Plan 2010. The surrounding landform is one of undulating countryside characterised by a mix of detached residential properties and agricultural buildings.

### Description of Proposal

The applicant is seeking outline planning permission for a two storey and garage south of No 23 Tulnacross Road, Cookstown. No details surrounding design or landscaping associated with the proposal have been submitted with this application which relates to outline planning consent only. The proposal involves construction of a new accesses onto public road.

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

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. At the time of writing no objections or representations were received. This application was initially advertised in the local press on w/c 15th June 2020 (publication date 16th June 2020). One (1) neighbouring property was notified on 25th June 2020: all processes were in accordance with the Development Management Practice Note 14 (April 2015).

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

HRA Determination - (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2015, there is no watercourse directly abutting this site, therefore it is unlikely that there will be any adverse effects from development works on integrity of any National or European site or any water stream by way of a hydrological link to the site.

### Planning Histories.

Planning Ref:	Site Address	Proposal	Decision	Decision Date
I/2009/0262/O	30m South of 23 Tulnacross Road, Cookstown	Proposed 2 storey dwelling and garage	PG	10.11.2010

### 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.

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The Cookstown Area Plan 2010 does not contain provided by PPS 21 and the SPPS.

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

**The Mid Ulster District Council Local Development Plan 2030** Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020.

In light of this the draft plan cannot currently be given any determining weight.

#### **Principal Planning Policies:**

Regional Development Strategy (RDS)

Cookstown Area Plan 2010

Planning Policy Statement 21

Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS3 Access Movement & Parking

PPS21 Sustainable development in the countryside.

Supplementary planning guidance: A Design Guide for Rural Northern Ireland.

There are no other potential development constraints. The proposal raises no concerns in terms of flood risk, impact on listed built heritage or protected trees or vegetation. The proposal is under the 15.2m height threshold for consultation to Defence Estates relating to Met. Office - Radar.

The Strategic Planning Policy Statement for Northern Ireland `Planning for Sustainable Development? (SPPS) is material to all decisions on individual planning applications and appeals. The SPPS retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

The SPPS points out that provision should be made for a dwelling house on an active and established farm business. The farm business must be currently active and have been established for a minimum of 6 years. Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The circumstances wherein planning permission will be granted for an individual dwelling house are outlined. This includes a dwelling on a farm in accordance with Policy CTY 10. This policy states that planning permission will be granted where three criteria are met.

The Cookstown Area Plan 2010 (CAP) operates as the local development plan of the area the application site lies within. The site sits in a rural location outside any defined settlement limits. The CAP offers no specific policy or guidance in respect of this application. There is no conflict

or change in policy direction between the provisions of the Strategic Planning Policy Statement for N Ireland (SPPS) and those of Planning Policy Statement 21 (PPS21) in respect of this application thereby the policy provisions of PPS 21 remain applicable.

This application relates to a farm dwelling and the policy criteria assessment will be under CTY 10, CTY 13 & 14.

CTY 10 - Criterion (a) requires that the farm business is currently active and has been established for at least 6 years. This statement is reiterated in Paragraph 5.38 of the Justification and Amplification text, which goes on to state that the applicant will therefore be required to provide the farm's DARD business ID number along with other evidence to prove active farming over the required period.

The Applicant through his agent submitted a DAERA business ID number with a farm map that relate to a 11.05 ha farm business (Field No.4) located at 23 Tulnacross Road, Cookstown. The Department for Agriculture, Environment and Rural Affairs (DAERA) confirms that the Business ID number (650093) was issued to the applicant's parents Mrs Yvonne Black and Mr James Black (deceased) on 19/04/2007. The applicant has not claimed any payments through the Basic Scheme or Agri-Environment in each of the previous 6 years. I note as DAERA does not produce farm maps for any farm business not in receipt of SFP, the applicant was not able to produce a more up to date farm map.

DAERA in their initial consultation response confirmed that the application site was located on lands associated with another farm business. The Farmer who takes the land in Conacre (Mr O Connor) has his own farm business and has been claiming SFP on this land since 2015. The agent submitted documentation in the form of invoices for cutting hedgerows, removing trees, digging out tree trunks and spraying shed roofs for the respective periods 19/12/2014, 4/2015, 1/12/2017, 17/12/2018, 11/12/2018 dated 09/07/2015, 19/07/2016, 10/08/2017, and 17/07/2018. Submitted also was a letter from DAERA confirming transfer of Single Farm Payment entitlements to the applicant's farm to Messers J & M O'Connor dated 06/08/2014. I note the land is in good agricultural and environmental condition and at the site visit was being farmed. From this evidence and my own on-site observations, I am therefore satisfied that the applicant's farm business is currently active and has been established over the last 6 years. In this evidential context, I conclude that criterion (a) is complied with.

With regard to criteria (b) there are no records indicating that any dwellings or development opportunities have been sold off from the farm holding within 10 years of the date of the application, thus also was the case when I checked against epic. Therefore the application meets criteria (b).

With respect to criteria (c) the application includes a front portion of a field to the south of the existing farm dwelling No 23 Tulnacross Road and associated farm buildings located to the rear and is the opposite side of the Tulnacross Road. Having visited the site it is my opinion that there is a clear visual linkage between the preferred site and the established farm grouping. I consider that a dwelling sited on the field to the south would be acceptable in terms of meeting this part of the policy.

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

Policy CTY 13 stipulates that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

It is considered that the level of vegetation surrounding the site coupled with the natural topography and undulation of the land helps to integrate the proposal with its surroundings. The location of the existing farm buildings and farm dwelling will also help detract from the impact associated with the proposed dwelling.

In summary the proposed dwelling will be of a modern vernacular design and be of an appropriate scale, form and massing to integrate satisfactorily into this rural setting and will be contemporary with a relative simple design and its use of local materials, texture and colour to enhance the appearance of the new building. While the proposed development will have intermittent visibility when travelling from west to east direction along the Tulnacross Road, I am content that the development would not have a detrimental impact upon the character of the area, and would not result in a loss of amenity in terms of loss of outlook or overlooking and therefore, does comply with CTY 13.

I recommend a ridge height of 7.5m that is in keeping with the vernacular style of this rural location.

This proposal seeks approval for a proposed dwelling and detached domestic garage with separate access onto Tulnacross Road Cookstown south of No 23 Tulnacross Road, Cookstown.

Given the design, size and scale of the proposal respects the character of the surrounding landscape and the nature of the existing built environment surrounding the site. There are no issues regarding integration. It is my opinion that the site would have the capacity to absorb a dwelling of the size and scale set out above.

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

In terms of Policy CTY14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. It is considered that the site and its surrounding environment has the capacity to absorb a dwelling. The site exhibits a significant degree of enclosure and that the existing farm buildings and dwelling to the north share similar levels.

#### **Access.**

The application confirms that the access point is taken from a new access point onto the public road. DFI Roads have been consulted on this application and have responded confirming that they have no issues of concern requesting visibility splays 2.4m x 70m as per RSI form. I am content that the proposal will not prejudice road safety nor will it inconvenience the flow of traffic. It therefore accords with the PPS 3 and Parking Standard.

For the reasons outlined in my report, I am satisfied that the proposal relates to a farm business which is active and has been established for at least 6 years. Furthermore, I am content that the proposal is policy compliant and meets the requirements set down CAP 2010, SPPS, PPS 21, and PPS 3 for the reasons documented above.

#### **Neighbour Notification Checked**

**Yes**

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

Approval subject to Conditions

**Conditions:**

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

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

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

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

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

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

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

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

4.The proposed dwelling shall have a ridge height of less than 7.5 metres above finish floor levels.

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

5.The depth of under-building between finished floor level and existing ground level shall not exceed shall not exceed of 0.45m at any point

Reason: In the interest of visual amenity.

6.A plan at 1:500 scale (min.) shall be submitted as part of the reserved matters application, showing the access point including visibility splays of 2.4 metres x 70 metres in accordance with the attached form RS1 to be constructed prior to the commencement of any development hereby approved and as approved at Reserved Matters stage.

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

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

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

8.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 area identified in Green on the approved plan Drw. No 01 (Rev-1) date stamped 15th July 2020. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity.

9. Notwithstanding the provisions of the Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revoking and/or re-enacting that Order, no walls, pillars, gates shall be made to the dwelling houses hereby permitted without the grant of a separate planning permission from the Council.

Reason: To preserve the amenity of the countryside.

#### **Informatives.**

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

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

3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or any other statutory authority.

**Signature(s)**

**Date:**



<b>ANNEX</b>	
<b>Date Valid</b>	4th June 2020
<b>Date First Advertised</b>	16th June 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 23 Tulnacross Road Cookstown Tyrone	
<b>Date of Last Neighbour Notification</b>	25th June 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2020/0630/O  Proposal: Proposed site for a new 2 storey dwelling and garage Address: On Tulnacross Road, Doons, Opposite and South of 23 Tulnacross Road, Cookstown, Decision: Decision Date:	
Ref ID: I/2009/0262/O Proposal: Proposed 2 storey dwelling and garage Address: 30m South of 23 Tulnacross Road, Cookstown Decision: Decision Date: 10.11.2010	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	

Drawing No. 01 (REV-1)  
Type: Site Location Plan  
Status: Submitted


**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0634/F	<b>Target Date:</b>
<b>Proposal:</b> 2 storey extension to side of dwelling with single storey rear extension with disabled adaption	<b>Location:</b> 98 Drumbolg Road Maghera
<b>Referral Route: Approval - To Committee – Agent's spouse works for Mid Ulster District Council Planning Department</b>	
<b>Recommendation:</b>	approve
<b>Applicant Name and Address:</b> Carla Kennedy / Ciaran Bennett 98 Drumbolg Road Maghera BT46 5UX	<b>Agent Name and Address:</b> Gordon Arbuthnot 6 Culnady Road Upperlands Maghera BT46 5TN
<b>Executive Summary: Approval</b>	
<b>Signature(s): Peter Henry</b>	

Case Officer Report		
<b>Site Location Plan</b>		
		
<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b>		
Approval - To Committee – Agent's spouse works for Mid Ulster District Council Planning Department		
<b>Characteristics of the Site and Area</b>		
<p>The site is located approximately 1.1km south west of the development limits of Tamlaght, in which the site is located within the open countryside as per defined the Magherafelt Area Plan 2015. Within the red line sits a semi-detached two storey dwelling with a large garden to the side. I note that the site is accessed via an existing access. The surrounding and immediate area is characterised by predominately agricultural land uses with a scattering of dwellings.</p> <p>Relevant planning history One neighbour notification was sent out however no representations were sent out.</p>		
<b>Description of Proposal</b>		
This is a full application for a two storey extension to side of dwelling with single storey rear extension with disabled extension located at 98 Drumbolg Road, Maghera.		
<b>Planning Assessment of Policy and Other Material Considerations</b>		

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

Strategic Planning Policy Statement (SPPS)  
Mid Ulster Local Development Plan 2030 - Draft Plan Strategy  
Magherafelt Area Plan 2015

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

Policy EXT1 of Addendum to PPS7: Residential Extensions and Alterations states that planning permission will be granted for a proposal to extend or alter a residential property where all of the following criteria are met:

(a) Deals with scale, massing, design and external materials. I note that there is a need for the proposed works and upon review of the plans I am content that the proposed will become subordinate to the existing dwelling. In which I am content that the scale, massing and design are considered as acceptable. As the external materials will match that of the existing dwelling, I am content that it is unlikely to detract from the existing property or surrounding area.

(b) In terms of residential amenity, I am content that the proposed is unlikely to unduly impact upon neighbouring amenity, given the size and location of the extension. In that the two storey extension to the side will have no impact on No. 100 Drumbolg Road, in which the rear extension is only single storey and appears to be designed to have a minimal impact. Given the existing layout of No. 100 I am content that the proposal will not result in any unduly impacts upon their amenity, in which I note that there have been no objections received in connection with this application.

(c) The proposal will not cause the unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality. This proposal will not cause loss of trees or landscape features.

(d) Sufficient space remains within the curtilage of the property for recreational and domestic purposes. A small portion of amenity space to the side and rear of the property will be lost as a result of this proposal however I am content that sufficient amenity space will remain at the front and rear of the property. Car parking is relatively unaffected by the proposal.

I am content that this proposal complies with Policy EXT1 of Addendum to PPS7: Residential Extensions and Alterations.

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approve

**Conditions:**

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

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

**Informatives**

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	5th June 2020
<b>Date First Advertised</b>	16th June 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 100 Drumbolg Road Upperlands Maghera	
<b>Date of Last Neighbour Notification</b>	3rd September 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	
Drawing No. 02 Type: Existing Plans Status: Submitted  Drawing No. 01 Type: Proposed Plans Status: Submitted	
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:	







Comhairle Ceantair  
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**Mid Ulster**  
District Council

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0677/F	<b>Target Date:</b> 28/09/2020
<b>Proposal:</b> Proposed change of house type and garage to supersede previous planning approval LA09/2016/1557/F	<b>Location:</b> 40m South West of 9 Ballyhagan Road Maghera
<b>Referral Route:</b>  Two letters of objection	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Mr E Kelly 43 Fallylea Road Maghera	<b>Agent Name and Address:</b> D M Kearney Design 2a Coleraine Road Maghera BT46 5BN
<b>Executive Summary:</b>  <p>The application site relates to a change of house type and garage to supersede previous planning approval LA09/2016/1557/F. The principle of development has been established on the site through the approval of the above planning permission. It was noted during visit of the site that site works had commenced. Accordingly whilst this history is material the application needs to be assess a fresh in relation to policy. All other material considerations have been assessed within the determination in this report</p>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

This is a full planning application for a change of house type previously approved under LA09/2016/01157/F, located 40m south west of No 9 Ballyhagan Road, Maghera. Neighbour Notification and press advertisement has been carried out in line with the Council's statutory duty and all other material considerations have been addressed within the determination below

### Characteristics of the Site and Area

The application site is accessed from the Ballyhagan road and is set back approx. 50 metres from the public road. The site is situated approximately 40m southwest of No 9 Ballyhagan Road and approx. The site is rectangular in shape measuring 0.21 of a hectare and topography within is relatively flat. Boundaries comprise mature trees and low level vegetation on the north, east with sporadic vegetation on the west supported by post and wire fencing, the south boundary runs parallel with public road is undefined. The surrounding landform is one of undulating countryside characterised by a mix of detached residential properties and agricultural buildings as per the Magherafelt Area Plan 2015. The Moyola River is located 100m south of the site.

**Description of Proposal**

This application seeks planning permission for a change of house type from that previously approved under application LA09/2016/1557/F which is a live planning consent and approved on 07/04/2017.

In terms of location and layout the siting of the proposed dwelling is on the same site as was previously approved, however the size, design and footprint of the dwelling has been altered. The previous approval included a small front porch projection and rear extension. The proposed dwelling includes an extended front elevation of the dwelling increasing from 13m to 16m, two side extensions set back from the build line and rear projection. The height of the proposal remains as a single storey dwelling, as previously approved. The previous approval included quoin stones to the corners of the dwelling and Pearl grey stone chip dash to the finishes, this is a design feature which has not been retained in the new proposal.

The materials to be used on the proposal are annotated on drawing no. 01, date stamped 15/06/2020.

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

**Representations.**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. At the time of writing One letter of objection was received. This application was initially advertised in the local press on w/c 15th June 2020 (publication date 16th June 2020). Four (4) neighbouring properties were notified on 2nd July 2020: all processes were in accordance with the Development Management Practice Note 14 (April 2015).

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

HRA Determination - (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2015, the proposed site sits 190m north of the Moyola River given the topography and distance with no watercourse directly abutting this site, therefore it is unlikely that there will be any adverse effects from development works on integrity of any National or European site or any water stream by way of a hydrological link to the site. The site sits outside any designated flood plain.

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

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The Magherafelt Area Plan 2015 does not contain provided by PPS 21 and the SPPS.

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

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

planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020.

In light of this the draft plan cannot currently be given any determining weight.

### **Principal Planning Policies:**

Regional Development Strategy (RDS) 2035  
 Magherafelt Area Plan 2015  
 Planning Policy Statement 21  
 Strategic Planning Policy Statement for Northern Ireland (SPPS)  
 PPS3 Access Movement & Parking  
 PPS21 Sustainable development in the countryside.

Supplementary planning guidance: A Design Guide for Rural Northern Ireland.

There are no other potential development constraints. The proposal raises no concerns in terms of flood risk, impact on listed built heritage or protected trees or vegetation. The proposal is under the 15.2m height threshold for consultation to Defence Estates relating to Met. Office - Radar.

The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) is material to all decisions on individual planning applications and appeals. The SPPS retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

**The Magherafelt Area Plan 2015 (MAP)** operates as the local development plan of the area the application site lies within. The site sits in a rural location outside any defined settlement limits. The MAP offers no specific policy or guidance in respect of this application. There is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for N Ireland (SPPS) and those of Planning Policy Statement 21 (PPS21) in respect of this application thereby the policy provisions of PPS 21 remain applicable.

### **Assessment.**

The principle of development has been established on the site through the approval of the earlier granted scheme and this permission is still live, in accordance with condition 1 of the approval. It was noted during a visit of the site that site works had commenced MUDC Building Control have confirmed their attendance on site as per their report (held on file). I am satisfied that the earlier planning approval is live. The principle of development and commencement of site works has therefore been established.

The key test in assessing the overall acceptability of the proposal sits within the policy context of PPS 21, Policy CTY 13 & 14 Integration and Design of Buildings in the Countryside and Rural Character.



Fig 1. Access visibility splays



Fig 2. Floor plans and Elevations

### **Assessment of Objections.**

An objection letter from Mrs Angela Lagan was received on 15/07/2020 that indicated that a substantial letter of objection would be submitted on or before 16th July 2020.

A letter of objection was received via email from MKA Chartered Town Planners dated 16th July 2020.

### **Summary of objections:-**

- failure to implement access and visibility splays as pre-commencement works;
- proposed change of design and size unacceptable for countryside;
- orientation would result in a loss natural lighting and would require removal of mature trees;
- demolition of existing building adversely impacts on screening / integration; and
- Increase front elevation from 13m to 26.3m.

In terms of the access and visibility splays I observed from my site visit that the access and splays were in place in accordance to approved plans and DFI Roads were consulted and responded with no objection.

In terms of proposed design and size being unacceptable in the countryside including a substantial increase in front elevation. I am of the view the proposed changes blends sympathetically with the existing surroundings and will therefore, not be unduly prominent in the landscape. The site provides a suitable degree of enclosure for integration and the building blends with the existing features, such as the trees which provide an effective backdrop. Furthermore, the design of the building is appropriate for the site and locality. Furthermore, the objector has wrongly included the two side extensions as frontage as I indicated earlier in my

report both extensions are set back from the front elevation by 1.5m therefore the frontage stands at increase of 16m. I am also content that the dwelling will not cause a detrimental change to the rural character of the area, as it respects the traditional pattern of settlement exhibited in the area and will not result in a suburban style build-up of development or create or add to a ribbon of development.

Finally, In relation to Condition 2 of the previous approval only related to use as ancillary to the new dwelling and did not condition the retention of the building therefore I am content that no breach of planning has occurred as a result of the building's removal.

### **CTY 13**

CTY 13 stipulates that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The changes proposed under this application are relatively modest in the overall scheme of the development, the footprint of the dwelling is slightly increase but overall remains similar to the previous approval and the proposal now includes two side extensions and relocation of garage as opposed to the previous approval. The proposal does not add significantly to the overall level of impact associated with the previous approved and live consent on the site. The changes to the size of the proposed dwelling, as well as changes to layout and design are modest and I consider the design to be appropriate to this area of the countryside. I therefore consider that the proposed change of house type is acceptable in this regard.

The mature vegetation and tree coverage which surrounds the site is an important feature in terms of integration. I feel that this vegetation will provide a sufficient degree of backdrop and cover so as to prevent a negative impact on the surrounding landscape by helping to restrict the level of prominence associated with the development. This is supplemented by the topographical aspect of the site which restricts the level of visibility onto the proposal from views along the Ballyhagan Road. The applicant has annotated proposed landscaping works and retention of existing trees.

### **CTY 14**

Policy CTY 14 deals with the preservation of rural character and sets out the criteria by which development proposals should accord.

The proposal remains integrated into the existing landscape and is not deemed to present a dominant feature. The level of enclosure afforded to the site in terms of mature trees and vegetation restricts the level of prominence and the level of associated impact on the landscape. This also restricts the level of inter-visibility between the development and nearby dwellings. The proposal will not result in suburban development when viewed in the context of the approved and existing setting.

The proposal does not add to or elongate the existing development pattern which has been established and as such the development cannot be deemed to present a negative impact on the traditional pattern of settlement. The proposal and its associated ancillary works will not have a negative impact on the established rural character of this area.

### **Neighbour Amenity**

In terms of the amenity of neighbouring residential properties it is noted that the site is situated 40m south west from the closest neighbouring dwelling No. 9 and No 11 to the north west. In light of the significant distance between the proposal and the neighbouring dwellings, as well as what has already been approved on the site and the fact that both proposals are similar, it would be difficult to sustain a reason for refusal on neighbouring amenity grounds. I consider that the proposal will not give rise to any significant impact in terms of overshadowing, loss of light or privacy concerns.

### **Access.**

The application proposes to use the previously approved access arrangements to the site, which is in situ. DFI Roads were consulted and responded on this application and have confirmed that they have no objection to the proposal put forward. With this in mind I consider the proposed

access arrangements to be acceptable and in accordance with the provisions of PPS 3 Access, Movement and Parking.

**Conclusion**

I am satisfied that the proposal is adequately sited and designed to avoid a significant adverse impact on landscape character or neighbour amenity. The proposed access arrangements accord with the provisions of PPS 3 Access, Movement and Parking.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

**Conditions:**

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

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

2. The vehicular access including visibility splays 2.4 x 45 metres and any forward sight distance, shall be provided in accordance with Drawing No 01 bearing the date stamp 15 Jun 2020 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. This permission is granted solely as a substitute for the permission for a dwelling previously granted on the site under Ref: LA09/2016/1557/F on the 7th April 2017 and only one dwelling shall be constructed on the site.

Reason: To ensure that only one dwelling is constructed on site.

4. All landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 01 date stamped 15th June 2020 shall be carried out in the first planting season following the commencement of the construction of the development hereby approved.

Reason: To ensure the development integrates into the countryside

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

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

6. Notwithstanding the provisions of The Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revoking and re-enacting that Order, no walls gate pillars, fences or other structures, other than the development permitted shall be erected along the front boundary of the site without the written consent of the Council.

Reason: To preserve the amenity of the site.

**Informatives.**

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

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

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

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

5. This determination relates to Planning Control only and does not cover any consent or approval which may be necessary to authorise the development under prevailing legislation or may be administered by the Planning Authority or other statutory authority.

**Signature(s)**

**Date:**



ANNEX	
<b>Date Valid</b>	15th June 2020
<b>Date First Advertised</b>	30th June 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 11 Ballyhagan Road Maghera Londonderry Angela Lagan 11 Ballyhagan Road, Maghera,BT46 5LR Aoibhinn Roarty 32, Clooney Terrace, Londonderry, Londonderry, Northern Ireland, BT47 6AR The Owner/Occupier, 9 Ballyhagan Road Maghera Londonderry	
<b>Date of Last Neighbour Notification</b>	2nd July 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2020/0677/F Proposal: Proposed change of house type and garage to supersede previous planning approval LA09/2016/1557/F Address: 40m South West of 9 Ballyhagan Road, Maghera, Decision: Decision Date:  Ref ID: LA09/2016/1557/F Proposal: Proposed replacement dwelling Address: 40m South West of no 9 Ballyhagan Road, Maghera, Decision: PG Decision Date: 11.04.2017  Ref ID: H/2011/0545/O Proposal: Proposed dwelling on a farm Address: 40m South West of 9 Ballyhagan Road, Maghera, Decision: WITHDR Decision Date: 07.08.2012	
<b>Summary of Consultee Responses</b>  Content	

Drawing Numbers and Title
Drawing No. 01 Type: Status: Submitted
<b>Notification to Department (N/A)</b>  Date of Notification to Department: Response of Department:



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> LA09/2020/0692/O	<b>Target Date:</b> 18/06/20
<b>Proposal:</b> Proposed Dwelling in an infill site	<b>Location:</b> Land adjoining 57 Kinturk Road Moortown
<b>Referral Route:</b>  Recommended refusal	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Mr Adrian McNally 57 Kinturk Road Moortown BT80 0JD	<b>Agent Name and Address:</b> Darcon Architectural Services 23 Tobin Park Moortown BT80 0JL
<b>Executive Summary:</b>  Proposal fails to comply with Policy CTY 1, CTY8 and CTY 14 of PPS 21. No third party representations received and all other material considerations have been taken into consideration.	
<b>Signature(s):</b>  <div style="height: 40px; border: 1px solid black;"></div>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen	Provisional Reply

### Representations:

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

### Characteristics of the Site and Area

The application site lies outside any defined settlement limits as defined in the Cookstown Area Plan 2010. The site is located in the rural area, the settlement of Moortown is located a short distance southeast of the proposal site. Currently contained within the site is a two storey semi-detached dwelling, No.57, finished in a painted wet dash render, white uPVC windows and concrete roof tiles on a hipped roof. The proposal site proposes access via the existing gravelled driveway access which served No.57 Kinturk Road. There is a modest front garden enclosed by a low wall finished to match the dwelling. There is a large rectangular plot of land to the rear of the dwelling which is subject to this application and currently serves as private amenity space. The boundaries of the rear garden are well defined by existing established hedging. The topography of the site is relatively flat. The shores of Lough Neagh are located north of the proposal site, approx. 0.5km. Despite the rural setting, there is a significant degree of development pressure in the immediate context with a number of detached dwellings of

varying scale and design, as well as the adjacent semi-detached dwellings, along this stretch of Kinturk Road.

### **Description of Proposal**

This is an outline planning application for a dwelling on lands adjoining 57 Kinturk Road, Moortown.

The dwelling is being considered as a gap site under Planning Policy Statement 21, Policy CTY 8, Ribbon Development.

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

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Cookstown Area Plan 2010

PPS 3: Access, Movement and Parking

- Policy AMP 2 Access to Public Roads

PPS 21: Sustainable Development in the Countryside

- Policy CTY 1 Development in the Countryside

- Policy CTY 8 Ribbon Development.

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

- Policy CTY 14 Rural Character

Mid Ulster Development Plan 2030 Draft Plan Strategy was launched on the 22nd February 2019. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25<sup>th</sup> March for 8 weeks. The re-consultation period will close on 5pm on 24<sup>th</sup> September 2020. In light of this, the draft plan cannot currently be given any determining weight.

### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, no letters of representation have been received.

### **Planning History**

I/2009/0028/F - Extension to Existing Ground Floor Bedroom to provide disabled facilities - 59 Kinturk Road, Coagh, Cookstown – Permission Granted 24/02/09

### **Key Policy Considerations/Assessment**

Cookstown Area Plan 2015 – the site lies in the rural countryside outside any designated settlement limits. The site lies within the designated Lough Neagh Shore Countryside Policy Area. Plan Policy CTY 2 Countryside Policy Areas states development proposals will be determined in accordance with the provisions of prevailing regional planning

policy. The plan states further ribbon development along these roads will serve only to devalue and further erode the rural character and landscape quality of the area and the continued build-up of development closer to Lough Neagh would not only be damaging to the character and appearance of this area, but would also have significant adverse effects on the important nature conservation interests of the Lough and its shoreline.

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained. The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. Policy CTY 1 provides clarification on circumstances in which development will be permitted in the countryside. This application is being considered against Policy CTY 8 of PPS21.

In this case, it is my opinion that the proposal does not comply with the exception to Policy CTY8 which permits ‘development of a small gap site .... within an otherwise substantial and continuously built up frontage and provide this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size....’ The amplification to policy CTY8 states “A ‘ribbon’ does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.” It is recognised there is a line of three or more buildings existing along the road frontage with a detached dwelling and 2no semi-detached dwellings southwest of the proposal site and 2no. semi-detached dwellings south east of the proposal site. However, the site proposed could not, at its road frontage, accommodate a dwelling which respects the existing development pattern along the frontage in terms of size, scale, siting and plot size. This road frontage portion currently serves as the access to No.57 and could not reasonably accommodate a normal sized dwelling. Indeed the road frontage portion of the site is only wide enough to provide access to the lands to the rear, where the dwelling would have to be accommodated. The development if permitted would result in back land development which does not respect the existing development pattern and , if approved, would set an unfavourable precedent. That said, due to the location of the proposed development, I do not consider it adds to a ribbon of development.

CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The application site is located northeast of No.57 Kinturk Road, the proposed dwelling would be located to the rear of an existing two storey dwelling on land with a relatively flat topography therefore I consider public views from Kinturk Road will be isolated. Given the existing, established vegetation to the boundaries, I consider the proposal site could provide a suitable degree of enclosure for a dwelling without appearing as an overly prominent feature in the landscape. The design of the proposed dwelling would be a matter for consideration at the Reserved Matters stage.

CTY 14 states that planning permission will be granted for a building where it does not cause a detrimental change to, or further erode the rural character of the area.

Cookstown Area Plan 2010 identified the proposal site within 'The Lough Neagh Shore CPA' which recognises that ribbon development is a particular issue along these roads and as such that it is safe to assume road frontage development is the defined character in this area. In my opinion, the proposal is not typical of the character of the area and such is contrary to Policy CTY 14.

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

DfI Roads were consulted and have responded with concerns whether the necessary visibility splays are achievable requesting the applicant to demonstrate control of the land necessary to provide the required visibility splays. This agent is aware that DfI Roads require this information however this has not been received to date nor formally requested by the Planning Authority at this stage, given that I consider the principle of development unacceptable and I am recommending the proposal for refusal. Should the Planning Committee consider planning permission should be granted, this will need to be addressed.

#### Additional Considerations

In addition to checks on the planning portal, environment map viewers available online have been checked and identified no built or natural heritage assets interests of significance on site.

It is considered a new dwelling served by an access between two existing properties has the potential to give rise to loss of residential amenity in terms of general disturbance. The proposal site encompasses the existing access and driveway of No.57, therefore the proposal would result in the loss of all space for turning or parking vehicles thus significantly impacting on residential amenity. The proposal is for outline planning permission, therefore the appropriate siting and design of the dwelling to avoid detrimental impact on residential amenity in terms of dominance, loss of light or overlooking would be a matter for any forthcoming full or reserved matters application.

**Neighbour Notification Checked**

**Yes**

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

The proposal is recommended for refusal for the reasons stated below.

#### **Reasons for Refusal**

1. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that a dwelling would, if permitted, not respect the traditional pattern of development exhibited in the local area.

3. The proposal is contrary to PPS3, Access, Movement, and Parking in that insufficient information has been provided to demonstrate that a safe access can be achieved onto the public road.

**Signature(s)**

**Date:**





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0979/F	<b>Target Date:</b>
<b>Proposal:</b> Installation of play park with play equipment, picnic bench, bins, seating bench, accompanying wet pour 1.2m high bow top fence to be installed around the perimeter of park and an asphalt concrete path-total play park area and asphalt concrete path approximately 260m <sup>2</sup>	<b>Location:</b> Lands of Barrack Road and adjacent to O'Neill Park Ballymaguigan Magherafelt
<b>Referral Route:</b>  The applicant is Mid Ulster Council	
<b>Recommendation:</b> Approval	
<b>Applicant Name and Address:</b> Mid Ulster District Council Burn Road Cookstown	<b>Agent Name and Address:</b> WDR and RT Taggart Ltd Russell Business Centre 40-42 Lisburn Road Belfast BT9 6AA
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	

### Summary of Issues

No issues raised as no objections have been received. The proposal complies with SPPS and PPS8- Outdoor Space, Sport and Outdoor Recreation.

### Characteristics of the Site and Area

The site is located within the open countryside and there are no further designations on the sites, as per the Magherafelt Area Plan 2015. The site is situated adjacent to an established housing development known as O'Neill Park, Ballymaguigan to the east. A newer housing development is located on lands to the north of the site. Sewage works and pipes are situated along the southern boundary of the site along with mature trees. The site is well screened with existing boundaries in place including mature trees and hedgerows. The site is an existing sports pitch with a set of goal posts fixed on the site. The surrounding area is largely characterised by residential development to the north and east with the surrounding area being agricultural uses.

### Description of Proposal

The applicant seeks full planning permission for the installation of play park with play equipment, picnic bench, bins, seating bench, accompanying wet pour, 1.2m high bow top fence to be installed around perimeter of play park & an asphalt concrete path- total play park area and asphalt concrete path approximately 260m<sup>2</sup>.

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

### **Planning History**

LA09/2019/1605/F- Installation of play park with accompanying wet pour, 1.2m high bow top fence to be installed around perimeter of play park & an asphalt concrete path- granted 05.02.2020.

### **Neighbour notification**

No letters of representation or objection have been received in relation to this planning application.

### **Development Plan and Key Policy Considerations**

The following have been considered in the assessment of this application:

- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Mid Ulster Local Development Plan 2030- Draft Plan Strategy
- Magherafelt Area Plan 2015
- PPS8- Open Space, Sport Outdoor Recreation

The Mid Ulster District Council Local Development Plan 2030 -Draft Plan Strategy: was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020. In light of this the draft plan cannot currently be given any determining weight.

The development which has been proposed in this planning application could be considered permitted development as detailed in The Planning (General Permitted Development) Order (Northern Ireland) 2015, in Part 13 of the Schedule- Development by Councils. However, as a planning application has been received, which allows consultations to take place regarding the proposed development the application has been assessed below.

The SPPS recognises that open space, sport and outdoor recreation is important to society now and in the future. Everyone, particularly children, older people and people with disabilities should have easy access to open space and the opportunity to participate in sport and outdoor recreational activity or simply enjoy and have contact with nature.

PPS 8- Open Space, Sport and Outdoor Recreation is the relevant planning policy for this application to be assessed. Policy OS3- Outdoor recreation in the Countryside states that development will be permitted for proposals in the countryside where a number of criteria can be met. This application is for a relocation of the previous approval on the site, moving it 50-100m west of the previous location.

The previous approval on the site, determined that the proposal would not cause any unacceptable loss or impact to nearby agricultural activities; it would not affect the landscape and public safety would not be prejudiced. The proposal would benefit the local community, given the close proximity to existing neighbouring properties and it would not result in increased vehicular access to the site.

I am content that this revised application complies with Policy OS3 or PPS8.

### **Other Material Considerations**

I am content that the proposal will not cause any detrimental impact on third party amenity.

<b>Neighbour Notification Checked</b>	<b>Yes/No</b>
<b>Summary of Recommendation:</b>	
Approval	
<b>Conditions</b>	
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.	
<b>Informatives</b>	
1.This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.	
2.This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.	
<b>Signature(s)</b>	
<b>Date:</b>	

<b>ANNEX</b>	
<b>Date Valid</b>	4th August 2020
<b>Date First Advertised</b>	25th August 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 O'Neill Crescent, Magherafelt, Londonderry, BT45 6QY The Owner/Occupier, 10 O'Neill Park Ballyronan Magherafelt The Owner/Occupier, 11 O'Neill Park, Ballyronan, Magherafelt, Londonderry, BT45 6LX The Owner/Occupier, 12 O'Neill Park, Ballyronan, Magherafelt, Londonderry, BT45 6LX The Owner/Occupier, 2 O'Neill Crescent, Magherafelt, Londonderry, BT45 6QY The Owner/Occupier, 3 O'Neill Crescent, Magherafelt, Londonderry, BT45 6QY The Owner/Occupier, 4 O'Neill Crescent, Magherafelt, Londonderry, BT45 6QY The Owner/Occupier, 5 O'Neill Crescent, Magherafelt, Londonderry, BT45 6QY The Owner/Occupier, 6 O'Neill Crescent, Magherafelt, Londonderry, BT45 6QY The Owner/Occupier, 7 O'Neill Park Ballyronan Magherafelt The Owner/Occupier, 8 O'Neill Park Ballyronan Magherafelt The Owner/Occupier, 9 O'Neill Park Ballyronan Magherafelt	
<b>Date of Last Neighbour Notification</b>	3rd September 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2019/1605/F Proposal: Installation of play park with accompanying wet pour, 1,2m high bow top fence to be installed around the perimeter of play park and an asphalt concrete path Address: Lands off Barrack Road and directly adjacent to O'Neill Park, Ballymaguigan , Magherafelt, Decision: PG	

Decision Date: 05.02.2020

Ref ID: H/2001/0588/Q  
Proposal: Development  
Address: O'Neill Park, Shore Road, Ballyronan  
Decision:  
Decision Date:

Ref ID: H/1999/0483  
Proposal: MULTI ELEMENT IMPROVEMENTS TO 14 NO DWELLINGS  
Address: O'NEILLS PARK BALLYMAGUIGAN  
Decision:  
Decision Date:

Ref ID: H/2008/0613/LDP  
Proposal: The existing wastewater treatment works serving the catchment of Ballymaguigan is to be replaced with a new RBC works in order to meet future requirements. The new works will be constructed within the existing site confines and the existing final effluent outfall pipework will be reused. No new buildings are proposed and any new control equipment will be contained within new kiosks. No new structures will exceed 15m in height.  
Address: Ballymaguigan WwTW, 8 Barrack Road, Magherafelt, BT45 6LY. This site occupies an area of 0.078 hectares.  
Decision:  
Decision Date:

Ref ID: H/1978/0051  
Proposal: ALTERATIONS AND ADDITIONS TO HOUSE  
Address: 8 BARRACK ROAD, BALLYMAGGUIGAN  
Decision:  
Decision Date:

Ref ID: H/1997/0407  
Proposal: SITE OF HOUSING DEVELOPMENT  
Address: LAND ADJACENT TO O'NEILL PARK BARRACK ROAD BALLYMAGUIGAN  
MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: LA09/2020/0979/F  
Proposal: Installation of play park with play equipment, picnic bench, bins, seating bench, accompanying wet pour 1.2m high bow top fence to be installed around the perimeter of park and an asphalt concrete path-total play park area and asphalt concrete path approximately 260m<sup>2</sup>

Address: Lands of Barrack Road and adjacent to O'Neill Park, Ballymaguigan,  
Magherafelt,  
Decision:  
Decision Date:

Ref ID: H/1997/6014  
Proposal: HOUSING DEVELOPMENT ADJ TO O'NEILL PARK BALLYMAGUIGAN  
MAGHERAFELT  
Address: ADJ TO O'NEILL PARK  
Decision:  
Decision Date:

Ref ID: H/1999/0623/F  
Proposal: Temporary Decant Site  
Address: Adjacent to O'Neill Park, Ballymaguigan  
Decision:  
Decision Date: 17.01.2000

Ref ID: H/1984/0181  
Proposal: EXTENSION TO HOUSE  
Address: 8 BARRACK ROAD, BALLYMAGUIGAN, MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: LA09/2015/0049/F  
Proposal: Proposed car park adjacent to existing minor playing fields  
Address: Proposed car park at O'Neill Park, Ballymaguigan, Magherafelt,  
Decision: PG  
Decision Date: 18.09.2015

Ref ID: LA09/2015/0209/NMC  
Proposal: Provision of 6No. social houses and associated site works  
Address: Lands between 8 Barrack Road and rear of 1-7 O'Neill Park, Ballymaguigan,  
Magherafelt,  
Decision: CG  
Decision Date:

Ref ID: H/2013/0364/F  
Proposal: Provision of 6 no social housing units and associated site works  
Address: Lands between 8 Barrack Road and Rear of 1-7 O'Neill Park, Ballymaguigan,  
Magherafelt,  
Decision: PG  
Decision Date: 18.03.2014

**Drawing Numbers and Title**

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

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

Drawing No. 03  
Type: Proposed Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:





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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2018/1153/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> General purpose farm/storage shed and animal welfare unit associated with and existing established Farm business. (See Attached PIC Form).	<b>Location:</b> 55m North East of No.3 Killycolpy Road Carnan Stewartstown.
<b>Applicant Name and Address:</b> Mr Francis Gallagher 3 Killycolpy Road Carnan Stewartstown BT71 5NS	<b>Agent name and Address:</b> CMI Planners 38 Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b> Whether or not the proposed building is necessary for the efficient operations of the holding and that there are no other suitable buildings on the holding.	
<b>Summary of Consultee Responses:</b> <ul style="list-style-type: none"><li>• <b>Environmental Health Department</b> – No objections.</li><li>• <b>Transport NI</b> – No objections subject to standard conditions and informatives to be attached to any decision notice to create a safe access onto Killycolpy Road which meets the standards set out in PPS3 and DCAN15.</li><li>• <b>DAERA</b> – DEARA responded that the farm Business Id identified on Form P1C had been in existence for more than 6 years. However the business had not claimed Single Farm Payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment schemes in the last 6 years.</li><li>• <b>NIEA</b> – content that impacts on the water environment are acceptable and that it meets the protocol on nitrogen emissions</li><li>• <b>SES</b> - The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with</li></ul>	

the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site. The Council should ensure that any livestock within the building are housed temporarily for welfare purposes only (as proposed).

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

#### **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 approximately 3.5 miles east of the village of Stewartstown within the Loughshore LCA, approx. 1m west of Lough Neagh.

The site sits approx. half way along and to the north side of a dead end road off the main Killycolpy Road in an area characterised by its proximity to the Lough and its relatively flat landscape interspersed within single dwelling and farm groups.

The site is located 55m north east of and to the rear of an existing single storey dwelling with detached garage, no. 3 Killycolpy Rd, Stewartstown identified on the P1 Form accompanying this application as the applicants property.

The site comprises the eastern half of a field accessed via an existing concrete laneway off the Killycolpy Rd that runs along the west side of no. 3 Killycolpy Rd. No. 3 Killycolpy Rd is accessed via a separate entrance and drive approx. 30m further south east along the Killycolpy Road. The boundaries of the field the site is cut from are defined by established trees and hedging approx. 2 ½ m high whilst the boundaries along the access laneway and roadside are defined by a maintained low hedgerow and timber fencing.

The site is located on relatively flat ground with limited views from the public road.

The site abuts the curtilage of no. 3 Killycolpy Rd located to its south west. To the immediate west of the site identified on the submitted site location plan as being within land outlined in blue as being within the applicants control is a large shed measuring approx. 9.2m x 14.3m with a 5.6m ridge height located on an area of hardstanding. This shed is accessed off the existing lane proposed to serve the site. The shed which is located just before breaking into the site has a concrete block base and walls finished in grey dash and green metal cladding. Its roof is pitched and finished in metal cladding. It has two large roller shutter doors located on the front of the building which faces south east unto the concrete yard to its front and towards No. 3 Killycolpy Rd.

### **Description of Proposal**

The proposal is for the erection of a general purpose farm/storage shed and animal welfare unit associated with an existing established farm business. The proposed building is 15m wide and 18.6m long with a pitched roof that has a ridge height of 6.6m. The building will have walls with smooth rendered blockwork to the bottom ½ and green cladding to the upper ½ and the roof. It is proposed to have 2 roller doors and a pedestrian door providing access into it.

**Deferred Consideration:**

This application was deferred at Planning Committee on 6<sup>th</sup> August 2019 to allow the Planning Manager to meet with the applicant to explore further the farming case. A meeting was held on 15<sup>th</sup> August 2019 and at that meeting the agent undertook to provide additional information about the land the applicant owns and takes.

An agreement was provided that shows the applicant takes 9.14 acres of land adjacent to his holding here. An additional 8.66ha of land are taken from the applicants brother on lands at Bellagherty Road Magherafelt. I visited the site and noted there are no buildings on the land that is taken adjacent to the land owned by the applicant. On the land owned by the applicant there is a domestic store, which was approved for modification to a domestic store under I/2012/0355/F and it appears this is as approved. There are the footings in place for a dwelling immediately north of the application site which was approved and appears to be as approved. I noted 4 large tractors, a large slurry tanker and a cattle trailer on the site as well as a skip lorry.

Members are advised there are 5 criteria in CTY12 that must be considered for agricultural development on an active and established farm. Mr Gallagher has 17 cattle on his herd book and a number of large farm vehicles which are currently stored in the open air at the site. The proposed building is for machinery storage and animal welfare purposes. DEARA have confirmed the farm is active and has been established for a period of over 6 years. There are currently no agricultural buildings on the applicants holding, as such I consider for the security of the vehicles and for animal husbandry purposes, this building is essential of the purposes of agriculture on the holding. The building is typical of modern agricultural buildings in terms of its size and appearance and it is sited behind existing buildings and with good mature hedges which screen it and assist integrating it into the landscape, especially when viewed from the north as indicated by the arrow in pic 1.



Pic 1 – view from north

The site is an agricultural field which does not have any significant natural or built features of note, however it is close to Lough Neagh which is a RAMSAR and as such NIEA and SES were consulted. Both consultees considered the ad-hoc housing of animals as the important element of the scheme for them, due to ammonia emissions and are content that the building can be used for housing sick animals for a short period of time. I consider this can be controlled by an appropriately worded condition and as such the proposal is unlikely to have any significant detriment to any natural or built heritage features. The nearest property to the proposed building, not associated with the farm, is approx. 80m from it. Given that it is essentially for storage of machinery and agricultural equipment and will be used for short periods for housing animals, it is unlikely the proposal will have any significant impacts on neighbouring properties.

As this is for a new agricultural building there are 3 additional criteria that must be considered. Within the holding there is the applicants dwelling, a detached domestic garage and a building which was approved for domestic purposes to the front of the site. Having visited the site I do not consider any of these buildings large enough to accommodate the large machinery that I observed on site. As mentioned before the building is typical of the appearance of a modern agricultural building and the green cladding and render roof and walls are replicated in the existing domestic building to the front of the site. Finally the proposed building must be sited beside existing **farm buildings** (my emphasis). In this case this is the first agricultural building on the holding. Members should be aware of the exception within Policy CTY12, which adds to the confusion with this policy. The exception says 'consideration may be given to an alternative site away from existing farm or forestry buildings, provided there are no other sites available at another group of buildings on the holding....'. This building is sited beside a group of buildings on the holding, not another group, it is unclear whether the current policy is supportive of siting beside an existing group of buildings, where these are not agricultural or forestry buildings. Members are aware of this anomaly in the existing planning policy which it is hoped will be addressed in the Draft Plan Policy.

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22<sup>nd</sup> February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at **10am on the 25th March** and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at **5pm on 24<sup>th</sup> September 2020**. In light of this the draft plan cannot currently be given any determining weight. Members are therefore advised that Policy AFR1 in the Draft Plan Strategy may not be used to approve development at this time.

As the current policy is not specifically clear and, as discussed above, the application meets all other criteria for a new agricultural building in the countryside, I consider this proposed agricultural building, clustered with these other buildings on the holding may be considered as an exception to Policy CTY12 and this agricultural building sited in this location will have a limited impact on the character of the area.

Members should be aware Cookstown Skip Services inc Gallagher Waste Disposal is a business with an address at 3 Killycolpy Road and is a waste carrier, licensed with NIEA. There was a skip lorry and a skip trailer with a skip on each at the site on the day of my visit. This application has been made for a building for agricultural purposes and has been

assessed as such. Policy CTY12 has a requirement that any buildings approved for agriculture must have a condition attached to them limiting them to agricultural purposes only. Such a condition will in my view act as a deterrent to prevent any unacceptable uses on the site.

Taking into account all of the above I recommend planning permission is granted as an exception to CTY12 with the conditions attached as suggested.

**Conditions:**

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

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

2. The building hereby approved shall be used for agricultural purposes only.

REASON: To prohibit a change to an unacceptable use within the countryside

3. The building hereby approved shall only be used for housing animals from the applicants herd and only animals that are undergoing treatment or for medical observation purposes. There shall be no permanent housing of animals within the building.

REASON: To prevent pollution.

4. The existing hedgerows and vegetation along the boundaries of the site, as identified in yellow on drawing no 01 bearing the stamp dated 10 OCT 2018 shall be retained unless otherwise agreed in writing with the Council.

Reason: To ensure the maintenance of screening to the site.

5. The proposed landscaping, as shown on drawing no 2B bearing the stamp dated 19 APR 2020 shall be provided in accordance with the approved details within 6 months of the date of the commencement of the development. The trees and hedges shall be native species and any tree or shrub dying within 5 years of planting shall be replaced in a similar position with a similar size and species.

Reason: In the interests of visual amenity.

**Signature(s):**

**Date**





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

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

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1153/F	<b>Target Date:</b>
<b>Proposal:</b> General purpose farm/storage shed and animal welfare unit associated with an existing established Farm business.	<b>Location:</b> 55m North East of No.3 Killycolpy Road Carnan Stewartstown.
<b>Referral Route:</b> Recommendation to refuse	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Francis Gallagher 3 Killycolpy Road Carnan Stewartstown BT71 5NS	<b>Agent Name and Address:</b> CMI Planners 38 Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	DAERA - Omagh	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

### Representations:

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

### Description of Proposal

General purpose farm/storage shed and animal welfare unit associated with an existing established farm business to be located on lands 55m North East of No.3 Killycolpy Road Caman Stewartstown.

### 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 approximately 3.5 miles east of the village of Stewartstown within the Loughshore LCA, approx. 1m west of Lough Neagh. The site sits approx. half way along and to the north side of a dead end road off the main Killycolpy Road in an area characterised by its proximity to the Lough and its relatively flat landscape interspersed within single dwelling and farm groups.

The site is located 55m north east of and to the rear of an existing single storey dwelling with detached garage, no. 3 Killycolpy Rd, Stewartstown identified on the P1 Form accompanying this application as the applicants property.

The site comprises the eastern half of a field accessed via an existing concrete laneway off the Killycolpy Rd that runs along the west side of no. 3 Killycolpy Rd. No. 3 Killycolpy Rd is accessed via a separate entrance and drive approx. 30m further south east along the Killycolpy Road. The boundaries of the field the site is cut from are defined by established trees and hedging approx. 2 ½ m high whilst the boundaries along the access laneway and roadside are defined by a maintained low hedgerow and timber fencing.

The site is located on relatively flat ground with limited views from the public road.

The site abuts the curtilage of no. 3 Killycolpy Rd located to its south west. To the immediate west of the site identified on the submitted site location plan as being within land outlined in blue as being within the applicants control is a large shed measuring approx. 9.2m x 14.3m with a 5.6m ridge height located on an area of hardstanding. This shed is accessed off the existing lane proposed to serve the site. The shed which is located just before breaking into the site has a concrete block base and walls finished in grey dash and green metal cladding. Its roof is pitched and finished in metal cladding. It has two large roller shutter doors located on the front of the building which faces south east unto the concrete yard to its front and towards No. 3 Killycolpy Rd.

I observed during my site visit a number of lorries parked in and around the site.

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

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland (SPPS) - Planning for Sustainable Development
- Cookstown Area Plan 2010
- Planning Policy Statement (PPS) 2: Natural Heritage
- Planning Policy Statement (PPS) 3 Access, Movement and Parking
  - PPS 3 (Clarification): Access, Movement and Parking
  - Development Control Advice Note (DCAN) 15 Vehicular Access Standards
- Planning Policy Statement 15 (Revised): Planning and Flood Risk
- PPS 21 Sustainable Development in the Countryside

**Mid Ulster Development Plan 2030 – Draft Plan Strategy** - was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

**Relevant site history includes:**

- **LA09/2018/1169/RM** - Proposed new dwelling and domestic garage - 40m North of 3 Killycolpy Road, Carnan, Stewartstown - approval granted 12th November 2018
- **I/2013/0141/O** - Proposed dwelling and garage on a farm - 40m north of 3 Killycolpy Road, Stewartstown – permission refused 10<sup>th</sup> November 2014 as contrary to Policy CTY1 of PPS 21, in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement. And that it did not merit being considered as an exceptional case as it had not been demonstrated that: the farm business is currently active (and has been established for at least six years) and the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm. This decision was Appealed under 2014/A0269, appeal upheld, proposal granted 14<sup>th</sup> September 2015

The above applications relates to a single storey dwelling and garage approved in the other/western half of the same field as the current site the general purpose farm/storage shed and animal welfare unit is proposed to be located within.

- **I/2014/0139/F** - Retention of existing shed and laneway as built for domestic use - 3 Killycolpy Road, Stewartstown - approval granted 5<sup>th</sup> October 2015
- **I/2012/0355/F** - Modification of existing structure to form a domestic store including reduction in height to less than 4.0 metres and removal of roller shutter door; close off existing laneway and restore to agricultural field – adjacent 3 Killycolpy Road, Stewartstown - the reduction in scale of the shed and the removal of access was deemed acceptable and approval granted 15<sup>th</sup> April 2013, however these works were never carried out.
- **I/2010/0262/F** - retention of agricultural store and storage area - to be located on lands 20m north of 3 Killycolpy Road, Stewartstown - refused 22nd December 2010 under CTY 1, 12 and 13. Appealed under 2011/A0074, appeal dismissed, refusal reasons upheld.
- **I/2010/0019/CA** – enforcement case for an unauthorised shed and storage area. An enforcement notice was served on 29th September 2010 requiring the applicant to remove the shed. The applicant appealed the notice under 2010/E074. The notice was upheld, and the deemed application was refused.

The above applications relates the existing shed located immediately to the west of the site which alongside the laneway serving it after an extensive history of enforcement cases, planning applications and planning appeals was approved for domestic use.

Under I/2010/0019/CA and the subsequent Enforcement Appeal it was found the shed was unauthorised and could not be deemed permitted for agricultural purposes. Under I/2010/0262/F and Planning Appeal 2011/A0074 the proposal for the retention of an agricultural store and yard was refused and appeal dismissed by the PAC as it was

contrary to CTY1, CTY12 and CTY13 of PPS21. With the agricultural use of the shed refused, another application was submitted to retain the shed for domestic use (I/2012/0355/F). This application was finally approved on the provision that the existing shed would be reduced in height to 4m, a roller shutter door removed and the additional access to be closed up to allow entry from the dwellings established access point. These modifications to the shed to make it more acceptable under EXT1 of PPS7 addendum were not implemented. And I/2014/0139/F was received for the retention of the existing shed and laneway as built for domestic use which was granted 5th October 2015

### **Representations**

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

### **Consultations**

- **Environmental Health Department** – No objections.
- **Transport NI** – No objections subject to standard conditions and informatives to be attached to any decision notice to create a safe access onto Kilycolpy Road which meets the standards set out in PPS3 and DCAN15.
- **DAERA** – DEARA responded that the farm Business Id identified on Form P1C had been in existence for more than 6 years. However the business had not claimed Single Farm Payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment schemes in the last 6 years.

### **Assessment**

The Strategic Planning Policy Statement for Northern Ireland (SPPS) states a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During this transitional period authorities will apply existing policy contained within retained policy documents together with the SPPS. Any conflict between the SPPS and any retained policy must be resolved in favour of the provisions of the SPPS.

As this site is located outside any settlement designated in the Cookstown Area Plan, as such the policy context is provided by Planning Policy Statement 21 Sustainable Development in the Countryside (PPS21). The SPPS retains PPS21.

Policy CTY1 of PPS 21 states "There are 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". One such instances is Non-Residential Development in accordance with Policy CTY 12 Agricultural and Forestry Development. The SPPS does not supersede the provisions of CTY 12.

Policy CTY 12 Agricultural and Forestry Development states planning permission will be granted for development on an active and established agricultural or forestry holding where it is demonstrated that:

- a) it is necessary for the efficient use of the agricultural holding or forestry enterprise;
- b) in terms of character and scale it is appropriate to its location;
- c) it visually integrates into the local landscape and additional landscaping is provided as necessary;
- d) it will not have an adverse impact on the natural or built heritage; and

- e) it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution.

In cases where a new building is proposed applicants will also need to provide sufficient information to confirm all of the following:

- there are no suitable existing buildings on the holding or enterprise that can be used;
- the design and materials to be used are sympathetic to the locality and adjacent buildings; and
- the proposal is sited beside existing farm or forestry buildings.

I do not consider this proposal meets the requirements of Policy CTY 12. Whilst I recognise the shed is to be located on a farm holding as established under appeal 2014/A0269. That due to the enclosed nature of the site it should integrate into onto this site and into the landscape without detriment to any natural or built heritage interests. That it should not result in any significant detrimental impact on neighbouring amenity existing or proposed. That said the holding comprises only one field (the site) measuring approx. 0.35 hectares and the applicant has submitted farm details to show only 17 animals as such I do not believe it has not been demonstrated that the shed is necessary for the efficient use of the holding. I didn't observe any kind of agricultural activity at the time of my site visit showing the active status of the farm holding.

It has not been demonstrated that there are no suitable existing buildings on the holding that can be used, a requirement for new buildings. This is relevant given the existing shed located to the immediate west of the site located within the applicant's ownership.

With regard to the above it is noted that on the 18<sup>th</sup> December 2018 the agent was contacted and given the opportunity on a without prejudice basis to submit further information to address the issues raised above i.e. the extent of the farm holding and satisfactory justification on the need for the farm building in line with Policy CTY 12. That it is necessary for the efficient use of the agricultural holding or forestry enterprise.

The additional farm documentation subsequently submitted by the agent on the 12th February 2019 did not address the issues raised and a herd list submitted actually showed the number of animals on the farm holding had reduced from 17 on the 28/08/2018 to 12 on the 31/01/2019.

Further to the above the agent was contacted to provide additional information to address the issues again on the 26/03/2019 by phone and then by email on the 11/04/2019 and given one last opportunity to submit the additional information to the Planning Department within 3 weeks. This information was not received.

Subsequently a final email request for the information / drawings was sent on the 20<sup>th</sup> May 2019. The email outlined that if the information / drawings were not received within 3 weeks Planning would make a recommendation based on the information currently on file. And that recommendation, which would be to refuse, will go to the next available Planning Committee.

#### **Additional consideration**

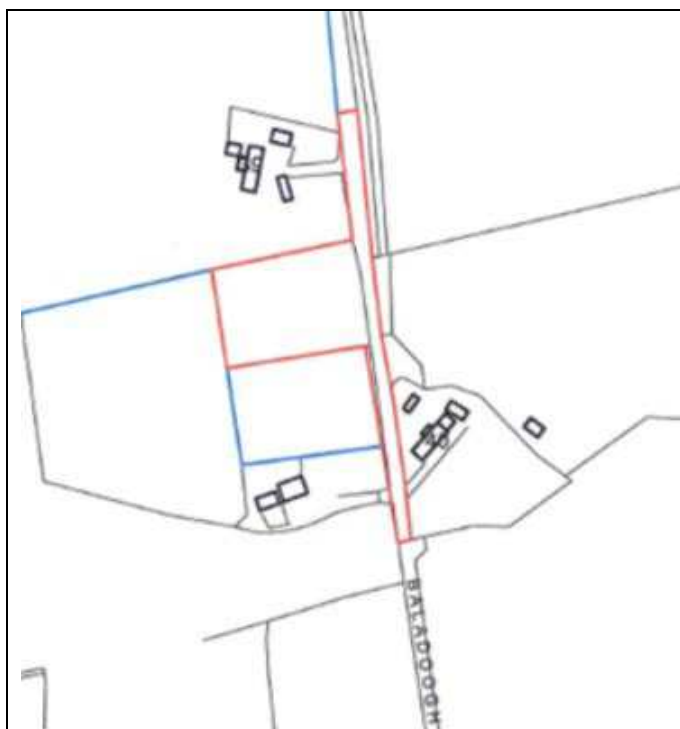
Whilst the proposed shed is not located within the Floodplain the south eastern boundary just edges into it.	
<b>Refusal is recommended</b>	
<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation:</b>	Refuse
<b>Reasons for Refusal:</b> <ol style="list-style-type: none"> <li>1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location.</li> <li>2. The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that it is necessary for the efficient use of the agricultural holding nor has sufficient information been received to confirm that there are no suitable existing buildings on the holding that can be used or the extent of the farm holding.</li> </ol>	
<b>Signature(s)</b>	
<b>Date:</b>	





## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2019/1376/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for a dwelling and garage	<b>Location:</b> 50m South of 39 Baladoogh Lane, Cookstown
<b>Applicant Name and Address:</b> Patrick McAleer	<b>Agent name and Address:</b> APS Architects Ltd 4 Mid ulster Business Park Cookstown
<b>Summary of Issues:</b> Following a deferred site visit the proposal is still recommended as a refusal under CTY1 and CTY8.	
<b>Summary of Consultee Responses:</b>  No objections	
<b>Characteristics of the Site and Area:</b>  The site is located in a roadside field. The eastern boundary is defined by a high embankment and hedging with roadside verge. The northern boundary is undefined. The site sits higher than the road and rises in NW corner. The southern boundary is defined by semi-mature beech trees. The western boundary is to the rear is open.  To the north, is no.39, a derelict bungalow with two out buildings. To the south of the site is a field containing two agricultural buildings, which is overgrown with vegetation.	



### Description of Proposal

The applicant seeks outline planning approval for a dwelling and garage within a gap site.

### Deferred Consideration:

This application was presented to Committee as a refusal under CTY1 and CTY8, in that the proposal did not constitute a gap site within a substantial and continuously built up frontage sufficient to only accommodate a maximum of two dwellings along this part of Baladoogh Lane.

It was subsequently deferred for an office meeting with the Area planning manager, which was held on 13<sup>th</sup> Feb 2020.

Following this the application was presented to August Committee as a refusal for the same reasons as previously. It was then deferred for a site visit with committee members.

This site visit was held on 27<sup>th</sup> August 2020 with a number of committee members attending along with council staff. All present walked to the site and immediate surrounding area, including the buildings being relied on as part of the infill build-up.

An approval was granted under to the north of the site under I/2000/0573/O, which has never been developed. This was also highlighted to those attending the site visit.

Despite being approved under an earlier rural policy context, the fact that this approval was granted shows there is capacity for a dwelling on this site. Together with the proposed site and the remaining part of the field, the gap would be able to accommodate 3 dwellings in similar size plots. No development has taken place on the approved site, so there is no



dwelling which can be taken into account to form part of the build-up as the site must be assessed with what is currently on the ground.

It had been mentioned at the site visit there may be issues with getting access to the approved site and that's why it may not have been built. This however would not make any difference to the fact that no development has taken place on the site and that approval granted shows there was there potential for a dwelling on that particular site.

CTY8 will permit an exception to ribbon development, only where there is a small gap sufficient to accommodate up to a maximum of two houses in an otherwise substantially and continuously built up frontage.

In terms of a built up frontage, to the north of the site, No.39, a derelict bungalow does has frontage to the front, and there is an out building positioned in front of the dwelling, but it does not have a road frontage. The derelict farm buildings relied on to the south of the site are currently difficult to view from the road due to overgrown vegetation, however even if the site was cleared they do still not front on to the road, and could therefore not be counted as part of built up frontage. There are not three buildings, but rather just one, which share a common frontage to be counted as part of the criteria in order to permit an infill. The criteria of CTY18 therefore cannot be met.

Mid Ulster Development Plan 2030 Draft Plan Strategy was launched on the 22nd February 2019. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25<sup>th</sup> March for 8 weeks. The re-consultation period will close on 5pm on 24<sup>th</sup> September 2020. In light of this the draft plan cannot currently be given any determining weight.

Following the site visit my opinion remains unchanged and a refusal is therefore recommended as previously for the following reasons;

#### **Refusal Reasons-**

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

2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a gap site within a substantial and continuously built up frontage sufficient to only accommodate a maximum of two houses along this part of Baladoogh Lane.

3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would result in a suburban style of build-up of development, further eroding the rural character of the area.

**Signature(s):**

**Date**





## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2019/1376/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for a dwelling and garage	<b>Location:</b> 50m South of 39 Baladoogh Lane, Cookstown
<b>Applicant Name and Address:</b> Patrick McAleer	<b>Agent name and Address:</b> APS Architects Ltd 4 Mid ulster Business Park Cookstown
<b>Summary of Issues:</b> Following a deferral the proposal is still recommended as a refusal under CTY1 and CTY8.	
<b>Summary of Consultee Responses:</b>  No objections	
<b>Characteristics of the Site and Area:</b>  The site is located in a roadside field. The eastern boundary is defined by a high embankment and hedging with roadside verge. The northern boundary is undefined. The site sits higher than the road and rises in NW corner. The southern boundary is defined by semi-mature beech trees. The western boundary is to the rear is open.  To the north, is no.39, a derelict bungalow with two out buildings. To the south of the site is a field containing two agricultural buildings, which is overgrown with vegetation.	
<b>Description of Proposal</b>  The applicant seeks outline planning approval for a dwelling and garage within a gap site.	

**Deferred Consideration:**

This application was presented to Committee as a refusal under CTY1 and CTY8, in that the proposal did not constitute a gap site within a substantial and continuously built up frontage sufficient to only accommodate a maximum of two dwellings along this part of Baladoogh Lane.

It was subsequently deferred for an office meeting with the Area planning manager, which was held on 13<sup>th</sup> Feb 2020.

Following this a site visit was carried out to re-consider the proposal.

An approval was granted under to the north of the site under I/2000/0573/O, which has never been developed. However it shows there is capacity for a dwelling on this site. This, together with the proposed site and the remaining part of the field would be able to accommodate 3 dwellings in similar size plots. CTY8 will permit an exception to ribbon development, only where there is a small gap sufficient to accommodate up to a maximum of two houses in an otherwise substantially and continuously built up frontage.

In terms of a built up frontage, to the north of the site, No.39, a derelict bungalow does has frontage to the front, and there is an out building positioned in front of the dwelling, but it does not have a road frontage. The derelict farm buildings relied on to the south of the site are currently difficult to view from the road due to overgrown vegetation, however even if the site was cleared they do still not front on to the road, and could therefore not be counted as part of built up frontage. There are not three buildings, but rather just one, which share a common frontage to be counted as part of the criteria in order to permit an infill. The criteria of CTY18 therefore cannot be met.

Re-consultation on the Draft Plan Strategy commenced at 10am on the 25<sup>th</sup> March for 8 weeks. The re-consultation is due to close at 5pm on 21<sup>st</sup> May 2020.

In light of this the draft plan cannot currently be given any determining weight.

A refusal is therefore recommended as previously.

**Refusal 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.

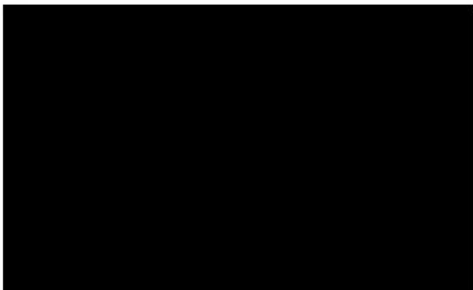
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not have a substantial and continuously built up frontage and would, if permitted, result in the addition of ribbon development along the Baladoogh Lane.

**Signature(s):**

**Date**

## Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1376/O	Target Date:
Proposal: Proposed site for dwelling and garage within a gap site.	Location: 50m South of 39 Baladoogh Lane Cookstown.
Referral Route:  This application is being referred to Committee as it is being recommended for refusal.	
Recommendation:	REFUSE
Applicant Name and Address: Patrick McAleer 16 Coagh Street Cookstown BT80 8NG	Agent Name and Address: APS Architects LLP 4 Mid Ulster Business Park Cookstown BT80 9LU
Executive Summary:	
Signature(s):	



## Case Officer Report

## Site Location Plan



## Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	NI Water - Single Units West - Planning Consultations	Content

## Representations:

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

## Summary of Issues

No representations have been received in respect of this application.

## Characteristics of the site and area



The site is comprised of the northern half of a small field with a road frontage of 85m, along the eastern boundary, which is defined by a 1m high embankment with a sporadic hedge and no roadside verge. The northern boundary is defined by a sporadic hedge with a few semi-mature trees, which is similar to the western boundary. The southern boundary is undefined. The site sits slightly above road level and rises gently towards the north-western corner.

The southern boundary of the field is defined by semi-mature beech trees. To the north of the site is a derelict bungalow, No. 39, set back off the Baladoogh Lane with a pair of small outbuildings set in front of the bungalow. These buildings are separated from the site by a small field which has a road frontage of 28m and which wraps around the front of the outbuildings. One of these outbuildings has had the roof removed. The derelict bungalow and outbuildings have a 27m frontage, however, the outbuildings do not have a frontage to the road. The derelict bungalow and associated outbuildings are set back between 22-32m from the Baladoogh Lane. There is a low wall along the northern half of the frontage of the derelict bungalow and this separates the building from a small copse of conifer trees which extend to the road. To the south of the field containing the site is a small overgrown area fronting onto the Baladoogh Lane. This area has a 17m road frontage and separates the field from an agricultural access which leads into a small area containing two small agricultural type outbuildings. These two buildings are set back 34m from the Baladoogh Lane and do not have a frontage onto the public road by virtue of the rough overgrown area to the front.



Derelict bungalow at No.39 showing the adjacent field wrapping around the associated sheds with the site located to the rear of the hedgerow.

#### Description of proposal

The proposal is an outline application for a site for dwelling and garage within a gap site.

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

##### Relevant planning history

There is no previous planning history on this site, however, the field to the north of the site, which also wraps around outbuildings adjacent to the derelict bungalow at No.39, was the subject of a planning application by the same applicant under I/2000/0573/O and was granted approval on 20th October 2000. That approval has now expired without the site being developed.

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

The Strategic Planning Policy Statement (SPPS) provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP – Draft Plan Strategy has been published for consultation, therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS.



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

Cookstown Area Plan 2010 - the site lies outside any defined settlement limits and is open countryside as identified in the Cookstown Area Plan 2010.

PPS 21 – sustainable development in the countryside

The proposal falls to be considered under Policy CTY 8. In order to assess whether or not an infill opportunity exists, it is first necessary to identify if a substantial and continuously built up frontage, containing a gap is present. Secondly, an assessment of the gap is required in order to ascertain whether it is 'small' in the context of the policy. Although it does not purport to provide an exhaustive list of circumstances, CTY 8 states that a substantial and built up frontage "includes a line of 3 or more buildings along a road frontage without accompanying development to the rear".

The site is bounded to the north by a portion of an agricultural field, on which the applicant was granted planning approval under I/2000/0573/O, but which was never developed. This is a clear indication that it is possible to develop that site for a dwelling. The field in which the site is contained, has an 85m road frontage, which is clearly adequate to accommodate at least two dwellings with similar frontage widths as the plot which contains the derelict dwelling at No.39. Irrespective of the fact that the farm buildings to the south of the field containing the proposed site do not have a frontage to the public road, by virtue of the area of undeveloped land which extends to the road, there are not three buildings in a line which share a common frontage.



The aerial photo shows the clear potential to accommodate three sites between No.39 and the farm buildings.

Notwithstanding the lack of a building to the south of the proposed site which is required to have a frontage to the public road, the outbuildings to the north of the site are positioned in front of the derelict bungalow and do not have a frontage to the road due to the adjoining field wrapping around the front of these buildings. Therefore those outbuildings do not have a road frontage and



cannot be considered to form part of a substantial and continuously built up frontage. In this case, essentially there is only one building along this part of the Baladoogh Lane which has a frontage to the public road ie. No.39. The proposed development is therefore considered to be contrary to Policy CTY 8.

In my opinion, this site is similar to the site subject of planning appeal 2016/A0093 in which the Commissioner accepted that a dwelling set back and physically separated from the road by a field, does not have a frontage to the road and therefore cannot be considered to form part of a substantial and continuously built up frontage.

While the site fails to satisfy the requirements of CTY 8, it also has to be considered under other policies ie. CTY 13 – Integration and CTY 14 – rural character.

#### CTY 13 – Integration

The proposed site will require the removal of the entire field frontage along the Baladoogh Lane, in order to provide the necessary visibility splays. At present this is a 1m high embankment with a sporadic hedgerow and no roadside verge. Therefore the provision of the required visibility splays will open up the site to such an extent that from the front of No.40, any dwelling will be clearly visible. However, any such dwelling would be set against the semi-mature hedgerow to the north and west and due to the short transient views, it will achieve an acceptable degree of integration without appearing prominent.

#### CTY 14 – Rural Character

Although the site is not considered to be a gap site and as the site frontage will have to be removed to provide the necessary access arrangements, any dwelling on this site will only be visible on reaching No.40. when travelling northwards. When travelling southwards any such dwelling would only be clearly visible after passing No.39. A dwelling on the proposed site would not appear prominent nor would it result in a suburban form of development when read with other existing buildings to such an extent as to result in a change of character of the rural area. Furthermore a dwelling on this site would not create nor add to a ribbon of development.

#### Consultations

Transport NI and NI Water have advised that they have no issues of concern with the proposed site.

#### Recommendation

On consideration of the above, it is my opinion that planning permission should be refused for the following reasons:-

Neighbour Notification Checked	Yes
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Summary of Recommendation:

Refuse for the reasons below:-

#### Refusal Reasons

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

2. The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a gap site within a substantial and continuously built up frontage sufficient to only accommodate a maximum of two houses along this part of Baladoogh Lane.

Signature(s)

Date:



ANNEX	
Date Valid	18th October 2019
Date First Advertised	29th October 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 39 Baladoogh Lane Cookstown Tyrone The Owner/Occupier, 40 Baladoogh Lane Cookstown Tyrone	
Date of Last Neighbour Notification	31st October 2019
Date of EIA Determination	N/A
ES Requested	No
Planning History  Ref ID: LA09/2019/1376/O Proposal: Proposed site for dwelling and garage within a gap site. Address: 50m South of 39 Baladoogh Lane, Cookstown., Decision: Decision Date:  Ref ID: I/1998/0479 Proposal: Proposed Replacement Dwelling Address: 40 BALADOOGH LANE COOKSTOWN Decision: Decision Date:  Ref ID: I/2000/0433/O Proposal: Site for dwelling Address: Opposite 40 Baladoogh Lane Killeenan Cookstown Decision: Decision Date: 02.08.2000  Ref ID: I/2003/0951/O Proposal: Erection of 2 Storey Dwelling Address: Approximately 70 M North of 40 Baladoogh Lane, Killeenan, Cookstown Decision: Decision Date: 12.02.2004  Ref ID: I/1979/0154 Proposal: LV O/H LINE	



<p>Address: KILLEENAN, COOKSTOWN Decision: Decision Date:</p> <p>Ref ID: I/2000/0573/O Proposal: Site for two storey dwelling Address: Adjacent to 39 Baladoogh Lane, Killeenan, Cookstown Decision: Decision Date: 24.10.2000</p>
<p>Summary of Consultee Responses</p> <p>DfI Roads and NI Water have advised that they have no issues of concern with the proposed site.</p>
<p>Drawing Numbers and Title</p>
<p>Drawing No. 01 Type: Site Location Plan Status: Approved</p>
<p>Notification to Department (if relevant)</p> <p>Date of Notification to Department: Response of Department:</p>



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b>  LA09/2019/1394/0	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and detached garage	<b>Location:</b> 40m East of 12 Newline Road Cookstown
<b>Applicant Name and Address:</b>  Laura Rafferty 12 Newline Road Cookstown	<b>Agent name and Address:</b>  C McIlvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown
<b>Summary of Issues:</b>  The proposal was based on a case on need for a dwelling under CTY6, following the submission of additional information and a deferred office meeting a re-assessment was made with a recommendation of approval with conditions.	
<b>Summary of Consultee Responses:</b>  No objections	
<b>Characteristics of the Site and Area:</b>  The application site is a 0.35 hectare plot locates 40m east of 12 Newline Road, Kileenan, Cookstown. It is outside the development limits and located within the rural countryside. The site is overgrown with rough gorse shrubbery and it sits at the same level as Newline Road. The surrounding area is rural in character with a dispersed settlement pattern, with single dwellings and agricultural buildings.	

**Description of Proposal**

Proposed dwelling and detached garage

**Deferred Consideration:**

The application was previously presented as a refusal to Committee in August 2020 for the following reason;

The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long term evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused and it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.

It was subsequently deferred an office meeting with the Area Planning Manager which was held on 10<sup>th</sup> Sept 2020.

The applicant (Laura Rafferty) currently lives in 12 Newline Road with her parents, and the site is in the field adjacent to this property.

From examining the medical evidence it can be seen the applicant's father has significant mobility issues and needs considerable help carrying out daily routine tasks. Currently the applicant and her mother are the main carers for her father, and more recently Laura has had to take on more responsibility as her mother has anxiety and medical issues herself exacerbated by the potential that Laura, who is getting married next year may have to move, leaving her to cope on her own. Laura works flexible hours to carry out this care for her father, but as she is getting married soon, wants privacy and independence for herself while continuing to care for her father.

In terms of exploring the annex/extension to No.12, there is limited space surrounding the existing dwelling to accommodate this. Doctors' advice was also submitted to state there should be minimal disruption to the applicant's father and his surroundings, in order to reduce the impact on his worsening health. A mobile home would not be a permanent solution in this case.

If living at the site adjacent her father's dwelling, Laura can continue her role as carer along with her mother, who will be supported with Laura being so close. Her mother will be assisted by Laura in tasks she would not be able to on her own, but can continue in her caring role whilst Laura is working. I do feel sufficient evidence has been submitted to show a new dwelling here is a necessary response to the specific circumstances of this case and genuine hardship would be caused if it was refused.

In terms of policy CTY13, I do not feel a 6m ridge dwelling would appear prominent and could be integrated in the landscape with a siting condition. This would ensure a new dwelling would read with the existing house and along with new planting would provide a good level of integration. Views of the site are limited due to a strong backdrop of undulating landform in the distance. There would be no detrimental impact on rural character and the policy of CTY14 has been met.

Approval with conditions is recommended.

**Conditions;**

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

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

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

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

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

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

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

4. A detailed Landscape Scheme shall be provided for approval at Reserved Matters stage to indicate existing landscaping to be retained and to show proposed landscaping. All agreed proposed landscaping shall be carried out within the first planting season after commencement of development of the reserved matters permission and permanently retained thereafter. Should any shrub, tree or hedge die or become seriously damaged or defective another tree, shrub or hedge as that previously planted shall be planted in its place.

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

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



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

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

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

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

8. The proposed dwelling shall be sited in the area shaded green on the approved plan 01 date stamped 23 October 2019

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

9. The dwelling hereby approved shall be occupied only by Laura Rafferty and her dependents for 5 years from the date of this permission.

Reason: To restrict the occupants of the approved dwelling.

**Signature(s):**

**Date**



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

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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1394/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and detached garage	<b>Location:</b> 40m East of 12 Newline Road Cookstown
<b>Referral Route:</b> Refusal Recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Laura Rafferty 12 Newline Road Cookstown	<b>Agent Name and Address:</b> C McIlvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown, BT80 9LU
<b>Executive Summary:</b> The applicant has put forward a personal and domestic circumstance case that has been fully considered. It does not provide adequate evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would result from the refusal of this application. It has not been satisfactorily demonstrated that there are no alternative solutions available to the applicant. Refusal is recommended.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice

### Representations:

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

### Summary of Issues

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. All relevant neighbouring properties have been notified. To date there have been no objections to this proposal from any third party or consultee.

### Characteristics of the Site and Area

The application site is a 0.35 hectare plot of land located 40m East of number 12 Newline Road, Killeenan, Cookstown. It is outside the development limits of any settlement defined in the Cookstown Area Plan 2010. The site is completely overgrown with rough shrub. It sits at a similar level to the Newline Road. This area is rural in character with a dispersed settlement pattern, the predominant form of development being single dwellings and agricultural buildings. It is an upland area with an undulating topography. The area is not subject to any Area Plan zonings or designations.



**Description of Proposal**

This is an outline application for a dwelling and garage to be considered under Policy CTY 6 of PPS 21 (Personal and Domestic Circumstances)

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

There are no planning histories on or adjacent to this site to be considered in this assessment

The following policies will be considered in this assessment:

- SPPS - Strategic Planning Policy Statement for Northern Ireland
- Cookstown Area Plan 2010
- Mid Ulster Local Development Plan 2030 - Draft Plan Strategy
- PPS 3 - Access, Movement and Parking
- PPS21 - Sustainable Development in the Countryside

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

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The protection of residential amenity falls under this policy consideration. This is an outline application in which a house type is not being assessed, however given the separation distance between the site and the closest neighbour, I have no initial concerns in terms of the impact of a dwelling on neighbouring residential amenity.

The SPPS also gives provision for development in the countryside subject to a number policy provisions, including a dwelling where there are personal and domestic circumstances. It does not introduce any change in policy direction in this regard therefore existing rural planning policy applies (ie) CTY 6 of PPS 21.

**Cookstown Area Plan 2010**

This site is outside the development limits of any settlement defined in the Cookstown Area Plan 2010 and is subject to no area plan designations, therefore existing rural planning policy applies.

**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 Feb 2019. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25<sup>th</sup> March for 8 weeks. The re-consultation period will now close at 5pm on 24<sup>th</sup> September 2020. In light of this the draft plan cannot currently be given any determining weight.



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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves the construction of a new access onto the Newline Road. DFI Roads have been consulted and have no concerns regarding road safety or traffic flow resulting from this proposal subject to the provision of 2.4m x 60m splays and a 60m forward sight distance. This can be dealt with by planning condition.

### **PPS21 - Sustainable Development in the Countryside**

Policy CTY 1 of PPS 21 details a range of different types of development that are acceptable in the Countryside. One such development is dwellings based on special personal or domestic circumstances in accordance with CTY 6.

#### **Policy CTY 6 Personal and Domestic Circumstances**

Policy CTY 6 of PPS 21 permits a dwelling in the countryside for the long term needs of the applicant, where there are compelling and site specific reasons for this related to the applicants personal or domestic circumstances and provided the following criteria are met:

- The applicant can provide evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused, and
- There are no alternative solutions to meet the particular circumstances of the case, such as an extension to the existing dwelling, the conversion or reuse of an existing building within the site curtilage, or the use of a temporary mobile home for a limited period of time to deal with immediate short term circumstances.

In this case the applicant is applying for a dwelling, which will be sited in the field beside her parents house. It is argued that this will enable her to care for her father and assist her mother in caring for her father but also allowing her a degree of independence as she is planning to get married soon. Supporting documentation by way of a planning statement and medical information have been provided which details the current medical conditions experienced by the applicants father and mother. Whilst there is no dispute over the validity of these medical conditions, I am not satisfied that a new dwelling at this location is a necessary response in this particular case.

The planning statement submitted with the application in paragraph 15 states that it is not an option for the applicant to live in Cookstown or another nearby settlement due to the level of care required by her father during the day and night when her mother is unwell. Building an annex onto the parents dwelling has been considered but has been deemed impractical as the applicant is getting married soon and wants a degree of privacy and independence. Consideration has been given to the applicants parents moving into an annex and the applicant continuing to reside the existing dwelling, however the applicant has stated that this is not a solution as her father has been



advised not to change his surroundings. A mobile home is not considered a practical or permanent solution.

On the basis of the supporting information submitted with this application it is my opinion that it has not been adequately demonstrated that a new dwelling is a necessary response to the particular circumstances of this case and that genuine hardship would be caused if planning permission were refused. I am also of the opinion that there are alternative solutions such as the building of an annex for the applicant to move into.

### **Policy CTY 13 - Design and Integration**

Policy CTY 13 deals with design and integration and it sets down several criteria which must be adhered to.

This is a roadside site, which is currently overgrown with thick low-level gorse shrub. The site dips slightly where the Newline Road bends. A dwelling with a 5.5m ridge height sited in the SW portion of the site will not appear overly prominent. When viewed travelling North along the Newline Road, the site benefits from a backdrop of undulating landform further in the distance. When travelling in the opposite direction any views of the site are restricted due to the adjacent dwelling. Whilst the site boundaries are not defined by mature vegetation a dwelling on this site will read with the existing dwelling at number 12 which will provide a degree of integration. New planting will be required but will not be relied upon as the main means of integration. Design will be a matter reserved.



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

As referred to above, a single storey dwelling with a 5.5m ridge height will not appear prominent in this local landscape if appropriately sited. A dwelling in this location will not create or add to a ribbon of development. Whilst number 12 Newline Road encompasses a dwelling and a domestic garage, the garage can be deemed accompanying development to the rear, so the purpose of considering it in determining a ribbon is discounted. A dwelling on this site, fronting directly onto the public road replicates the existing settlement in this area. On the whole, I have no concerns about the impact of

this development on rural character.	
<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation:</b>  Refuse	
<b>Refusal Reason</b>  The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long term evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused and it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.	
<b>Signature(s)</b>  <b>Date:</b>	

ANNEX	
Date Valid	23rd October 2019
Date First Advertised	5th November 2019
Date Last Advertised	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 12 New Line Road, Cookstown, Tyrone, BT80 9JQ The Owner/Occupier, 18 New Line Road Cookstown Tyrone	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	n/a
<b>Planning History</b>  Ref ID: LA09/2019/1394/O Proposal: Proposed dwelling and detached garage Address: 40m East of 12 Newline Road, Cookstown, Decision: Decision Date:  Ref ID: I/1982/0222 Proposal: DWELLING Address: KILLEENAN, COOKSTOWN Decision: Decision Date:  Ref ID: I/2004/0696/F Proposal: 11KV Address: 300M NW of 8 New Line Road, Cookstown Decision: Decision Date: 18.09.2004  Ref ID: I/1994/0134 Proposal: Domestic Garage Address: 15 NEWLINE ROAD KILLEENAN COOKSTOWN	



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



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2019/1540/O	<b>Target Date</b>
<b>Proposal:</b> Proposed infill dwelling and garage	<b>Location:</b> Between 29 and 31 Macknagh Lane Maghera
<b>Applicant Name and Address:</b> Mr Padraig Mc Guigan 27 Glenview Garvagh	<b>Agent name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
<b>Summary of Issues:</b>  A deferred site visit was carried out and re-assessment carried following this.	
<b>Summary of Consultee Responses:</b>  No objections	
<b>Characteristics of the Site and Area:</b>  The application site is located approximately 1.16km west of the development limits of Upperlands from such it is located within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as between 29 and 31 Macknagh Lane, Maghera in which the red line covers a portion of a much larger agricultural field. I note that the whole agricultural field has an undulating landform and it is bounded by a mix of mature hedging/trees and post and wire fencing on all boundaries. I note that within the immediate vicinity there is a number of residential dwellings but the wider setting is characterised by agricultural land uses. .	

## Description of Proposal

This is an outline application for a proposed infill dwelling and detached garage. Located between 29 and 31 Macknagh Lane, Maghera.

## Deferred Consideration:

This application was presented as a refusal under CTY1, CTY8, CTY13 and CTY14, to Planning Committee in March 2020 and was subsequently deferred for an office meeting with the Area Planning Manager on 12 March 2020. It was then again in August 2020 presented to committee as a refusal for the same reasons as previously, where it was deferred for a site visit with members of the planning committee.

This site visit took place on 27<sup>th</sup> August 2020 with a number of planning committee members and planning council staff. Everyone there walked the site and the surrounding area and had an opportunity to view the properties being relied on as part of the build-up.

With regard to CTY8, the three roadside dwellings front on to Macknagh Lane. The agent had been relying on a small agricultural structure previously, which had been shown not to have been in place in excess of 5 years and had no planning approval, and this situation had not changed. However the agent is now solely relying on access point and small lawn area to No.29, to the east of the site and the existing roadside dwellings, No's 3, 5 and 31.





No's 3, 5 and 31 to the east are roadside frontage dwellings, however on the other side of the site, No.29 does not share a common frontage with the site or other roadside dwellings to the west. The dwelling cannot even be seen from this part of Macknagh Lane, with only the tip of the chimney in view. It is only the access, a small portion of grass area and a gravel laneway that can be viewed. It does not share any common frontage and does not form part of a built up frontage in line with CTY8. The agent has argued there is a formal garden in place and that there is wiring for electric gates in place with the gates going on soon. However, I would not agree this small-grassed area is a formal garden and the proposal must be assessed as it currently is on site. Even accepting there is a formal garden area, this would not be providing any means by which development on the application site would be 'bookended'.



There is no significant visual presence of No.29 and there is no gap with the result, a dwelling in this location would result in the addition of a ribbon of development along Macknagh Lane.

In terms of CTY13, this site is an open and exposed roadside field and it lacks any long established boundaries on two sides, with only low hedging on the other two boundaries. The site is unable to provide sufficient integration and would be relying heavily on new landscaping for integration. It is therefore contrary to CTY13.

CTY14 states permission will only be granted where it does not cause detrimental change to further erode the character of the area. Although an appropriately designed dwelling would not appear prominent, it would result in the extension of a ribbon of development, and therefore change the character of the rural countryside and fail under policy CTY14.

Mid Ulster Development Plan 2030 Draft Plan Strategy was launched on the 22nd February 2019. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25<sup>th</sup> March for 8 weeks. The re-consultation period will close on 5pm on 24<sup>th</sup> September 2020. In light of this the draft plan cannot currently be given any determining weight.

My opinion remains unchanged following the site visit and refusal is recommended for the following reasons;

### **Refusal Reasons**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along the Macknagh Lane.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.
4. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building is a prominent feature in the landscape and the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and the proposed building relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.

**Signature(s):**

**Date**



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2019/1540/O	<b>Target Date</b>
<b>Proposal:</b> Proposed infill dwelling and garage	<b>Location:</b> Between 29 and 31 Macknagh Lane Maghera
<b>Applicant Name and Address:</b> Mr Padraig Mc Guigan 27 Glenview Garvagh	<b>Agent name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
<b>Summary of Issues:</b>  Following re-assessment at deferred stage the proposal remains contrary to CTY 1, 8, 13 and 14.	
<b>Summary of Consultee Responses:</b>  No objections	
<b>Characteristics of the Site and Area:</b>  The application site is located approximately 1.16km west of the development limits of Upperlands from such it is located within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as between 29 and 31 Macknagh Lane, Maghera in which the red line covers a portion of a much larger agricultural field. I note that the whole agricultural field has an undulating landform and it is bounded by a mix of mature hedging/trees and post and wire fencing on all boundaries. I note that within the immediate vicinity there is a number of residential dwellings but the wider setting is characterised by agricultural land uses.  Representations Three neighbour notifications were sent out however no representations were received.	

## **Description of Proposal**

This is an outline application for a proposed infill dwelling and detached garage. Located between 29 and 31 Macknagh Lane, Maghera.

## **Deferred Consideration:**

This application was presented as a refusal under CTY1, CTY8, CTY13 and CTY14, to Planning Committee in March 2020 and was subsequently deferred for an office meeting with the Area Planning Manager on 12 March 2020. It was agreed a site visit would be carried out to establish if there is a continuous and built up frontage that can be read with the site, and then to carry out a full re-assessment.

A site visit was carried out on 13 March 2020. With regard to CTY8 and if there is a continuous and built up frontage, the three roadside dwellings front on to Macknagh Lane, but the agent is relying on a small agricultural structure and the laneway to No.29, to the east of the site. As previously outlined in detail in the original case officer's report, the small agricultural building is not proved to have been in place in excess of 5 years and has no planning approval. Its presence is so limited and as it is a temporary building and sits in isolation in the field, due to its location does not have a frontage to the road.

No.29 does not share a common frontage with the site or other roadside dwellings to the west. The dwelling cannot even be seen from this part of Macknagh Lane, it is only the access and a small portion of grass area. It does not share any common frontage and does not form part of a built up frontage in line with CTY8. There is no gap and as a result a dwelling in this location would result in the addition of a ribbon of development along Macknagh Lane.

In terms of CTY13, this site is an open and exposed roadside field and it lacks any long established boundaries on two sides, with only low hedging on the other two boundaries. The site is unable to provide sufficient integration and would be relying heavily on new landscaping for integration. It is therefore contrary to CTY13.

CTY14 states permission will only be granted where it does not cause detrimental change to further erode the character of the area. Although an appropriately designed dwelling would not appear prominent, it would result in the addition of a ribbon of development, and therefore change the character of the rural countryside and fail under policy CTY14.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019.

Re-consultation on the Draft Plan Strategy commenced at 10am on the 25<sup>th</sup> March for 8 weeks. The re-consultation is due to close at 5pm on 21<sup>st</sup> May 2020.

In light of this the draft plan cannot currently be given any determining weight.



Refusal is recommended for the following reasons;

**Refusal Reasons**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along the Macknagh Lane.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the (building) would, if permitted add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.
4. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building is a prominent feature in the landscape and the proposed site lacks long established natural boundaries/is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and the proposed building relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.

**Signature(s):**

**Date**

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1540/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed infill dwelling and garage	<b>Location:</b> Between 29 and 31 Macknagh Lane Maghera
<b>Referral Route:</b>  To Committee – Refusal - Contrary to CTY 1, 8, 13 and 14.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mr Padraig Mc Guigan 27 Glenview Garvagh	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

#### Representations:

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

#### Summary of Issues

Refusal - To Committee - Contrary to CTY 1, 8, 13, and 14.

#### Characteristics of the Site and Area

The application site is located approximately 1.16km west of the development limits of Upperlands from such it is located within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as between 29 and 31 Macknagh Lane, Maghera in which the red line covers a portion of a much larger agricultural field. I note that the whole agricultural field has an undulating landform and it is bounded by a mix of mature hedging/trees and post and wire fencing on all boundaries. I note that within the immediate vicinity there is a number of residential dwellings but the wider setting is characterised by agricultural land uses.

#### Representations

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



**Description of Proposal**

This is an outline application for a proposed infill dwelling and detached garage. Located between 29 and 31 Macknagh Lane, Maghera.

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

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 8 - Ribbon Development

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

CTY14 - Rural Character

PPS 3 - Access, Movement and Parking;

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

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

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

With regard to the continuous and built up frontage, I note that to the west of the site sits three detached dwellings that all share a common frontage along the Macknagh Lane. To the east the agent is relying on a small agricultural shelter and has noted the laneway leading to No. 29 as both sharing a common frontage. Firstly, I note that the laneway is just that only a laneway and in my opinion No. 29 does not share a common frontage along the Macknagh Lane. With regards to the small agricultural shelter that the agent has identified to be part of the built up frontage, on initial inspection I am of the opinion that the shelter appears to be temporary in nature. I note that the agent made reference to Planning Appeal 2015/A0215 which he feels relevant in this instance. However upon a historical search it has become clear that the small agricultural shelter has moved and



even taken away at times over the previous few years reinforcing the argument that this is a temporary structure.



As you can see in 2013 the small agricultural shelter is in place.



However when compared in 2015 the shelter has been removed completely and from this it has not shown to be in place for an excess of five years and from which I cannot constitute it to be a building that shares a common frontage.



Even in 2018 the shelter has been reinstated but not in the same location as previously. Given the temporary nature of the shelter and the fact the shelter hasn't even been in-situ for more than five years that it cannot be counted as a building along this common frontage. From this, I am of the opinion that there is no gap as a result and that a dwelling in this location would only result in the addition of a ribbon of development along the Macknagh Lane. From this I am of the opinion that the application has failed under CTY 8.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. This is an open roadside field. The proposed site lacks long established natural boundaries/is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and the proposed building relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape. The application does not comply with CTY 13.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not appear prominent. As noted that a dwelling in this location would result in the addition of a ribbon of development along the Macknagh Lane and from which I am of the opinion that this would lead to a detrimental change to the rural character of the countryside. From this I am of the opinion that this would fail under CTY 14.

#### Other policy and material considerations

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

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

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

I have no ecological, flooding or residential amenity concerns.

#### Neighbour Notification Checked

Yes

#### Summary of Recommendation:

Refusal



**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along the Macknagh Lane.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries/is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and the proposed building relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the (building) would, if permitted add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

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



ANNEX	
<b>Date Valid</b>	25th November 2019
<b>Date First Advertised</b>	10th December 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 31 Macknagh Lane Maghera Londonderry	
<b>Date of Last Neighbour Notification</b>	3rd December 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2019/1540/O Proposal: Proposed infill dwelling and garage Address: Between 29 and 31 Macknagh Lane, Maghera, Decision: Decision Date:  Ref ID: H/2009/0222/F Proposal: Proposed farm dwelling & garage Address: Approx 70m South of 94 Moneysharvin Road, Maghera Decision: Decision Date: 17.09.2009  Ref ID: H/2006/0988/F Proposal: Proposed new lane way for appeal reference 2006/A0341 (planning reference H/2004/1024/O) Address: Land approx 150m east of No. 5 Macknagh Lane, Maghera Decision: Decision Date: 07.05.2008  Ref ID: H/2006/0238/O Proposal: Site for Rural Designed Dwelling. Address: Approx. 65m N.E. of No.3 Macknagh Lane, Maghera. Decision: Decision Date: 28.01.2008	

Ref ID: H/2002/0528/F

Proposal: Dwelling and Garage

Address: Adjacent to No 5 Macnagh Lane, Maghera

Decision:

Decision Date: 24.07.2002

Ref ID: H/2001/0223/O

Proposal: Site of bungalow and garage

Address: Adjacent to 5 Macnagh Lane, Maghera

Decision:

Decision Date: 18.12.2001

Ref ID: H/2010/0047/F

Proposal: Proposed new access laneway onto Mackagh Lane, Maghera to access previously approved dwelling H/2009/0222/F

Address: Approx 70m south of no.94 Moneysharvin Road, Maghera

Decision:

Decision Date: 25.03.2010

Ref ID: H/1986/0233

Proposal: BUNGALOW

Address: MACKNAGH LANE, MONEYSHARVIN, MAGHERA

Decision:

Decision Date:

Ref ID: H/1983/0085

Proposal: SITE OF BUNGALOW

Address: MACKNAGH LANE, OFF MONEYSHARVIN ROAD, MAGHERA

Decision:

Decision Date:

Ref ID: H/1979/0521

Proposal: SITE OF BUNGALOW

Address: MONEYSHARVIN, MAGHERA

Decision:

Decision Date:

### Summary of Consultee Responses

### Drawing Numbers and Title

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

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Deferred Consideration Report

Summary	
<b>Case Officer:</b>  Emma McCullagh	
<b>Application ID:</b> LA09/2019/1553/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of a two storey seminar/ training room, office and store associated with the expansion of an established emergency medical supplies (EMS) business	<b>Location:</b> 12 Ballynahone Road Maghera
<b>Applicant Name and Address:</b> Emergency Medical Services (N.I) Ltd. 12 Ballynahone Road Maghera	<b>Agent name and Address:</b> Clyde Shanks 2nd Floor 7 Exchange Place Belfast
<b>Summary of Issues:</b>  The application was deferred for an office meeting following a recommendation to refusal, the meeting was held with the Planning Manager with various site-specific issues and potential conditions discussed.	
<b>Summary of Consultee Responses:</b>  DFI were re-consulted on amended plans regarding carparking and had not formally replied at the time of writing the report, however Council would have no issue with the new car park layout.	
<b>Characteristics of the Site and Area:</b>  The site is located at 12 Ballynahone Road and is approx. 1.5miles south of the village of Maghera. It is outside the settlement limits and located in the rural countryside. The site is approx. 90m back from Ballynahone Road and is accessed via an existing domestic driveway.	

On site is a 2 storey dwelling with a single storey annex to one side, which was approved for an integral garage and car port. The carport is now being used for domestic and business storage purposes and the garage door has been replaced with a window with the garage now being used as a seminar/training room in association with the applicants business EMS. There is an informal car parking area used for parking cars and ambulances associated with the business.

The immediate area is rural in character with a dispersed settlement pattern. The predominant form of development being single detached dwellings and agricultural buildings.

### **Description of Proposal**

Retention of a two storey seminar/ training room, office and store associated with the expansion of an established emergency medical supplies (EMS) business

LA09/2019/1451/LDE was approved on 30<sup>th</sup> April 2020 for 'Conversion of an attached domestic garage to home office, store and seminar/training room for the purposes of homeworking'. The description was amended by the Council from what the applicant submitted -(Established seminar/training room associated with emergency medical supplies (EMS) business (former domestic garage). The date to appeal this has since passed on 30<sup>th</sup> August 2020 and no appeal was submitted.

There is a current live enforcement case on the site under LA09/2019/0108/CA. This application has been submitted in an attempt to regularise this.

### **Deferred Consideration:**

The application was previously presented as a refusal to Planning Committee in August 2019 for the following reasons;

1. The proposed development fails to comply with Policy CTY 1 of PPS 21 in that it has not been demonstrated that there are exceptional circumstances as to why this development should be sited outside the development limits of a settlement.
2. The proposed development fails to comply with Policy PED 2 of PPS 4 in that it does not comply with any of the policies listed for economic development uses in the countryside.
3. The proposed development fails to comply with Policy PED 3 of PPS 4 in that it has not been demonstrated that the economic development use is established.

It was subsequently deferred for an office meeting with the Planning Manager which was held on 13<sup>th</sup> August 2020. At this meeting

The proposal was originally assessed under PPS4 and failed on the points mentioned above.

The CLUD application LA09/19/1451/LDE was submitted to demonstrate the business has been operating in excess of 5 years, therefore making it immune from any enforcement action. As detailed above, the Council amended the description so approval was granted for 'Conversion of an attached domestic garage to home office, store and seminar/training

room for the purposes of homeworking'. This did not however grant the applicant all they required to carry out their operations in terms of the use, so this application was still kept under consideration.

The CLUD indicated there had been a level of operations taking place from the garage which would have constituted homeworking in accordance with criteria in Annex A of PPS4.

Careful consideration has been given to the circumstances surrounding Covid 19 and the particular type of work being carried out at this establishment.

The applicant has provided evidence how Covid has affected their business directly.

Due to the implications of COVID-19, all training courses/seminars provided and event medical cover were brought to a stop on 16<sup>th</sup> March 2020. As restrictions remain in place for events, this aspect of the business remains greatly impacted on. Training courses for limited numbers (8 per course) have been able to recommence on site with training rooms modified to allow for social distancing measures.

In response to the pandemic, the applicant has and will continue to provide essential services by way of supplying PPE, hygienic equipment and Covid-19 specific training courses/risk assessments for businesses. EMS has also provided consultancy research for Queens University in relation to Covid-19 testing kits.

In summary, the applicant has sought to adapt their business in order to stay viable during this difficult time. The provision of office space and training rooms is critical to ensuring the business can continue to provide essential services.

The applicant submitted an amended site layout to demonstrate the site could absorb provision for visitor parking for 8 spaces, DFI Roads have been consulted on 7<sup>th</sup> September 2020 this on and have yet to reply formally, however Council would have no issue with the new car park layout.

Neighbours were re-consulted, the statutory expiry date for reply was 22<sup>nd</sup> September and to date no further objections have been received.

There had been a number of objections initially to the proposal which have been fully addressed in the original case officers report.

A number of conditions will be added to any permission, this will include a temporary time limit of 3 years. This will be a way to monitor progress and also give neighbours a peace of mind that if after these 3 years there have been significant issues the Council may not grant any further permissions.

Mid Ulster Development Plan 2030 Draft Plan Strategy was launched on the 22<sup>nd</sup> February 2019. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25<sup>th</sup> March for 8 weeks. The re-consultation period will close on 5pm on 24<sup>th</sup> September 2020. In light of this the draft plan cannot currently be given any determining weight.

However the draft plan does propose a policy ECON2 – economic development in the countryside which may allow for this type of development in the future, but as previously stated the draft plan at this time cannot currently be given any determining weight.

On balance approval is recommended with the conditions to follow.

**Conditions**

- 1 The permission hereby granted shall be for a period of 3 years from the date of this permission.

Reason: Time limit

2. Notwithstanding the provisions of the Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revoking and/or re-enacting that Order, no extension or enlargement (including alteration to roofs) shall be made to the dwelling houses hereby permitted without the grant of a separate planning permission from the Council.

Reason: The further extension of this dwelling requires detailed consideration to safeguard the amenities of the surrounding area.

3. The proposal should be used only for training and office work in connection with health training and for no other use.

Reason: In order to prohibit an unacceptable use.

4. The approved use should remain ancillary to No.12 Ballynahoe Road, rather than become a separate use.

Reason: To ensure the use remains ancillary to the main dwelling.

5. No more than 8 people should be permitted to attend the premises at any one time.

Reason: In order to restrict numbers.

**Signature :**

**Date**





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1553/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of a two storey seminar/ training room, office and store associated with the expansion of an established emergency medical supplies (EMS) business	<b>Location:</b> 12 Ballynahone Road Maghera
<b>Referral Route: Refusal recommended and 2 objections received</b>	
<b>Recommendation: Refuse</b>	
<b>Applicant Name and Address:</b> Emergency Medical Services (N.I) Ltd 12 Ballynahone Road Maghera	<b>Agent Name and Address:</b> Clyde Shanks 2nd Floor 7 Exchange Place Belfast BT1 2NA
<b>Executive Summary:</b> This proposal fails to comply with Policy CTY 1 of PPS 21 as it is not considered to be any of the types of non residential development deemed acceptable outside a settlement. It also fails to comply with Policy PED 3 of PPS 4 in that the business in question is not considered established and therefore the test for expansion can not be met.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

In line with Statutory Neighbour Notification Procedures, there were no relevant neighbours to be notified of this application. It has been advertised in local press. To date, 2 letters of objection and 1 letter of support have been received in respect of the proposal.

The issues raised by the objectors are summarised and considered below.

#### 1. Occupant of number 21 Ballinahone Road, Maghera (Received 5/2/20)

- The business in question should be operated from commercial units and not in the Countryside
- Applicant obtained approval for a double garage and store but is now using this domestic building for his business without the proper planning approval. He is also advertising on social media the unauthorised use of this building as his new premises.
- This is a new business not the retention of a business. The business always operated from Rainey Street, Magherafelt.
- The business has never operated from 12 Ballynahone Road and is only doing so from 1/8/19



- Applicant is showing that more customer parking space is available than there actually is. Customer parking is being taken up by staff and ambulances.
- Applicant has erected a new tin structure within the last 6 months which may require planning permission. There is also a lorry container and green house at the back of his dwelling.
- There is subsiding ground at the entrance to the site which is road safety concern. The existing lane way cannot take the extra traffic generated by the business.
- Impact of the business on the rural character of this area, in particular Ballynahone Bog

## 2. Occupant of number 10 Ballynahone Road, Maghera (Received 11/2/20)

- Applicant obtained approval for a double garage and store but is now using this domestic building for his business without the proper planning approval. He is advertising this on his business page.
- This is a commercial business and should be operating from commercial premises within a Town
- This business has never operated from 12 Ballynahone Road
- Impact on rural character
- Unsafe entrance

The location of this commercial business will be considered further in this report under the relevant policy tests. There is a current live enforcement case being considered by MUDC (LA09/2019/0108/CA) for an unauthorised building with associated unauthorised office, constructed within the domestic curtilage of 12 Ballynahone Road. This full application was submitted by the applicant in attempt to regularise this unauthorised building and office. Whether or not this is an established business will be considered further in this report. It is acknowledged that the applicant has also submitted an application for a Certificate of Lawfulness for an existing use or development in respect of the business operating from the dwelling at 12 Ballynahone Road (LA09/2019/1451/LDE). Parking provision will be considered further in this report. The additional structures referred to do not benefit from planning approval, nor do they form part of this application. They are currently being considered by MUDC enforcement team as to whether it is expedient to open an additional enforcement case. DFI Roads have been consulted with this application and have been made aware of both objections as they raise road safety concerns. DFI Roads have requested additional information before they can comment any further. The impact of this proposal on rural character and the adjacent bog will be considered further in this report.

1 no. letter in support of the application has been received from Keith Buchanan MLA.

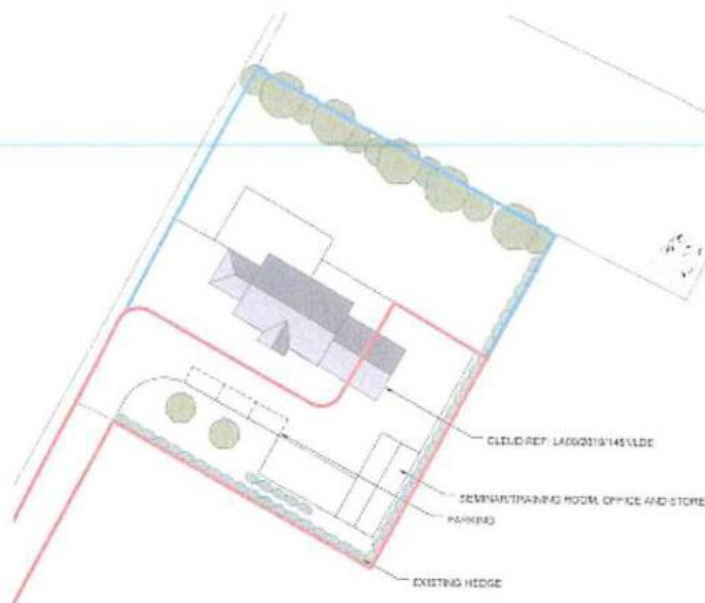
### Characteristics of the Site and Area

The application site is located at 12 Ballynahone Road and is approximately 1 and 2 miles South of the village of Maghera. It is in a rural area outside the development limits of any settlement defined in the Magherafelt Area Plan 2015. The site sits approximately 90m back from the Ballynahone Road and is accessed via an existing domestic driveway. On the site at present is a large two storey detached dwelling. At one side of the dwelling is a single storey annex which was constructed and approved as an integral garage and car



port. The car port is now being used for domestic and business storage purposes and the garage door has been replaced with a window with the garage now being used as a seminar/training room in association with the applicants business EMS (Emergency Medical Supplies). To the front of the dwelling in the SE portion of the site is a substantial newly constructed two storey detached building which is currently used as an office, store and seminar facility in association with the applicants business. It was approved as a domestic garage. The building has two sets of double doors and a single door on the ground floor of the front elevation. On the North facing gable is an external metal staircase which is used to access a seminar room and offices on the first floor. The building is finished in a natural wood cladding. In front of this building is an informal parking area used for parking cars and ambulances in association with the business. To the rear of the dwelling is a small prefabricated steel frame shed. It is currently used for domestic and business storage purposes and also is used as an area to repair medical equipment. Along the SE boundary of the site there is also a large metal container and an area used for storing a boat and another ambulance used in association with the business.

This area is rural in character with a dispersed settlement pattern, the predominant form of development being single detached dwellings and agricultural buildings. There are poultry houses located approximately 150m to the NW of the site and 2 detached dwellings located approximately 130-150m to the SE of the site. Approximately 170m to the South of the site and at the opposite side of the Ballynahone Road, down a lane, is a cluster of dwellings and farm buildings. Ballynahone Bog, which is a RAMSAR Site, a SAC, NNR and ASSI is located just to the East of the site



## Description of Proposal

This is a full application for the retention of a two storey seminar/training room, office and store associated with the expansion of an established Emergency Medical Supplies (EMS) Business



## Planning Assessment of Policy and Other Material Considerations

### Planning History

LA09/2019/1451/LDE Established Seminar/training room associated with emergency medical supplies (EMS) business (former domestic garage). 12 Ballynahone Road, Maghera,

H/2014/0291/F 2 storey garage adjacent to existing dwelling, ground floor garage, first floor storage, 12 Ballynahone Road, Maghera, PG 10.10.2014

LA09/2016/0726/NMC Change external cladding on new garage and store from Western Red Cedar cladding to 125 x 19 m Red Deal Shiplap cladding  
 12 Ballynahone Road Maghera,

H/2005/0008/F Two Storey Dwelling and Garage. 180m North of No. 17 Ballinahone Road, Maghera. 22.07.2005



H/2001/0594/O Site of dwelling 200 metres North of 17 Ballynahone Road, Magherafelt. 13.04.2002

H/2009/0644/F Proposed new garage 12 Ballinahone Road, Maghera 09.12.2009

H/2007/0374/F Two storey garage to rear of existing dwelling. 12 Ballynahone Road, Knockloughrim 23.09.2008

### **Enforcement History**

LA09/2019/0108/CA Unauthorised building with associated unauthorised office, constructed within the domestic curtilage of 12 Ballynahone Road, Maghera.

The following policies will be considered in this assessment

- SPPS - Strategic Planning Policy Statement for Northern Ireland
- Magherafelt Area Plan 2015
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- PPS 3 - Access, Movement and Parking
- PPS 4 - Planning and Economic Development
- PPS 21 - Sustainable Development in the Countryside
- Parking Standards (Guidance)

### **Strategic Planning Policy Statement (SPPS)**

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

More specific to Economic Development, paragraph 4.19 of the SPPS states that Planning Authorities should take a positive approach to appropriate economic development proposals, and proactively support and enable growth generating activities

Paragraph 4.20 advises that when assessing the positive and negative economic implications of planning applications Planning Authorities should ensure the approach followed is proportionate to the scale, complexity and impact of the proposed development.

The SPPS gives specific provision for Economic Development, Industry and Commerce. It states that the guiding principle for policies and proposals for economic development in the countryside is to facilitate proposals likely to benefit the rural economy and support rural communities, while protecting or enhancing rural character and the environment, consistent with strategic policy elsewhere in the SPPS. Farm diversification, the re-use of rural buildings and appropriate redevelopment and expansion proposals for industrial and business purposes will normally offer the greatest scope for sustainable economic development in the countryside. Such proposals may occasionally involve the construction



of new buildings, where they can be integrated in a satisfactory manner. The SPPS does however state that in the interests of rural amenity and wider sustainability objectives, the level of new building for economic development purposes outside settlements must however be restricted. Exceptions to this general principle may be justified in the following circumstances: A small scale new build economic development project may be permissible outside a village or small settlement where there is no suitable site within the settlement. An edge of settlement location will be favoured over a location elsewhere in the rural area, subject to normal planning considerations. This does not present any change in policy direction with regards to Economic Development and as such, existing planning policy will be applied in this assessment, primarily PPS 4, Planning and Economic Development.

### **Magherafelt Area Plan 2015**

This site is outside the limits of any settlement defined in the Magherafelt Area Plan 2015 and is not subject to any Key Site Requirements. It is adjacent to Ballynahone Bog which is a RAMSAR Site, a SAC, NNR and ASSI. Given the nature of this development and the fact that it will not result in any significant emissions or run-offs consultation was not deemed necessary with NIEA (Natural Environment Division)

### **Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy**

The relevant Draft Plan Strategy Policies in this assessment are GP1 - General Principles Policy and ECON 2 - Economic Development in the Countryside. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March 2020 for 8 weeks. The re-consultation was due to close at 5pm on 21st May 2020. In light of this, the Draft Plan cannot currently be given any determining weight in this assessment.

### **Planning Policy Statement 3 - Access, Movement and Parking.**

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves the use of an existing unaltered access onto the Ballynahone Road. The P1 form submitted with the application indicates that there will be no intensification. DFI Roads have been consulted with the application and objection letters and have advised that there is a contradiction between the P1 and what the objectors are stating in terms of traffic generation. They have advised Council that no TAF was submitted and that Council may want to confirm that accuracy of the information submitted on the P1 form before re-consulting them again. I have not requested any clarity from the agent on this matter as the principle of this development has not been yet been accepted.

In respect of Parking Provision, Parking Standards would indicate that for this type of development 1 space is required for every 20m<sup>2</sup> of floor area. The total floor area of this building is 144m<sup>2</sup> which equates to a requirement of 7.2 parking spaces. The site layout is showing 5 car parking spaces and an area for parking 2 ambulances. This would indicate a shortfall of 2 car parking spaces however given the nature of the business it is likely that some customers would carpool and I would accept a shortfall of 2 in this instance. It is also noted that there is space within the curtilage of the dwelling that could be used for informal parking if the need arrived.



## PPS 4 - Planning and Economic Development

Policy PED 2 of PPS 4 is the general policy for Economic Development in the Countryside. It advises that proposals for economic development uses in the countryside will be permitted in accordance with the provisions of the following policies:

- The Expansion of an Established Economic Development Use - Policy PED 3
- The Redevelopment of an Established Economic Development Use - Policy PED 4
- Major Industrial Development - Policy PED 5
- Small Rural Projects - Policy PED 6

This is an application for the retention of a building associated with the expansion of an established business and as such PED 3 will be the relevant policy test.

Policy PED 3 of PPS 4 states that the expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise. Proposals for expansion will normally be expected to be accommodated through the reuse or extension of existing buildings on site. Where it is demonstrated that this is not possible, new buildings may be approved provided they are in proportion to the existing building(s) and will integrate as part of the overall development. Any extension or new building should respect the scale, design and materials of the original building(s) on the site and any historic or architectural interest the original property may have. In all cases, measures to aid integration into the landscape will be required for both the extension and the existing site.

The main test under this policy is that the business in question must be established so that an expansion to that business can be considered. As referred to earlier in this report, the applicant has submitted a CLUD application (LA09/2019/1451/LDE) in an attempt to demonstrate that the business has been operating from 12 Ballynahone Road in excess of 5 years, therefore making it immune from any enforcement action. The CLUD application has been considered by MUDC and whilst it has not been refused, it has been decided that it has not been demonstrated beyond reasonable doubt that EMS has been operating from 12 Ballynahone at the scale demonstrated. It has however been accepted that some level of business activity has been taking place from the domestic garage and that this is at a level that would constitute home working in accordance with Annex A of PPS 4. On this basis, this proposal is clearly at conflict with PED 3 in that the business in question (EMS) is not established at this site.

PED 3 also sets out tests in respect of scale and nature and the impact of such on rural character. The existing building subject of this application is sited in the SE portion of the site. It sits to the front of the building line of the existing dwelling. It measures 12.6m (length) x 5.7m (width) x 6.7m (Height). It is simple and rural in form and design and is finished in a natural wood cladding. Like the dwelling, it is set back off the public road and benefits from a back drop of mature vegetation (Ballynahone Bog). Notwithstanding the fact that there are normally ambulances parked to the front of the building, it would be generally domestic in appearance. I therefore have no concerns about the nature and scale of the building impacting negatively on the rural character of this area. The building is sited within the existing domestic curtilage of 12 Ballynahone Road and has not resulted in an extension of this curtilage.



PED 3 states that proposals for expansion will normally be expected to be accommodated through the reuse or extension of existing buildings on site. This application is described as the "retention of a two storey seminar/training room, office and store". Having discussed this application with our Enforcement Team they have advised that there is no evidence that the building to be retained was ever used for the purposes of a domestic garage as approved under H/2009/0644/F. I was also advised on the day of my site inspection that the building was "purpose built" to facilitate the applicants business. On the basis of this evidence, I am satisfied that this proposed expansion is not being accommodated through the reuse of an existing building.

PED 3 does permit new buildings provided they are in proportion to the existing building(s) and integrate as part of the overall development. Any new building should respect the scale, design and materials of the original building(s) on the site and any historic or architectural interest the original property may have. The building subject of this application reads as being within the planning unit at 12 Ballynahone Road. It is subordinate in scale to the dwelling and has a simple rural design that does not look out of place in this locality. It is finished in a natural wood cladding which is not reflective of the finish on the dwelling, however I have no concerns in this regard as I am of the opinion that the wood cladding finish compliments the dwelling and blends in well in this rural location adjacent to a protected bog.

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

Policy CTY 1 of PPS 21 is the general policy for all development in the Countryside. It states that there are a range of types of development which in principle are considered to be acceptable in the countryside. It groups these as either Housing or Non Residential Development. This proposal falls under the latter category.

Under CTY 1, planning permission will be granted for non-residential development in the countryside in the following cases:

- farm diversification proposals in accordance with Policy CTY 11;
- agricultural and forestry development in accordance with Policy CTY 12;
- the reuse of an existing building in accordance with Policy CTY 4;
- tourism development in accordance with the TOU Policies of PSRNI;
- industry and business uses in accordance with PPS 4 (currently under review);
- minerals development in accordance with the MIN Policies of PSRNI;
- outdoor sport and recreational uses in accordance with PPS 8;
- renewable energy projects in accordance with PPS 18; or
- a necessary community facility to serve the local rural population.

It is my opinion that this proposal cannot be considered under any of the above mentioned cases. I have already demonstrated why it doesn't comply with PPS 4. No case has been put forward to demonstrate that it is a necessary community facility to serve the local rural population.

Policy CTY 13 of PPS21 deals with design and integration and is a relevant policy test in this assessment. Given the set back position of this site and the low lying nature of the land, the existing building does not appear overly prominent in the local landscape. The



site benefits from backdrop of dense mature vegetation (Ballynahone Bog) which helps integrate the building and provide a degree of enclosure. New landscaping is not relied upon for the purposes of integration. The design of the building is acceptable, as I have referred to earlier in this report. It is simple and rural in form and the finish compliments its rural location next to a bog. Policy CTY 14 deals with rural character. I am satisfied that this building is not prominent, it does not create a suburban build up of development in the area, it does not create or add to ribbon development and it respects the settlement pattern in the area which is clusters of buildings set back off the road. Overall I am confident in stating that building does not have a detrimental impact on the rural character of this area.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

This proposal fails to comply with Policy CTY 1 of PPS 21 as it is not considered to be any of the types of non residential development deemed acceptable outside a settlement. It also fails to comply with Policy PED 3 of PPS 4 in that the business in question is not considered established and therefore the test for expansion can not be met.

**Reasons for Refusal:**

1. The existing development fails to comply with Policy CTY 1 of PPS 21 in that it has not been demonstrated that there are exceptional circumstances as to why this development should be sited outside the development limits of a settlement.
2. The existing development fails to comply with Policy PED 2 of PPS 4 in that it does not comply with any of the policies listed for economic development uses in the countryside.
3. The existing development fails to comply with Policy PED 3 of PPS 4 in that it has not been demonstrated that the economic development use is established.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	27th November 2019
<b>Date First Advertised</b>	10th December 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) Samuel McLean 10, BALLYNAHONE ROAD, MAGHERA, LONDONDERRY, Northern Ireland, BT46 5DL Laverne McLean 21, Ballynahone Road, Maghera, Londonderry, Northern Ireland, BT46 5DL	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	n/a
<b>Planning History</b>  Ref ID: LA09/2019/1451/LDE Proposal: Established seminar/training room associated with emergency medical supplies (EMS) business (former domestic garage) Address: 12 Ballynahone Road, Maghera, Decision: Decision Date:    Ref ID: LA09/2019/1553/F Proposal: Retention of a two storey seminar/ training room, office and store associated with the expansion of an established emergency medical supplies (EMS) business Address: 12 Ballynahone Road, Maghera, Decision: Decision Date:  Ref ID: H/2014/0291/F Proposal: 2 storey garage adjacent to existing dwelling, ground floor garage, first floor storage Address: 12 Ballynahone Road, Maghera, Decision: PG Decision Date: 10.10.2014  Ref ID: LA09/2016/0726/NMC	

Proposal: Change external cladding on new garage and store from Western Red Cedar cladding to 125 x 19 m Red Deal Shiplap cladding

Address: 12 Ballynahone Road Maghera,

Decision:

Decision Date:

Ref ID: H/2005/0008/F

Proposal: Two Storey Dwelling and Garage.

Address: 180m North of No. 17 Ballinahone Road, Maghera.

Decision:

Decision Date: 22.07.2005

Ref ID: H/2001/0594/O

Proposal: Site of dwelling

Address: 200 metres North of 17 Ballynahone Road, Magherafelt

Decision:

Decision Date: 13.04.2002

Ref ID: H/2009/0644/F

Proposal: Proposed new garage

Address: 12 Ballinahone Road, Maghera

Decision:

Decision Date: 09.12.2009

Ref ID: H/2007/0374/F

Proposal: Two storey garage to rear of existing dwelling.

Address: 12 Ballynahone Road, Knockloughrim

Decision:

Decision Date: 23.09.2008

### Summary of Consultee Responses

DFI Roads - Request for additional information

EH - No objections

### 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. 04  
Type: Proposed Plans  
Status: Submitted

Drawing No. 03  
Type: Site Layout or Block Plan  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:





**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 1 September 2020 in Council Offices, Ballyronan Road, Magherafelt and by virtual means**

**Members Present**

Councillor S McPeake, Chair

Councillors Bell, Black, Brown, Clarke, Cuthbertson, Gildernew\*, Glasgow, Kearney, Mallaghan, McFlynn, McKinney, D McPeake, Quinn, Robinson

**Officers in Attendance**

Dr Boomer, Planning Manager  
Mr Bowman, Head of Development Management  
Ms McCullagh, Senior Planning Officer  
Mr McGibbon, Senior Planning Officer  
Ms McKearney, Senior Planning Officer  
Ms McNally, Council Solicitor  
Miss Thompson, Democratic Services Officer

\* Denotes members and members of the public present in remote attendance

\*\* Denotes Officers present by remote means

The meeting commenced at 7.00 pm

*The Chair, Councillor S McPeake welcomed everyone to the meeting and those watching the meeting through the Live Broadcast. The Chair, in introducing the meeting detailed the operational arrangements for transacting the business of the Committee in the Chamber and by virtual means, by referring to Annex A to this minute.*

The Chair also referred to addendum which had been circulated earlier in the day and asked if those joining remotely had seen this document and had time to read it.

Members joining remotely confirmed that they had seen the addendum and had time to read it.

**P073/20      Apologies**

Councillor Colvin.

**P074/20      Declarations of Interest**

The Chair reminded members of their responsibility with regard to declarations of interest.

## **P075/20      Chair's Business**

The Planning Manager highlighted correspondence from Friends of the Earth, circulated to Members as part of addendum, in which the organisation expressed their concern in relation to the NIEA policy on ammonia emitting projects.

## **Matters for Decision**

### **P076/20      Planning Applications for Determination**

The Planning Manager referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred from tonight's meeting schedule for an office meeting –

Agenda Item 4.5 – LA09/2019/1373/O – Dwelling and garage 55m E of 32a Mulnavoo Road, Moneyneany Road, Draperstown for Michael Bradley Esq.

Agenda Item 4.9 – LA09/2020/0024/F – 3 lodges for short term accommodation at 210m SW of 35 Brookend Road, Ardboe for Donal Coney.

Agenda Item 4.10 – LA09/2020/0153/O – Dwelling and domestic garage adjacent and NE of junction with Mullaghmoyle Road on Colliers Lane, Coalisland for Marianne Sturtridge.

Agenda Item 4.12 – LA09/2020/0253/O – Site for dwelling adjacent to and immediately SW of 12 Kilmakardle Road, Dungannon for Catherine Donnelly.

Agenda Item 4.13 – LA09/2020/0315/O – 2 storey dwelling and garage on a farm adjacent to 182 Mountjoy Road, Brockagh, Dungannon for Paul Mulholland.

Agenda Item 4.17 – LA09/2020/0499/O – Site for dwelling and domestic garage at 51m SE of 86 Iniscarn Road, Keenaght, Desertmartin for Emmet O'Hagan.

Agenda Item 4.20 – LA09/2020/0608/O – Dwelling and garage adjacent to 9a Falgortrevy Road, Maghera for Shaun Kelly.

It was further advised that agenda items 4.6 and 4.7 were both deferred at last month's meeting and should not have been added to tonight's agenda for consideration.

Councillor Gildernew requested that agenda item 4.21 – LA09/2020/0657/O – Dwelling between 66 and 66a Derryoghill Road, Dungannon for Eugene Daly be deferred for an office meeting.

Councillor Mallaghan also requested that an office meeting be held in relation to agenda item 4.21 due to the circumstances of the application.

Proposed by Councillor McKinney  
Seconded by Councillor Bell and

**Resolved** That the planning applications listed above for deferral be deferred for an office meeting.

The Chair drew Members attention to the undernoted planning applications for determination.

**LA09/2019/0299/F Additional free range poultry shed with 2 feed bins, storage shed and associated site works at 150m S of 25 Coolmaghery Road, Dungannon, for Mr Gary Watt**

Members considered previously circulated report on planning application LA09/2019/0299/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Cuthbertson and

**Resolved** That planning application LA09/2019/0299/F be approved subject to conditions as per the officer's report.

**LA09/2019/0612/F Retention of store extension, first floor accommodation to existing supermarket and additional car parking at 243 Derryfubble Road Benburb Dungannon, for Brendan McAnallen**

Members considered previously circulated report on planning application LA09/2019/0612/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2019/0612/F be approved subject to conditions as per the officer's report.

**LA09/2019/0940/F 2 no. 2 storey dwellings, 67 Castlecaulfield Road, Donaghmore, Dungannon for GP Developments Ltd**

The Head of Development Management presented a report on planning application LA09/2019/0940/F advising that it was recommended for refusal.

Councillor Bell asked if all avenues had been exhausted in relation to the roads issues.

The Head of Development Management advised that since November 2019 the applicant had been given the opportunity to address the issue of visibility splays and that the maximum visibility splay that the applicant can achieve is 2m x 33m. Roads Service require visibility splays of 2.4m x 50m and 2.4m x 43m. The officer advised that the site is capable of one dwelling and that the applicant could give this consideration.

Councillor Mallaghan stated that given the road safety concerns and that the principle of development has been established for one dwelling there is an opportunity for future development. Councillor Mallaghan proposed that the application be refused.

Councillor Clarke seconded Councillor Mallaghan's proposal.

**Resolved** That planning application LA09/2019/0940/F be refused on grounds stated in the officer's report.

**LA09/2019/1027/F**      **Petrol filling station (8 No pumps), underground storage tanks; ancillary services accommodation including retail, storage, cafe facilities, ATM, car parking and all associated site works at lands 80m SE of 100 Coleraine Road, Maghera, for Specialist Joinery Group**

Members considered previously circulated report on planning application LA09/2019/1027/F which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor Kearney and

**Resolved** That planning application LA09/2019/1027/F be approved subject to conditions as per the officer's report.

**LA09/2019/1373/O**      **Dwelling and garage 55m E of 32a Mulnavoo Road, Moneyneany Road, Draperstown for Michael Bradley Esq**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2019/1432/O**      **Site for dwelling and garage at 100m NW of 84 Loup Road, Moneymore, for Mr Michael O'Boyle**

Withdrawn from tonight's agenda as was deferred at last month's meeting.

**LA09/2019/1484/O**      **Site for dwelling at 50m E of 91 Aughrim Road, Magherafelt, for Keith Fulton**

Withdrawn from tonight's agenda as was deferred at last month's meeting.

**LA09/2019/1587/O**      **2 dwellings opposite 250 Ballygawley Road, Dungannon, for Jason Kelly**

Members considered previously circulated report on planning application LA09/2019/1587/O which had a recommendation for approval.

Proposed by Councillor Mallaghan  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2019/1587/O be approved subject to conditions as per the officer's report.

**LA09/2020/0024/F**                      **3 lodges for short term accommodation at 210m SW of 35 Brookend Road, Ardboe for Donal Coney**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/0153/O**                      **Dwelling and domestic garage adjacent and NE of junction with Mullaghmoyle Road on Colliers Lane, Coalisland for Marianne Sturtridge**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/0169/O**                      **Housing Development at site immediately W and adjacent to Dernagh Cottages, Lisnastrane Road, Coalisland for Malachy McIlvenna**

Members considered previously circulated report on planning application LA09/2020/0169/O which had a recommendation for approval.

Proposed by Councillor Bell  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2020/0169/O be approved subject to conditions as per the officer's report.

**LA09/2020/0253/O**                      **Site for dwelling adjacent to and immediately SW of 12 Kilmakardle Road Dungannon, for Catherine Donnelly**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/0315/O**                      **2 storey dwelling and garage on a farm adjacent to 182 Mountjoy Road, Brockagh, Dungannon for Paul Mulholland**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/0410/F**                      **Dwelling and garage between 88 and 90 Iniscarn Road, Desertmartin, for Mr Mark Madden**

Members considered previously circulated report on planning application LA09/2020/0410/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2020/0410/F be approved subject to conditions as per the officer's report.

**LA09/2020/0446/F**

**Change of house type (to approved M/2006/1301/RM),  
at land opposite and SW of 165 Favour Royal Road,  
Augher, for Finbarr McQuaid**

The Head of Development Management advised that officers were checking if the agent was waiting in another part of the building as they had made a request to speak on the application.

Councillor Cuthbertson referred to the addendum that is emailed to the Members joining the meeting remotely and asked if it is possible that this be emailed to everyone at 5pm.

The Planning Manager advised the addendum is to draw Members attention to all relevant material that has been submitted since the agenda was published and that this can be very last minute. The Planning Manager stated that up until the point of Members taking a decision on an application all relevant material has to be considered and he would share that view that it would be easier to email any additional information but it may not be 100% accurate if emailed at 5pm.

The Head of Development Management advised that the agent for the application was not present within the building and asked how Members wanted to proceed.

The Planning Manager asked if the application was valid.

The Head of Development Management stated that this would depend on whether reference is to be made of the commencement issue.

The Planning Manager suggested that the officer proceed with their presentation and then consideration can be given to the validity of the application.

The Council Solicitor stated that as speaking rights had been granted it may be fairer to try to make contact with the agent to ascertain whether they still intend to come to the meeting or if they are running late rather than there being any further discussion on this currently.

The Planning Manager stated that if a change of house type is to be considered you need to have a permission in the first instance.

The Chair, Councillor S McPeake stated that consideration of the planning application would be held in the interim in order to try and make contact with the agent and that the meeting would continue with the other items of business as per the agenda.

**LA09/2020/0479/F Change of house design / location as previously approved  
under M/2008/1007/F at 200m SW of 28 Aghaloo Road (26  
Aghaloo Road) Aughnacloy, for Con Carey**

Members considered previously circulated report on planning application LA09/2020/0479/F which had a recommendation for approval.



Proposed by Councillor McKinney  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2020/0479/F be approved subject to conditions as per the officer's report.

**LA09/2020/0499/O**                      **Site for dwelling and domestic garage at 51m SE of 86 Iniscarn Road, Keenaght, Desertmartin, for Emmet O'Hagan**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/0501/O**                      **Site for dwelling and garage approx. 80m SW of 110 Mullaghboy Road, Bellaghy, for Robert Milne**

Members considered previously circulated report on planning application LA09/2020/0501/O which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2020/0501/O be approved subject to conditions as per the officer's report.

**LA09/2020/0509/O**                      **Site for dwelling at lands approx. 40m W of 32 Rehaghy Road, Aughnacloy for Liam Mc Killion**

Members considered previously circulated report on planning application LA09/2020/0509/O which had a recommendation for approval.

Proposed by Councillor Robinson  
Seconded by Councillor Gildernew and

**Resolved** That planning application LA09/2020/0509/O be approved subject to conditions as per the officer's report.

**LA09/2020/0608/O**                      **Dwelling and garage adjacent to 9a Falgortrevy Road, Maghera, for Shaun Kelly**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/0657/O**                      **Dwelling between 66 and 66a Derryoghill Road, Dungannon for Eugene Daly**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/0696/F                      Retention of the existing general purpose / storage shed for machinery and vehicles and the extension of the existing site curtilage at 55m S of No 39C Gortahurk Road, Draperstown, for Mr Fergal McGuigan**

Members considered previously circulated report on planning application LA09/2020/0696/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor McFlynn and

**Resolved**     That planning application LA09/2020/0696/F be approved subject to conditions as per the officer's report.

**LA09/2020/0749/F                      Single storey extension to side at 5 Ashwood Heights, Cookstown, for Mr A McCreesh**

Members considered previously circulated report on planning application LA09/2020/0749/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor McKinney and

**Resolved**     That planning application LA09/2020/0749/F be approved subject to conditions as per the officer's report.

**Continuation of  
LA09/2020/0446/F                      Change of house type (to approved M/2006/1301/RM), at land opposite and SW of 165 Favour Royal Road, Augher, for Finbarr McQuaid**

The Head of Development Management advised that the agent for the application had still not arrived.

The Planning Manager stated that he believed there was an issue of whether the application was in time or not and if it was not in time then it was not a change of house type. The Planning Manager suggested that the application be deferred to explore this issue with the agent.

Proposed by Councillor Gildernew  
Seconded by Councillor Bell and

**Resolved**     That planning application LA09/2020/0446/F be deferred to explore the validity of the application.

**LA09/2018/0420/F**

**10 dwellings immediately to the rear of and adjacent to 12, 14, 18 and 20 Mullaghteige Road Bush, Dungannon, for BOA Island Developments**

Members considered previously circulated report on planning application LA09/2018/0420/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2018/0420/F be approved subject to conditions as per the officer's report.

**LA09/2018/0765/O**

**Dwelling and garage to the rear of 13 Fairhill Road, Cookstown, for Mr Paul Quinn**

The Head of Development Management presented a report on planning application LA09/2018/0765/O advising that it was recommended for refusal.

Councillor McFlynn asked if access to the site is via the grounds of the front house.

The Head of Development Management advised that there is an existing access however demolition of a garage would be required and highlighted that the existing garden is elevated meaning the proposal would sit higher than adjoining property. The officer also referred to the noise and nuisance of vehicles coming and going from the proposed property on a daily basis.

Proposed by Councillor Glasgow  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2018/0765/O be refused on grounds stated in the officer's report.

**LA09/2018/1569/F**

**35 two storey houses, landscaping, access and associated site works at lands to the SW of 12, 14, 15, 16 and 18 Woodland Grove with access through Woodland Heights on to Derrynoyd Road, Draperstown, for Mr Boyle**

Councillor McKinney referred to the late objection received and circulated as part of the addendum. The Councillor stated that he recalled previous discussion on the application and asked how the previous issues had been overcome since the last time the application was presented.

Ms McCullagh (SPO) presented a report on planning application LA09/2018/1569/F advising that it was recommended for approval which included how previous issues had been overcome.

Councillor Bell stated he had listened to what had been said tonight and that this was the third time the application had been brought with an approval. Councillor Bell

stated that a lot of hard work had gone into addressing concerns and proposed the officer recommendation.

Councillor Mallaghan stated he noted the reduction in objections and referred to the late objection received in relation to greenbelt maintenance issues however he did not feel that it was a material consideration in terms of permission for the site. Councillor Mallaghan seconded Councillor Bell's proposal.

The Planning Manager referred to the reduced number of houses coming off the road and that this has led to the reduction in objections. The Planning Manager reminded Members however that it is not the number of objections but the validity of the concerns being put forward.

Councillor McKinney stated he still had some concerns in relation to the application but he was glad to hear there was not going to be a through road through the existing development. Councillor McKinney stated he voted against the proposal to approve the application.

**Resolved** That planning application LA09/2018/1569/F be approved subject to conditions as per the officer's report.

**LA09/2019/0633/O                      Site for a dwelling and garage (amended access),  
25m NE of 59 Ferry Road Coalisland, for Mr Patrick  
McNeice**

Members considered previously circulated report on planning application LA09/2019/0633/O which had a recommendation for approval.

Proposed by Councillor Quinn  
Seconded by Councillor Mallaghan and

**Resolved** That planning application LA09/2019/0633/O be approved subject to conditions as per the officer's report.

**LA09/2019/1045/O                      Dwelling and domestic garage / store at 130m W of 27  
Tirnaskea Road, Pomeroy, for Mr Mallon**

Members considered previously circulated report on planning application LA09/2019/1045/O which had a recommendation for approval.

Proposed by Councillor Mallaghan  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2019/1045/O be approved subject to conditions as per the officer's report.

**P077/20                      Receive LDP Draft Revised Timetable**

The Planning Manager presented previously circulated report which provided a revised timetable for the production of the new Local Development Plan (LDP) for

the Mid Ulster District Council Area. The timetable details the key stages, actions and timescales in the plan preparation process.

Councillor Clarke stated that this was not the timeframe Members had expected at the beginning of the process. Councillor Clarke proposed the revised timetable as the best option available.

The Planning Manager stated that what was supposed to be a quicker and easier to understand process has become the opposite and that it is government departments which are making it this way.

Councillor Bell seconded Councillor Clarke's proposal.

**Resolved** That it be recommended to Council to agree the revised Local Development Plan Timetable as set out at appendix to report following which the Timetable will then be submitted to the Department for its agreement.

The Planning Manager advised that the timetable would be sent to the Department and when approved it would be put on the Council website.

**P078/20      Receive report on Fermanagh and Omagh District Council Draft Plan Strategy – Notification of Proposed Changes**

The Planning Manager presented previously circulated report which advised of some changes to Fermanagh and Omagh District Council's Draft Plan Strategy. The report further advised of Mid Ulster Council's position in relation to the various changes.

Proposed by Councillor D McPeake  
Seconded by Councillor Clarke and

**Resolved** To agree the content of the letter as set out at appendix to report which will then be sent to Fermanagh and Omagh District Council in response to the consultation on the Schedule of Proposed Changes to the Draft Plan Strategy 2030.

**P079/20      Receive Planning Department Service Improvement Plan 2020/21**

The Planning Manager presented previously circulated report which provided the Planning Department's Service Improvement Plan for 2020/21.

The Chair, Councillor S McPeake stated there was a lot of uncertainty for the future and that there would be challenges in a new planning computer system and new development plan. The Chair stated that it was a time to take stock and be resilient for what was ahead.

Councillor McKinney thanked planning staff for their efforts during lockdown and the speed at which planning applications were processed during this time. The

Councillor stated that everyone was in unchartered waters but that Mid Ulster planning had shown that they are open for business and staff were always available.

Councillor Kearney stated that he concurred with Councillor McKinney's remarks and that in the words of Seamus Heaney keeping going is the secret and that Mid Ulster planning kept going and this has to be acknowledged.

Members noted the Planning Department Service Improvement Plan for 2020/21.

### **Matters for Information**

#### **P080/20 Minutes of Planning Committee held on 4 August 2020**

Members noted minutes of Planning Committee held on 4 August 2020.

Live broadcast ended at 7.55 pm.

### **Local Government (NI) Act 2014 – Confidential Business**

Proposed by Councillor Mallaghan  
Seconded by Councillor Brown and

**Resolved** In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P081/20 to P087/20.

#### **Matters for Decision**

P081/20 Receive Revocation Report  
P082/20 Receive Enforcement Report

#### **Matters for Information**

P083/20 Confidential Minutes of Planning Committee held on 4 August 2020  
P084/20 Enforcement Live Case List  
P085/20 Enforcement Cases Opened  
P086/20 Enforcement Cases Closed  
P087/20 Local Development Plan Revised Timetable

#### **P088/20 Duration of Meeting**

The meeting was called for 7 pm and concluded at 8.30 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_

## **Annex A – Introductory Remarks from the Chairperson**

Good evening and welcome to the meeting of Mid Ulster District Council's Planning Committee in the Chamber, Magherafelt and virtually.

I specifically welcome the public watching us through the Live Broadcast feed. The Live Broadcast will run for the period of our Open Business but will end just before we move into Confidential Business. I will let you know before this happens.

Just some housekeeping before we commence. Can I remind you:-

- If you have joined the meeting remotely please keep your audio on mute unless invited to speak and then turn it off when finished speaking
- Keep your video on at all times, unless you have bandwidth or internet connection issues, where you are advised to try turning your video off
- If you wish to speak please raise your hand in the meeting or on screen and keep raised until observed by an Officer or myself
- Should we need to take a vote this evening please raise your hand in the normal way and keep raised until advised to lower
- For members attending remotely, note that by voting on any application, you are confirming that you were in attendance for the duration of, and that you heard and saw all relevant information in connection with the application you vote on
- When invited to speak please introduce yourself by name to the meeting. When finished please put your audio to mute
- For any member attending remotely, if you declare an interest in an item, please turn off your video and keep your audio on mute for the duration of the item
- An Addendum was emailed to all Committee Members at 5pm today. There is also a hard copy on each desk in the Chamber. Can all members attending remotely please confirm that they received the Addendum and that have had sufficient time to review it?
- If referring to a specific report please reference the report, page or slide being referred to so everyone has a clear understanding
- For members of the public that are exercising a right to speak by remote means, please ensure that you are able to hear and be heard by councillors, officers and any others requesting speaking rights on the particular application. If this isn't the case you must advise the Chair immediately. Please note that once your application has been decided, you will be removed from the meeting. If you wish to view the rest of the meeting, please join the live link.



- Can I remind the public and press that taking photographs of proceedings or the use of any other means to enable persons not present to see or hear any proceedings (whether now or later), or making a contemporaneous oral report of any of the proceedings are all prohibited acts.

Thank you and we will now move to the first item on the agenda.



## ADDENDUM TO PLANNING COMMITTEE AGENDA

**FOR PLANNING COMMITTEE MEETING ON: 1<sup>st</sup> September 2020**

Additional information has been received on the following items since the agenda was issued.

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
Chairs Business	Friends of Earth correspondence	Members to note
4.6	Item added in error – was on last month's agenda	Members to note
4.7	Item added in error – was on last month's agenda	Members to note
4.10	Late objection received	Members to note, this has been deferred for office meeting.
4.20	Late request for deferral. Area Manager recommends deferral is granted for office meeting.	To be granted as deferral at discretion of chair
5.3	Late correspondence from objector received	Members to note

FAO – Dr Chris Boomer  
Head of Planning  
Mid Ulster District Council  
Council Offices  
Ballyronan Road  
Magherafelt  
BT45 6EN



14 August 2020

**BY EMAIL – URGENT**

Dear Sirs,

**NIEA OPERATIONAL POLICY ON AMMONIA EMITTING PROJECTS**

We refer to the above matter recently discussed at the Mid and East Antrim Council Meeting on 3 August 2020.

You will of course be aware that a discrepancy about the appropriate policy to apply to planning decisions concerning ammonia emitting projects arose when Shared Environmental Services adjusted its policy to reflect a much lower threshold of permitted ammonia emissions. This revised policy was subsequently withdrawn subject to legal challenge.

In an effort to clarify what policy now prevails, Mid and East Antrim wrote to the Department of Agriculture, Environment and Rural Affairs seeking clarification on the appropriate protocol to apply when assessing the impact of ammonia emitting developments on protected sites.

Friends of the Earth have concerns over the implications of the response received by DAERA (attached for ease of reference) for local government as a competent authority in making planning decisions concerning this specific type of ammonia emitting development.

As such, this letter has been sent to all Councils in Northern Ireland.

**THE NORTHERN IRELAND AMMONIA CRISIS AND ITS EFFECT ON PUBLIC HEALTH**

Ammonia (NH<sub>3</sub>) is an air pollutant largely emitted from agriculture which is known to have a damaging impact on biodiversity, including sensitive habitats and ecosystem resilience as well as human health. It is produced by many common farming activities such as the housing of livestock, the storage and spreading of manure and slurries and the application of fertiliser. Ammonia emitted into the air is subsequently deposited as nitrogen onto land and water surfaces. These nitrogen deposits can travel many miles from the original ammonia source.

Excessive ammonia emissions can also lead to increases in particulate matter which is associated with human health impacts.

Most of Northern Ireland, including our designated sites and other priority habitats are receiving levels of nitrogen which are significantly above their critical load, the concentration at which significant ecological damage occurs.

#### **STATUTORY CONSULTEES POLICY REVIEW AND RESULTING UNCERTAINTY**

In his correspondence addressed to the Chief Executive of Mid and East Antrim Borough Council dated 22 July 2020 (attached), Minister Poots confirmed that the current NIEA operational policy on ammonia emitting projects is subject to ongoing review and a new protocol would not be in place until the Autumn.

In the absence of a new policy, determinations made under this old policy have been termed by NIEA officials at a number of Planning Appeals Commission hearings as “vulnerable to legal challenge”.

As a result, the ongoing review of this policy renders NIEA’s existing policy on ammonia emitting projects incapable of providing scientific certainty to competent authorities.

#### **THE PRECAUTIONARY PRINCIPLE**

The law is clear about what stance competent authorities should adopt under these circumstances.

The precautionary principle states that a competent authority must establish beyond scientific doubt that there will be no significant harm caused by a development on protected sites before it is given approval. This approach is confirmed at paragraph 57 of the “Waddenzee” Judgement (ECJ C127/02) and was discussed in a Northern Ireland context in Friends of the Earth’s Lough Neagh case heard in the Court of Appeal (2017 NICA 41).

The Orleans v Vlaams Gewest Case 2017 (Case C-187/15 Env LR 12 at [48]-[52]) states that a statutory authority must not grant planning permission unless it is “certain” on the basis of the “best scientific knowledge in the field” that the proposed development would not adversely affect the integrity of the designated site within the meaning of the habitats regulations.

Furthermore, an appropriate assessment will be unlawful if “it contains gaps and lacks complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effect of the works proposed (Case C404-09 Commission v Spain [2011] ECR I-11853).

Effectively, for a development of this nature to attain approval from a statutory authority, there cannot be “lacunae” in the scientific evidence (C323/17) People Over Wind v Coillte Teoranta [2018] Env LR 31 at par[38].

The vulnerability of NIEA’s current operating policy coupled with the fact that it is under review represents significant scientific doubt or “lacunae” in the evidence over the effects of ammonia emitting developments on sensitive receptor sites within the meaning of the habitats regulations. Moreover, a policy under review does not represent the “best scientific knowledge in the field” within the meaning of the Orleans v Vlaams Gewest caselaw.

When a statutory authority is faced with such obvious scientific doubt the precautionary principle must apply. To quote the European Court of Justice in Waddenzee, “***...where doubt remains as to the absence of adverse effects on the integrity of the site linked to the plan or project being considered, the competent authority will have to refuse authorisation***”.

### STATUTORY DUTY OF PUBLIC AUTHORITIES

Under the Wildlife and Natural Environment Act (Northern Ireland) 2011 all public authorities in Northern Ireland have a statutory duty to protect designated sites and priority habitats. You will also be aware that to permit the carrying out of operations which damages any of the flora, fauna or geological or physiographical features of an Area of Special Scientific Interest may be found guilty of a criminal offence.

Given the scientific doubt and lacunae in evidence as a result of NIEA's policy review, there is no certainty that such sensitive sites will not be adversely affected by these developments and the precautionary principle must apply.

In light of the foregoing, the approval of such applications would be unlawful.

Please note that we intend to send correspondence to the Department outlining this position.

Yours faithfully,



Laura Neal  
Solicitor  
Friends of the Earth  
Northern Ireland

Sent: 01 September 2020 11:20

To: Melvin Bowman <[Melvin.Bowman@midulstercouncil.org](mailto:Melvin.Bowman@midulstercouncil.org)>

Subject: The woodlands

Dear Mr Bowman

I speak on behalf of the Woodland Heights and Woodland grove residents.

We have spoke'n with Brian Mcguigan and have heard all the new out line guidance for this new development that's to use the woodlands road through which we are more happier about, but as you know we always would of preferred the site entrance from the Sixtowns road. We believe that all is up for approval tonight and that we can't attend.

We ask that the Boundary hedge from the woodlands not to be removed until the site is well near completion, so that the site traffic cannot use the Woodlands road in.

Our Concerns now are that we find it very on fair that we still have to pay for the up keeping of the green areas and the Surrounding boundaries at our cost for this new development to use the road through.

These greens do not belong to the woodland residence as they still are in ownership of the Henrys / PRH construction.

We the residents where paying up to £354 per house to the greenbelt maintenance company and after many years to get out of there contract PRH where to sign the greens and boundaries over to the woodland residence which did not happen as you know why !! So we are maintaining someone else's property all these years.

We are now facing the cost separately from what we are already paying for the keeping of the greens, to cut / top the large trees around the woodland as these trees are getting to high and starting to block the light to many homes and over growing into gardens this is going to cost us around £3000 + to have this job done thought the woodlands.

We the residents would like the new developer to share our cost's as it's to there advantage for selling the new development and driving through our well maintained green areas.

We hope the Council committee will see that this is only fair that the developer helps out.

