



07 December 2021

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, 07 December 2021 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

Adrian McCreesh
Chief Executive

AGENDA

OPEN BUSINESS

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

Matters for Decision

Development Management Decisions

4. Receive Planning Applications

7 - 262

	Planning Reference	Proposal	Recommendation
4.1.	LA09/2019/0561/F	Change of use from agricultural storage to external storage of raw materials and parking at lands 55m SE of 72 Ballybeg Road Coalisland, for Paul McAliskey.	REFUSE
4.2.	LA09/2019/0872/F	Replacement dwelling and garage 71 Stewartstown Road Coalisland for Patrick O'Farrell.	APPROVE

4.3.	LA09/2020/0839/F	49 social housing units, associated site works and landscaping, at lands 62m SW of 5 Old Eglish Road, Dungannon for Newpark Developments (NW) Ltd.	APPROVE
4.4.	LA09/2020/0908/O	Dwelling and garage at 25m NE of 68 Hillhead Road, Toomebridge, for Mr Damian Barton.	REFUSE
4.5.	LA09/2020/1107/F	Change of use to proposed car sales yard at approx. 25m NW of 60A Ballyronan Road, Magherafelt for Mr Joe Bateson.	REFUSE
4.6.	LA09/2020/1630/O	Farm Dwelling and Garage 200m NE of 51 Gulladuff Road, Magherafelt, for Mr Eoin Patrick Bennett.	REFUSE
4.7.	LA09/2021/0015/F	15 No. CAT1 (active elderly) apartments with associated car parking and landscaping at lands to the side and rear of 52 Ballyronan Road, Magherafelt, for T and M Scullion Ltd.	APPROVE
4.8.	LA09/2021/0090/F	Replacement access laneway to dwelling at 37 Mullybrannon Road, Dungannon, for Farasha Properties Ltd.	APPROVE
4.9.	LA09/2021/0091/F	Dwelling and garage (Amended Access and Additional Landscaping) at 150m SW of 35 Mullybrannon Road Dungannon, for Farasha Properties Ltd.	APPROVE
4.10.	LA09/2021/0193/F	Single storey extension to shop, relocation of entrance, internal alterations to layout and provision for additional parking within the curtilage at 125 Mullinahoe Road, Ardboe for Cathal Forbes.	APPROVE
4.11.	LA09/2021/0341/F	New site access at 36 Granville Road, Dungannon Farasha Properties Ltd.	REFUSE
4.12.	LA09/2021/0348/F	Retention of use access to provide alternative access at 81a Back Lower Road, Killycolpy, Dungannon, for Patrick Teague.	APPROVE
4.13.	LA09/2021/0376/F	6 retail units with associated car parking and ground works at lands approx. 45-55m NE of 40	REFUSE

		Ballyronan Road, Magherafelt for Magherafelt Commerce Park.	
4.14.	LA09/2021/0492/F	Alterations and extension to existing mixed use building to provide 2 commercial units and 4 apartments at 1a Fair Hill Maghera for Declan McKenna.	APPROVE
4.15.	LA09/2021/0506/F	Single storey dwelling on a farm with conversion and reuse of existing byre and upgrade of existing access 45m SE of 83 Derryloughan Road Coalisland for Christopher Mc Cann.	REFUSE
4.16.	LA09/2021/0507/O	Site for dwelling and garage at approx 50m NE of 73 Reenaderry Road Derrytresk Coalisland for Mr Thomas Hagan.	REFUSE
4.17.	LA09/2021/0523/F	Retrospective change of use from yard to Beer Garden at the Flax Inn, 27 King Street, Magherafelt, for James O'Kane.	APPROVE
4.18.	LA09/2021/0599/O	2 infill detached dwellings with detached garages, shared access onto Rogully Road and landscaping adjacent and NW of 6 Rogully Road, Loup, Moneymore for Ashling Mc Nicholl.	REFUSE
4.19.	LA09/2021/0601/F	Change of use and extension of domestic garage for dog grooming at 22 Cloghog Road, Cookstown, for Thomas McDonald.	APPROVE
4.20.	LA09/2021/0625/F	Off site replacement dwelling and domestic double garage at approx 126m NW of 59 Lurgaboy Lane Dungannon, for Mr Joseph Mallon	REFUSE
4.21.	LA09/2021/0930/F	Retention of two storey dwelling, (change of location from LA09/2016/0321/F) at 26 Toomog Road Dungannon, for Louise & Ronan Donnelly.	APPROVE
4.22.	LA09/2021/1145/F	Industrial storage shed at site adjacent to 17 Deerpark Road, Bellaghy, Magherafelt, for Seamus O'Kane.	APPROVE
4.23.	LA09/2021/1182/F	Retention of farm and factory shop and associated works at approx 70m NE of 70	REFUSE

		Drumgrannon Road, Dungannon, for George Troughton.	
4.24.	LA09/2021/1276/O	Dwelling 35m NW of 270 Killyman Road, Dungannon, for Mr Paul Cranston.	REFUSE
4.25.	LA09/2021/1331/O	Dwelling and garage approx. 55m SW of 10 Castlefarm Road Stewartstown, for Mr Michael Quinn.	APPROVE
4.26.	LA09/2021/1514/F	Two storey dwelling at 84 Orritor Road, Cookstown, for Bell Contracts Ltd.	REFUSE

5. Receive Deferred Applications

263 - 426

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2020/0446/F	Change of house type approved M/2006/1301/RM) at land opposite and SW of 165 Favour Royal Road, Augher for Mr Finbarr McQuaid.	APPROVE
5.2.	LA09/2020/0790/O	Dwelling and detached double garage with storage above, at approx. 50m SW of 50 Cadian Road, Eglis, for Ryan Muldoon.	APPROVE
5.3.	LA09/2020/1049/O	Dwelling and garage (amended access) at lands to rear of 195 Coalisland Road, Dungannon for Patrick Mallon.	APPROVE
5.4.	LA09/2020/1110/O	Site for replacement dwelling at lands approx. 40m E of 40 Ballymacilcurr Road, Maghera for Declan Mc Kenna.	APPROVE
5.5.	LA09/2020/1115/O	Site for dwelling and garage at lands NNW of 162b Washingbay Road and E of 152a Cloghog Road, Coalisland ,for Mr Brendan Corr.	APPROVE
5.6.	LA09/2020/01119/O	Dwelling and garage in a cluster, 10m W of 44 Ballyscullion Road, Bellaghy, for Brian Milne.	REFUSE
5.7.	LA09/2020/1225/O	Infill dwelling at land adjacent to 214 Hellhead, Castledawson, for Jim McPherson.	REFUSE
5.8.	LA09/2020/1375/F	Dwelling in substitution for I/2009/0372/F and retention of existing mobile home for a period of 3 years at 27a Drumconvis Road, Coagh, for Mr Payne.	APPROVE

5.9.	LA09/2021/0146/O	2 storey dwelling and garage at builders yard (existing entrance to the Drum Road) at site between Oakland Villas and 167 Drum Road, Cookstown for Philip and Judith Mitchell.	APPROVE
5.10.	LA09/2021/0224/F	Dwelling 80m W of 67 Dungormon Road, Dungannon, for Mr Paul Brannigan	REFUSE
5.11.	LA09/2021/0495/O	Infill dwelling at lands NW of 7a Killycurragh Road, Orritor, Cookstown (with access via Craigs Road) for Maurice Freeburn.	REFUSE
5.12.	LA09/2021/0691/F	Change of house type (approved I/2011/0514/RM) and garage at Killycanavan Road 170m NE of Junction with Brookend Road, Ardboe, for Hannah Quinn.	APPROVE

6. Receive Consultation Response to DfC - Possible Listing at Glen road, Maghera 427 - 436

7. Receive Review of Scheme of Delegation December 2021 437 - 444

Matters for Information

8 Planning Committee minutes of meeting held on 2 November 2021 445 - 470

9 Receive DFC HED Written Response RE Conservation Principles 471 - 478

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

10. Receive Response to DfI on DPPN 11

11. Receive Revocation Report

12. Receive Enforcement Report

Matters for Information

13. Confidential Minutes Planning Committee held on 2 November 2021

14. Enforcement Live Case List
15. Enforcement Cases Opened
16. Enforcement Cases Closed



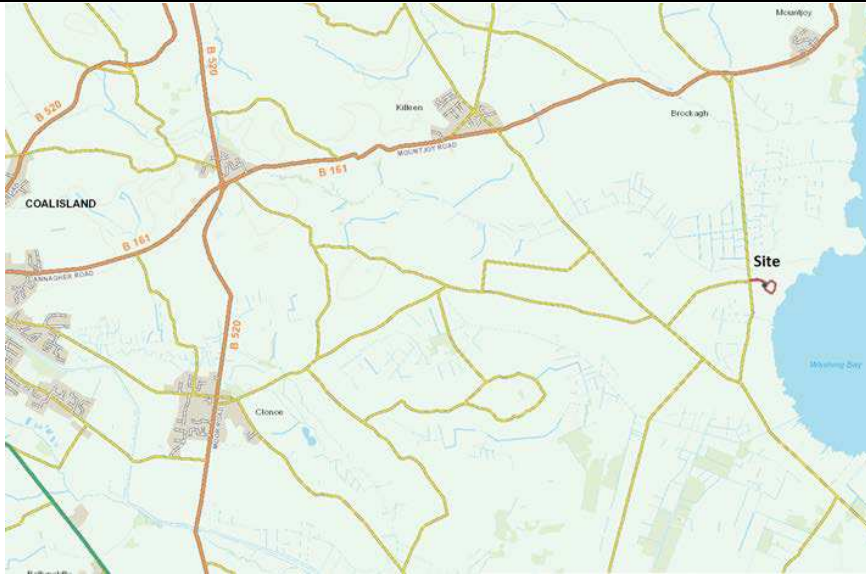
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0561/F	Target Date:
Proposal: Change of use from agricultural storage to external storage of raw materials and parking for established business.	Location: Lands 55m South East of 72 Ballybeg Road Coalisland.
Referral Route: CONTRARY TO POLICY	
Recommendation:	REFUSAL
Applicant Name and Address: Paul McAliskey 13 Doon Avenue Coalisland	Agent Name and Address: CMI Planners 38 Airfiled Road Toomebridge
Executive Summary:	
Signature(s):	

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	Shared Environmental Services	Substantive Response Received
Statutory	NIEA	Error
Statutory	NIEA	Advice

Representations:

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

Summary of Issues

None

Characteristics of the Site and Area

The site includes a square shaped plot of land to the rear of number 72 Ballybeg Road, Washingbay. The site is accessed off the Ballybeg road via a small narrow gravel lane which serves the existing dwelling. Within the site there is a medium size what looks like an industrial shed with a brown aluminium clad roof and concrete base.. It has a large roller door which

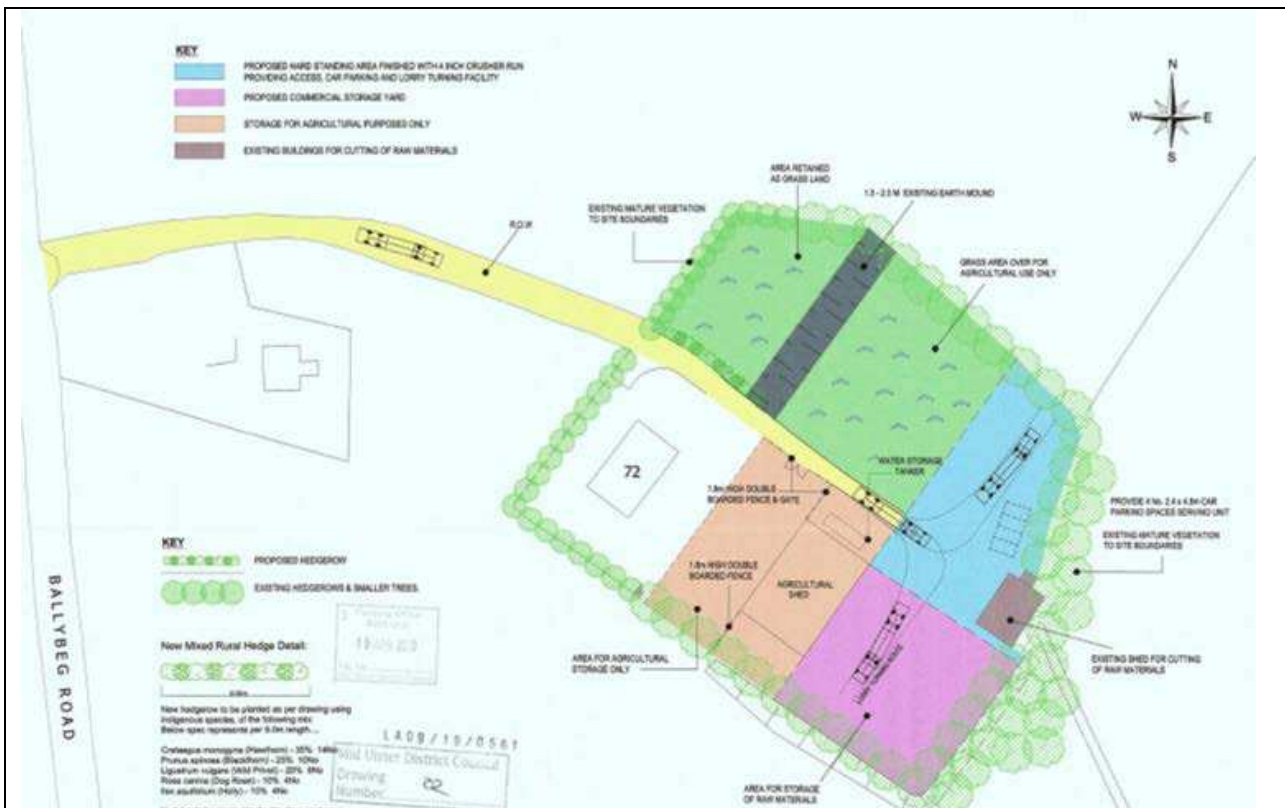
opens onto the yard. The yard itself is filled with several units, containers, lorry trailers and numerous materials and building goods. At the time of site visit there was also a tractor, a bus and a couple of vans and lorries. The yard was secured at the beginning of the laneway by 3 metre high metal gates.



The site lies within the open countryside outside all other areas of control. The site is a few miles to the East of Coalisland and near the Lough Shore. The surrounding land is predominantly agricultural land with only a scattering of isolated dwellings located along the roadside.

Description of Proposal

Change of use from agricultural storage to external storage of raw materials and parking for established business.



Planning Assessment of Policy and Other Material Considerations

SPSS

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 21 - Sustainable development in the countryside.

Planning Policy Statement 4 - Planning _ Economic Development

Site History

M/2002/1292/F - Retention of Agricultural building - GRANTED

M/2009/0569/F - Conversion of engineering workshop to living accommodation - WITHDRAWN

M/2013/0246/O - Site for dwelling - REFUSED

2015/A0067- refusal of dwelling and garage - APPEAL GRANTED subject to negative conditions.

LA09/2017/0002/CA - Unauthorised change of use within building - CASE CLOSED 24.09.2019

2017/E0029 - change of use within bldg. from agri to industrial - APPEAL UPHOLD

LA09/2018/0001/CA - Extension of yard area constituting a material change of use - ENFORCEMENT ACTION BEING PURSUED

2018/E0021 - Change of use on land for storage of steel and steel fabrication; & Change of use on land for parking of vehicles not associated with agricultural activity. -

LA09/2019/0158/CA - Unauthorised extension to building for industrial use. - CASE CLOSED 17.08.2021

2020/E0038 - Unauthorised erection and use of a building extension for industrial purposes - APPEAL UPHOLD

Consultees: -

-Environmental Health were consulted and responded on 17.07.2019 asking for a noise impact assessment. To date this has still not been received.
 -Shared Environmental services were consulted and responded on 25.06.2019 with no objections to the proposal
 -NIEA were consulted and responded 18.05.2019 with no concerns subject to guidance.
 -Transportni were asked to comment and responded on 22.05.2019 raising concerns regarding the substandard access and stating that visibility splays of 2.4 by 80/90 were needed and due to applicant, not owning the land these would not be achievable.

In line with legislation this proposal was Neighbour notified and advertised in several local press publication during May 2019 with no representations/objections having been received to date.

The Strategic Planning Policy Statement for Northern Ireland `Planning for Sustainable Development (SPPS) which came into effect in September 2015, is material to all decisions on individual planning applications. The SPPS retains policies within existing planning policy documents until a new Plan Strategy for the whole 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 or when the SPPS is silent or less prescriptive on certain policies. There is no conflict or change in policy direction between its provisions and those of Planning Policy Statement 21 `Sustainable Development in the Countryside (PPS 21). Therefore, PPS 21 provides the policy context for this Application.

Mid Ulster Development Plan 2030 - Draft Plan Strategy

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

Policy CTY 1 of PPS 21 sets out the types of development that are in principle acceptable in the countryside and will contribute to the aims of sustainable development. It states that planning permission will be granted for non residential development in the countryside in a number of instances. As this application seeks change of use from agricultural storage to storage of raw materials and parking for established business the development represents industry and business uses in accordance with Planning Policy Statement 4: Planning and Economic Development (PPS4), in particular Policy PED 3 which allows for the expansion of an established economic development use in the countryside.

Within PPS 4, Policy PED 2 states that proposals for economic development uses in the countryside will be permitted in accordance with the provisions of a number of policies including the expansion of an established economic development use in the countryside - PED 3.

Policy PED 3 states 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.

The only established use within the site relates to the industrial use within smaller building which is immune from enforcement action however, there has not been a Lawful Development Certificate granted, and secondly the `Retention of an agricultural building?.

Acknowledging the industrial use within the smaller building on the site, the proposal represents a substantial and major increase, taking the area of the footprint of the smaller building of 135m2 in comparison with the overall size of the proposed site to be used for storage of raw materials

and lorry turning and parking at approximately 2000m². This represents a major increase of 15 times the footprint of the immune building.

A proposal for a major expansion will only be permitted in exceptional circumstances where it is demonstrated that; relocation is not possible; the proposal would make a significant contribution to the area; and the development would not undermine the area.

Whilst the immune industrial use is of a small scale and is contained within the smaller building, the scale and nature of the deemed proposal for the external storage of raw materials and turning and parking within the extensive yard area would in my opinion harm the rural character of this area.

As such, the deemed proposal is contrary to Policy PED 3 and consequently Policy PED 2.

Policy PED 9 - requires a proposal for economic development use, in addition to other policy provisions within the Statement, to meet a number of criteria.

Criterion A requires the use to be compatible with the surrounding land uses, however, notwithstanding the presence of the small immune building, the surrounding land uses are primarily agricultural with some residential properties in close proximity - in particular no 72 directly to the west. The uses specified would therefore be incompatible with the surrounding land uses.

Criterion B and E requires that the proposal does not harm the amenities of nearby residents nor create a noise nuisance. No 72 is directly adjacent to the site and its rear elevation is approximately 10-15m from the site boundary. It is not associated with the development on the site. It is my opinion that the proposed change of use on the site would on the amenity of nearby residents through loss of amenity and creating a noise nuisance, in particular along the rear elevation and rear amenity space of No.72. In addition, the external storage of raw materials not associated with agricultural use will increase traffic movements unto the laneway to and from the site. The approach of the lane is directly to the front of no 72 and it comes up close to its gable. Given the close proximity and relationship of the lane to no. 72, I consider that the considerable vehicle movements would have a negative impact on the residential amenity. PED 9 advises us to seek to minimise adverse effects on the amenities of adjacent properties, particularly dwellings. The proposal is contrary to criteria B and E.

Criterion C and D require that the proposal does not adversely affect the natural or build heritage, nor cause or exacerbate flooding. I have no concerns in these regards.

Criterion G requires that the existing network can safely handle any extra vehicular traffic the proposal will generate. In my opinion i would have concerns that the existing laneway cannot safely handle the volume of additional traffic which consists of the movement of vehicles to and from the site. The condition of the laneway at the time of my site visit was in a very poor state which would appear to be the case due to the movement of heavy goods vehicles to and from the site. At my site visit it was clear there was numerous heavy goods vehicles including lorries, flat beds, tankers, telescopes, vans, tractors and buses present on the site, and it is clear the site is not being used consistently for agricultural purposes. The laneway due to its many potholes was just about passable by car. Given the clear increase in traffic movements and the nature of traffic using the lane I would be of the opinion that it cannot safely handle the extra vehicular traffic which is generated by the proposal. The proposal does not comply with criterion G.

Criterion H requires that adequate access arrangements, parking and manoeuvring areas are provided. It was clear from my site visit that manoeuvring areas for vehicles including heavy goods vehicles using the site are limited. The submitted block plan does however show a turning route, designated 4 car parking spaces.

Criterion I requires that a movement pattern is provided that supports walking and cycling and provides adequate and convenient access to public transport. The site is located in the rural area on a minor rural road and is not particularly close to any settlement. It is evident from submitted photographs and from my site visits that manoeuvring areas for vehicles including heavy goods vehicles using the site are limited. The submitted Site Plan does not show any turning circles, designated parking areas or manoeuvring areas. It is primarily only accessible by car. No evidence was presented in relation to access to public transport therefore I am not of the opinion that the location of the site meets the requirements of criterion I.

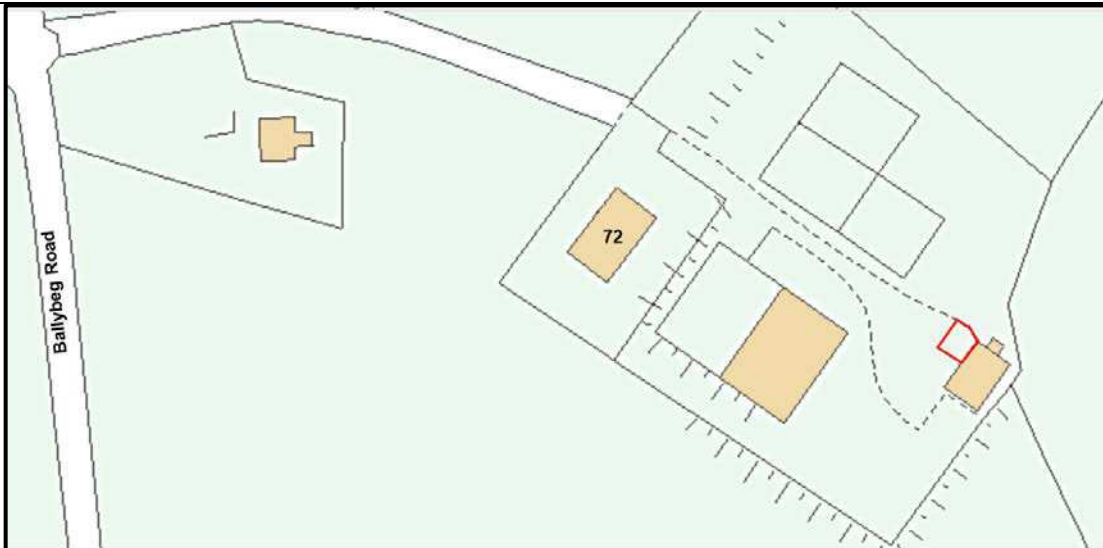
Criterion J requires that the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity. The amplification states that good design is important for industrial and economic developments as for other forms of development and it emphasises the requirement for attractive environments and well-designed sites. Around the site are parked forklifts, trailers, Lorries, tractors, cars and various items of machinery. In addition, there are racks of steel, containers and skips. The site appears to be disorganised and haphazard. The block plan does show existing boundaries to be retained and a small 9 metre row of native species hedgerow to be planted opposite to the gable of number 72. I am not of the opinion that the site layout and landscaping arrangements are of a high quality and meet the requirements of criterion J.

In conclusion, it is my opinion that the proposal is contrary to Policy PED 9 of PPS 4.

Planning Policy Statement 3, Access Movement and Parking, Policy AMP 2, Access to Public Roads states that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access onto a public road where such access will not prejudice road safety or significantly inconvenience the flow of traffic. DFI Roads have been consulted and responded on 22.05.2019 raising concerns regarding the substandard access and stating that visibility splays of 2.4 by 80/90 were needed and due to applicant, not owning the land these would not be achievable.

Given the nature of the use on the site and the vehicles accessing the site such as large articulated lorries it is necessary to widen the laneway to 6m for the first 20m to ensure that vehicles can safely move off the public road and allow traffic to emerge safely from the site and the adjoining dwelling. The applicant does not own or have control of the lane, visibility splays or land on either side of the laneway required to make a safe access and there is no way of securing the required improvements. As such, the access would prejudice the safety and convenience of road users and the Council's objections in relation to Policy AMP. As adequate access arrangements cannot be provided it is also contrary to criterion (h) of Policy PED 9 of PPS4.

NB – The most recent planning appeal 2020/E0038 has allowed for a small extension to the existing old waterworks building to the rear of the site. The extension is small allows a small amount of the site turned over to industrial however in terms of the size of the overall site represents a minimal portion. The extension measures approximately 4.5m x 3m. Its location is shown highlighted in red on the image below.



The deemed proposal does not fall within any of the types of development which are considered to be acceptable in the countryside. I am not of the opinion that there are any overriding reasons why the proposal is essential and could not be located in a settlement.

In conclusion, as the Councils deemed reasons for refusal based on PPS 21, Policy CTY 1, PPS 4 and PPS 3.

Neighbour Notification Checked

Yes

Refusal Reasons

1.The proposal is contrary to the Dungannon and South Tyrone Area Plan 2010, 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 Planning Policy Statement 3, Access Movement and Parking, Policy AMP 2 in that it would, if permitted, result in the intensification of use of an existing access onto the Ballybeg Road, thereby prejudicing the free flow of traffic and conditions of general road safety.

3.The proposal is contrary to Planning Policy Statement 4, Industrial Development and Policies PED 2, PED3 and PED9, in that the development would, if permitted, have an adverse impact on the living conditions of residents in number 72 Ballybeg Road by reason of noise and general disturbance.

4.The proposal is contrary to Planning Policy Statement 4, Industrial Development and Policies PED 2, PED3 and PED9, in that the development would, if permitted, would harm the rural character or appearance of the local area given the scale and nature of the proposal and the significant increase in the site area of the enterprise.

Signature(s)

ANNEX	
Date Valid	25th April 2019
Date First Advertised	9th May 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 72,Ballybeg Road, Coalisland	
Date of Last Neighbour Notification	7th May 2019
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: M/2013/0246/O Proposal: Site for dwelling. Address: Adjacent to 72 Ballybeg Road, Washingbay, Decision: PR Decision Date: 09.12.2014 Ref ID: M/2009/0569/F Proposal: Proposed conversion of engineering workshop to living accommodation Address: 60m south-east of 72 Ballybeg Road, Washingbay Coalisland, BT71 5DX Decision: Decision Date: 02.12.2010 Ref ID: M/2002/1292/F Proposal: Retention of agricultural building which included cladded walls on top and roofing over of existing water storage tanks Address: Rear of 72 Ballybeg Road, Washingbay, Coalisland Decision: Decision Date: 27.11.2003 Ref ID: M/1999/0090 Proposal: Proposed Replacement Dwelling Address: 72 BALLYBEG ROAD WASHINGBAY COALISLAND Decision: Decision Date: Ref ID: LA09/2019/0561/F Proposal: Change of use from agricultural storage to external storage of raw materials and parking for established business.	

Address: Lands 55m South East of 72 Ballybeg Road, Coalisland., Decision: RL Decision Date:
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:



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	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0872/F	Target Date:
Proposal: Replacement dwelling and garage	Location: 71 Stewartstown Road Coalisland
Referral Route: Approval contrary to Environmental Health	
Recommendation: Approve	
Applicant Name and Address: Patrick O'Farrell 53 Stewartstown Road Coalisland	Agent Name and Address: Seamus Donnelly 80A Mountjoy Road Aughrimderg Coalisland BT71 5EF
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	Advice
Non Statutory	DETI - Geological Survey (NI)	No Objection

Representations:

Letters of Support	None Received
Letters of Objection	None Received

Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
<p>Characteristics of the Site and Area</p> <p>The site is located within Coalisland, as defined in the Dungannon and South Tyrone Area Plan 2010.</p> <p>The sites is a rectangular shaped plot set back from the Stewartstown Rd on elevated lands to the rear of no. 65 Stewartstown Rd a 2 storey roadside dwelling with attached garage business including a large repair shed in a yard to its rear.</p> <p>The site is accessed off the Stewartstown Rd via a tarmac lane between the curtilage of no. 65 Stewartstown Rd and no. 77 Stewartstown Rd, a bungalow with extensive surround garden. In addition to the site, the lane provides access to no. 73 Stewartstown Rd a large hipped roof dwelling to the north east of the site.</p> <p>The site contains the remains of an unoccupied bungalow dwelling and its curtilage. The site is overgrown with vegetation. The dwelling just accessible through the vegetation is completely intact but for some broken windows. It has a rectangular floor plan and pitched roof construction with a rear return and sheds/outbuilding to its south side. It is smooth render finish with dark roof tiles, brown window frames and doors, and a brick chimney.</p> <p>With the exception of its northern boundary, where it is accessed off the lane, a mix of mature trees and hedgerow vegetation bounds the site.</p> <p>Views of the dwelling are on the northern approach over a short distance having passed no. 77 Stewartstown Rd until passing no. 65 Stewartstown Rd; and coming out of the entrance of the Brambles a housing development further north west of the site.</p> <p>Whilst there is undeveloped agricultural lands within Coalisland bounding and running to the south east of the site and a garage business to its north west / front, the area is primarily residential in nature.</p>	
<p>Description of Proposal</p> <p>This is a full planning application for a replacement dwelling and garage. The dwelling to be replaced is no. 71 Stewartstown Rd Coalisland.</p>	
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.</p> <p>The following documents provide the primary policy context for the determination of this application:</p> <p>Dungannon and South Tyrone Area Plan 2010 Strategic Planning Policy Statement for Northern Ireland</p>	

Planning Policy Statement 3 - Access, Movement and Parking
Planning Policy Statement 7 - Quality Residential Environments
PPS 7 (Addendum) - Safe Guarding the Character of Established Residential Areas

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

Representations

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

Relevant Planning History

On Site

- M/1995/0588 - New pitch roof - 71 Stewartstown Rd Coalisland - Granted January 1996

Adjacent Site

- LA09/2019/0957/O - 2 storey dwelling & domestic garage - Site approx. 40m South of 73 Stewartstown Rd Coalisland - Granted 15th November 2019
- LA09/2020/1595/RM - 2 storey dwelling & domestic garage - Site approx. 40m South of 73 Stewartstown Rd Coalisland - Under Consideration.

The above applications relate to lands within the agricultural field to the rear of the current site.

Consultees

1. DETI Geological Survey of Northern Ireland (GSNI) were consulted as the site was located within an area of constraint on abandoned mines – GSNI responded that having assessed the above planning proposal in view of stability issues relating to abandoned mine workings. A search of their “Shafts and Adits Database” indicates that the proposed development is greater than 50 metres from the closest known disused shaft which lies south of the site boundary. The site does not contain any known mine shafts or any recorded mining activity below the surface. The closest mine shaft is unlikely to have any impact on the proposed development.
2. Environmental Health were consulted as the site comprises lands located on / adjacent a disused railway line. Environmental Health recommended the applicant submit sufficient information to determine the existence or otherwise of contamination, its nature and the risks it may pose and whether it may be remediated to an acceptable level. At the very least, this will require a preliminary risk assessment, which takes into consideration all potential pollutant linkages and an assessment of all potential risks in relation to those pollutant linkages. The provision of this information is required in order to establish whether more detailed investigation is required and whether any remediation of the site may be required.

This information required above, a Land Contamination Report, was sought on a number of occasions by email on the 10/09/2019, 21/10/2019, 12/11/2019, 23/12/2019, 13/02/2020, 01/06/2020, 30/11/2020, 02/02/2021, 12/05/2021, 16/06/2021, 09/08/2021 and most recently on the 14th September 2021. Whilst the agent advised in February a number of tests have been carried out to date no report has been received for further consideration.

Upon further consideration of the above Planning consider Environmental Health's request unreasonable in that there is an existing dwelling on site, which for all intents and purposes could be occupied, albeit with repair; and works that are not considered development or is permitted development could be carried out within its curtilage. As such, Planning would be prepared to grant approval of this proposal subject to an informative to warn the applicant the land may be contaminated and that they should investigate the site prior to the construction of the dwelling and garage to ensure protection of their amenity.

Key Policy Consideration and Assessment

Dungannon and South Tyrone Area Plan 2010 – The Dungannon and South Tyrone Area Plan is the extant Plan for the area and identifies the site as being within the settlement limits for Coalisland on unzoned whiteland, adjacent to but not within an area of existing recreation and open space designated over / along an old railway line.

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

Policy SETT 1 sets out 6 criteria and a general criteria to meet with regional policy. I consider that if the development meets with regional policies contained in PPS 3 – Access, Movement and Parking; PPS7 – Quality Residential Environments; and PPS 7 (Addendum) - Safe Guarding the Character of Established Residential Areas, it will meet the requirements of SETT1.

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

PPS 3 – Access, Movement and Parking - The site is to be accessed via an existing unaltered access to the public road. As this is a replacement dwelling, there will be no intensification of the access; and based on the block plan submitted in-curtilage parking for 2 vehicles can be provided. Accordingly, I am content the proposal complies with the policy provisions of PPS 3.

As this site comprises lands located on / adjacent a disused railway line I would note Policy AMP 5 of PPS 3 offers protection to Disused Transport Routes from development that would prejudice their future re-use. However, this protection is only to routes identified in a Development Plan for transport or recreational purposes and the current site has not been identified for either purpose in the extant Plan. Whilst the draft Plan Strategy offers protection to disused transport routes, as detailed below, it does not yet carry determining weight.

Policy TRAN 2 of the draft Plan outlines that until such time as the Local Policies Plan is adopted there will be a presumption against development on disused transport routes (railway line, canals etc.) for uses other than recreational, nature conservation or tourism use, unless there is no reasonable prospect of reuse for future transport purposes and/or recreation purposes. Had this policy carried determining weight given development that has already occurred in the immediate vicinity I do not believe this small stretch of railway line viable for transport or recreational purposes.

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

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

I am content that the dwelling (and garage) is of an appropriate size, scale, design and layout. That it should be absorbed onto this well vegetated and enclosed site to respect its surrounding residential context and the character and topography of the site.

- (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 checks on the planning portal Natural Environment Map Viewer (NED) and Historic Environment Map (NED) map viewers available online have been checked and identified no natural heritage features of significance or built heritage assets of interest on site; and vegetation along the boundaries of the site can be conditioned to be retained.

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

I am dealing solely with an application for a single dwelling and domestic garage as such public open space is not a requirement for this type of proposal. I am content based on the block plan submitted adequate private amenity space in excess of the 70m² average promoted in Creating Places will be provided. The existing vegetation along the boundaries of the site can be, conditioned to be, retained to assist the development integrate and protect existing and potential neighbouring amenity.

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

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

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

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

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

I am content based on the block plan submitted in-curtilage parking for 2 vehicles, has been provided

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

The design of the proposed dwelling and garage is in my opinion appropriate to the site and locality. The dwelling has a simple rectangular form with pitched roof construction. It has a two storey centrally located front porch and single storey sun-lounge extension to its southern gable. Materials finishes include coloured render to walls and black/blue roof slates. The garage also has simple rectangular form with pitched roof construction with finishes to match the dwelling.

- (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

Paragraph 7.16 of Creating Places advises that there should be a minimum separation distance of 10m between the rear of new houses and the common boundary. Whilst the block plan submitted shows only approx. 5m between the rear of the new house and the boundary to its rear which adjoins whiteland which may be developed in the future it is greater than exists at present as the existing dwelling sits albeit at single storey immediately adjacent this boundary. The same block plan shows the dwelling fronting onto the rear of no. 65 Stewartstown Rd, which it is elevated above, with only an approx. 7m separation distance. Whilst this is 3m less than that recommended I am content that subject to the retention of vegetation along the north western boundary of the site there should be no unacceptable adverse impact on no. 65's amenity in terms of overlooking, loss of light or overshadowing. No 65 benefits from having its garage business to its north side including a large shed to its rear, which alongside vegetation bounding the site encloses the yard from the site above. The nature of this proposal, a replacement dwelling, it should not cause undue noise or other disturbance.

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

I am satisfied that the dwelling is in an established residential location where there are enough dwellings 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 and PPS3

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., unit size is not less than recommended in Annex A of this policy and design can be considered under any subsequent reserved matters application.

Other Considerations

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

Recommendation

Approval

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refuse

Conditions

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

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

2. The existing mature trees and vegetation along the boundaries of the site identified on Drawing No. 01(Rev.01) bearing the date stamp received 24 NOV 2021, shall be retained. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual amenity.

3. All proposed landscaping as detailed Drawing No. 01(Rev.01) bearing the date stamp received 24 NOV 2021, shall be carried out during the first available planting season following the occupation of the development hereby approved. Any trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity.

4. The dwelling hereby permitted shall not be occupied until the existing building, coloured green on the approved plan, Drawing No. 01(Rev.01) bearing the date stamp received 24 NOV 2021, is demolished, all rubble and foundations have been removed or retained but no longer used for human habitation .

Reason: To preserve the amenity of the area and prevent an accumulation of dwellings on the site.

Informatives

1. The applicant is advised that the land within the site may be contaminated and that they should investigate the site prior to the construction of the dwelling and garage hereby approved to ensure protection of their amenity.
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 permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
4. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.
5. This permission authorises only private domestic use of the proposed garage and does not confer approval on the carrying out of trade or business there from.
6. Please see DETI Geological Survey of Northern Ireland (GSNI) consultation response received and scanned to the Planning Portal 22nd July 2019.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 07 DEC 2021	Item Number:
Application ID: LA09/2020/0839/F	Target Date:
Proposal: Construction of 49 social housing units comprising 45 two storey houses, 4 no. bungalows, associated site works and landscaping	Location: Lands 62m S.W. of 5 Old Eglish Road Dungannon
Referral Route: Approval, 3rd party objections	
Recommendation:	Approve
Applicant Name and Address: Newpark Developments (NW) Ltd 72-74 Omagh Road Dromore	Agent Name and Address: Mc Girr Architects Ltd 670 Ravenhill Road Belfast BT6 0BZ
Executive Summary: The proposal is for Social Housing within Dungannon, and represents a quality residential environment.	
Signature(s):	

Case Officer Report

Site Location Plan



Representations:

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

Summary of Issues

Mainly road safety issues raised, and road improvements suggested.

Description of proposal

This is a full planning application for the construction of 49 social housing units comprising 45 two storey houses, 4 no. bungalows, associated site works and landscaping at lands 62m S.W. of 5 Old Eglish Road, Dungannon.

Access is proposed from the Old Eglish Road. The development will comprise mostly 2 storey terraced and semi-detached dwellings, with 4 single storey properties. Retaining wall structures will be along parts of the SW, NW and NE boundaries. There is proposed communal open space to the eastern portion of the site, which will be a central area of

open space when the wider development is complete as shown in the conceptual drawing which is for information purposes only.

Characteristics of site and area

This application site is located at 62m SW of 5 Old Eglish Road, Mill Field, Dungannon. It comprises the western half of a large rectangular shaped field located between Manse Road and Old Eglish Road. Along the north western boundary is a stepped wall which runs along the rear of Nos 8-52 Beechvale, which are a row of two storey terraced properties backing onto the site. The south western boundary which is adjacent to Manse Road comprises hedgerow and winds to the Old Eglish Road which forms the eastern boundary. The north east boundary, which is adjacent to the Ulsterbus Station and vacant Old Mill building off the Old Eglish Road, is defined mostly by chain mail security fencing. The site rises to a height in the westernmost corner and electricity poles traverse the site close to the northern boundary. The remaining boundaries are not defined and are open to the larger field.

This site is located within the development limits of Dungannon just south of the Town Centre boundary. It is zoned as Housing land under DH19 Land North of Manse Road in the Dungannon and South Tyrone Area Plan. The Manse Road which forms the southern boundary of the site here marks the development limit of Dungannon. The surrounding area contains a mixture of residential, commercial and industrial uses. The housing in the immediate area is of high density and the Ulsterbus Depot sits to the north and a large Tesco to the north west.

Planning Assessment of Policy and Other Material Considerations

Planning Act 2011

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

Area Plan

Dungannon and South Tyrone Area Plan 2010.

The site is zoned as Housing Land under DH19 Land North of Manse Road. The key site requirements have been met. Policy SETT1 of the area plan has also been considered and in my view the proposal meets the requirements of this policy.

Local Development Plan

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

Key planning Policy

SPPS Strategic planning Policy Statement
 PPS7 Quality Residential Environmental
 Addendum to PPS7
 PPS15 Planning and Flood Risk
 PPS3 Access, Movement and parking

Design Guide Creating Places

Representations

This application was advertised in the local press and abutting neighbours notified. There have been 2 objections to this proposal from the same property. Both objections concentrate on road safety issues, especially along the Manse Road. The objections raise concern that the junction with manse Road and old Eglis Road is substandard, that there is no footpath along manse Road, and that there is poor visibility along stretches of Manse Road. The objector has stated that they would like to see road improvements along Manse Road to form part of this proposed development.

DfI Roads have been consulted on this proposal and on the objectors concerns. They have made no comment in relation to these concerns and do not require the improvements suggested by the objector to form part of this scheme. DfI Roads have considered road safety issues and Private Street drawings in relation to this proposal and are content with the scheme from a road safety point of view. DfI Roads do suggest that a safety barrier is erected along Manse Road to provide protection for road users and residents of the new development that back onto Manse Road. In this case I do not find the objectors concerns to be determining to the outcome of this application. I am satisfied that there is adequate footpath provision within the development that links into an existing footpath network which leads to the town centre, and provides a safe access provision for pedestrians, cyclists and those with disabilities.

Consultees

NI Water state that there is no capacity at Dungannon Waste water Treatment Plant to accept sewage from this proposed development. However, the developer has commenced the M/2015/0042/F permission on site and the Planning Department of Mid Ulster council has confirmed in writing with the agent that this permission has lawfully commenced. Therefore there is a fall-back position for the developer to connect up to 91 units to Dungannon Waste Water Treatment Works, as per the previous permission. This subject application is for 49 units, a significant decrease in units from what could potentially connect. Plus, the housing density in this portion of the site is much less than what was granted under M/2015/0042/F. So there is no danger of more than 91 units connecting into the Dungannon Waste Water Works. In this case, given the fall back position, I find it acceptable to allow this proposal without the requirement for it's own private treatment plant. The issue now rests with NIW to connect the development, and these numbers should be factored into NIW calculations given that it was a live planning application.

DfI Roads raise no objections with the proposal subject to conditions.

Rivers Agency raise no objection subject to a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 prior to the commencement of any other development hereby approved.

NIEA raise no objections to the proposal.

SES raise no objections to this proposal and rule the proposal out from any further Habitats Regulation Assessment. SES recommend the inclusion of a condition seeking the method of sewage disposal on site prior to any development taking place. However, given the fall back position, it is the view of the Planning department of Mid Ulster Council that sewage can be dealt with through mains connection, therefore there is no need to add this condition.

Ulster Bus were consulted and make comment in relation to the development and how they would like to see construction carried out to ensure their business will not be negatively impacted. No specific planning material considerations have been raised, and the issues will be a civil matter between the interested parties with Mid Ulster Council not becoming involved in such matters of concern raised.

Planning History

M/2008/0538/F was granted approval in July 2010 for residential development consisting of 49 no. dwellings and 42 no. apartments, two and three storey dwellings and three storey apartments at 62m SW of 5 Old Eglis Road, Mill Field, Dungannon.

M/2015/0042/F- Renewal of residential development of 49 no. dwellings and 42 no. apartments, two and three storey dwellings and three storey apartments, at 62m SW of 5 Old Eglis Road, Mill Field, Dungannon, granted 05.04.2016

Assessment

The Strategic Planning Policy Statement which was published in September 2015 has retained PPS 7 which was the policy the original application was assessed under and thus applicable for this application.

The principle of development for housing on this site is considered acceptable given the land zoning and previous planning history on the site.

Policy QD1 - Quality in New Residential Development in states 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 area;

The principle of residential development has been established on this site as it is zoned as housing land in the Dungannon and South Tyrone Area Plan and as is evident on the planning history above.

In the Development Plan there were a number of Key Site Requirements designated for this zoned housing land which were deemed to be achieved in the previous permissions on site and no new planning policy has been introduced since these approvals.

Proposed housing density and layout is similar to what was previously approved. I find the density and character of the proposed development to be acceptable.

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

There are no archaeological features in the immediate vicinity of this 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. There is sufficient private amenity space provided for each dwelling in this application. A public area of open space has been indicated within the development. I consider this to be acceptable for a development of this size.

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

There is no requirement to provide local neighbourhood facilities, given the proximity to local services and shops within Dungannon Town Centre and beside the site.

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;

Footpaths are provided along the internal road in this development and additional footpaths are provided to allow access from this development onto Beech Valley as was a key site requirement in the zone designation in the plan. The location of this site within the town of Dungannon make it very accessible for walking and very convenient access to public transport, particularly as the bus station is located adjacent to the site.

f) adequate and appropriate provision is made for parking;

There is adequate in-curtilage space for parking provided for each dwelling proposed. DfI Roads do not raise any concern in this regard.

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

Proposed building materials are acceptable for this site and locality.

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

The design and orientation of the dwellings takes into consideration those proposed and existing dwellings in the immediate vicinity of the site, particularly those along Beech Valley. There are no issues of overlooking or overshadowing and I find the layout to be acceptable when viewed in the context of existing surrounding development.

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

The footpath leading to Beech Valley has a landscaped area and street lights located along it which will provide a lit area. Rear gardens are protected by boundary fencing,

areas of communal open space are overlooked by surrounding properties. Overall the proposal is of a good layout to deter crime, while providing good connectivity to surrounding footpath and road networks.

Policy LC 1 - Protecting Local Character, Environmental Quality and Residential Amenity of the Addendum to PPS 7 - Safeguarding the Character of Established Residential Areas states planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria set out below are met:

(a) the proposed density is not significantly higher than that found in the established residential area;

The density is acceptable.

(b) the pattern of development is in keeping with the overall character and environmental quality of the established residential area;

The layout and design of residential development within this development is varied with 2 storey dwellings and single storey house types. I do not think this proposal is conflicting with the character of the existing residential area.

(c) all dwelling units and apartments are built to a size not less than those set out in Annex A;

The sizes of the dwellings proposed exceed the minimum recommended standards.

Other considerations

The site is not subject to flooding and there is no open watercourses being culverted.

Rivers Agency raise no issues in relation to site drainage subject to a full DA being submitted prior to the commencement of any development hereby approved.

An Environmental Impact Assessment was also undertaken as this application falls under Schedule 2 Part 10 b Urban Development projects.

From this it was determined no Environmental Assessment was required as any issues would be dealt with through the normal development management process in the determining of this application.

A land contamination report was provided and NIEA do not raise any objections subject to conditions being added to any permission.

This proposal is also for provision of social housing units, which is much needed within Dungannon. I find the development to be of a high quality.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That planning permission is granted subject to the following conditions.

Conditions

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

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

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

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

3. Should new contamination or risks be encountered which have not previously been identified, works shall cease and the Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance. In the event of unacceptable risks being identified, a Remediation Strategy shall be agreed with the Planning Authority in writing, and subsequently implemented and verified to its satisfaction. This strategy shall be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance.

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

4. After completing the remediation works under Condition 3 (above) and prior to the occupation of any dwelling hereby permitted, a Verification Report shall be submitted in writing and agreed with Planning Authority. This report shall be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance. The Verification Report shall present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives, in agreement with the Planning Authority.

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

5. Prior to the occupation of 50% of the dwelling units/apartments hereby approved, the developer shall construct, layout and plant all landscaped and open space areas (including all peripheral planting) as indicated on the approved Drawing No. 02 rev2 date stamped received 17 November 2021, and shall be permanently retained thereafter. The trees indicated within individual plots shall be planted during the first available planting season after the occupation of any dwelling on the plot and permanently retained thereafter unless otherwise agreed with the Planning Authority. These trees shall be retained and maintained by the owner of the plot and the condition referring to such retention and maintenance shall be placed as a condition of the sale of the plot.

All hard and soft landscaping works shown on the approved plan No. 02 rev2 date received 17 November 2021 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice, and shall be permanently retained thereafter unless otherwise agreed in writing with the Planning Authority.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape to aid the integration of the development into the local landscape in a timely

manner and to assist in the provision of a quality residential environment in accordance with PPS7 Quality Residential Development and PPS8 Open Space, Sport and Outdoor Recreation.

6. Areas of designated open space shall be managed and maintained in accordance with the provisions of Doc 1: Landscape Management Plan date stamp received 10 July 2020, unless otherwise agreed in writing with the Council.

7. No dwelling hereby approved shall be occupied until a signed Management and Maintenance Agreement for all areas of public open space has been put in place, and details of which agreed with the Planning Authority.

Reason: To ensure that the open space provided is managed and maintained, in perpetuity, in accordance with the Department's Planning Policy Statement 7 (PPS7)-Quality Residential Environments, and Planning Policy Statement 8 (PPS8)-Open Space, Sport and Outdoor Recreation.

8. Prior to the occupation of any dwelling indicated on Plots 1 - 10 on drawing No. 02 rev1 received 29/01/2021, all shall be fitted with upgraded double-glazing to the facades of properties facing onto Dungannon Bus Station. The glazing shall meet the specification of 4/12/12mm and provide a minimum 35dB Rw (Acoustics in the Built Environment- Advice for the design team, 2nd edition 1997).

Reason: To protect residential amenity.

9. An acoustic ventilation system shall be incorporated into each dwelling indicated on Plots 1 - 10 on drawing No. 02 rev1 received 29/01/2021 prior to the occupation of any of these dwellings. Each fitted acoustic ventilation system shall have a sound reduction index of 35dB Rw.

Reason: To safeguard residential amenity.

10. Upon completion of mitigation measures indicated in conditions 9 and 10 a post completion acoustic assessment shall be completed to show that the noise remediation features specified in conditions 9 and 10 are producing acceptable standards of protection as detailed in the ProPg: Planning and Noise Guidance. Should additional mitigation measures be required as a result of this further assessment, these shall be carried out in accordance with agreed mitigation with the Council's Planning Department prior to the occupation of any dwelling on plots 1 - 10 indicated on drawing No. 02 rev1 received 29/01/2021.

Reason: To safeguard residential amenity.

11. The existing hedge that forms the south western boundary of the site (along the Manse Road frontage) as indicated on Drawing No. 02 rev2 date stamp received 17 Nov 2021 shall be retained between 2.0 metres and 3.5 metres high above ground level at this point, except where it is required to be removed as part of this permission. Where gaps appear in this hedgerow, it shall be augmented and planted out with hawthorn hedgerow to ensure a continuous and even hedgerow, and shall be permanently retained thereafter unless otherwise agreed with Council.

Reason: In the interests of visual amenity and to protect residential amenity.

12. The existing mature trees and vegetation along the remaining site boundaries as indicated on Drawing No 02 rev2 date received 17 Nov 2021 shall be permanently retained. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual amenity.

13. 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 t, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.

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

14. Prior to the occupation of any dwelling hereby approved whose curtilage boundary abuts a retaining wall, that retaining wall structure shall be put in place in accordance with details indicated on drawing No. 09 rev2 date stamp received 17 Nov 2021, unless otherwise agreed in writing with Mid Ulster Council.

Reason: In the interests of safety, and to ensure a quality residential environment.

15. Prior to the occupation of any dwelling hereby approved, all boundary treatment indicated on drawing No.s 02 rev2 and 09 rev2 date stamp received 17 Nov 2021, and, 20 date received 24 Nov 2021, shall be put in place and permanently retained thereafter.

Reason: To ensure a quality residential environment and to safeguard residential amenity.

16. The development hereby approved shall be carried out in accordance with levels and cross sections indicated on drawings No. 02 rev2 and 16 rev1 which were date stamp received 17 Nov 2021, unless otherwise agreed in writing with Mid Ulster council.

Reason: To ensure a quality residential environment and to protect existing and proposed residential amenity.

17. The visibility splays of 2.4 metres by 70 metres in each direction at the junction of the proposed access with the public road, shall be provided in accordance with Drawing No. 14 Rev (XXXXXX to be agreed with DfI Roads before Committee) bearing the date stamp (XXXXXX to be agreed with DfI Roads before Committee) , prior to the commencement of any other works or other development hereby approved.

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

18. The access gradients to the dwellings hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m 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.

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

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

Private Street Conditions

PS01. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 14 Rev 1 bearing the date stamp 9th September 2021.

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

PS02. 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 a public road including a right turn lane have been completed in accordance with the details outlined blue on Drawing Number 14 Rev 1 (XXX) bearing the date stamp 9th September 2021 (XXX). The Department for Infrastructure 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.

PS03. 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 each phase.

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

PS04. The development hereby permitted shall not be adopted until any retaining wall requiring Technical Approval, as specified in the Roads (NI) Order 1993, has been

approved and constructed in accordance with BD2 Technical Approval of Highways Structures : Volume 1: Design Manual for Roads and Bridges.

Reason: To ensure that the structure is designed and constructed in accordance with BD2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges.

PS05. No development within 10metres of the public road hereby permitted shall be commenced until the works necessary for the improvement of Manse Road including the vehicle restraint system have been completed in accordance with the details on Drawing Number 14 Rev 1 (XXXX) bearing the date stamp 9th September 2021 (XXXX- to be agreed).

Reason: To ensure that the structure is designed and constructed in accordance with the Design Manual for Roads and Bridges.

Informatives

1. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
4. The developer is advised to consider all comments raised in NIEA in their comments which were published on the planning portal on 30/11/2020, especially in relation to Drinking Water.

Signature(s)

Date:

ANNEX	
Date Valid	10th July 2020
Date First Advertised	28th July 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Glenmont Park,Dungannon,Tyrone,BT71 7BA The Owner/Occupier, 10 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 12 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 14 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 16 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 18 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 20 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 22 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 24 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 26 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 28 Beechvalley,Dungannon,Tyrone,BT71 7BN Maurice Girvan 2a Prospect Manse, Windmill Hill Road, Dungannon, BT71 7BS The Owner/Occupier, 2a Prospect Manse,Windmill Hill Road,Dungannon,Tyrone,BT71 7BS The Owner/Occupier, 3 Glenmont Park,Dungannon,Tyrone,BT71 7BA The Owner/Occupier, 30 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 32 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 34 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 36 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 38 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 40 Beechvalley,Dungannon,Tyrone,BT71 7BN	

The Owner/Occupier,
 42 Beechvalley,Dungannon,Tyrone,BT71 7BN
 The Owner/Occupier,
 44 Beechvalley,Dungannon,Tyrone,BT71 7BN
 The Owner/Occupier,
 46 Beechvalley,Dungannon,Tyrone,BT71 7BN
 The Owner/Occupier,
 48 Beechvalley,Dungannon,Tyrone,BT71 7BN
 The Owner/Occupier,
 5 Glenmont Park,Dungannon,Tyrone,BT71 7BA
 The Owner/Occupier,
 50 Beechvalley,Dungannon,Tyrone,BT71 7BN
 The Owner/Occupier,
 52 Beechvalley,Dungannon,Tyrone,BT71 7BN
 The Owner/Occupier,
 7 Glenmont Park,Dungannon,Tyrone,BT71 7BA
 The Owner/Occupier,
 8 Beechvalley,Dungannon,Tyrone,BT71 7BN
 The Owner/Occupier,
 9 Glenmont Park,Dungannon,Tyrone,BT71 7BB
 Maurice Girvan
 Dungannon Presbyterian Church,Prospect Manse,2A Windmill Hill
 Road,Dungannon,BT71 7BS
 The Owner/Occupier,
 Prospect Manse,Manse Road,Dungannon,Tyrone,
 The Owner/Occupier,
 Ulster Bus Ltd,52 Beechvalley Way, Dungannon BT71 7BN

Date of Last Neighbour Notification

29th September 2021

Date of EIA Determination**ES Requested**

No

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: LA09/2020/0908/O	Target Date:
Proposal: Proposed dwelling and garage	Location: 25m North East of 68 Hillhead Road Toomebridge
Referral Route: Refusal contrary to PPS 3 -AMP3	
Recommendation:	Refusal
Applicant Name and Address: Mr Damian Barton 68 Hillhead Road Toomebridge BT41 3SP	Agent Name and Address: CMI Planners Ltd 38b Airfield Road Toomebridge BT413SG
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	DAERA - Coleraine	Substantive Response Received
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
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

Farm dwelling complies with CTY 10 criteria no third party representations received and all other material considerations have been taken into consideration.

Characteristics of the Site and Area

The site is identified as lands located 26m NE of 68 Hillhead Road, Toomebridge. The site borders on onto Deerpark and Hillhead Roads. The site plot is triangular in shape measuring approximately 0.63 of a hectare. Site boundaries comprise intermittent low level vegetation on the south western boundary (running appavelled with the Hillhead Road); post and wire fencing and sporadic vegetation on the south eastern boundary; the other to the north eastern boundary consist of hedgerow and post and wire fencing. The surrounding landform is one of undulating countryside and the land raises from Hillhead Road. The main farm group is located to the south opposite Hillhead Road no 68 consisting of a one and a half storey dwelling with outbuildings to the rear. There is a large evergreen hedgerow to the front of No 68 running parallel with Hillhead Road. The buildings to the rear of 68 appear to be agricultural related. To the Southeast is a private laneway that runs parallel with the sheds servicing property and lands to southwest; to the east is no 62 a car sales businesses; located to the east is a detached dwelling No 60; and to the west is no 70 a small bungalow with an open area used for storing wooden pallets. The site is located in open countryside and is within a designation Cou 01 area of high scenic value: west as defined in the Magherafelt Area Plan 2015.

The Hillhead Road is part of the A6 protected route running from Toomebridge to Castledawson. There are limited views of the site on approach from either direction due to the built form on each side.

Description of Proposal

The applicant is seeking outline planning permission for proposed dwelling and garage on a farm, which was received by MUDC Planning on 28/07/2020.

No details surrounding design or landscaping associated with the proposal have been submitted with this application which relates to outline planning consent only.

All planning application forms, drawings, letters etc. relating to this planning application are available to view on www.planningni.gov.uk

Relevant planning history.

There is no relevant planning history associated with the proposed site.

Representations.

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. At the time of writing no objections or representations were received. This application was initially advertised in the local press on w/c 10/08/2020 (publication date 11/08/2020). Ten (10) neighbouring properties were notified on 14/08/2021; 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. Statutory consultees:

- DFI Roads were consulted on 13/08/2020 and responded on 08/09/2020 recommending refusal under Protected Routes Policy PPS 3 AMP3. The response further stated that although the new A6 Trunk Road Scheme is now open to traffic the Contractor is responsible for the new road under his contract obligations until its completion. DFI Roads will not remove protected routes status from the existing A6 Hillhead Road prior to the completion of the new road. However, no date has been set for the de-trucking of this section of Hillhead Road.
- NIW were consulted on 13/08/2020 and responded 08/09/2020 no objections;
- DAERA were consulted on 13/08/2020 and responded on 03/09/2020 provided information pertaining to the farm activities of the farm.

Planning Assessment of Policy and Other Material Considerations

Section 45 (1) of the Planning Act (Northern Ireland) 2011 states that regard must be had to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, Section 6 (4) of the Act requires that the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Magherafelt Area Plan 2015 (MAP) acts as the LDP for this area as Mid Ulster District Council has not yet adopted a plan strategy for the district as a whole. The site is in the open countryside outside of any settlement limit or rural policy area defined in the plan. MAP does not offer any relevant policies relating to the assessment of this application.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for their council area. It also retains certain existing Planning Policy Statements including Planning Policy Statement 21 Sustainable Development in the Countryside (PPS 21). 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 CTY1 of PPS 21 sets out the types of development which are considered to be acceptable in principle in the countryside. It states that planning permission will be granted for an individual dwelling house in six specified cases, one of which is a dwelling on a farm in accordance with Policy CTY10. This sets out three criteria to be met and also requires the site to comply with other policies in PPS 21.

Criterion (a) of Policy CTY10 requires that the farm business is currently active and has been established for at least 6 years. Paragraph 5.38 of the justification and amplification text to Policy CTY10 states that the applicant will be required to provide the farm's business identification number along with other evidence to prove active farming over the required period. The farm business is owned by the appellant's father Mr Richard Barton. It comprises only one field

located 25m to the north east of no 68 Hillhead Road. DAERA were consulted on this application and in their initial response confirmed the farm was established in 1992; a category 1 farm, does not claim SFP and the lands which the site is located on is associated with another farm business. The agent submitted a farm map and a Lease Agreement signed by Mr. Richard Barton and Mr. Sean McGrogan dated 1st May 2011.

My observations made while on site confirmed the land is kept in good environmental condition and on the basis of invoices relating to fence repairs, hedge cutting, weed control, rolling and harrowing I am satisfied that criteria has been met.

With respect to (b) and upon a history of the farm business, I am content that it does not appear that there were any development opportunities approved or sold off the farm in the previous 10 years.

With respect to (c), as stated earlier in my report the registered farm address is 68 Hillhead Road, Toomebridge where the site is situated approximately 25m north east of 68. With this in mind, I am content that there will be sufficient visual linkage between the site and this registered group of buildings notwithstanding that the Hillhead Road bisects the site with the existing farm group.

I note that the policy states that where practicable that access should be taken from an existing lane, I note that the intention is to construct a new access arrangements onto Hillhead Road. From this I am content that the dwelling would be able to comply under this policy test.



Fig. 1 Aerial overview of site and existing farm group 25m NE of No 68 Hillhead Rd.

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 the site does sit higher than that of the registered farm address, in which I am content that an appropriately designed dwelling would not appear as a prominent feature in the landscape. In which 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 in any reserved matters application.

Given the landform I feel it necessary to restrict the ridge height of any dwelling to have a ridge height of no more than 7m above finish floor level. In addition, I feel it necessary to restrict the siting of any dwelling to the upper portion of the site along the roadside in line with the development pattern in the area. 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.

Planning Policy Statement 3, Access, Movement and Parking Policy AMP3 access onto a Protected Route will only be granted for a development involving a direct access, or intensification of use of an existing access onto a Protected Route. As this development is a farm dwelling that involves the construction of a new access arrangements is not included as one of the cases referred to in policy AMP3 the proposed development is contrary to Policy and should be refused.

Other policy and material considerations

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

I have no ecological, flooding or residential amenity concerns. The south east section of the site shows on the flood maps as service water.

Summary of Recommendation:

In consideration of the above, it is my opinion that planning permission should be refused for the following reason

Reasons for Refusal:

The proposal is contrary to PP3, Access, Movement and Parking and Policy AMP 3 that it would, if permitted, result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

Signature(s)

Date:

ANNEX	
Date Valid	28th July 2020
Date First Advertised	11th August 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 17 Aughrim Lane Toomebridge Toome The Owner/Occupier, 19 Aughrim Lane Toomebridge Toome The Owner/Occupier, 5 Blackpark Road Toomebridge Toome The Owner/Occupier, 50 Blackpark Road Toomebridge Toome The Owner/Occupier, 53 Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3SL The Owner/Occupier, 53a Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3SL The Owner/Occupier, 60 Hillhead Road Creagh Londonderry The Owner/Occupier, 62 Hillhead Road Toome Londonderry The Owner/Occupier, 68 Hillhead Road Creagh Londonderry The Owner/Occupier, 70 Hillhead Road Creagh Londonderry	
Date of Last Neighbour Notification	14th August 2020
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2020/0908/O Proposal: Proposed dwelling and garage Address: 25m North East of 68 Hillhead Road, Toomebridge, Decision: Decision Date: Ref ID: H/2003/0230/O Proposal: Site of dwelling and garage. Address: 60 Metres North West of 55 Hillhead Road, Castledawson.	

Decision:
Decision Date: 07.11.2005

Ref ID: H/1998/0450
Proposal: REPLACEMENT SEPTIC TANK
Address: 9 AUGHRIM LANE CREAGH
Decision:
Decision Date:

Ref ID: H/1990/0560
Proposal: H.V. O.H. LINE BM 0464/90
Address: AUGHRIM LANE CREAGH MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1995/0246
Proposal: SITE OF DWELLING AND GARAGE
Address: ADJ TO 9 AUGHRIM LANE TOOMEBRIDGE
Decision:
Decision Date:

Ref ID: H/2014/0145/F
Proposal: Proposed repositioning of entrance to existing dwelling
Address: 55 Hillhead Road, Toomebridge, BT41 3SP,
Decision: PG
Decision Date: 22.12.2014

Ref ID: H/2007/1052/F
Proposal: 1.Change of house type to that previously approved under current permission H/2005/0805/F. 2.Detached domestic garage (garage retrospective)
Address: 55 Hillhead Road, Toomebridge
Decision:
Decision Date: 15.04.2008

Ref ID: H/1981/0364
Proposal: SITE OF BUNGALOW
Address: HILLHEAD ROAD, THE CREAGH, CASTLEDAWSON
Decision:
Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title
Drawing No. 01 Type: Site Location Plan Status: Submitted
Notification to Department (if relevant) Date of Notification to Department: Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1107/F	Target Date:
Proposal: Change of use to proposed car sales yard	Location: Approx 25m N. W. of 60A Ballyronan Road Magherafelt
Referral Route: Refusal- Committee	
Recommendation:	REFUSE
Applicant Name and Address: Mr Joe Bateson 60A Ballyronan Road Magherafelt	Agent Name and Address: CMI Planners Ltd 38b 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
Statutory	Environmental Health Mid Ulster Council	Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice

Representations:

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

Summary of Issues

All material considerations have been addressed within the determination below

Characteristics of the Site and Area

The application site is located approximately 25metres North West of 60A Ballyronan Road, Magherafelt and is located within the designated settlement limits as defined in the Magherafelt Area Plan, 2015.. The site is currently a vacant plot of land at the opening of an existing business Park, adjacent to residential dwellings. The proposed new access utilises an existing access which is in-situ.

The surrounding area is predominantly residential and the existing Ronan Valley Business Park



Description of Proposal

This is a full application for a change of use to proposed car sales yard

Planning Assessment of Policy and Other Material Considerations

Planning Assessment of Policy and Other Material Considerations

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

- 1.Strategic Planning Policy Statement (SPPS)
- 2.Magherafelt Area Plan 2015
- 4.Planning Policy Statement 3 - Access, Movement and Parking
- 5.DCAN 15 Vehicular Access Standards

Planning History

Reference	Location	Proposal/Complaint	Status	Date
H/1993/0086	ADJ TO 56 BALLYRONAN ROAD MA	SITE OF DWELLING & GARAGE	PERMISSION GRANTED	
H/1994/0521	ADJ TO 56 BALLYRONAN ROAD MA	SITE OF DWELLING AND GARAGE	PERMISSION GRANTED	
H/2001/0525/Q	Adjacent To 58 Ballyronan Road, Magh	Site Of Housing Development.	PRE APPLICATION ENQUIRY - API	
H/2005/0148/O	North of 58 Ballyronan Road, Maghera	5 No. Town houses with Integral Garages	PERMISSION GRANTED	11.11.2005
H/2008/0064/RM	North of 58 Ballyronan Road, Maghera	5No. Townhouses with integral garages	PERMISSION GRANTED	24.03.2009
H/2001/0169/O	Adjacent To 58 Ballyronan Road, Magh	Site Of Dwelling And Garage	PERMISSION GRANTED	19.04.2001
LA09/2020/0009/CA	Ronan Valley Business Park, Unit 2,, 58	Unauthorised Advertisements	ENFORCEMENT CASE CLOSED	18.02.2020
LA09/2020/0038/CA	Lands Approximately 25m South Of 3 S	Alleged unauthorised parking area and unauthorised ac	ENFORCEMENT CASE CLOSED	11.11.2020
LA09/2020/0010/CA	Setanta Construction, Ronan Valley Bu	Alleged unauthorised change of use from industrial to st	ENFORCEMENT CASE CLOSED	04.05.2020
LA09/2020/0042/CA	Entrance To Ronan Valley Business P	Alleged unauthorised advertisements	ENFORCEMENT CASE CLOSED	27.05.2020
LA09/2020/1107/F	Approx 25m N. W. of 60A Ballyronan R	Change of use to proposed car sales yard	VALID APPLICATION RECEIVED	
LA09/2020/0052/A	Ronan Valley Business Park, 58 - 60 B	1 no 900mm high, metal free standing business park na	PERMISSION GRANTED	21.02.2020
H/1994/0538	58-60 BALLYRONAN ROAD MAGHEF	MIX BATCHING PLANT FOR PRODUCTION OF CONI	PERMISSION GRANTED	

Representations

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

Assessment

The Strategic Planning Policy Statement (SPPS) for Northern Ireland-Planning for Sustainable Development, is a material consideration. The SPPS sets out that planning authorities should be retained under transitional arrangements. 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. Until a Plan Strategy for the whole of the Council area has been adopted planning applications will be assessed against existing policy.

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

This proposal for a change of use from a vacant plot of land to a car sales yard. The proposal does not add to or extend the curtilage of the existing site and this restricts the overall impact of the proposal. There is no increase in the site area and it is compatible with surrounding land use. The proposal is in close proximity to residential dwellings and could have potential to impact on the residential amenity of the occupiers.

Environmental Health were consulted on the application and responded to say that the site lies in close proximity to residential dwellings at 1-5 Sycamore Drive, Magherafelt. These dwellings could experience noise disturbance on occasion from cars and patrons resorting to and from the premises. It is noted that no floodlights are to be erected. To mitigate against noise disturbance, Environmental Health recommend that an acoustic fence/barrier be erected along the site's boundary adjacent to the residential dwellings. The barrier shall be constructed of either masonry, timber panelling (close lapped with no gaps) or of earth and shall have a minimum self weight of 25Kg/m2.

Access

Transport Ni were consulted on this application and responded stating that the access for this car sales yard as proposed is located within the existing junction layout for the Ronan Valley Business Park. To provide an acceptable access the agent should relocate the access point to a minimum of 30 metres in from the Ballyronan Road on the driveway to the Ronan Valley Business Complex. After discussion with the agent and applicant, they said this was unachievable as the applicant did not have a right of way and could not obtain one from the landowner. DFI Roads, recommend a refusal for this application for the following reasons:

- 1) The proposal is contrary to planning policy statement 3, access, movement and parking, policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the proposed access is located in close proximity to a road junction where the slowing down and turning movements of vehicles entering and leaving the access would conflict with traffic movements at the junction.
- 2) The Proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy Amp 2, in that it would, if permitted prejudice the safety and convenience

of road users since it would lead to vehicles parked on the highway at or near a road junction thus interfering with the free flow of traffic on the main road and the visibility of traffic entering or leaving the minor road.

Conclusion

In conclusion I consider the proposal to be unacceptable as it is contrary to PPS 3, Policy AMP2 and recommend permission is refused.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refuse

Reasons for Refusal:

- 1) The proposal is contrary to planning policy statement 3, access, movement and parking, policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the proposed access is located in close proximity to a road junction where the slowing down and turning movements of vehicles entering and leaving the access would conflict with traffic movements at the junction.
- 2) The Proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy Amp 2, in that it would, if permitted prejudice the safety and convenience of road users since it would lead to vehicles parked on the highway at or near a road junction thus interfering with the free flow of traffic on the main road and the visibility of traffic entering or leaving the minor road.
- 3) The proposal would adversely impact on residential amenity of surrounding dwellings by way of visual intrusion, noise and general nuisance.

Signature(s)

Date:

ANNEX	
Date Valid	11th September 2020
Date First Advertised	29th September 2020
Date Last Advertised	14th September 2021
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Ronan Drive Magherafelt Londonderry The Owner/Occupier, 1 Sycamore Drive Magherafelt Londonderry The Owner/Occupier, 10 Ronan Drive Magherafelt Londonderry The Owner/Occupier, 2 Ronan Drive Magherafelt Londonderry The Owner/Occupier, 2 Sycamore Drive Magherafelt Londonderry The Owner/Occupier, 3 Ronan Drive Magherafelt Londonderry The Owner/Occupier, 3 Sycamore Drive Magherafelt Londonderry The Owner/Occupier, 4 Ronan Drive Magherafelt Londonderry The Owner/Occupier, 4 Sycamore Drive Magherafelt Londonderry The Owner/Occupier, 5 Ronan Drive Magherafelt Londonderry The Owner/Occupier, 5 Sycamore Drive Magherafelt Londonderry The Owner/Occupier, 52 Ballyronan Road Magherafelt Londonderry The Owner/Occupier, 54 Ballyronan Road Magherafelt Londonderry The Owner/Occupier, 56 Ballyronan Road Magherafelt Londonderry The Owner/Occupier, 56a Ballyronan Road Magherafelt The Owner/Occupier, 6 Ronan Drive Magherafelt Londonderry The Owner/Occupier, 60 Ballyronan Road Magherafelt Londonderry The Owner/Occupier, 60A, Ballyronan Road, Magherafelt, BT45 6EW The Owner/Occupier, 61 Ballyronan Road Magherafelt Londonderry The Owner/Occupier, 62 Ballyronan Road Magherafelt Londonderry	

The Owner/Occupier,
 62a Ballyronan Road Magherafelt
 The Owner/Occupier,
 63 Ballyronan Road Magherafelt Londonderry
 The Owner/Occupier,
 64 Ballyronan Road Magherafelt Londonderry
 The Owner/Occupier,
 66 Ballyronan Road, Magherafelt, Londonderry, BT45
 The Owner/Occupier,
 68 Ballyronan Road, Magherafelt, BT45 6EW
 The Owner/Occupier,
 7 Ronan Drive Magherafelt Londonderry
 The Owner/Occupier,
 70 Ballyronan Road Magherafelt Londonderry
 The Owner/Occupier,
 8 Ronan Drive Magherafelt Londonderry
 The Owner/Occupier,
 Concrete Works 58 Ballyronan Road Magherafelt
 The Owner/Occupier,
 Unit A1 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit A2 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit A3 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit A4 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit A5 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit A6 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit B Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit C1 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit C2 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit D Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit E1 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit E2 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit E3 Ronan Valley Business Park Magherafelt

Date of Last Neighbour Notification	
Date of EIA Determination	

ES Requested	Yes /No
<p>Planning History</p> <p>Ref ID: H/1993/0086 Proposal: SITE OF DWELLING & GARAGE Address: ADJ TO 56 BALLYRONAN ROAD MAGHERAFELT Decision: Decision Date:</p> <p>Ref ID: H/1994/0521 Proposal: SITE OF DWELLING AND GARAGE Address: ADJ TO 56 BALLYRONAN ROAD MAGHERAFELT Decision: Decision Date:</p> <p>Ref ID: H/2001/0525/Q Proposal: Site Of Housing Development. Address: Adjacent To 58 Ballyronan Road, Magherafelt. Decision: Decision Date:</p> <p>Ref ID: H/2005/0148/O Proposal: 5 No. Town houses with Integral Garages Address: North of 58 Ballyronan Road, Magherafelt Decision: Decision Date: 11.11.2005</p> <p>Ref ID: H/2008/0064/RM Proposal: 5No. Townhouses with integral garages Address: North of 58 Ballyronan Road, Magherafelt Decision: Decision Date: 24.03.2009</p> <p>Ref ID: H/2001/0169/O Proposal: Site Of Dwelling And Garage Address: Adjacent To 58 Ballyronan Road, Magherafelt Decision: Decision Date: 19.04.2001</p> <p>Ref ID: LA09/2020/1107/F Proposal: Change of use to proposed car sales yard Address: Approx 25m N. W. of 60A Ballyronan RoadMagherafelt, Decision: Decision Date:</p>	

Ref ID: LA09/2020/0052/A

Proposal: 1 no 900mm high, metal free standing business park name sign and 1 no 3.55m high free standing totem sign

Address: Ronan Valley Business Park, 58 - 60 Ballyronan Road, Magherafelt,

Decision: CG

Decision Date: 21.02.2020

Ref ID: H/1994/0538

Proposal: MIX BATCHING PLANT FOR PRODUCTION OF CONCRETE BLOCKS

Address: 58-60 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1997/0154

Proposal: CHANGE OF USE/CONVERSION OF EXISTING OFFICE/STORE TO OFFICE ACCOMODATION

Address: 58/60 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1997/0366

Proposal: BUILDING FOR THE MANUFACTURE OF PRECAST CONCRETE FLOORING

Address: 58 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1995/0204

Proposal: EXTENSION TO OFFICES

Address: 58-60 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1990/0159

Proposal: TWO STOREY OFFICE BUILDING

Address: BALLYRONAN ROAD, MAGHERAFELT.

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No. 01
Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



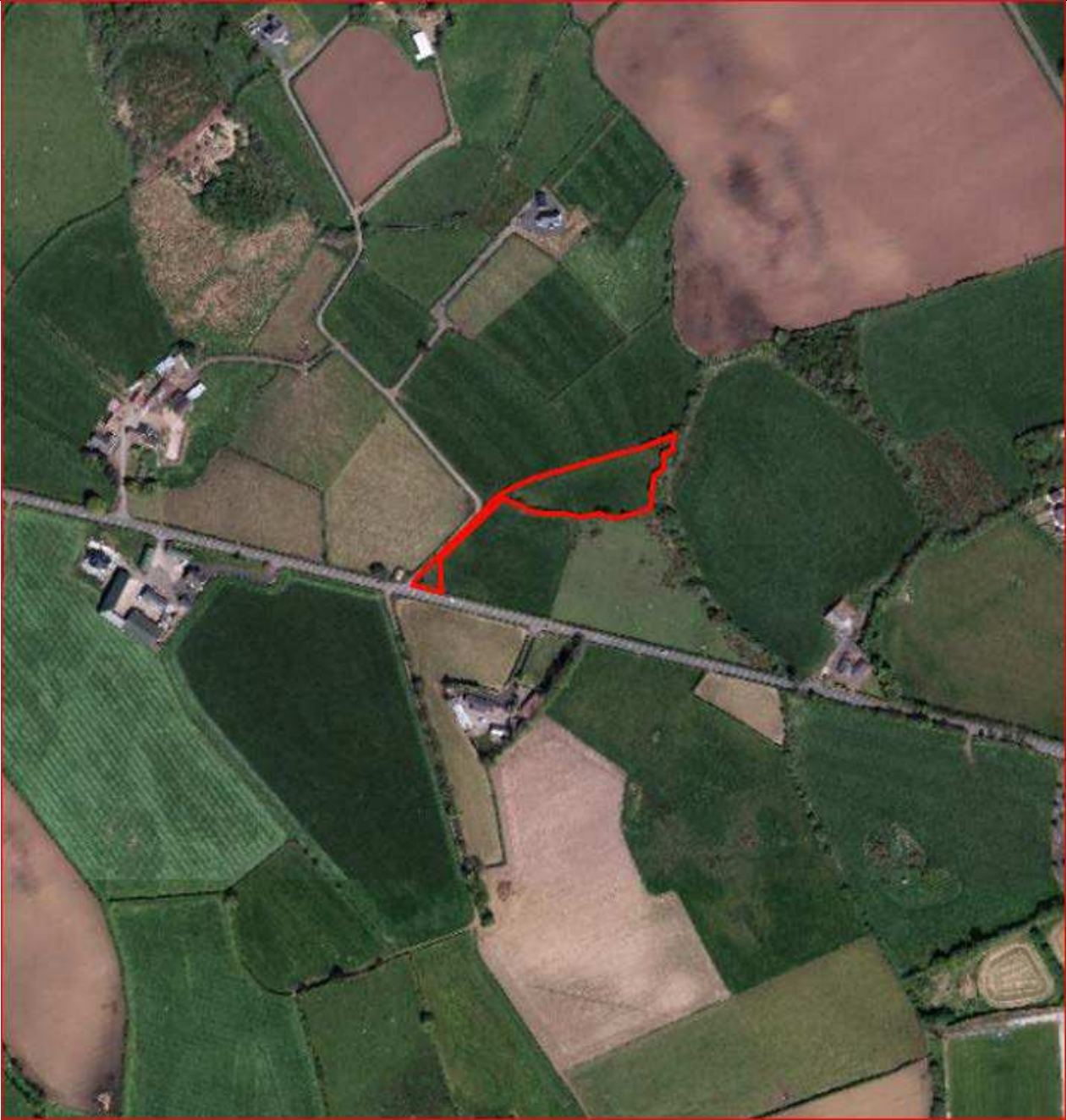
Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1630/O	Target Date:
Proposal: Proposed Farm Dwelling and Garage	Location: 200m North East of 51 Gulladuff Road Magherafelt
Referral Route: This application is being presented to Committee as it is being recommended for Refusal.	
Recommendation:	REFUSE
Applicant Name and Address: Mr Eoin Patrick Bennett 1 Clarkes Drive Gulladuff BT45 8RL	Agent Name and Address: 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
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	DAERA - Coleraine	Substantive Response Received
Statutory	Rivers Agency	Advice

Representations:

Letters of Support	None Received
Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
Summary of Issues including representations	
No objections have been received in respect of this application.	
<p>Characteristics of the Site and Area</p> <p>The site is located approx. 200m NE of 51 Gulladuff Road, Magherafelt within the countryside as identified within the Magherafelt Area Plan 2015. The red line of the site includes an agricultural field set back from the Gulladuff Road to the rear of a second field which is outlined in blue, indicating ownership. The boundaries of the site are defined by existing hedging with a semi-mature thorn hedgerow along the southern boundary. There is a private laneway running parallel to the proposed laneway and provides direct from the Gulladuff Road to dwellings at No's. 48, 52 and 54. This laneway is bounded by a semi-mature thorn hedgerow. The site sits approximately 1m below the level of the Gulladuff Road which is bounded by a low cut thorn hedgerow set to the rear of a 1m wide grass verge. The lands are generally quite flat throughout although they fall away gently from the road and views of the site will be somewhat limited from public viewpoints given it is setback slightly from the roadside. The surrounding area is predominantly rural with scattered dwellings and their associated outbuildings. The Gulladuff Road, A42, is designated as a Protected Route.</p> <p>There are no other buildings either on the site although there is a small single shed measuring approximately 8.3m x 5.7m on a roadside site immediately adjacent to the western side of the existing laneway and which is set back around 3m from the road edge.</p> <p>Gulladuff settlement limit is located approx. 310m east of the site.</p>	
<p>Description of Proposal</p> <p>This is an outline application for farm dwelling and garage. The proposed development is being sought under PPS21 – CTY10 dwellings on farms.</p>	
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>Planning History</p> <p>H/2004/0843/O – Site of dwelling house and garage for Thomas Moore – Withdrawn 31.10.2005</p> <p>LA09/2019/0252/O – Farm dwelling and garage for Mr James McPeake – Withdrawn 07.12.2020</p> <p>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.</p> <p>The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council</p>	

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

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

The proposal accords with the Magherafelt Area Plan 2015 insofar as it is for a site for a dwelling in an undesignated rural area and is linked to a farm business.

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

CTY 10 – Dwellings on Farms

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

- DAERA's consultation response confirmed that the business has been in existence for more than 6 years however, the farm business has not claimed either single farm payments nor other Agri Environment payments in any of the last six years. DAERA have also advised that the proposed site is located on land which is currently being claimed by another farm business.
In an attempt to show how the applicant's farm business is currently active, the following statement has been provided:-
The previous application on the site, LA09/2019/0252/O was in the name of James McPeake (aka Seamus) ;
James has a Category 1 business number allocated in 2010 and claims single farm payment on the application lands.
James' daughter Attracta was gifted these lands as a wedding present . She is married to the current applicant Eoin Bennett.
Eoin has his own Category 1 farm business number allocated in 2005 and has worked and maintained these application lands for the last 8 years;
Eoin and Attracta have no farm buildings and currently live in a housing development within Gulladuff village.
Notwithstanding the above, the submitted information raises the question, how does the applicant farm the lands subject of the application, or how is his holding active. No evidence has been provided, other than the above statement, to prove that the applicant is involved in any way with these lands, let alone farming them for the past 8 years. The previous application LA09/2019/0252/O clearly stated that the lands were owned by James McPeake who farmed them with his brother Brian.
- A planning history check of the farm shows that no dwellings or development opportunities in the countryside have been sold off from the farm holding since 25th November 2008.
- Policy CTY 10 also requires any such new building to be visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access should be obtained from an existing lane.

There are no buildings located the proposed site or within the two fields identified on the applicant's holding, therefore the site is not visually linked nor is it sited to cluster with buildings on the farm. The policy does however, allow for consideration to be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

- demonstrable health and safety reasons; or

- verifiable plans to expand the farm business at the existing building group(s).
However, as these are the only field which appear on the applicants holding, they do not have the potential to locate a dwelling elsewhere.

Policy CTY 10 also states that 'In such circumstances the proposed site must also meet the requirements of CTY 13(a-f), CTY 14 and CTY 16.'

CTY 13 – Integration and Design of Buildings in the Countryside provides for buildings to be approved in the countryside where they can be visually integrated into the surrounding landscape and are of an appropriate design. However, as there are no buildings on the applicant's holding as identified by the farm maps, any dwelling cannot therefore be sited with such farm buildings.

With regards to the proposed site, a dwelling with a ridge height of 5.5m above finished floor levels and an under-build of not more than 0.45m above existing ground level would achieve an acceptable degree of integration, provided the existing north-western and southern boundaries are retained at their current heights as a minimum. This would be required as the existing roadside hedgerow on the eastern side of the proposed access would have to be removed to provide the required visibility splay. In providing such a splay would open up views towards the site from the public road thereby making it essential that the existing boundaries are retained. There is also a public interest from the adjacent laneway which serves three dwellings. However, from this laneway, a dwelling conditioned as detailed above would achieve an acceptable degree of integration provided the existing boundaries are retained.

CTY 14 – Rural Character

This is an application for a site for a dwelling on a farm holding that is sited away from any existing farm buildings. A dwelling on the proposed site would not be contrary to the requirements of this policy as it could achieve an acceptable degree of enclosure and would be viewed in isolation from any existing buildings. A dwelling on this site would respect the traditional pattern of development in the area as existing dwellings are mainly set well back of the public road with little visual impact.

The proposal is therefore acceptable under this policy.

PPS 3 – Access, Movement and Parking

Policy AMP 3 Access to Protected Routes (Consequential Revision) allows for such developments to access onto a protected route in certain circumstances. This includes a dwelling on a farm which meets the requirements of Policy CTY 10. However, in such instances, approval will only be granted in cases where the access cannot reasonably be obtained from an adjacent minor road.

The proposal is to develop a dwelling on a site which accesses directly onto the A42 Protected Route. The applicant only has the two fields identified at this location and therefore does not have the potential to site the dwelling at another location. However, the policy provision clearly states that planning permission will only be granted for a development proposal involving access onto a protected route in the case of a site for a farm dwelling where it would meet the criteria set out in Policy CTY 10 and access cannot be reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.

However, as in this case, even if it were accepted that the farm business is active and established and that it would meet the policy tests for a dwelling on the farm, access to the proposed site is not being taken from an existing access onto the Protected Route and consequently it fails the policy tests in that regard.

DfI Roads recommend the application be refused as it is contrary to this policy in that it would result in the creation of a new vehicular access onto a Protected Route thereby prejudicing the free flow of traffic and conditions of general safety.

CTY 16 – Development relying on non-mains sewerage advises that planning permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem. As this is a rural site and P1 application form states that foul sewage will be disposed of via a septic tank, it is not envisaged that there will be an issue with pollution.

PPS 15 – Planning and Flood Risk

DfI Rivers advised that the site is not within but lies adjacent to the 1 in 100 year fluvial flood plain which bounds the site to the east and therefore they recommend that any dwelling be allowed an additional freeboard of 600mm. A 5m maintenance strip is also requested along an undesignated watercourse flowing along the eastern boundary of the site. This maintenance strip should be protected by way of a condition and kept free of any impediments.

Recommendation

On consideration of the above, it is my opinion that the proposal fails to meet the requirements of Policies CTY 1, 10 of PPS 21 and Policy AMP 3 of PPS 3 for the reasons as stated below:-

Neighbour Notification Checked	Yes
--------------------------------	-----

Summary of Recommendation:

Refuse for the reasons stated below.

Reasons for Refusal:

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:
the farm business is currently active;
the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm and access to the dwelling is not obtained from an existing lane.
3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 3, in that it would, if permitted, result in the creation of a new vehicular access onto a Protected Route thereby prejudicing the free flow of traffic and conditions of general safety.

Signature(s)

Date:

ANNEX	
Date Valid	17th December 2020
Date First Advertised	12th January 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier,	
Date of Last Neighbour Notification	21.09.2021
Date of EIA Determination	N/A
ES Requested	No
Planning History Ref ID: LA09/2020/1630/O Proposal: Proposed Farm Dwelling and Garage Address: 200m North East of 51 Gulladuff Road, Magherafelt, Decision: Decision Date: Ref ID: H/2003/1277/F Proposal: Housing development - semi-detached and detached. Address: Adjacent to Clarkes Court and Oakland Crescent, Gulladuff. Decision: Decision Date: 14.12.2005 Ref ID: H/1981/0099 Proposal: SITE OF HOUSING DEVELOPMENT Address: GULLADUFF, MAGHERAFELT Decision: Decision Date: Ref ID: H/1986/0145 Proposal: HOUSING DEVELOPMENT 17 NO DWELLINGS Address: GULLADUFF HILL ROAD, GULLADUFF, MAGHERAFELT Decision: Decision Date: Ref ID: H/1974/0253 Proposal: LAYOUT OF HOUSING DEVELOPMENT	

Address: GULLADUFF, MAGHERAFELT Decision: Decision Date: Ref ID: H/1981/0240 Proposal: MV O/H LINE (BM 4786) Address: GULLADUFF, MAGHERAFELT Decision: Decision Date:
Summary of Consultee Responses DAERA advised that the site is located on land associated with another farm business DfI Roads recommended that the applicaiton be refused as it creates a new vehicular access onto a Protected Route. DfI Rivers advised that the site is not within but lies adjacent to 1 in 100 year fluvial flood plain which bounds the site to the east.
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:



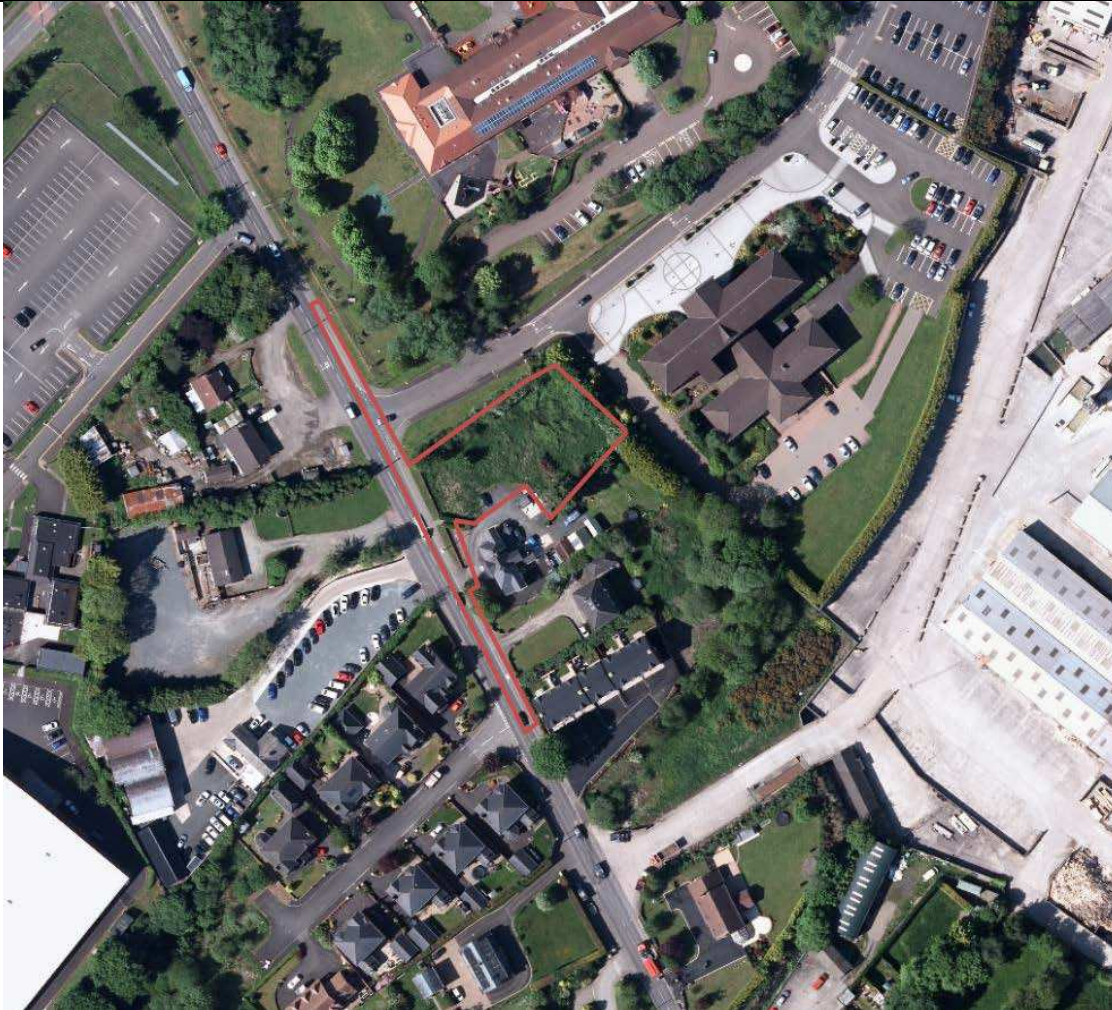
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0015/F	Target Date:
Proposal: The construction of 15 No. CAT1 (active elderly) apartments. Incorporating of 1 No. 3p2b Wheelchair Apt. 1 No. 2p1b Wheelchair Apt. 11 No. 3p2b Apts. & 2 No. 2p1b Apts. with associated car parking and landscaping.	Location: Lands to the side and rear of 52 Ballyronan Road Magherafelt
Referral Route: Approval is recommended however Statutory Consultee DFI Roads have raised concerns with parking shortfall.	
Recommendation:	Approval
Applicant Name and Address: T and M Scullion Ltd 2 Fallaghloon Road Maghera	Agent Name and Address: Mc Girr Architects Ltd 670 Ravenhill Road Belfast BT6 0BZ
Executive Summary: Proposal considered against prevailing planning policy and all material considerations below. It is considered the proposal complies with the relevant policy and no letters of representation received. DFI Roads concerns considered in more detail below and relate to parking shortfall.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DfI Roads – Enniskillen	Advice
Statutory	DfI Roads – Enniskillen	Standing Advice
Non Statutory	NI Water – Multi Units West	Substantive Response
Non Statutory	Environmental Health Mid Ulster	Substantive Response
Statutory	Rivers Agency	Substantive Response
Non Statutory	Environmental Health Mid Ulster	Substantive Response

Representations:

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

Characteristics of the Site and Area

The proposal site is located within the settlement limits of Magherafelt, outside the town centre as defined in the Magherafelt Area Plan 2015 (MAP). The site comprises a small vacant plot of land located between Kilronan School and the semi-detached properties

No.52-56 Ballyronan Road. Mid Ulster District Council offices are located immediately to the rear of the application site. The frontage of the site is defined by a low wooden fence with the southern boundary currently relatively undefined. The NE and NW boundaries are defined by mature trees and hedging. Site ground level appears to be at a slightly lower level to that of the adjacent Ballyronan Road network. The surrounding character is urban with a mix of land uses including Meadowbank Sports Arena, Ronan Valley Business Park, golf course and a commercial car sales business opposite the site. The predominant land use to the south is residential.

Description of Proposal

This application seeks full planning permission for 15no. Apartments located to the side and rear of 52 Ballyronan Road, Magherafelt.

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
- Magherafelt Area Plan 2015
- PPS 7 - Quality Residential Environments
- PPS 3 - Access, Movement and Parking
- Planning Policy Statement 15 - Planning and Flood Risk
- Creating Places
- DCAN 8

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

History on Site

H/2005/1136/O – Site of Housing Development - Rear of 52 Ballyronan Road – Permission Granted 24/01/07

Representations

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

Key Policy Considerations/Assessment

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. SPPS sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

Paragraph 4.12 of the SPPS states amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing. Adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. However, the above mentioned considerations are not exhaustive and planning authorities will be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas. Design and layout considerations will be considered further in this report. Consultation with NIW confirmed that there is available capacity for waste water treatment facilities at Magherafelt however they have advised the sewer network is capacity therefore have recommended no further connections are made to this network. This was considered at internal group with the Principal Planner and it was agreed that should planning permission be forthcoming it will be necessary to condition that no development should take place on site until the developer demonstrates an acceptable method of sewage disposal agreed with NI Water and provided in writing to Mid Ulster District Council. The SPPS gives specific provision for Housing in Settlements subject to a number policy provisions. It does not present any change in policy direction with regards to residential development in settlements than that provided under PPS7.

Magherafelt Area Plan 2015 is the statutory local development plan for the application site. The application site is located within the defined settlement limits of Magherafelt, located on white land with no specific zoning or designation. Plan Policy SETT 2 Development within Development Settlement Limits states favourable consideration will be given to development proposals within settlement limits provided that the proposal:

- is sensitive to the size and character of the settlement in terms of scale, form, design and use of materials;
- is where applicable, in accordance with any key site requirements contained in Part 4 of the Plan.

The proposal site is not subject to any key site requirements. The scale, form, design and use of materials are considered acceptable and are considered in more detail below.

This proposal seeks full planning permission for 15no. Apartments comprising 3no. 1 bedroom apartments and 12no. 2 bedroom apartments. Drawing 02 Rev 1 and 03 Rev 1 date stamped 17th June 2021 provides details on the proposed siting, design, scale and access arrangements. Planning Policy Statement 7: Quality Residential Environments (PPS 7) is a retained policy document under the SPPS and provides the appropriate policy context. Policy QD 1 of PPS 7 sets out the policy framework under which

applications of this nature should be assessed. The proposal has been considered against all criteria outlined under Policy QD1.

- a) The proposal is located on urban Whiteland with no specific zoning or designation within the settlement limits of the Magherafelt. There are varying land uses in the immediate context. The principle of residential development is generally acceptable within the development limit of Magherafelt and this proposal respects the use of the surrounding urban area and residential is considered compatible to the surrounding setting. The proposal comprises 15no. Apartments within one large block which will respect the building line along Ballyronan Road.
- b) No protected archaeological or built heritage features identified have been identified within the site or in close proximity thus it is not considered that the proposal would have a significant impact on any local landscape features of built/archaeological interests.
- c) Drawing 02 Rev 1 indicates some degree of shared open space surrounding the proposed building which would equate to approx. 15m² per apartment. Drawing 02 Rev 2 indicates a small area to the rear of the building as private amenity space on. Following internal discussions it is considered this is acceptable as communal space for residents in this instance given the location and that public open space and that public open space is available within Magherafelt Town which can be utilised by residents and can be accessed by car or foot
- d) The proposal site is situated within the settlement limits of the Magherafelt thus existing neighbourhood facilities are available in the locality. It is not considered the proposed development would significantly intensify or place unnecessary demands on the existing neighbourhood provisions and amenities within the area and the scale of development does not merit the provision of its own standalone facilities.
- e) The location of this site within the settlement limits of Magherafet supports walking and cycling and there is convenient access to public transport. The adjacent public road network would generate a high level of traffic as a key road into the town centre from the Magherafelt by pass. DFI Roads have been consulted and have raised no objections to the proposal in terms of access arrangements, however have raised concerns with respect parking which will be considered below.
- f) Parking Standards would indicate that this proposal for 4 two bed apartments and 11 two bed apartments (15 in total) requires 22 unassigned parking spaces. 15 in-curtilage spaces are being provided, leaving a shortfall of 7 spaces. The submitted TAF arguing that as the intended occupants of the proposed apartments will be category 1 active elderly social housing occupants, this justifies a reduction in parking standards. They rely on DCAN 8 Paragraph 3.37 which states a reduction in car parking provision may be appropriate where: a site enjoys a high level of pedestrian accessibility to local facilities and the public transport network; or car ownership among future residents is likely to be below average. Whilst the application is intended for social housing, the occupancy of the proposed apartments cannot be controlled. The applicant has also submitted

a Parking Survey which concludes that 5+ spaces are available within Meadowbank public car park between 9am-9pm and there is available on-street parking available for 5+ vehicles between 7am-7pm in a number of locations within 1.5 minute walk of the site. The Parking Shortfall has been considered at an internal group meeting with the Principal Planner and it was considered given the town centre location and surrounding availability of public and on street parking, the shortfall is considered acceptable in this instance. DFI Roads have been consulted with the Parking Survey and have stated that if Council are content with Parking Provision, they have no objections to the proposal subject to standard conditions. It is not considered that the proposal will conflict with existing land uses.

- g) The proposed building recognises the original characteristics of the area in terms of size, scale, form and materials. The critical elevation onto Ballyronan Road incorporates the appearance of a two storey projection to the front with a larger three storey section to the rear. The design and finishes of the proposed apartment block are in keeping with other buildings in the area and the finish of red brick respects and is in keeping with surrounding built form. The scheme is not dominated by large expanses of glazing and there is a good solid to void ratio. Roof pitches are reflective of buildings on Ballyronan Road and there are other three storey buildings located in close proximity within Sycamore Drive and MUDC Office.
- h) This proposal is residential in nature, there is a mix of land uses in the surrounding area and I do not consider the proposal will conflict with adjacent land uses. Generally, residential developments by their nature do not generate an unacceptable level of noise, odours or emissions which would impact on residential amenity. It is noted that Ronan Valley Business Park is located in proximity which is zoned as an area of existing major industry and includes a number of existing industrial businesses. Environmental Health were consulted and have identified the Ballyronan Road may give rise to excessive noise from traffic and suggested the imposing of a condition to any forthcoming approval to demonstrate that the residential amenity will not be impacted by traffic noise by submitting a noise assessment. It was considered necessary to consider this prior to planning approval being granted and the applicant subsequently submitted a Noise Impact Assessment. EHD have provided further consultation response outlining no concerns subject to conditions. Kilronan School is located directly north of the site separated by the access road to the School and MUDC Offices. Apartments 1, 3, 7 and 12 are located approx. 21 metres from the boundary with the school. The proposed apartment block is set back on the site and is approx. 21m to the rear of No.52 which is the closest third party dwelling. The existing boundary treatment of the school is palisade fencing and mature trees. The proposal includes retention and enhancement where necessary of the existing mature vegetation boundary treatment which will ensure the proposal will not result in unacceptable overlooking. The ridge height of the proposed apartment block is 11m at the highest point, having considered overshadowing it is considered that any loss of light will be limited and restricted to early mornings for property No.49 and No.51 and late evening for MUDC offices and the rear garden of No.52. It is not considered there will be a significant impact in terms of

overlooking, loss of light and overshadowing to warrant refusal or cause an unacceptable adverse impact on neighbouring amenity.

- i) I am satisfied that the overall development is considered to be designed to deter crime and promote personal safety. In-curtilage parking is provided and street lighting exists along the adjacent public roads.

PPS 7 (Addendum) Safeguarding the Character of Established Residential Areas

I am satisfied that, in principal, this proposal complies with Policy LC 1, Protecting Local Character, Environmental Quality and Residential Amenity, in that the proposal will not result in a significantly higher residential density in this locality where there is a mix of dwellings and apartments. In terms of keeping with the established character of the area, the proposal is residential in nature which is acceptable in the surrounding context. The pattern of development in the immediate area is a mix of large two and three storey buildings and I consider the type of building proposed, would not have an impact on the overall character and environmental quality of this area. All proposed apartments are in excess of the acceptable size as set out in Annex A of this policy.

Additional Considerations

Rivers Agency were consulted on this application and have advised that the development does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain, however the site is shown to be within the climate change flood plain. The updated DFI Technical Flood Risk Guidance in relation to Allowances for Climate Change in Northern Ireland has been considered. Having considered the guidance and discussed the application at internal group and in light of the fact that DfI Rivers have advised they have no objection to this development in relation to Revised PPS 15, Planning and Flood Risk, FLD 1 we are content on this basis. Rivers Agency also advise that a designated culverted watercourse traverses the site, it is considered necessary to include a condition to any forthcoming approval that a suitable maintenance strip of minimum 5m is provided in order to facilitate replacement, maintenance or other necessary operations. Having considered the application at internal group with Principal Planner, it was considered that a Drainage Assessment is not required under Policy FLD3 as the proposal relates to one large unit rather than more than 10 separate dwelling units therefore the threshold to consider this policy has not been met.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approval subject to the below conditions is recommended.

Conditions

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

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

2. The existing mature trees and vegetation along the NE, NW and SE boundaries shall be permanently retained at a minimum height of 1.5 metres unless

necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: In the interests of visual amenity.

3. If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of completion of the development it shall be replaced within the next planting season by another tree or trees in the same location of a species and size as specified by the Council.

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

4. All planting and boundary treatment comprised on drawing number 02 Rev 1 bearing date stamp 17th June 2021 shall be carried out prior to the occupation of any of the dwellings hereby approved and any trees or shrubs which, within a period of 5 years from the occupation of the dwellings, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity and to ensure the protection of residential amenity.

5. No development hereby permitted shall take place until a 5 metre level maintenance strip as agreed with DFI Rivers is provided to be protected from impediments, land raising or future unapproved development.

Reason: To ensure protection from impediments in relation to potential flooding issues.

6. The vehicular access including minimum visibility splays of 2.4 x 70 metres shall be provided in accordance with Drawing No 08 bearing the date stamp 17 June 2021 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

8. No occupation or 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 08 bearing the date stamp 17 June 2021 to provide 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.

9. No development hereby permitted should take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW) and full details have been provided to Mid Ulster District Council.

Reason: To ensure that a satisfactory means of sewage disposal is achieved and in the interest of safeguarding residential amenity and public health.

10. Glazing capable of providing a sound reduction as specified in the table below shall be provided to all habitable rooms as denoted in Figure A of the Acoustic Assessment (Reference 40-84; date stamped 15th November 2021) prior to the occupation of any unit.

Facade	Required Façade Sound Reduction of dB R_{Tra} (or $R_w + C_{tr}$) or greater	
	Daytime Room	Night-time Room
West	26	26
North	26	26
South	23	23
East	23	23

Reason: To protect residential amenity from transport noise.

11. Passive and mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 26 dB R_{Tra} when in the open position, shall be provided to all habitable rooms. Mechanical ventilators shall not have an inherent sound pressure level (measured at 1 metre) in excess of 30dB(A), whilst providing a flow rate of at least 15 litres per second. All provided mechanical ventilators shall meet the requirements contained within, "The Building Control Technical Booklet K – Ventilation 1998."

Reason: To protect residential amenity from transport noise.

Informatives

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under

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

4. The applicant's attention is drawn to NI Water Consultation Response dated 8th February 2021.
5. The applicant's attention is drawn to Rivers Agency Consultation Response dated 9th May 2021.
6. The developer, future purchasers and their successors in title should note that the access way and parking areas associated with this development are, and will remain, private. The DfI Roads has not considered, nor will it at any time in the future consider, these areas to constitute a "street" as defined in The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. Responsibility for the access way and parking areas rests solely with the developer.
7. 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 DfI Roads for which separate permissions and arrangements are required.
8. 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.
9. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site. This planning approval does not give authority to discharge any drainage into a DfI Roads drainage system.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 07/12/2021	Item Number:
Application ID: LA09/2021/0090/F	Target Date:
Proposal: Replacement access laneway to dwelling (Amended Access)	Location: 37 Mullybrannon Road Dungannon.
Referral Route: 1. Objection from 1 third party.	
Recommendation:	Approval
Applicant Name and Address: Farasha Properties LTD 34 Culrevog Road Dungannon BT71 7PY	Agent Name and Address: J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
Executive Summary: There has always been an access to this site and LA09/2019/0145/O granted approval for a replacement dwelling along the lane. The applicant now has a proposal to retain the existing lane for agricultural use and have a new lane to the dwelling at 37 Mullybrannon Road and a dwelling under consideration a LA09/2021/0091/F which is also a replacement dwelling.	
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

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 predominately agricultural fields, farm holdings and dwellings on single plots. To the north of the existing access lane to the site is a single storey and two storey dwellings with roadside frontages onto Mullibrannon Road. There are no other dwellings to the south of the access lane.

The Mullibrannon Road rises up from north to south where it flattens off just beyond the south side of the access. At the junction with Mullibrannon Road there is an existing

access lane and to the south of this lane land has been cleared for another lane which is the subject of this application.

At the site is an existing single storey building which is currently being used as a farm building. The building is finished in pebbledash walls and natural slate roof tiles. There are a number of tiles missing from the roof. There is also a dwelling under construction in the adjoining site. Along the southern boundary of the lane is a post and wire fence and the northern boundary of the adjacent lane has hedging.

Description of Proposal

This is a full application for a replacement access laneway to dwelling (Amended Access) at 37 Mullybrannon Road, Dungannon.

Planning Assessment of Policy and Other Material Considerations

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

Representations

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

As shown in figure 1 below at the time of my initial site visit on the 24th February 2021 there was a dwelling under construction and thus the dwelling has not been neighbour notified.



Figure 1 – Dwelling under construction on adjoining site at Feb 2021



Figure 2 – Adjacent dwelling on 2nd site visit on 24th June 2021 and is still unoccupied.

At the time of writing, one third party objection has been received from Mr Brian Curran at No. 35 Mullybrannon Road. His dwelling is 48m north of the access lane to the application site. In his email dated 25th June 2021 Mr Curran raised a number of concerns about the proposal.

1. Principle – that the land should remain for agricultural. In response anyone can apply for planning permission on land within the countryside and it will be assessed whether it meets any of the policies.

2. Overlooking – The proposed laneway would lead to private areas of our lane bring overlooking by one using the lane. In rebuttal the laneway is 48m away from No. 35 and the applicant has proposed planting along both sides of the laneway. I am content there will not be unacceptable overlooking to No. 35 from the laneway.

3. Overshadowing – The addition of lights on the laneway will result in overshadowing to No. 35's living room. In rebuttal, the applicant has not proposed lights on the laneway and I am content there is sufficient separation distance between the lane and No. 35 for their not to be unacceptable overshadowing.

4. Disturbance – When vehicles access the proposed laneway noise can be heard in No. 35's living room. In rebuttal, there was already a laneway to the dwelling at No. 35 and this proposed is for a new shared laneway to No. 35 and the dwelling under consideration at LA09/2021/0091/F. I consider there will not be unacceptable disturbance due to the proposal.

5. Out of Character – The design of the proposed laneway is out of character with the surrounding area as there will be three laneways. In rebuttal, the applicant had originally proposed 2 laneways to the dwellings and retaining the agricultural lane. After discussions with the agent this has now been reduced to retaining the existing lane for agricultural use and a new laneway to serve the dwelling under construction at No. 35 and the other replacement dwelling still under consideration.

6. Road Safety – The objector has concerns about another access onto a narrow single track road. DFI roads were consulted about the proposal when it was three lanes and responded with no concerns and it has since been reduced to two lanes which is a lesser scheme.

Planning History

Application site history

LA09/2019/0145/O - Replacement Dwelling - 160m South East of 35 Mullybrannon Road, Dungannon, BT71 7ER – Permission Granted 19.04.2019

LA09/2019/0818/RM - Replacement Dwelling - 160m South East of 35 Mullybrannon Road, Dungannon – Permission Granted 11.09.2019

Adjacent site

LA09/2021/0091/F - Proposed dwelling and garage (Amended Access and Additional Landscaping) - 150m South West of 35 Mullybrannon Road, Dungannon – Under Consideration

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

Dungannon and South Tyrone Area Plan 2010

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

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

PPS 3 Access, Movement and Parking

Policy AMP 2 – Access to public roads

LA09/2019/0145/O and LA09/2019/0818/RM granted approval for a replacement dwelling at No. 37 Mullybrannon Road. There is an existing lane to this site and as it was a replacement there was no statutory requirement to consult DFI Roads or upgrade the access. As shown in figure 3 below as part of this approval established trees along the lane were supposed to be retained and as shown on figure 4 these have been removed but for one tree.



Figure 3 – Screenshot of the approved block plan for LA09/2019/0818/RM



Figure 4 – Photograph from the site visit showing the clearing of land for the access proposed in this application

In initial drawings submitted by the applicant it was proposed to retain the existing lane for agricultural use and have two new lanes. Roads accepted the principle of two lanes but in discussions with my senior planner it was agreed this was unacceptable. I consider three lanes would lead to a proliferation of accesses

The proposal for two lanes will not prejudice road safety and I am content the scale of the development is acceptable. Along both sides of the additional lane to the dwellings, new landscape planting of trees and hedging has been proposed. I am content this will address concerns stated by the objector about privacy and disturbance created by an additional lane.

CTY 13 Integration and CTY14 Rural Character in PPS 21

There will only be critical views of the access when directly in front of the access along Mullybrannon Road. I am content as the applicant has proposed new landscaping along the lane this will assist in integrating it into the landscape.

Neighbour Notification Checked	Yes
Summary of Recommendation: The proposal is recommended for approval as it meets the criteria in AMP 2 and CTY 13 and CTY 14 in PPS 21.	
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 any development hereby approved, the vehicular access including visibility splays of 2.4m x 90.0m in both directions shall be provided in accordance with drawing 01 Rev 3 date stamped received 16 SEP 2021. 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. 3. The access shall be paired with the existing access located to the north of the proposed access. 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 gradient of the access shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses a footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway. Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road user. 5. The existing natural screenings of the site, as indicated on approved drawing No 01 Rev 2 date stamped received 15 NOV 2021 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal. Reason: To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality. 6. During the first available planting season after the occupation of the building for its permitted use, trees and hedging shall be planted along the boundaries of the access lane in accordance with approved drawing 01 Rev 2 date stamped received 15 NOV 2021.	

Reason: In the interest of visual amenity and to ensure the development integrates into 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.
4. 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.

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 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 TransportNI Section Engineer whose address is Main Street, Moygashel, Dungannon. A monetary deposit will be required to cover works on 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. which is deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

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

It is the responsibility of the developer to ensure that

- 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.

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	
Committee Meeting Date: 07/12/2021	Item Number:
Application ID: LA09/2021/0091/F	Target Date:
Proposal: Proposed dwelling and garage (Amended Access and Additional Landscaping)	Location: 150m South West of 35 Mullybrannon Road Dungannon.
Referral Route: 1. Objection from 1 third party.	
Recommendation:	Approval
Applicant Name and Address: Farasha Properties Ltd 34 Culrevog Road Dungannon BT71 7PY	Agent Name and Address: J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
Executive Summary: I am content there is a dwelling to be replaced under CTY 3. The applicant has originally submitted proposal for a large two-storey dwelling on the site but after consideration it was decided a low ridge single storey dwelling would be more acceptable and integrate better into the landscape. I have no concerns about the design of the dwelling and extensive landscaping has been proposed to mitigate against long distance critical views.	
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

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 predominately agricultural fields, farm holdings and dwellings on single plots. To the north of the existing access lane to the site is a single storey and two storey dwellings with roadside frontages onto Mullybrannon Road. There are no other dwellings to the south of the access lane.

The Mullybrannon Road rises up from north to south where it flattens off just beyond the south side of the access. At the junction with Mullybrannon Road there is an existing access

lane and to the south of this lane land has been cleared for another lane which is the subject of a separate application.

At the site is an existing single storey building which is currently being used as a farm building. The building is finished in pebbledash walls and natural slate roof tiles. There are a number of tiles missing from the roof.

Description of Proposal

This is a full application for a proposed dwelling and garage (Amended Access and Additional Landscaping) at 150m South West of 35 Mullybrannon Road, Dungannon.

Planning Assessment of Policy and Other Material Considerations

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

Representations

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, one third party objection has been received.

At the time of writing, one third party objection has been received from Mr Brian Curran at No. 35 Mullybrannon Road. His dwelling is 48m north of the access lane to the application site and 127m to the nearest gable wall of the proposed dwelling. In his email dated 25th June 2021 Mr Curran raised a number of concerns about the proposal.

1. Principle – that the land should remain for agricultural. In response anyone can apply for planning permission on land within the countryside and it will be assessed whether it meets any of the policies.
2. Overlooking – The proposed property would lead to previously private areas of our property being overlooked by at least 5 second floor windows. The applicant had previously submitted drawings for a two storey dwelling but this has since been revised to single storey dwelling with a ridge height of 5.2m. I am content as the proposed dwelling is now single storey and there is a separation distance of 127m to the nearest gable wall of the proposed dwelling there will be not unacceptable overlooking into the private amenity space of No. 35.
3. Overshadowing – The ridge height of hilltop location will result in unreasonable overshadowing. The use of exterior electric lights will prevent the enjoyment of No. 35's living space. In rebuttal, the ridge height has been reduced since the objection was received. I consider the sufficient separation distance, retention of existing trees along the east boundary and proposed landscaping will mitigate against any exterior lighting at the application site.
4. Disturbance - When vehicles access the proposed laneway and dwelling noise can be heard in No. 35's living room. In rebuttal, there was already a laneway to the dwelling at

No. 35 and this proposed is for a new shared laneway to No. 35. I consider there will not be unacceptable disturbance due to the proposal.

5. Overbearing – The scale of the proposed dwelling and hilltop location will have an oppressive impact on our property. In rebuttal, the applicant has since reduced the scale and massing of the proposed dwelling. I am content as there is a separation distance of 127m this is adequate for the proposed dwelling not to feel overbearing to No. 35.

6. Out of Character – The design of the proposed development is out of character with 2no. bungalows and 2no, regular two storey houses in the immediate area. In rebuttal, the applicant has since submitted a revised design and the proposed dwelling has been reduced to single storey. I am content the scale and massing of the dwelling is now in character with the surrounding area.

7. Road Safety - The objector has concerns about another access onto a narrow single track road. DFI roads were consulted about the proposal when it was three lanes and responded with no concerns and it has since been reduced to two lanes which is a lesser scheme.

Planning History

Adjacent site

LA09/2019/0145/O - Replacement Dwelling - 160m South East of 35 Mullybrannon Road, Dungannon, BT71 7ER – Permission Granted 19.04.2019

LA09/2019/0818/RM - Replacement Dwelling - 160m South East of 35 Mullybrannon Road, Dungannon – Permission Granted 11.09.2019

Application site history

LA09/2021/0090/F – Replacement access laneway to dwelling (Amended Access) - 37 Mullybrannon Road, Dungannon – Application under consideration

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

Dungannon and South Tyrone Area Plan 2010

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

SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not

been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9.

PPS 3 - Replacement Dwellings

The building to be replaced is single storey with pebbledash external walls and natural slate roof tiles. As shown in figure 1 below there are a number of tiles missing from the roof but I am content the walls are substantially in-tact. There are the remains of a blocked up window on the elevation and shown on figure 2. The building is divided into three rooms. Figures 5 and 6 show the building from the rear and side elevations and there are no windows readily visible. I am content in all probability the building was previously a dwelling and can be considered eligible for replacement.



Figure 1 – Photograph of the building to be replaced.



Figure 2 – Photograph of the remains of the fireplace inside the building



Figure 3 – Photograph of a small window in one of the rooms



Figure 4 – Photograph of a blocked up window on the front elevation and internal door.



Figure 5 – Photograph of a side elevation of the building



Figure 6 – Photograph of the rear elevation of the building

I completed a search for the site on PRONI historical maps and as shown in figure 7 below there has been a building on the site since 1832 – 1846. As the building has a single access lane that divides off to 2no. separate buildings I would be content in all probability this was a dwelling. The building to the south has already been replaced in a separate application and if the building in this application was a shed with that dwelling it more than likely would have been sited beside it and not have a separate entrance.

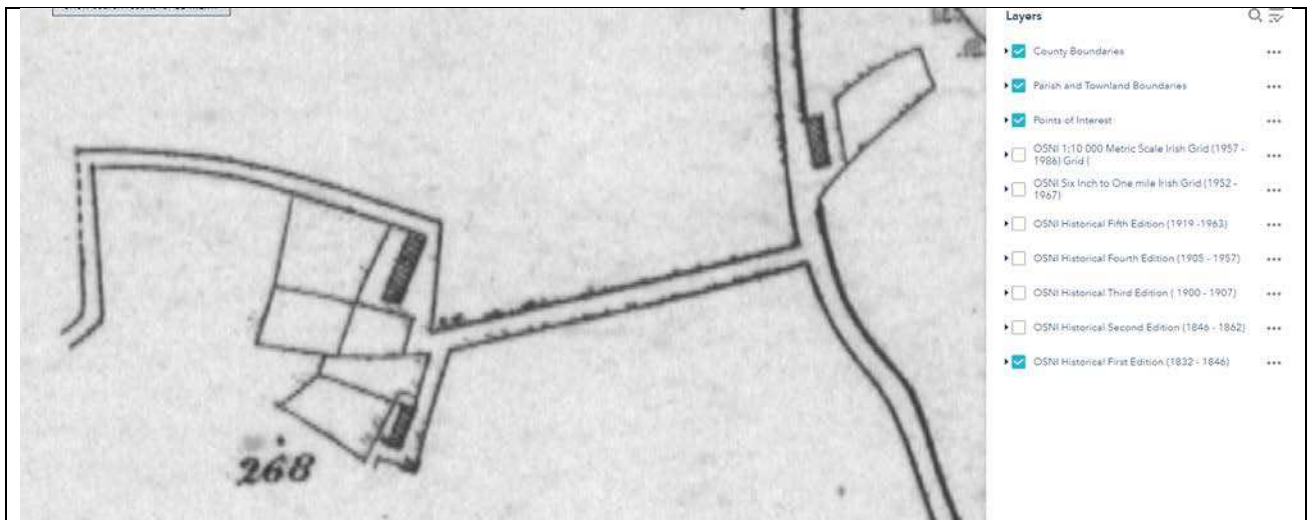


Figure 7 – Screenshot of the application site on PRONI historical maps

I would consider the building is a vernacular dwelling as it is single story with a long rectangular form and there are three rooms are connected internally. There is a single entrance from the front and the majority of the windows have a vertical emphasis and are on the front elevation. There is a chimney in a room which is accessed off the main door which would have been the kitchen area.

I consider the dwelling does not make an important contribution to the character of the local area as it is set back from Mullybrannon Road and there are minimal critical views from this road. There are only long distance views from the main Dual Carriageway between Dungannon and Ballygawley. The applicant has not proposed to retain the building as the new access will go through the location of the existing building.

I am content the proposed dwelling is sited within the established curtilage of the site which is part of a larger agricultural field. The proposed dwelling will be located approximately 16m from the dwelling to be replaced but as this building is located along the southern boundary of the field, I consider this is to restricted to accommodate a modern family sized dwelling.

In initial drawings submitted by the applicant, a large two storey dwelling was proposed with a ridge height of 8.8m to finished floor level. The site is on elevated land where the topography rises up from the Mullybrannon Road to the site. Initially, it was felt that the large dwelling could be mitigated against by an extensive landscaping scheme with trees and hedging. However, with further consideration especially on the critical views from the Dual carriageway it was agreed to ask the applicant to reduce the size to single storey and reduce the massing. I am content the low ridge height of 5.5m will allow the dwelling to integrate into the landscape.



Figure 8 – Snapshot of the design for the replacement dwelling

As shown in figure 8 above, I am content the design of the proposed dwelling is acceptable as the external finishes are grey slate roof tiles, smooth coloured render walls and natural stone. I consider this will fit with a similar dwelling which is under construction at No. 35. A modest single storey garage is proposed with the same external finishes as the dwelling so I have no concerns.

There is currently an access to the dwelling to be replaced and as this is a replacement dwelling there is no statutory requirement to upgrade the access. However the access arrangements are being dealt with under a separate application for a new access to serve both new dwellings under LA09/2021/0090/F.

Overall, I am content the proposal meets all the criteria in CTY 3 as there is a dwelling to be replaced and the proposal will not have a significantly greater impact than what is currently on site.

PPS 13 – Integration and Design of Buildings

The proposed dwelling is situated on a site which is elevated and the topography rises up from 72.5 at the roadside to 79m at the start of the access but levels off at the site and the land starts to fall away slightly. I am content a single storey will not be a prominent feature at this location and the applicant has proposed extensive landscaping along the lane and around the site. There are critical views of the site from the dual carriageway but the landscaping will mitigate against any critical views. Overall, I am content the proposed dwelling and garage will integrate into the countryside.

PPS 14 – Rural Character

As stated earlier I am content the proposal will not be a prominent feature in the landscape or lead to a suburban style build-up of development. The proposal is to replace an extant dwelling so will not have a greater impact. The single storey dwelling is in character with the surrounding area. Overall, I am content the proposal will not have an unacceptable impact on rural character.

PPS 3 Access, Movement and Parking Policy AMP 2 – Access to public roads

LA09/2019/0145/O and LA09/2019/0818/RM granted approval for a replacement dwelling at No. 37 Mullybrannon Road. There is an existing lane to this site and as it was a replacement there was no statutory requirement to consult DFI Roads or upgrade the access. The applicant has proposed a new access to serve the dwellings and Roads were consulted and had no concerns subject to splays of 2.4m x 90m.

Other Considerations

There are no other NED, HED or flooding issues at the site.

Neighbour Notification Checked Yes

Summary of Recommendation:

I am content the proposal is recommended for approval as it complies with all the criteria in CTY 3, CTY 13 and CTY 14 in PPS 21 – Sustainable Development in the Countryside.

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 any development hereby approved, the vehicular access including visibility splays of 2.4m x 90.0m in both directions shall be provided in accordance with drawing 01 Rev 3 date stamped received 16 SEP 2021. 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.

3. The access shall be paired with the existing access located to the north of the proposed access.

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

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

5. The existing natural screenings of the site, as indicated on approved drawing No 04 Rev 1 date stamped received 02 NOV 2021 shall be retained unless necessary to prevent danger to the public in which case a full expansion along with a scheme for

compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

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

6. During the first available planting season after the occupation of the building for its permitted use, trees and hedging shall be planted along the boundaries of the site in accordance with approved drawing 04 Rev 1 date stamped received 02 NOV 2021.

Reason: In the interest of visual amenity and to ensure the development integrates into 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.
4. 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.

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 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 TransportNI Section Engineer whose address is Main Street, Moygashel, Dungannon. A monetary deposit will be required to cover works on 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. which is deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

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

It is the responsibility of the developer to ensure that

- 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.

Signature(s)

Date:



**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0193/F	Target Date:
Proposal: Proposed single storey extension to shop to include relocation of entrance with internal alterations to layout and provision for additional parking within the curtilage of the site	Location: 125 Mullinahoe Road Ardboe
Referral Route: Approval – objection received.	
Recommendation:	Approval
Applicant Name and Address: Cathal Forbes 125 Mullinahoe Road Ardboe	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	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Content

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

There was one objection received in relation to the proposal. The issue raised within this related to land ownership issues. The objection will be discussed in detail later in the report.

Characteristics of the Site and Area

The site is located at 125 Mullinahoe Road, Ardboe. On site currently is an existing 'Spar' shop with associated petrol pumps and courtyard area. The surrounding area includes a mix of uses, including residential, commercial and recreational. Ardboe Gift centre is located to the north of the site and there is residential properties directly east and south of the red line of the site. The immediate area surrounding the site is quite built up given its location within Ardboe Settlement limits.

Description of Proposal

Full planning permission is sought for a proposed single storey extension to shop to include relocation of entrance with internal alterations to layout and provision for additional parking within the curtilage of the site.

Planning Assessment of Policy and Other Material Considerations

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 1, 1a, 2, 2a, 14 Lakeview, 1 Rossa Court and 127 Mullinahoe Road. At the time of writing, one third party representation has been received.

The representation received was an objection to the proposal on the basis that they believe the plans include land which is not owned by the applicant. The objection was not received by one particular name or address and rather the name noted on the representation was 'Lakeview Residents' which we can only assume refers to the properties south and east of the red line of the site, which includes Lakeview Cottages. The objection refers to a grass verge which has been publicly maintained for 40 years. They refer to the applicant recently placing bottle banks on this land. This is not shown on the plans submitted, however a number of bottle banks were evident at the time of the site visit. However, land ownership issues is not something which planning can consider a material consideration and is considered to be a civil matter which should be addressed outside of planning. The applicant/agent has filled in Certificate A on the P1 form which indicates they believe they are in ownership of all of the lands included within their red line and I am content that any planning permission granted will not confer title, it will be the responsibility of the developer to ensure that they control all the lands necessary to carry out any proposed development as per the informative attached, should approval be forthcoming.

Planning History

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

Planning Assessment of Policy and Other Material Considerations

- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Cookstown Area Plan 2010
- Planning Policy Statement 3 (PPS 3) - Access, Movement and Parking
- Planning Policy Statement 4 (PPS 4) - Planning and Economic Development
- Local Development Plan 2030 - Draft Plan Strategy

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

The Cookstown Area Plan 2010 identify the site as being within Ardboe Settlement Limits. There are no other specific designations or zonings within the Plan.

The SPPS provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Para 6.278 notes that Policies and proposals for shops in villages and small settlements must be consistent with the aim, objectives and policy approach for town centres and retailing, meet local need (i.e. day-to-day needs), and be of a scale, nature and design appropriate to the character of the settlement. Given the modest scale and nature of the changes proposed, I am content the proposal is in line with the SPPS.

The proposal includes a small single storey extension to the side of the shop and alterations to the front elevation of the shop. There are changes proposed to the parking and access arrangements within the site also. The proposed side extension appears subordinate to the existing building with a number of internal changes to the layout of the shop. There is adequate distance between the proposed extension and any neighbouring properties, with the closest properties from the extension being approx. 25m away. I have no concerns that there would be any loss of light, privacy or overlooking issues for neighbouring dwellings given the distance between the proposed extension and these dwellings. There are changes proposed to the front elevation to create an amended shop front. This includes aluminium and stone cladding and additional glazing to the shop front. I don't feel the changes proposed would have any negative impact on the site or the surrounding area.

Given the setting of the proposed development within Ardboe Settlement limits and noting the current use of the site won't be changing, I don't feel this proposal will have a detrimental impact on the surrounding area. The changes and materials proposed are modest and respectful to the existing character of the surrounding area and therefore are acceptable. I don't feel there will be any detrimental impact on the amenity of neighbouring properties either.

In terms of parking and access arrangements, DfI Roads have been consulted and following the submission of a TAF, DfI Roads raised no objection to the proposal subject to condition. They note there is a 70% increase in formal car parking spaces in relation to the 15% increase in floor space proposed. The parking standards have also been considered in relation to the proposal and we are content that the required parking for the use is provided within the curtilage of the site.

Neighbour Notification Checked	Yes
Summary of Recommendation: Approval is recommended.	
Conditions/Reasons for Refusal: 1. . The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission. Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011. 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 03a bearing date stamp 12 August 2021 to provide 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. Informatives 1. 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 DfI Roads for which separate permissions and arrangements are required. Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the DfI Roads consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Loughrey Campus, 49 Tullywiggan Road, Cookstown, BT80 8SG. A monetary deposit will be required to cover works on the public road. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site. This planning approval does not give authority to discharge any drainage into a DfI Roads drainage system. 2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.	

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

Signature(s)

Date:

ANNEX	
Date Valid	10th February 2021
Date First Advertised	23rd February 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Lake View Cottages,Dungannon,Tyrone,BT71 5AZ The Owner/Occupier, 1 Rossa Court,Ardboe,Dungannon,Tyrone,BT71 5AR The Owner/Occupier, 127 Mullanahoe Road,Dungannon,Tyrone,BT71 5AX The Owner/Occupier, 14 Lake View Cottages,Dungannon,Tyrone,BT71 5AZ The Owner/Occupier, 1a ,Lake View Cottages,Dungannon,Tyrone,BT71 5AZ The Owner/Occupier, 2 Lake View Cottages,Dungannon,Tyrone,BT71 5AZ The Owner/Occupier, 2a ,Lake View Cottages,Dungannon,Tyrone,BT71 5AZ Lakeview Residents Email	
Date of Last Neighbour Notification	21st September 2021
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2021/0193/F Proposal: Proposed single storey extension to shop to include relocation of entrance with internal alterations to layout and provision for additional parking within the curtilage of the site Address: 125 Mullanahoe Road, Ardboe, Decision: Decision Date: Ref ID: LA09/2018/0762/O Proposal: Proposed gap site for dwelling & garage. (updated Land Ownership and additional Drainage Information) Address: 45m West of 151 Mullanahoe Road, Ardboe., Decision:	

Decision Date:

Ref ID: LA09/2018/1452/O

Proposal: Storey and Half Dwelling

Address: Adjacent to 141 Mullinahoe Road, Ardboe, Dungannon,

Decision: PG

Decision Date: 14.02.2019

Ref ID: LA09/2018/0597/O

Proposal: Proposed 1 1/2 storey dwelling

Address: 30 metres North of 143 Mullinahoe Road Dungannon townland of Mullinahoe,

Decision: PG

Decision Date: 20.08.2018

Ref ID: LA09/2017/0883/F

Proposal: Proposed change of house type

Address: 139b Mullinahoe Road, Ardboe,

Decision: PG

Decision Date: 26.10.2017

Ref ID: LA09/2015/0844/LDE

Proposal: A car dismantling operation and breakers yard and car parts containing end of life vehicles

Address: 145 Mullinahoe Road, Dungannon,

Decision: PG

Decision Date:

Ref ID: I/2002/0052/O

Proposal: Proposed Site for Dwelling

Address: 30 M West of 137 Mullinahoe Road, Ardboe

Decision:

Decision Date: 12.11.2002

Ref ID: I/2006/0870/F

Proposal: Proposed extension's to public bar to include repositioned toilets - extended lounge with additional storage.

Address: 139 Mullinahoe Road, Ardboe

Decision:

Decision Date: 23.03.2007

Ref ID: I/2007/0916/F

Proposal: Proposed single storey dwelling

Address: 30 metres West of 137 Mullinahoe Road, Ardboe, Dungannon

Decision:
Decision Date: 18.02.2008

Ref ID: I/1995/0468
Proposal: New dwelling
Address: APPROX 50M WEST OF 149 MULLINAHOE ROAD ARDBOE
Decision:
Decision Date:

Ref ID: I/1992/0510
Proposal: Bungalow
Address: ADJACENT TO 143 MULLINAHOE ROAD, ARDBOE, COOKSTOWN.
Decision:
Decision Date:

Ref ID: I/1996/0446B
Proposal: Dwelling
Address: 60M SOUTH WEST OF 147 MULLINAHOE ROAD ARDBOE DUNGANNON
Decision:
Decision Date:

Ref ID: I/1992/0059
Proposal: Site of bungalow
Address: ADJACENT TO 143 MULLINAHOE ROAD ARDBOE COOKSTOWN
Decision:
Decision Date:

Ref ID: I/1994/0159
Proposal: Satellite Dish
Address: FORBES SOCIAL CLUB KILLYGONLAND COAGH
Decision:
Decision Date:

Ref ID: I/1994/0480
Proposal: Site for dwelling
Address: APPROX 50M WEST OF 149 MULLINAHOE ROAD ARDBOE
Decision:
Decision Date:

Ref ID: I/1993/0371
Proposal: Change of use from part of Club Premises to a Licenced
Bookmakers Office
Address: FORBES KITCHEN SOCIAL CLUB, KILLYGONLAN, COOKSTOWN.

Decision:
Decision Date:

Ref ID: I/2007/0314/RM
Proposal: Proposed new dwelling
Address: Approx 50m West of No. 149 Mullinahoe, Ardboe, Dungannon
Decision:
Decision Date: 21.08.2007

Ref ID: I/1992/0404
Proposal: Bungalow
Address: ADJACENT TO 143 MULLINAHOE ROAD ARDBOE
Decision:
Decision Date:

Ref ID: I/2004/0048/O
Proposal: Construct a dwelling
Address: 50 metres west of 149 Mullinahoe Road, Ardboe, Dungannon
Decision:
Decision Date: 18.05.2004

Ref ID: I/1996/0446
Proposal: Site for dwelling
Address: 60M SOUTH OF 147 MULLINAHOE ROAD ARDBOE
Decision:
Decision Date:

Ref ID: I/2001/0744/F
Proposal: Change of Use from Members Club to Licenced Premises.
Address: 137 Mullinahoe Road, Ardboe
Decision:
Decision Date: 10.01.2002

Ref ID: I/2005/0802/F
Proposal: Amended elevations & ATM machine added to previously approved shop.
Address: 125 Mullanahoe Road, Ardboe, Dungannon.
Decision:
Decision Date: 16.08.2005

Ref ID: I/2004/0562/F
Proposal: Proposed new VIVO store, incorporating grocers shop, post office, existing fuel pumps and other goods and services.
Address: 125 Mullanahoe Road, Ardboe

Decision:
Decision Date: 11.03.2005

Ref ID: I/2002/0289/F
Proposal: Erection of 10 No. Dwellings & Garages
Address: Lands to the rear of 125 Mullinahoe Road, Ardboe
Decision:
Decision Date: 07.10.2004

Ref ID: I/1979/0249
Proposal: STORE
Address: KILLYGONLAND, ARDBOE
Decision:
Decision Date:

Ref ID: I/2002/0005
Proposal: Renovations and extensions.
Address: 125 Mullanhoe Road, Ardboe, Cookstown.
Decision:
Decision Date: 26.06.2002

Ref ID: I/1980/0181
Proposal: PROPOSED INSTALLATION OF ONE ADDITIONAL UNDERGROUND
PETROL STORAGE TANK
Address: 125 MULLINAHOE ROAD, ARDBOE, DUNGANNON
Decision:
Decision Date:

Ref ID: I/2002/0141/Q
Proposal: Housing Development
Address: Lands at Ardboe
Decision:
Decision Date: 10.06.2002

Ref ID: I/2002/0273/A41
Proposal: NIHE renovations and extensions.
Address: 125 Mullanhoe Road, Ardboe
Decision:
Decision Date:

Ref ID: I/2011/0401/F

Proposal: Revision of previous planning approval I/2010/0532/F to include increase in storage link area and replacement of domestic garage to 125 Mullinahoe Rd, Ardboe, Dungannon, BT71 5AX

Address: 125A Mullinahoe Road, Ardboe, Dungannon, BT71 5AX,

Decision:

Decision Date: 03.02.2012

Ref ID: I/2010/0532/F

Proposal: Provision of new Storage link Building Connecting Existing Store to Existing Shop and Provision of External public Toilet in rear yard attached to Existing Shop

Address: 125a Mullinahoe Road, Ardboe, Dungannon, BT71 5AX,

Decision:

Decision Date: 18.04.2011

Ref ID: I/2006/0757/F

Proposal: Proposed extension + sunroom

Address: No2 Rossa's Court, Mullinahoe Rd, Ardboe

Decision:

Decision Date: 15.02.2007

Ref ID: I/2003/0267/F

Proposal: Extension and alterations to existing shop

Address: Forbes Vivo Store, 125 Mullinahoe Road, Ardboe, Dungannon

Decision:

Decision Date: 12.12.2003

Ref ID: I/1993/0170

Proposal: Canopy and changing position of pumps (Filling Station)

Address: ADJACENT TO 125 MULLANHOE ROAD ARDBOE COAGH

Decision:

Decision Date:

Ref ID: I/2004/1424/F

Proposal: Erection of 11 dwellings and site road and garages

Address: Lands adjacent to Rossa Court, Ardboe and to the rear of 125 Mullinhoe Road, Ardboe

Decision:

Decision Date: 14.10.2005

Summary of Consultee Responses

Drawing Numbers and Title
Drawing No. 04 Type: Proposed Elevations Status: Submitted
Drawing No. 03 Type: Proposed Plans Status: Submitted
Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted
Drawing No. 01 Type: Site Location Plan Status: Submitted
Drawing No. 05 Type: Existing Site Survey Status: Submitted
Notification to Department (if relevant) Date of Notification to Department: Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 07/12/2021	Item Number:
Application ID: LA09/2021/0341/F	Target Date:
Proposal: Proposed new site access (Revised Access)	Location: 36 Granville Road Dungannon.
Referral Route: 1. Contrary to Policy AMP 3 – Access to Protected Routes in PPS 3 – Access, Movement and Parking in that the development if permitted, would result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety. 2. Contrary to Policy CTY13 – Integration and Design of buildings in the Countryside in PPS 21 in that the development if permitted would remove trees along the roadside boundary and provide open views of the site, thus the dwelling would be a prominent feature in the landscape. 3. Contrary to Policy CTY14 – Rural Character in PPS 21 in that the development if permitted would be a prominent feature in the landscape and damage rural character.	
Recommendation:	Refusal
Applicant Name and Address: Farasha Properties Ltd 34 Culrevog Road Dungannon BT71 7PY	Agent Name and Address: J Aidan Kelly Ltd 50 Tullycullion Rpad Dungannon BT70 3LY
Executive Summary: The proposal will result in the creation of an additional access onto a protected route i.e. Granville Road and remove a row of established trees along the roadside boundary. The trees currently block critical views of the large two storey dwelling from the roadside and if these are removed for visibility splays the site will lack enclosure.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	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 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 a mix of agricultural fields, interspersed with farm holdings and single rural dwellings. There is minimal development pressure in this area from the construction of single dwellings, however the Granville Road is a heavily trafficked road between Dungannon and Granville and onto the M1 motorway.

The site lies just South of the settlement limits of Dungannon on the main Granville Road. It is located at number 36 Granville Road and Ballysaggart Lough to the East and Killymaddy Lough to the North West.

The red line of the site comprises large derelict two storey dwelling, a concrete yards and access off the Granville Road, a treed area to the North East and a portion of a larger open field to the South West. The site rises from the roadside NW to the rear SE, there is a further yard and large agricultural shed to the rear of the site outside the red line. The replacement dwelling itself is an old two storey farm dwelling that appears to have been vacant for some time. The window have been smashed with some boarded up, however, all walls, door and window openings are fully intact. It has a dark render finish with a slate roof and a two storey rear return. The whole site is overgrow with vegetation and a small wall and gate block any entrance to the rear of the site. There is a large two storey dwelling under construction which is currently accessed via the existing farm yard access.

Along the roadside boundary is a row of established trees and the site itself is a portion of a larger agricultural field.

Description of Proposal

This is a full application for a proposed new site access (Revised Access) at 36 Granville Road, Dungannon.

Planning Assessment of Policy and Other Material Considerations

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

Representations

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

Planning History

LA09/2020/0768/F - Proposed Replacement Dwelling - 36 Granville Road, Dungannon, Co Tyrone – Permission Granted 21.10.2020

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

Dungannon and South Tyrone Area Plan 2010

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

SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has

not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9.

PPS 3 – Access, Movement and Parking

Policy AMP 3 – Access to Protected Routes

Planning approval LA09/2020/0768/F granted permission for a replacement dwelling which at the time of my site visit was currently under construction. As shown in figure 1 below the new dwelling has approval from an access of the existing farm yard lane at No. 36 Granville Road.



Figure 1 – Block plan from original approval LA09/2020/0768/F

In initial drawings submitted by the agent the proposal was to keep this farm access and create a new access off the Granville Road, along the southern boundary of the site. In their consultation response dated 12 April 2021 DFI roads recommended the proposal for refusal as it would create a new vehicular access onto a protected route. Following this a revised scheme was submitted as shown in figure 2 below. This proposal involves closing up the existing farm access and creating two accesses along the southern boundary. Roads responded on the 26th October 2021 stating they held the same opinion as the previous response as the revised scheme will still involve the creation of a new access onto a protected route. In an email dated 26th October 2021 the agent reiterated they would prefer to have separate entrances to the farm and the dwelling. This proposal does not meet any criteria for the exception to a protected route so I would recommend refusal.

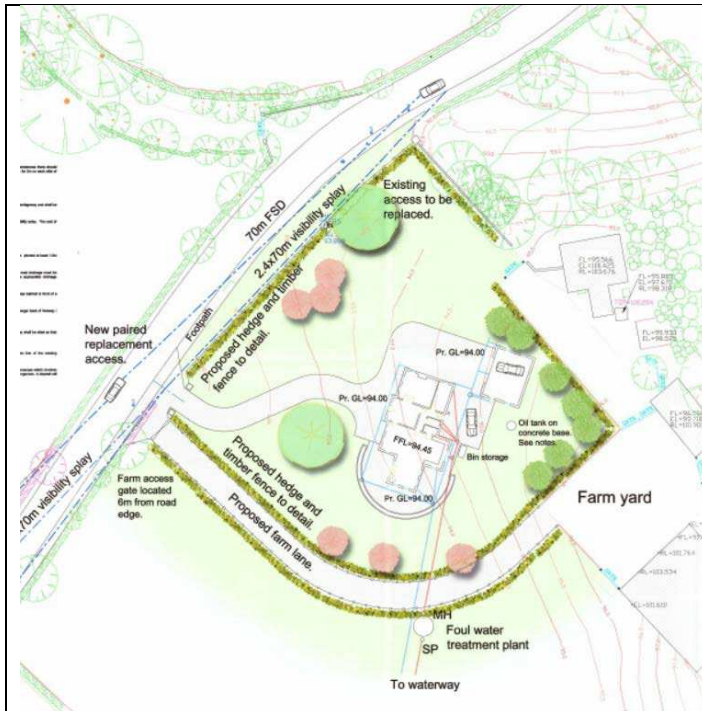


Figure 2 – Block Plan from this current application

Planning Policy Statement 21

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement.

CTY 13 – Integration and Design of Buildings in the Countryside

Planning approval LA09/2020/0768/F granted permission for a large two storey dwelling as shown in figure 3 below.

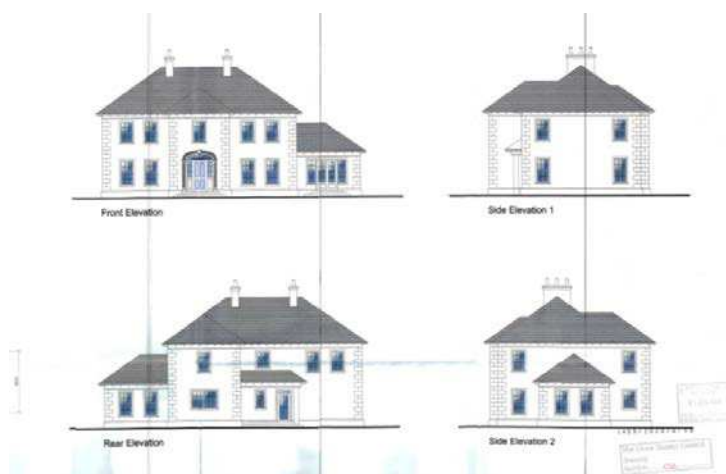


Figure 3 – Elevations of the approved dwelling under construction.

The topography of the site rises up from the road level and as shown in figures 4 and 5 below there is a row of established trees along the road boundary. The proposed new access to the south will involve the removal of these trees to achieve the visibility splays.

As shown in the images below the existing trees are providing enclosure to the dwelling and is not currently visible in critical views in both directions. The removal of the trees will open up the site and the dwelling will become prominent in the landscape. In addition, the site will lack natural boundaries which currently assist in integrating the dwelling in the landscape.



Figure 4 – Google Images of the roadside boundary of the site



Figure 5 – Photographs from the site visit showing the approved access off the existing farm lane and the row of trees along the boundary

I consider the new access is contrary to CTY 13 as it will remove the natural boundaries of the site which currently provide enclosure and the dwelling will be prominent.

CTY 14 – Rural Character

The removal of the trees along the roadside will make the dwelling under construction more prominent. The dwelling is at a higher level than the roadside and would become a prominent feature. I consider the removal of the trees and the proposed new accesses would be detrimental to the rural character of the area.

Neighbour Notification Checked	Yes
---------------------------------------	-----

Summary of Recommendation:

The proposal is recommended for refusal as it does not meet the policy AMP 3 – Access to Protected Routes and CTY 13 and CTY 14 in PPS 21.

Reasons for Refusal:

1. Contrary to Policy AMP 3 – Access to Protected Routes in PPS 3 – Access, Movement and Parking in that the development if permitted, would result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.
2. Contrary to Policy CTY13 – Integration and Design of buildings in the Countryside in PPS 21 in that the development if permitted would remove trees along the roadside boundary and provide open views of the site, thus the dwelling would be a prominent feature in the landscape.
3. Contrary to Policy CTY14 – Rural Character in PPS 21 in that the development if permitted would be a prominent feature in the landscape and damage rural character.

Signature(s)

Date:

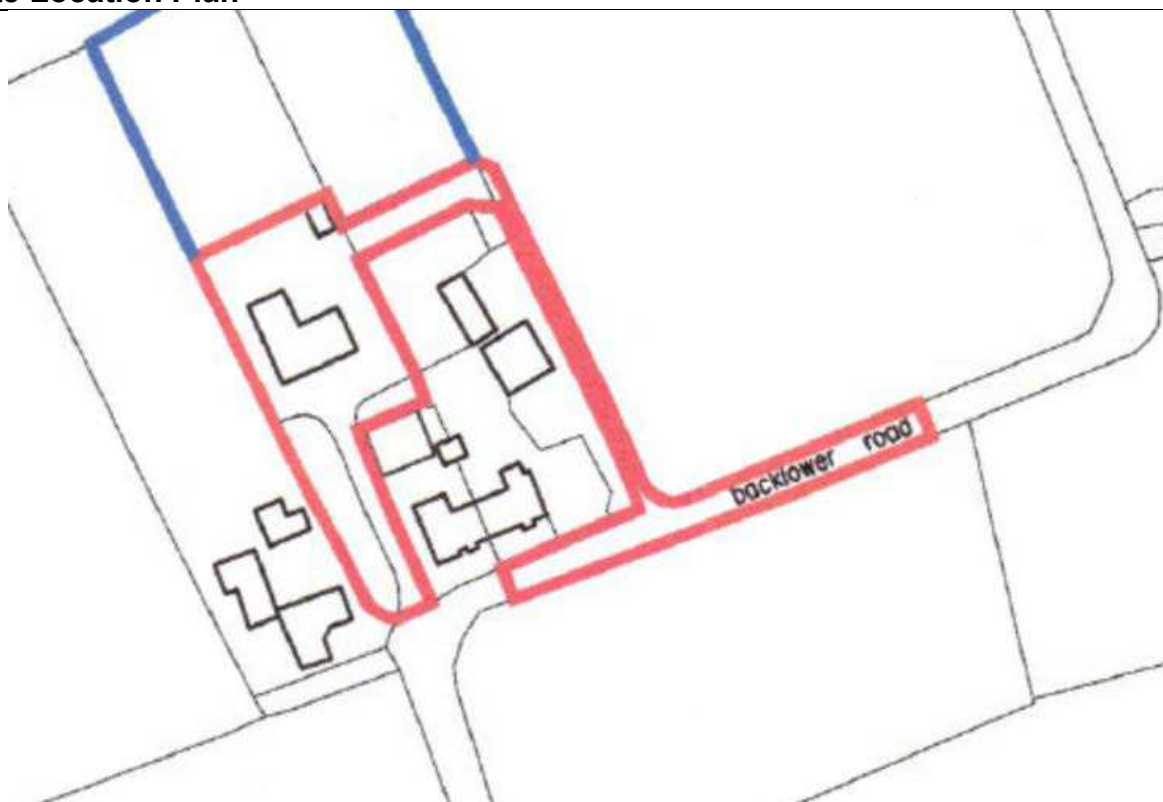


**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0348/F	Target Date:
Proposal: Retention of use of existing approved access to provide alternative access to No 81a Back Lower Road.	Location: 81a Back Lower Road Killycolpy Dungannon BT71 5ER.
Referral Route: Approval – objection received.	
Recommendation:	Approval
Applicant Name and Address: Patrick Teague 81a Back Lower Road Killycolpy Dungannon BT71 5ER	Agent Name and Address: Martin Quinn 190 Ballymaguire Road Stewartstown BT71 5NN
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

Letters of Support	1
Letters of Objection	2
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

There was one objection received in relation to the proposal – the contents of this objection will be discussed in detail later in the report, however the main issues raised within it include:

- Increased traffic flow
- Noise Issues
- Pollution
- Danger in relation to Roads concerns
- The use of proposed access for commercial purposes

Characteristics of the Site and Area

The site is located within the rural countryside at No. 81A Back Lower Road approximately 4.2 miles east of Stewartstown and is out with any settlement limits set down in the Cookstown Area Plan 2010. At present on site is a single storey dwelling with a small building to the rear, situated approximately 50m back from the public road to the rear of 3 no. single storey dwellings fronting onto the Back Lower Road. The red line of the site included the existing access points to the dwelling including the access proposed to be retained under this application.

Description of Proposal

Full planning permission is sought for the retention of use of existing approved access to provide alternative access to No 81a Back Lower Road.

Planning Assessment of Policy and Other Material Considerations

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 77, 79, 81 and 83 Back Lower Road. At the time of writing, two objections and one letter of support has been received in relation to the proposal. The two objections have been received from the owner of 81 Back Lower Road and are identical in terms of the wording but were received on different dates. The letter of support was received from the owner of the laneway in question at 77 Back Lower Road.

The main issues raised within the objection include:

- Increased traffic flow
- Noise Issues
- Pollution
- Danger in relation to Roads concerns
- The use of proposed access for commercial purposes

The main concerns relate to road safety issues and as DfI Roads are the competent authority in dealing with such issues, they have been consulted on the application and have been made aware of the concerns raised in the objections. DfI Roads have not raised objections to the proposal but noted they would ask for the original access to be permanently closed and shown on drawing. This was queried with roads who noted that "it is standard practise by DfI to ask for closure of a previous entrance for the creation of a new one for a single dwelling, however due to this being a retention and previously approved, this would only be an advisory statement and not conditional as long as the lane way meets forward sight distance and visibility splay requirements." The agent has noted on the plans that the existing access is to be gated and predominantly closed. We are content with the findings of Roads and would advise that the applicant takes consideration to their advice.

In terms of pollution and noise issues, there is no intensification proposed under this application and therefore I do not feel there would be any additional noise issues or pollution as a result of this application. We have no evidence to suggest that the

application is being used for commercial purposes and therefore the application is taken at face value.

Planning History

LA09/2020/1648/LDP - 81a Back Lower Road, Stewartstown - Proposed single storey rear extension to provide rear new access hallway - PERMITTED DEVELOPMENT

I/2014/0368/F - 77, Back Lower Road, Mountjoy, Co Tyrone, BT71 5ER - Retention of access – PERMISSION GRANTED

Planning Assessment of Policy and Other Material Considerations

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

The Cookstown Area Plan 2010 identify the site as being outside any defined settlement limits, located East of Stewartstown. There are no other specific designations or zonings.

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

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

The proposal is for the retention of access to provide alternative access to 81a Back Lower Road. The access runs to the east and north of No 77 Back Lower Road to provide access to 81a Back Lower Road. In terms of policy AMP 2 of PPS 3, the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic and the proposal does not conflict with policy AMP 3 relating to Protected Routes. DfI Roads were consulted on the proposed development and raised no objection. As noted before, they would advise that the existing access to the site is permanently closed, however noted that this would only be an advisory statement given that the proposal is for the retention of access approved under I/2014/0368/F. I am content that the existing access is to be gated and predominantly closed as noted on the plans.

There is existing hedging along the eastern boundary which softens any potential impacts of the access. This will be conditioned to be retained as shown on the plans. It is my opinion that the proposed access will not be prominent and will blend with the existing landforms. In terms of policy CTY 13 of PPS 21, on balance, I am content that the access as already in places integrates into the countryside location. In terms of CTY 14, the proposal will not cause a detrimental change to the rural character of the area, as

the access is already in place as approved and does not result in a suburban style build-up of development or create or add to a ribbon of development.	
Neighbour Notification Checked	Yes
Summary of Recommendation: On balance, I recommend approval for this development as it satisfies the policy tests of the SPPS, PPS 3 and PPS 21.	
Conditions/Reasons for Refusal: 1. This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011. Reason: This is a retrospective application. 2. The existing natural screenings of this site shall be retained unless necessary to prevent danger to the public in which case a full explanation shall be submitted to Mid Ulster District Council in writing, and agreed, prior to the commencement of any works. Reason: To ensure the development integrates into the countryside and to ensure the maintenance of screening to the site.	
Signature(s) Date:	

ANNEX	
Date Valid	4th March 2021
Date First Advertised	16th March 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 77 Back Lower Road Dungannon Tyrone Mary Isobel Teague 77 Back Lower Road, Dungannon, Tyrone, Northern Ireland, BT71 5ER The Owner/Occupier, 79 Back Lower Road Mountjoy Tyrone The Owner/Occupier, 81 Back Lower Road Mountjoy Tyrone Michael Campbell 81 Back Lower Road, Mountjoy, BT71 5ER Michael Campbell 81 Back Lower Road, Mountjoy, Co Tyrone, BT71 5ER The Owner/Occupier, 83 Back Lower Road Mountjoy Tyrone	
Date of Last Neighbour Notification	11th June 2021
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2020/1648/LDP Proposal: Proposed single storey rear extension to provide rear new access hallway Address: 81a Back Lower Road, Stewartstown, Decision: PG Decision Date: Ref ID: LA09/2021/0348/F Proposal: Proposed use of existing approved access to provide alternative access to No 81a Back Lower Road. Address: 81a Back Lower Road, Killycolpy, Dungannon BT71 5ER., Decision: Decision Date: Ref ID: I/1974/0138	

Proposal: IMPROVEMENTS TO DWELLING HOUSE
Address: LOWER BACK, STEWARTSTOWN
Decision:
Decision Date:

Ref ID: I/1997/0043
Proposal: Dwelling
Address: REAR OF 81 BACKLOWER ROAD STEWARTSTOWN
Decision:
Decision Date:

Ref ID: I/1999/4021
Proposal: Re-Roofing of Part of Existing House
Address: 81 BACKLOWER ROAD KILLYCOLPY DUNGANNON
Decision:
Decision Date:

Ref ID: I/1995/0377
Proposal: Alterations to dwelling
Address: 81 BACKLOWER ROAD STEWARTSTOWN
Decision:
Decision Date:

Ref ID: I/1977/0003
Proposal: IMPROVEMENTS TO DWELLING.
Address: LOWER BACK, STEWARTSTOWN
Decision:
Decision Date:

Ref ID: I/1999/0348
Proposal: Proposed replacement of flat roof with new pitched roof
on existing dwelling
Address: 81 BACKLOWER ROAD KILLYCOLPY DUNGANNON
Decision:
Decision Date:

Ref ID: I/1996/0045
Proposal: Site for dwelling
Address: REAR OF 81 BACKLOWER ROAD STEWARTSTOWN
Decision:
Decision Date:

Ref ID: I/2010/0477/F

Proposal: Proposed replacement garage
 Address: 81 Backlower Road, Stewartstown
 Decision:
 Decision Date: 10.12.2010

Ref ID: I/1994/0328
 Proposal: Extension to Dwelling
 Address: 79 BACK LOWER ROAD DUNGANNON
 Decision:
 Decision Date:

Ref ID: I/1976/0392
 Proposal: EXTENSION TO DWELLING
 Address: LOWER PARK, STEWARTSTOWN
 Decision:
 Decision Date:

Ref ID: I/2001/0826/F
 Proposal: Extension and Alterations to Dwelling
 Address: 79 Back Lower Road, Stewartstown
 Decision:
 Decision Date: 10.01.2002

Ref ID: I/1977/0181
 Proposal: BUNGALOW
 Address: LOWER BACK, STEWARTSTOWN
 Decision:
 Decision Date:

Ref ID: I/2014/0368/F
 Proposal: Retention of access
 Address: 77, Back Lower Road, Mountjoy, Co Tyrone, BT71 5ER,
 Decision: PG
 Decision Date: 23.03.2015

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 01a
Type: Site Location Plan
Status: Amended

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: LA09/2021/0376/F	Target Date:
Proposal: Proposed 6 retail units with associated car parking and ground works	Location: Lands approx. 45-55m N.E. of 40 Ballyronan Road Magherafelt
Referral Route: Recommended refusal	
Recommendation:	Refusal
Applicant Name and Address: Magherafelt Commerce Park 40 Ballyronan Road Magherafelt	Agent Name and Address: D M Kearney Design 2A Coleraine Road Maghera BT46 5BN
Executive Summary: Proposal considered against prevailing planning policy. It is considered in the absence of outstanding additional information, the proposal fails to comply with Magherafelt Area Plan 2015 and the SPPS. No letters of representation received.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing advice
Non Statutory	NI Water	Substantive Response

Representations:

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

Characteristics of the Site and Area

The site is located within the settlement limits of Magherafelt as defined in the Magherafelt Area Plan 2015. The proposal site is comprised of the yard of an existing petrol filling station and mixed use units which include a dentist, physio, engineering practice and alloy wheel shop and associated parking, as well as a portion of a larger field to the rear. The proposed retail units are to be located to the rear on undeveloped zoned housing land (MT05). The NW and SE boundaries of the site are defined by a semi mature hedgerow. The NE boundary is undefined on the ground and the SW is defined by metal fencing. The site sits at a similar level to the adjacent hard surfaced/forecourt area. The site will be accessed via the existing access coming off the Ballyronan Road.

This area is characterised by a mix of uses and densities. To the immediate NW of the site is Killowen Drive, a fairly high density Housing Development. To the SE of the site at the opposite side of the Ballyronan Road is Meadowbank Drive, a lower density housing development. As referred to above the site sits adjacent to a small mixed use complex. Further to the SE is Kilronan Special Needs Schools and MUDC. To the South is Meadowbank Sports complex.

Description of Proposal

This application seeks full planning permission for 6 retail units with 2 separate buildings each with 3 separate units and a total of 40 associated car parking spaces. The total floor space equates to 650.24m².

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
- Magherafelt Area Plan 2015
- PPS 3 - Access, Movement and Parking
- Parking Standards

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

Representations

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

History on Site

LA09/2019/1536/O - Proposed Outline application for 3NR retail units and car parking - Class A1/A2 - Lands 40m NE of 40 Ballyronan Road Magherafelt -Permission Granted 23/10/20

LA09/2018/0246/O – Outline Planning Permission for residential development, with open space, access, landscaping, new roundabout and associated site works - Lands to the rear of 40 Ballyronan Road, adjoining Kilronan School and to the rear of No's 35-57 & 65-75 Killowen Drive, Magherafelt BT45 6EW - Permission Granted 05/12/18

LA09/2018/0002/F - Proposed single storey extension to rear of existing shop and replacement/ relocation of existing forecourt with the provision of new canopy. fuel pumps and tanks ,additional car parking and other minor groundworks - Site at 40 Ballyronan Road, Magherafelt - Permission Granted 21/09/18

H/2006/1044/F 2 No. retail units,1 Hot Food Bar and office/storage area - 40 Ballyronan Road, Magherafelt – Permission Granted 09/08/07

H/2004/0280/O - Site of retail and business park. To the rear of No.40 Ballyronan Road, Magherafelt - Appeal Dismissed

Key Policy Considerations/Assessment

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. The SPPS has superseded PPS 5 in respect of Retailing. It promotes a 'Town Centre' approach to retail development. It states that all policies and proposals must ensure there will be no unacceptable adverse impact on the vitality and viability of an existing centre within the catchment. In doing so a sequential test should be applied to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date LDP. Where it is established that an alternative sequentially preferable site or sites exist within a proposal's whole catchment, an application which proposes development on a less sequentially preferred site should be refused. The SPPS also requires applications for main town centre uses to be considered in the following order of preference (and consider all of the proposal's catchment):

- primary retail core;
- town centres;
- edge of centre; and
- out of centre locations, only where sites are accessible by a choice of good public transport modes

In the absence of a current and up-to-date LDP, applicants need to prepare an assessment of need which is proportionate to support their application. This may incorporate a quantitative and qualitative assessment of need taking account of the sustainably and objectively assessed needs of the local town and take account of committed development proposals and allocated sites. In order to show compliance with the requirements of the SPPS, the agent was asked to submitted a supporting statement which sets out you justification and provide a statement of need in accordance with SPPS Paragraph 6.280-6.282. This was requested on 27/04/21 with follow up requests on 24/06/21, 13/08/21 and 01/11/21, however to date this information has not been provided. It is noted that there is an extant outline planning approval (LA09/2019/1536/O) for 3no. Retail units on the application site and under this application a Retail Statement and Supporting Statement were provided. The supporting information submitted under LA09/2019/1536/O included a Sequential Test which concluded no viable sites were available in the town centre and an Assessment of Need which contends that there is a need for more locally accessible shops and services

which provide essential goods and that the provision of these units could provide much needed employment opportunities in this area. It was considered under the outline approval that the information provided for 3no. Retail Units with total floor space of 302m² would be acceptable and in compliance with the SPPS. However, this full planning application is significantly greater with a total floor space proposed of approx. 650m² which is over double what was previously considered acceptable. The application site is outside Magherafelt town centre, SPPS explicitly states a sequential test should be applied that the applicant should be required to prepare an assessment of need for proposals outside the current centre. It is considered in the absence of this information the proposal is contrary to the SPPS.

Magherafelt Area Plan 2015 (MAP) - The application site is located within the settlement limits of Magherafelt and on Zoned Housing Land as designated in the MAP (MT05)

Policy SETT 2 of the MAP states that planning permission will only be granted for alternative types of development in a land use policy area where the proposal complies with 4 different criteria:

- Be subordinate to the preferred use and occupy a small portion of the land use policy area
- Exist in close proximity to the preferred use without adverse environmental consequences
- Not prejudice accessibility to the remainder of the land use policy area
- Not prejudice potential in the settlement to meet overall development needs.

The plan goes on to state that favourable consideration will be given to the development of zoned sites provided they are:

- Sensitive to the size and character of the settlement
- Are in accordance with any key site requirements

It is noted that the application site extends further within the zoned housing land than the previous outline approval with an increased site area of 0.495ha. Whilst it is recognised that the application site still occupies only a small portion of a larger zoned site, given that no supporting information has been provided for the increase to 6no. Units outside the town centre, it is considered the proposal currently conflicts with the extant area plan land zoning. The applicant has failed to provide any supporting information for the alternative development on this zoning and therefore it has not been demonstrated that the size of the proposal would be appropriate in this location outside the town centre and would not prejudice the potential to meet overall development needs.

It is considered the design, form and materials would not detrimentally impact the character of the settlement. Environmental Health were consulted and have advised that they would have no objections subject to the use class being restricted to A1/A2 which is considered appropriate. It is not considered the proposal would give rise to detrimental impact to residential amenity.

PPS 3 - Access, Movement and Parking - The application site seeks to use the existing access on to Ballyronan Road which is also used by the existing commercial units. DFI Roads have been consulted and have no objections to the access arrangements, however have advised that taking into account a loss of 13 existing spaces as a result of

the development, there will be a shortfall of 3 parking spaces. Given there are a number of varying uses of premises on the site which would attract large numbers of vehicles coming and going, it is considered necessary to address this parking shortfall. The applicant has failed to address this issue and should Members consider the principle of development acceptable, it will be necessary to consider PPS3 and Parking Standards.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Having considered all relevant prevailing planning policy, 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 Paragraph 6.279 – 6.282 in that the proposal is not within the existing town centre and insufficient quantitative and qualitative information has been provided to make an assessment for the need for this application and the potential impact on vitality and viability of the existing centre.
2. The proposal is contrary to Magherafelt Area Plan 2015 in that the site is zoned for housing and insufficient information has been provided to demonstrate that the proposed development would not prejudice the delivery of housing to meet overall development needs.
3. The proposal is contrary to Policy AMP 7 of PPS3, Access, Movement and Parking in that it has not been demonstrated that adequate provision for car parking has been provided to serve the proposal.

Signature(s)

Date:



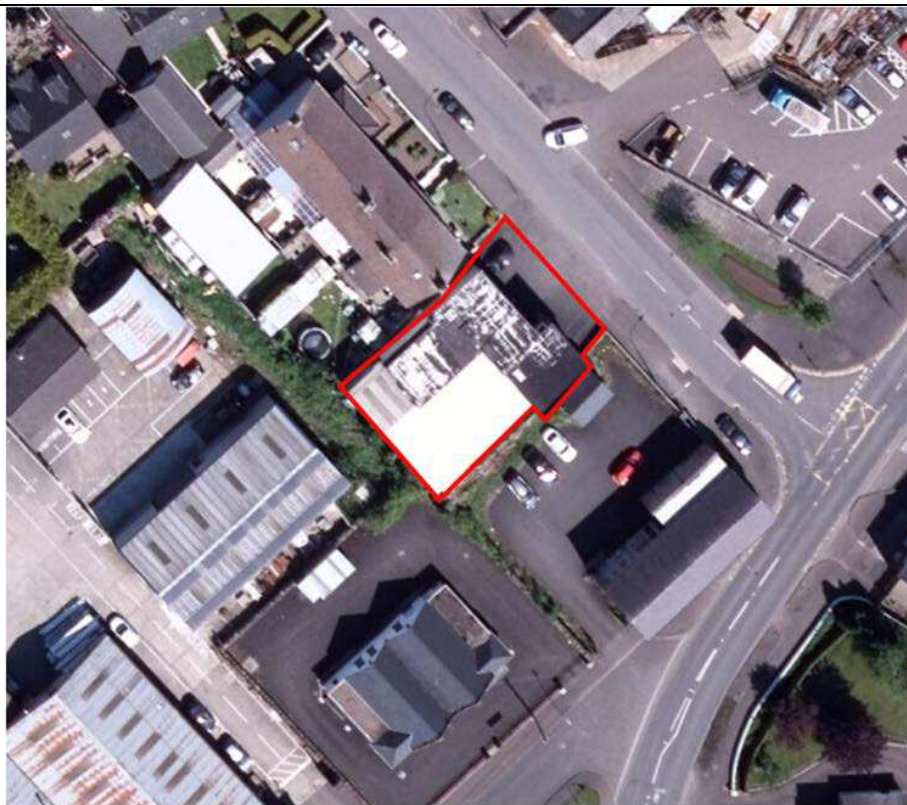
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0492/F	Target Date:
Proposal: Proposed alterations and extension to existing mixed use building to provide 1 No. retail unit and 4 No. apartments	Location: 1a Fair Hill Maghera.
Referral Route: This application is being presented to Committee as it has attracted one letter of objection.	
Recommendation:	Approve
Applicant Name and Address: Declan McKenna 143 Tirkane Road Maghera BT46 5NH	Agent Name and Address: Diamond Architecture 77 Main Street Maghera BT46 5AB
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	Environmental Health Mid Ulster Council	No Objection
Non Statutory	NI Water - Multi Units West - Planning Consultations	Consulted in Error
Non Statutory	NI Water - Strategic Applications	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	

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 including representations

One objection have been received in respect of this application and relates to the following issue:-
 Loss of light into rear amenity space;
 This issue is dealt with in the report below.
 Date of neighbour notification letter;

<p>The date of neighbour notification is linked to when the application is received and validated and not to when the construction commenced on site.</p> <p>Hole left in the garden by the builder after replacing a wall;</p> <p>Damage cause to third party property is a civil matter between the applicant and the owner of the property affected and is not a planning matter.</p> <p>2 steel beams attached to the party wall and will these affect the stability of the wall.</p> <p>The proposed plans do not indicate any steel beams attached to objectors property. The stability of the wall is within the remit of Building Control and is not a planning matter.</p> <p>It should be noted that although two letters of objection have been logged as having been received, the second letter was from the original objector and was only to confirm that they wished their comments to be treated as an objection.</p>
<p>Characteristics of the Site and Area</p> <p>The premises originally consisted of a two storey, flat roofed building which contained a residential apartment, a mechanics garage/workshop, two shops, one of which was linked to the garage and the second selling musical instruments. There is a small off street parking area at the front which also provides access into the former garage/workshop. The site is bounded by an end-of-terrace two storey dwelling, owned by the objector, a rear car park serving a two storey office building, a church building, with a commercial workshop/store to the rear. There is a public car park directly opposite the site and this shares its access with a small steel fabrication business. The wider surrounding area is one of mixed use which also consists of residential properties, a fire station and a large former builders yard which is still in commercial use. The site is located just outside the town centre and within easy walking distance of all local services and less than 200m from the Main Street.</p>
<p>Description of Proposal</p> <p>The proposal was originally submitted as 'Proposed alterations and extension to existing mixed use building to provide 2 No. commercial units and 4 No. apartments.' However, due to issues raised by Environmental Health regarding the potential of noise nuisance from the commercial unit, the proposal was amended to 'Proposed alterations and extension to existing mixed use building to provide 1 no. retail unit and 4 No. apartments.'</p> <p>The former music shop unit is being retained as a shop with one apartment at the front being on ground and first floor level, a second apartment at the rear similarly being located over ground and first floor level with the two other apartments being solely on the first floor. The two storey apartment at the rear is a new build and extends the length of the building by around 2m with an increase in height of approximately 0.6m.</p>
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>Relevant planning history</p>

Reference	Location	Proposal/Complaint	Status	Date
LA09/2021/0492/F	1a Fair Hill, Maghera.,	Proposed alterations and extension to existing mixed use	VALID APPLICATION RECEIVED	
H/1998/0445	1 HALL STREET MAGHERA	OFFICE ACCOMMODATION	PERMISSION GRANTED	
H/1998/0637	57 HALL STREET MAGHERA	OFFICES WITH ASSOCIATED PARKING	PERMISSION GRANTED	
H/1992/6040	59-61 HALL STREET MAGHERA	DISPOSAL OF LAND 59-61 HALL STREET MAGHERA		
H/1996/0057	59-61 HALL STREET MAGHERA	EXTENSION TO OFFICES	PERMISSION GRANTED	
H/1990/0447	57 HALL STREET MAGHERA	REAR EXTENSION AND CONVERSION TO 2 No Dwellings	PERMISSION GRANTED	
H/1991/0345	57 A&B HALL STREET MAGHERA	CHANGE OF USE TO ONE OFFICE UNIT	PERMISSION GRANTED	
H/1982/0183	FAIR HILL ROAD, MAGHERA	EXTENSION TO GARAGE/WORKSHOP	PERMISSION GRANTED	
H/2003/0338/F	"Younger Homes Ltd", 3 Craigadick Road	Exhibition conservatory.	PERMISSION GRANTED	19.07.2003
H/1989/0575	3 CRAIGADICK ROAD MAGHERA	DISPLAY CONSERVATORY FOR SALES UNIT	PERMISSION REFUSED	
H/1981/0128	CRAIGADICK ROAD, MAGHERA	RE-ROOFING AND REPAIRS TO EXISTING VACANT	PERMISSION GRANTED	
H/1998/0624	1 CRAIGADICK ROAD MAGHERA	EXTENSION TO CHURCH	PERMISSION GRANTED	
H/1985/0499	ELIM PENTECOSTAL CHURCH, HAL	TOILETS AND STORE EXTENSION TO CHURCH	PERMISSION GRANTED	

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:-

SPPS - Strategic Planning Policy Statement for Northern Ireland

Magherafelt Area Plan 2015

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

PPS 7 - Quality Residential Environments

PPS 7 (Addendum) - Safeguarding the Character of Established Residential Areas

Creating Places

DCAN 8 Housing in Existing Urban Areas

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

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

Magherafelt Area Plan 2015 - the site lies within the settlement limits of Maghera and immediately adjacent to, but outside the Maghera Town Centre.

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

PPS 3 - Access, Movement and Parking

The proposal is for the proposed alterations and extension to existing mixed use building to provide 1 no. retail unit and 4 No. apartments. DfI Roads advised that they have no objections subject to a condition subject to no retailing or other operations commencing from within the site until such times as the car parking is formally laid out as detailed on the site plan.

PPS 7 - Quality Residential Environments

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

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

- (a) The proposal meets the first of these criteria in that it respects the surrounding context insofar as the proposal is for a housing development within a predominantly residential area.
- (b) There are no features of archaeological or built heritage on this site. There are no TPO's near the site.
- (c) This proposal is for 4 apartments and one retail unit, close to the town centre. Although there is no requirement for the provision of public open space and are of external amenity space has been provided with the large rear yard, in addition to a communal bin storage area.
- (d) As the site is close to and within walking distance of the centre of Maghera, the provision of neighbourhood facilities are not deemed necessary within the site;
- (e) The site has direct vehicular access onto the Fairhill and close to Hall Street, which will provide an acceptable movement pattern, including walking and cycling, which will enable occupants to access public transport routes and the public network system;
- (f) Adequate provision can be made for parking of vehicles with five parking spaces provided at the front of the site in addition to the free public car park directly opposite the site.
- (g) The design of the proposal is such that it extends the length of the existing building by 2.0m and raises the height by 0.6m. Although a neighbour adjacent to the north western boundary has objected and has asked the question 'Will this building block the light coming into my back garden?' The proposed extension extends the length and raises the height of the building by the dimensions stated above, which by the objectors own admission was constructed of fencing boards and tin. Such a structure would have been solid and unable to let sunlight pass through. Therefore to replace it with a structure of solid blockwork and increasing the overall size by the dimensions stated above, would not in my opinion, block so much light as to have a detrimental affect on the rear of their property. This is particularly so given that the propose extension is located to the south east of the objectors property and would only have the potential to affect day light from early to mid-morning, after which time the sun would be shining from the south west and thereby the proposed extension would not be casting any shadow on the objectors property.
- (h) The proposal will not create a conflict with adjacent land uses as these are predominantly existing dwellings. Environmental Health raised concerns regarding the potential for noise nuisance emanating from the commercial premises, however, this element has been removed from the proposal.

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

PPS 7 - (Addendum) Safeguarding the Character of Established Residential Areas

I am satisfied that, in principal, this proposal complies with Policy LC1, protecting Local Character, Environmental Quality and Residential Amenity, in that the proposal will not result in a significantly higher residential density in this location where there is evidence of similar properties close by with flats above shops and terraced houses. In terms of keeping with the established character of the area, the proposal is largely residential in nature which is in keeping with both the existing use and the mix of uses in the immediate area. The four apartments are acceptable in size and provide a range of sizes of between 38m² to 90m² are in keeping with the guidance set out in Annex A of this policy.

Recommendations

Approve subject to the conditions listed below:-

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 retail unit indicated on drawing no. 03/1 date stamped 21st July 2021 shall be used only as a shop and for no other purpose in Use Class A of the Schedule to the Planning (Use Classes) Order (NI) 1989.

Reason: To prohibit a change to an unacceptable use within this Use Class.

3. No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 02/1 bearing date stamp 21st July 2021 to provide facilities for parking 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.

Signature(s)

Date:

ANNEX	
Date Valid	25th March 2021
Date First Advertised	6th April 2021
Date Last Advertised	
<p>Details of Neighbour Notification (all addresses)</p> <p>The Owner/Occupier, 1 Craigadick Road, Maghera, Londonderry, BT46 5DB</p> <p>The Owner/Occupier, 1 Fair Hill Maghera Londonderry Elaine McShane 1 Fair Hill, Maghera, BT46 5AX Elaine McShane 1, Fair Hill, Maghera, Londonderry, Northern Ireland, BT46 5AX</p> <p>The Owner/Occupier, 3a ,Craigadick Road, Maghera, Londonderry, BT46 5DB</p> <p>The Owner/Occupier, 5 Fair Hill, Maghera, Londonderry, BT46 5AX</p> <p>The Owner/Occupier, 57 Hall Street, Maghera, Londonderry, BT46 5DA</p>	
Date of Last Neighbour Notification	21st April 2021
Date of EIA Determination	
ES Requested	No
<p>Planning History</p> <p>Ref ID: LA09/2021/0492/F Proposal: Proposed alterations and extension to existing mixed use building to provide 2No commercial units and 4No apartments. Address: 1a Fair Hill, Maghera., Decision: Decision Date:</p> <p>Ref ID: H/1998/0445 Proposal: OFFICE ACCOMODATION Address: 1 HALL STREET MAGHERA Decision: Decision Date:</p> <p>Ref ID: H/1998/0637 Proposal: OFFICES WITH ASSOCIATED PARKING Address: 57 HALL STREET MAGHERA</p>	

Decision:
Decision Date:

Ref ID: H/1992/6040
Proposal: DISPOSAL OF LAND 59-61 HALL STREET MAGHERA
Address: 59-61 HALL STREET MAGHERA
Decision:
Decision Date:

Ref ID: H/1996/0057
Proposal: EXTENSION TO OFFICES
Address: 59-61 HALL STREET MAGHERA
Decision:
Decision Date:

Ref ID: H/1990/0447
Proposal: REAR EXTENSION AND CONVERSION TO 2 No DWELLINGS
Address: 57 HALL STREET MAGHERA
Decision:
Decision Date:

Ref ID: H/1991/0345
Proposal: CHANGE OF USE TO ONE OFFICE UNIT
Address: 57 A&B HALL STREET MAGHERA
Decision:
Decision Date:

Ref ID: H/1982/0183
Proposal: EXTENSION TO GARAGE/WORKSHOP
Address: FAIR HILL ROAD, MAGHERA
Decision:
Decision Date:

Ref ID: H/2003/0338/F
Proposal: Exhibition conservatory.
Address: "Younger Homes Ltd", 3 Craigadick Road, Maghera
Decision:
Decision Date: 19.07.2003

Ref ID: H/1989/0575
Proposal: DISPLAY CONSERVATORY FOR SALES UNIT
Address: 3 CRAIGADICK ROAD MAGHERA
Decision:
Decision Date:

Ref ID: H/1981/0128
Proposal: RE-ROOFING AND REPAIRS TO EXISTING VACANT WORKSHOP AND
CONVERSION TO
Address: CRAIGADICK ROAD, MAGHERA
Decision:
Decision Date:

Ref ID: H/1998/0624
 Proposal: EXTENSION TO CHURCH
 Address: 1 CRAIGADICK ROAD MAGHERA
 Decision:
 Decision Date:

Ref ID: H/1985/0499
 Proposal: TOILETS AND STORE EXTENSION TO CHURCH
 Address: ELIM PENTECOSTAL CHURCH, HALL STREET, MAGHERA
 Decision:
 Decision Date:

Summary of Consultee Responses

All consultees responded positively.

Drawing Numbers and Title

Drawing No. 01
 Type: Proposed Plans
 Status: Submitted

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

Drawing No. 03
 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: LA09/2021/0506/F	Target Date:
Proposal: Single storey dwelling on a farm with conversion and reuse of existing byre and upgrade of existing access	Location: 45m S.E. of 83 Derryloughan Road Coalisland
Referral Route: Contrary to policy	
Recommendation:	Refusal
Applicant Name and Address: Christopher Mc Cann 83 Derryloughan Road Coalisland Dungannon	Agent Name and Address: Ward Design 10 Main Street Castledawson BT45 8AB
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

None

Characteristics of the Site and Area

The site lies in the open countryside just a short distance to the north east of the settlement limits of Tannamore and to the south west of Lough Neagh and outside all other areas of constraint as depicted by the DSTAP 2010.

The site is directly east of number 83 Derryloughan Road, Coalisland. The red line of the site includes a dwelling at number 83, a tarred laneway off the Derryloughan road, a concrete yard to the rear and a small byre type building to the east boundary. The red line also includes the field

to the east which is bounded on all sides by a native species hedgerow, with some trees along the roadside boundary. The existing dwelling is a small bungalow set back approx. 40 metres from the roadside.



Description of Proposal

The proposal seeks full planning permission for a single storey dwelling on a farm with conversion and reuse of existing byre.



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.

Dungannon and South Tyrone Area Plan 2010
 Strategic Planning Policy Statement (SPPS)
 Mid Ulster Local Development Plan 2030 - Draft Plan Strategy
 PPS 21: Sustainable Development in the Countryside
 CTY 1- Development in the Countryside
 CTY 10 ? Farm Dwellings
 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.

Planning History

There is not considered to be any relevant planning associated with the site. The applicant originally applied for the conversion of existing byre to a dwelling, however, when the policy context was requested the applicant has amended the proposal to include a farming need.

Given the rural location of application site the nature of the proposal the application shall be assessed under Planning Policy Statement 21- Sustainable Development in the Countryside and in particular with the following;

Policy CTY1 provides clarification on which types of development are acceptable in the countryside, such as a dwelling on a farm, a dwelling to meet the needs of a non agri-business, a

dwelling based on personal and domestic circumstances, a replacement dwelling or if the site could be considered a small gap site within a substantial and built up frontage. In this instance the application is for a farm dwelling and therefore must be considered against Policy CTY10 of PPS21.

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

With respect to (a) it is considered that this policy criteria has not been met, the applicant has not provided an Agricultural Business Identification number and is not in receipt of Single Farm Payments, and DAERA have confirmed that the applicant has no Business ID and does not claim single farm payments. To support the application there is three receipts dating back 1 year, this does not prove the farm business has been active and established for 6 years.

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

With respect to (c) it is noted that the application site is located directly adjacent to the main holding and will be visually linked as it only separated by a low cropped hedge.

It is considered that the proposal is not in compliance with the criteria of Policy CTY 10.



Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is considered that a dwelling could blend successfully with its immediate and wider surroundings if it were of a size and scale that is comparable to the dwellings in the vicinity, however the proposal seeks to create a new driveway along the existing entrance and would involve the removal of mature trees at the entrance which currently provide significant screening

to the site. The site does benefit from this roadside vegetation cover, and their clearance to allow new splays would cause the dwelling to struggle to fit in unobtrusively.

In terms of policy CTY14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It is considered that the site and its surrounding environs are suitable for absorbing a dwelling of a suitable size and scale however the new access may raise concerns.

Mid Ulster Development Plan 2030 - Draft Plan Strategy

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

Recommendation Refusal

Neighbour Notification Checked **Yes**

Refusal Reasons

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

Signature(s)

Date:

ANNEX	
Date Valid	29th March 2021
Date First Advertised	13th April 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 80 Derryloughan Road Coalisland Tyrone The Owner/Occupier, 80a Derryloughan Road Coalisland The Owner/Occupier, 81 Derryloughan Road Coalisland Tyrone The Owner/Occupier, 82 Derryloughan Road Coalisland Tyrone The Owner/Occupier, 82a Derryloughan Road Coalisland The Owner/Occupier, 83 Derryloughan Road Coalisland Tyrone The Owner/Occupier, 90 Derryloughan Road Coalisland Tyrone	
Date of Last Neighbour Notification	22nd April 2021
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2021/0844/F Proposal: Detached garage. Address: 83 Derryloughan Road, Coalisland, Dungannon BT71 4QS., Decision: Decision Date: Ref ID: LA09/2021/0506/F Proposal: Single storey dwelling with conversion and reuse of existing byre and upgrade of existing access Address: 45m S.E. of 83 Derryloughan Road, Coalisland, Decision: Decision Date: Ref ID: M/1990/0465	

Proposal: Extension to dwelling
 Address: 83 DERRYLOUGHAN ROAD COALISLAND
 Decision:
 Decision Date:

Ref ID: M/1990/0094
 Proposal: Extension to Dwelling
 Address: 83 DERRYLAUGHAN ROAD COALISLAND
 Decision:
 Decision Date:

Ref ID: M/1997/0087
 Proposal: Extension to dwelling
 Address: 83 DERRYLOUGHAN ROAD COALISLAND
 Decision:
 Decision Date:

Drawing Numbers and Title

Drawing No. 02
 Type: Proposed Floor 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:



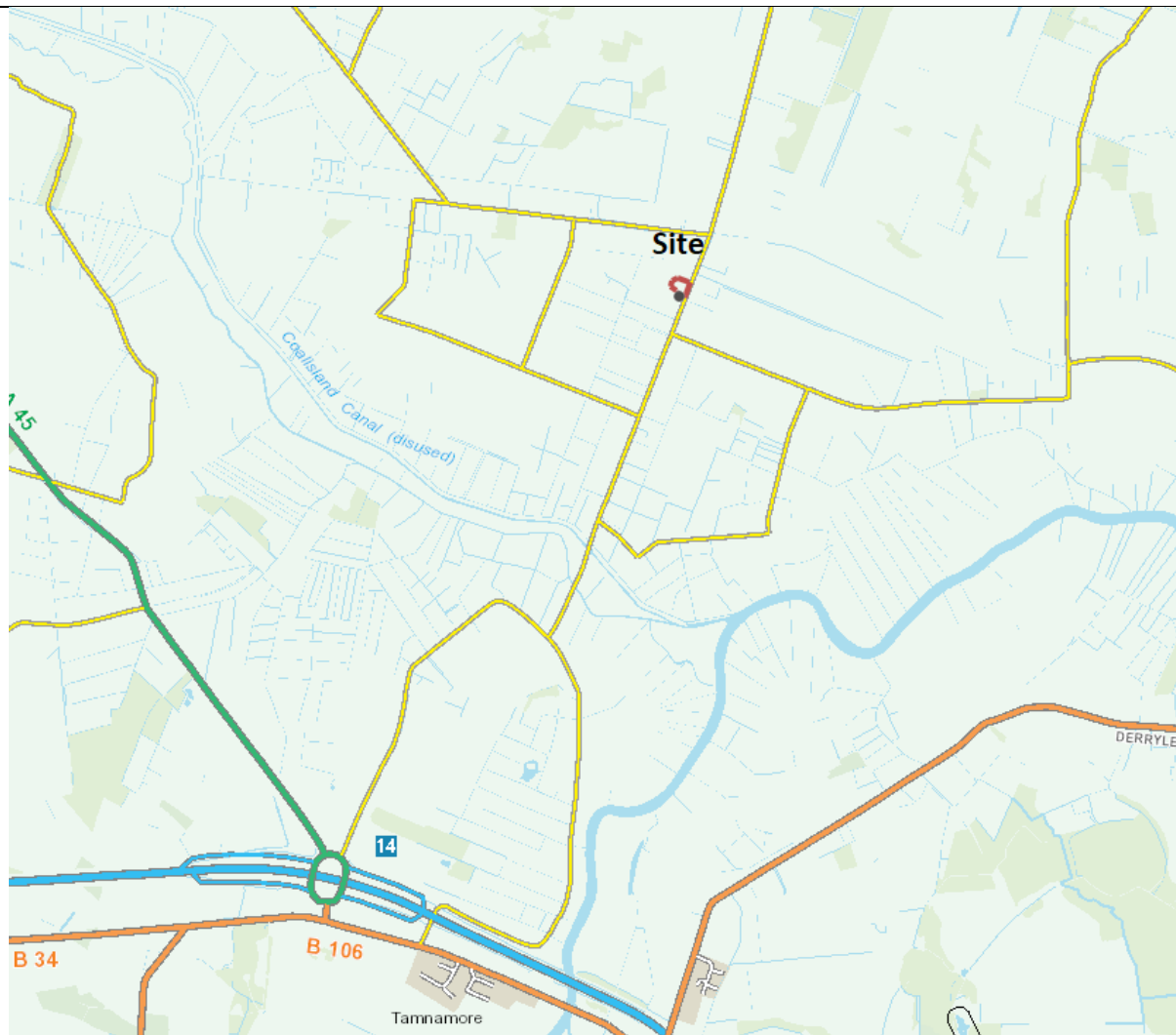
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0507/O	Target Date:
Proposal: Site for dwelling and garage (Dwelling on a Farm)	Location: Approx 50m North East of 73 Reenaderry Road Derrytresk Coalisland
Referral Route: Contrary to policy	
Recommendation:	REFUSAL
Applicant Name and Address: Mr Thomas Hagan 215a Clonmore Road Dungannon	Agent Name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

None

Characteristics of the Site and Area

The site lies within the open countryside just a short distance to the North of the settlement of Tamnamore and the M1 Motorway and outside all other areas of constraint as depicted by the DSTAP 2010.

The red line of the site includes a concrete yard, an outbuilding with aluminum clad walls and roof and is situated just to the north east of number 73 Reenaderry Road. Derrytresk. The site has its own existing access, with the frontage enclosed by a 1.5 metre high closed board timber fence. The remaining part of the roadside boundary is defined by a thick row of mature hedging. The rear north facing boundary is also defined by mature hedging and the south facing boundary between the site and number 73 is defined by a timber fence. At the time of site visit the site had a number of vehicles parked up and it was clearly not being used for domestic purposes.



The dwelling to the south has been included in the blue line owned by the applicant which also includes a further large shed. The dwelling is a small bungalow finished in a white dash.

Description of Proposal

The proposal seeks outline planning permission for a dwelling on a farm.

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.

Dungannon and South Tyrone Area Plan 2010

Strategic Planning Policy Statement (SPPS)

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 10 - Farm Dwellings

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.

Planning History

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

Given the rural location of application site the nature of the proposal the application shall be assessed under Planning Policy Statement 21- Sustainable Development in the Countryside and in particular with the following;

Policy CTY1 provides clarification on which types of development are acceptable in the countryside, such as a dwelling on a farm, a dwelling to meet the needs of a non agri-business, a dwelling based on personal and domestic circumstances, a replacement dwelling or if the site could be considered a small gap site within a substantial and built up frontage. In this instance the application is for a farm dwelling and therefore must be considered against Policy CTY10 of PPS21.

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

With respect to (a) it is considered that this policy criteria has not been met, the applicant has not provided an Agricultural Business Identification number and is not in receipt of Single Farm Payments, and DAERA have confirmed that the applicant has no Business ID and does not claim single farm payments. To support the application the applicant has submitted numerous invoices dating 2014 - 2019, of all the documents submitted none make reference to the applicants name and address, it is my opinion that this info as submitted is not sufficient and does not prove the farm business has been active and established for 6 years.

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

With respect to (c) it is noted that the application site is located directly adjacent to the applicants existing dwelling and out building and will be visually linked as it only separated by a low fence.

It is considered that the proposal is not in general compliance with the criteria of Policy CTY 10.



Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is considered that a dwelling could blend in successfully with its immediate and wider surroundings if it were of a size and scale that is comparable to the dwellings in the vicinity. The site does benefit from roadside vegetation cover, and would allow a dwelling to struggle to fit in unobtrusively.

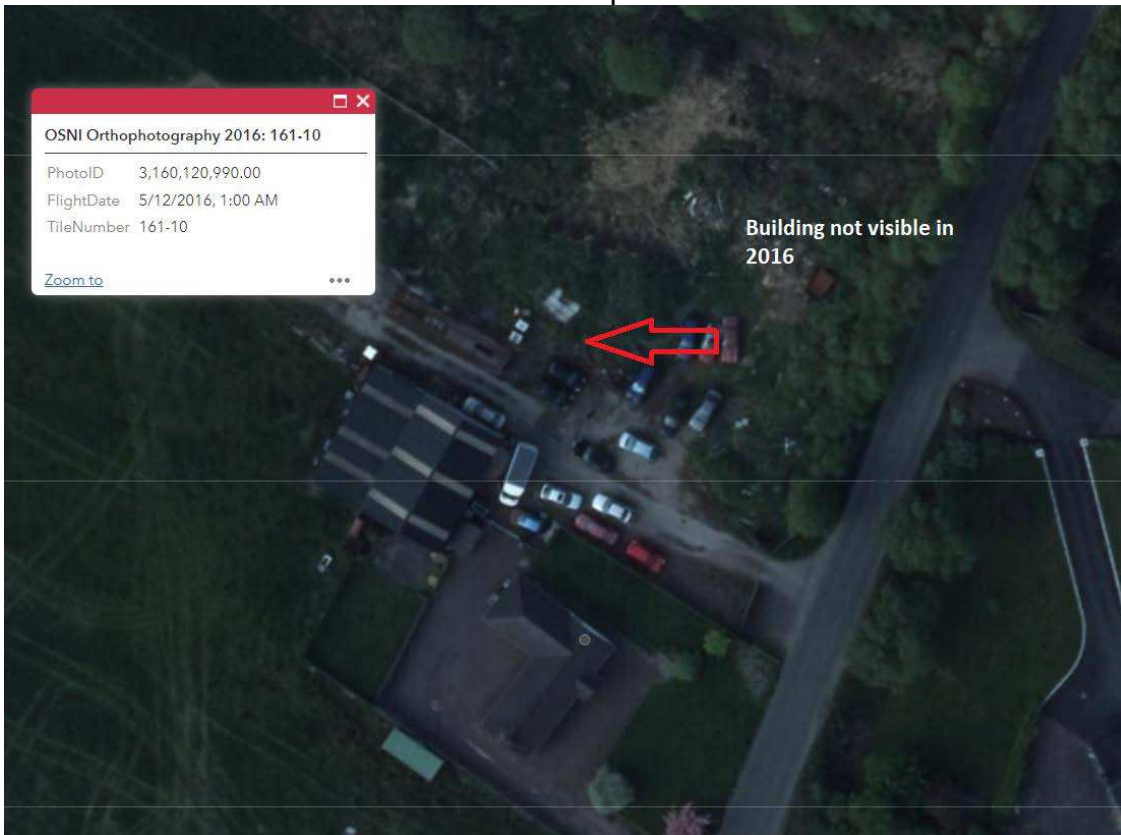
In terms of policy CTY14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It is considered that the site and its surrounding environs are suitable for absorbing a dwelling of a suitable size and scale.

Mid Ulster Development Plan 2030 - Draft Plan Strategy

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

Recommendation Refusal

It must also be noted that the existing shed on the site does not benefit from any planning permission and does not benefit from immunity as from the ortho below we can see it was not built in 2016. This has been passed to enforcement team for examining.



Neighbour Notification Checked

Yes

Refusal Reasons

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

Signature(s)

Date:

ANNEX	
Date Valid	30th March 2021
Date First Advertised	13th April 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 73 Reenaderry Road Coalisland Tyrone The Owner/Occupier, 74 Reenaderry Road Coalisland Tyrone The Owner/Occupier, 74 Reenaderry Road, Coalisland, Tyrone, BT71 4QN The Owner/Occupier, 76 Reenaderry Road Coalisland Tyrone	
Date of Last Neighbour Notification	22nd April 2021
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2021/0507/O Proposal: Site for dwelling and garage (Dwelling on a Farm) Address: Approx 50m North East of 73 Reenaderry Road, Derrytresk, Coalisland, Decision: Decision Date: Ref ID: M/1978/0824 Proposal: EXTENSION TO DWELLING Address: 73 REENADERRY ROAD, COALISLAND Decision: Decision Date: Ref ID: M/1986/0176 Proposal: 11 KV RURAL SPUR Address: DERRYTREEK, DUNGANNON Decision: Decision Date: Ref ID: M/2014/0122/O Proposal: Replacement dwelling Address: 73, Reenaderry Road, Kingisland, Coalisland,	

Decision: PG Decision Date: 15.05.2014
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:



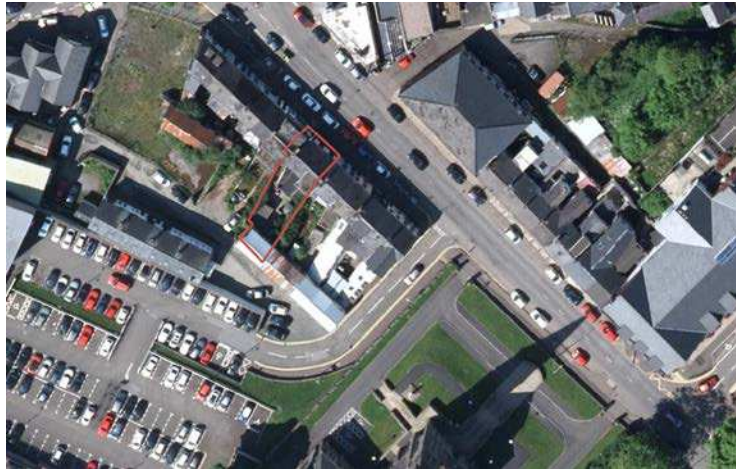
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0523/F	Target Date:
Proposal: Retention of structures in connection with use of yard as a beer garden.	Location: The Flax Inn 27 King Street Magherafelt
Referral Route: Committee - Approval	
Recommendation:	APPROVE
Applicant Name and Address: James O'Kane The Flax Inn 27 King Street Magherafelt	Agent Name and Address: Newline Architects 48 Main Street Castledawson BT45 8AB
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Environmental Health Mid Ulster Council	Standing Advice
Statutory	Historic Environment Division (HED)	Content
Statutory	Environmental Health Mid Ulster Council	

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

All necessary statutory consultations and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, one third party objection was received

Characteristics of the Site and Area

The site is located at 27 King street, Magherafelt and is located within the development limits as defined in the Magherafelt Area Plan, 2015. The site is located in a row of terrace buildings and there is a mix of land use in the area including residential, commercial and retail. The building is currently used as a public bar and is long established in the area.



Photos of Rear of Site





Description of Proposal

This is a full application for a retrospective change of use from yard to beer garden.

Planning Assessment of Policy and Other Material Considerations

The following policies will be considered in this assessment:

- 1)SPPS - Strategic Planning Policy Statement for Northern Ireland
- 2)Magherafelt Area Plan 2015
- 3) PPS 6 - Planning, Archaeology and the Built Heritage
- 4) PPS 3 - Access, Movement and Parking
- 5) DCAN 4 - Restaurants, Cafes and Fast Food Outlets
- 6) Planning Strategy for Rural Northern Ireland

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

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

PPS 6 - Planning, Archaeology and the Built Heritage

A consultation was sent to HED (Historic Buildings) and they responded to say that HED (Historic Buildings) has no comment to make as the location and scale of the development are sufficiently distant from HB08/15/012 - Our Lady of the Assumption R.C. Church, King Street, Magherafelt (Grade B) as to have no visual impact.

HED (Historic Monuments) has assessed the application and, due to the nature of the proposed development, is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements

In terms of DCAN 4, the proposal for a change of use from an existing yard at the rear of the Public bar to a beer garden. There is an existing smoking shelter within the existing yard. I am content that the size, scale, massing and design are acceptable within this area.

Environmental Health were consulted on this application and had no objection subject to condition. They acknowledge the objection received and said that No 25 King Street (a residential property) has an outdoor amenity space and rooms which are elevated above the walls surrounding the proposed beer garden. This may expose residents to excessive noise should planning permission be granted. The environmental Health department are not in receipt of any noise complaints in relation to premises at 27 King Street and have requested that should approval be granted that a condition be attached.

In regard to Policy DES 2 - I am content that the proposed development neither conflicts with or detracts from the character, amenity and design of the area.

Representations

One objection and a video of the noise levels has been received in relation to this application, which highlights concerns in relation to noise and sanitation and other issues. As Stated above Environmental Health have been consulted on the application and have stated that they have not received any complaints and were content subject to conditions.

There is an access lane along the rear of the site which runs parallel to the site and properties located to the South West of the application site.

Access

The P1 form confirms the use of an existing unaltered access to a public road and that there is no intensification of use. Access and car parking arrangements have been considered and are deemed to be sufficient for the property.

Conclusion

In consideration of all of the above, the proposal is deemed to be acceptable and approval is recommended.	
Neighbour Notification Checked	Yes
Summary of Recommendation: Approve, subject to conditions	
Conditions/Reasons for Refusal: Conditions 1.This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011. Reason: This is a retrospective application. 2. There shall be no form of entertainment (including live music, amplified or TV) played externally anywhere within the red line as shown on drawing No 02, date stamped 31st March 2021. Reason: To protect adjacent residential property 3. This permission only relates to the retention of the structures on site on 31/03/2021. A photographic record has been retained for record purposes. 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.	
Signature(s) Date:	

ANNEX	
Date Valid	31st March 2021
Date First Advertised	13th April 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 2 Flax Lane, Magherafelt, Londonderry, BT45 6QP The Owner/Occupier, 23 King Street Magherafelt Londonderry The Owner/Occupier, 25 King Street Magherafelt Londonderry The Owner/Occupier, 29 King Street Magherafelt Londonderry The Owner/Occupier, 4 Flax Lane, Magherafelt, Londonderry, BT45 6QP The Owner/Occupier, 4 King Street, Magherafelt, Londonderry, BT45 6AR The Owner/Occupier, 6 Flax Lane, Magherafelt, Londonderry, BT45 6QP The Owner/Occupier, 8 Flax Lane, Magherafelt, Londonderry, BT45 6QP Bridie Gribbin Email The Owner/Occupier,	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2021/0523/F Proposal: Retrospective change of use application from yard to beer garden Address: The Flax Inn , 27 King Street, Magherafelt, Decision: Decision Date: Ref ID: H/1988/0402 Proposal: ALTERATIONS AND ADDITIONS TO PUBLIC HOUSE Address: 27 KING STREET MAGHERAFELT	

Decision:
Decision Date:

Ref ID: H/1990/0297
Proposal: ALTS AND ADD TO LICENCED PREMISES
Address: 27 KING STREET MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1981/0397
Proposal: CHANGE OF USE FROM GROCERY SHOP TO CAFE TO TEA ROOMS
Address: 25 KING STREET, MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1977/0268
Proposal: SITE OF REBUILDING OF SHOP WITH CONVERSION OF OFFICE TO FLAT
Address: 23 AND 25 KING STREET, MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1981/0184
Proposal: CHANGE OF USE OF GROCER/HARDWARE SHOP TO CHINESE CARRY OUT
Address: 25 KING STREET, MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1996/0692
Proposal: 2 FLATS
Address: REAR OF 9-25 KING STREET MAGHERAFELT AND ADJACENT TO PROPOSED CAR PARK
Decision:
Decision Date:

Ref ID: LA09/2019/1672/F
Proposal: Proposed change of use from foot clinic to cafe
Address: 25 King Street, Magherafelt,
Decision: PG
Decision Date: 13.02.2020

Summary of Consultee Responses
Drawing Numbers and Title
<p>Drawing No. Type: Status: Submitted</p> <p>Drawing No. Type: Status: Submitted</p> <p>Drawing No. Type: Status: Submitted</p> <p>Drawing No. 02 Type: Site Layout or Block Plan Status: Approved</p> <p>Drawing No. 01 Type: Site Location Plan Status: Approved</p>
Notification to Department (if relevant) Date of Notification to Department: Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0599/O	Target Date:
Proposal: Provision of 2 infill detached dwellings with associated detached garages, shared access onto Rogully Road and landscaping	Location: Adjacent and to the N.W. of 6 Rogully Road Loup Moneymore
Referral Route: To Committee - Refusal - Contrary to CTY 1, 8 and 14 of PPS 21.	
Recommendation:	REFUSE
Applicant Name and Address: Ashling Mc Nicholl 1 Rogully Road Loup Moneymore	Agent Name and Address: Manor Architects Stable Buildings 30A High Street Moneymore BT45 7PD
Executive Summary: Refusal	
Signature(s): Peter Henry	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

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

Characteristics of the Site and Area

The site is located approximately 0.45km south east of the development limits of The Loup, as such the site is located within the open countryside as per the Cookstown Area Plan 2010. The site is identified as adjacent and to the N.W. of 6 Rogully Road, Loup, Moneymore in which the red line covers a roadside agricultural field that is bounded by mature vegetation on all boundaries. The predominant land use is of an agricultural nature, with single dwellings and associated outbuildings also visible in local area.

Representations

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

Description of Proposal

This is an outline application for the provision of 2 infill detached dwellings with associated detached garages, shared access onto Rogully Road and landscaping, the site is located adjacent and to the N.W. of 6 Rogully Road, Loup, Moneymore.

Planning Assessment of Policy and Other Material Considerations

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

Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 - Draft 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 Cookstown Area Plan 2010. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

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

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

With regards to the continuous and built up frontage, I note that immediately east of the site sits two detached dwellings Nos. 06 and 08 Rogully Road both sharing a common

frontage onto the public road. I note that the character of the area is sporadic dwellings on the road side with farm groups established up the laneway. To the west immediately sits a detached shed with further detached dwellings further west, however this detached shed has no planning permission which has been raised to enforcement. Despite this, I would still contend that the shed does not share a common frontage as it is set back with an intervening agricultural field between the shed and road but as such it cannot be counted as part of the continuous and built up frontage. Therefore I contend that the gap is between No. 6 and 4a Rogully Road, with this in mind I am content that this would be able to constitute as a continuous and built up frontage. In terms of the gap, whilst I note that this application has applied for two dwellings in line with what the policy allows, I hold the opinion that the gap between Nos. 04a and 06 Rogully Road would be able to accommodate more than two modest sized dwellings. I hold the view that this would be contrary to CTY 8 as this is seen as an important gap any permission would lead to a build up of dwellings and create a ribbon of development along the Rogully Road.

I note that the agent provided additional information to trying to demonstrate how the site complies under CTY 8 referring to similar applications approved within the district. Upon review of the additional information I hold the view that none of the applications share similarities with this application and nothing submitted was sufficient in changing my view that this application fails under CTY 8.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I hold the opinion that an appropriately designed dwelling with a ridge height no more than 7.5m with adequate landscaping, existing and proposed, would not conflict with this policy in relation to integration.

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 note that the character of the area is currently characterised by individual dwellings set by the roadside or buildings set up back of the road on laneways with important gaps providing visual breaks. In this instance a dwelling would lead to the loss of an important visual break and change the rural character as a result of a build up of dwellings, in addition to creating and leading to ribboning.

Other policy and material considerations

PPS 3 - Access, Movement and Parking;

A consultation was sent to DFI Roads, in their response requested amended plans showing the 2.4 x 70 metre sightlines and the red outline extended to demonstrate deliverability of sightlines. As such these were subsequently submitted, in which DFI Roads confirmed that they were content subject to conditions, showing compliance under PPS 3.

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

<p>Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.</p> <p>I have no flooding or residential amenity concerns.</p>	
<p>Neighbour Notification Checked</p>	<p>Yes</p>
<p>Summary of Recommendation:</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 Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the gap is able to accommodate more than two dwellings permitted under this policy and would create a ribbon of development along the Rogully Road.</p> <p>3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that if permitted would create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.</p>	
<p>Signature(s)</p> <p>Date:</p>	

ANNEX	
Date Valid	14th April 2021
Date First Advertised	27th April 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 4a Rogully Road Moneymore The Owner/Occupier, 4b Rogully Road, Moneymore, Londonderry, BT45 7TR The Owner/Occupier, 6 Rogully Road Moneymore Londonderry	
Date of Last Neighbour Notification	6th May 2021
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2021/0599/O Proposal: Provision of 2 infill detached dwellings with associated detached garages, shared access onto Rogully Road and landscaping Address: Adjacent and to the N.W. of 6 Rogully Road, Loup, Moneymore, Decision: Decision Date: Ref ID: I/1977/0361 Proposal: 11 KV O/H LINE Address: BALLYROGULLY, LOUP Decision: Decision Date:	
Summary of Consultee Responses	
Drawing Numbers and Title	

Drawing No. 02/1
Type: Site Layout or Block Plan
Status: Submitted

Drawing No. 01/1
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: LA09/2021/0601/F	Target Date:
Proposal: Proposed change of use and extension of domestic garage for dog grooming	Location: 22 Cloghog Road Cookstown
Referral Route: 3no. objections.	
Recommendation:	Approval
Applicant Name and Address: Thomas Mc Donald 22 Cloghog Road Cookstown	Agent Name and Address: C Mc Ilvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
Executive Summary: The proposal has been considered against prevailing policy and all material considerations below. 3No. letters of representation have been received and are considered below.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Characteristics of the Site and Area

The application site lies within the rural area outside any defined settlement limits as defined in the Cookstown Area Plan 2010. The site is located approximately one and a half miles south east of Cookstown town centre. The site comprises the dwelling of No.22 Cloghog Road and associated garage and portion of land to the north of the dwelling. The existing dwelling is 1 and a half storey and the garage with attached store located to the northwest. The topography of the site is relatively flat. The proposal seeks to utilise the existing driveway on to the public road. The immediate surrounding context is rural characterised by agricultural fields, as well as dispersed dwellings and farm holdings. The roadside, northern and southern boundaries are defined by mature vegetation. The eastern boundary is partially bound by vegetation and partially undefined.

Description of Proposal

This planning application seeks full planning permission for the change of use and extension of the domestic garage associated with No.22 Cloghog Road for dog grooming.

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 21: Sustainable Development in the Countryside
 PPS 3: Access, Movement and Parking
 PPS 4: Planning and Economic Development

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

Representations

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 3no. Third party objections have been received which are summarised and considered below.

- The type of development is not suited to this location.
- Neighbouring properties are experiencing existing noise pollution from applicant's family pets barking. Concerns additional dogs would impact on well-being/enjoyment of home and garden and disturb and upset residents and their own pets.
- Proposal has potential to hold 16 dogs due to holding cages, grooming tables and dog run which would be significant extra noise.
- Concerns with noise nuisance from people and vehicles dropping off and collecting dogs. Commercial traffic at odds with the residential character of the road. Expected 5 vehicles per day considered conservative estimate.
- Previously the surrounding area was quiet with no disturbance and this change of use would devalue properties.

The objectors concerns outlined above centralise around the potential for detrimental impact on residential amenity specifically from noise. The applicant has carried out a Noise Impact Assessment which considered noise from internal and external dog barking and vehicle movement on the site and included a noise management plan to ensure existing residential amenity is not negatively impacted by this proposal. MUDC Environmental Health Department have considered this and have raised no concerns subject to conditions. EHD have recommended conditions relating to mitigating noise, hours of operation and limiting the number of dogs on the premises at one time. It is considered that this will ensure no detrimental impact on residential amenity and address objectors concerns regarding numbers and disturbance from dogs and vehicle movements. It will be the applicant's responsibility to comply with all conditions attached to any forthcoming approval and failure to do may result in planning enforcement action. Section 131 (1) of the 2011 Planning Act (NI) states that failing to comply with any condition of planning permission constitutes a breach of planning control. The suitability of the site for this type of proposal will be considered below in greater detail against the relevant prevailing planning policy. With respect existing detrimental impact from the applicant's property from existing pets, noise pollution complaints should be reported for investigation to Mid Ulster Council Environmental Health Department. With respect the objectors concerns that the proposal will devalue properties, property values are not a material planning consideration.

History on Site

LA09/2015/0475/O – Proposed gap site for dwelling and double domestic garage - Between 22 and 22A, Cloghog Road, Cookstown – Permission Refused 12/10/15

Key Policy Considerations/Assessment

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

The Strategic Planning Policy Statement for Northern Ireland states that the guiding principle for policies and proposals for economic development in the countryside is to facilitate proposals likely to benefit the rural economy and support rural communities, while protecting or enhancing rural character and the environment, consistent with strategic policy elsewhere in the SPPS. The SPPS states in the interests of rural amenity and wider sustainability objectives, the level of new building for economic development purposes outside settlements must be restricted. However, Paragraph 6.88 provides an exception for a small scale new build economic development project outside a 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.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – Policy CTY 1 Development in the Countryside 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 aims of sustainable development. Other types of development will only be permitted where there are overriding reasons why development is essential and could not be located in a settlement. Policy CTY1 of PPS21 provides circumstances for non-residential development in the countryside including farm diversification proposals in accordance with Policy CTY 11. Policy CTY 11 states planning permission will be granted for a farm or forestry diversification proposal where it has been

demonstrated that it is to be run in conjunction with the agricultural operations on the farm. The proposal site is not located on a farm and no details of a farm or forestry business have been provided. Policy CTY 1 also provides a circumstance for the reuse of an existing building for non-residential development in accordance with Policy CTY 4.

Policy CTY 4 – The Conversion and Reuse of Existing Buildings states 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 subject to the below criteria.

Such proposals will be required to be of a high design quality and to meet all of the following criteria:

- (a) the building is of permanent construction;
- (b) 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;
- (c) any new extensions are sympathetic to the scale, massing and architectural style and finishes of the existing building;
- (d) the reuse or conversion would not unduly affect the amenities of nearby residents or adversely affect the continued agricultural use of adjoining land or buildings;
- (e) the nature and scale of any proposed non-residential use is appropriate to a countryside location;
- (f) all necessary services are available or can be provided without significant adverse impact on the environment or character of the locality; and
- (g) access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.

I consider that the proposal satisfies criteria (a) - (g) stipulated above. The proposal relates to the conversion and extension of an existing domestic garage which is a permanent structure. The proposed extension is sympathetic in design and subordinate to the existing built form with finishes to match. The proposal relates to a small business for dog grooming of no more than 2 dogs at any one time within the curtilage of the applicants home. I consider that the nature and scale of the proposal is appropriate to a countryside location, the business is currently located in a high density residential area within the settlement limits of Cookstown. No potential detrimental impacts to the environment have been identified as a result of this proposed development and EHD have no objections with respect unduly affect to nearby residents amenity. DFI Roads are content with the proposal in terms of road safety and traffic flow.

CTY 4 broadly conforms to the policy approach of the SPPS with respect Conversion and Reuse of Existing Buildings, however the SPPS introduces a higher test and amends the wording from the conversion and re-use of a “suitable building” to the conversion and re-use of a “locally important building”. 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. Whilst the proposal may involve the re-use of a “suitable” rural buildings, the existing domestic garage is not considered to be a “locally important building of special character or interest”; therefore the proposal does not comply with SPPS Paragraph 6.73 in this regard.

Policy CTY1 permits non-residential development in the countryside for industry and business uses in accordance with PPS4.

The preamble to PPS4 states that for the purposes of the PPS, economic development uses comprises those which fall within Class B1 (Business), Class B2 (Light Industrial), B3 (General industrial) and B4 (Storage or Distribution) as defined in the Planning (Use Classes) Order (Northern Ireland) 2004. The use of the building as dog grooming does not fall within any of these use classes or other defined use classes. It is therefore a sui generis use and is not covered by PPS4. Nonetheless, the preamble of PPS4 states that the policy approach and associated guidance contained within it may be useful in assessing proposals for other sui generis employment uses.

Planning Policy Statement 4 (PPS4): Planning and Economic Development -Policy PED2 states that proposals for economic development uses in the countryside will be permitted in accordance with the provisions of the following:

- Policy PED 3 - The expansion of an Established Economic Development Use
- Policy PED 4 – The Redevelopment of an Established Economic Development Use
- Policy PED 5 - Major Industrial Development
- Policy PED 6 – Small Rural Projects

PED 2 goes on to state that proposals involving the re-use of rural buildings will be assessed under the provisions of PPS21. PPS21 CTY4 has been considered above and whilst the proposal complies with this policy it fails the policy test within the overarching Strategic Planning Policy Statement. The agent has provided background information that the applicant currently runs and manages a dog grooming business 'Wizard of Dogs' within the settlement limits of Cookstown. The premises are in a high density residential area with high level of traffic, rented and restricted in size. The applicant lives at No.22 Cloghog with his family and the agent has argued the conversion and extension of the redundant garage will allow a better work home life balance. The domestic appearance of the garage will not change and its finishes will remain in keeping with the main house with no commercial signage is proposed on the building. As explained in the noise report dogs will be kept at the premises for no longer than the time it takes to carry out the grooming service and the use is to be carried out totally within the building bar the external dog run area to be used as a 'toilet' area. The proposal does not relate to an existing established economic development use in the countryside or major industrial development, therefore PED 3, 4 and 5 do not apply. The proposal does not comprise "a community enterprise park/centre" or involve a "small rural industrial enterprise" therefore PED 6 is also not applicable. PED 2 states "All other proposals for economic development in the countryside will only be permitted in exceptional circumstances".

The agent has provided a Supporting Statement which argues the conversion of the applicant's garage to a small scale dog grooming salon is in the spirit of SPPS, PPS 4 and PPS21 in facilitating opportunities for economic development without any detriment to the countryside or loss to neighbouring amenity. The agent states the proposal will provide a viable business opportunity to the applicant to provide revenue whilst working from home and provide help with his young family and it is not considered the proposal would have a detrimental impact on the rural environment. It is noted that Paragraph 5.10 of Policy PED 2 Justification & Amplification states *"the re-use of rural buildings and appropriate redevelopment and expansion proposals for industrial and business purposes offer the greatest scope for sustainable economic development in the*

countryside.... In general, new buildings for such uses in the open countryside will be strictly controlled, although it is recognised that some major industrial proposals may require a countryside location and that some small-scale economic development projects may be permissible outside villages or smaller rural settlements” (my emphasis).

Having considered the nature, scale and specifics of the development, I consider the proposal would be acceptable in this location as an exception under Policy PED2. I recognise a proposal like this would be more likely to give rise to amenity issues if it were to be located in a residential area and Mid Ulster EHD having considered the Noise Impact Assessment and Noise Management Plan have offered no objections to the proposal site subject to conditions. The proposal is small scale and the agent has detailed dogs will only be on-site for the time it takes to groom and there will be a maximum of 3 dogs on site at any one time, with each being kept in either the holding pen or grooming areas. I agree that the proposal would be in the spirit of SPPS and PPS 4 in facilitating opportunities for economic development whilst maintaining the rural environment for people and visitors. I recognise the proposal will provide a viable business opportunity for the applicant to produce revenue and I do not consider the proposal would have a significant impact on the rural environment.

Policy PED 9 General Criteria for Economic Development outlines criteria in which proposals for economic development use will be required to meet, in addition to the other policy provisions within PPS 4.

The proposed extension and change of use relates to the existing domestic garage located to the northwest of No.22 within the existing curtilage. The application is for a dog grooming facility which by its very nature will produce noise from dogs barking and visitors to the site. The closest occupied residential property, excluding the applicant's property, is located approx. 38 metres to the north. As previously stated above, Environmental Health were consulted and have offered no objections subject to conditions. The agent provided a supporting statement which details there will be a maximum of 3 dogs on site at any one time, with each being segregated and kept in either the holding pen or grooming areas and will only be outside for a toilet break. Prior to the appointment, clients will be informed of the expected duration. It is considered the applicant has adequately demonstrated through the submitted noise management plan suitable mitigation to ensure no detrimental harm to the amenities of nearby residents. No natural or built heritage interests of significance have been identified on the site or nearby in which the proposed works will affect and the site is not subject to flooding. Given the nature of the proposal, it is not considered emissions or effluent will be an issue and the P1 form has advised sewage will be dealt with by septic tank and surface water by soakaway. The proposed development will utilise the existing access arrangements to the residential property on site. The P1 form states there will be an expected increase of 5 vehicles to the site daily. DfI Roads have been consulted and have offered no objections subject to conditions. It is considered the additional vehicular traffic generated as a result of the proposed development will not significantly impact the existing road network and there is adequate space for the parking and manoeuvring of vehicles on site. It is considered the proposed works are designed to deter crime and promote personal safety. The proposed development is sited approximately 21 metres from the public road and there will be public views when travelling in either direction. However, the domestic appearance of the garage will not change and the proposed extension is subordinate in scale with finishes to match the existing built form. The existing boundary treatment provides integration of the site into the landscape and it is

considered should permission be granted it is necessary to condition this vegetation is retained to ensure adequate screening. Overall, it is considered the proposed development would not offend Policy PED 9.

CTY 13 and CTY14 are also relevant to this proposal. It is considered the change of use and minor extension proposed is acceptable and will not change the overall residential character of the site. There is existing screening in place and it is considered the proposal would visually integrate into the surrounding landscape. The applicant has argued that the overall intent and spirit of PPS 21 is to re-use and convert redundant buildings were possible for an alternative use in line with sustainable development rather than promoting the accumulation of new buildings in the countryside. The domestic appearance of the garage will not change and the use is to be carried out totally within the building bar the few minutes per day the dogs are out in the holding pen. Overall, I consider the proposed development will integrate successfully and will not result in a detrimental impact to rural character in accordance with Policy CTY 13 and CTY 14.

Neighbour Notification Checked

Yes

Summary of Recommendation:

The Proposal complies with Policy PED 9, as well as Policy CTY 13 and CTY 14. Policy PED2 allows for an exception to policy in exceptional circumstances. It is recognised that accommodate a dog grooming facility requires certain site requirements and the very nature of development requires an appropriate setting given the potential nuisance. The applicant has provide a noise management plan and any forthcoming approval will be subject to the detailed conditions outlined below which are necessary to avoid detrimental impact to nearby residents. Overall, in this instance given the nature of the proposal and the site specifics, I consider the application could be considered as an exceptional circumstance under Policy PED 2 to warrant approval should Members agree.

Conditions

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

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

2. The existing mature trees and vegetation along the boundaries of the site shall be permanently retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: In the interests of visual amenity.

3. Prior to the commencement of use hereby approved, all external doors to the proposed development shall be fitted with self-closing mechanisms and shall be permanently retained thereafter.

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

4. The business hereby permitted shall only operate between 08:00 hours to 18:00 hours, Monday to Friday, 08:00 hours to 13:00 hours on Saturdays, and at no time on a Sunday, unless otherwise agreed in writing with Mid Ulster District Council.

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

5. During the hours of operation permitted in condition 4, all external doors to the proposed development shall remain closed at all times except for access and egress.

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

6. There shall be no more than 3 dogs on the premise at any one time, not including the dogs owned by the occupiers of No. 22 Cloghog Road, Cookstown.

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

7. There shall be no dogs on the premise outside of the hours within condition 3, except for the dogs owned by the occupiers of No. 22 Cloghog Road, Cookstown.

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

8. The building hereby approved shall be used for dog grooming only.

Reason: To prohibit a change to an unacceptable use and in the interests of residential amenity in a rural area.

9. The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 02 bearing the date stamp 14 April 2021 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Informatives

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under

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

4. 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.
5. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site. This planning approval does not give authority to discharge any drainage into a DfI Roads drainage system

Signature(s)

Date:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 07/12/2021	Item Number:
Application ID: LA09/2021/0625/F	Target Date:
Proposal: Proposed off site replacement dwelling and domestic double garage	Location: Approx 126m North West of 59 Lurgaboy Lane Dungannon
Referral Route: <ol style="list-style-type: none">1. Contrary to Policy CTY 1 in PPS 21 in that there is no overriding reason why the development is essential and cannot be located within a settlement.2. Contrary to Policy CTY 3 – Replacement Dwellings in PPS 21 in that there is no overriding reason why the proposed dwelling cannot be sited within the existing curtilage.3. Contrary to Policy CTY 8 – Ribbon Development in PPS 21 in that the development if permitted, would add to a ribbon of development in the countryside.4. Contrary to Policy CTY 13 – Integration and Design of Buildings in the Countryside in PPS 21 in that the application site lacks existing natural boundaries and does not have a suitable degree of enclosure.5. Contrary to Policy CTY 14 – Rural Character in PPS 21 in that the application site adds to a ribbon of development which is detrimental to rural character.	
Recommendation:	Refusal
Applicant Name and Address: Mr Joseph Mallon 48 Rossmore Road Dungannon	Agent Name and Address: CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
Executive Summary: I am content the proposal meets the principle of development for a dwelling to be replaced but there is not a substantial argument for an off-site location. The proposed off-site will add to a ribbon of development, has a poor degree of enclosure and is detrimental to rural character.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	DETI - Geological Survey (NI)	Substantive Response Received
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

As shown in figure 1 below the application site is outside the settlement limit of Dungannon to the north west as defined in the Dungannon and South Tyrone Area Plan 2010.



Figure 1 – snapshot from the Dungannon and South Tyrone Area Plan 2010

To the northwest of the site is inside the Dungannon limits and is mainly industrial and residential uses. The access to the dwelling at No. 109 is off the main Coalisland Road and through an entrance at Mallaghan Engineering. The access runs along a private laneway and there is another dwelling on the lane at No.103. The surrounding area to the south and east is semi-rural in character with agricultural fields, groups of farm buildings and dwellings on single plots.

The application site comprises an existing two storey dwelling at No. 109 which has finishes of pebbledash and red brick walls, brown profiled roof tiles and white upvc windows. Beside this dwellings are a number of agricultural buildings and a yard area. The building which is the subject of this application has the appearance of a dwelling with a small porch on the front, windows on the front and back elevation and a chimney projecting from the ridge. As this is an offsite proposal the siting of the proposed dwelling has a roadside frontage onto Lurgaboy Lane. The land is flat at the roadside portion of the land but falls away towards the rear boundary.

Description of Proposal

This is a full application for a proposed off site replacement dwelling and domestic double garage at lands approximately 126m North West of 59 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 planning histories at the application site.

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

Dungannon and South Tyrone Area Plan 2010

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

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

Planning Policy Statement 21

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for a replacement dwelling CTY 3 is the relevant policy in the assessment.

CTY 3 – Replacement Dwellings

As shown in figures 2-4 below I am content the building has the appearance of a dwelling and exhibits all the essential characteristics of a dwelling. There is a chimney which projects from the ridgeline of the building, a small porch on the front elevation and windows on the front and back elevations of the buildings. I consider all the walls of the dwellings are substantially intact.



Figure 2 – Site photograph of the front elevation of the dwelling to be replaced



Figure 3 – Site photograph of the rear elevation of the dwelling



Figure 4 – photograph of the window on the rear elevation zoomed in

As shown in figures 2 – 4, on the day of my site visit the building had the appearance of a dwelling. However there does appear to have been recent works done to the building. New windows in place and there is fresh plastering around the window frames which suggest the windows have been reduced in size. The policy in CTY 3 states that dwellings does include buildings previously used as dwellings. In a supporting statement submitted by the agent that the building shows up on the 1840 Griffiths Valuation maps as per the attachment shown in figure 5. There is a building on the map but this does not demonstrate that the building was previously a dwelling. Also, submitted is a ledger which states 109 Coalisland Road as house, office and land. This is shown as townland 27 which corresponds to the Griffiths Map which shows the site in the red line of 27.

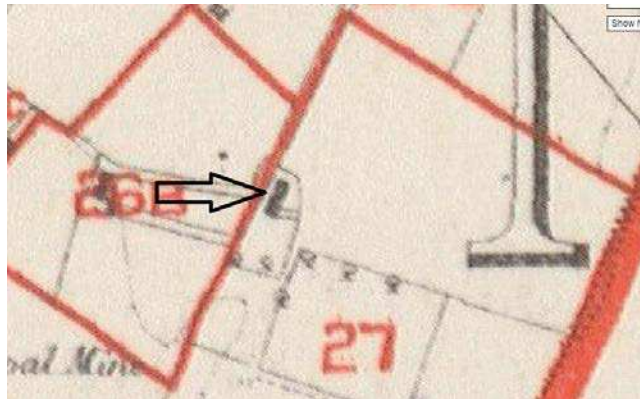
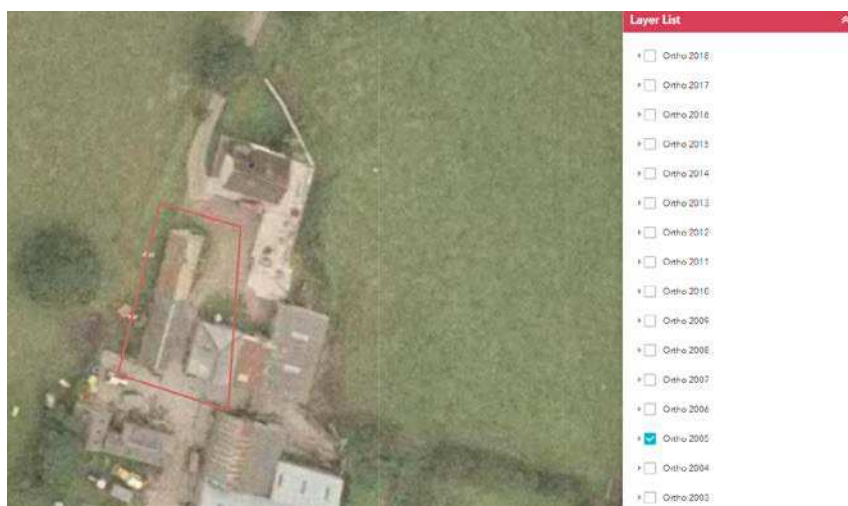


Figure 5 - Griffiths map showing a building in the 1840s.

No other evidence has been submitted by the agent to show the building was previously a dwelling. As the site is along a private lane there are no images on Google Maps. I completed a check on orthophotography and the building is on 2005 Imagery and there is a chimney and small porch on the imagery.



Overall, I am of the opinion looking at historical maps and what is on site at the time of the site visit, that in the balance of probability the building to be replaced was a dwelling and can be considered as a dwelling to be replaced in this assessment.

I consider the dwelling to be replaced has the appearance of non-listed vernacular dwelling as listed in Annex 2 of PPS 21. The dwelling has a long rectangular form and the depth of

the house is less than 6m. The majority of the windows are on the front and back elevations and there is a small porch on the front elevation. There are no critical views of the dwelling from the Coalisland Road and only long distance views from Lurgaboy Lane as shown in figure 6 below. I would not recommend retaining the building for use as a store or it's current use as a dwelling. Policy in CTY 3 states that the vernacular building should only be retained where it can be incorporated into the overall scheme with the new dwelling. As the proposal is for an off-site replacement this is not viable in this case.



Figure 6 – Site photograph of the off site location of the proposed dwelling with the farm sheds and existing dwellings in the background.

The proposed dwelling is sited at Lurgaboy lane which is not within the existing curtilage of the dwelling to be replaced. In a supporting statement received on the 20th July 2021 the agent states the reason for going off site is due to the access and getting to the current site. As shown in figures 7 and 8 below the current access is through Mallaghan Engineering car park on one side and the office on the other side, and then onto a shared laneway. The agent states in the supporting statement that Mallaghan Engineering use the same access point and heavy plant and machinery are regularly crossing the lane.

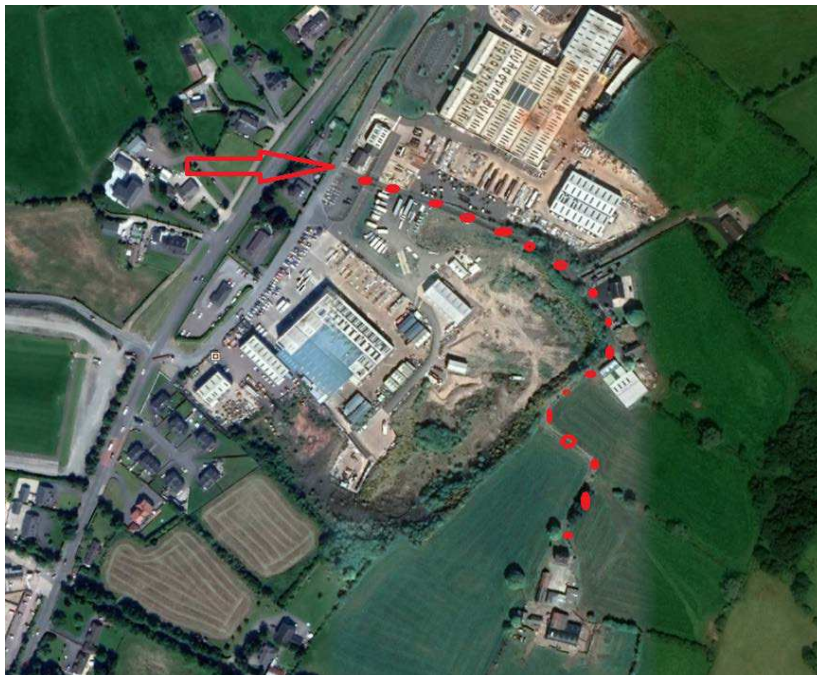


Figure 7 - Current lane to the site where the dwelling to be replaced is sited.



Figure 8 - Current access point through Mallaghan Engineering off the Coalisland Road

However as shown in figure 9 below the applicant owns a number of other fields around the existing farm dwelling and buildings at No. 109. The applicant is Mr Joseph Mallon who lives at No. 48 Rossmore Road and same applicant has had a farm dwelling granted under planning approval LA09/2019/1495/O. Figures 9 and 10 show land to the rear of the dwelling to be replaced which is field 4 on the map below. I consider there is land around the farm dwelling and building at No. 109 and there is no justification for siting a dwelling so far off site. I do not consider there are landscape or amenity benefits to siting off-site. A dwelling at No. 109 would cluster with the farm buildings and other dwellings and have a less visual impact than the proposed site.



Figure 9 – Map submitted by the agent showing land owned by the applicant.



Figure 10 – Photographs from the site visit showing land behind the dwelling to be replaced.

The proposed dwelling is single storey with a low ridge height and a small stonework porch on the front elevation. The proposed finishes are black slate roof tiles, smooth render walls

and black guttering and window frames. I am content the design of the proposed design is a simple form and typical of a rural dwelling. The adjacent dwelling and similar dwellings along Lurgaboy Lane are single storey. However as the off site location is much more open and there are minimal natural boundaries I consider the proposed dwelling will have a greater visual impact than the existing building which has limited critical views. The existing building is along a private lane and you can only see it in long distance views, while this site is on a roadside.

A new access is proposed to the off site location and again if the land around the building to be replaced was used there would be no need for another new access as the proposal could use the existing lane.

Overall, I am of the opinion that there is no reasonable argument for the off –site location along Lurgaboy Lane. The applicant has control of a number of field around No.109 Coalisland Road so there are better sites. The agent has stated the access through Mallaghan Engineering as a reason for going off-site but this access already serves other dwellings along this lane sufficiently and issues along a shared laneway

CTY 13 - Integration and Design of Buildings in the Countryside

I consider the proposed off-site location is prominent in the landscape. It has a roadside frontage onto Lurgaboy Lane and the land slopes away from the roadside to the back of the site. Currently on site there is a post and wire fence along the roadside boundary and no natural vegetation along the remaining boundaries as the site is a cut-out of a larger agricultural field.



Figure 11 – Google images May 2011

I consider the site lacks long established natural boundaries and had a poor degree of enclosure and would rely on new landscaping to integrate.

A new access is proposed which runs through the middle of the site. Even-though another access onto a road is not ideal when the applicant could site beside the dwelling to be replaced and use the existing lane, Roads have responded with no concerns.

As stated earlier in the assessment I have no concerns about the design of the dwelling.

Overall, I do not consider the proposal meets all the criteria in CTY 13.

CTY 14 – Rural Character

The proposed dwelling in the off-site location will add to a ribbon of development and this is unacceptable as it is detrimental to rural character. The proposal will also be prominent in the landscape as it is a roadside location with no natural boundaries at the site. Overall, I consider the proposal will not meet all the criteria in CTY 14.

PPS 3 – Access, Movement and Parking

DFI Roads were consulted and had no concerns subject to visibility splays of 2.4m x 60m.

Other Considerations

Geological Survey were consulted and are content the site is located greater than 150m from the closest know abandoned mine working.

There are no other NED, HED or flooding issues at the site.

Summary of Recommendation:

The proposal is recommended for refusal as it does not meet the criteria in CTY1 or CTY 3 – Replacement Dwellings in PPS 21 – Sustainable Development in the Countryside.

Reasons for Refusal:

1. Contrary to Policy CTY 1 in PPS 21 in that there is no overriding reason why the development is essential and cannot be located within a settlement.
2. Contrary to Policy CTY 3 – Replacement Dwellings in PPS 21 in that there is no overriding reason why the proposed dwelling cannot be sited within the existing curtilage.
3. Contrary to Policy CTY 8 – Ribbon Development in PPS 21 in that the development if permitted, would add to a ribbon of development in the countryside.
4. Contrary to Policy CTY 13 – Integration and Design of Buildings in the Countryside in PPS 21 in that the application site lacks existing natural boundaries and does not have a suitable degree of enclosure.
5. Contrary to Policy CTY 14 – Rural Character in PPS 21 in that the application site adds to a ribbon of development which is detrimental to rural character.

Signature(s)

Date:

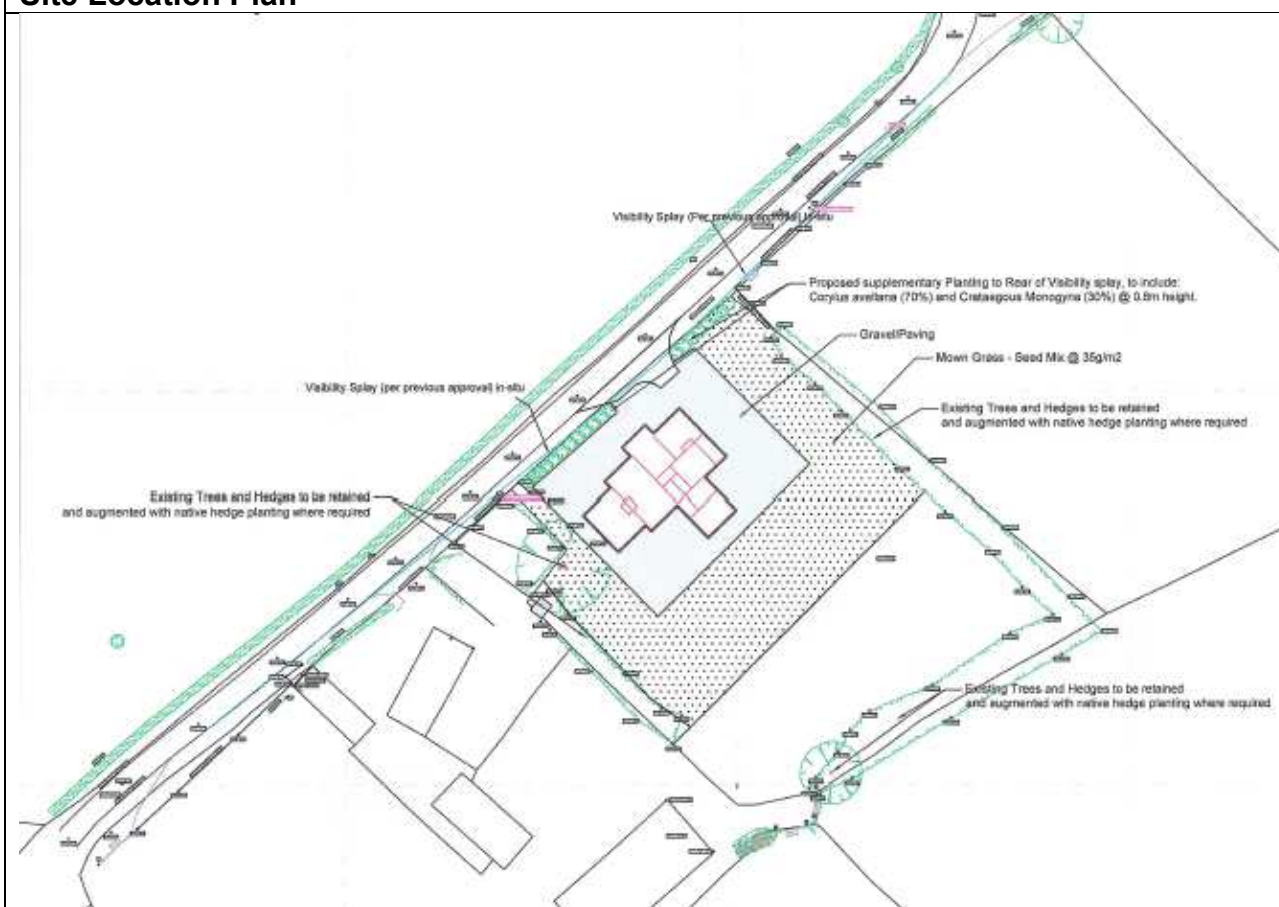


**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0930/F	Target Date:
Proposal: Application for retention of two storey dwelling, change of house type (location) application from that previously approved under application LA09/2016/0321/F.	Location: 26 Toomog Road Dungannon Co Tyrone BT70 3BL.
Referral Route: Approval – objection received.	
Recommendation:	APPROVAL
Applicant Name and Address: Louise & Ronan Donnelly 26 Toomog Road Dungannon BT70 3BL	Agent Name and Address: CD Consulting (NI) Ltd 75 Creagh Road Tempo BT94 3FZ
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
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

There were two objections received in relation to the proposal. Both objections were received from a solicitor on behalf of a neighbour to the site. It should be noted that both objections were identical in terms of the words within them, however the later objection was received on headed paper. The issues raised within the objections will be discussed in detail later in the report, however mainly related to:

- Integration concerns
- Overlooking
- Impact on Natural Environment
- Surface Water
- Encroaching on access to fields

Characteristics of the Site and Area

The application site is located at 26 Toomog Road, Galbally and is located within the open countryside as identified in the Dungannon and South Tyrone Area Plan 2010. Within the red line of the site is an existing two storey dwelling and the existing curtilage surrounding it including a generous garden area. The lands drop gently from the roadside towards the rear of the site. The surrounding area is predominantly rural in nature and is made up with agricultural fields scattered with single dwellings and their associated outbuildings.

Description of Proposal

Full planning permission is sought for the retention of two storey dwelling, change of house type (location) application from that previously approved under application LA09/2016/0321/F.

Planning Assessment of Policy and Other Material Considerations

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified included: . At the time of writing, two representations were received. As noted before these were both received from solicitor and were on behalf of a neighbour to the site. Both representations contained the exact same wording, however the latest objection was on headed paper. There is no address noted as to who the objection is from. The issues raised within the objection included:

- Integration concerns
- Overlooking/Overshadowing
- Impact on Natural Environment
- Surface Water
- Encroaching on access to fields

The objection notes that the property is a two storey dwelling and it does not integrate with the neighbouring properties which are all single storey. There is concerns relating to overlooking and overshadowing of the neighbouring property raised and it notes that the proposal breaks the skyline. I would note that the changes proposed in this application in terms of the design of the dwelling itself are minimal. Both are two story with single storey front, rear and side projections. There were no objections submitted to the previous application, LA09/2016/0321/F.

In terms of overlooking and overshadowing, I am content there would be no concerns that this would be an issue. The single storey side projection is closest to the neighbouring property and therefore 1st floor windows which would potentially overlook the neighbouring site are located approx. 26m away from the closest neighbouring property. There is also existing mature trees which are located between the two properties which would restrict any overlooking concerns further. The existing vegetation/tree is shown on the plans and will be conditions to be retained. The objection notes that trees and hedging bordering their property have been removed without their permission. Although this is considered to be a civil matter between the two parties concerned, the conditions of the previous permission noted that the mature trees and

hedging along the boundaries should be retained. It is unclear looking at google street view and from the site visit which boundaries are accused of being removed.

The amended siting of the dwelling is referred to in the supporting statement provided by the agent. They note the dwelling has been moved approx. 14m forward in the site due to advice given to them by the contractor building the site. It was explained that due to the extreme sloping nature of the site they would be advised to build in this amended location to keep costs down. The agent notes within their supporting statement that the applicant was unaware of the need to get planning permission for a change of siting and as such has come in with this current application to try and regularise the development as a result of an enforcement case open on the site. In terms of the change in siting, I have no concern with the amendment made, nor do I feel this would have had any impact on the outcome of the previous application, LA09/2016/0321/F. The access shown on the plans appears to be broadly in the same location as the previous application and I can't see what impact this would have on accessing neighbouring fields.

Planning History

LA09/2016/0321/F - Change of house type from that previously approved under application M/2001/0694/F - Adjacent to 28 Toomog Road, Galbally, Dungannon – PERMISSION GRANTED

M/2001/0694/F - Land north-east of and adjacent to 28 Toomog Road, Galbally, Dungannon - Erection of dwelling and detached domestic garage – PERMISSION GRANTED

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
- Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy

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

The site is located in the rural countryside as identified within the Dungannon and South Tyrone Area Plan and has no other zonings or designations within the Plan.

Full planning permission was granted on this site under LA09/2016/0321/F on 19th May 2016 with a five year time limit condition attached to it. I am content that this permission remains live and the principle of development has already been established on site already. From spatial images, foundations can be seen roughly in place in 2016 maps and the current ortho. Therefore, all that remains to be considered under this current application is the change of design.

As noted before, the dwelling proposed has a similar design and overall size to that approved previously (the previous design is shown below in figure 1 with figure 2 and 3 showing the proposed design under this current application and the site layout in relation to the previous approval). The dwelling has a simple front elevation with a small front, side and rear projection. I am content that this current proposal would be respectful to the existing character of this area and the neighbouring houses and the changes proposed would not have any greater impact than what was approved previously. The materials proposed, including render and natural stone are considered acceptable in this rural setting. I have no concerns regarding the change of house design adversely impacting the amenity of neighbouring properties in terms of overlooking or overshadowing given the separation distance and boundary treatment proposed. I am content that the proposal complies with Policy CTY13 and CTY14 of PPS21.



Figure 1 – The design of dwelling as approved under LA09/2016/0321/F



Figure 2 – Design of dwelling as proposed under this current application

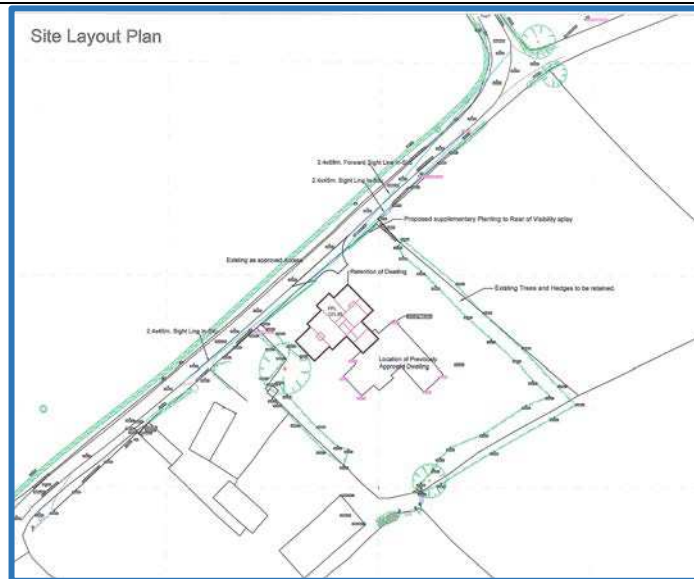


Figure 3 – Shows the proposed location under this current application in relation to the previous approval.

The access point as approved under LA09/2016/0321/F is the same as what is shown on Drawing No.02a, with 2.4 x 45m sightlines shown on the plans. It was not felt necessary to consult with DfI Roads in this instance.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approval is recommended.

Conditions/Reasons for Refusal:

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

Reason: This is a retrospective application.

2. This permission is granted solely as a substitute for the permission for a dwelling previously granted on the site under Ref: LA09/2016/0321/F on the 19th May 2016 and only one dwelling shall be constructed on the site.

Reason: To preserve the amenity of the area and to prevent an accumulation of dwellings on the site by ensuring only one dwelling is constructed on site.

Signature(s)

Date:

ANNEX	
Date Valid	17th June 2021
Date First Advertised	29th June 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) Faloon and Co Solicitors 27 Thomas Street,Dungannon,Tyrone,BT70 1HN The Owner/Occupier, 28 Toomog Road Dungannon Tyrone The Owner/Occupier,	
Date of Last Neighbour Notification	20th September 2021
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2021/0930/F Proposal: Application for retention of two storey dwelling, change of house type (location) application from that previously approved under application LA09/2016/0321/F. Address: 26 Toomog Road, Dungannon, Co Tyrone BT70 3BL., Decision: Decision Date: Ref ID: M/1988/0619 Proposal: LV O/H Line Extension Address: TOOMOG DUNGANNON Decision: Decision Date: Ref ID: M/2001/0694/F Proposal: Erection of dwelling and detached domestic garage. Address: Land north-east of and adjacent to 28 Toomog Road, Galbally, Dungannon. Decision: Decision Date: 14.11.2001 Ref ID: LA09/2016/0321/F	

Proposal: Change of house type from that previously approved under application M/2001/0694/F
 Address: Adjacent to 28 Toomog Road, Galbally , Dungannon,
 Decision: PG
 Decision Date: 25.05.2016

Ref ID: M/1998/0282
 Proposal: Site for Dwelling
 Address: ADJACENT TO 28 TOOMOG ROAD GALBALLY DUNGANNON
 Decision:
 Decision Date:

Ref ID: M/1998/0160
 Proposal: Erection of Dwelling
 Address: APPROX. 80M NORTH EAST OF 28 TOOMOG ROAD GALBALLY DUNGANNON
 Decision:
 Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

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

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

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Drawing No. 04

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	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/1145/F	Target Date:
Proposal: Proposed No1 industrial storage shed.	Location: Site adjacent to 17 Deerpark Road Bellaghy Magherafelt BT45 8LB
Referral Route: Exception to policy	
Recommendation:	Approval
Applicant Name and Address: Seamus O'Kane Unit 3 17 Deerpark Road Bellaghy	Agent Name and Address: Newline Architects 48 Main Street Castledawson BT45 8AB
Executive Summary: Small portion of the application site outside settlement limits. Proposal considered against relevant prevailing planning policy below. No letters of representation received	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health	Substantive Response
Statutory	DFI Roads - Enniskillen	Content

Representations:

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

Characteristics of the Site and Area

The application site is located predominantly within the defined settlement limits of Bellaghy, with a small portion of the site to the southwest in the rural countryside. The majority of the site falls within two zonings 'An Industrial (Land Use) Policy Area' and a 'Major Area of Existing Industry' defined within the Magherafelt Area Plan 2015. The site comprises an existing operational industrial yard located at the fringe of Bellaghy settlement limit. In the immediate context, there are a number of large industrial buildings, with two roadside dwellings to the east. In the wider landscape, there is a housing development to the NW and dispersed dwellings and farm holdings to the east. Green fields are located immediately west of the site and this area is defined as a Local Landscape Policy Area. The proposal is sited on a relatively flat area of land. The proposed unit is located approx. 140m from the Deerpark Road.

Description of Proposal

This planning application seeks full planning permission for 1no. Industrial shed to be used for storage located adjacent to 17 Deerpark Road, Bellaghy.

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
- Magherafelt Area Plan 2015
- PPS 3 - Access, Movement and Parking
- PPS 4 - Planning and Economic Development
- PPS 21 - Sustainable Development in the Countryside

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

Representations

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

History on Site

LA09/2020/0600/F – Proposed industrial development consisting of 3 industrial units for light industrial and storage use - Lands to the rear of 17a Deerpark Road, Bellaghy, BT45 8LB - Under Consideration

LA09/2020/0311/F - Proposed change of use from vacant industrial unit to end of life vehicle facility (ELVF) access and ancillary site works - Lands approximately 25m North of unit4, 17 Deerpark Road, Bellaghy – Permission Granted 11/11/20

LA09/2018/0992/F - New workshop/garage unit - new site access onto Deerpark Road. Extension to overall site curtilage and provision for additional parking facilities - Approx. 35m SE of 3 Ballyscullion Road (Old Town), Bellaghy – Permission Granted 12/10/18

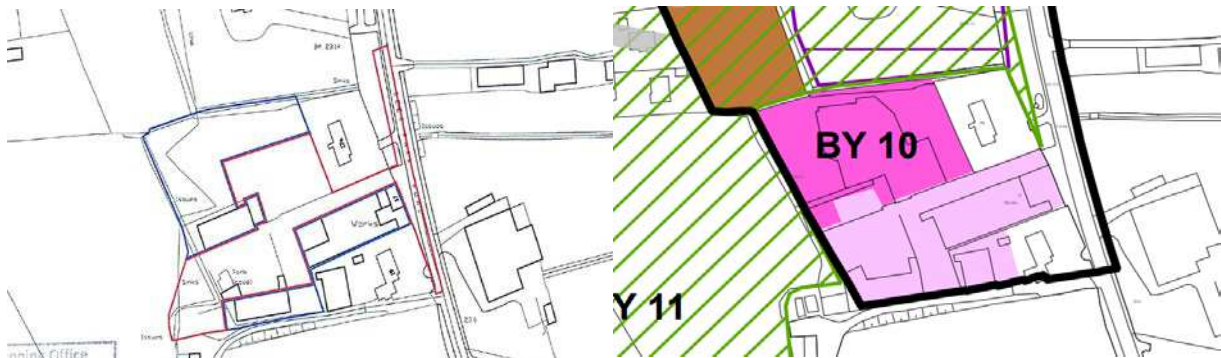
H/2007/0213/F - Proposed industrial development to provide five units for light industrial and storage - Land to rear of 17A Deerpark Road, Bellaghy – Permission Granted 22/02/10

H/2004/0207/F - Alterations to existing workshop. (Retrospective) - Adjacent to 19 Deerpark Road, Bellaghy – Permission Granted 22/07/05

H/2001/0138/F – Proposed Industrial Units And Office Accommodation - Behind 19 Deerpark Road, Bellaghy – Permission Granted 25/06/01

Key Policy Considerations/Assessment

Magherafelt Area Plan 2015 – The site is located partially within the development limits of Magherafelt on zoned industrial land, however the area of the proposed development is located outside the defined settlement limits in the open countryside and partially within a Local Landscape Policy Area. Plan Policy CON 2 Local Landscape Policy Areas states within designated LLPAs planning permission will not be granted to development proposals that would adversely affect their intrinsic environmental value and character and also proposals which meet any additional key development requirements set out as appropriate in Part 4 of the Plan. I am content that this proposal will not adversely affect the intrinsic environmental value and character given the surrounding context and that there is no conflict with the key development requirements set out in Part 4 of the Area Plan.



The Strategic Planning Policy Statement for Northern Ireland encourages a positive approach to appropriate economic development proposals, and proactively support and enable growth generating activities. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. SPPS does not introduce any new policy considerations which would impact on the assessment of this proposal, as such existing policy will be applied.

PPS4 – Planning and Economic Development is a retained policy document under SPPS and provides the appropriate policy context. The proposal involves the development of an industrial unit within an established industrial yard. Whilst the existing established business is located in the countryside, the proposed unit is located outside the settlement limits. Policy CTY1 of Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) sets out the types of development considered 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.

Policy PED 3 of PPS 4 states 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. The proposal does not fall neatly within Policy PED 3 as the established economic development is not located in the countryside, the small portion of the site to be developed is the only part outside settlement limits. Given the proposed industrial storage shed is outside the settlement limits of Bellaghy, the agent was asked to set out the policy context for the proposed development in the countryside. The agent has provided a supporting statement accepting the extent of the settlement limits of Bellaghy, however argues the portion of the site outside settlement limits has been a long established part of this industrial yard. The agent has provided a map from 1957-1986 which shows buildings on this portion of the site and aerial photos which show the area where the proposed building is to be located previously used for industrial purposes. From a review of ortho maps and the planning history, particularly the original 2001 approval, it is accepted that whilst this portion of land is not within Bellaghy settlement limits it has been associated within the existing industrial works on site for several years and formed part of the original application site. It is also noted that Magherafelt Area Plan 2015 is now six years since its expiry date. Therefore, there has not been a review of the settlement limit of Bellaghy for a number of years and work is still progressing on the new Local Development Plan which could take years to be adopted. Having discussed this at an internal group meeting, the group consensus was that the proposal should be treated as an exception to policy given it does not meet the circumstances set out in Policy PED2 for development in the countryside and given the history and specifics of this site.

All proposals for economic development are required to meet the policy provisions of Policy PED 9 - General Criteria for Economic Development within PPS4. It is considered the principle of development of an industrial unit is established at this location and the proposal will therefore be considered against PED 9 below.

It is compatible with surrounding land uses.

The proposed units are located within the existing industrial yard and adjacent to the applicants existing established business. The proposed industrial shed is for storage and it is considered compatible and appropriate to the surrounding uses.

It does not harm the amenities of nearby residents.

Mid Ulster Environmental Health Department have been consulted and have raised no objections regarding impact on residential amenity by way of unacceptable noise, nuisances or odours subject to conditions.

It does not adversely affect features of natural or built heritage.

No features of natural or built heritage have been identified which would be adversely affected by the proposed development.

It is not located in an area of flood risk and will not cause or exacerbate flooding

The site is not in area of recognised flood risk therefore it is not considered the proposal will exacerbate flooding.

It does not create a noise nuisance

The proposal is for storage and this use will be conditioned to any forthcoming approval. Given the nature of the proposal and siting to the rear of the site and in light of EHD raising no concerns, it is not considered the proposal will create a noise nuisance.

It is capable of dealing satisfactorily with any emission or effluent

Foul sewage will be disposed via mains and surface water via a soakaway. The P1 Form has not stated any emissions or effluent from the proposal and EHD have raised no concerns in this regard.

The existing road network can safely handle any extra traffic.

The proposal is within the existing complex and will use existing access arrangements. DFI Roads have no objections to the proposal. I consider that space remains within the site for private car use for employee parking, visitors and HGV movement and circulation.

A movement pattern is provided that supports walking and cycling, and meets the needs of people whose mobility is impaired.

It is noted that there is a footpath that leads to the application site from Bellaghy village where there is also public transport links. It is considered the movement pattern is acceptable in this instance given the specifics of the proposal and location.

The site layout, building design, associated infrastructure and landscaping arrangements are of a high quality and assist the promotion of sustainability and biodiversity.

The design of the proposed unit is considered typical to the type of use proposed and is compatible with the surrounding built form. The proposed floor space area of the units is approx. 240m² with a height of 5m. The site layout, building design, associated infrastructure and landscape arrangements are acceptable for this site and locality given this is within an existing established industrial park. The proposal site is set back from the public road therefore views will be limited/isolated.

Appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view

Given the siting, the existing boundary treatment which defines the boundaries of the wider industrial park is considered acceptable boundary treatment and means of enclosure in this instance.

Is designed to deter crime and promote personal safety.

It is noted that the access of the site includes security fencing and gates, therefore I have no concerns with respect the design and crime/person safety.

CTY 15 – The Setting of Settlements - As the siting of the proposed shed is immediately outside the defined settlement limit of Bellaghy, the proposal must also be considered against CTY 15. It is accepted that development at this location will to some degree mar the distinction between Bellaghy settlement limit and the remaining countryside. However, there are limited public views of the proposed development from the Deerpark Road given the set back and screening from existing buildings within the industrial park. It is also accepted from a review of ortho maps that there previously were buildings at this location. I do not consider the proposed shed will have an unacceptable impact on the character of Bellaghy. The proposal is acceptable in this instance and will consolidate existing development within the industrial park and I consider should be treated as an exception to policy.

PPS 3 - Access, Movement and Parking - This proposal will utilise an existing access through the industrial park to the public road. DFI Roads have been consulted and have no objections. In light of this, it is considered the proposal complies with Policy AMP 2 of PPS 3.

Recommendation

The proposal is in accordance with guidance contained within the Area Plan and prevailing planning policy. It is my view that the scale, nature and form of the proposal is appropriate to the location therefore, I recommend approval.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Having considered the prevailing planning policy and all material considerations outlined above, I am of the opinion that the proposed development is acceptable in this instance and members should consider granting planning permission as an exception to policy subject to the following conditions.

Conditions

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

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

2. The building hereby approved shall be used for storage purposes only.

Reason: To prohibit a change to an unacceptable use and in the interests of residential amenity.

3. There shall be no deliveries and/or external activity to the building hereby permitted between 07:30 hours and 19:30 hours, Monday to Saturday and at no time on a Sunday, unless otherwise agreed in writing with Mid Ulster District Council.

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

4. 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 the Environmental Health Service for written approval prior to any monitoring commencing. The Environmental Health Service shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring. The Environmental Health Service should then be provided with a suitable report detailing any necessary remedial measures.

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

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:**



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/1182/F	Target Date:
Proposal: Retention of farm and factory shop and associated works	Location: Approx 70m N.E. of 70 Drumgrannon Road Dungannon
Referral Route: There are a number of objections to this proposal which is contrary to Policy CTY 1 and CTY 11 in PPS 21, along with AMP 2 in PPS 3.	
Recommendation: Refusal	
Applicant Name and Address: George Troughton 76 Drumgrannon Road Broughadowey Dungannon	Agent Name and Address: 2 Plan NI 47 Lough Fea Road Cookstown BT80 9QL
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Refuse
Statutory	Rivers Agency	Advice
Statutory	NI Water - Strategic Applications	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

Representations:

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

Summary of Issues

Contrary to PPS 21 and PPS 3.

Characteristics of the Site and Area

This application site known as Grange Farm is located approximately 70 metres N.E. of No 70 Drumgrannon Road and is 1 kilometre to the North East of the Moy village. It gains access off the A29 Protected Route, which is the longest North – South route in the North of Ireland, starting in Portrush and culminating at the Border just outside of Silverbridge. The site is located in the rural countryside and is undefined in the Dungannon and South Tyrone Area Plan (DSTAP). The surrounding area is rural, characterised by farm holdings located off laneways with some individual dwellings and business located along the roadside also.

The site is set back over 300 metres and to the west of the main road, on land which is elevated at a higher level than the road. It is accessed via a private laneway which serves a number of dwellings. This is tarmaced and as it nears the farm grouping, a new section veers off to the north which appears to have been constructed recently. This new laneway leads to a tarmaced parking area to the south where the building subject of this application is located in the south western corner of the site.

There is also designated parking spaces which are set out at an angle to the laneway which defines the northern boundary of the site by a post and wire fence. The western boundary of the site is defined by a retaining wall, beyond which sits an agricultural building at a higher level. This building sits parallel to and just outside of the application site with a large colourful mural adorning a large expanse of its outer wall.



The shop building sits with the southern gable siding onto the original laneway which continues in a westerly direction. It sits at a level above the laneway with steps allowing pedestrian access from this end. It has an overhanging roof which provides a sheltered area to the front of the shop which also creates external floorspace for the displaying of a variety of larger bulky items such as firewood, big bags of potatoes, flowers.

The building has a ridge height of 3.6 metres from the 0.35 metre raised platform it sits on and a footprint of 105 sq. metres

Entrance to the shop is located on the eastern elevation via double glazed doors, where two small windows are positioned either side of. A side door is on the northern elevation which faces the car park, however this does not appear to be for access to the public.

The roof and walls of the shop are a grey coated steel cladding. Internally the retail floorspace occupies the entire footprint of the building. The finishes of plywood walls and exposed metal frames create an industrial interior design appearance.

Planning History

LA09/2021/0021/CA - Alleged unauthorised building, farm factory shop and advertisement – ongoing.

A warning Letter was issued in May 2021 seeking the cessation of the unauthorised retail use, demolition/removal of the building and removal of associated advertisements.

LA09/2015/0176/F - Proposed 3 no additional broiler poultry sheds with 6 no feed bins, a biomass boiler shed with fuel bin and a storage shed (to contain in total 111,000 broilers - increasing total site capacity to 258,500 broilers) – Approval 08.02.2016

M/2006/1151/F - 1no Steel Framed Poultry Shed - Approval 13.06.2006

M/2004/1950/F - 2 No steel framed poultry sheds - Approval 07.05.2005

M/2004/0410/F - 2 no steel framed poultry sheds - Approval 19.07.2004

Description of Proposal

Retention of farm and factory shop and associated works on land approximately 70 metres North East of No 70 Drumgrannon 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 Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020 and the period for Counter Representations closed on 18th December 2020. The Council submitted the Draft Plan Strategy to the Department for Infrastructure (DfI) on 28th May 2021 for them to carry out an Independent Examination. In light of this, the Draft Plan Strategy currently does not yet carry any determining weight.

The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development (SPPS) published in September 2015 is material to all decisions on individual planning applications and appeals. The SPPS outlines the aim to providing sustainable development and with respect to that should have regard to the Development Plan and any other material considerations. It 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 proposed net floorspace of the building to be retained as part of this application is significantly below the 1,000 sq. metres threshold for submitting a Retail Impact Assessment, as the SPPS requires. The SPPS advises that the policy provision of PPS 21: Sustainable Development in the Countryside are retained. Section 6.73 of the SPPS relates to development which is considered acceptable in the countryside and includes Farm Diversification. 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'.

As this application site is located in the rural countryside, outside of any designated settlement development limit identified in the DSTAP, the relevant policy context is provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21). Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered acceptable in the countryside and the circumstances wherein planning permission will be granted.

Policy CTY 11 states that permission will be granted for a farm or forestry diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm. It sets out a list of criteria whereby the development proposed demonstrates;

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

A Supporting Statement, farm maps along with floorplan and elevations of the building were submitted as part of this development proposal. No other information to verify that the farm business is currently active and established has been presented. Although the planning history surrounding the site would suggest the farm is currently active and established, this has not been demonstrated by the provision of a P1C form to consult DAERA as part of this submission.

- b) The character and scale are appropriate to its location

The building this application seeks to retain is sited to the front of a large grouping of agricultural buildings. It measures 6.6 metres wide, 15.9 metres long and is finished in materials which are not uncommon in the countryside. However, the large flamboyant colourful mural on the outer wall of the agricultural building adjacent to the site is out of keeping with this rural area, and its advertisement of Grange Farm is also unauthorised.



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

I have no concerns regarding any implications this building may have on any heritage features, either built or natural.

- d) It will not result in a detrimental impact on the amenity of nearby residential dwellings, including potential problems arising from noise, smell and pollution.

Although the building to be retained does not itself generate any nuisances, its existing retail use does have a detrimental impact on neighbouring amenity. From the site visit is evident this shop is open to the public from the hours of 8 – 5 Monday to Friday and 8 – 4.40 on Saturday. The hours of operation combined with the nature of its retail use has resulted in an escalation in traffic on this laneway, thus impacting on the neighbour's amenity, as is discussed in more detail below.

The policy goes on to say that proposals will only be acceptable where they involve the re-use or adaptation of existing farm buildings.

In exceptional circumstances, a new building may be permitted where there is no existing building available to accommodate the proposed use, either because they,

- Are essential for the maintenance of the existing farm enterprise
- Are clearly unsuitable for adaptation and reuse
- Cannot be adapted to meeting the requirements of other statutory agencies

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

Paragraph 5.48 of PPS 21 clearly states that where a new building is proposed, or in this instance seeks retrospective planning permission, the applicant will be required to provide sufficient information to satisfactorily demonstrate why existing buildings cannot be used.



2004



2007



2019

In the Supporting Statement the agent has indicated on a map where,

“the sale of farm and factory goods at Grange Farm was historically carried out from a shed in the middle of the farmyard.”

It is evident from the orthophotography that there has been much development on the land surrounding this application site. However it is has not been demonstrated how any of the existing building were “unsuitable” for the retail use in this application

The agent has stated the building to be retained was constructed in order to

- Minimise access from members of the public to the farm for health and safety reasons (potential contamination of food preparation areas),
- Improve traffic management between customers to the shop and HGV deliveries to and from the site.

It is worth noting there is no evidence of any authorised retail element associated with this identified building. Therefore, any retail use is unauthorised and therefore cannot claim to be lawfully established or be justifiable in a need to expand.

The agent claims,

“The proposal for a farm and factory is clearly run in conjunction with the existing business, the applicant and his family are actively involved in both the shop and the farm business, with the shop, the farm and the factory all intertwined.”

I have a number of issues with this statement in that there is reference to a “factory” numerous times throughout the agent’s statement and the term is also included within the proposal description also. There has been no information provided as to where this factory is located, what it makes, ownership etc. As there is no planning history for such a development within this application site or the associated farm in the applicant’s ownership, question arise as to whether it is operating as without the benefit of planning permission.

The Oxford Dictionary defines a Farm Shop as,

*“a shop that sells food and other items **from** a farm directly to the public.”*

and a Factory Shop as,

*“a shop in which goods, especially surplus stock, are sold directly by the **manufacturers** at a discount”.*

I am not convinced the said building is a “farm shop”. While conducting the site visit I was able to gain access to the shop and it was evident there are a range of products on sale, the majority of which are not derived from the associated farm. The range of products included flowers, potatoes, coffee to go, jars of condiments, jam, bakery products, crisps, drinks and a large freezer and chill cabinet section.

From the information obtained during the site visit and that available on the internet advertising the services and products Grange Farm provides, I am not of the opinion the use of the building on this application site would constitute either a farm shop nor a factory shop. My own assessment would suggest this unit has the functioning properties of a wholesale food supplier, providing a retail outlet open to the public and a delivery service to businesses.

The agent goes on to say,

“There is a verifiable functional linkage between a large portion of the stock sold in the shop and that reared, produced and processed on site.”

As already stated, this information has not been provided as part of this retrospective application, which has been submitted on the back of an enforcement case open on the unauthorised development on site. It is also contrary to what was viewed during the site visit.

According to the social media account of Grange Farm describes itself as a “Specialist Food Shop” and food wholesaler advertising the sale of Christmas Hampers, Cheese

Boards, Fruit Baskets, beef, Indian prawns, duck and pork. It also operates a daily delivery service of all products and

“Specialises in the supply of eggs, peeled potatoes and chips, meat products and fresh fruit and vegetables to Chinese and Irish takeaways, restaurants and delis.”

This confirms my scepticism about the proposal description of this shop as a “farm and factory shop”. It seems this is a retail outlet for some small homemade produce along with the usual items available in the average convenience store and products sourced in from other manufacturers.

Thereby I feel the correct policy to determine this application is the SPPS where in Town Centre and Retailing Paragraph 6.279

It may also be worth noting that although the Draft Plan currently does not have any weight, Policy RE 6 – Retail and Related Uses in the Countryside does say that in the countryside, new retail proposals for a farm shop..... will normally be restricted to a net floor area of 100 sq. metres.

Consultations and Representations

NI Water have no objection subject to standard conditions.

The Environmental Health Department of Mid Ulster District Council were consulted and have no concerns.

DfI Rivers have no objections

DfI Roads were consulted and recommended refusal having taken into consideration representations from local councillors and neighbours as well as Accident History from their database. The database shows 1 fatal accident in March 2019, 4 other injury accidents 2018-10, as well as a recent accident they are aware of which has not been uploaded to their database.

The A29 Drumgrannon Road is a Protected Route and Para 5.28 of PPS 3 – Access, Movement and Parking states that in all cases, where access to a Protected Route is acceptable in principle, it will also be required to be safe in accordance with AMP 2. Policy AMP 2 states that permission will only be granted for a development proposal involving direct access, or intensification of the use of an access, onto a public road where;

- a) such access will not prejudice road safety or significantly inconvenience the flow of traffic, and
- b) the proposal does not conflict with Policy AMP 3 – Access to Protected Routes.

DfI Roads have concerns as this access is substandard and does not meet the required standards as set out in DCAN 15 and there are a number of issues which need to be overcome in order to bring the access up to standard and improve the safety of this access;

- The access must accommodate two way traffic and as delivery vehicles are expected to utilise this access, Auto Tracking will be required to determine the width and the radii requirements of the access.
- A Transport Assessment Form must be completed.
- A Forward sightline of 147 metres from the south east and 124 metres from the northwest is required.
- 4.5 metres by 124 metres sightline to the northwest is required, with the tangential sight line requiring partial removal of a third party hedge.
- 4.5 metres by 147 metres sightline to the southeast is required.

In order to provide these requirements, third party land is needed and be included within the red line of the site.

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

There were three neighbouring properties notified about this application and it was advertised in the local media.

There are 2 separate objections received from 2 Councillors with both highlighting road safety as a huge concern, particularly because of the intensification of the access.

There are also a number of objections from the neighbouring property at No 82 Drumgrannon Road which note;

- The applicant only has a Right of Way through their property and has encroached it in an attempt to make improvements to the access lane.
- The shop sell products which are not produced on the farm.
- It has resulted in an intensification of the access due to the various amount of traffic movements to and from the shop; delivery of supplies to the shop, employee and customer traffic, wholesale delivery service to businesses, along with the daily everyday traffic generated on a working farm.
- The access is very dangerous as there is no right turning lane and the increased traffic to the shop, particularly when travelling from Dungannon direction have to wait in the road to turn into the farm and as this is just around the corner of a bend, the risk of accident on this dangerous stretch of road is exacerbated.
- Frequently they are hemmed in or cannot gain entry to their property due to their entrance being utilised as a layby, where vehicles wait for oncoming traffic from the shop.
- Lorries and vans make frequent trips to and from the shop outside of normal working hours, resulting in noise and light nuisance causing sleep disturbance.

Neighbour Notification Checked

Yes

Summary of Recommendation:

As there are a number of objections to this proposal and it is deemed contrary to policy, it cannot be determined under the Council's present Scheme of Delegation and must go to the Planning Committee for a decision.

This proposal to retain what is described as a “farm and factory shop” is misleading as it does not correctly describe the type of retailing on the site. It appears the building on site is a retail outlet with a floorspace in excess of 100 sq. metres which sells a wide variety of produce sourced from wholesalers while also providing a delivery service of the goods it sells to local businesses. This type of general convenience retailing goes against the SPPS as retailing is directed towards town centres. If this proposal were to be assessed under the correct use, it would be deemed contrary to SPPS which reiterates inappropriate retail facilities in the countryside must be resisted and this proposal is not considered to be an exceptional case.

I am of the opinion this application fails to comply with the criteria in CTY 1 and CTY 11 of PPS 21 as identified above. It also further jeopardises the safety of road users on what is already a notoriously well documented dangerous road. It fails to meet the criteria required by AMP 2 in PPS 3 and I would agree with DfI Roads this application should be refused.

Reasons for Refusal:

1. The proposal is contrary to Strategic Planning Policy Statement for Northern Ireland `Planning for Sustainable Development (SPPS) as retailing is directed to town centres, and the development of inappropriate retail facilities in the countryside must be resisted and this proposal is not an exception to policy.
2. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons as to why this development is essential in this rural location and could not be located within a settlement.
3. The proposal is contrary to Policy CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not demonstrated that it is to be run in conjunction with the agricultural operations on the farm and the farm business is currently active and established. The development, will result in a detrimental impact on the amenity of nearby residential dwellings by reason of traffic generation, and it does not involve the re-use or adaptation of existing farm buildings and it has not been demonstrated that there are no other buildings available to accommodate the proposal.
4. The proposal is contrary to Planning Policy Statement 3 access, Movement and Parking in that it would, if permitted, result in the intensification of use of an existing access) onto the A29 Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

Signature(s)

Date:

ANNEX	
Date Valid	16th August 2021
Date First Advertised	31st August 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 69 Drumgrannon Road Dungannon Tyrone The Owner/Occupier, 71 Drumgrannon Road Dungannon Tyrone The Owner/Occupier, 82 Drumgrannon Road Dungannon Tyrone Dominic Molloy - Email Marian Duffy - Email Barry Monteith - Email	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2021/1182/F Proposal: Retention of farm and factory shop and associated works Address: Approx 70m N.E. of 70 Drumgrannon Road, Dungannon, Decision: Decision Date: Ref ID: M/1995/0776 Proposal: Dwelling Address: ADJACENT TO 82 DUNGANNON ROAD MOY Decision: Decision Date: Ref ID: M/2009/0264/F Proposal: Replacement dwelling and garage Address: Land approx 460m West of 70 Drumgrannon Road, Dungannon Decision: Decision Date: 12.06.2009 Ref ID: M/2004/0410/F Proposal: 2 no steel framed poultry sheds Address: land 175m NW of 70 Drumgrannon Road, Dungannon Decision:	

Decision Date: 19.07.2004

Ref ID: M/2006/1151/F

Proposal: 1no Steel Framed Poultry Shed

Address: Land approx 175m NW of 70 Drumgrannon Road Dungannon

Decision:

Decision Date: 13.06.2006

Ref ID: M/2004/1950/F

Proposal: 2 No steel framed poultry sheds

Address: Land 175m North West of 70 Drumgrannon Road, Dungannon

Decision:

Decision Date: 07.05.2005

Ref ID: M/2005/0373/O

Proposal: Erection of new two storey dwelling and detached garage

Address: Site adjacent to 82 Moy Road and Drumgrannon Road, Moy, Dungannon

Decision:

Decision Date: 23.08.2005

Ref ID: M/2001/0753/F

Proposal: Change of House type from previously approved application Ref:M/95/0776.

Address: Adjacent to 82 Dungannon Road Moy Co Tyrone

Decision:

Decision Date: 15.11.2001

Ref ID: M/1975/0312

Proposal: ERECTION OF BUNGALOW

Address: CULLKEERAN, MOY ROAD, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1994/6100

Proposal: Replacement Dwelling Dungannon Road Moy

Address: Dungannon Road Moy

Decision:

Decision Date:

Ref ID: M/1995/6076

Proposal: Dwelling 82 Drumgrannon Road Moy

Address: 82 Drumgrannon Road Moy

Decision:

Decision Date:

Ref ID: LA09/2015/0176/F

Proposal: Proposed 3 no additional broiler poultry sheds with 6 no feed bins, a biomass boiler shed with fuel bin and a storage shed (to contain in total 111,000 broilers - increasing total site capacity to 258,500 broilers)

Address: Land approx. 230m North of 70 Drumgrannon Road, Dungannon,

Decision: PG

Decision Date: 08.02.2016

Summary of Consultee Responses DRD Roads Environmental Health
Drawing Numbers and Title
Drawing No. 01 Type: Site Location Plan Status: Submitted Drawing No. 02 Type: Road Access 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: LA09/2021/1276/O	Target Date:
Proposal: Proposed dwelling	Location: 35m N.W. of 270 Killyman Road Dungannon
Referral Route: Contrary to policy	
Recommendation:	Refusal
Applicant Name and Address: Mr Paul Cranston 120 Bush Road Dungannon	Agent Name and Address: JEM Architectural Services Ltd 15 Finglush Road Caledon BT68 4XW
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

None

Characteristics of the Site and Area

The site lies within the Northern edge of the settlement limits of Killyman and outside all other areas of constraint as depicted by the DSTAP 2010. The M1 motorway runs directly past the North of the site. The area is predominantly residential in nature with detached dwellings on both sides, semi-detached dwellings to the rear and across the road frontage there is an agricultural field which is also within the settlement.

The red line of the site is located approx. 35 north west of number 270 Killyman road and includes a long narrow plot sandwiched between two dwellings, the site is approx. 8.5 metres wide. The site is much higher than the road level with a steep bank on the entrance to the site. It is bounded along all sides and to the rear by low cropped native species hedgerow and the frontage has been opened and is undefined.



There are trees on either side of the entrance with a hedge along the frontage to the west and a walled frontage along the road to the east. The dwelling has bungalows on either side.



Description of Proposal

The proposal seeks outline planning permission for a site for a dwelling.



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.

Dungannon and South Tyrone Area Plan 2010
Mid Ulster Local Development Plan 2030 - Draft Strategy
Strategic Planning Policy Statement (SPPS)
PPS 7: Quality Residential Environment
PPS 3: Access, Movement and Parking

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. The SPPS sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

Representations

No third party representations were received.

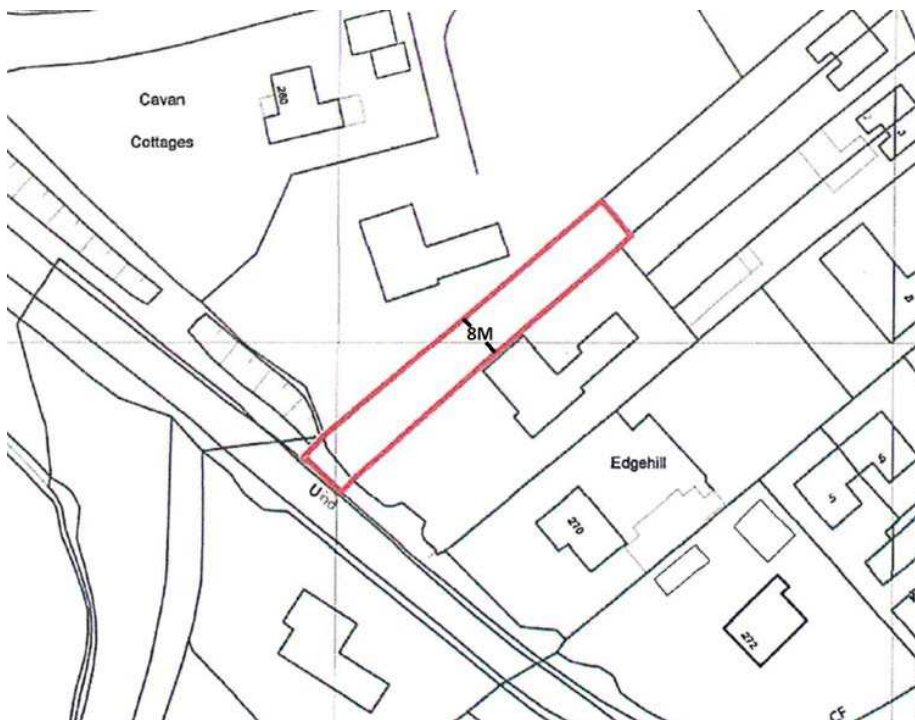
Policy QD1 of PPS 7 states that planning permission will be granted for new residential development only where it is demonstrated that it will create a quality and sustainable residential environment. It indicates that housing will not be permitted in established residential areas where it would result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

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

I note that the site is located within a mixed-use area inclusive of residential in close proximity, I note that the site appears as an urban infill given the level of build-up. However, it is my opinion that the site is too restrictive on terms of width to allow a dwelling to fit in acceptably. The site is approx. 8.5 metres with and any dwelling on this site would result in loss of amenity for the dwellings on either side.

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

I am content that no features of archaeological or built heritage, and landscape features will be impacted from this proposal.



c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, plated 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:-

Given the size of development I am content that the proposal does not require to provide public open space and given the size of site that there should be adequate private amenity space.

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

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

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

I am content the site will provide an acceptable movement pattern, including walking and cycling, which will enable occupants to access public transport routes and the public network system.

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

I am content that site is big enough to be able to provide sufficient parking for a dwelling.

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

I note that this is only an outline application therefore no design details have been provided.

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 note that no indicative site plan has been submitted, however, it is my opinion that due to the size and shape of the site any dwelling would give rise to loss of private amenity enjoyed by the neighbour, gable to gable distance of the existing dwellings is approx. 15 metres, also loss of light would be a concern due the site width of 8.5 metres, and finally overshadowing would also be a concern, due to its position to the NW, number 262 would experience overshadowing in early morning to afternoon sun. I note that additional landscaping will be solely required to reduce any concerns in regards to neighbouring amenity.

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

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

PPS 3: Access, Movement and Parking

DFI Roads were consulted in relation to the application and responded to confirm that they were content subject to conditions and informatives.

Mid Ulster Development Plan 2030 - Draft Plan Strategy

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

As the application has failed to comply with all the criteria under Policy QD1 of PPS 7 I must recommend refusal for this application.

-Overdevelopment

-Loss of amenity

Neighbour Notification Checked

Yes

Refusal Reasons

1.The proposal is contrary to the Department's Planning Policy Statement 7; Quality Residential Environment in that the development, would, if permitted, result in an unacceptable loss of amenity on neighbouring properties by reason of overlooking, overshadowing and loss of light.

2.The proposal is contrary to the Department's Planning Policy Statement 7; Quality Residential Environment in that the development, would, if permitted, represent an overdevelopment of the site.

Signature(s)

Date:

ANNEX	
Date Valid	1st September 2021
Date First Advertised	14th September 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Cavan Cottages Dungannon Tyrone The Owner/Occupier, 2 Cavan Cottages Dungannon Tyrone The Owner/Occupier, 260 Killyman Road Dungannon Tyrone The Owner/Occupier, 261 Killyman Road Dungannon Tyrone The Owner/Occupier, 268 Killyman Road Dungannon Tyrone Doreen Lewis 268 Killyman Road,Cavan,Killyman,Dungannon,BT71 6RT The Owner/Occupier, 269 Killyman Road Dungannon Tyrone The Owner/Occupier, 270 Killyman Road Dungannon Tyrone The Owner/Occupier, 3 Cavan Cottages Dungannon Tyrone The Owner/Occupier, 4 Cavan Cottages Dungannon Tyrone The Owner/Occupier, Holly Ridge 262 Killyman Road Dungannon	
Date of Last Neighbour Notification	21st September 2021
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2021/1276/O Proposal: Proposed dwelling on a farm Address: 35m N.W. of 270 Killyman Road, Dungannon, Decision: Decision Date: Ref ID: M/1976/0298	

Proposal: EXTESNSIONS TO COTTAGES.
 Address: LAGHEY COTTAGES, KILLYMAN, CAVAN COTTAGES, KILLYMAN, BALLYNAKILLY
 Decision:
 Decision Date:

Ref ID: M/2003/0242/F
 Proposal: Chalet type dwelling with attatched rear garage
 Address: Site adjacent to no. 270 Killyman Road, Dungannon
 Decision:
 Decision Date: 30.05.2003

Ref ID: M/2000/1232/O
 Proposal: Site for one and a half storey dwelling and detached domestic garage.
 Address: Land adjacent to 270 Killyman Road, Dungannon.
 Decision:
 Decision Date: 21.03.2001

Ref ID: M/1995/0752
 Proposal: Temporary mobile home for decanting purposes
 Address: 3 CAVAN COTTAGES KILLYMAN
 Decision:
 Decision Date:

Drawing Numbers and Title

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

Notification to Department (if relevant)

Date of Notification to Department:
 Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

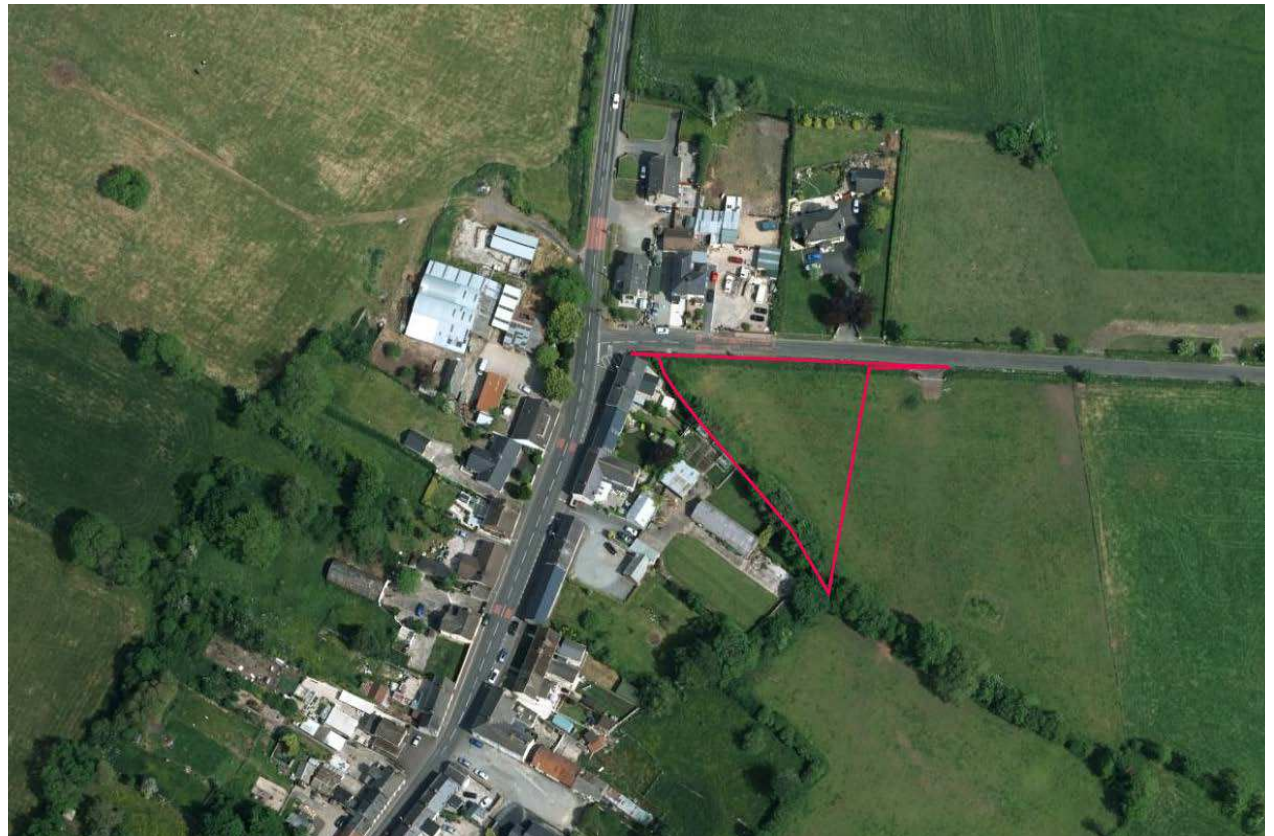
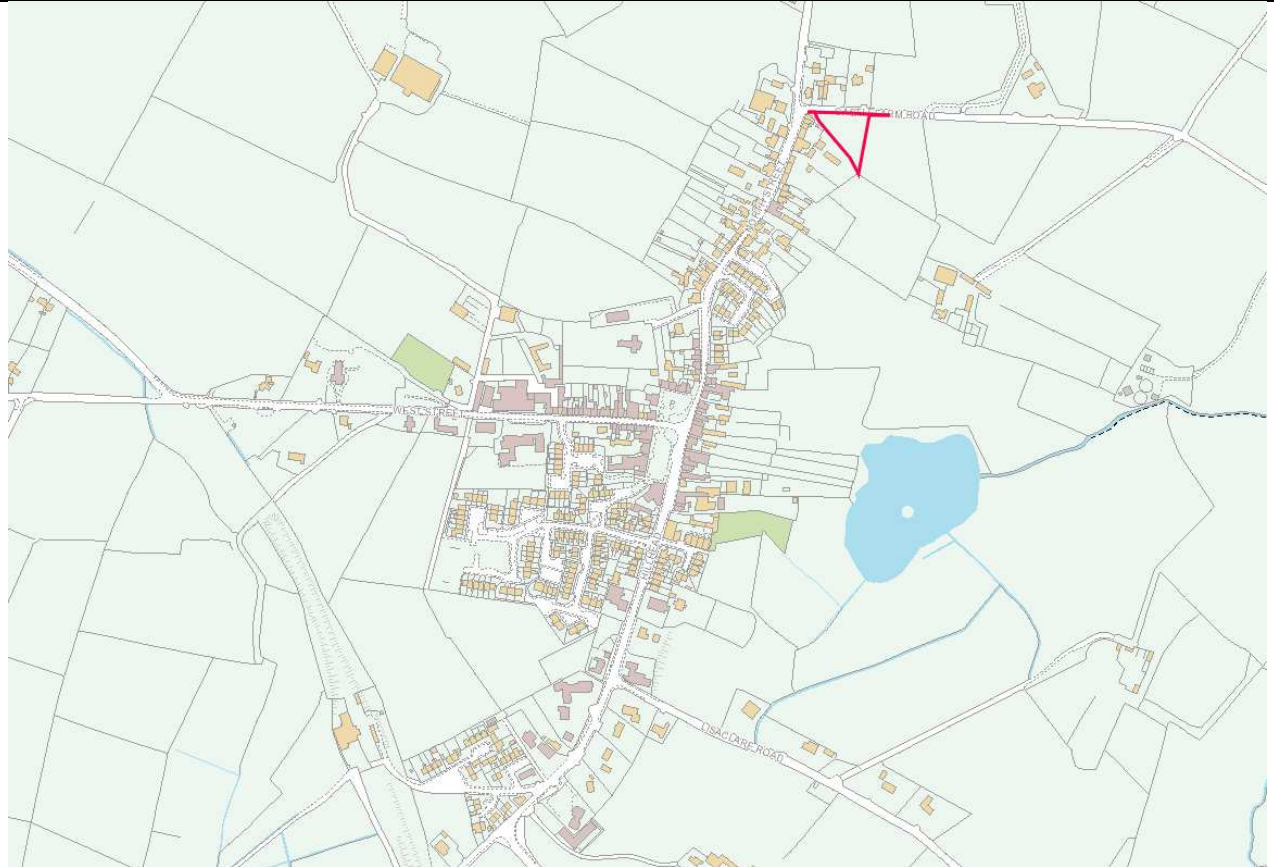
Mid-Ulster
Local Planning Office
Mid-Ulster Council Offices
50 Ballyronan Road
Magherafelt
BT45 6EN

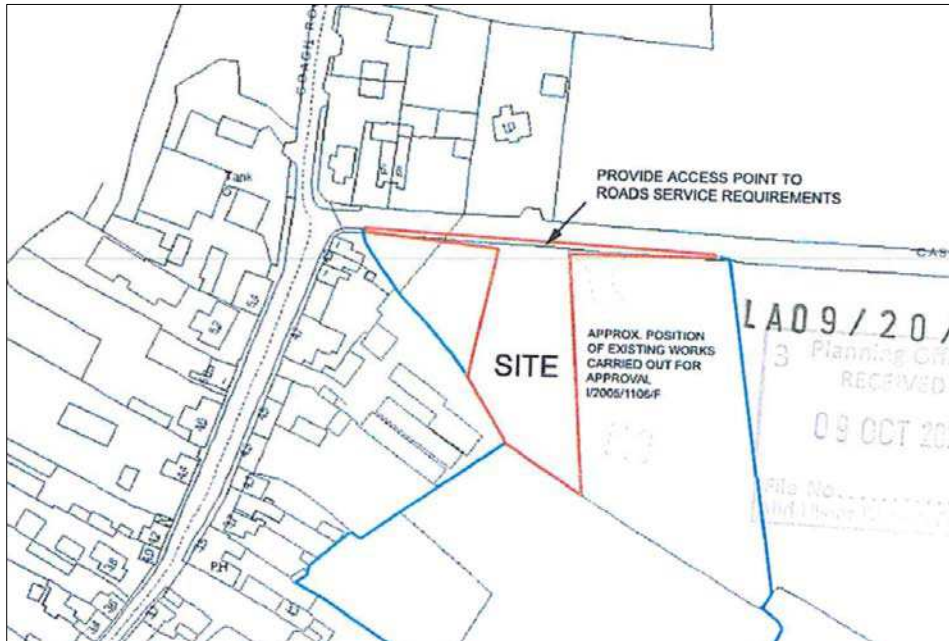
**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/1331/O	Target Date:
Proposal: Dwelling & garage	Location: Approx. 55m SW of 10 Castlefarm Road Stewartstown
Referral Route: Exception to policy	
Recommendation: Approve	
Applicant Name and Address: Mr Michael Quinn 6 Strathmullan Killymeal Road Dungannon BT71 6XJ	Agent Name and Address: Henry Murray 37C Claggan Road Cookstown BT80 9XJ
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:		
Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Advice
Statutory	DFI Roads - Enniskillen Office	Content
Representations:		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
Description of Proposal		
This is an outline application for a dwelling and garage to be located on lands approx. 55m SW of 10 Castlefarm Road Stewartstown.		
The current site was identified at a deferred office meeting on the 22 nd April 2021 as a potential alternative to that being sought by the same applicant for a dwelling and garage on a farm under planning application LA09/2020/1248/O.		
		
Fig 1: Site location plan for planning application LA09/2020/1248/O		
Under LA09/2020/1248/O it was established that the applicant has an active and established farm business operating over 6 years and no evidence indicates any dwellings or development opportunities had been sold off this holding. However, he has no buildings on his holding to visually link or cluster the proposal thus failed to meet all the tests of Policy CTY10. Additionally it failed to meet further tests of PPS21 Sustainable Development in the Countryside, requiring the proposal to integrate (Policy CTY13) and not mar the distinction between the settlement of Stewartstown and the surrounding countryside (Policy CTY 15).		

Subsequently, planning application LA09/2020/1248/O went to Planning Committee on the 12th April 2021 with a recommendation to refuse. The proposal was considered contrary to Planning Policy Statement 21 Sustainable Development in the Countryside:

- Policy CTY 1 in that there are no overriding reasons why the development is essential in this rural location and could not be located within a settlement;
- Policy CTY 15 in that development would if permitted mar the distinction between the settlement of Stewartstown and the surrounding countryside, and result in urban sprawl; and
- Policy CTY 13 in that the 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 it is not visually linked or sited to cluster with an established group of buildings on a farm.

The current site comprising land to the west of the previous site LA09/2020/1248/O detailed above was identified as a potential alternative in that due to its location bound by development within Stewartstown to the north, west and south it would round off, rather than create urban sprawl or mar Stewartstown settlements.

It is considered a dwelling and garage sited on the current site, in general conformity with an indicative block plan submitted (see Figs 2&3 below), would have no significant impact on the setting of Stewartstown.

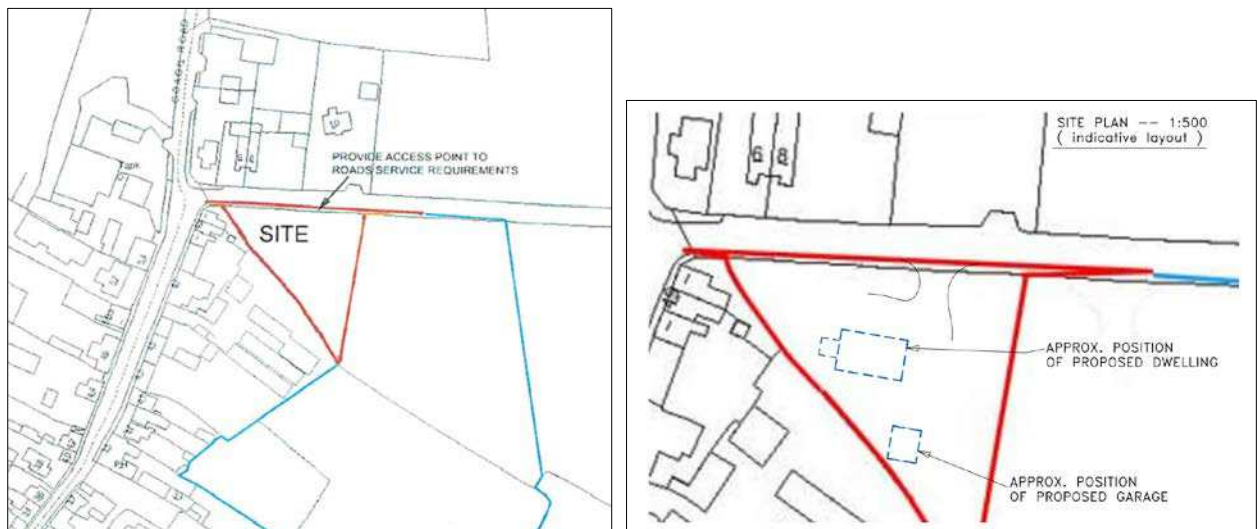


Fig 2 & 3: Current site location plan and indicative block plan

Characteristics of the Site and Area

The site lies in the rural countryside at the edge of Stewartstown settlement limits designated by the Cookstown Area Plan 2021.

The site is a relatively flat triangular shaped plot of land cut from the western half of a larger agricultural field situated adjacent Castletown Road. A low hedge with a wide grass verge to the outside defines the northern / roadside boundary of the site. A mix of mature vegetation and trees; and in part a stonewall defines the southwest / rear boundary of the site. The eastern boundary of the site is open onto the host field. Critical views of the site are limited until just before and passing the roadside frontage of the host field due to the topography of the area; existing development within Stewartstown;

and mature vegetation on site and within the wider vicinity, which all come together to screen it.

The site nestles into and is bound to the north, west and south by development within the settlement limits of Stewartstown, primarily housing but also a large farm group to the south. A Local Landscape Policy Area designated by the Plan to protect Stewartstown Lough exists. The land to the east outside the settlement limits is typically rural, characterised primarily by agricultural land interspersed with detached dwellings, ancillary buildings and farm groups.

Planning Assessment of Policy and Other Material Considerations

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Cookstown Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 6: Planning, Archaeology and the Built Heritage

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 21: Sustainable Development in the Countryside

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

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

Representations

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

Planning History on Site

- I/1993/0412 - Dwelling - East of junction of Coagh Rd and Castlefarm Rd Stewartstown - Granted 11th April 1994 (Historical application)
- I/2000/0428/F - Erection of dwelling - Site immediately to east of junction of Coagh Rd / Castlefarm Rd Stewartstown - Granted 1st September 2000
- I/2005/1106/F - Renewal of I/2000/0428/F erection of dwelling - Site immediately to east of junction of Coagh Rd / Castlefarm Rd Stewartstown - Granted 15th October 2005

The above applications comprised the current site's host field. Whilst the 1993 application is historical therefore no details are available the more recent applications, the latter being a renewal of the former, granted a large 2 storey hipped roof dwelling and garage just east of the current site. Whilst historical orthophotography available appears to show foundations on site in 2011, it is unclear as to whether works commenced in accordance with the decision notice.

- LA09/2020/1248/O - Dwelling and garage (on a farm) - Approx. 60m south of 10 Castlefarm Rd Stewartstown - Deferred

The above planning application went to Planning Committee on the 12th April 2021 with a recommendation to refuse contrary to Policies CTY1, CTY15 and CTY13 of PPS21. Subsequently at a deferred office meeting, the current site was identified as an alternative (see 'Description of Proposal' for further details).

Consultees

1. DfI Roads were consulted in relation to access, movement and parking arrangements and have no objection subject to standard conditions and informatives, subject to which I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
2. Historic Environmental Division (HED) were consulted as the site is located within the buffer area of two archaeological sites/monuments (TYR039:010 and TYR039:012); and in proximity to a Listed Asset (HB09/08/025 - Pump at junction of North St / Castlefarm Rd).
 - Historic Buildings assessed the application and considered it would not unduly affect the Listed Asset, given the nature and scale of the asset and distance from the proposal.
 - Historic Monuments assessed the application were content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.
3. Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted under the applicant's previous application LA09/2020/1248/O with a P1C Form and Farm maps. DAERA confirmed the applicant's farm business as identified on the P1C Forms and Farm maps has been active and established for over 6 years.

Key Policy Considerations/Assessment

Cookstown Area Plan 2010 – the site lies in the rural countryside just outside and at the edge of Stewartstown settlement limits.

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

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

Under LA09/2020/1248/O (see 'Description of Proposal') it was established that the applicant has an active and established farm business operating over 6 years and no evidence indicates any dwellings or development opportunities had been sold off this holding. However, he has no buildings on his holding to visually link or cluster the proposal thus failed to meet all the tests of Policy CTY10. The applicant's farm business consists of 2 separate holdings, one comprising land adjacent to and south of the current site outside Stewartstown settlement limits; the other 3 fields located to both sides of the Tullagh Rd, just outside the settlement limits of Cookstown. Additionally, his proposal failed to meet further tests of PPS21 Sustainable Development in the Countryside, requiring the proposal to integrate (Policy CTY13) and not mar the distinction between the settlement of Stewartstown and the surrounding countryside (Policy CTY 15).

Subsequently, planning application LA09/2020/1248/O went to Planning Committee on the 12th April 2021 with a recommendation to refuse. The proposal was considered contrary to PPS21 Sustainable Development in the Countryside:

- Policy CTY 1 in that there are no overriding reasons why the development is essential in this rural location and could not be located within a settlement;
- Policy CTY 15 in that development would if permitted mar the distinction between the settlement of Stewartstown and the surrounding countryside, and result in urban sprawl; and
- Policy CTY 13 in that the 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 it is not visually linked or sited to cluster with an established group of buildings on a farm.

At a deferred office meeting for application LA09/2020/1248/O on the 22nd April 2021 the current site comprising land to its west was identified as a potential alternative in that due to its location bound by development within Stewartstown to the north, west and south it would round off, rather than mar, the settlement limits.

It is considered a dwelling and garage sited on the current site, in general conformity with an indicative block plan submitted (see Figs 2&3 further above), would have no significant impact on the setting of Stewartstown.

The current site still does not sit neatly within policies CTY 1 and 10 of PPS 21 as the fact remains that the applicant has no buildings on the farm to visually link or cluster the proposed dwelling and garage. However, unlike the previous scheme a dwelling and garage on this site would integrate in accordance with Policy CTY13 and round off rather than create urban sprawl or mar Stewartstown settlements thus not offending Policy CTY15. Accordingly, I think it is reasonable to accept a dwelling on this site in this exceptional case.

As this is an outline application the size, scale and design of the dwelling and garage can be considered further under any subsequent reserved matter application. I believe a suitably designed scheme, sited in general conformity with the indicative block plan submitted, should not have any unreasonable impact on the neighbouring properties in terms of overlooking or overshadowing given separation distances that will be retained.

Additional Considerations

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

Flood Maps NI indicate no flooding on site.

Recommendation: Approve

Neighbour Notification Checked	Yes
Summary of Recommendation:	Approve
Conditions	
<p>1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-</p> <ul style="list-style-type: none">i. the expiration of 5 years from the date of this permission; orii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved. <p>Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.</p> <p>2. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.</p> <p>Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.</p> <p>3. No development shall take place until a plan indicating floor levels of the proposed dwelling(s) in relation to existing and proposed ground levels has been submitted to and approved by the Council.</p> <p>Reason: In the interest of visual and residential amenity.</p> <p>4. The dwelling and garage hereby permitted shall be located in general conformity with drawing no. 02 bearing the date stamped received 17 NOV 2021.</p> <p>Reason: In the interest of visual and residential amenity.</p> <p>5. The existing natural screenings of the site, as indicated in green, on approved drawing No. 01 bearing the date stamped received 10 SEP 2021, shall be permanently retained intact unless necessary to provide access and/or visibility splays; or prevent danger to the public in which case a full explanation shall be given to the Council in writing prior to their removal.</p> <p>Reason: In the interest of visual and residential amenity.</p>	

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

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

7. Prior to commencement of any development hereby approved, the vehicular access as detailed in the attached form RS1, including visibility splays of 2.4mx 60m in both directions and 60m forward sight distance, shall be provided in accordance with a 1:500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

Informatives

1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. This permission relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.
4. This permission authorises only private domestic use of the proposed garage and does not confer approval on the carrying out of trade or business there from.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/1514/F	Target Date:
Proposal: Single 2 storey dwelling.	Location: 84 Orritor Road Cookstown BT80 8BN.
Referral Route: Committee - Refusal	
Recommendation:	
Applicant Name and Address: Bell Contracts Ltd Unit 5 Mid Ulster Business Derryloran Industrial Estate Cookstown BT80 9LU	Agent Name and Address: Eamonn Moore Architect 10 Knockmoyle Cookstown BT80 8XS
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Water - Single Units West - Planning Consultations	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Historic Environment Division (HED)	Content

Representations:

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

Summary of Issues

No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination

Characteristics of the Site and Area

The site is located within the limit of development for Cookstown as defined within the Cookstown Area Plan 2010. Access to the site is proposed from the Orritor road. The site at present is a vacant plot which is located to the front of a housing development (Forthglen). The level of the site is on or about that of the adjoining Orritor Road and Forthglen estate road. The southern and western boundaries are defined by boarded fencing and separate the plot from residential use on the opposite side of same. Temporary site fencing panels define the remaining boundaries. The area is residential in land use, with a two storey detached dwelling to the west, a pair of semi-detached

dwelling to the south. The semi detached dwellings are part of Forthglen estate which is an estate of semi detached two storey and one and a half type dwellings.

On the opposite side of the Orritor Road, from the proposed development are agricultural lands, which are outside the limit of development and designated as phase 2 housing lands.

Description of Proposal

This is a full application for a single two storey dwelling

Planning Assessment of Policy and Other Material Considerations

Relevant Site Histories:

Most recent history on site is LA09/2016/1326/F - 2 no Apartments, 84 Orritor Road, Cookstown, Permission Granted 08.06.2017.

I/2014/0409/F: Planning permission refused on 3/6/15 for a pair of 2storey semi-detached dwellings: reasons for refusal were;

- The proposal is contrary to Policy QD1 of Planning Policy Statement 7 (PPS7): Quality Residential Environments in that it has not been demonstrated that the development would create a quality and sustainable residential environment and fails to meet the requirements of criteria (a), (c), (f) and (g) of Policy QD1.

- The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 7, in that it would, if permitted, prejudice the safety and convenience of road users since adequate provision cannot be made clear of the highway for the parking and turning of vehicles which would be attracted to the site.

Previously I/2007/0113/F: Planning permission granted on 9th May 2007 for a proposed dwelling and garage on same site. Permission expired.

Representations

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

Assessment

Principle of Development

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.

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

The Cookstown Area Plan, 2010 identifies the site as being located within the development limits. The application is for a single two storey dwelling. Under Policy QD1 of PPS7- planning permission will only be granted for new residential developments where it is demonstrated that the proposal will create a quality and sustainable residential area. The design and layout of residential development should be based on 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.

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 borderline in the provision of private amenity space, just meeting the guidance as set out in Creating Places.

HED were consulted on the application and on the basis of the information provided, were content that the proposal is satisfactory to SPSS and PPS 6 archaeological policy requirements.

There is tolerable private open space within the site, with garden area to the rear . The proposal is for a single dwelling it is considered that it would be unnecessary to provide additional neighbourhood facilities due to the size and scale of the proposal. The proposal would not significantly intensify or place unnecessary demands on the existing neighbourhood provisions and amenities within the area.

Access

The proposal seeks to construct a new access to a public road. Transport NI were consulted on the application and responded to say that the proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it adds to a proliferation of accesses onto this road. An alternative access could be achieved via the adjacent housing development road as per Paragraph 7.1 DECAN 15.

This was discussed with the agent and he did not wish to amend the application.

Other Policy and Material Considerations:

The detail of the proposal is a single two storey building. The external finish being red facing brick and white render with blue/black concrete tiles which is in keeping with the surrounding area,

The siting of the building respects the building line of the adjacent two storey dwelling which results in the footprint of the dwelling being

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

Conclusion

In conclusion, the proposal is contrary to PPS 3, Access, Movement and Parking, Policy AMP 2 and therefore refusal is recommended.

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

Refuse

Refusal Reasons:

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would if permitted, prejudice the safety and convenience of road users since it adds to a proliferation of accesses onto this road.

NOTE: An alternative access could be achieved via the adjacent housing development road as per Paragraph 7.1 DECAN 15.

Signature(s)**Date:**

ANNEX	
Date Valid	15th October 2021
Date First Advertised	26th October 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 115 Orritor Road Cookstown Tyrone The Owner/Occupier, 117 Orritor Road Cookstown Tyrone The Owner/Occupier, 130 Orritor Road Cookstown Tyrone The Owner/Occupier, 130a Orritor Road Cookstown The Owner/Occupier, 68 Forth Glen Cookstown Tyrone The Owner/Occupier, 69 Forth Glen Cookstown Tyrone The Owner/Occupier, 70 Forth Glen Cookstown Tyrone The Owner/Occupier, 71 Forth Glen Cookstown Tyrone The Owner/Occupier, 72 Forth Glen Cookstown Tyrone The Owner/Occupier, 73 Forth Glen Cookstown Tyrone The Owner/Occupier, 74 Forth Glen Cookstown Tyrone The Owner/Occupier, 75 Forth Glen Cookstown Tyrone The Owner/Occupier, 76 Forth Glen Cookstown Tyrone The Owner/Occupier, 77 Forth Glen Cookstown Tyrone The Owner/Occupier, 78 Forth Glen Cookstown Tyrone The Owner/Occupier, 78 Orritor Road Cookstown Tyrone The Owner/Occupier, 79 Forth Glen Cookstown Tyrone The Owner/Occupier, 80 Orritor Road Cookstown Tyrone	

The Owner/Occupier, 82 Orritor Road Cookstown Tyrone The Owner/Occupier, 90 Orritor Road, Cookstown, Tyrone, BT80 8BN	
Date of Last Neighbour Notification	2nd November 2021
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2017/0993/PAN Proposal: Proposed residential development and access Address: Lands to the west of Forthglen, adjacent to 130 and 130a Orritor Road, Cookstown, Decision: PANACC Decision Date: Ref ID: LA09/2016/1326/F Proposal: 2 no Apartments Address: 84 Orritor Road, Cookstown, Decision: PG Decision Date: 08.06.2017 Ref ID: LA09/2021/1514/F Proposal: Single 2 storey dwelling. Address: 84 Orritor Road, Cookstown BT80 8BN., Decision: Decision Date: Ref ID: LA09/2020/0762/PAD Proposal: 2 Semi detached dwellings Address: Corner site , Orritor and Forthglen Road junction, Cookstown, Decision: Decision Date: Ref ID: I/2014/0409/F Proposal: Proposed pair of 2 Storey Semi-Detached Dwellings Address: 84 Orritor Road, Cookstown,	

Decision: PR
Decision Date: 05.06.2015

Ref ID: LA09/2016/0342/PAD
Proposal: Two apartments
Address: 84 Orritor Road, Cookstown,
Decision:
Decision Date:

Ref ID: I/1993/0366
Proposal: 12 No Dwellings
Address: FORTH GLEN HOUSING DEVELOPMENT ORRITOR ROAD, COOKSTOWN.
Decision:
Decision Date:

Ref ID: I/1984/0157
Proposal: HOUSING DEVELOPMENT AND PUMPING STATION
Address: ORRITOR ROAD, COOKSTOWN
Decision:
Decision Date:

Ref ID: I/1984/015701
Proposal: HOUSING DEVELOPMENT AND PUMPING STATION
Address: ORRITOR ROAD, COOKSTOWN
Decision:
Decision Date:

Ref ID: I/1994/0148
Proposal: 8 No Dwellings
Address: FORTH GLEN HOUSING DEVELOPMENT ORRITOR ROAD COOKSTOWN
SITES 40, 41, 42, 43, 44, 45, 46A, 46B
Decision:
Decision Date:

Ref ID: I/1993/0349
Proposal: Extension to dwelling including domestic garage
Address: 52 FORTHGLEN ORRITOR ROAD COOKSTOWN
Decision:
Decision Date:

Ref ID: I/1998/0356

Proposal: Housing Development of 9 dwellings
Address: SITES 1,3,4,5,6,7,8,9 & 10 FORTHGLEN PHASE TWO ORRITOR ROAD
COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1995/0158

Proposal: Erection of 14 No dwellings

Address: FORTHGLEN (PHASE 2) ORRITOR ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1976/0023

Proposal: ERECTION OF NON SUBSIDY BUNGALOW

Address: ORITOR ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1985/0325

Proposal: DWELLING AND GARAGE

Address: ORRITOR ROAD, HALOON, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1999/0293

Proposal: Construction of dwelling and garage

Address: Adjacent to 86 Orritor Road Cookstown

Decision:

Decision Date: 18.11.2000

Ref ID: I/2003/0181/F

Proposal: Housing Development

Address: Housing Zone H18 , lands north of 99 -117 Orritor Road, Cookstown.

Decision:

Decision Date: 23.06.2010

Ref ID: I/2007/0113/F

Proposal: Proposed dwelling & garage

Address: Adjacent to 86 Orritor Road, Cookstown

Decision:

Decision Date: 16.05.2007

Ref ID: I/1986/0014
Proposal: 33/11 KV CHANGEOVER (2ND AMEND)
Address: TULLAGH, COOKSTOWN
Decision:
Decision Date:

Ref ID: I/1993/6066
Proposal: Site Layout (Roads) Forthglen Housing Development Orritor Road Cookstown
Address: Forthglen Housing Development Orritor Road Cookstown
Decision:
Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No. 04
Type: Proposed Elevations
Status: Submitted

Drawing No. 03
Type: Proposed Floor Plans
Status: Submitted

Drawing No. 02
Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 05

Type: Proposed Elevations

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

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

Further Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/0446/F	Target Date:
Proposal: Proposed dwelling and garage.	Location: Land opposite and S.W. of 165 Favour Royal Road Augher
Applicant Name and Address: Finbar Mc Quaid 163 Favour Royal Road Augher	Agent Name and Address: Bernard J Donnelly 30 Lismore Road Ballygawley BT70 2ND
Summary of Issues: This application has been changed to a dwelling on a farm and information has been presented to demonstrate the applicant is a horse breeder. Horse breeders are afforded the same policy provisions as farmers in respect of dwellings on farms.	
Summary of Consultee Responses: DFI Roads – safe access to have 2.0m x 50.0m sight lines	
Characteristics of the Site and Area: This site is an irregular shaped plot cut out of a larger agricultural field and is set back approximately 70m from a shared public access road which accesses onto Favour Royal Road. Augher Village is located approx. 2 mile to the west. Access to the site will traverse an open field with the site located in the SW corner of the field with mature trees and hedgerow along the western and southern boundaries. All remaining boundaries are open to the field, with a small maintained hedgerow located at roadside. The site is low lying and relatively flat. Some site clearance has taken place on site, and gravel/hard-core has been laid at the access and there is evidence some of the roadside verge/earth bank has been cut back to create sight splays.	

Along this dead-end road (which is also part of Favour Royal Road) there are a number of detached dwellings and a farm holding at the end of road. There is also forest areas along this stretch of road. Adjacent and south is No. 163 Favour Royal Road, while opposite the site is 3 no. dwellings.

Description of Proposal

Proposed dwelling and garage.

Deferred Consideration:

This application was before the Planning Committee at its meetings in September 2020 and November 2020. Members will be aware the issues here was that it was not demonstrated development in the course of the erection of a building had been carried out and the approved access was not put in place before development was commenced. The application was deferred to seek clarification and allow further consideration of the issues.

Since then the applicant has submitted additional information for consideration against Policy CTY10 for a dwelling on a farm. The information presented relates to the applicants breeding of horses. Members are advised Policy CTY10 makes provision for those involved in the keeping and breeding of horses for commercial purposes to be assessed against the criteria as a farmer.

In support of the proposed development the following information has been submitted:

- letter from T Gourley (Planning Consultant) advising the applicant and his father have been keeping horses and breeding them on this land since 2011
- the applicants father lives in the house to the immediate west of the proposed site and he has stables located to the rear of his house
- aerial photographs of the land showing horses grazing and exercising in this field in 2012, 2013, 2015, 2017 and 2020
- letter from Gerry McQuaid stating he breeds horses and has done since 2011, small numbers now due to the depressed state of the equine business following the pandemic outbreak
- horse passport for Mountforest Lady issued 25 June 2012
- letter from P McKernan to state his stallion has been presented to Mssrs McQuaid mares for the last 10 years
- letter from D Irwin to state he has bought foals from Mssrs McQuaid for the past 10 years
- letter from T Keogh stating he bought a foal from Mssrs McQuaid in 2019
- letter from A McKenna, a veterinarian in Emyvale who has acted for Mr McQuaid for the opast 10 years in relation to his brood mares
- information in respect of renewing Farm and Equine Insurance for Mr G McQuaid 163 Favour Royal Road, May 2007, May 2011 and May 2021 and a letter from the insurance broker to advise this type of insurance has been held since 1999.

DAERA have advised they supply equine numbers to horse breeders, however this is a voluntary process and they do not have any records of Mr McQuaid. They advised to contact NI Horse Board for further information. NI Horse Board have confirmed the passport provided is correct and the details correspond with the information submitted. They are unable to provide any records for foals produced by the mare which Mr McQuaid

has. NI Horse Board also confirmed that foals can be sold without a passport and that is common practice as the new owner usually names the horse. In light of the above I am satisfied the applicant can demonstrate the horse breeding has been in existence for a period in excess of 6 years and that it is currently ongoing as the google streetview picture below captured in July 2021 shows cattle and horses in the field. I am satisfied this application meets with criteria a in CTY10.



A check of the land that has been shown as owned has been undertaken. There has been no planning permission granted for dwellings in the last 10 years on the land and no development opportunities sold off. I consider criteria b has been met.

The applicant has a dwelling, garden room and a number of buildings to the rear of the dwelling immediately to the south of this proposed site. The proposed dwelling and garage will be sited to cluster with these and as such I am satisfied that criteria c has been met.

The proposed dwelling is 2 storey with 2 front projections; a sandstone stone stairwell with a 2 storey arched window and a 2 storey gable fronted projection. The dwelling is proposed to have self coloured render to the walls and a natural slate roof. There is a single storey sandstone side projection for a play room and a single storey family room at the rear. It is proposed to have a one and half storey garage to the rear of the dwelling, similar in finishes and style to the house. The house design is fairly typical of houses in the area as there is an eclectic mix here. The applicants fathers house is a dormer bungalow and across the road there is a 2 storey house with 2 full 2 storey projections with bay windows on them to the front and immediately adjacent to that is a 2 storey with a 2 storey central porch. I consider the design is acceptable in this location given its set back and the surrounding development. Landscaping has been carried out along the boundary with the applicants father's house, there is a strong hedge to the rear boundary and new landscaping is proposed along the sites new boundaries which will assist in the overall integration of the dwelling. No levels have been provided to show the dwellings finished floor however I consider it would be appropriate to condition that these levels are submitted and agreed before any works are undertaken on the site, to ensure the development will not be prominent in the landscape and integrates satisfactorily.

In view of the above, I recommend this application is approved with the conditions suggested below attached.

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 any development hereby approved, the vehicular access including visibility splays of 2.0mx 50.0m shall be provided in accordance with the details as set out on drawing No 02 bearing the stamp dated 30 MAR 2020. 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.

3. All hard and soft landscape works as detailed on drawing no 02 bearing the stamp dated 30-NOV-2020 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

REASON: In the interest of visual amenity and to protect the character of the rural area.

4. The development hereby approved shall not commence until a plan showing existing and proposed ground levels and proposed floor levels of the dwelling and garage hereby approved has been submitted to and approved by the Council.

REASON: In the interest of visual amenity and to protect the character of the rural area

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/0446/F	Target Date:
Proposal: Proposed change of house type to previously approved Ref. M/2006/1301/RM	Location: Land opposite and S.W. of 165 Favour Royal Road Augher
Applicant Name and Address: Finbar Mc Quaid 163 Favour Royal Road Augher	Agent Name and Address: Bernard J Donnelly 30 Lismore Road Ballygawley BT70 2ND
Summary of Issues: No justification for a dwelling in the countryside and it has not been demonstrated there is a legitimate fallback position that would allow a dwelling to be built on this site	
Summary of Consultee Responses: DFI Roads – safe access to have 2.0m x 50.0m sight lines	
Characteristics of the Site and Area: This site is an irregular shaped plot cut out of a larger agricultural field and is set back approximately 70m from a shared public access road which accesses onto Favour Royal Road. Augher Village is located approx. 2 mile to the west. Access to the site will traverse an open field with the site located in the SW corner of the field with mature trees and hedgerow along the western and southern boundaries. All remaining boundaries are open to the field, with a small maintained hedgerow located at roadside. The site is low lying and relatively flat. Some site clearance has taken place on site, and gravel/hard-core has been laid at the access and there is evidence some of the roadside verge/earth bank has been cut back to create sight splays.	

Along this dead-end road (which is also part of Favour Royal Road) there are a number of detached dwellings and a farm holding at the end of road. There is also forest areas along this stretch of road. Adjacent and south is No. 163 Favour Royal Road, while opposite the site is 3 no. dwellings.

Description of Proposal

Proposed change of house type to previously approved Ref. M/2006/1301/RM

Deferred Consideration:

This application was before the Planning Committee at its meeting in September 2020, the agent was granted speaking rights but was unable to be located to speak. It was agreed to defer the application to allow further discussion with the agent about the validity of the application and whether it was a change of house type as there is some doubt over the issue of commencement of the previous permission.

The Head of Development Management contacted the agent and explained the application was deferred and invited them to make contact to discuss the way forward. The agent advised they had arrived at the offices after the committee meeting had started and they did not get to speak about the application and wished the application to be brought back to the next available committee to allow them the opportunity to speak to the members.

In the documents that were submitted in the request to speak are 5 photographs that appear to have been taken from Google Maps and Streetview. (see appendix). The dates that have been highlighted on the images refer to the image being captured in Mar 2009. As explained in the previous report the issues in this case relate to whether or not the previous planning permission on the site was implemented in time. The OPP was granted on 13 May 2003, ref M/3003/0514/O and RM was granted on 14th November 2006, ref M/2006/1301/RM. Development in the course of the erection of the building must have been commenced on the site before 14th November 2008, this being the later of the 2 dates of 5 years from 13th May 2003 and 2 years from 14th November 2006. The images that have been presented for discussion show relatively new works completed to the front of the site that have removed hedges and provided new fences, gates and entrances. This does not show any works in the course of the erection of the approved buildings on the site on 14th November 2008.

There has been no new information to demonstrate that the previous permission was commenced in time and despite the offer to discuss the case further the applicant has requested this application is brought back to the committee to allow them to speak to the members.

In view of the above, it has still not been demonstrated that the previous planning permission was lawfully commenced within the time and recommendation is that this application is refused.

Reasons for Refusal:

1.The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the proposal falls within any of the range of types of development which in principle are considered to be acceptable in the countryside and therefore does not contribute to the aims of sustainable development.

Signature(s)

Date:

APPENDIX



Photograph 1



Photograph 2



Photograph 3



Photograph 4



Photograph 5



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 1st September 2020	Item Number:
Application ID: LA09/2020/0446/F	Target Date:
Proposal: Proposed change of house type to previously approved Ref. M/2006/1301/RM	Location: Land opposite and S.W. of 165 Favour Royal Road Augher
Referral Route: recommendation to Refuse	
Recommendation:	Refusal
Applicant Name and Address: Finbarr Mc Quaid 163 Favour Royal Road Augher	Agent Name and Address: Bernard J Donnelly 30 Lismore Road Ballygawley BT70 2ND
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Representations: None Received

Description of proposal

This is full planning application for a change of house type to previously approved ref. M/2006/1301/RM.

Characteristics of Site and Area

This site is an irregular shaped plot cut out of a larger agricultural field and is set back approximately 70m from a shared public access road which accesses onto Favour Royal Road. Augher Village is located approx. 2 mile to the west. Access to the site will traverse an open field, with the site located in the SW corner of the field with mature trees and hedgerow along the western and southern boundaries. All remaining boundaries are open to the field, with a small maintained hedgerow located at roadside.

The site is low lying and relatively flat. Some site clearance has taken place on site, and gravel/hard-core has been laid at the access and there is evidence some of the roadside verge/earth bank has been cut back to create sight splays.

Along this dead-end road (which is also part of Fever Royal Road) there are a number of detached dwellings and a farm holding at the end of road. There is also forest areas

along this stretch of road. Adjacent and south is No. 163 Favour Royal Road, while opposite the site is 3 no. dwellings.

Planning Assessment of Policy and Other Material Considerations

Planning Act 2011

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

Area Plan

The site is located in the open countryside as defined in the Dungannon and South Tyrone Area 2010 where SPPS and PPS21 are applicable. There are no specific area plan policies relevant to this proposal.

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

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

Representations

None received

Relevant planning history

M/2003/0514/O- outline planning permission was granted on this site for a 2 storey dwelling and garage on 15.05.2003.

M/2006/1301/RM- reserved matters was granted for a 2 storey dwelling and garage on 14.11.2006.

Therefore to secure the above permission development had to commence on site prior to 14.11.2008.

Key Planning Policy

SPPS Strategic Planning Policy Statement

PPS21 Sustainable Development in the Countryside

PPS3 Access, Movement and Parking

Planning Assessment

This proposal is for a change of house type to previous permission M/2006/1301/RM. M/2006/1301/RM was granted under a different Regional Rural Policy than currently exists. In order to consider if this proposal is acceptable in principle one of two things have to be established. The first is whether development on this site has lawfully commenced within the lifetime M/2006/1301/RM, including any pre commencement conditions. If this cannot be established, then the proposal has to be considered against

the policy criteria of PPS21 Sustainable Development in the Countryside as this is new policy consideration for all development proposals in the Countryside.

From viewing Council Ortho Maps it is clear that no access point or foundations of buildings have been created on this site on 09/03/2010. At this point the previous permission had lapsed. The agent has not able to produce any evidence, such as Building Control inspection certificates, to prove that foundations had been laid prior to the expiration of the previous permission. Therefore, from the evidence presented, I can say with a strong degree of certainty that development on this site has not been lawfully commenced within the lifetime of the permission therefore no weight can be attached to the previous permission. Had it been demonstrated that the previous permission was lawfully commenced, then I would be in a position to consider the proposed amendments to the house type as presented in this subject application, as the previous permission would have been secured and a dwelling completed on the site.

However, no weight can be attached to the previous permission. Therefore I have to consider the proposal under the policy provisions of the current regional rural policy PPS21.

Strategic Planning Policy Statement- The policy provision of SPPS do not impact on the policy provisions of PPS21 Sustainable Development in the Countryside, which is the applicable policy for assessing planning applications in the countryside, until such times as the new area plan is adopted.

There are certain circumstances where the development of a dwelling is considered acceptable in the countryside, subject to certain criteria. These are listed in CTY1 Development in the Countryside. The applicant has not provided a case where this proposal could be considered acceptable under the provisions of Policy CTY1 of PPS21. On assessing the application on the ground I am of the view that the proposal does not meet any of the policy criteria contained within PPS21.

I therefore have to recommend to Members that this proposal is recommended as a refusal as it is contrary to policy CTY1 of PPS21.

In terms of the proposed house design, the proposed house design is almost identical to what was previously granted in 2006. In my view rural design considerations, integration and impacts on rural character considerations are broadly similar now to those that were considered previously. Given that the size, design and siting are almost identical I find the proposed design acceptable in this instance for this site and locality.

It has also been clarified by DfI Roads that existing suitable visibility splays are in place.

Other Policy and Material Considerations

The site is not subject to flooding and there are no land contamination issues to consider.

This site is not located with or adjacent to an International, National or Locally protected or designated site. In my view, there will be no detrimental environmental impacts.

Should Committee Members decide to overturn my recommendation then I am of the view that the proposed design, access, and landscaping proposals are acceptable, with similar conditions to M/2006/1301/RM being applied.

Neighbour Notification Checked	Yes
Summary of Recommendation: That planning permission be refused for the following reason.	
Refusal Reasons 1.The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the proposal falls within any of the range of types of development which in principle are considered to be acceptable in the countryside and therefore does not contribute to the aims of sustainable development.	
Signature(s) Date:	

ANNEX	
Date Valid	30th March 2020
Date First Advertised	26th May 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 163 Favour Royal Road,Augher,Tyrone,BT77 0EW The Owner/Occupier, 165 Favour Royal Road Augher Tyrone The Owner/Occupier, 165a,Favour Royal Road,Augher,Tyrone,BT77 0EW	
Date of Last Neighbour Notification	28th May 2020
ES Requested	No



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	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/0790/O	Target Date: <add date>
Proposal: Proposed dwelling and detached double garage with storage above	Location: Approximately 50 metres South West of 50 Cadian Road Eglish Dungannon
Applicant Name and Address: Ryan Muldoon 31 Carrowcolman Road Eglish Dungannon BT70 1LF	Agent Name and Address: Colm Muldoon 31 Carrowcolman Road Eglish Dungannon BT70 1LF
Summary of Issues: Dwelling on a farm, the applicant has advised they do not have a business id issued by DAERA. Information has been submitted to show the works that have been done to the land and the return that has received from the land for the past 6 years. No existing building son the farm to site with.	
Summary of Consultee Responses: DFI Roads - access to be improved to provide sight lines on 2.4m x 70.0m and forward sight lines of 70.0m	
Characteristics of the Site and Area: The site lies in the open countryside just outside the settlement limits of Eglish and outside all other areas of constraint. The red line of the site depicts a large agricultural field on raised ground above the Cadian Road. The site rises from the East to the West and is accessed via a small narrow laneway off the Cadian Road which rises steeply along the site front (East) and along the side (North).	

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

Description of Proposal

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

Deferred Consideration:

This application was before the Planning Committee in November 2020 and it was deferred to allow a meeting with the Planning Manager. At a zoom meeting on 12 November 2020 the appellants were unable to fully participate due to technical issues however it was confirmed the land is used for agricultural purposes, though the family do not have a business id issued by DAERA.

Members will be aware that Policy CTY10 refers to the farm business having to be active and established. Farming activity can take many different forms, the SPPS refers to Regulation (EU) No 1307/2013 for the definition of agricultural activity. In this case the applicants have 3ha of land to the east and west sides of Cadian Road. The land is currently in grass. Con acre agreements have been provided for the period from 1 November 2012 to November 2022 that allows John McCann to graze cattle, spread slurry, fertilise the ground and cut silage between March and November and graze sheep between November and March. Invoices have been provided for the following:

2014 - fencing works, baling, spraying rushes and mowing grass, cleaning cattlegrids and lane

2015 –spraying fields with herbicides and pesticides, cleaning lane, fence repairs, hedge cutting

2016 – repair gates, replacing posts, pesticides and herbicides, install cattle grid, clean lane, fertilise, cut hedges

2017 – fence repairs, sow feed and mow rushes, cattle grid, fertilise, rotovate and roll land, spray rushes and mow grass, cut hedges

2018 – drains, bale hay, cut hedges, fertilise,

2019 – repair fences, sow fields, drains, cut hedges

2020 - kill rushes and cut fields, cut hedges,

2021 – cut hedges

A letter has been received from an agricultural contractor that states hedge cutting that has been carried out is in the field and along the Cadian Road, this is done every year and has been done for the past 10 years.

Taking into account the extensive information presented, I am of the view that a business is being conducted here on these 3ha and that it is agricultural in nature, in accordance with the requirements of criteria a in CTY10. The information demonstrates that it has been ongoing for over 6 years and as such I consider this is an active and established farm for the purposes of this policy.

I have checked the farm land that has been identified and can advise there have not been any development opportunities sold off from the holding in the past 10 years and no

planning permission has been granted for any dwellings on the land in the past 10 years. I consider criteria b has been met.

Criteria c requires any dwellings to be sited beside existing buildings on the farm. The applicants have advised they do not have any buildings on the farm. The existing farm house is located at 31 Carrowcolman Road on the south side of Eglis. This is a chalet dwelling with a small wooden building at the roadside. No other grounds are identified as being in ownership here and the dwelling is beside a number of chicken houses. As there are no buildings to cluster with on the farm, the members could refuse the application on that grounds. However the applicant can, under their permitted development rights, erect another building at the existing farmhouse without requiring planning permission. This would then constitute a group of buildings for the purposes of the policy. If there is an existing group of buildings on the holding, the exception within Policy CTY10 is engaged which, provide there are demonstrable health and safety reasons or verifiable plans to expand the farm, permit a dwelling anywhere else on the farm away from a group of buildings provided it does not offend policies CTY13 and CTY14.

As can be seen in the aerial picture below the existing dwelling is located on a relatively compact plot and it is surrounded on all sides by chicken houses, that are not in the applicants control or ownership.



I do not believe it would not be possible to locate a new dwelling beside the existing farm house and I consider there may well be health and safety issues with any new dwelling in close proximity to the existing chicken houses. While I have already concluded there is no group of buildings on the farm, I do consider an exception could be exercised here.

I consider it would be reasonable, when the policy allows for a dwelling elsewhere when there is a group of buildings on the farm, to also consider the possibility of an alternative site where there is no group of buildings. The development has already been considered against policies CTY13 and CTY14 in the previous report, I have also assessed this especially from the view along Killyliss Road. Given the location of the site, its limited inter-visibility with other development, the mature trees around all the boundaries of the site which are in the applicants control and can be conditioned for retention I concur that a

dwelling here would be well integrated, would not be prominent and would not contribute to a build-up of development.

For the avoidance of doubt, I do not consider this application fully meets with the criteria c in policy CTY10, due to the lack of a group of farm buildings. I do however consider it would be unduly harsh to refuse planning permission for the sake of the applicants not having an additional building, that could be erected without the need for planning permission, at there existing buildings on Carrowcolman Road and for this reason I recommend that an exception to policy could be made in these specific circumstances.

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

It is my opinion that an exception to policy may be made for this development for the reasons already set out and that planning permission could be granted for this dwelling with the conditions attached below.

Conditions:

1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-
 - i. the expiration of 5 years from the date of this permission; or
 - ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

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

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

3. The curtilage of the proposed dwelling shall be agreed at Reserved Matter Stage and the remainder of the field shall be retained for agricultural purposes.

Reason: In the interests of visual amenity and to ensure that the amenities incidental to the enjoyment of the dwelling will not adversely affect the countryside.

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

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

5. A detailed landscaping plan shall be submitted and approved as part of the Reserved Matters application and shall identify the location, species and numbers of trees and hedges to be retained and planted. All existing boundaries shall be retained and augmented with trees and native species hedging. All new curtilage boundaries including both sides of any proposed access laneway shall also be identified by new planting, and shall include a mix of hedge and tree planting. The retained and proposed landscaping shall be indicated on a landscape plan, with details to be agreed at reserved matters stage. During the first available planting season after the commencement of development on site, all proposed trees and hedges indicated in the approved landscaping plan at Reserved Matters stage, shall be planted as shown and permanently retained thereafter, unless otherwise agreed by Mid Ulster Council in writing.

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

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

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

7. 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 including sight lines of 2.4m by 70.0m in both directions and a forward sight distance of 70.0m where the existing lane meets the Cadian Road. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

Informatives

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

Signature(s)

Date:



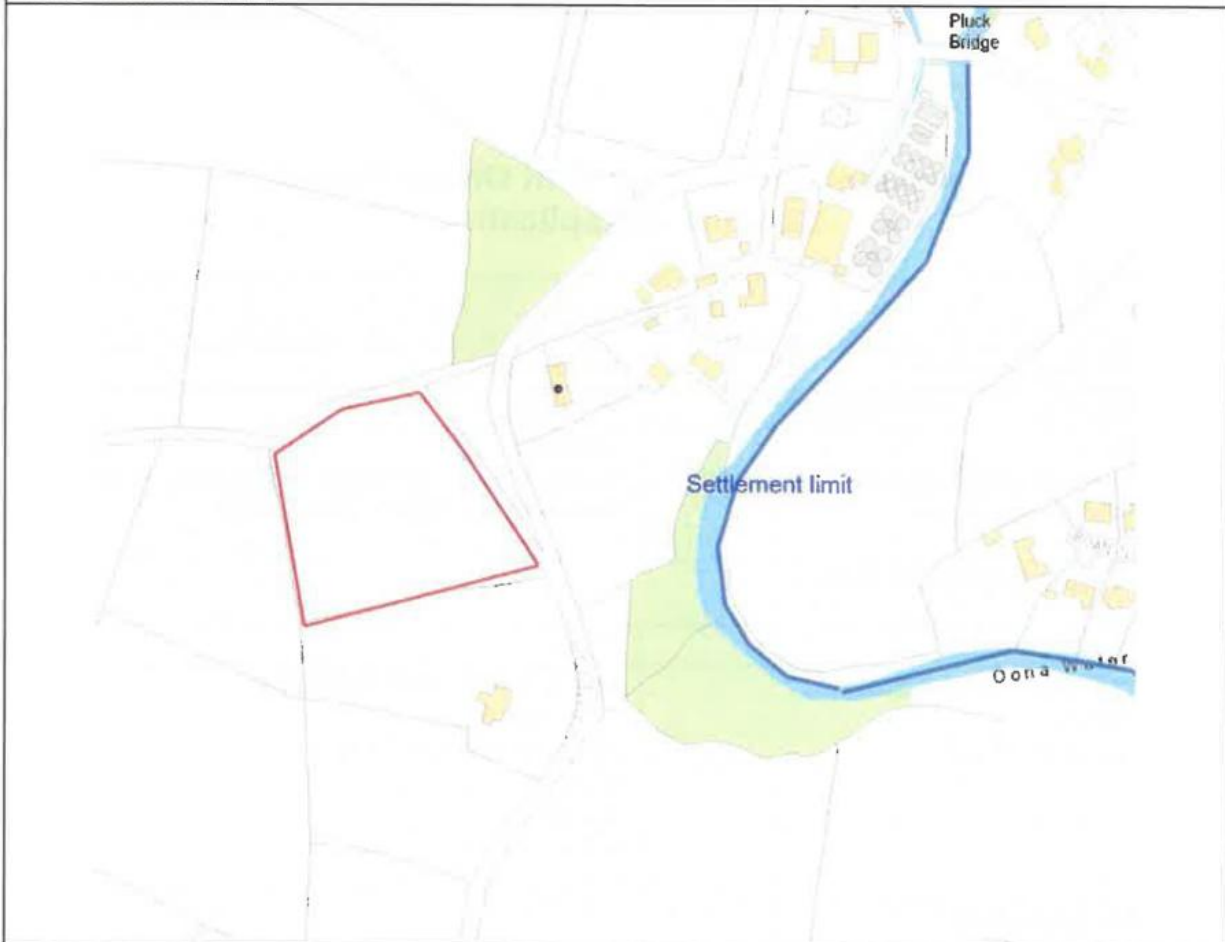
Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0790/O	Target Date:
Proposal: Proposed dwelling and detached double garage with storage above	Location: Approximately 50 metres South West of 50 Cadian Road Eglish Dungannon
Referral Route: Contrary to policy	
Recommendation:	refuse
Applicant Name and Address: Ryan Muldoon 31 Carrowcolman Road Eglish Dungannon BT70 1LF	Agent Name and Address: Colm Muldoon 31 Carrowcolman Road Eglish Dungannon BT70 1LF
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	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

None

Characteristics of the Site and Area

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

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



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



Description of Proposal

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

Planning Assessment of Policy and Other Material Considerations

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

History

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

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

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

Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is considered that a dwelling could blend in successfully with its immediate and wider surroundings if it were of a size and scale that is comparable to the dwellings in the vicinity. I have no concerns regarding integration.

In terms of policy CTY14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It is considered that a dwelling on this site would not respect the traditional pattern of settlement.

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

Recommendation Refusal.

Neighbour Notification Checked

Yes

Refusal Reasons

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

Signature(s)

Date:

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

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

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

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

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

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

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

Drawing Numbers and Title

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

Notification to Department (if relevant)

Date of Notification to Department:
 Response of Department:



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	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/1049/O	Target Date: <add date>
Proposal: Proposed dwelling and garage (Amended access)	Location: Lands to rear of 195 Coalisland Road Dungannon
Applicant Name and Address: Patrick Mallon P.O.box 875 Matraville New South Wales NSW 2036	Agent name and Address: Michael Herron Architects 2nd Floor Corner House 64-66A Main Street Coalisland BT71 4NB
Summary of Issues: Whether the proposal meets with the policies for a dwelling on a farm, if it affects the setting of Edendork and if the access to it is safe.	
Summary of Consultee Responses: DfI (Roads) – safe access can be provided with sight lines of 2.4m x 90m in both directions and forward sight distance of 90.0m. Access to be widened to 4.1m for the first 10m back from the road edge DETI Geological Survey Northern Ireland (GSNI) - the proposed site is not in the vicinity of any known abandoned mine workings. NI Water –the receiving Waste Water Treatment Works / Sewer Network has available capacity.	
Characteristics of the Site and Area: The site is a relatively large V-shaped plot. It comprises two adjoining rectangular fields located running along the south side of Edendork.	

The site is set back from and accessed off the Coalisland Rd (A45 Dungannon - Coalisland) located to its north via an existing access and driveway serving and running along the northwest side of an existing bungalow, no. 195 Coalisland Rd. No. 195 sits to the rear of no. 199 Coalisland Rd, a roadside dwelling. No. 199 and 195 are located within the settlement limits as is the access and drive serving the site.

The site sits adjacent and to the rear of no. 195 and two other dwellings nos. 191 and 183 Coalisland Rd, located approx. 30m and 110m southwest of no. 195 respectively.

A mix of post and wire fencing, mature trees and hedgerows primarily defines the boundaries of the site.

The landform within the site rises upwards from the Coalisland Rd through the access and first field to the rear of no. 195, past nos. 191 then 183 before turning and dropping down through the second field past the southwest side of no. 183 to a playing field within neighbouring Edendork Primary School grounds.

Views of the site are limited to passing along its access off the Coalisland Rd due to its location set back to the rear of existing roadside development and vegetation.

The area surrounding the site is generally characterised by development within Edendork to its north and agricultural lands it backs onto to its south

Description of Proposal

This is an outline application for a proposed dwelling and garage on a farm and it is proposed to be located on lands to the rear of no. 195 Coalisland Road Dungannon

Deferred Consideration:

This application was before the members in December 2020 as it was proposed as a site within a cluster under Policy CTY2A, it was deferred for an office meeting with the Planning Manager to explore other options. At a meeting on 10 December 2020 the agent was asked to explore if there is potential for a dwelling on a farm.

The applicant owns approx. 1.7ha of land here outside the settlement limits of Edendork. A dwelling, large garage and a steel cabin to the north are the applicants mothers and are located within the settlement limits and accessed off a private laneway. I have been advised Mr Mallon owns the land and has done so for over 10 years. Information has been provided that advises since November 2014, this land is and has been let to Joe McQuaid, who is registered with DEARA and is actively farming the land. Aerial maps from 2019, 2016, 2013, 2010 and 2007 (a – e below) show the land is maintained in good agricultural condition and it is obvious this land is being farmed. Invoices provided relate to Mrs A Mallon, 195 Coalisland Road for works carried out by R & M Greenkeeper Ltd in March 2015, April 2015, March 2016 and April 2017. Other invoices relate to fertilizer (Gouldings 27-4-4), round baling, land drainage and silage wrapping in 2015. While these invoices are not showing current activity on the land, it is obvious the land is being farmed as I noted on site on 6 September 2021 that grass had been cut in the fields and Mrs Mallon advised the land had slurry spread on it the week before. Overall I am content that the

Mallons have been deriving an income from a farm business here, it has been ongoing for a period in excess of 6 years and is currently still active. I consider criteria a has been met.



(a) 2019



(b) 2016



(c) 2013



(d) 2010



(e) 2007

A check of the land that is owned has not identified any planning permission for a dwelling on these lands in the last 10 years and no opportunities, out with the settlement limits have been sold off. I consider criteria b has been met.

In respect of criteria c, the proposed siting of the dwelling is just behind the applicants mothers house, a large garage and a steel cabin, which I consider to be a group of buildings on the farm. Members should be aware of the preamble to PPS21 that the policies in PPS21 only relate to the countryside, it is implicit in this that development within the settlement limits cannot be used to make a case for development in the countryside. I consider this is a technical point in respect of the policy, however I caution members to ensure any decision is taken in the knowledge that it does not meet the policy and would be an exception to policy. In this case there is no other lands owned by the applicant, the only group of buildings they have shown that they own are in the settlement limit. CTY10 is clear that it will allow a dwelling for an active farmer and there is an exception within the policy where they cannot locate beside existing buildings a new dwelling will be acceptable where it meets CTY13 and CTY14. It would appear there is nowhere in the policy that would envisage circumstances where the existing group is inside the settlement limits. Members are advised this proposal could be refused on this grounds as there is no group of buildings outside the settlement limit to cluster with. I consider this is something the policy did not foresee and I am not aware of it happening elsewhere. This would, in my view, appear to be a unique set of circumstances and one which is unlikely to set a wide ranging precedent if an exception to CTY10 was accepted here.

Given the location of the site adjacent to the settlement limits of Edendork, Policy CTY15 also requires assessment. The proposed siting in the north part of the site is tucked in behind mature vegetation. This is identified as within the control of the applicant as it is around his mother's house. This vegetation can be conditioned to be retained at a height of 6m which I consider would provide screening for a single storey, low elevation dwelling with a maximum ridge height of 5.5m such that it would be practically invisible from the surrounding areas of public resort. A dwelling here would technically result in urban sprawl, but it will not, in my opinion, adversely affect the setting of this part of Edendork.

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

In light of the above, I consider this proposed dwelling is within the spirit of policy and is clustering with existing development on the farm. I note the existing buildings are in the settlement but that an appropriately designed and sited dwelling here would have no significant impacts on rural character or the setting of the settlement of Edendork. It is my recommendation this application is approved as an exception to Policy CTY10.

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 Mid Ulster District Council, in writing, before any development is commenced.

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

3. Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 90.0m in both directions, a 90.0m forward sight line and the access lane widened to 4.1m for the first 10.0m back from the edge of the public road, shall be provided in accordance with a 1:500 site plan submitted as part of the reserved matters application. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

5. The dwelling hereby permitted shall have a ridge height not exceeding 6.0 metres above existing ground level and be designed in accordance with the design guide 'Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside'

Reason: To ensure that the proposal does not adversely affect the setting of Edendork.

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

Reason: To ensure the dwelling integrates into the landform.

7. The proposed dwelling shall be sited as generally indicated on the approved plan 01A which was received on 12th April 2021.

Reason: In the interests of visual amenity and to protect the setting of Edendork.

8. The curtilage of the proposed dwelling shall be agreed at Reserved Matter Stage and the remainder of the field shall be retained for agricultural purposes.

Reason: In the interests of visual amenity and to ensure that the amenities incidental to the enjoyment of the dwelling will not adversely affect the countryside.

.

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.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

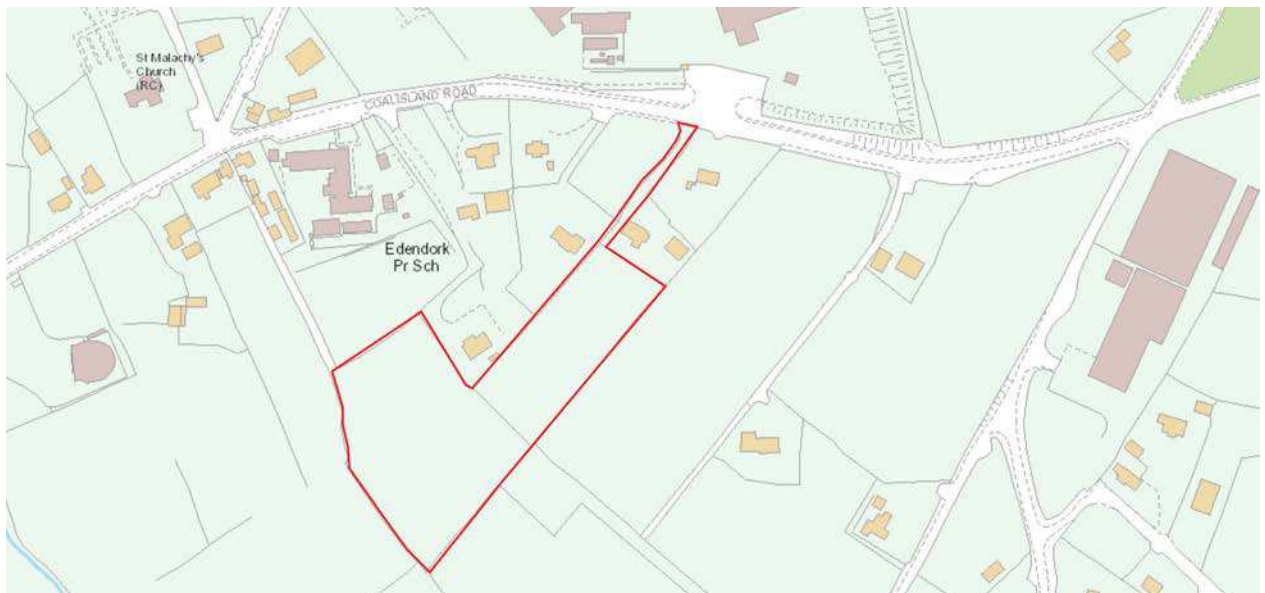
Mid-Ulster
Local Planning Office
Mid-Ulster Council Offices
50 Ballyronan Road
Magherafelt
BT45 6EN

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1049/O	Target Date:
Proposal: Proposed dwelling and garage under policy CTY2A	Location: Lands to rear of 195 Coalisland Road Dungannon
Referral Route: Refusal	
Recommendation: Refuse	
Applicant Name and Address: Patrick Mallon P.O.box 875 Matraville New South Wales NSW 2036	Agent Name and Address: Michael Herron Architects 2nd Floor Corner House 64-66A Main Street Coalisland BT71 4NB
Executive Summary: <p>The site is not located within a cluster of development in the countryside. The cluster of development referred to, and all but one, of the dwellings within it (dwelling located one field to the east of the site) is located within Edendork Settlement Limits.</p> <p>The proposal is contrary to Policy CTY1 of PPS 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 CTY15 of PPS 21, in that the development would if permitted result in urban sprawl.</p> <p>The proposal is contrary to PPS 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2.4 metres x 90 metres cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15.</p>	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:		
Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	DETI - Geological Survey (NI)	No Objection
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection

Representations:

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

Description of Proposal

This is an outline application for a proposed dwelling and garage (under policy CTY2A) to be located on lands to the rear of no. 195 Coalisland Road Dungannon

Characteristics of the Site and Area

The site is located in the rural countryside, just outside and at the edge of Edendork Settlement Limits, as defined by the Dungannon and South Tyrone Area Plan (see Fig: 1 below).

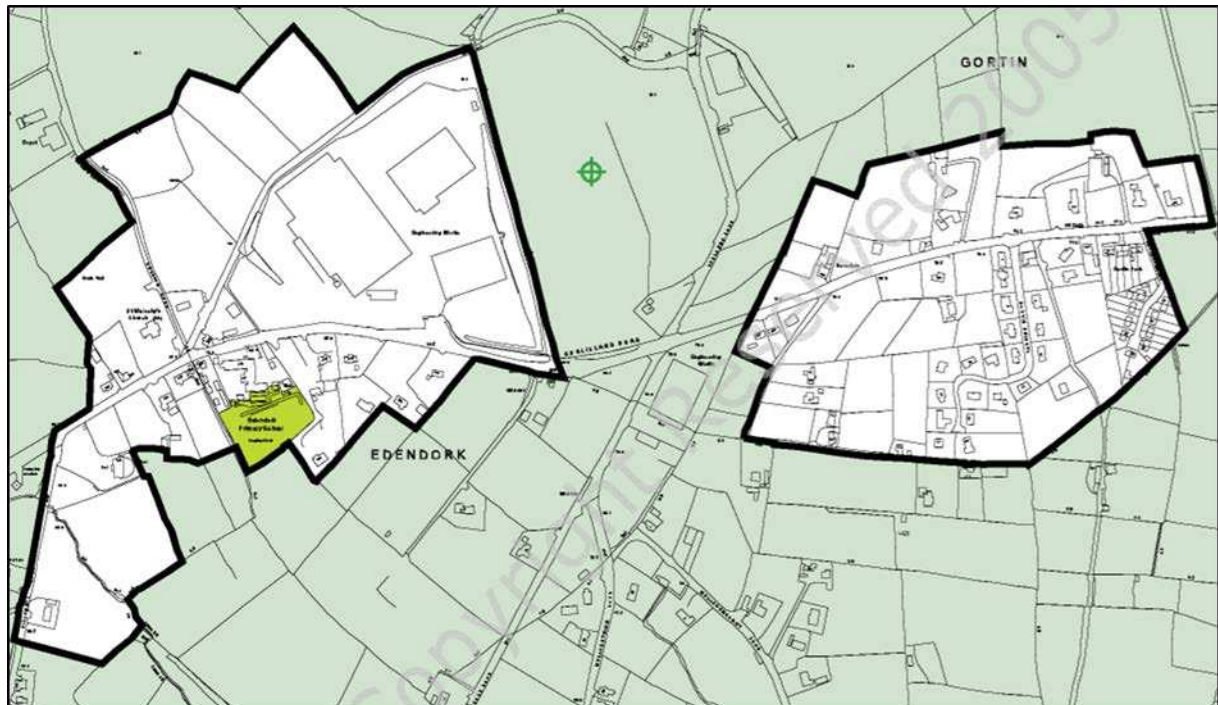


Fig 1: Edendork Settlement Limits

Edendork is defined in two nodes, the eastern cluster comprising largely housing and western cluster comprising a small number of houses, a primary school, church, hall and number of industrial businesses.

The site is a relatively large V-shaped plot. It comprises two adjoining rectangular fields located running along the south side of the aforementioned western cluster.

The site is set back from and accessed off the Coalisland Rd (A45 Dungannon - Coalisland) located to its north via an existing access and driveway serving and running along the northwest side of an existing bungalow, no. 195 Coalisland Rd. No. 195 sits to the rear of no. 199 Coalisland Rd, a roadside dwelling. No. 199 and 195 are located within the settlement limits as is the access and drive serving the site.

The site sits adjacent and to the rear of no. 195 and two other dwellings nos. 191 and 183 Coalisland Rd, located approx. 30m and 110m southwest of no. 195 respectively.

A mix of post and wire fencing, mature trees and hedgerows primarily defines the boundaries of the site.

The landform within the site rises upwards from the Coalisland Rd through the access and first field to the rear of no. 195, past nos. 191 then 183 before turning and dropping down through the second field past the southwest side of no. 183 to a playing field within neighbouring Edendork Primary School grounds.

Views of the site are limited to passing along its access off the Coalisland Rd due to its location set back to the rear of existing roadside development and vegetation.

The area surrounding the site is generally characterised by development within Edendork to its north and agricultural lands it backs onto to its south

Planning Assessment of Policy and Other Material Considerations

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

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

Development Control Advice Note (DCAN) 15: Vehicular Standards

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

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

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

Planning History

On site

No History

Adjacent site

- M/2014/0123/O – Dwelling and garage – 220m NW of 34 Edendork Rd Dungannon – Granted 20th February 2015
- LA09/2015/0130/RM – Proposed Dwelling and Garage – 220m NW of 34 Edendork Rd Dungannon – Granted 6th July 2015

The above applications relates to no. 36 Edendork Rd a 2-storey dwelling located adjacent and halfway along the southwest boundary of the current site. This dwelling was approved as a dwelling on a farm, under CTY10 of PPS21.

- LA08/2016/1328/F - Construction of an underground gas pipe line and associated infrastructure – 4th April 2017

The above application relates to the gas to the west pipelines, a portion of which runs along the Coalisland Rd. There have been various discharge of conditions in relation to this proposal.

Consultees

1. DfI (Roads) – were consulted in relation to access arrangements and outlined approval of this application would result in the intensification of a substandard access therefore proposal does not comply with DCAN15. In order for the applicant to create a safe access onto Coalisland Rd to meets standards set out in PPS 3 and DCAN 15 the following must be applied:

Sightlines of 2.4m x 90m in both directions (as per DCAN 15 Table A & B)

- An FSD of 990.0m will be required.
- Hedges/fences removed either side of access point (may require 3rd party land).
- New walls fences/hedges must be set back 0.5m behind the sightline.

In its current form Roads outlined the following reason for refusal:

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2.4 metres x 90 metres cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15.

2. DETI Geological Survey Norther Ireland (GSNI) – were consulted in relation to this proposal on the 22nd September 2020, as the site is located within an area of constraint on abandoned mines, and responded on the 8th October 2020 with no objection. They stated they had assessed the planning proposal in view of stability issues relating to abandoned mine workings and search of the their "Shafts and Adits Database" indicates that the proposed site is not in the vicinity of any known abandoned mine workings.

3. NI Water – were consulted in relation to this proposal on the 22nd September 2020 and responded on the 23rd September 2020 with no objection. They stated the receiving Waste Water Treatment Works / Sewer Network has available capacity.

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

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

Planning Policy Statement (PPS) 21: Sustainable Development in the Countryside - PPS 21 is the overarching policy for development in the countryside states that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in CTY1 of PPS21. One instance is a new dwelling in an existing cluster in accordance with Policy CTY2a New Dwellings in Existing Clusters, which has 6 criteria tests.

The agent submitted a supporting statement alongside this application making the case, in this instance, for a dwelling under Policy CTY 2a. The statement goes through the 6 criteria test of Policy CTY 2a and outlines how each been met, as detailed below:

1. The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.
 - There are 6 other dwellings within this cluster, nos. 183, 187, 189, 193, 195, 199 Coalisland Rd (Fig: 2)



2. The cluster appears as a visual entity in the local landscape.
 - Proposal would appear as a visual entity in the local landscape.

3. The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.
 - Proposal is located close to Edendork Primary School, Church of St Malachy's and Terex Corporation.
4. The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.
 - Site is located to rear of no. 195 Coalisland Rd and adjacent to no. 193 Coalisland Rd.
5. Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.
 - Proposal can be absorbed into existing cluster.
6. Development would not adversely impact on residential amenity.
 - Proposal does not adversely impact on residential amenity as it is to rear of any existing dwellings and does not impinge on the curtilage of the existing dwellings.

Having taken into account the supporting statement I would not agree that this proposal meets Policy CTY 2a, as the site is not located within a cluster of development in the countryside. The cluster of development referred to, and all but one, of the dwellings within it (dwelling located one field to the east of the site) is located within Edendork Settlement Limits.

Additionally, the proposed development by reason of its location immediately adjacent Edendork Settlement Limits would be contrary to Policy CTY 15 – The Setting of Settlements in that it would result in urban sprawl.

Other Policy and Material Considerations

Given the open nature of no. 195 Coalisland Rd's back garden and the proposed site elevated above it and accessed along its gable and garden I feel there are potential amenity issues in terms of overlooking if the proposal had complied with policy to warrant planning approval. However, this could be mitigated by landscaping, design and siting.

Additional information to address Roads comments that the access was substandard was not sought as proposal deemed to fail the policy tests of PPS21.

The site is not located within an area of known natural heritage significance or built heritage interest.

Flood Maps NI indicating no flooding on site but indicate a small amount of surface water flooding on the Coalisland Rd at the access to the site.

Recommendation

Refuse

Neighbour Notification Checked	Yes
Summary of Recommendation	Refuse
Reason for Refusal <ol style="list-style-type: none"> 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 CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted result in urban sprawl. 3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2.4 metres x 90 metres cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15. 	
Signature(s) Date:	



Deferred Consideration Report

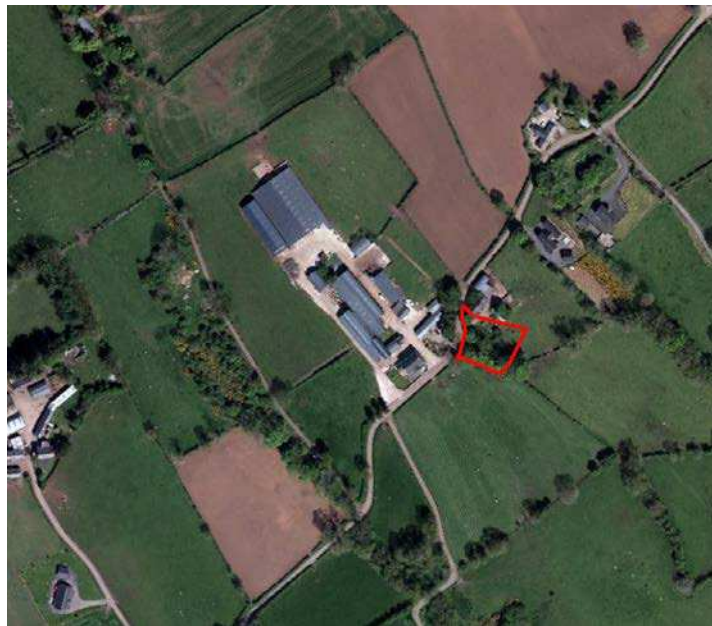
Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2020/1110/O	Target Date:
Proposal: Proposed site for replacement dwelling	Location: Approx 40m East of 40 Ballymacilcurr Road Maghera
Applicant Name and Address: Declan Mc Kenna 143 Tirkane Road Maghera	Agent name and Address: D M Kearney Design 2a Coleraine Road Maghera BT46 5BN
Summary of Issues: No representations have been received in respect of this proposed development.	
Summary of Consultee Responses: DfI Roads advised that the access arrangements are acceptable subject to condition.	
Characteristics of the Site and Area: The site is located in the rural area on a minor road 1.8Km from the main Moneysharvan Road and 2.9Km from Maghera town centre. The site is currently occupied by a vacant and dilapidated building set within a small former farmyard. There is modest vacant two storey dwelling located on the road frontage with associated out-buildings set around the perimeter of the yard. The subject building has four external walls intact up to roof level, with the eaves level approximately 2m above ground level. The walls are constructed with random rubble stone with a single door and one window in the front, north-eastern elevation, with two smaller windows in the rear elevation. The building in question measures approximately 8m x 5m. There is what appears to be the remnants of what could have been a hearth on the inside of the south-eastern gable wall, although this is not substantive. The north-western gable is attached to an open fronted outbuilding and there are a number of deciduous trees growing very close to the rear wall. The site is located almost directly opposite a large working farmyard.	

Description of Proposal

The proposal is an outline full application for a replacement dwelling therefore the details of the design and finishes have not been provided nor considered.

Deferred Consideration:

This application was presented to the Planning Committee in April 2021 with a recommendation to refuse as it was considered the application had not demonstrated that the building to be replaced was ever a dwelling and any replacement dwelling will have a visual impact significantly greater than the existing building.



The application was deferred for an office meeting which took place on 22 April 2021. Following a site visit by a senior planner and the submission of additional information from the agent, I consider a dwelling will be acceptable on this site. Although there is no confirmed evidence that the building was ever used as a dwelling it does display some residential characteristics such as a partially slated roof, the remains of a chimney breast and window openings. There is a strong belt of trees to the foreground of the proposed site and I consider a dwelling with a 7m ridge will not appear incongruous at this location.

There is a mixture of larger two storey dwellings, smaller two storey dwellings and a bungalow on lower ground. The site of the dwelling sits at a higher level than those in the immediate environment.

Conditions:

1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-
 - i. the expiration of 5 years from the date of this permission; or
 - ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

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

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

3. The proposed dwelling shall have a ridge height of less than 7 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.

4. A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed 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.

Signature(s):

Date



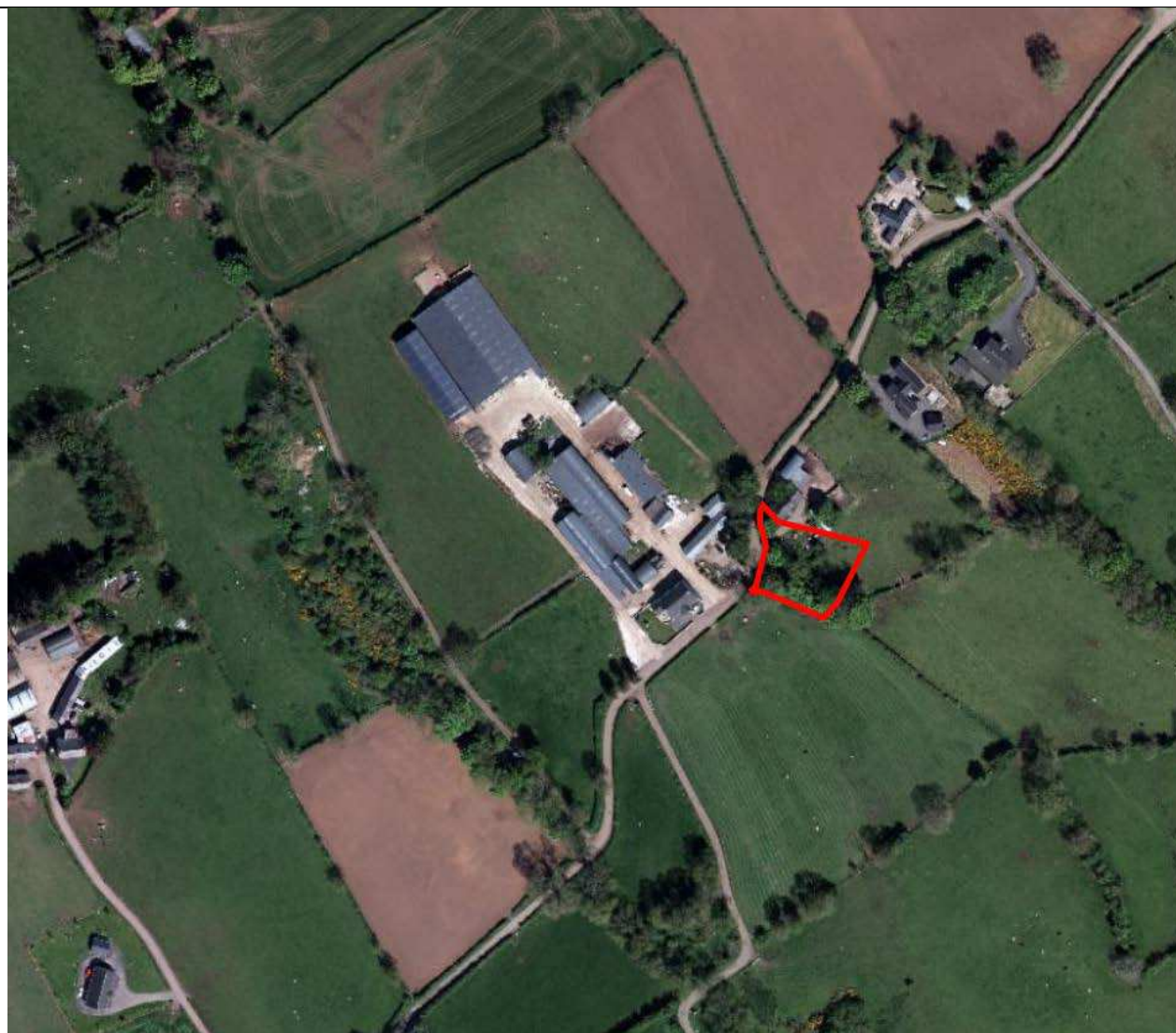
Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report
 Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1110/O	Target Date:
Proposal: Proposed site for replacement dwelling	Location: Approx 40m East of 40 Ballymacilcurr Road Maghera
Referral Route: The application is being presented to Committee as it is being recommended for refusal.	
Recommendation:	REFUSE
Applicant Name and Address: Declan Mc Kenna 143 Tirkane Road Maghera	Agent Name and Address: D M Kearney Design 2a Coleraine Road Maghera BT46 5BN
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	NIEA	Advice

Representations:

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

Number of Petitions of Objection and signatures	No Petitions Received
<p>Summary of Issues including representations</p> <p>No representations have been received in respect of this proposed development.</p>	
<p>Characteristics of the Site and Area</p> <p>The site is located in the rural area on a minor road 1.8Km from the main Moneysharvan Road and 2.9Km from Maghera town centre.</p> <p>The site is currently occupied by a vacant and dilapidated building set within a small former farmyard. There is modest vacant two storey dwelling located on the road frontage with associated out-buildings set around the perimeter of the yard. The subject building has four external walls intact up to roof level, with the eaves level approximately 2m above ground level. The walls are constructed with random rubble stone with a single door and one window in the front, north-eastern elevation, with two smaller windows in the rear elevation. The building in question measures approximately 8m x 5m.</p>  <p>The building to be replaced is the unroofed part of the building above.</p>	

There is what appears to be the remnants of what could have been a hearth on the inside of the south-eastern gable wall, although this is by no means conclusive.



Possibly the remnants of a hearth

The north-western gable is attached to an open fronted outbuilding and there are a number of deciduous trees growing very close to the rear wall. The site is located almost directly opposite a large working farmyard.

Description of Proposal

The proposal is an outline full application for a replacement dwelling therefore the details of the design and finishes have not been provided nor considered.

Planning Assessment of Policy and Other Material Considerations

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

The proposal accords with the Magherafelt Area Plan 2015 insofar as it is in the rural area and is for the replacement dwelling.

The site lies outside any defined settlement limits and is open countryside as identified in the Magherafelt Area Plan 2015. No other constraints have been identified.

PPS 21 Policy CTY 3 Replacement Dwellings - states the planning permission will be granted for a replacement dwelling where the building to be replaced exhibits all the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. This includes buildings previously used as dwellings.

The building to be replaced still has the external walls intact, with one doorway and three small windows which are clearly evident. However, there is no further evidence to lead me to believe this building was ever a dwelling. Although there would appear to be, what

may be the remnants of a hearth, there is little of this feature left and this alone is not sufficient to demonstrate conclusively that the building was formerly a dwelling. Given the size of the subject building, the size of the windows, the lack of evidence of any former internal walls, and the shape and size of the so-called hearth, in addition to the position of the building to the front/side of the main dwelling, which would all suggest that the building was some type of former out-building, probably used for agricultural purposes. In my opinion, the building to be replaced is more likely to have been something such as a blacksmiths workshop or a building to make animal foodstuffs. The applicant was requested to provide verifiable evidence that the subject building was formerly a dwelling, however, they have failed to provide any evidence. Consequently, in the absence of verifiable evidence to the contrary, it is my opinion that the proposed development should be refused for the reasons stated below:-

Whilst the subject building may be regarded as being vernacular, due to its current state, its position within the existing built form and the level of mature vegetation which provides screening from the public road, it is not considered to make an important contribution to the heritage, appearance or character of the local area. Therefore, there would be no requirement to retain the building.

In addition, this policy states that proposals for a replacement dwelling will only be permitted where all of the following criteria are met:-

- the replacement dwelling is sited within the established curtilage of the existing dwelling unless it is too restrictive to accommodate a modest size dwelling or that there are clear landscape, heritage, access or amenity benefits; In this case, the proposed development extends outside the existing curtilage as the existing is too restricted and therefore this part of the proposal is acceptable.
- the overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building; As the curtilage of the existing building is too restricted to accommodate a modern dwelling, it will be set outside the boundaries of the existing building. As the existing building will be removed, so will the mature trees growing against the rear wall. This will open up views of the site on approach from the south-west from where any dwelling is going to have a significantly greater impact than the existing building which is well screened from this approach by the existing vegetation.



The existing building has an insignificant visual impact. The mature trees growing against the rear wall will have to be removed, thereby opening up views of the site.

- As this is an outline application, details of the design have not been provided, however, if the proposed development were to be approved, any replacement dwelling should, in my opinion, be restricted to a maximum ridge height of 5.5m above finished floor level with an under-build of 0.45m above existing ground level and the design can be conditioned to be in keeping with the rural design guide;
- All services can be provided without adverse impact on the environment or character of the locality;
The provision of services will not have any adverse impact on the environment or character of the locality.
- Access will not prejudice safety and convenience of traffic.
DfI Roads have advised that the proposal will have no adverse effect on traffic.

PPS 3 - Access, movement and parking

As discussed above, DfI Roads have advised that the proposal will have no adverse effect on traffic.

Recommendations

In my opinion, there is insufficient evidence to prove the building to be replaced was ever a dwelling and the replacement dwelling will also have a visual impact significantly greater than the existing building. Therefore the proposed development should be refused for the reason stated below:-

Neighbour Notification Checked	Yes
Summary of Recommendation: Refuse for the reason listed below:-	
Reason for Refusal: 1. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that it has not been demonstrated that the building to be replaced was ever a dwelling and any replacement dwelling would have a visual impact significantly greater than the existing building.	
Signature(s) Date:	

ANNEX	
Date Valid	14th September 2020
Date First Advertised	29th September 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 40 Ballymacilcurr Road Culnady Londonderry	
Date of Last Neighbour Notification	13th November 2020
Date of EIA Determination	N/A
ES Requested	No
Planning History Ref ID: LA09/2019/0455/O Proposal: Proposed 2 storey dwelling and detached double garage Address: Approx 72m East of 40 Ballymacilcurr Road, Maghera, Decision: PG Decision Date: 20.06.2019 Ref ID: LA09/2020/1110/O Proposal: Proposed site for replacement dwelling Address: Approx 40m East of 40 Ballymacilcurr Road, Maghera, Decision: Decision Date:	
Summary of Consultee Responses DfI Roads advised that the access arrangements are acceptable subject to condition.	
Drawing Numbers and Title	

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

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/1115/O	Target Date: <add date>
Proposal: Proposed site for dwelling and garage based on policy CTY2a (New dwellings in existing cluster)	Location: Lands N/North West of 162b Washingbay Road and East of 152a Cloghog Road Coalisland
Applicant Name and Address: Mr Brendan Corr Magheracastle Lonin 2 Mountjoy Road Coalisland	Agent name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: The proposed development does not meet all the criteria for a dwelling in a cluster as set out in CTY2A as the site is comprised of 3 fields and each does not have development on 2 sides.	
Summary of Consultee Responses: DFI Roads - no objection subject to standard conditions and informatives DETI Geological Survey - site contains no known abandoned mine workings or known underground works. Historic Environment Division - content that the proposal is satisfactory to SPSS and PPS 6 archaeological policy requirements	

Characteristics of the Site and Area:

The site is located in the rural countryside as designated within the Dungannon and South Tyrone Area Plan 2010, approx. 1km northeast of Annaghmore.

The site comprises the majority of three large fields set back on lands elevated from and accessed off the Washingbay Rd to south, via a short recently gravelled and steep lane between no.160b Washingbay Rd, a 1 ¾ storey dwelling and an excavated site comprising foundations. The outer boundaries of the three fields are all generally bound by and separated from each other by a mix of post and wire fencing and mature vegetation.

No. 162b Washingbay Rd, a bungalow set back on elevated lands adjacent the Washingbay Rd and no. 152a Cloghog Rd a 1 ½ storey dwelling set well back from the Cloghog Rd bounds the site to the south and west, respectively.

Views of the site are over a short distance on the western and eastern approach to the site from the Washinbay Rd and passing along its roadside frontage.

Whilst the wider area surrounding the site is rural in nature comprising predominantly undulating agricultural landscape interspersed with single dwellings and farm groups, there is a high degree of development pressure in the form of dwellings extending along both sides of the Washingbay Rd to the south of the site and Cloghog Rd further west of the site.

Description of Proposal

This is an outline application for a dwelling and garage on lands North / North West of 162b Washingbay Road and East of 152a Cloghog Road Coalisland, based on policy CTY2a (New dwellings in existing cluster)

Deferred Consideration:

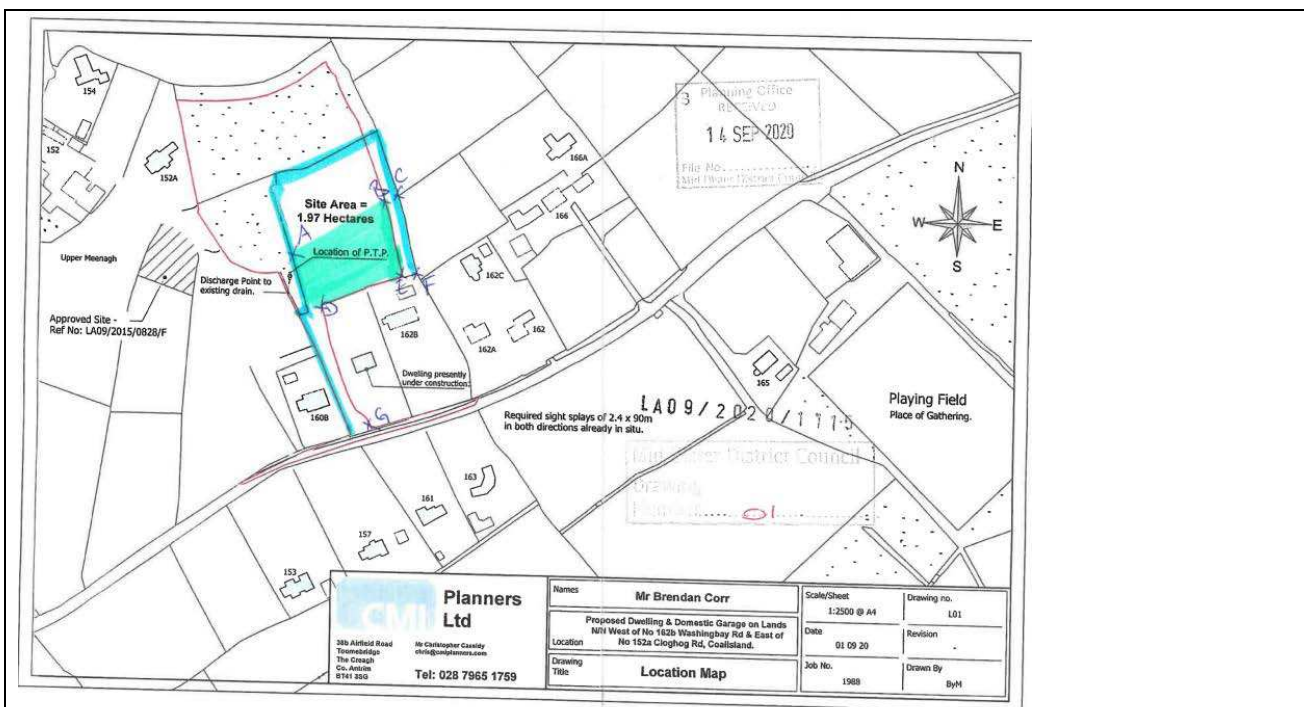
This application was deferred at the planning committee on 11th January 2021 for a meeting with the planning manager to discuss the proposal further. At a meeting on 20th January 2021 the agent indicated there are 2 sites that have been commenced on the boundaries of the site and indicated that Naomh Colum Cille CLG is an established hurling club to the east of the site and is a community facility that the cluster is associated with.

There are 6 criteria that policy CTY2a states must be met before a new dwelling can be accepted as being within a cluster.

- It is clear the proposed site is visually linked with considerably more than 4 buildings as there are at least 11 dwellings and associated buildings along this side and the opposite side of Washingbay Road.
- On approach from the west, I consider a dwelling located in the south part of the proposed site will be visually linked with the existing dwelling to the front and west of the site and other development to the front of the site. Travelling along Washingbay Road, I was aware of development from the dwelling at 160B on the map stretching to the east of the site to the entrance to the hurling club. My view of this was a considerable amount of development which I consider re-enforces the impression of the visual entity here. During my inspection I noted the development ends after the

laneway to the hurling club, so my view of the overall area is one that there is a cluster to the west.

- Members will be aware that CTY2a sets out 'the cluster is associated with a focal point..... or at a crossroads'. My impression is that the development here extends to the hurling club and as such I am content that development here will be associated with this focal point.
- Due to the site characteristics, with the rising ground, existing vegetation around the site and the development to the front of the site, I consider a bungalow located in the south part of the site would read with the cluster here and is in character with the other development further east. The other development to the east includes development up laneways and to the rear of development along the frontage. There is a dwelling located at 166A that I consider sets the rear extent of the cluster. A dwelling in the front of the site will in my opinion respect the character of the cluster and the development within it.
- There are 2 dwellings to the front of the site and an approved split level dwelling which is on a site that has been commenced under a previous approval. CTY2a requires the amenity of these dwellings to be taken into account. Due to the difference in levels and the location of the dwellings on the sites, it is my opinion that bungalow could be located with sufficient separation, orientation and landscaping to ensure the privacy of these properties is not adversely impacted upon. This is a matter that will be fully considered at Reserved Matters stage, however I consider a height restriction is necessary here to prevent potential overlooking.
- The final criteria for clustering requires the site to have a suitable degree of enclosure and be bounded on at least 2 sides by other development in the cluster. The site has been created at such a size that it touches other development on 2 sides and this could be seen as meeting the policy. In my opinion this is not the correct interpretation of the policy. In my view, a dwelling sited to the south of the site, as indicted in green on the attached plan, will have the benefit of mature trees to the east and west, as shown in blue and it has the approved and built development to the front. This provides a very good degree of enclosure for any dwelling on this site. The site identified in green does not have development on 2 sides and as such it does not fully meet all of the requirements of this criteria for a dwelling in a cluster. As indicated above given the existing development in and around the site, I do not consider a dwelling on this site, as identified, would have any significant detrimental impacts on the overall appearance of the area and as such I consider an exception could be made to Policy CTY2a in this case and that planning permission could be granted with the conditions proposed.



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

In light of the above considerations is it my recommendation that an exception to CTY2a is accepted here and that planning permission is granted.

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 Mid Ulster District Council, in writing, before any development is commenced.

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

3. Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 100.0m in both directions and 100.0m forward sight line, shall be provided in accordance with a 1:500 site plan submitted and agreed as part of the reserved matters application. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

4. All existing vegetation as identified in blue on the attached plan ref 01 bearing the stamp dated 14-SEP-2020 shall be permanently retained.

Reason: In the interests of visual amenity and to ensure the development integrates in to the landscape.

5. A detailed scheme of structured landscaping with native species hedges and trees planted along the boundaries identified A-B-C, D-E-F and D-G on drawing no 01 bearing the stamp dated 14-SEP-2020 shall be submitted at Reserved Matters stage at the same time as the dwelling. The scheme shall include details of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during the first available planting season after the occupation of the dwelling which is hereby approved. Any tree shrub or plant dying within 5 years of planting shall be replaced in the same position with a similar size and species.

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

6. The dwelling hereby permitted shall have a ridge height not exceeding 6.0 metres above existing ground level and be designed in accordance with the design guide 'Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside'

Reason: To ensure that the proposal does not adversely impact on the amenity of existing and approved residential development.

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

Reason: To ensure the dwelling integrates into the landform and to protect residential amenity.

7. The proposed dwelling shall be sited in the area shaded green on the approved plan 01 which was received on 14 SEP 2020.

Reason: To ensure that the development is integrated into the landscape and does not impact on residential amenity.

8. The curtilage of the proposed dwelling shall not extend outside the area shaded green on the approved plan 01 which was received on 14 SEP 2020 and the remainder of the fields shall be retained for agricultural purposes.

Reason: In the interests of visual amenity and to ensure that the amenities incidental to the enjoyment of the dwelling will not adversely affect the countryside.

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.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

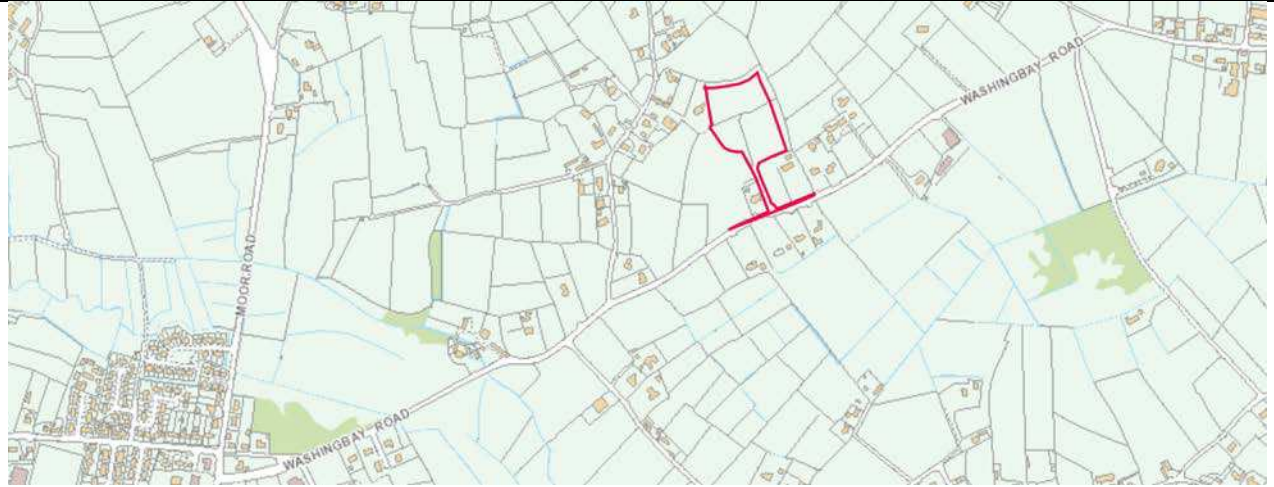
Mid-Ulster
Local Planning Office
Mid-Ulster Council Offices
50 Ballyronan Road
Magherafelt
BT45 6EN

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1115/O	Target Date:
Proposal: Proposed site for dwelling and garage based on policy CTY2a (New dwellings in existing cluster)	Location: Lands N/North West of 162b Washingbay Road and East of 152a Cloghog Road Coalisland
Referral Route: Refusal	
Recommendation: Refuse	
Applicant Name and Address: Mr Brendan Corr Magheracastle Lonin 2 Mountjoy Road Coalisland	Agent Name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary: This proposal is contrary to Policy CTY1 and CTY2a of PPS 21, New Dwellings in Existing Clusters in that the proposed dwelling and garage is not located within an existing cluster of development associated with a focal point or located at a cross-roads. There is a high degree of development pressure in the form of dwellings extending along both sides of the Washingbay Rd to the south of the site and Cloghog Rd further west of the site, which I would consider two separate clusters of development. Neither cluster is associated with a focal point or located at a cross-roads. Additionally, I do not believe the site sits within either aforementioned cluster, rather comprises lands (3 relatively large fields) located between. I note the overall site would be bounded on two sides by development within the Cloghog Rd and Washingbay Rd clusters located to its west and south, respectively. But you can make a site as big as you like to make it have development on two sides, as is the case here, but this is not in my opinion within the spirit of the policy.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	DETI - Geological Survey (NI)	No Objection
Statutory	Historic Environment Division (HED)	Content
Representations:		
Letters of Support	None Received	
Letters of Objection	0	
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		
<p>The site is located in the rural countryside as designated within the Dungannon and South Tyrone Area Plan 2010, approx. 1km northeast of Annaghmore.</p> <p>The site comprises the majority of three large fields set back on lands elevated from and accessed off the Washingbay Rd to south, via a short recently gravelled and steep lane.</p> <p>Whilst the site does not take in all the outer boundaries of the three fields within it, namely the most northern and eastern field boundaries, they are all generally bound by and separated from each other by a mix of post and wire fencing and mature vegetation.</p> <p>The aforementioned lane, runs between no.160b Washingbay Rd, a 1 ¾ storey dwelling and an excavated site comprising foundations. It is bound to its west / party boundary with no. 160b by a mix of mature hedgerow and tree vegetation and to its east / party boundary with the site by low post and wire fencing.</p> <p>No. 162b Washingbay Rd, a bungalow set back on elevated lands adjacent the Washingbay Rd and no. 152a Cloghog Rd a 1 ½ storey dwelling set well back from the Cloghog Rd bounds the site to the south and west, respectively.</p> <p>Views of the site are over a short distance on the western and eastern approach to the site from the Washinbay Rd and passing along its roadside frontage.</p> <p>Whilst the wider area surrounding the site is rural in nature comprising predominantly undulating agricultural landscape interspersed with single dwellings and farm groups, there is a high degree of development pressure in the form of dwellings extending along both sides of the Washingbay Rd to the south of the site and Cloghog Rd further west of the site.</p>		
Description of Proposal		
<p>This is an outline application for a dwelling and garage on lands North / North West of 162b Washingbay Road and East of 152a Cloghog Road Coalisland, based on policy CTY2a (New dwellings in existing cluster)</p>		
Planning Assessment of Policy and Other Material Considerations		
<p>Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the</p>		

determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 6: Planning, Archaeology and The Built Heritage

Planning Policy Statement 21: Sustainable Development in the Countryside

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

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

Representations

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

Planning History

On Site

None

Adjacent

- M/1999/0420 - Dwelling and garage - Approx. 160m south west of 166 Washingbay Rd Coalisland - Granted 4th October 1999
- M/2001/0970/RM - Dwelling house - 160m south west of 166 Washingbay Rd Coalisland - Granted 15th 2002

The above applications relate to no.162b Washingbay Rd Coalisland located to the south of the site.

- M/2004/2190/O - Dwelling - 170m west of 162 Washingbay Rd Coalisland - Granted 6th April 2005
- M/2007/0608/RM - Dwelling house with integral garage - 170m west of 162 Washingbay Rd Coalisland - Granted October 2007
- M/2009/0941/F - Domestic garage - 170m west of 162 Washingbay Rd Coalisland - Granted December 2009
- M/2011/0299/F - Amendment to house under construction in relation to siting - 170m west of 162 Washingbay Rd Coalisland - Granted 6th June 2011

The above applications relate to no. 160b Washingbay Rd Coalisland located to the south of the site.

- M/2005/0696/O - Dwelling house – 125m west of 162 Washingbay Rd Coalisland - Withdrawn 11th October 2005

- M/2010/0628/F - Proposed Gap Site Dwelling and Detached Garage - West of & Adjacent to 162b Washingbay Rd Coalisland – Granted 29th September 2010
- LA09/2020/0799/F - Proposed change of house type to that Previously approved to provide two storey dwelling and domestic garage (ground floor built into hill - first floor at existing ground level) - Site West and adjacent to 162B Washingbay Rd Coalisland – ongoing

The above applications relate to an excavated site comprising foundations located to the south of site between nos. 160b and 162b Washingbay Rd

- M/2009/0295/O - Replacement bungalow - 110m E of 152 Washingbay Rd Coalisland - August 2009
- M/2011/0059/F - Proposed replacement dwelling and garage - 110m E of 152 Washingbay Rd Coalisland - 9th August 2011

The above applications relate to no. 152a Washingbay Rd located to west of site accessed off the Cloghog Rd.

- M/2008/0400/O - Dwelling - 100m SE of 152 Washingbay Rd Coalisland - Granted 17th May 2012
- LA09/2015/0828/F - Proposed dwelling and garage and change of access as approved under M/2008/0400/O - 100m SE of 152 Washingbay Rd Coalisland - Granted 15th November 2016

The above applications relate to a site accessed off the Washingbay Rd located adjacent western boundary of site just south of no. 152a Washingbay Rd. This site was approved for CTY10 of PPS21 Dwellings on a Farm.

Consultees

1. DfI Roads – were consulted in relation to access arrangements and have no objection subject to standard conditions and informatives.
2. Historic Environment Division (HED) – were consulted as the site is located is located within an archaeological site and monument (TYR047:011, TYR047:023). HED assessed the application and responded that they were content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.
3. DETI Geological Survey of Northern Ireland (GSNI) – were consulted as the site was located within an area of constraint on abandoned mines, in view of stability issues relating to abandoned mine workings. GSNI responded that a search of the GSNI “Shafts and Adits Database” indicates that the proposed site contains no known abandoned mine workings or known underground works.

Consideration

Dungannon and South Tyrone Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

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

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

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

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.

I believe there is a high degree of development pressure in the form of dwellings extending along both sides of the Washingbay Rd to the south of the site and Cloghog Rd further west of the site (see Fig 1 below) which I would consider two separate clusters of development. That said I do not believe the site sits within either cluster rather comprises lands in between.



Fig 1: Map showing Washingbay Rd to the south and Cloghog Rd to the west of site

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

The two clusters of development referred to above along the Washingbay Rd and Cloghog Rd, would in my opinion, appear as two separate visual entities in the local landscape, separated by intervening agricultural lands including fields within the current site.

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

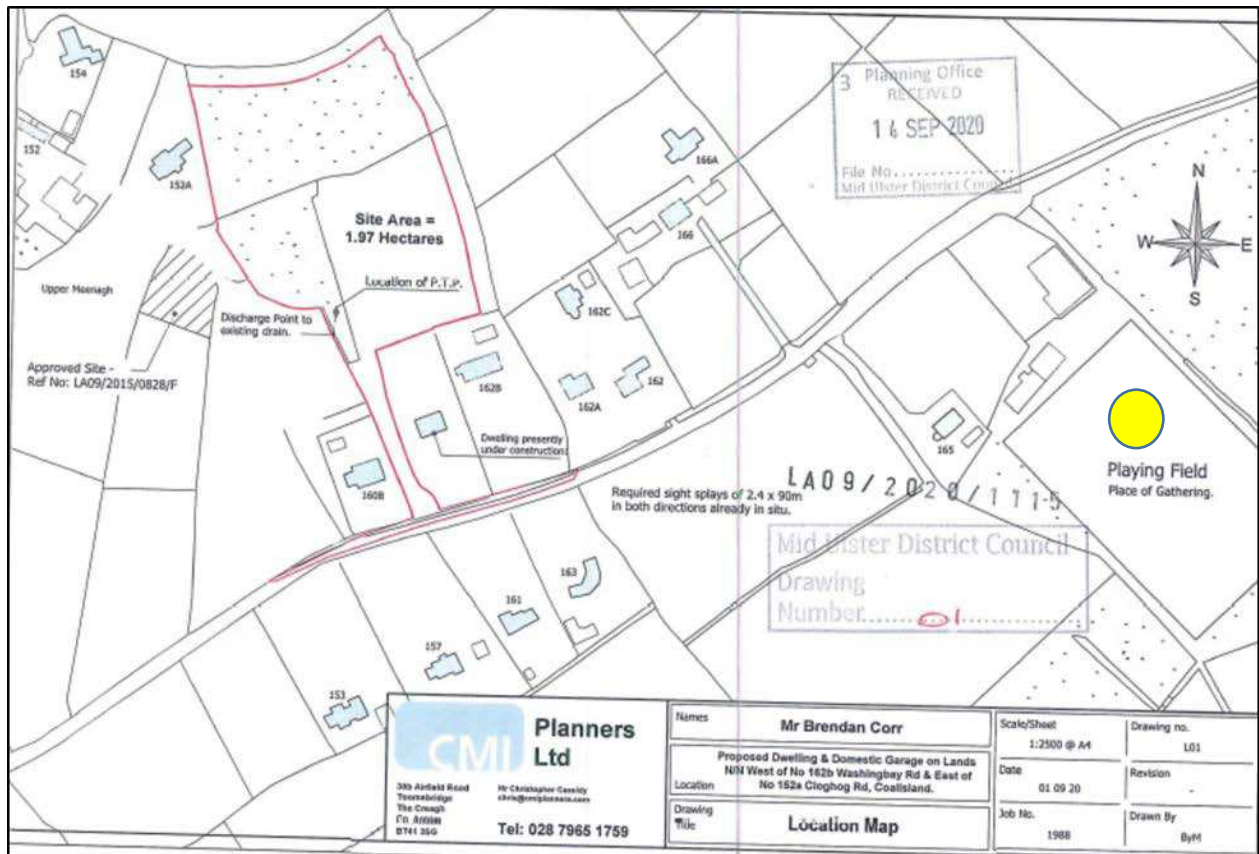


Fig 2: Site Location Plan identifying focal point to east of site.

Neither the two clusters in my opinion are associated with a focal point such as a social / community building / facility, or located at a cross-roads. Whilst the agent has identified a playing field as a focal point on the submitted site location plan above (Fig 2) and I believe this could be considered a focal point when on site it feels too far removed from the site and cluster of development to associate with it.

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

Given the site takes in three fields bound by a mix of hedgerows and trees, parts of it, namely the 2 most northern and eastern fields would provide a suitable degrees of enclosure, in my opinion, for a dwelling. The remaining field, located immediately to the rear of no. 162b Washingbay Rd, would not benefit from the same sense of enclosure as unlike the other fields it is open and exposed to views given only post and wire and some young trees bound its most southern / party boundary with 162b.

The above said, no matter which field within the site, a dwelling was sited, it would not be bounded on at least two sides by development within either cluster. I note the dwelling approved under LA09/2015/0828/F (see area to west of site hatched grey in Fig 2 above) was not commenced on the date of site inspection and the dwelling noted as being under construction immediately south of the site in Fig 2 comprises only footings. The site as a whole would be bounded on two sides by development within the Cloghog Rd cluster (no.152a Cloghog Rd, a 1 ½ storey dwelling) and Washingbay Rd cluster (nos160b and 162b Washing Rd a 1 ¾ story dwelling and bungalow, respectively) located to its west

and south, respectively. But you can make a site as big as you like to make it have development on two sides, as is the case here, but this is not in my opinion within the spirit of the policy.

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

I do not believe a dwelling on this site would be absorbed into either cluster through rounding off and consolidation and that if permitted it would significantly alter the existing character of particularly the Washinbay Rd cluster (which it is to be accessed through) by visually extending / intruding development into the open countryside.

- Development would not adversely impact on residential amenity.

Given the scale of the site, parts of it could accommodate a dwelling and garage of an appropriate siting, size, scale and design without significant adverse impact on the residential amenity of neighbouring properties.

Overall, it is my opinion that the proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed dwelling is not located within an existing cluster of development associated with a focal point or located at a cross-roads and if permitted would visually intrude into the open countryside.

I have considered other instances listed under CTY1 of PPS21 whereby the development of a dwelling in the countryside is considered acceptable however this proposal fails to meet with these instances.

Additionally, I have been in contact with the agent via phone and email on the 19th November 2020 to advise Planning's opinion is that the case submitted does not comply with Policy CTY2a of PPS 21 as the site is not located within an existing cluster of development. That no matter where on site a dwelling was situated it would not be bound on two sides by development within a cluster. Given the aforementioned opinion the agent was asked, has all other cases for a dwelling in the countryside been explored? E.g. does the applicant farm, is there any opportunity under Policy CTY 10 of PPS21 for a dwelling on a farm? The agent was advised to submit the additional information on a without prejudice basis within 14 days from the date of this email (3rd December 2020) or the application would proceed to the next available committee meeting based on the information on file. To date no additional information has been received.

Other Policy and Material Considerations

Flood Maps NI indicate no flooding on site.

Natural Environment Division (NED) map viewer available online identified no natural heritage features of significance on site.

Recommend: Refuse

Neighbour Notification Checked	Yes
Summary of Recommendation:	Refuse
Refusal Reasons	
<ol style="list-style-type: none"> 1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement. 2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed dwelling is not located within an existing cluster of development associated with a focal point or located at a cross-roads. 	
Signature(s)	
Date:	



Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2020/1119/O	Target Date:
Proposal: Proposed domestic dwelling and garage in a cluster	Location: 10m West of 44 Ballyscullion Road, Bellaghy
Applicant Name and Address: Mr Brian Milne 44 Ballyscullion Road Bellaghy	Agent name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: Following a deferred office meeting and a site visit with Members a refusal is recommended as previous.	
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: The site is located within the rural countryside, approx. 400m east of settlement limits of Bellaghy. The site is part of a larger agricultural field. The land is flat and bounded on the eastern and southern boundaries by existing hedges. The northern and western boundaries are currently undefined. The surrounding area is mainly characterised by agricultural and residential buildings.	
Description of Proposal Proposed domestic dwelling and garage in a cluster	

Deferred Consideration:

The application was deferred in February 2021 for an office meeting and again in October 2021 for an accompanied site visit with Members. At the site visit the issue of development on at least 2 sides was addressed and it is considered the site meets the policy requirements of PPS 21 in this regard. Cllr Milne referred to both Bellaghy GAC football grounds and a to business further along the road, known locally as Evans', though it was apparent at the site visit this is no longer operational.

Members also raised a query in relation to the PAN issued by DfI which has been subsequently withdrawn.



Having considered the focal points I would comment as follows:

It is accepted the grounds of Bellaghy GAC lie partly inside the development limits of Bellaghy, though the pitches lie outside the limits and the agent is relying on this as a focal point. Having carried out a site visit, it is my opinion that with the physical distance between the site and the GAC there is no visual linkage on the ground. I do not consider there is an association with the football grounds and I do not advise relying on this as a focal point.

At the site visit, we walked to a building further along the Ballyscullion Road, which was once used for business purposes. However, it was apparent the business is no longer operational, the building was closed and there was no evidence of an operational business externally. Cllr Milne stated the area is known locally as Evans' because of the former business in this building. There was no signage on the building or at the entrance to the site to indicate a former business at this location. I do not consider this is a focal point for the purposes of this planning application.

I therefore do not consider the application to meet the tests of CTY 2a of PPS 21.

In terms of CTY 14, a dwelling at this location will result in a suburban style build-up of development when viewed with existing and approved buildings in this area. A dwelling will

also add to an existing ribbon of development to the 3 dwellings to the east on the Ballyscullion Road, which is contrary to CTY 8.

The Mid Ulster District Council Local Development Plan 2030 Draft Strategy was launched on 22 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 on 25 March 2020 and was to run for 8 weeks. Due to issues faced with COVID 19 this period was extended and closed on 24 September 2020. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

I recommend a continued refusal of this application for the reasons listed below.

Reasons for Refusal:

1. The proposal is contrary to the SPPS and 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.
2. The proposal is contrary to Policy CTY 2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the existing cluster of development is not associated with a focal point.
3. The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that a dwelling on the proposed site would add to an existing ribbon of development along this part of Ballyscullion Road.
4. The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would result in a suburban style build-up of development when viewed with existing and approved buildings.

Signature(s):

Date



**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1119/O	Target Date:
Proposal: Proposed domestic dwelling and garage in a cluster	Location: 10m West of 44 Ballyscullion Road Bellaghy
Referral Route: Refusal- Contrary to Policies CTY1, CTY2a and CTY14 of PPS 21	
Recommendation:	Refusal
Applicant Name and Address: Mr Brian Milne 44 Ballyscullion Road Bellaghy	Agent Name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	
Signature(s):	

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

Contrary to Policies CTY1, CTY2a and CTY14 of PPS 21

Characteristics of the Site and Area

The site is located within the open countryside, approximately 0.4km east of the settlement limits of Bellaghy as per the Magherafelt Area Plan 2015. The red line of the application site consists of part of a larger agricultural field which is flat in nature with the site bounded on the east and southern boundaries with existing hedges along these sides. The northern and western boundaries are currently undefined and expand into the larger agricultural field. The surrounding area is mainly agricultural with a build up of single houses located to the east of the site.

Description of Proposal

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

Planning Assessment of Policy and Other Material Considerations

The Magherafelt Area Plan identifies the site as being outside any defined settlement limits, located east of Bellaghy settlement limit. There are no other specific designations or zonings.

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

The 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 new dwellings in existing clusters. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings 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 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 number of examples are provided in CTY 1 detailing the different cases which would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- *The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.*

I am content that the application site is located within an existing cluster that lies outside of a farm and consists of four or more buildings, which at least three are dwellings. I would contend that the proposed site is located at the edge of an existing cluster, which is located to the east of the site as shown on image 1 below.



Image 1: Site location plan showing extent of existing cluster

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

Whilst travelling along the Ballyscullion Road it is clear that the cluster appears as a visually entity in the local landscape, with most dwellings sharing a road frontage onto the Ballyscullion Road.

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

The agent contends that the cluster of development is associated with Wolfe Tones GAC that is partly located within the settlement limits of Bellaghy, with the playing field located within the open countryside. However, I am not of the opinion that the cluster of development is associated with the GAA club given the distance between the site and the lack of visual linkage between the two. The GAA grounds are located approximately 300m west of the application site, but given the topography of the land, the GAA grounds are not visually linked to the site or the cluster of development. The image below is taken from site, facing towards Bellaghy GAA grounds, which are not visible from the site.



Image 2: View from the site towards GAA grounds

From this, the proposal fails to meet this policy criteria of CTY2a.

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

The application site has a dwelling located adjacent to the red line being No.44 Ballyscullion Road, there is no development to the north and west of the site. Another dwelling is located directly south of the dwelling but is separated by the Ballyscullion Road. Given the fact that the site is not bounded to the South with the dwelling, rather the road separates the site from the dwelling I do not believe the site is bounded on at least two sides with other development in the cluster.

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

As previously mentioned I believe the proposed application site is located within an existing cluster albeit, at the edge of the cluster. From this I am content that a dwelling here could be absorbed into the existing cluster through rounding off and a well-designed dwelling would not visually intrude into the open countryside. I do not believe a dwelling would significantly alter the existing character of the area given the existing development in the area.

- *Development would not adversely impact on residential amenity.*

As this is an outline application, no detailed design details have been provided for a dwelling, but given the size of the application site and the surrounding area I am content a dwelling at this location would not adversely impact on residential amenity.

On the basis of the above assessment, the application fails to meet the policy criteria outlined in Policy CTY2a.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been submitted. However, I am content a well designed dwelling at this location would not be a prominent feature in the landscape would visually integrate into the surrounding landscape.

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 the proposal cannot meet the policy criteria set out in Policy CTY2a, I believe any dwelling approved here would therefore result in a suburban style build-up of development when viewed with existing and approved buildings. I also be of the opinion that a dwelling located here which fails to comply with Policy CTY2a would add to a ribbon of development along the Ballyscullion Road as there is already a row of three dwellings immediately east of the site and a dwelling approved here would add to this. As there is no gap to be filled, it could not be considered an exception to policy CTY8. As a result, the proposal fails to meet the policy criteria of CTY14.

PPS 3- Access, Movement and Parking:

DfI Roads were consulted on the planning application and provided conditions to be applied to any approval and that as part of any reserved matters application should show access constructed in accordance with the form RS1.

Other Material Considerations

The Mid Ulster District Council Local Development Plan 2030 -Draft Plan Strategy: was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy 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 closed at 5pm on 24th September 2020. In light of this, the draft plan cannot currently be given any determining weight.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refusal

Reasons for Refusal:

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

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the existing cluster of development is not

associated with a focal point and the site does not provide a suitable degree of enclosure and is not bounded on at least two sides with other development in the cluster.

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would result in a suburban style build-up of development when viewed with existing and approved buildings.

Signature(s)

Date:

ANNEX	
Date Valid	16th September 2020
Date First Advertised	29th September 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 44 Ballyscullion Road Bellaghy Londonderry The Owner/Occupier, 47 Ballyscullion Road Bellaghy Londonderry The Owner/Occupier, 48 Ballyscullion Road Bellaghy Londonderry	
Date of Last Neighbour Notification	6th October 2020
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2020/1119/O Proposal: Proposed domestic dwelling and garage in a cluster Address: 10m West of 44 Ballyscullion Road, Bellaghy, Decision: Decision Date: Ref ID: H/2009/0177/F Proposal: Proposed Sun Room to East of dwelling Address: 44 Ballyscullion Road, Bellaghy Decision: Decision Date: 01.06.2009	
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:



Deferred Consideration Report

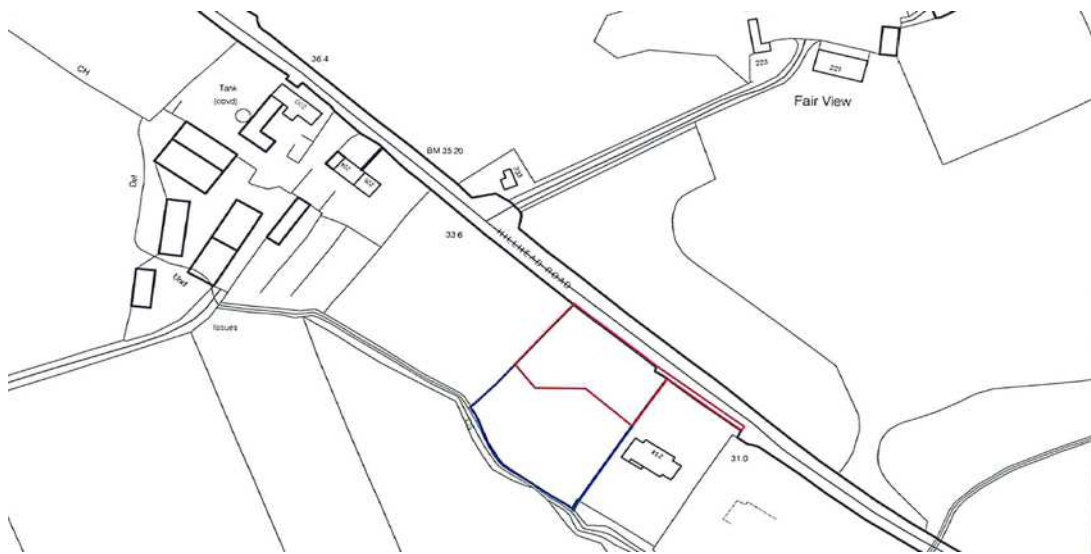
Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2020/1225/O	Target Date:
Proposal: Proposed infill dwelling, in area of average plot size of 44m road frontage	Location: Land adjacent to 214 Hillhead, Castledawson, Magherafelt
Applicant Name and Address: Jim Mc Pherson 6 Lissadell Drive Magherafelt	Agent name and Address: Newline Architects 48 Main Street Castledawson BT45 8AB
Summary of Issues: No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below.	
Summary of Consultee Responses: No objections.	
Characteristics of the Site and Area: The site is located adjacent to 214 Hillhead Road, Castledawson, Magherafelt. and is located outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is a large agricultural field, the boundary to the north-east and is comprised of mature vegetation and hedgerow's and the boundary to the southwest cuts through the centre of the field and is undefined. The roadside boundary is comprised of mature hedgerow and scattered trees and the south-eastern boundary consists of a wooden fence approx 1.0 metre in height and laurel hedgerow on the neighbours side. The elevation of the site is relatively flat and sites slightly lower than Hillhead road. Moyola Forest is to the south of the application site and Moyola river runs along the south to south west.	

Description of Proposal

Proposed infill dwelling, in area of average plot size of 44m road frontage.

Deferred Consideration:

The application was presented to Committee in February as a refusal, following which an office meeting took place on 11 February 2021. The application was reconsidered and present again as a refusal at the Planning Committee in October 2021. It was agreed at the October meeting to defer the application again for a site visit with Members.



At the site visit the issue of a gap site was discussed at length and those present walked the length of the gap to visually assess the infill site. The frontage sizes of the neighbouring sites were discussed and assessed on the ground. Members were referred to policy which requires the gap being big enough for a maximum of 2 dwellings. All frontages were considered and visually assessed. Members were asked to consider the gap and consider if it provides a visual break between the two ends of development on the ground.

Since the first deferral, a full application has been submitted for an off site replacement, which is now approved. However, this dwelling will not share a common frontage. The agent also advised due to flooding issues to the rear a dwelling would be sited to the front of the site and would most likely be of linear form.

One of the key considerations in this application is where it states in PPS 8 “*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*”. I am of the opinion the gap is too large to accommodate up to a maximum of two houses. In fact, I consider the gap to provide a clear visual break between numbers 214 and 228 Hillhead Road. From the information submitted by the agent, in support of the application, it is clear there are varying frontage widths along this stretch of the Hillhead Road. These vary, with plot widths of 35.5m, 47.5m, 84.5m and 49.5m. The

application site has a width of 47m at its frontage, with the adjacent field having a plot width of 72m. The agent has presented an argument that only two dwellings can be accommodated between the two fields. However, I disagree with this. It is my opinion, when considering the varying widths of neighbouring plots, the neighbouring field can accommodate two dwellings which would respect the existing development pattern. This would therefore result in three infill dwellings which is contrary to PPS 8. The agent has also put forward an argument the lands are impeded by the floodplain from the Moyola River. However, the lands have not been so impeded so as to prevent a dwelling being designed on the application site and I fail to see how a deeper site to the north could not accommodate two dwellings. There is no justification why the field to the immediate north is restricted by 20m, as shown on a coloured drawing submitted by the agent. It would seem this is drawn to show a more restricted site than what is actually possible.

Since there is a clear visual break between nos 214 and 228 I consider a new dwelling on this site would add to ribbon development at this location, which is contrary to PPS 8.

Since, in my opinion, the visual break is so strong, to approve a dwelling on this site would add to a ribbon of development and it is therefore contrary to CTY 14 as a new dwelling will cause a detrimental change to the rural character of this area.

A refusal is therefore recommended for the reasons stated 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.

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 creation of ribbon development along Hillhead Road.

3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that

the building would, if permitted create or add to a ribbon of development;

and would therefore result in a detrimental change to further erode the rural character of the countryside.

Signature(s):

Date

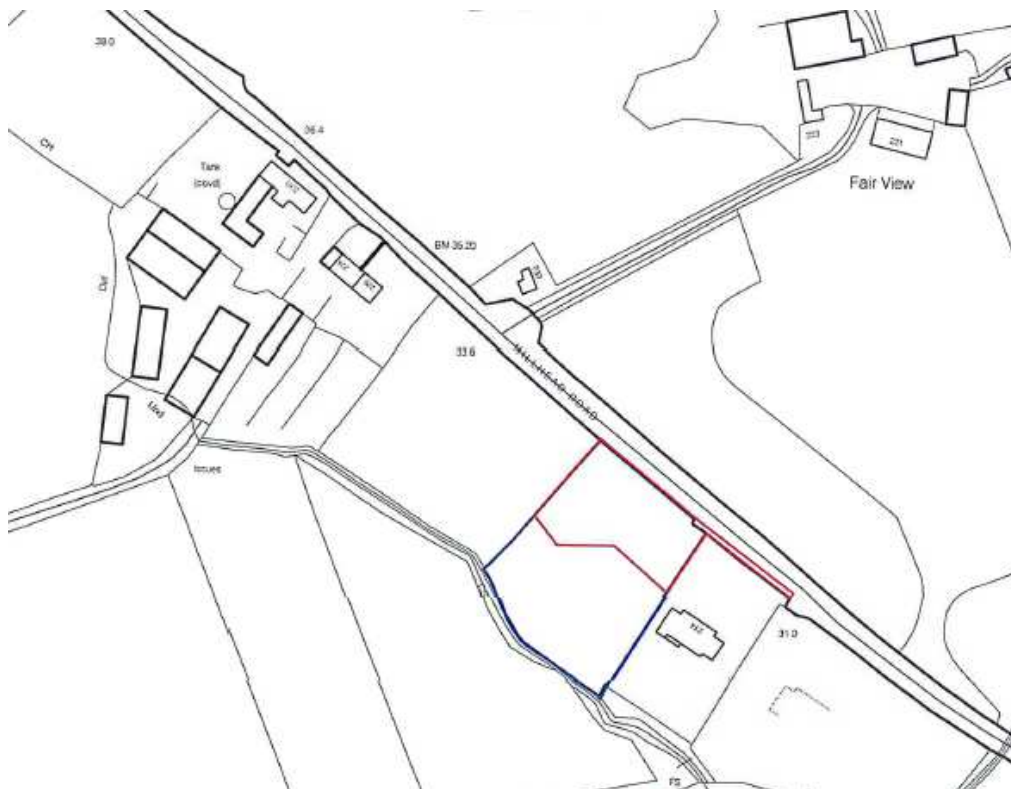


Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2020/1225/O	Target Date:
Proposal: Proposed infill dwelling	Location: Land adjacent to 214 Hillhead Castledawson Magherafelt
Applicant Name and Address: Jim Mc Pherson 6 Lissadell Drive Magherafelt	Agent name and Address: Newline Architects 48 Main Street Castledawson BT45 8AB
Summary of Issues: No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below.	
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: The site is located adjacent to 214 Hillhead Road, Castledawson, Magherafelt. and is located outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is a large agricultural field, the boundary to the north-east and is comprised of mature vegetation and hedgerows and the boundary to the southwest cuts through the centre of the field and is undefined. The roadside boundary is comprised of mature hedgerow and scattered trees and the south eastern boundary consists of a wooden fence approx 1.0 metre in height and laurel hedgerow on the neighbour's side. The elevation of the site is relatively flat and sites slightly lower than Hillhead road. Moyola Forest is to the south of the application site and Moyola river runs along the south to south west.	

Description of Proposal

Proposed infill dwelling

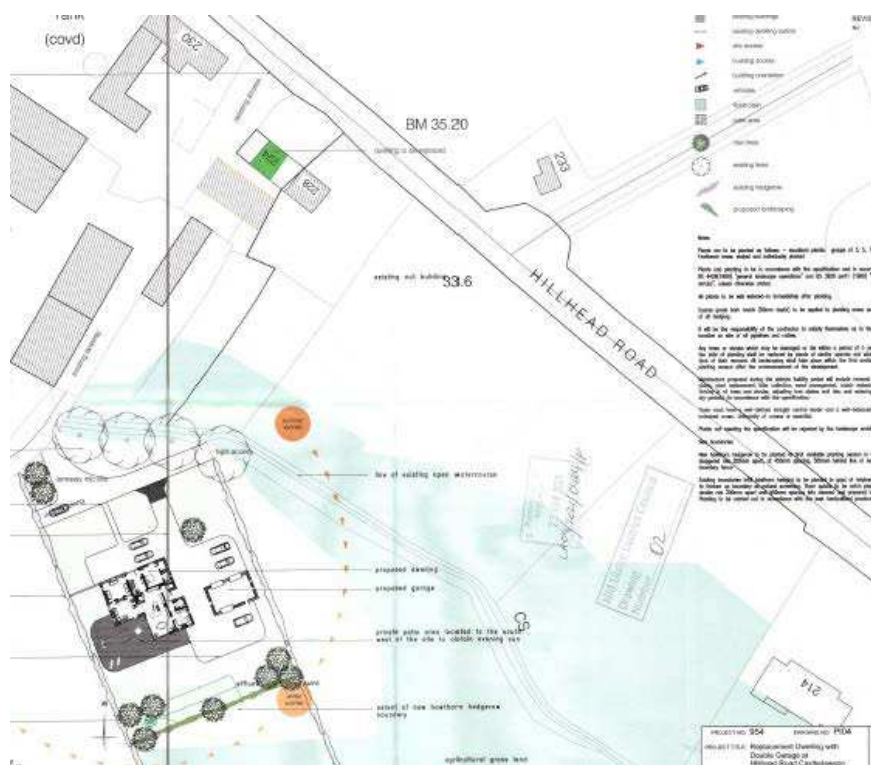


Deferred Consideration:

The application was presented to Committee in Feb 2021 as a refusal for the following 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.
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 creation of ribbon development along Hillhead Road.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted create or add to a ribbon of development; and would therefore result in a detrimental change to further erode the rural character of the countryside.

Since the deferral, a full application has been submitted for an offsite replacement for No.224 (shown in green) under LA09/2021/0464/F. It will be sited to the rear of this semi-detached property which is to be retained, however the new dwelling will not share a common frontage and so does not aid in providing the continuously and substantially built up frontage that is required under CTY8.



An exception will only be permitted for the development of a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage, which respects the pattern of development in terms of size, scale and plot size.

There is one dwelling on the south eastern side, No. 214 Hillhead Road, with another almost fully constructed. On the other side of the application site is a large agricultural field with no dwellings or buildings then there is a semi-detached property (No.224 & 228) and attached shed, then attached dwelling No. 230. Based on existing plot sizes, I am still of the opinion the gap is too large to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and therefore this site is not believed to be suitable as an infill/gap site in line with CTY8. In this case it would also add

to ribbon development in the area. I would consider this an important visual break in the landscape and as such it should be developed.

The proposal is also contrary to Policy CTY 14, Rural Character of PPS 21. Permission for a dwelling on this site would cause a detrimental change to or further erode the rural character of the area and as previously mentioned it would add to a ribbon of development.

Refusal is therefore recommended for the reasons stated.

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

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.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would not constitute a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and would, if permitted, result in the creation of ribbon development along Hillhead Road.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted create a ribbon of development and would therefore result in a detrimental change to further erode the rural character of the countryside.

Signature(s):


Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1225/O	Target Date:
Proposal: Proposed infill dwelling , in area of average plot size of 44m road frontage	Location: Land adjacent to 214 Hillhead Castledawson Magherafelt
Referral Route: Committee - Refusal	
Recommendation:	
Applicant Name and Address: Jim Mc Pherson 6 Lissadell Drive Magherafelt	Agent Name and Address: Newline Architects 48 Main Street Castledawson BT45 8AB
Executive Summary:	
Signature(s):	

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	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		
<p>No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below.</p>		
Characteristics of the Site and Area		
<p>The site is located adjacent to 214 Hillhead Road, Castledawson, Magherafelt and is located outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is a large agricultural field, the boundary to the north-east and is comprised of mature vegetation and hedgerow's and the boundary to the southwest cuts through the centre of the field and is undefined. The roadside boundary is comprised of mature hedgerow and scattered trees and the south eastern boundary consists of a wooden fence approx 1.0 metre in height and laurel hedgerow on the neighbours side. The elevation of the site is relatively flat and sites slightly lower than Hillhead road. Moyola Forest is to the south of the application site and Moyola river runs along the south to south west.</p>		
Description of Proposal		
Proposed infill dwelling		

Planning Assessment of Policy and Other Material Considerations

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

- 1) Strategic Planning Policy Statement (SPPS)
- 2) Magherafelt Area Plan, 2015
- 3) PPS21 -Sustainable Development in the Countryside

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 21 in respect of the proposal. The policy provisions within PPS21 remain applicable in terms of assessing the acceptability of the proposal.

Planning History

There is no planning history relevant to the determination of this application.

Representations

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

Assessment

The Strategic Planning Policy Statement for Northern Ireland (SPPS) 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. One retained policy document is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21).

Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development but qualifies this by stating that 'an exception will be permitted for the development of a small gap site sufficient to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage 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'. A substantial and built up frontage includes a line of three or more buildings along a road frontage without accompanying development to the rear.

The Policy further stipulates in paragraph 5.33 that 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.

This application site is considered against the existing pattern of development to determine if it complies with this policy. However, there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case and therefore this site is not believed to be suitable as an infill/gap site. There is one dwelling on the south eastern side, No 214 Hillhead road, however on the other side of the application site is a large agricultural field with no dwellings or buildings. Therefore, there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case and it would add to ribbon development in the area.

Also, in terms of the application site itself, the Policy PPS 8 states that 'an exception will be permitted for the development of a small gap site sufficient to accommodate up to a maximum of two houses.' Following discussion with the Planning Manager it was agreed that the gap site was too large and therefore fails to meet the criteria set out in this policy.

The proposal is also contrary to Policy CTY 14, Rural Character of PPS 21. Permission for a building on this site would cause a detrimental change to or further erode the rural character of the area and as previously mentioned it would add to a ribbon of development.

Conclusion

On the basis of this assessment, the proposal does not comply with the policy requirements of the SPPS and PPS21 and therefore it is recommended that permission is refused.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal- Contrary to Policy PPS21

Conditions/Reasons for Refusal:

Refusal Reasons

1.The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location.

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 creation of ribbon development along Hillhead Road.

3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that

the building would, if permitted create or add to a ribbon of development;

and would therefore result in a detrimental change to further erode the rural character of the countryside.

Signature(s)

Date:

ANNEX	
Date Valid	6th October 2020
Date First Advertised	20th October 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 214 Hillhead Road Castledawson Londonderry The Owner/Occupier, 233 Hillhead Road Castledawson Londonderry	
Date of Last Neighbour Notification	18th November 2020
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2020/1225/O Proposal: Proposed infill dwelling , in area of average plot size of 44m road frontage Address: Land adjacent to 214 Hillhead , Castledawson, Magherafelt, Decision: Decision Date: Ref ID: H/1986/0040 Proposal: ALTERATIONS AND ADDITIONS TO BUNGALOW Address: 67 BELLSHILL ROAD, CASTLEDAWSON Decision: Decision Date: Ref ID: H/1988/0011 Proposal: SITE OF DWELLING Address: 100M SE OF 244 HILLHEAD ROAD CASTLEDAWSON Decision: Decision Date: Ref ID: H/2001/0809/O Proposal: Site of Dwelling. Address: Site Adjacent To 214 Hillhead Road, Castledawson. Decision:	

Decision Date: 20.03.2003

Ref ID: H/1989/0566

Proposal: DWELLING WITH GARAGE

Address: HILLHEAD ROAD CASTLEDAWSON

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

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

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

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2020/1375/F	Target Date:
Proposal: Proposed dwelling in substitution for dwelling previously approved under planning Ref I/2009/0372/F and retention of existing mobile home for a temporary period of 3 years to facilitate construction of new dwelling	Location: 27a Drumconvis Road Coagh Cookstown
Applicant Name and Address: Mr Payne 3 Coltrim Lane Moneymore BT80 9JZ	Agent name and Address: T4 Architects 169 Coagh Road Stewartstown Dungannon BT71 5LW
Summary of Issues: This application was presented to August 2021 Planning Committee as an approval and was subsequently deferred for the agent to make amendments and to allow the objectors to consider these. Summary of the objections are as below; - Objector raised concerns of loss of privacy, overlooking, overshadowing and lack of light with regards to the dwelling and the mobile home. That the noise level of the building work would adversely impact the welfare of their childrens health. - Objector raised concerns over ownership in that the applicant does not own the site, in that part of the site is actually owned by the objector. - Raised concerns over lack of site lights in that the site would require site lines and permission over their lands which the applicant does not have. - Objector stated that this site has been refused on three previous applications due to undesirable change in the character of this rural area, undesirable extension of ribbon development, unacceptable intensification of suburban type sprawl beyond the limit of development for Coagh leading to an undesirable change in the rural character of this area.	

- Concern raised over the boundary line and that the site has been developed on the objectors land.
- Raised issue that the static mobile home had no permission.
- Raised concerns that the objectors house was unoccupied when original permission was granted and would have objected to the dwelling.
- Raised issues that the site had not lawfully commenced within time.
- Issues raised over increased traffic generation
- It was noted that there is asbestos in the two sheds situated on the site and when broken up could cause serious health concerns.
- Fears that there are too many houses in the area affecting conservation and the new works would affect the local wildlife.
- Noted that the previously site has lapsed, went on to state conditions had not been met which would require a new application to be submitted rather than an amendment.

All objections have been fully considered including those received after the August 2021 Committee meeting.

Characteristics of the Site and Area:

The proposed site is located approximately 0.35km south east of the development limits of Coagh and it is situated within the open countryside as per defined in the Cookstown Area Plan 2010. The site is identified adjacent to 27a Drumconvis Road, Coagh and on the site sits a detached agricultural building, a caravan and the foundations of the previously approved dwelling. I note that the boundaries are defined by fencing along the eastern and western boundaries with the southern boundary defined by a line of mature trees with the roadside boundary undefined. The immediate area is rural in character and is defined by rolling agricultural land, dispersed single dwellings and farm holdings with the settlement of Coagh in close proximity.

Relevant planning history

I/2009/0372/F - Proposed dwelling for small gap site under CTY 8 - 200M North West of No 43 Ballinderry Bridge Road, Coagh, Cookstown - Permission Granted - 12.02.2010

Description of Proposal

The proposed full application for proposed dwelling in substitution for dwelling previously approved under planning Ref I/2009/0372/F and retention of existing mobile home for a temporary period of 3 years to facilitate construction of new dwelling, site is located 27a Drumconvis Road Coagh Cookstown.

Deferred Consideration:

This application was presented as an Approval to Planning Committee on 3 August 2021 and was subsequently deferred at the suggestion of the Area Planning Manager for the agent to make amendments to the location of the dwelling moving it 2m from the boundary, and to give the objectors the opportunity to make comment on any changes.

Following the Committee meeting the agent submitted amended plans on 11 August 2021.

Neighbours were notified on 27.08.2021 and the objectors sent an email on 8 Sept 2021 regarding these amends.

The objector's state the amended plans show the house moved 2m but that they own 2.5m from the fence and this proposal will not allow them sufficient ground to build and maintain a wall or allow for screening. They ask for the plan to be amended and moved 4.5m from their fence.

The proposal has now been moved the 2m, which was suggested by the Area Planning Manager at the August Planning Committee meeting, in an attempt to address the neighbour's objections relating to privacy and amenity. It should be noted the Council has recommended approval at this meeting based on the dwelling located closer to the objectors. By moving the dwelling the proposal still has not satisfied the objectors concerns in relation to ownership and boundary issues although they do not mention amenity issues in their email. However as previously stated, ownership/boundary disputes are outside the remit of planning. In terms of planning, the moving of the house has in my opinion helped lessen any impact on the neighbours and the agent has fulfilled the request made the Area Planning Manager at the August Committee meeting.

Much information has been submitted by the applicant which the agent has responded to, in relation to the commencement of development of the original application and ownership/boundary issues. The objectors state the foundations were not dug until April 2018 and that Google Earth Pro images prove this in their objection of 19th August 2021. However after looking at the website, it appears the image provided remains the same between the dates 25th May 2012 and 17th April 2015. What this only proves is that the development was commenced at some time between these dates.

As detailed in the original case officers report the Building Control records show an inspection was carried out on 23rd Dec 2014 which recorded that foundations were excavated.

Based on the evidence available, MUDC are content that development has lawfully commenced in line with the original approval decision notice before its expiry date of 12th Feb 2015.

All planning issues which objectors have raised have been fully considered. Any civil issues relating to landownership and boundary issues have been addressed insofar as the Council are required to and the agent is content the correct certificate has been signed. Beyond this the issues lie outside the remit of planning. The applicant has been changed to Mr Payne and Certificate A has been signed. Neighbours were notified of this change.

The objectors asked on 20th Sept 2021 for this application to be held until Mr William Orbinson QC makes contact with MUDC. They also asked for further evidence to be presented by the applicants, however after discussion with the Area Manager we are content we have all the information required in order to make an informed decision and relevant information which has been submitted can be viewed online by all parties, and so there is no need to hold the application being presented to Committee.

The objectors also state the application should not refer to a replacement. However the proposal has been described and assessed as such;
Proposed dwelling in substitution for dwelling previously approved under planning Ref I/2009/0372/F and retention of existing mobile home for a temporary period of 3 years to facilitate construction of new dwelling. There is no mention of a replacement of the dwelling or a caravan in the description.

In relation to the DFI response of 4th June 2021 which the objectors have again raised. MUDC opinion have not changed since the original assessment was made. There were no access conditions on the original approved I/09/0372/F and the argument was put forward that there would only be one dwelling remaining at the site following the removal of the caravan, there would be no intensification of access would occur.

In light of the previous history and that this access has been used to serve an occupied caravan for approx. 10 years it would seem unreasonable to require a higher standard than previously accepted.

Approval with conditions is recommended.

Conditions

1. This permission is granted solely as a substitute for the permission for a dwelling previously granted on the site under Ref: I/2009/0372/F on the 12.02.2010 and only one dwelling shall be constructed on the site.

Reason: To ensure that only one dwelling is constructed on site.

2. All landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 02/03 date stamped 11 August 2021 shall be carried out in the first planting season following the commencement of the construction of the development hereby approved.

Reason: To ensure the development integrates into the countryside

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

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

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

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

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

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

6. The mobile home hereby permitted shall be for a limited period of 3 year from the date of this permission only and shall be removed and the land restored to its former condition.

Reason: This is a temporary permission.

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



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1375/F	Target Date:
Proposal: Proposed dwelling in substitution for dwelling previously approved under planning Ref I/2009/0372/F and retention of existing mobile home for a temporary period of 3 years to facilitate construction of new dwelling	Location: 27a Drumconvis Road Coagh Cookstown
Referral Route: Approval - To Committee - Objections received.	
Recommendation:	
Applicant Name and Address: Mr and Mrs Cotton 6A Drumearn Avenue Cookstown	Agent Name and Address: Nest Architects 3A Killycolp Road Cookstown BT80 9AD
Executive Summary: Approval	
Signature(s): Peter Henry	

Case Officer Report

Site Location Plan



Consultations:

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

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

Summary of Issues

Approval - To Committee - Seven objections received;

Characteristics of the Site and Area

The proposed site is located approximately 0.35km south east of the development limits of Coagh and it is situated within the open countryside as per defined in the Cookstown Area Plan 2010. The site is identified adjacent to 27a Drumconvis Road, Coagh and on the site sits a detached agricultural building, a caravan and the foundations of the previously approved dwelling. I note that the boundaries are defined by fencing along the eastern and western boundaries with the southern boundary defined by a line of mature trees with the roadside boundary undefined. The immediate area is rural in character and is defined by rolling agricultural land, dispersed single dwellings and farm holdings with the settlement of Coagh in close proximity.

Relevant planning history

I/2009/0372/F - Proposed dwelling for small gap site under CTY 8 - 200M North West of No 43 Ballinderry Bridge Road, Coagh, Cookstown - Permission Granted - 12.02.2010

Representations

Five neighbour notifications were sent out however six objections were received in connection with this application.

Description of Proposal

The proposed full application for proposed dwelling in substitution for dwelling previously approved under planning Ref I/2009/0372/F and retention of existing mobile home for a temporary period of 3 years to facilitate construction of new dwelling, site is located 27a Drumconvis Road Coagh Cookstown.

Planning Assessment of Policy and Other Material Considerations

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

Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS 3: Access, Movement and Parking

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

Starting with the proposed dwelling part of this application first, I note the principle of development has been established through previous approval I/2009/0372/F. After consultation with Building Control I am content that the site has lawfully commenced within time. I note that commencement of the site is in dispute by comments made by the objector, setting this aside, the site is located within a line of 3 or more buildings and would constitute an infill dwelling in accordance with policy CTY 8 and therefore regardless of history an infill opportunity exists.

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. Acknowledging the previously approved design and taking into consideration the surrounding development of two storey dwellings, I am content that the proposed dwelling will not appear visually prominent in the landscape. The fact this is considered an infill will mean that this dwelling will read as part of a built up frontage, with the view that this coupled with the landscaping, that of the existing and proposed, that the dwelling will be able to satisfactorily integrate into the landscape. I note that the intention is to use an existing unaltered access therefore I am content that this is able to integrate also. In terms of the proposed design, I note that this has been amended during the application to counter the objections received, from which I am content that the design is acceptable within this rural context. From this, I am content that the application is able to comply with CTY 13.

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

mentioned previously I am content that a dwelling in this location will not be unduly prominent in landscape, from this I am content that the development is able to respect the pattern of development in the area. I am content on balance that this proposed application will not unduly change the character of the area. I am content that the proposed development complies with CTY 14.

PPS 3 - Access, Movement and Parking;

I note that the intention is to use the existing unaltered approved access. There were no access conditions on the previous approval I/2009/0372/F. Given the objections that comment from DFI Roads was sought, in their response initially requested additional plans showing splays etc. The agent provided correspondence from the original application which stated the original application is being considered as 'Gap Site' under CTY 8 and would require current road service standards however given this application is fundamentally a replacement dwelling at the site where only one dwelling would remain and no intensification of pedestrian and vehicular access would occur. As such this argument was put to DFI Roads, who in their response, stated that the wording may lend itself to being a replacement dwelling if this is not the case then road amendments would be required. In light of the previous history and that this access has been used to serve an occupied caravan on this site for around a decade, it is my view that it would be unreasonable to require a higher standard than previously accepted.

With regards to the mobile home, I note that under CTY 9 of PPS 21 which states that Planning permission may be granted for a residential caravan or mobile home, for a temporary period only, in exceptional circumstances.

These exceptional circumstances include:

- the provision of temporary residential accommodation pending the development of a permanent dwelling; or
- where there are compelling and site-specific reasons related to personal or domestic circumstances (see Policy CTY 6).

It goes on to state that all permissions will normally be subject to a three-year time limit. However, this may be extended having regard to the particular circumstances of the case. I note that three years has been requested in this application. Policy goes on to state that the siting of a residential caravan or mobile home will be subject to the same planning and environmental considerations as a permanent dwelling. Permission will depend on the ability to integrate the unit within an existing building group and screen the unit from public view. Considering this, I note that the provision of the mobile home is provide temporary residential accommodation for such times during the construction of proposed dwelling which has been shown to be acceptable. In terms of the siting, the mobile home is located to the rear of the site beside the agricultural building to the rear with a backdrop of mature trees; in terms of this I am content this siting is acceptable on balance complying under CTY 9.

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

In response to the comments made by the objector;

- Objector raised concerns of loss of privacy, overlooking, overshadowing and lack of light with regards to the dwelling and the mobile home. That the noise level of the building work would adversely impact the welfare of their children's health.

I note that a number of amended house plans have been received, which in my opinion have made reasonable attempts to alleviate the concerns over amenity. The removal of a number of windows on the elevation that abuts the objectors property coupled with new landscaping along the same boundary will significantly reduce any impact. This coupled with the separation distance between the site and the objectors dwelling means that I am content that is unlikely to cause any adverse impact on neighbouring amenity. In terms of the impact of the static mobile home, I note it will be pushed further into the site reducing any ability for overlooking and it is only to be approved for a temporary basis. With regards to any noise during construction having an impact on the objectors children health, whilst I acknowledge this I note that the construction phase will only run for a finite time and best practices should be implemented during construction but all noise cannot be stopped, some noise will be typical of building a dwelling.

- Objector raised concerns over ownership in that the applicant does not own the site, in that part of the site is actually owned by the objector.

In terms of the ownership concerns and boundary issues, I note in the first instance that planning does not confer title. However, I note after a land registry check the lands appear to be owned by a Mr R Paine, the certificate was subsequently amended. With regards to the claims that part of the proposed site is owned by the applicant, I note that a series of information has been provided by both the applicant and the objector. In that the ownership issue has been raised and addressed and given the history of the site with the ambiguity over this ownership that I am content that this has been adequately investigated. As noted that planning does not confer title, any outstanding issues over ownership will be a civil matter and the application is deemed as a valid application with the appropriate certificate signed.

- Raised concerns over lack of site lights in that the site would require site lines and permission over their lands which the applicant does not have.

In terms of the site showing no site lines, the access issue has been raised and addressed above, it is my view that it would be unreasonable to require a higher standard than previously accepted. Any requirement for splays or sight lines would be a civil matter.

- Objector stated that this site has been refused on three previous applications due to undesirable change in the character of this rural area, undesirable extension of ribbon development, unacceptable intensification of suburban type sprawl beyond the limit of development for Coagh leading to an undesirable change in the rural character of this area. With regards to the comments made that this site has been refused previously for a number of reasons, I note that in terms of planning there is a live planning permission on the site which could be developed at any time. Therefore I am content that the principle of development has been established and as previously mentioned the site is still able comply under CTY 8.

- Concern raised over the boundary line and that the site has been developed on the objectors land.

As noted, the ownership issues have been investigated and any remaining boundary issue is a civil matter.

- Raised issue that the static mobile home had no permission.

In terms of the static mobile having no permission, I note that they have come in to rectify this through requesting a temporary permission which has been accepted on a temporary basis.

- Raised concerns that the objectors house was unoccupied when original permission was granted and would have objected to the dwelling.

In terms of the comments that when the site was originally approved the objectors house was unoccupied and someone would have objected to the previous site at the time, I note that the statutory neighbour notification and advertising was done and could only be taken as things were at the time, in which the site was approved.

- Raised issues that the site had not lawfully commenced within time.
With regards to the site commencing, Building Control records note the site works were started on 23/12/14 which is within the date of the permission meaning in planning terms that the site was lawfully commenced.

- Issues raised over increased traffic generation.

In terms of an increased traffic generation as a result of this application, again this has been considered in the previous application and this application is unlikely create any adverse increases as it still only for one dwelling.

- It was noted that there is asbestos in the two sheds situated on the site and when broken up could cause serious health concerns.

Talking about the concerns of the asbestos of the two sheds on the site, I note that there is no reference of these having asbestos nor to be removed. Planning would expect best practice in removing asbestos if sheds were to be demolished.

- Fears that there are too many houses in the area affecting conservation and the new works would affect the local wildlife.

In terms of the impact on conservation and impact on wildlife, I will circle back to the fact there is a live permission on the site and the change of design is not likely to cause any adverse impacts on the conservation or local wildlife.

- Noted that the previously site has lapsed, went on to state conditions had not been met which would require a new application to be submitted rather than an amendment.

As stated I am content that the site has lawfully commenced.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approval

Conditions:

1. This permission is granted solely as a substitute for the permission for a dwelling previously granted on the site under Ref: I/2009/0372/F on the 12.02.2010 and only one dwelling shall be constructed on the site.

Reason: To ensure that only one dwelling is constructed on site.

2. All landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 02/2 date stamped 30th 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

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

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

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

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

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

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

6. The mobile home hereby permitted shall be for a limited period of 3 year from the date of this permission only and shall be removed from the site.

Reason: In order to allow the applicant temporary accommodation whilst erecting the dwelling.

Informatives

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

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

3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.

Signature(s)

Date:

ANNEX	
Date Valid	4th November 2020
Date First Advertised	1st December 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 24 Drumconvis Road, Coagh, Tyrone, BT80 0HD The Owner/Occupier, 24a Drumconvis Road Coagh The Owner/Occupier, 25 Drumconvis Road Coagh Tyrone Francisco Martin 27 Drumconvis Road Coagh Tyrone Franciso & Mrs Teresa Martin 27, DRUMCONVIS ROAD, COAGH, TYRONE, Northern Ireland, BT80 0HD Teresa Martin Email Teresa Martin Email Teresa Martin Email Francisco Martin Email Address	
Date of Last Neighbour Notification	4th March 2021
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2018/1499/F Proposal: Proposed new dwelling and garage in infill site between 23 and 27 Drumconvis Road, Coagh (As substitute for Planning Approval I/2007/0422/RM dated 11/06/08) Address: Adjacent to 23 Drunconvis Road, Coagh, Cookstown, Decision: PG Decision Date: 27.03.2019 Ref ID: I/1996/4044 Proposal: Proposed Chicken Houses Address: 23 DRUMCONNIS ROAD, COAGH Decision:	

Decision Date:

Ref ID: I/2007/0422/RM

Proposal: Dwelling house

Address: Adjacent to 23 Drumconvis Road, Coagh

Decision:

Decision Date: 12.09.2007

Ref ID: I/2004/0423/O

Proposal: Proposed Site for New Dwelling

Address: Adjacent to 23 Drumconvis Road, Coagh

Decision:

Decision Date: 14.06.2004

Ref ID: I/2009/0372/F

Proposal: Proposed dwelling for small gap site under CTY 8

Address: 27a Drumconvis Road, Coagh, Co Tyrone, BT80 OHD

Decision:

Decision Date: 16.02.2010

Ref ID: LA09/2020/1375/F

Proposal: Proposed dwelling in substitution for dwelling previously approved under planning Ref I/2009/0372/F and retention of existing mobile home for a temporary period of 3 years to facilitate construction of new dwelling

Address: 27a Drumconvis Road, Coagh, Cookstown,

Decision:

Decision Date:

Ref ID: I/1980/0165

Proposal: PETROL STATION

Address: 27 DRUMCONVIS ROAD, COAGH

Decision:

Decision Date:

Ref ID: I/1995/0133

Proposal: Retirement bungalow

Address: ADJACENT TO 27 DRUMCONVIS ROAD COAGH CO TYRONE

Decision:

Decision Date:

Ref ID: I/1987/0075

Proposal: PROPOSED SITE FOR NEW BUNGALOW

Address: SITE ADJACENT TO 27 DRUMCONVIS ROAD, COAGH

Decision:

Decision Date:

Ref ID: I/2012/0340/F

Proposal: Proposed extension and internal alterations to dwelling

Address: 27 Drumconvis Road, Coagh,

Decision: PG

Decision Date: 04.12.2012

Summary of Consultee Responses**Drawing Numbers and Title**

Drawing No. 06
Type: Levels and Cross Sections
Status: Submitted

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

Drawing No. 03
Type: Proposed Floor Plans
Status: Submitted

Drawing No. 05
Type: Proposed Elevations
Status: Submitted

Drawing No. 04
Type: Proposed Elevations
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:



Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2021/0146/O	Target Date:
Proposal: Proposed site for 2 storey dwelling and garage at builders yard with use of existing entrance to the Drum Road	Location: Site between Oakland Villas and 167 Drum Road Cookstown
Applicant Name and Address: Philip and Judith Mitchell 167 Drum Road Cookstown	Agent name and Address: PDC Chartered Surveyors 16 Gortreagh Road Cookstown BT80 9ET
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 limit of Cookstown is located approx. 2.2km east of the proposal site. The application site comprises a portion of land located to the rear of the detached chalet dwelling No.167. On the date of the site inspection it was noted there appeared to be recent clearing of the application site. The application proposes to utilise the existing access on to Drum Road via Oakland Villas which currently serves 6 dwellings. Whilst the proposal argues the entrance of the application site to Oakland Villas is existing and in use, it appears recent clearing has taken place and it is noted that there is an ongoing enforcement investigation regarding this. The topography of the site is relatively flat. Close board fencing currently defines the southern boundary separating the site with the curtilage of No.167. The western boundary of the site is defined by mature trees and hedging, whilst the remaining boundaries are currently undefined. There is a medium degree of development pressure in the immediate context given the 2 storey terrace dwellings within Oakland Villa to the west of the site and detached dwelling of No. 167 with associated outbuildings to the south east. The wider landscape character is rural with the predominant land use being agricultural fields and dispersed holdings and dwellings. Drum Manor Forest Park is located a short distance to the west.	

Description of Proposal

This is an outline planning application for a dwelling and garage on lands Oakland Villas and 167 Drum Road, Cookstown.

Deferred Consideration:

This application was presented as a refusal to Planning Committee in June 2021 for the following reasons;

Refusal Reasons

1. The proposal is contrary to the SPPS and 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.
2. The proposal is contrary to CTY 8 Ribbon Development of Planning Policy Statement 21 in that the proposal does not constitute a gap site within a substantial and continuously built up frontage along this part of Drum Road and would create or add to a ribbon development.
3. The proposal is contrary to CTY 14 Rural Character of Planning Policy Statement 21 in that the development would further erode rural character adding to a ribbon of development.
4. 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 it is not located at a cross-roads.

It was subsequently deferred for a virtual office meeting with the Area Planning Manager and a meeting was held on 17 June 2021 and the senior planner was asked to re-visit the site and consider policy CTY2a as it is considered that CTY8 cannot be met.

Certain criteria must be met in order to meet the policy for Policy CTY2a – New dwellings in existing clusters. In the policy this states it should be a focal point 'such as' a social/community building/facility.

There must also be a cluster of development which lies outside a farm and consist of 4 or more buildings, of which at least 3 are dwellings. This excludes garages and outbuildings, and I would consider this cluster has more than 4 dwellings and which would constitute the required number. The existing cluster appears as a visual entity in the local landscape.

In the policy there is no exhaustive list of what constitutes a focal point, but rather some examples are given. A focal point is considered as giving a place a 'sense of identity' and somewhere that is well known to the local community with a sense of presence, and so keeping within the spirit of the policy. The agent had mentioned at the office meeting there is a 'Builders Yard' at No.167 which was established since the 1980s. However at the time of my site visit it was evident it was not being used as such, and had not been for a long period of time, and therefore could not be considered as a focal point. However, I would consider the 'Village Green' area to the front of Oakland's Villas, the SW of the site, would fall under this definition.



This should not be seen as setting a precedent for dwellings approved under CTY2a, but rather that is in the spirit of the policy. A dwelling on the site would not have any detrimental impact on the existing rural character of this area and it would constitute a rounding off within an existing cluster of development.

In terms of CTY13 the site has a good degree of enclosure and it is considered the existing vegetation would aid in integrating a dwelling. To ensure the dwelling is in keeping with the existing character of the area I would add a 6.5m ridge height condition, as well as a siting condition to ensure the protection of the amenity of the neighbours.

Objections had been received in relation to the site being regarded as not meeting infill policy, also stating that false information was given in relation to the access to be used and that it was only opened recently. The original case officer dealt with these issues at the time this application was presented to Committee in June 2021 and no further objections have been received.

Policy CTY14 states permission will be granted where a dwelling does not cause any detrimental change for further erode the character of the area. This site would not significantly alter the character of the area and therefore I feel complies with this policy.

Approval with conditions is therefore recommended in this case.

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

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

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

5. A landscaping scheme shall be submitted simultaneously with the detailed drawings for the development, hereby approved, at the Reserved Matters stage. Any trees or shrubs which may be damaged or die within a period of 5 years from the date of planting shall be replaced by plants of similar species and size at the time of their removal. All landscaping shall take place within the first available planting season after the Commencement of the development.

Reason: In the interests of visual amenity.

7. The proposed dwelling shall have a ridge height of less than 6.5 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.

8. 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.

9. The proposed dwelling shall be sited in the area shaded blue on the approved plan 01 date stamped 2 Feb 2021.

Reason: To ensure that the development is satisfactorily integrated into) the landscape in accordance with the requirements of Planning Policy Statement 21 and to preserve the amenity and privacy of the adjoining dwelling.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0146/O	Target Date: 18/05/21
Proposal: Proposed infill site for 2 storey dwelling and garage at builders yard with use of existing entrance to the Drum Road	Location: Site between Oakland Villas and 167 Drum Road Cookstown
Referral Route: Recommended refusal	
Recommendation:	Refusal
Applicant Name and Address: Philip and Judith Mitchell 167 Drum Road Cookstown	Agent Name and Address: PDC Chartered Surveyors 16 Gortreagh Road Cookstown BT80 9ET
Executive Summary: Proposal considered against prevailing planning policy – considered the proposal fails to comply with Policy CTY1 of PPS21. 2no. letters of objection have been received.	
Signature(s): 	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen	Content

Representations:

Letters of Support	1
Letters of Objection	2
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

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 limit of Cookstown is located approx. 2.2km east of the proposal site. The application site comprises a portion of land located to the rear of the detached chalet dwelling No.167. On the date of the site inspection it was noted there appeared to be recent clearing of the application site. The application proposes to utilise the existing access on to Drum Road via Oakland Villas which currently serves 6 dwellings. Whilst the proposal argues the entrance of the application site to Oakland Villas is existing and in use, it appears recent clearing has taken place and it is noted that there is an ongoing enforcement

investigation regarding this. The topography of the site is relatively flat. Close board fencing currently defines the southern boundary separating the site with the curtilage of No.167. The western boundary of the site is defined by mature trees and hedging, whilst the remaining boundaries are currently undefined. There is a medium degree of development pressure in the immediate context given the 2 storey terrace dwellings within Oakland Villa to the west of the site and detached dwelling of No. 167 with associated outbuildings to the south east. The wider landscape character is rural with the predominant land use being agricultural fields and dispersed holdings and dwellings. Drum Manor Forest Park is located a short distance to the west.

Description of Proposal

This is an outline planning application for a dwelling and garage on lands Oakland Villas and 167 Drum Road, Cookstown.

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

- Policy AMP 3 Access to Protected Routes

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

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

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, 1 letter of support and 2 letters of objection have been received. The address of the letter of support is No.167, which is

outlined in blue within the applicant's control, and the representation states "suitable infill site". The issues outlined in the 2no objection letters are summarised below:

- Both objection letters argue that the application includes false information. The representations state the application attempts to open a new access into the car parking area at Oakland Villas and this was never previously used as an entrance. They state this proposed entrance was only opened up on 08/02/21 involving the removal of 20ft of hedging and cutting down of 3 large trees. It is argued the reference on the block plan that the existing entrance is used to access 6 dwellings at Oakland Villas and the builder's yard for over 30 years with up to 30 vehicles using it per day is false.

Following a review of the original block plan submitted, I requested that the agent remove the annotations to the existing access use / current vehicle numbers accessing the builder's yard as this information is not necessary to be included on drawings. I also requested reference to "Commenced footings for commercial buildings" to be removed as no planning approval relating to commercial buildings was identified and regardless this does not form part of this planning application. The agent has submitted an amended block plan removing these annotations and has also provided what appears to be a land registry map showing the access through Oakland Villas shaded blue which he has advised is a right of way to the premises from this entrance. He also submitted a site layout plan from the 1990s however this Drawing does not include any DOE Planning Service stamps and also does not include the said "commercial building" that is annotated on the original layout plan. On the date of the site inspection, I noted that there appeared to be recent clearing of the application site and proposed entrance. It is noted there is currently an enforcement investigation ongoing with respect the entrance/access from Oakland Villa to the parcel of land subject to this application. Following observations on the site inspection, a review of google street view and aerial images, it appears that the access from the application site to Oakland Villas was not always in place. I requested that the agent amend Q.12 of the P1 Form as this is not "use of an existing unaltered access" and the agent has subsequently amended accordingly.

Planning History

I/1980/0144 - Proposed store for owners use – 167 Drum Road, Cookstown – Permission Granted

I/1993/0031 - Change of use from store, garage and office to manufacturing workshop and stores including construction of new access – Adjacent to Oakland Villas, Cookstown – Permission Refused

Key Policy Considerations/Assessment

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

The Strategic Planning Policy Statement for Northern Ireland – 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. Considering the requirements of CTY 8, planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of 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.

In this case, it is my opinion that the proposal does not constitute a small gap site within an otherwise substantial and continuously built up frontage and the application site does not respects the existing development pattern along the frontage. It is noted from the submitted block plan that the applicant is relying on No.01 and No.5-6 Oakland Villas; and No.167 Drum Road and the associated outbuilding/garage as a line of three or more existing buildings along the road frontage for the purposes of meeting Policy CTY8. When approaching the site from the west, the rear of the terrace dwellings of No.1-4 Oakland Villas are visible. These dwellings have an eastern orientation and do not face onto Drum Road, set back approx. 18 metres from this public road. When continuing from this approach, the semi-detached units No.5-6 Oakland Villa and the detached dwelling of No.167 only come into clear view when almost at the entrance of Oakland Villas. No.167 is located on the roadside set on a large curtilage with amenity space 22 metres in length to the west of the dwelling. When approaching the site from the east the side elevation of No.167 is viable, whilst they are only partial/isolated views of the front elevation of the terrace block No.1-4 Oakland Villa and little to no views of No.5-6 Oakland Villa which are set back 48 metres from Drum Road. It is noted that the amplification to policy CTY8 states “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.” However, I do not consider that the terrace block of No.1-4 Oakland Villas; the semi-detached dwellings No.5-6 Oakland Villas; the application site and No.167 are in a line with a common frontage along Drum Road. It is considered the land within the curtilage of No.167 provides a gap between the development of Oakland Villas and No.167 and outbuilding. Whereas the proposed application site is not located along the road frontage, set back approx. 51 metres from the Drum Road and comprising the land to the rear of the curtilage of No.167. The road frontage portion of the site currently serves as the access for dwellings to Oakland Villas and only forms a means of access to the where the dwelling would have to be accommodated. In the context of the size, scale, siting and plot size of existing built form within Oakland Villas, the application site would not respect the existing development pattern. The buildings of No.1-4 and No.5-6 Oakland Villa face into the development, not onto Drum Road and I do not consider they form “a line of 3 or more buildings along a road frontage without accompanying development to the rear”. It is considered an approval of this application would add to a ribbon of development and Policy CTY 8 is clear when it states that planning permission will be refused for a building which creates or adds to a ribbon of development.

Policy CTY2a of PPS21 provides an opportunity for a new dwelling at an existing cluster of development provided all listed criteria is met. I am content that the site lies outside of a farm and consists of four or more buildings in which more than three of such are dwellings. Given the build-up of development, this cluster could be considered as a visual entity in the local landscape. It is also accepted, given this is an outline application, that the proposed dwelling could be sited and designed to ensure no adverse impact to residential amenity. However, there does not appear to be a focal point in close proximity to the site nor is the site located at a cross-roads, failing this part of the policy. Therefore, it is considered the proposal would also fail under Policy CTY2a.

CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Given the existing, established vegetation to the boundaries of the site and the flat topography, I consider a dwelling and garage could be accommodated without appearing as an overly prominent feature in the landscape. I am content that a dwelling and garage on the site will not be a prominent feature in the landscape given the set back to Drum Road and the flat topography of the site. There are minimal critical views when travelling in an easterly direction, however should planning permission be granted a condition requiring the submission of a landscaping plan to accompany any forthcoming reserved matters application will be required, particularly to ensure integration along the east boundary. Should permission be granted the design of the proposed dwelling would also 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. As stated above, I do not consider the proposal site represents a small gap site within a line of 3 or more buildings with a common frontage. In my opinion, the proposal would add to a ribbon of development which is detrimental to the surrounding rural character contributing to a localised sense of build-up of development. The proposed dwelling will access via Oakland Villas, I do not consider the plot size or siting to respect the traditional pattern of settlement. In my opinion, the proposal has the potential to further erode the rural character of the area and as such is contrary to Policy CTY 14.

PPS 3: Access, Movement and Parking

DfI Roads were consulted and have responded with no objections subject to conditions. It is noted that the adjacent road network is a protected route. DfI Roads Checklist provided states "A505 is not accessed directly but via Oakland Villas therefore PPS3 AMP3 not applicable". Annex 1 of PPS21 "Consequential amendment to Policy AMP 3 of PPS 3 Access, Movement and Parking" provides exceptions for a development proposal involving access onto a Protected Route in certain cases and removes reference to intensification of an existing access as was previously the criteria within PPS3 (Clarification). Therefore, on the basis of DfI Roads response it is not considered the proposal will prejudice road safety or significantly inconvenience the flow of traffic.

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 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 CTY 8 Ribbon Development of Planning Policy Statement 21 in that the proposal does not constitute a gap site within a substantial and continuously built up frontage along this part of Drum Road and would create or add to a ribbon development.
3. The proposal is contrary to CTY 14 Rural Character of Planning Policy Statement 21 in that the development would further erode rural character adding to a ribbon of development.
4. 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 it is not located at a cross-roads.

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2021/0224/F	Target Date: <add dae>
Proposal: Dwelling for a person with long term needs under Policy CTY6.	Location: 80m West of 67 Dungormon Road Dungannon BT71 6SE.
Applicant Name and Address: Mr Paul Brannigan 67 Dungormon Road Dungannon BT71 6SE	Agent name and Address: Hamill Architects Ltd Unit T2 Dungannon Enterprise Centre 2 Coalisland Road Dungannon BT71 6JT
Summary of Issues: The personal and domestic circumstances are not considered to be compelling and site specific.	
Summary of Consultee Responses: DFI Roads – safe access can be provided	
Characteristics of the Site and Area: The site lies within the open countryside just a short distance to the south of the settlement limits of Killyman and outside all other areas of constraint as depicted in the DSTAP 2010. The red line of the site is rectangular and includes a large two storey detached dwelling situated at number 67 Dungormon Road, Killyman. The site is bounded on all sides by mature trees and other vegetation and there is a large forest/wooded area directly south of the site. The existing dwelling has a long winding driveway with pillars and a 1.5 metre wall along the whole site frontage. There is also a small tennis court in the northern section and the dwelling itself is two storey, finished in grey render with three front peaks, two chimneys on the ridge line and a large detached garage. The site also boasts a large front and side lawn.	

Description of Proposal

The application seeks full planning permission for a dwelling for personal and domestic circumstances.

Deferred Consideration:

This application was before the committee in June 2021 and it was deferred to allow a meeting with the Planning Manager. A meeting was held on 17 June and the agent was advised of the requirements of Policy CTY6 and the need to provide compelling and site specific personal and domestic circumstances and that development should integrate into the landscape. It was further advised that the circumstance must demonstrate that if the development was refused there would be a genuine hardship to the applicant and then a sequential approach is required in that an extension, conversions of existing buildings and temporary accommodation should also be considered before a permanent dwelling would be allowed.

No new information was presented in respect of the applicants specific needs for a dwelling here. It was indicated the applicant wishes to dispose of the existing house to either a family member or to sell it and to build a new, smaller dwelling specifically adapted for his needs. It was indicated that the Councils Draft Plan has a proposed policy that would allow an extension to a dwelling for another dwelling for a carer. However the Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

The applicant is not a farmer and there are no other circumstances being put forward to allow further consideration under different policies.

The proposed site is well enclosed as can be seen in the photos below, the site is indicated by the red line. Access to the site is through an existing gate and provision of sight lines will have limited impact on the existing vegetation. In light of this, I do not consider the proposed dwelling would be visible from the public road or contribute to a sense of build up or loss of rural character and does not offend policies CTY13 and CTY14.



Site viewed from north



Site viewed from west

As the applicant has been unable to provide sufficient information to demonstrate the proposed dwelling is a necessary response to domestic and personal circumstances which would result in undue hardship, I must recommend this application is refused.

Reasons for Refusal:

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that 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 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, in addition it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0224/F	Target Date:
Proposal: Dwelling for a person with long term needs under Policy CTY6.	Location: 80m West of 67 Dungormann Road Dungannon BT71 6SE.
Referral Route: Contrary to Policy	
Recommendation:	Refusal
Applicant Name and Address: Mr Paul Brannigan 67 Dungormann Road Dungannon BT71 6SE	Agent Name and Address: Hamill Architects Ltd Unit T2 Dungannon Enterprise Centre 2 Coalisland Road Dungannon BT71 6JT
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

No objections received

Characteristics of the Site and Area

The site lies within the open countryside just a short distance to the south of the settlement limits of Killyman and outside all other areas of constraint as depicted in the DSTAP 2010.

The red line of the site is rectangular and includes a large two storey detached dwelling situated at number 67 Dungormon Road, Killyman.



The site is bounded on three sides by mature trees and other vegetation and there is a large forest/wooded area directly south of the site. The existing dwelling has a long winding driveway with pillars and a 1.5 metre wall along the whole site frontage. There is also a small tennis court in the northern section and the dwelling itself is two storey, finished in grey render with three front peaks, two chimneys on the ridgeline and a large detached garage. The site also boasts a large front and side lawn.



Description of Proposal

The application seeks full planning permission for a dwelling for personal and domestic circumstances.



Planning Assessment of Policy and Other Material Considerations

History

M/2000/0519/F - Replacement Dwelling - 67 Dungormon Road - GRANTED

Assessment

Regional Development Strategy

Dungannon Area Plan (CAP) 2010

SPPS

PPS1

PPS3

PPS21

The **Strategic Planning Policy Statement** for Northern Ireland 'Planning for Sustainable Development? (SPPS) is material to all decisions on individual planning applications and appeals. The SPPS retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

The **Dungannon and South Tyrone Area Plan 2010 (CAP)** operates as the local development plan of the area the application site lies within. The site sits in a rural location outside any defined settlement limits. The CAP offers no specific policy or guidance in respect of this application. There is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for N Ireland (SPPS) and those of Planning Policy Statement 21 (PPS21) in respect of this application thereby the policy provisions of PPS 21 remain applicable.

The **Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy** was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on

24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

Key Planning issues;

Planning Policy Statement 21

Policy CTY 1 - Development in the Countryside

Policy CTY 6 - Personal and Domestic Circumstances

Policy CTY 13 - Integration and Design

Policy CTY 14 - Rural character

Objections / comment received from 3rd Parties;

There have been no objections / comments received in relation to this proposal.

Policy CTY 6 is centred on permitting dwellings in the countryside for those who may have special personal or domestic circumstances (eg) a young adult who requires a high level of care but who also will benefit from independent living. It specifically refers to the applicant as being the person who has long term needs. The policy provides an opportunity for those who have specific long term needs to live in the countryside where they otherwise may have to consider alternative accommodation (eg) care home, in an urban area, away from their family and support systems.

In this case the proposal seeks permission for a two storey dwelling of over 200m² floor space, and also includes a double garage. The applicant has put forward a supporting statement detailing a number of compelling health conditions, which I will not describe for the purposes of confidentiality.

However, Criteria A, of PPS 21 CTY 6 states that 'planning permission for a new dwelling must be necessary to prevent genuine hardship should planning permission be refused?'. In this case the applicant already resides on a large two storey property (over 4000ft²) on the existing site which could easily be adapted for the purposes required in this case. Therefore, it is my opinion that the applicant would not be subject to genuine hardship should permission be refused.

Criteria B, of PPS21 CTY6 also states 'there must be no alternative solutions to meet the particular circumstances such as an extension, or conversion of existing property?'. In this case the site is part of the applicants existing curtilage of over two acres in size and the dwelling itself is over 4000ft², therefore there is ample room for an extension to the existing dwelling and plenty of existing floor space that could be converted to meet the applicant's needs.

The applicant has failed to demonstrate refusal would cause demonstrable hardship, and there are clear alternative solutions rather than the erection of a new dwelling, therefore in my opinion this is contrary to PPS21 CTY6.

Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

In my opinion I consider that the proposed house type in the position suggested would not blend in successfully with its immediate and wider surroundings. Furthermore as the position of the dwelling is to the front of the plot, with very little in the way of roadside landscaping, would cause the dwelling to be a prominent feature in the landscape. The site would rely primarily on roadside landscaping plan and therefore it is considered that the site does not have the capacity to absorb a dwelling of this size and scale.

In terms of policy CTY14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character

of an area. I consider that the site and its surrounding environs are not suitable for absorbing a dwelling of this size and scale on this particular footprint. A dwelling if approved would create a suburban style build up within the area and would not respect the traditional pattern of settlement exhibited in the area, therefore damaging rural character.

Recommendation - Refusal

CTY1

CTY6 CRITERIA A + B

CTY13

CTY14

Neighbour Notification Checked

Yes

Summary of Recommendation:

The applicant has not provided evidence to show how the proposed dwelling is needed and would create genuine hardship should it be refused;
the existing dwelling and site has room and capabilities of being extended or converted;
the proposed dwelling would result in a suburban style build up of development and the site is open along the front and would rely on landscaping for integration.
In conclusion there are no overriding reasons why this development is essential in the countryside.

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 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, in addition it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site 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.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change to the rural character of the countryside.

Signature(s)

Date:

ANNEX	
Date Valid	15th February 2021
Date First Advertised	2nd March 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 65 Dungorman Road Dungannon Tyrone The Owner/Occupier, 67 Dungorman Road Dungannon Tyrone The Owner/Occupier, 67 Dungorman Road,Dungannon,Tyrone,BT71 6SE	
Date of Last Neighbour Notification	26th February 2021
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2021/0224/F Proposal: Application for house for a person with long term needs under Policy CTY6. Address: 80m West of 67 Dungorman Road, Dungannon BT71 6SE., Decision: Decision Date: Ref ID: M/2000/0519/F Proposal: Replacement Dwelling Address: 67 Dungorman Road Dungannon Decision: Decision Date: 09.11.2000 Ref ID: M/2001/0436/F Proposal: Revision of approved house type (M/2000/0519/F). Address: 67 Dungorman Road, Dungannon. Decision: Decision Date: 24.07.2002 Ref ID: M/1979/0931 Proposal: ALTERATIONS AND EXTENSIONS TO EXISTING DWELLING Address: 67 DUNGORMAN ROAD, KILLYMAN, DUNGANNON Decision: Decision Date:	

Ref ID: M/2006/1346/F
 Proposal: Extension to dwelling
 Address: 67 Dungorman Road, Killyman, Dungannon
 Decision:
 Decision Date: 05.04.2007

Ref ID: M/2006/1349/F
 Proposal: Retention of existing garden wall
 Address: 67 Dungorman Road Killyman Dungannon
 Decision:
 Decision Date:

Drawing Numbers and Title

Drawing No. 01
 Type: Site Location Plan
 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:



Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2021/0495/O	Target Date:
Proposal: Proposed infill dwelling	Location: Site NW of 7a Killycurragh Road, Orritor, Cookstown (with access via Craigs Road).
Applicant Name and Address: Mr Maurice Freeburn 7a killycurragh Road Orritor Cookstown BT80 9LB	Agent name and Address: Mark Nelson Architecture Garden Studio 2 Craigmount Orritor Cookstown BT80 9NG
Summary of Issues: Proposal is contrary to PPS 21 as it fails to comply with policies listed for a dwelling house. No objections received.	
Summary of Consultee Responses: No concerns raised.	
Characteristics of the Site and Area: The application site is located within the open countryside, just outside the development limits of Orritor as defined in the Cookstown Area Plan 2010. The red line covers a portion of a larger agricultural field with roadside frontage along Craigs Road. There is a small metal structure located immediately north of the application site. The east and west boundaries are defined by mature vegetation and trees. The southern boundary of the site is defined by post and wire fencing and given the nature of the red line I note that the northern boundary is currently undefined. The topography of the site is relatively flat however the surrounding landform is undulating with an incline when travelling northerly along Craigs Road towards the site. The surrounding fields further north beyond the red line are at a lower ground level. The surrounding area is predominantly agricultural in nature with the predominant land use being agricultural fields. It is noted there is a degree of development pressure along the adjacent road network Kilcurragh Road with a number of detached road side dwellings. Speed signs are located along the roadside adjacent to the existing agricultural entrance to the site which accord with the settlement limits of Orritor.	

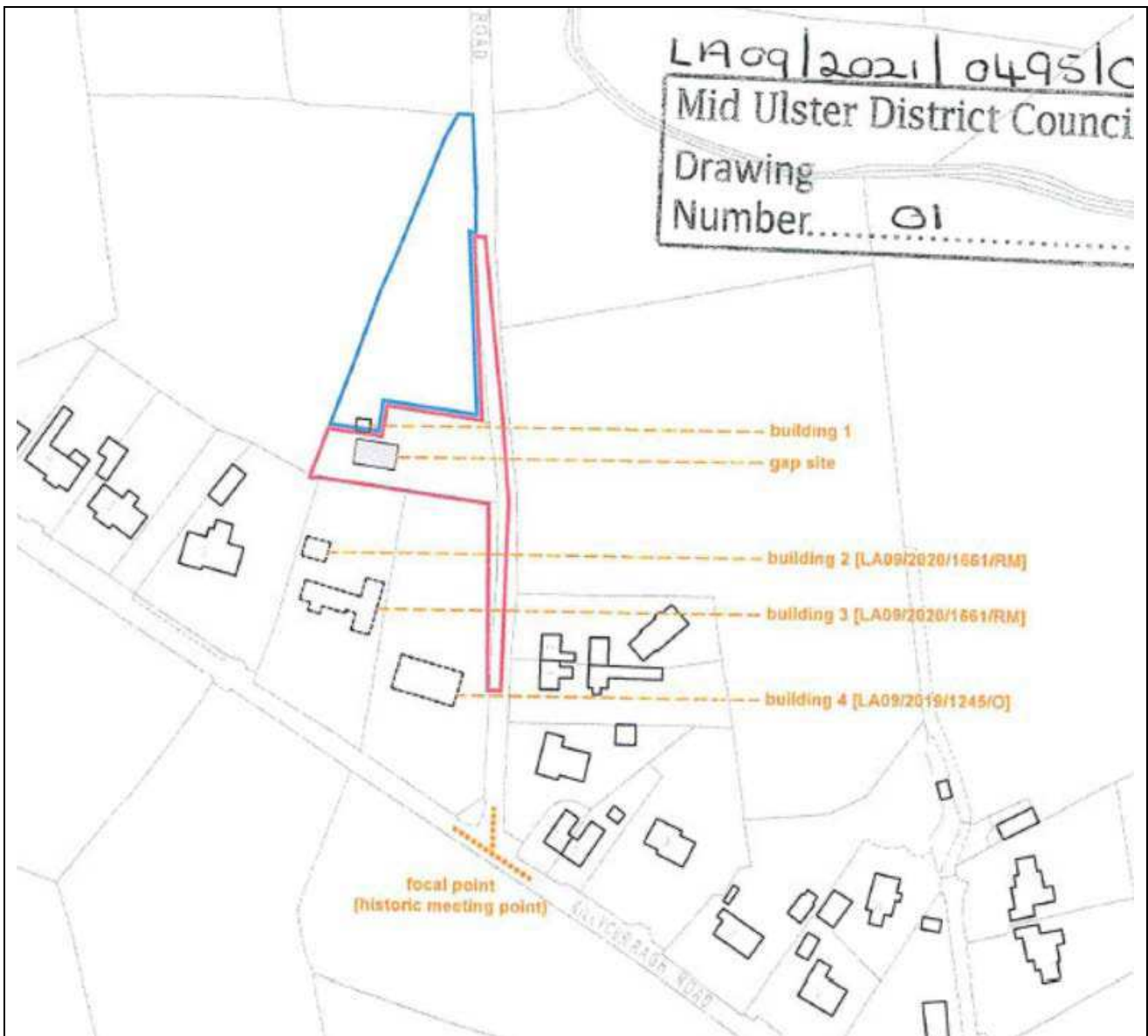
Description of Proposal

This is an outline planning application for a new dwelling and garage on lands NW of 7a Killycurragh Road, Orritor, Cookstown. The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 8 Ribbon Development.

Deferred Consideration:

This application was recommended as refusal for the following reasons;

It was subsequently deferred for a virtual office meeting with the Area Planning Manager, which was held on 17th June 2021. It was agreed the senior planner would carry out a site visit and reassess the proposal, taking into account the additional information submitted by the agent. The application was further presented as a refusal at the October Planning Committee and it was agreed by members that a site visit would be carried out. This took place on 19 October 2021 with Cllrs Colvin and Clarke in attendance.



The issue of rounding off and infill was considered. The permanency and legitimacy of the metal structure was discussed. The basis of the approval of the dwelling under construction was discussed and it is agreed the dwelling does not have a frontage to the Killycurragh Road. The position of the development limit was referred to.



One of the main issues to consider is the permanency of the metal structure being relied upon immediately to the north of the application site. The building in question has no planning permission, is a small metal structure, currently being used for agricultural storage purposes. I am not satisfied it can be constituted as a building due to its size, scale and nature. Also, the 'building' does not have a common road frontage. Therefore, it is not part of the build-up.

It was agreed by those present at the site visit that the dwelling under construction (LA09/2020/1661RM) does not front onto the Killycurragh Road. That dwelling was approved by Planning Committee as an exception to Policy and considered as a rounding off, together with LA09/2019/1245/O, which is not yet constructed.

On the location plan 01 the agent has indicated a focal point 'historic meeting point', in terms of policy CTY2a, an opportunity is provided for a new dwelling at an existing cluster of development subject to meeting a number of criteria as follows;

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;

The site lies outside of a farm, however it is not located within an existing cluster, given that 3 buildings approved as not yet constructed.

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

As stated above there is no cluster to rely on.

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

An 'historic meeting point' is not sufficient to meet the requirements of a focal point. No further information has been submitted to support this claim of being a meeting point and there is nothing on site to indicate it either.

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

This is not the case, as previously stated the structure to the north cannot be considered as a 'building'; and the site is not currently bound by any development on other sides.

- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside;
A dwelling on the site would mar the distinction between the rural countryside and the settlement limits, altering the existing character of the area. I do not consider the site is a 'rounding off'.
- Development would not adversely impact on residential amenity.

There would be no adverse impact on residential amenity.

However, the site fails on 5 parts of the criteria of CTY2a as no cluster of development exists and so cannot be permitted under this policy.

In terms of CTY15, given the close proximity of this rural site to the settlement limits of Orritor, I am of the opinion a dwelling here would mar the distinction between them. While the 2 approvals to the south were considered as 'rounding off', they were seen to have no detrimental impact to the rural character. However, if this site was development it would add to urban sprawl, the site currently represented a visual break and a clear separation from Orritor, going into the countryside and it should therefore, be protected to prevent ribbon development and further urban sprawl.

A continued refusal is being recommended.

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 CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed dwelling is not located within an existing cluster of development; it does not appear as a visual entity in the local landscape; the cluster is not associated with a focal point or located at a cross-roads; it is not bounded on at least two sides with other development; and it cannot be absorbed into an existing cluster through rounding off.
3. 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.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it would result in a detrimental change to the rural character of the countryside, in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings.

5. The proposal is contrary to Policy CTY 15 of Planning Policy Statement 21 Sustainable Development in the Countryside in that the development if permitted would mar the distinction between the designated settlement limits and the surrounding countryside.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0495/O	Target Date:
Proposal: Proposed infill dwelling	Location: Site NW of 7a Killycurragh Road Orritor Cookstown (with access via Craigs Road)
Referral Route: Recommended refusal	
Recommendation:	Refusal
Applicant Name and Address: Mr Maurice Freeburn 7a Killycurragh Road Orritor Cookstown	Agent Name and Address: Mark Nelson Architecture Garden Studio 2 Craigmount Orritor
Executive Summary: Proposal considered against prevailing planning policy – considered the proposal fails to comply with any of the policy set out under Policy CTY1 of PPS21 for an individual dwelling house. No letters of representation received.	
Signature(s):	

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

Characteristics of the Site and Area

The application site is located within the open countryside, just outside the development limits of Orritor as defined in the Cookstown Area Plan 2010. The red line covers a portion of a larger agricultural field with roadside frontage along Craigs Road. There is a small metal structure located immediately north of the application site. The east and west boundaries are defined by mature vegetation and trees. The southern boundary of the

site is defined by post and wire fencing and given the nature of the red line I note that the northern boundary is currently undefined. The topography of the site is relatively flat however the surrounding landform is undulating with an incline when travelling northerly along Craigs Road towards the site. The surrounding fields further north beyond the red line are at a lower ground level. The surrounding area is predominantly agricultural in nature with the predominant land use being agricultural fields. It is noted there is a degree of development pressure along the adjacent road network Kilcurragh Road with a number of detached road side dwellings. Speed signs are located along the roadside adjacent to the existing agricultural entrance to the site which accord with the settlement limits of Orritor.

Description of Proposal

This is an outline planning application for a new dwelling and garage on lands NW of 7a Killycurragh Road, Orritor, Cookstown.

The dwelling is being applied for 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
Planning Policy Statement 3: Access, Movement and Parking
Planning Policy Statement 21: Sustainable Development in the Countryside

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

Representations

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

History on Site

LA09/2020/1661/RM – Proposed dwelling & garage - Adjacent to 7a Killycurragh Road, Cookstown – Permission Granted 09/03/21

LA09/2020/0824/O - Gap site for dwelling & garage - Adjacent to 7a Killycurragh Road, Cookstown – Permission Granted 08/12/20

LA09/2019/1245/O - Gap site for dwelling & garage - Junction of Craigs Road & Killycurragh Road, Orritor, Cookstown – Permission Granted 04/03/20

Key Policy Considerations/Assessment

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

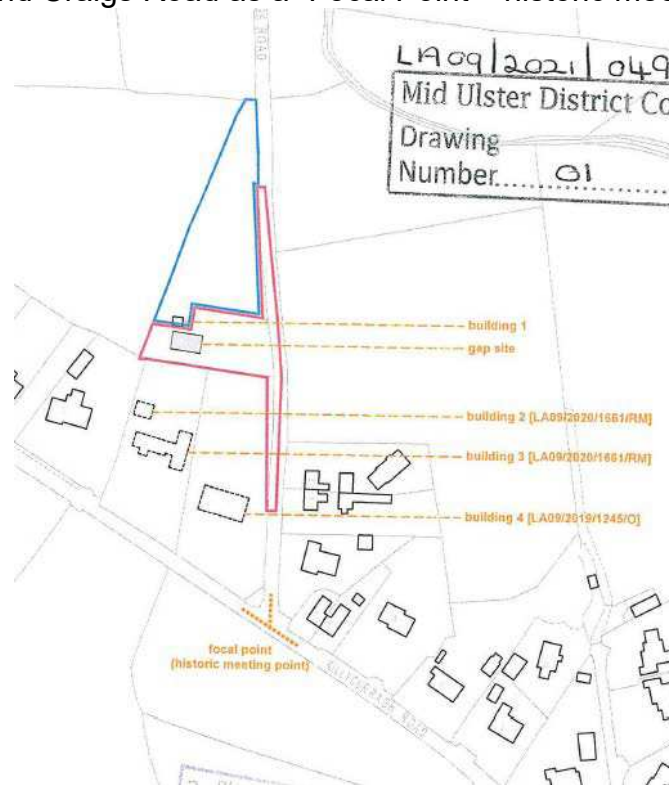
The Strategic Planning Policy Statement for Northern Ireland – The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within retained policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. SPPS advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided 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.

Immediately north of the application site is a small square metal structure which appears to be used for storage. This structure does not appear to have the benefit of planning permission however ortho imagery does appear to indicate it has existed in place for more than five years. Given the nature, small scale and finish of this structure, I am not satisfied this would constitute a building which could be used to bookend a gap site. Furthermore, the said structure does not have frontage with the road. South of the application site there is a green field. It is noted that Drawing 01 has indicated a dwelling and garage annotated Building 2 & 3 (Approved under LA09/2020/1661/RM) and a dwelling annotated Building 4 (Approved under LA09/2019/1245/O). It is noted that both these planning applications were approved by the Planning Committee as an exception to policy as they relied on buildings to the east within the settlement limits of Orritor therefore failed Policy CTY8 however it was considered they would result in a 'rounding off' of development. It does not appear development has yet commenced on site and on the date of the site inspection I did not note any construction started on either approved site. The field currently represents an undeveloped piece of land. Therefore cannot be considered to constitute a line of 'buildings' for the purpose of satisfying CTY8 criterion.

This application does not currently represent a gap site located within a substantial and continuously built up frontage and therefore fails to meet Policy CTY8.

It is noted the agent has annotated on the site location plan the road junction of Killycurragh Road and Craigs Road as a “Focal Point – historic meeting point”.



Policy CTY2A provides an opportunity for a new dwelling at an existing cluster of development subject to the following criteria.

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- The cluster appears as a visual entity in the local landscape;
- The cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads,
- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- Development would not adversely impact on residential amenity.

With regards to the first criteria, I am content that the site lies outside of a farm however I do not consider the application site is located within a cluster given that the 3 buildings included in the site location plan immediately to the south have not yet been build and all development to the east is within the settlement limits of Orritor. I do not consider that buildings within the settlement limits can be relied upon to meet policy requirements within PPS21. As such I am of the opinion that there is no clear cluster evident, and as such the cluster it cannot appear as a visual entity, failing the first two criteria. In terms of a focal point, no further information has been provided that this road junction is a historic meeting point and therefore I do not consider this to be an acceptable ‘focal point’ for the purpose of policy. In terms of the site having a suitable degree of enclosure, I note north of the site there is an existing metal structure with a shared boundary however I do not

consider this structure is located within a cluster of development and the site is not currently bounded by development on any other side. I am of the opinion that a dwelling would mar the distinction between the settlement limits and countryside which would alter the existing character of the area and the site does not represent rounding off. However, I am content that an appropriately designed dwelling would unlikely have an adverse impact on residential amenity.

Having considered the above, I am of the opinion that this application would fail under CTY 2a as no evident cluster exists. I note that no other policy considerations were offered and I am content that there is no replacement opportunity on site, nor personal and domestic circumstances or farm case provided. As such, the site fails under CTY 1 of PPS 21.

Given the proximity to the defined development limits of Orritor, approx. 30m SW of the site, I am also of the opinion that a dwelling in this location would fail under CTY 15 as it will mar the distinction between the settlement and the surrounding countryside. Whilst the planning approvals immediately south were considered to be acceptable as rounding off with no detrimental impact to rural character, it is considered to continue development north of this would result in urban sprawl and would set an unfavourable precedent. The proposal site is not considered a 'gap' as demonstrated above, however it is considered it does represent a visual break and clearly defines the transition into the countryside. Cookstown Area Plan designates settlement limits in order to protect the individual character of each settlement and to prevent ribbon development and urban sprawl into the surrounding countryside.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore no design details has been submitted however I am of the opinion that an appropriately designed dwelling in keeping with building on tradition guidance will not appear prominent in the landscape. However, it is considered a ridge height restriction of 6 metres would be required to respect the existing built form in the surrounding area. It is considered the site has an acceptable degree of enclosure to integrate into the landscape being bound on the eastern, western and southern sides by some degree of existing vegetation. It is considered the existing vegetation should be retained along with additional landscaping therefore a landscaping scheme will be required should the Planning Committee consider the proposal acceptable and planning permission be granted.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not appear prominent in the landscape. I note that this application has failed under Policy CTY2A, CTY 8 and CTY 15 therefore it will erode rural character and will extend a ribbon of development. It is therefore considered the proposal fails under Policy CTY 14.

PPS 3: Access, Movement and Parking - The application site seeks to create a new access on to Craigs Road. DfI Roads have been consulted and have offered no objections subject to conditions. It is considered a dwelling on the site will not prejudice road safety or significantly inconvenience the flow of traffic and accords with Policy AMP2 of PPS3.

Neighbour Notification Checked	Yes
Summary of Recommendation: Having considered all relevant prevailing planning policy, the proposal is recommended for refusal for the reasons stated below.	
Reasons for Refusal: <ol style="list-style-type: none"> 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 CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed dwelling is not located within an existing cluster of development; it does not appear as a visual entity in the local landscape; the cluster is not associated with a focal point or located at a cross-roads; it is not bounded on at least two sides with other development; and it cannot be absorbed into an existing cluster through rounding off. 3. 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. 4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it would result in a detrimental change to the rural character of the countryside, in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings. 5. The proposal is contrary to Policy CTY 15 of Planning Policy Statement 21 Sustainable Development in the Countryside in that the development if permitted would mar the distinction between the designated settlement limits and the surrounding countryside. 	
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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2021/0691/F	Target Date: <add date>
Proposal: Proposed change of house type design to that previously approved under I/2011/0514/RM and garage.	Location: Killycanavan Road 170m NE of Junction with Brookend Road Ardboe Dungannon BT71 5BP.
Applicant Name and Address: Hannah Quinn 159b Battery Road Coagh Cookstown BT80 0HS	Agent name and Address: Seamus Donnelly 80a Mountjoy Road Aughrimderg Coalisland BT71 5EF
Summary of Issues: The site is in a flood inundation area for Brookend Pond, a dwelling was approved here and could be built as approved. There is no Reservoir Management Plan in place.	
Summary of Consultee Responses: DFI Roads – safe access can be provided DFI Rivers – some flooding on site and site is in an induction area for Brookend Pond which is a reservoir, no details of condition, management or maintenance regime for the reservoir	
Characteristics of the Site and Area: There does not appear to be any significant changes on site or in the immediate vicinity from the most recent planning permission granted on site under LA09/2018/0969/F (see 'Description of Proposal'). The site, which contains the foundations of a garage granted under applications I/2006/0247/O & I/2011/0514/RM, is a flat, square-shaped plot measuring approx. 2 hectares is located in the rural countryside approx. 2 miles south of Ardboe, adjacent the Killycanavan Road from which it proposes to take its access. Cut from the roadside	

frontage of a much larger agricultural field the boundaries of this site are undefined but for a dense row of tall trees and hedges that along its roadside frontage (southeast boundary). A stream runs along the southwest boundary of the site. The stream is bound to the outside / southwest by a dense row of tall trees and hedges as by enlarge are the boundaries of the host field.

Critical views of this site are limited to passing along the roadside frontage of the site. This is due to the vegetation bounding the aforementioned stream and host field and within the wider vicinity, which screen it from the Brookend Road located to the west and from views on the southwest and northeast approach travelling along Killycanavan Road. The bend in the Killycanavan Road on the northeast approach also aids in screening the site until passing the roadside frontage of the host field.

This area of countryside is predominantly rural in character. It comprises relatively flat agricultural land interspersed with single dwellings and farm groups. There is a bungalow dwelling, no.33 Killycanavan Road located on a triangular shaped roadside plot, approx. 70 metres to the north east of and at the same side of the road as the site.

Description of Proposal

This is a full planning application for a change of dwelling house type and detached to that previously approved on lands at Killycanavan Rd 170m NE of Junction with Brookend Rd Ardboe Dungannon under planning application I/2011/0514/RM.

Deferred Consideration:

Members will be aware this application was before them as an approval in November 2021. The applicant had concerns in respect of the proposed condition 7 which stated:

7. Prior to the commencement of any other development hereby permitted the developer will be required to provide for agreement by Mid Ulster Council a Reservoir Management Plan that confirms the condition, management and maintenance regime for Brookend Pond.

The application was deferred to allow a meeting with the Planning Manger to discuss the condition. At the meeting it was explained that Council has an obligation to identify where there is a risk to development and life. In this case there is a Reservoir that does not have a condition report or a management and maintenance regime that certifies it as in a safe condition which will be kept safe. DFI Rivers have advised due to the lack of this there is a high risk to development and any future residents. Given that this proposal is on a site that has an extant approval that can be implemented, the condition may be set aside, however the Council would be neglecting its duty if it did not draw attention to the fact in any decision. In this case it is considered necessary to add an informative to any subsequent planning permission to highlight this fact.

Members should note conditions may be discharged provided the necessary information is submitted to satisfy the statutory consultee, however an informative, while it has no legal bearing, cannot be removed from the decision.

The application is still recommended as approval without the previously suggested condition but with the following informative instead:

1. THE APPLICANT/DEVELOPER AND ANY FUTURE PURCHASERS/OCCUPANTS MUST BE AWARE OF THE FACT THIS DEVELOPMENT IS IN AN AREA THAT IS AT RISK FROM INUNDATION IN THE EVENT OF FAILURE OF A RESERVOIR. BROOKEND POND IS A RESERVOIR FOR THE PURPOSES OF THE RESERVOIRS ACT, THIS DEVELOPMENT IS DOWNSTREAM OF THE RESERVOIR AND WITHIN THE FLOOD INUNDATION ZONE. SHOULD BROOKEND POND RESERVOIR FAIL THERE IS A RISK TO THE OCCUPIERS SAFETY AND PROPERTY ON THIS SITE.

Conditions

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

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

2. The existing mature trees and vegetation along the entire site boundaries as indicated on Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021, shall be retained except where it is required to provide sight lines. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Department, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Department in writing at the earliest possible moment.

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

3. There shall be no development, tree planting, hedges, permanent fencing, sheds, or land raising within the area hatched blue and identified as maintenance strip on Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021.

Reason: To ensure access and egress for maintenance of the watercourse.

4. All proposed landscaping as detailed on Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021, except that within the maintenance strip, shall be carried out during the first available planting season following the occupation of the development hereby approved. Any trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

5. The vehicular access including visibility splays of 2.4m x 45m in both directions and any forward sight distance, shall be provided in accordance with Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

7. One dwelling only shall be constructed within the area of the site outlined in red on the approved Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021.

Reason: To control the number of dwellings on the site as this permission is in substitution for planning approvals I/2006/0247/O & I/2011/0514/RM respectively and is not for an additional dwelling on this site.

Informatives

1. THE APPLICANT/DEVELOPER AND ANY FUTURE PURCHASERS/OCCUPANTS MUST BE AWARE OF THE FACT THIS DEVELOPMENT IS IN AN AREA THAT IS AT RISK FROM INUNDATION IN THE EVENT OF FAILURE OF A RESERVOIR. BROOKEND POND IS A RESERVOIR FOR THE PURPOSES OF THE RESERVOIRS ACT, THIS DEVELOPMENT IS DOWNSTREAM OF THE RESERVOIR AND WITHIN THE FLOOD INUNDATION ZONE. SHOULD BROOKEND POND RESERVOIR FAIL THERE IS A RISK TO THE OCCUPIERS SAFETY AND PROPERTY ON THIS SITE.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

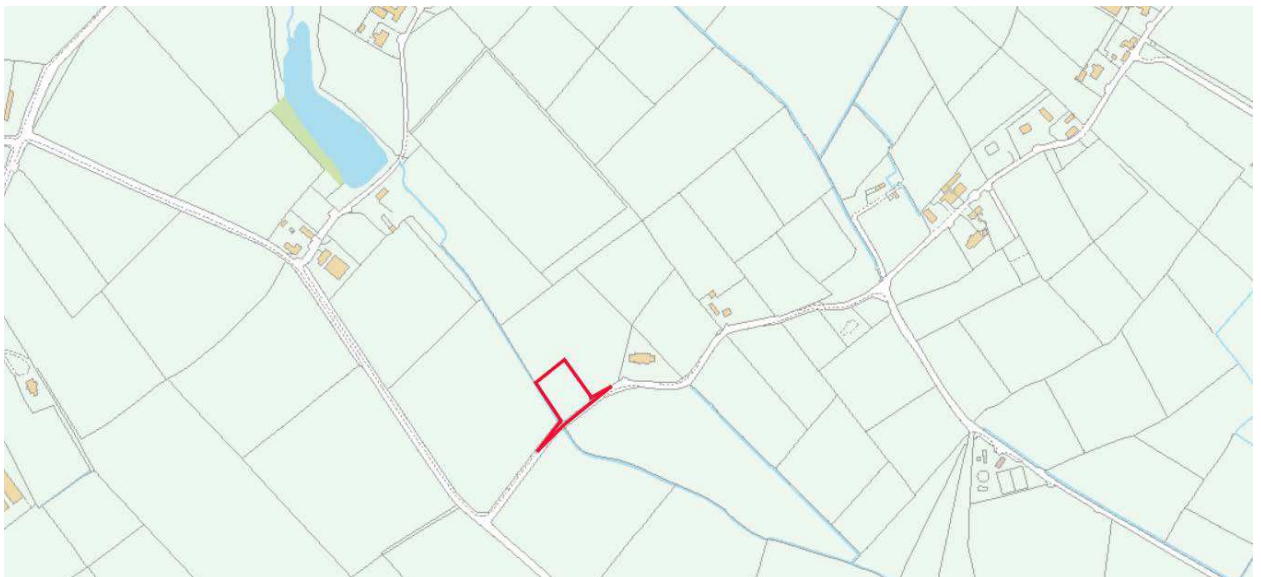
Mid-Ulster
Local Planning Office
Mid-Ulster Council Offices
50 Ballyronan Road
Magherafelt
BT45 6EN

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0691/F	Target Date:
Proposal: Proposed change of house type design to that previously approved under I/2011/0514/RM and garage.	Location: Killycanavan Road 170m NE of Junction with Brookend Road Ardboe Dungannon BT71 5BP
Referral Route: Contrary to PPS 15: Planning and Flood Risk	
Recommendation: Approve	
Applicant Name and Address: Hannah Quinn 159b Battery Road Coagh Cookstown BT80 0HS	Agent Name and Address: Seamus Donnelly 80a Mountjoy Road Aughrimderg Coalisland BT71 5EF
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:		
Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	Rivers Agency	Advice
Representations:		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
Description of Proposal		
<p>This is a full planning application for a change of dwelling house type and detached to that previously approved on lands at Killycanavan Rd 170m NE of Junction with Brookend Rd Ardboe Dungannon under planning application I/2011/0514/RM.</p> <p>Reserved matters permission I/2011/0514/RM for a dwelling and garage on this site was granted on the 15th February 2012 on the back of outline permission I/2006/0247/O.</p> <p>Outline permission I/2006/0247/O for a dwelling and garage on this site, was refused on the 14th December 2006 by the Department under ‘A Planning Strategy for Rural Northern Ireland’. This decision was appealed (reference: 2007/A0279), the appeal allowed and the dwelling and garage subsequently granted on the 2nd February 2009.</p> <p>In more recent times, full permission LA09/2018/0969/F granted a change of vehicular access and extension of site curtilage for the dwelling and detached garage approved under reserved matters planning ref I/2011/0514/RM on the 27th November 2018.</p> <p>Under application LA09/2018/0969/F, it was established that the principle of development had been established on this site under permissions I/2006/0247/O and I/2011/0514/RM. The applicant has until 27th November 2023 to implement this permission. I therefore regard this as a legitimate ‘fall back’ position.</p> <p>I note during the processing of this application an amended block plan was received to address issues raised by Rivers Agency. Amendments included the garage and septic tank being repositioned on site away from a watercourse and portion of site subject to pluvial and fluvial flooding; a 5m maintenance strip being provide along the aforementioned watercourse; and a few existing and proposed spot levels across the site show that water from the development should not affect other houses as directed to the lower levels to the southwest.</p>		
Characteristics of the Site and Area		
<p>There does not appear to be any significant changes on site or in the immediate vicinity from the most recent planning permission granted on site under LA09/2018/0969/F (see ‘Description of Proposal’).</p> <p>The site, which contains the foundations of a garage granted under applications I/2006/0247/O & I/2011/0514/RM, is a flat, square-shaped plot measuring approx. 2</p>		

hectares is located in the rural countryside approx. 2 miles south of Ardboe, adjacent the Killycanavan Road from which it proposes to take its access. Cut from the roadside frontage of a much larger agricultural field the boundaries of this site are undefined but for a dense row of tall trees and hedges that along its roadside frontage (southeast boundary). A stream runs along the southwest boundary of the site. The stream is bound to the outside / southwest by a dense row of tall trees and hedges as by enlarge are the boundaries of the host field.

Critical views of this site are limited to passing along the roadside frontage of the site. This is due to the vegetation bounding the aforementioned stream and host field and within the wider vicinity, which screen it from the Brookend Road located to the west and from views on the southwest and northeast approach travelling along Killycanavan Road. The bend in the Killycanavan Road on the northeast approach also aids in screening the site until passing the roadside frontage of the host field.

This area of countryside is predominantly rural in character. It comprises relatively flat agricultural land interspersed with single dwellings and farm groups. There is a bungalow dwelling, no.33 Killycanavan Road located on a triangular shaped roadside plot, approx. 70 metres to the north east of and at the same side of the road as the site.

Planning Assessment of Policy and Other Material Considerations

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

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

Regional Development Strategy 2030

Cookstown Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 3 - Access, Movement and Parking

Planning Policy Statement 15 - Planning and Flood Risk

Planning Policy Statement 21 - Sustainable Development in the Countryside

Supplementary Planning Guidance for PPS21 - 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

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

Representations

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

Planning History

- I/2006/0247/O – outline permission for a dwelling and garage - refused on the 14th December 2006 by the Department, under 'A Planning Strategy for Rural Northern Ireland'. This decision was appealed (reference: 2007/A0279), the appeal allowed and the dwelling and garage subsequently granted on the 2nd February 2009.
- I/2011/0514/RM – reserved matters permission for a dwelling and garage – Granted 15th February 2012.
- LA09/2018/0969/F – proposed change of vehicular access and extension of site curtilage for dwelling and detached garage previously approved under approval of reserved matters planning ref I/2011/0514/RM – Granted 27th November 2018

Consultees

1. DfI Roads were consulted in relation to access arrangements and raised no objections subject to standard conditions and informatives. Accordingly, I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
2. Rivers Agency (RA) were consulted in relation to flooding on site. Below is a summary of RA key issues raised under the following policies of PPS15 Planning and Flood Risk:
 - FLD1 Development in Fluvial (River) Plains - Development lies partially within the 1% AEP fluvial flood plain. The applicant should carry out a Flood Risk Assessment to verify the more accurate extent of the floodplain. Development will not be permitted within the 1% AEP fluvial flood plain unless applicant can demonstrate it constitutes an exception to the policy.
 - FLD2 Protection of Flood Defence and Drainage Infrastructure - Policy requires a working strip of minimum width 5m retained at all times along the designated watercourse to southwest of site for maintenance purposes.
 - I am content that this proposal will not hinder access to the stream to facilitate any future maintenance by Rivers Agency, other statutory undertaker or the riparian landowners if required as a buffer of 5m has been provided and can be conditioned to be retained clear of impediments.
 - FLD 3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains - Development located partially within predicted flood area. Drainage Assessment not required by policy, however it is the developer's responsibility to assess flood risk and drainage impact and mitigate risk to development and any impacts beyond site.
 - FLD 5 Development in Proximity to Reservoirs - Site within potential area of inundation emanating from Brookend Pond. It has not been demonstrated the condition, management and maintenance regime of Brookend Pond is appropriate to provide sufficient assurance regarding reservoir safety to enable the development to proceed. RA carried out an

assessment of flood risk to people at this site for an uncontrolled release of water emanating from Brookend Pond. As a result of this analysis the overall hazard rating at this site is considered high. This is considered by RA to be an unacceptable combination of depth and velocity for this particular development. Policy FLD 5 states there will be a presumption against any development located in areas where it is indicated that there is the potential for an unacceptable combination of depth and velocity.

Further to RA response above the agent was contacted to provide the additional information / drawings required to address the issues raised. Subsequently a letter from Mr Pat Quinn, a Chartered Town Planning Consultant was received on the 3rd September 2021, from the applicant's agent.

In the letter Mr Quinn advises a material start has been made on implementing the existing permissions (I/2006/0247/O, I/2011/0514/RM) relating to a dwelling and garage. Meaning regardless of current application's outcome the applicant can erect a dwelling and garage on this site. Since the applicant wants to make use of this valuable site, she intends to complete the dwelling and garage already approved, if the current application is refused. This creates a 'fall back' position, which must be the determining consideration.

The fall back principle requires consideration of what an applicant can do without the need for a further planning permission. This site has a long planning history. Permission was granted on appeal for a dwelling and garage under reference I/2006/0247/O. Detailed approval was granted under reference I/2011/0514/RM. A material start was made on this permission before approval expired. Under reference LA09/2018/0969/F permission was granted to change the access and extend the curtilage. The approval of LA09/2018/0969/F confirms that the I/2011/0514/RM house had lawfully commenced. Since the applicant can lawfully continue to erect the dwelling and garage on the extended site, she has a fallback position.

Rivers Agency (RA) has commented on the current application and among other things point out the development lies partially within the 1% AEP fluvial floodplain and partially within a predicted flooded area. The site is also within the potential area of inundation emanating from Brookend Pond and as a result RA consider the overall hazard rating at this site to be high. RA has requested additional information including a Flood Risk Assessment and confirmation that the condition, management and maintenance regime for Brookend Pond is appropriate to provide sufficient assurance regarding reservoir safety.

When considering the issues raised by Rivers Agency and the additional information requested the Council must be mindful of the following.

1. The subject application involves a change of house type which seeks to replace a four-bedroom house which has lawfully commenced with a four-bedroom house,
2. The houses occupy similar positions within the same site,
3. If the current application is refused the applicant fully intends to erecting the dwelling and garage already approved and lawfully commenced, therefore

4. Refusing the current application will serve no useful purpose since it will not prevent a four-bedroom house with a detached garage from being built on the subject site.

Since there is certainty that the applicant will implement her fall back position in the event of a refusal, the above factors dictate the fall back position must be the determining consideration in this case. This current application should therefore be approved.

Having taken into account the contents of Mr Quinn's letter, I would concur that there is a fall back position here by virtue of the LA09/2018/0969/F permission and refusing this application cannot prevent a dwelling and garage being built in a similar position on site. Whilst it would be normal practice to request a Reservoir Management Plan it is clear a planning approval exists which could be implemented therefore it would strike Planning as reasonable to protect the future occupants or any investors in the property that assurance is sought before development is commenced. This can be done via condition.

Consideration

Cookstown Area Plan 2010 - is the statutory local development plan for the application site. The site is located outside any development limit and the development plan offers no specific policy or guidance in respect of the proposal.

The Strategic Planning Policy Statement for Northern Ireland - Retains the policy provisions of the Planning Policy Statements relevant to this proposal.

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

As detailed above in the 'Description of Proposal', under application LA09/2018/0969/F, it was established that the principle of development had been established on this site under permissions I/2006/0247/O and I/2011/0514/RM. The applicant has until 27th November 2023 to implement this permission. I therefore regard this as a legitimate 'fall back' position.

In light of the above I consider there is a legitimate fall back position that the dwelling approved by under permissions I/2006/0247/O and I/2011/0514/RM could be completed in accordance with the approved details. That said with respect to the design of the dwelling and garage it must still comply with CTY 13 and 14 of PPS 21.

CTY 13 states that the proposed development must be able to visually integrate into the surrounding landscape and be of an appropriate design. Policy CTY 14 allows for a building in the countryside where it does not cause detrimental change to or further erode the rural character of the area.

I believe the site has the capacity to absorb the newly proposed dwelling and garage in accordance with Policy CTY13 and with minimal disruption to the rural character of the area in accordance with CTY14. I do not believe the proposed dwelling and garage

would have any significantly greater visual impact when viewed from surrounding vantage points than the previously approved bungalow (ridge height approx. 5.4m above FFL) and garage (ridge height approx. 4.1m above FFL) scheme.

The design (including finishes) of the proposed dwelling and garage are in my opinion generally simplistic and reflective of traditional rural design and in keeping with the rural design principles set out in 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside. The dwelling is sited, similar to the previous scheme, to front onto and run parallel to the Killycanavan Rd. It has a simple rectangular-shaped floor and pitched roof construction with a ridge height approx. 6m above FFL; 2 chimneys expressed along its ridgeline; a rear return; and small centrally located pitched roof front porch. Whilst it also 2 front projections, one to either side of the front porch, which is not considered consistent with simple rural form and normally accepted I am content that in this instance as views of the site will be limited to passing the roadside frontage of the site it is acceptable in this instance. The garage which is to be located to the rear / south west side of the dwelling also has a simple rectangular shaped floor plan and pitched roof construction with a ridge height approx. 5.3m above FFL. Finishes to the dwelling and garage include black roof tiles and k-rend walls with natural stone detailing as indicated on the drawings submitted.

I have no concerns regarding the proposed dwelling and garage adversely impacting the amenity of neighbouring properties to any unreasonable degree in terms of overlooking / overshadowing given none bound the site and the closest is no. 33 Killycanavan Road, a detached bungalow is located approx. 70m northeast of the site.

Other Policy/Considerations

NIEA Natural Environment Map Viewer identified this site is within an area known to breeding waders and herons which are priority species – the previous approval has commenced on site and I do not believe this proposal introduces any development that would have a significantly greater impact than the previous approval. And as such I am content subject to referring the applicant to DAERA's Standing Advice for Priority species that in accordance with Policy NH 2 of PPS2 Natural Heritage they are not likely to be harmed by this proposal.

Historic Environment Map Viewer identified no built heritage interests on site.

Epic identified site within SG - Defence Estates however consultation only required if height of development is over 15.2 metres, which is not the case here.

As a stream is located along the south western boundary of this site this proposal was considered in light of whether it would have a hydrological link to a European site. However based on the location, nature and scale of the proposal, and the distant link (approx. 1 ½ miles) to Lough Neagh and Beg it is not considered there should be a significant effect from this proposal.

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

Neighbour Notification:	Yes
Summary of Recommendation:	Approve
Conditions <ol style="list-style-type: none"> 1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission. Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011. 2. The existing mature trees and vegetation along the entire site boundaries as indicated on Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021, shall be retained except where it is required to provide sight lines. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Department, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Department in writing at the earliest possible moment. Reason: To ensure the development integrates into the countryside and to ensure the maintenance of screening to the site. 3. There shall be no development, tree planting, hedges, permanent fencing, sheds, or land raising within the area hatched blue and identified as maintenance strip on Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021. Reason: To ensure access and egress for maintenance of the watercourse. 4. All proposed landscaping as detailed on Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021, except that within the maintenance strip, shall be carried out during the first available planting season following the occupation of the development hereby approved. Any trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. Reason: To ensure the development integrates into the countryside and to ensure the maintenance of screening to the site. 5. The vehicular access including visibility splays of 2.4m x 45m in both directions and any forward sight distance, shall be provided in accordance with Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter. 	

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

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

7. Prior to the commencement of any other development hereby permitted the developer will be required to provide for agreement by Mid Ulster Council a Reservoir Management Plan that confirms the condition, management and maintenance regime for Brookend Pond.

Reason: To ensure that future occupants are not at significant risk from flood inundation.

8. One dwelling only shall be constructed within the area of the site outlined in red on the approved Drawing No. 01(Rev.02) bearing the date stamp received 29 SEP 2021.

Reason: To control the number of dwellings on the site as this permission is in substitution for planning approvals I/2006/0247/O & I/2011/0514/RM respectively and is not for an additional dwelling on this site.

Informatives

1. This site is located within an area of potential flooding and any development hereby approved and undertaken on this site will be at the developers own risk.

Please see DfI Rivers consultation response received and scanned to the Planning Portal on the 28th June 2021 for details of above.

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 permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
4. This determination relates to planning control only and does not cover any consent or approval, which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.
5. This permission authorises only private domestic use of the proposed garage and does not confer approval on the carrying out of trade or business there from.

6. Department for Infrastructure Roads comments:

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.

The applicant should contact the Department for Infrastructure Roads Service's Maintenance Section in order that an agreement may be reached regarding maintenance costs and incurred expenses in consequence of any damage caused to the public road.

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 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 Roads Service Section Engineer. A monetary deposit will be required to cover works on the public road.

It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.

7. Please see attached DAERA Environmental Advice for Planning - Standing Advice - Priority Species published May 2015 and updated Nov 2017.

Signature(s)

Date:

Report on	Consultation from Department for Communities, Historic Environment Division, regarding their consideration to List a Cow Tail pump at Glen Road, Maghera
Date of Meeting	07.12.2021
Reporting Officer	Sarah McNamee Planning Conservation Officer Environment and Conservation
Contact Officer	Chris Boomer – Planning Manager

Is this report restricted for confidential business?	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	x

1.0	Purpose of Report
1.1	To provide members with background and draft response to a consultation by Department for Communities, Historic Environment Division (DfC, HED) regarding their consideration to list a Cow Tail Pump <ul style="list-style-type: none"> - 120a Glen Road, Maghera, BT46 5JG
1.2	The consultation from DfC, HED on the Cow Tail Pump, attached at Appendix 1.
	Background
2.1	On the 22 nd October 2021 the Planning Department of Mid Ulster District Council received an 'Advance Notice of Listing' letter (Appendix 1) from DfC, HED, of a Cow Tail Pump at: <ul style="list-style-type: none"> - 120a Glen Road, Maghera, BT45 5JG
2.2	Part 4, Section 80(3) of the Planning Act (NI) 2011 requires the Department (HED) to consult with Mid Ulster Council, as the appropriate council in this instance, and the Historic Buildings Council before amending or compiling lists of buildings of special architectural or historic interest. HED has requested the response of MUDC to be received within 6 weeks from the date of their correspondence.
2.3	However, following liaising with the Department (HED), a time extension agreed to allow the Planning Committee to consider the proposal on 07.12.2021.

3.0	Main Report
3.1	The historic built structure is described as tall, slender cow-tail water pump of c.1923-4, constructed of cast iron positioned within the front boundary of No.120a Glen Road, approached via a set of four concrete steps, leading to a small landing bounded by metal railings. The original historic built fabric of a brick wall has been removed..
3.2	HED's second survey report advises that the Cow Tail Pump <i>'the pump itself, with its slim shalt and fluted cap with fiial is of a design widely used throughout Britian and Ireland during the later 19th and early 20th centuries and was manufactured by Lee, Howl & Co. (founded in 1887 in Tipton, Staffs). However, this particular type is less common in Northern Ireland and is therefore considered a rare example.'</i>
3.3	It is the Planning Department's consideration that as the historc structure is located on lands associated with postal address 120a Glen Road, Maghera, the landowner should be consulted as an interested party, given the structure is located within the front garden.
3.4	The second survey refers to a semi-rural setting, however under the Magherafelt Area Plan 2015, the in suti structure is within the settlement limits of Maghera Town as per Designation MA01 (Map 06). It is clear from the evidence provided that this designation has not been taken into account.
3.5	In addition, the report acknowledges the loss of authentic historic built fabric (i.e. brick boundary wall) significantly altering and impacting on the original curitlage of the structure, its purpose and its use as a gathering place. The historic built structure in itself may be considered intact however the authentic historic context, curtilage and setting are obsolete. The original communal value as a gathering place has deteriorated to the point that the structure no longer functions as a source of water nor a place to congregate. Furthermore, the report notes that such strucutres were widely used throughout Britian and Ireland during the later 19 th and early 20 th century, often with finer detailing and decoration.
3.6	It is important to note that the consultation response from this Council is only one of the factors that DfC, HED will consider in deciding a way forward with the listing of the structure. The final decision on listing will be one for DfC to make. Historic Buildings Council and the owner of the structure are also consulted as part of the process, and their representations are considered by HED before a final decision is made. DfC, HED guidance on listing states that concerns over the impact of the listing on future planning considerations, such as development proposals, are not considered as part of their assessment.
3.7	Based on the information within the consultation from HED, the Planning Department, contend that all relevant factors of this specific case have not been given due regard, particularly Designation MA01 of Magherafelt Area Plan. Given the significant alteration of the sturture's historic context, purpose and use alongside acknowledged loss of autherntic built fabric and its common occurance throughout Britian, it is considered that the test, as set out under Section 80(1) of the Planning Act, has not been met in this instance (i.e. that the building is of <i>special architectural</i>

3.8	<p><i>or historic interest</i>). The Planning Department suggest that the historic structure be recorded and photographic evidence retained as 'Record Only'.</p> <p>It is therefore recommended that we respond to HED to state the Council does not support the listing and include a written request that the landowner is identified and consulted as an interested party as set out in the attached draft response Appendix 3.</p>
	Other Considerations
4.1	Financial, Human Resources & Risk Implications
	Financial: None identified
	Human: None identified
	Risk Management: None identified
4.2	Screening & Impact Assessments
	Equality & Good Relations Implications: None identified
	Rural Needs Implications: None identified
5.0	Recommendation(s)
5.1	Members are requested to note the contents of this report and agree that the attached draft response (Appendix 4) is issued to DfC, HED to support the listing of the aforementioned Cow Tail Pump.
6.0	Documents Attached & References
	Appendix 1 – Consultation from DfC, HED - Advance Notice of Listing Letter Appendix 2 – Consultation from DfC, HED Second Survey Report Appendix 3 – Location Map Appendix 4 – Draft response to Advance Notice of Listing

ADVANCE NOTICE OF LISTING

Chief Executive
Mid-Ulster Council Offices
50 Ballyronan Road
Magherafelt
BT45 6EN

Historic Environment Division
Heritage Buildings Designation
Branch
Ground Floor
9 Lanyon Place
Town Parks
Belfast
BT1 3LP
Direct Tel No: 9056 9281

Our Ref: HB08/04/021

Date: 22nd October 2021

Dear Sir/Madam

RE: Cow Tail Pump, 120a Glen Road, Maghera, BT46 5JG

LISTING OF BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST

At present, the listing of the above-mentioned property is being considered under section 80(1) of the Planning Act (Northern Ireland) 2011.

I would welcome receipt of the views of your Council on the proposed Listing within 6 weeks of the date of this Letter. *If there is no reply to this correspondence within the stated timescale we shall assume that you agree to the listing of the above building. Where this letter refers to building(s), this term includes all types of structures.*

I enclose a copy of the Second Survey Report of the building(s) for your information.


I would advise that there is no right of appeal against listing. However, an owner or occupier can write to the Department or their local Council at any time, if they consider that the building is not of special architectural or historic interest sufficient to justify its listing. Where the owner, or council acting on their behalf, is indicating that it will be supportive of any opposition to the proposed listing, then any such view must be supported by factual evidence relating only to the *special architectural or historic interest* ascribed to the building in the list description. The Department may then reassess the building's merit in light of the information supplied.

Yours faithfully

Tina Clarke.

TINA CLARKE

Enc: Second Survey DC Report

Address Cow Tail Pump 120a Glen Road Maghera BT46 5JG	HB Ref No HB08/04/021
Extent of Listing Pump	
Date of Construction 1920 - 1939	
Townland Falgortrevy	
Current Building Use Pump	
Principal Former Use Pump	

Conservation Area	No	Survey 1	Not_Listed	OS Map No	65/13NW
Industrial Archaeology	No	NIEA Evaluation	B2	IG Ref	C8419 0043
Vernacular	No	Date of Listing		IHR No	
Thatched	No	Date of Delisting		SMR No	
Monument	No			HGI Ref	
Area of Townscape Character	No				
Local Landscape Policy Area	No				
Historic Gardens Inventory	No				
Vacant	N/A				
Derelict	No				

Owner Category Private

Building Information

Exterior Description and Setting

Tall, slender cow-tail water pump of c.1923-4, constructed of cast iron.
 Slender tubular three-stage shaft below wider, fluted top section.
 Middle section of shaft has embossed flag symbol with '3m' embossed below.
 Plain cow-tail handle with small bulbous end, attached to curved corbel bracket with bolt at one side and

metal pin at other.
Curved spout has a cast bucket bracket.
Pump is topped with a domed, fluted cap with finial, all bolted to the section below.

SETTING

This cow-tailed water pump is located in a semi-rural location, approximately 1.3km from Maghera town centre, off a laneway from Glen Road leading to several houses. The pump is located along the front boundary of No. 120a Glen Road, approached via a set of four concrete steps, leading to a small landing. The landing is bounded by metal railings, erected approximately thirty years ago, replacing the original brick wall.

Interior Overview

N/A

Architects

Historical Information

A 'pump' is specifically marked on this site on the OS map of 1989, but does not appear to be recorded on any editions prior to this. It is likely, however, that it was in place long before this date and that its installation may be connected with the building of the small development of five nearby dwellings (the present nos.118-126 Glen Road), which the valuation books indicate took place in or shortly before 1924. Local residents have stated that these houses were built 'for sailors', and the valuers note that they were leased (initially at least) by the (NI) Ministry of Home Affairs, all of which could indicate that they were constructed for ex-servicemen.

The pump itself, with its slim shaft and fluted cap with finial, is of a design widely used throughout Britain and Ireland during the later 19th and early 20th century, albeit with several differences in terms of finer detailing and decoration. Examples of similar pumps in the Republic of Ireland suggest that some were manufactured by various locally-based founders rather following a similar template, but those - like this example - with the 'flag' symbol were produced by the firm of Lee, Howl & Co. of Tipton, Staffordshire, a firm founded in 1887.

References - Primary sources

- 1 OS maps - 1905, 1927, 1976, 1989
- 2 PRONI VAL12B/34/29E, 1911-29
- 3 PRONI VAL12B/34/17G, 1915-29

Secondary sources

- 4 https://www.gracesguide.co.uk/Lee,_Howl_and_Co#cite_note-1 (accessed 5 August 2021)
- 5 <http://irishantiquities.bravehost.com/pumps.html> (accessed 5 August 2021)
- 6 Information from local resident, July 2021

Criteria for Listing

NB: In March 2011, revised criteria were published as Annex C of Planning Policy Statement 6. These added extra criteria with the aim of improving clarity in regard to the Department's explanation of historic interest. For records evaluated in advance of this, therefore, not all of these criteria would have been considered. The criteria used prior to 2011 are published on the Department's website under 'listing criteria'.

Architectural Interest	Historical Interest
A. Style	R. Age
B. Proportion	S. Authenticity
C. Ornamentation	Y. Social, Cultural or Economic Importance
H-. Alterations detracting from building	Z. Rarity
J. Setting	X. Local Interest

Evaluation

Cow-tailed water pump of c.1923-4 located off a laneway a short distance from Maghera town centre. Its installation may be connected with the building of the present nos.118-126 Glen Road, c.1924. Local residents have stated that these houses were built 'for sailors', and they were leased by the (NI) Ministry of Home Affairs suggesting they were constructed for ex-servicemen.

The pump itself, with its slim shaft and fluted cap with finial is of a design widely used throughout Britain and Ireland during the later 19th and early 20th centuries and was manufactured by Lee, Howl & Co. (founded in 1887 in Tipton, Staffs.). However, this particular type is less common in Northern Ireland and is therefore considered a rare example.

Whilst the pump retains much of its original semi-rural setting, this has been compromised by an increased housing density. The loss of the original brick boundary wall detracts from its original historic character. Nevertheless this is a good example of the type and a reminder of the social function which pumps had in rural communities as a gathering place.

Replacements and Alterations

Inappropriate

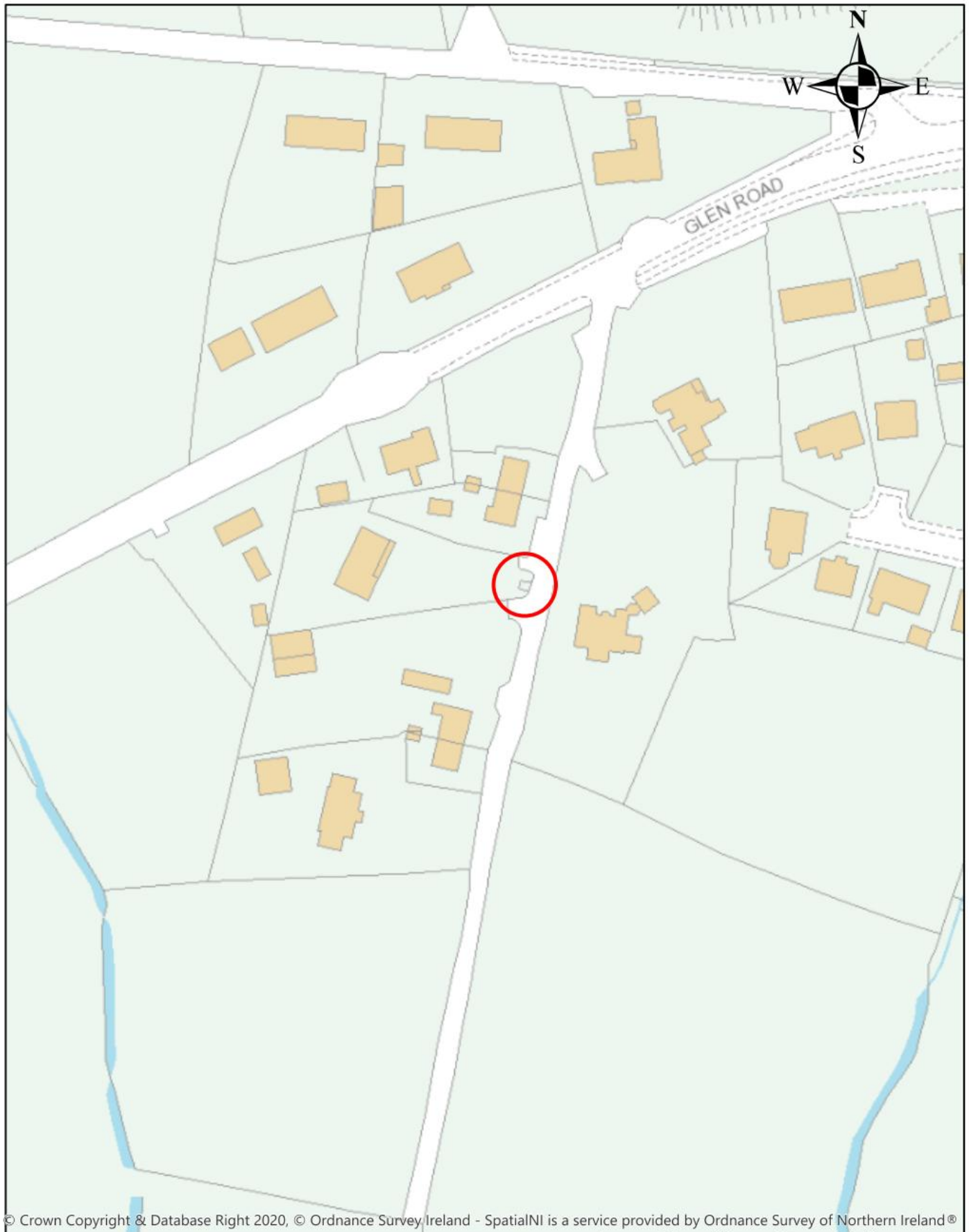
If inappropriate, Why?

The loss of the original brick boundary wall detracts from the original historic character.

General Comments

Monitoring Notes – since Date of Survey

Date of Survey 23/07/2021



© Crown Copyright & Database Right 2020, © Ordnance Survey Ireland - SpatialNI is a service provided by Ordnance Survey of Northern Ireland®

Location Map Cow Tail Pump 120a Glen Road Maghera

Title: HB08/04/021

Scale: 1:1400

Date Printed: 13 October 2021

Drawn By: JMcL





Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Mid-Ulster District Council
Planning Department
50 Ballyronan Road
Magherafelt
BT45 6EN
Tel – 03000 132 132

Date: 22/10/2021

Ms Tina Clarke
Department for Communities
Historic Environment Division
Klondyke Building
Cromac Avenue
Gasworks Business Park
Belfast
BT7 2JA

Your Ref: HB08/04/021

Dear Ms Clarke

RE: Listing of Buildings of Special Architectural or Historic Interest

Thank you for your letter dated 22nd October 2021 and received by this office on 25th October 2021. Mid Ulster District Council Planning Committee has considered the information contained within HED's Second Survey Report relating to the above-mentioned historic built structure and request the following is considered:

- Identify Landowner and consult regarding the above-proposed listing.
- Magherafelt Area Plan 2015 Designation MA1 Settlement Limit Maghera.
- Significant loss of historic built fabric altering the curtilage.
- Significant alteration of authentic historic context, purpose and use.
- Common historic structure throughout Britain

In this specific case, the Council do not support the listing but support the retention of the report as a '*record only*'.

Yours sincerely,

Dr Chris Boomer
Services Director for Planning
Mid-Ulster District Council
Council Offices
50 Ballyronan Road
Magherafelt
BT45 6EN

Report on	The Review of the Scheme of Delegation for Planning
Date of Meeting	December 2021
Reporting Officer	Planning manager
Contact Officer	Planning manager

Is this report restricted for confidential business?	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	x

1.0	Purpose of Report
1.1	The purpose of this report is to allow members prior consideration of the issues to be resolved as part of the review and to agree a date for a workshop, where all councillors will be invited to participate.
2.0	Background
2.1	Under the provisions of Planning Act (NI) 2011 and Planning (Development Management) Regulations (NI) 2015 the Council is required to prepare a scheme of delegation and keep it under review every 3 years. The current Scheme of delegation (May 2016) is now technically outside the specified period and work on a review has been hampered by the Covid pandemic.
3.0	Main Report
3.1	Members will be aware from the Council meeting on 25 th November that notice has been given to a change in standing orders to align them with Section 41 of the Local Government Act. The change allows for decisions by Committee and Officers to be further called in by request under the provisions of the Act by 6 councillors. Accordingly, a list of planning decisions made by the Planning Committee will go to members following the Committee. It is possible to do this for delegated decisions made by the Service Director. However, these are none contentious approvals and members are currently provided opportunity to call them to the planning committee. Given that a change to standing orders is currently being made, now is a very opportune time to review the scheme of delegation for planning.
3.2	Under the Planning Act (NI) 2011, A schemes of delegation provides for local applications, the presumption being major applications need to be considered by the Planning Committee. Also applications made by a member or the council or which relates to land the Council has an estate in, need to go to Committee because Officers are effectively prohibited from determining these by Planning (Development

	Management) Regulations NI 2015. Other than these statutory exclusions, the potential for delegation is wide ranging.
3.3	Mid Ulster's current scheme of delegation as adopted in 2016 is on the Council website. Our Scheme is based on a principle that the Planning Committee is the body for resolving disputes over whether development should take place and it provides a right for people to be heard where an application is to be refused or subject to objection. There is also no denying that the Planning Committee is effective both in listening to everyone and in effectively resolving disputes. This said there are applications presented to Committee and not discussed.
3.4	Our scheme results in the lowest percentage of decisions delegated to officers. According to DfI Planning Monitoring framework (2019/2020) some 83% of applications in Mid Ulster were delegated compared to a regional average of 91% of applications. Most councils delegate over 90% with Mid and East Antrim delegating 96% of applications to officers. The primary reason why Mid Ulster differs from other Councils is that all refusals and all applications subject to objection go to Planning Committee, this is not the case in other Councils (see Table 2). It is easier to determine applications more quickly when applications are delegated and it is one reason why Mid and East Antrim are achieving high turnaround figures. However, this does not stand true of all Council's with many councils receiving less applications and delegating more decisions but achieving worse performance figures than Mid Ulster.
3.5	In light of the above Members are being asked to consider whether they feel a change is needed. If Members were minded we could review existing practice by providing a list of the delegated decisions with the recommendation to the Service Director, thus allowing members to decide whether they want to call it into the Committee.
3.6	<p>It has also become clear that the scheme of delegation needs to be reformed as there are a wide range of planning powers where it is not clear if the Planning Manager or Committee are empowered to make the decision as they are not specified in our scheme of delegation. These include matters such as:</p> <ul style="list-style-type: none"> • Use of the power to decline to consider a subsequent application • Serving of completion notices • Determination of non-material changes • Revocation or modification of permissions and consents • Discontinuance and alteration or removal of buildings • Modification and discharge of conditions • Consent to revoke or modify a listed building or hazardous substance consent • Review Minerals planning permissions (not enacted yet) • Variation or withdrawal of an enforcement notice • Serving of a temporary stop notice • Hazardous substance prevention notices and variations of such notices • Certificates of Lawfulness of proposed use or development • Correction of errors (still to be enacted) • Minor amendments or inconsequential amendments

3.7	<p>Whilst not all of the above fall under the provisions of the Planning Act they can be delegated under the provisions of the Local Government Act.</p> <p>Members also need to consider the extent they wish to empower the Service Director to agree amendments to the Draft Plan Strategy as part of the Plan Examination process. It would most probably be advantage to allow the Service Director to alter the wording of the Plan, which in his judgement are only a minor alteration of text, but do not represent a significant change to policy.</p>
3.8	Members are reminded that a change in the scheme of delegation is also in effect a change to standing orders, it will therefore be necessary to give the Full Council prior notice of any revision. Agreement is also required in law from Dfl.
3.9	<p>In order to give all Council Members an opportunity to contribute to the review it is suggested that a copy of this paper is sent to all members and a work shop is held to discuss the issues identified, before the Service Director presents a draft revised scheme to the Planning Committee..</p> <p>.</p>
4.0	Other Considerations
4.1	Financial, Human Resources & Risk Implications
	Financial: N/A
	Human: N/A
	Risk Management: N/A
4.2	Screening & Impact Assessments
	Equality & Good Relations Implications: N/A
	Rural Needs Implications: N/A
5.0	Recommendation(s)
5.1	That all members are invited to a workshop in January (date to be agreed) and this paper is sent to all members in order to inform the discussion.
6.0	Documents Attached & References

6.1	Appendix A - Table of difference in schemes of delegation between Councils
-----	--

Appendix One: Comparison of Schemes of Delegation between Councils.

Council	Employee of the council and close relatives	Departure form development plan/policy	Refusals required to go to Committee	Objections	Planning Manager referral	Member referral	Legal agreement	Associated application to Committee	Objection from stat consultee
Antrim & Newtownabbey	Any employee	x	x	2 through notified 5 wider	x	x			
Ards and North Down		x		6 or more	x	x			x
ABC	CX Directors or planning staff	x		4 or more and petition over 20	x	x	x	X	x
Belfast	Senior council staff and those in the directorate			Only certain apps conflicting with officers recommendation	x	Only within or adjoin their DEA			x
Causeway Coast	CX Chief officers planners			5 or more	X	X	X		
Derry City & Strabane	CX Directors, Heads or planning staff	x	x	5 or more	x	x	X		
Fermanagh & Omagh	Senior staff planners	x			x	x	x		x
Lisburn & Castlereagh	Senior staff planners	5 or more houses in a rural setting				x	x	x	x
Mid and East Antrim	Planners and senior staff	x		x	x	x	x		x
Newry Mourn & Down		x		Resident group 6 people or ward councillor					x

Antrim and Newtonabbey = fundamental change to a major application determined by planning committee. Exception for refusal where it relates to any enforcement notice already determined and therefore can be delegated. Must be made within 21 days of the application and be accompanied by a sound planning reason for council to differ to planning committee.

Belfast The thresholds relate to schemes of up to and including 12 housing units,

Derry within in 4 weeks of list or 2 of advert. No delegated authority for more 5 houses or more. Any with cross border environmental or economic impacts. All turbines.

Causeway coast 25 days to defer to committee

Fermanagh and Omagh 3 week notification for members

Newry and Mourn Panel to look at objections as above to decide whether they go to committee

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 2 November 2021 in Council Offices, Ballyronan Road, Magherafelt and by virtual means

Members Present

Councillor Black, Chair

Councillors Brown, Clarke*, Colvin*, Corry, Cuthbertson, Glasgow, Hughes*, Mallaghan, McKinney, D McPeake, S McPeake, Quinn*, Robinson

Officers in Attendance

Dr Boomer, Service Director of Planning
Mr Bowman, Head of Development Management
Ms Donnelly, Council Solicitor
Ms Doyle, Senior Planning Officer
Mr Marrion, Senior Planning Officer
Mr McClean, Senior Planning Officer
Miss Thompson, Democratic Services Officer

Others in Attendance

Councillors Gildernew, S McGuigan and Molloy***

LA09/2018/1258/F
LA09/2020/0804/O

Mr Cassidy*
Mr Nugent

* Denotes members and members of the public present in remote attendance

** Denotes Officers present by remote means

*** Denotes others present by remote means

The meeting commenced at 7.00 pm

P149/21 Apologies

Councillor Bell.

P150/21 Declarations of Interest

The Chair reminded members of their responsibility with regard to declarations of interest.

The Chair, Councillor Black declared an interest in agenda items 4.2 to 4.5 – LA09/2019/0815/F, LA09/2019/0816/F, LA09/2019/0819/F, LA09/2019/0820/F.

All Members present (Councillors Black, Brown, Clarke, Colvin, Corry, Cuthbertson, Glasgow, Hughes, Mallaghan, McKinney, D McPeake, S McPeake, Quinn, Robinson) declared an interest in agenda item 4.15 - LA09/2021/0033/F.

P151/21 Chair's Business

The Service Director of Planning referred to the addendum circulated and the correspondence received from the Minister for Infrastructure in relation to the withdrawal of the Policy Advice Note on the Strategic Planning Policy on Development in the Countryside and felt that Members could be satisfied with the representations made in regard to this and the outcome. The Service Director of Planning also highlighted correspondence from the Chair of the Infrastructure Committee urging local authorities to engage with the Department in regard to the Minister's decision and stated that he could not see how Members would not want to engage going forward. The Service Director of Planning suggested that a letter of response be sent to the Minister for Infrastructure welcoming the decision taken in relation to the withdrawal of the Policy Advice Note. The Service Director further suggested that a letter be sent to the Chair of the Infrastructure Committee stating that any further changes to the policy should be brought through the Development Plan process rather than the issue of further guidance. The Service Director of Planning also highlighted that the Council's Development Plan was submitted five months ago and that, to date, there has been no indication of when it will be put to the Planning Appeals Commission and felt that this should be highlighted to the Chief Planner and Director of Regional Planning and copied to the Minister for Infrastructure and Chair of the Infrastructure Committee.

The Chair, Councillor Black stated that the withdrawal of the Policy Advice Note is welcome.

- Resolved** That correspondence be sent to –
- Minister for Infrastructure - welcoming the withdrawal of the Policy Advice Note.
 - Chair of Infrastructure Committee – welcoming further engagement in relation to Development in the Countryside Policy and that this should be brought through the Development Plan process.
 - Chief Planner and Director of Regional Planning – regarding timescales for Development Plan to be brought to Planning Appeals Commission.

The Service Director of Planning stated that performance in relation to processing of major applications could be improved and that one of the reasons for delays with these applications is receiving consultation responses from DfI Roads. The Service Director advised that he wrote to the Divisional Roads Manager expressing concern at the delays and highlighted the response received in the addendum. The Service Director of Planning stated he felt the response received was inappropriate.

The Service Director of Planning highlighted an enforcement appeal decision, as per addendum, and noted that the planning department successfully defended the enforcement notice and the compliance period.

The Service Director of Planning advised of Judicial Review involving Derry City and Strabane District Council relating to a decision made by the Council. The Service Director advised that the Review concluded that, following a Planning Committee, there needs to be a five day period in order to allow for potential Call In to Council. It

was advised that this is not currently included in the Standing Orders and will require some work going forward but allows opportunity to look at the Planning Protocol and Scheme of Delegation. The Service Director of Planning stated that, in order to protect Council, decisions of the Planning Committee will not be issued until after they have been through Council until further consideration has been given to Review. In relation to delegated applications, the Service Director of Planning advised he was content to issue these as they are not contentious and any Member can call them in to the Planning Committee in any case.

The Service Director of Planning 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 4.6 – LA09/2019/0946/O - Replacement of disused Greenhouses and footings of approved dwellings with a Housing Development at lands S of 31 Brough Road, Castledawson, for D&D Loughran.

Agenda Item 4.7 - LA09/2019/1051/O - Site for a dwelling and garage at approx. 80m S of 103 Mayogall Road, Magherafelt, for Mr. Conor O' Neill.

Agenda Item 4.8 - LA09/2020/0343/F - Residential development of 6 detached dwellings at 62 Glen Road, Maghera, for Danny Mc Master.

Agenda Item 4.14 - LA09/2020/1444/O - Dwelling and garage on a farm adjacent to 76 Moghan Road, Castlecaulfield, Dungannon, for Brigid McEluff.

Agenda Item 4.16 - LA09/2021/0319/F - Change of house type (M/2004/0778/F) from a detached to a pair of semi-detached on site 2 Opposite 114 Killyliss Road Eglish, for TG Developers Ltd.

Agenda Item 4.17 - LA09/2021/0380/F - Housing development (1 detached bungalow and 4 detached 2 storey houses) with foul water treatment plants and associated site works adjacent and E of 88 Roughan Road and 48 Drumreagh Crescent, Newmills, Dungannon, for Firtree Developments Ltd.

Agenda Item 4.19 - LA09/2021/0691/F - Change of house type (approved I/2011/0514/RM) and garage at Killycanavan Road 170m NE of Junction with Brookend Road Ardboe Dungannon for Hannah Quinn.

Agenda Item 4.22 - LA09/2021/0905/O - 3 detached dwellings to the rear of 9-11 Killyveen Park, Granville, Dungannon, for Mr Jim Fay.

Agenda Item 4.23 - LA09/2021/1036/F - New entrance in substitution to LA09/2020/0631/F at approx. 60m SW of 137 Lurgylea Road Galbally Dungannon, for Mr Damian Corr.

Agenda Item 4.28 - LA09/2021/1274/F - Dwelling with 6.5m Ridge height at site between 87 and 91 Kinrush Road Cookstown for Dwayne Mc Kenna.

The Service Director of Planning advised that in relation to agenda item 5.3 - LA09/2020/0024/F - the agent has agreed to provide further information and that this application should be held for the further information to be submitted.

The Service Director of Planning advised that agenda item 5.8 - LA09/2020/1140/O has been withdrawn from the agenda as the description does not now match the reason for the application.

Councillor Cuthbertson advised that the applicant of agenda item 4.29 - LA09/2021/1275/O had spoken to him and that there had been a mix up with the agent with regard to requesting speaking rights/deferral and that no request was submitted. Councillor Cuthbertson requested that this application also be deferred for an office meeting.

The Service Director of Planning stated he had no objection to this.

Proposed by Councillor Cuthbertson
Seconded by Councillor Robinson and

Resolved That the planning applications listed above be deferred for an office meeting/held for further information/withdrawn from agenda as outlined.

In response to Councillor S McPeake's question the Service Director of Planning advised that although agenda item 4.19 – LA09/2021/0691/F was listed for approval the applicant had an issue with one of the conditions which was why a deferral was being sought.

Matters for Decision

P152/21 Planning Applications for Determination

The Chair drew Members attention to the undernoted planning applications for determination.

LA09/2019/0144/F Housing development (16 units), at lands opposite 9 Strifehill Road, Cookstown for Mr Adrian Milliken

Members considered previously circulated report on planning application LA09/2019/0144/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Brown and

Resolved That planning application LA09/2019/0144/F be approved subject to conditions as per the officer's report.

The Chair, Councillor Black declared an interest in the following applications and withdrew to the public gallery.

Councillor S McPeake took the Chair.

LA09/2019/0815/F Retention of existing E car parking area at existing Clay Pigeon Shooting Range at Lands at 27 Tamney Martin Road Maghera for Mr Johnathan Crawford

Members considered previously circulated report on planning application LA09/2019/0815/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Cuthbertson and

Resolved That planning application LA09/2019/0815/F be approved subject to conditions as per the officer's report.

LA09/2019/0816/F Retention of change of use of field for Clay Pigeon Shooting Range at Lands at 27 Tamney Martin Road Maghera for Mr Johnathan Crawford

Members considered previously circulated report on planning application LA09/2019/0816/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Cuthbertson and

Resolved That planning application LA09/2019/0816/F be approved subject to conditions as per the officer's report.

LA09/2019/0819/F Retention of Change of Use of field for Clay Pigeon Shooting at Existing Clay Pigeon Shooting Range at Lands at 27 Tamney Martin Road Maghera for Mr Johnathan Crawford

Members considered previously circulated report on planning application LA09/2019/0819/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Cuthbertson and

Resolved That planning application LA09/2019/0819/F be approved subject to conditions as per the officer's report.

LA09/2019/0820/F Retention of Safety Mound at Existing Clay Pigeon Shooting Range at Lands at 27 Tamney Martin Road Maghera for Mr Johnathan Crawford

Members considered previously circulated report on planning application LA09/2019/0820/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Cuthbertson and

Resolved That planning application LA09/2019/0820/F be approved subject to conditions as per the officer's report.

Councillor Black rejoined the meeting and took the Chair.

LA09/2019/0946/O Replacement of disused Greenhouses and footings of approved dwellings with a Housing Development at lands S of 31 Brough Road, Castledawson, for D&D Loughran

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2019/1051/O Site for a dwelling and garage at approx 80m S of 103 Mayogall Road, Magherafelt, for Mr. Conor O' Neill

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2020/0343/F Residential development of 6 detached dwellings at 62 Glen Road, Maghera, for Danny Mc Master

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2020/0493/F Conversion of garage to bedroom with en-suite and retention of shed and vehicular access at 17 Old Moy Road, Donnydeade, Dungannon for Mr & Mrs Stephen McDowell

Members considered previously circulated report on planning application LA09/2020/0493/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Robinson and

Resolved That planning application LA09/2020/0493/F be approved subject to conditions as per the officer's report.

LA09/2020/0763/F Silo with agricultural access provided to fields at the rear at 29 Crancussy Road Cookstown for Mr Peter McNally

Members considered previously circulated report on planning application LA09/2020/0763/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McKinney and

Resolved That planning application LA09/2020/0763/F be approved subject to conditions as per the officer's report.

LA09/2020/0820/F Grass silage clamp alteration (from LA09/2015/0240/F) to include roof enclosure / steel frame, plant storage shed and extension to curtilage associated with an operational Anaerobic digestion plant at land approx. 155m NE of 72 Kilmascally Road Kinrush Dungannon for Ardboe Agri Energy Ltd

Members considered previously circulated report on planning application LA09/2020/0820/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Mallaghan and

Resolved That planning application LA09/2020/0820/F be approved subject to conditions as per the officer's report.

LA09/2020/0880/F Application to vary condition 19 of Planning Permission M/2007/1407/F to extend the operational lifetime of the wind farm from 25 to 30 years at Shantavny Scotch, Omagh Road, Ballygawley for Brookfield Renewable

Members considered previously circulated report on planning application LA09/2020/0880/F which had a recommendation for approval.

Proposed by Councillor Robinson
Seconded by Councillor Brown and

Resolved That planning application LA09/2020/0880/F be approved subject to conditions as per the officer's report.

LA09/2020/1323/F Split level dwelling & attached garage between 65 & 85 Drumgrannon Road, Dungannon, for Lauren Wylie & Andrew Murry

Members considered previously circulated report on planning application LA09/2020/1323/F which had a recommendation for approval.

Proposed by Councillor Brown
Seconded by Councillor McKinney and

Resolved That planning application LA09/2020/1323/F be approved subject to conditions as per the officer's report.

LA09/2020/1444/O Dwelling and garage on a farm adjacent to 76 Moghan Road, Castlecaulfield, Dungannon, for Brigid McElduff

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2021/0033/F Public realm improvements comprising of new paving to pedestrian footpaths and Pomeroy Square at Main Street Pomeroy for Mid Ulster District Council

Members considered previously circulated report on planning application LA09/2021/0033/F which had a recommendation for approval.

Proposed by Councillor Brown
Seconded by Councillor Robinson and

Resolved That planning application LA09/2021/0033/F be approved subject to conditions as per the officer's report.

LA09/2021/0319/F Change of house type (M/2004/0778/F) from a detached to a pair of semi-detached on site 2 Opposite 114 Killyliss Road Eglis, for TG Developers Ltd

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2021/0380/F Housing development (1 detached bungalow and 4 detached 2 storey houses) with foul water treatment plants and associated site works adjacent and E of 88 Roughan Road and 48 Drumreagh Crescent, Newmills, Dungannon, for Firtree Developments Ltd

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2021/0686/O Dwelling and garage immediately W of 210 Washingbay Road, Dungannon for Paul and Michelle O'Hagan

Members considered previously circulated report on planning application LA09/2021/0686/O which had a recommendation for approval.

Proposed by Councillor Corry
Seconded by Councillor Colvin and

Resolved That planning application LA09/2021/0686/O be approved subject to conditions as per the officer's report.

LA09/2021/0691/F Change of house type (approved I/2011/0514/RM) and garage at Killycanavan Road 170m NE of Junction with Brookend Road Ardboe Dungannon for Hannah Quinn

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2021/0773/F New vehicular access to existing Quarry at 130m E of 120 Feegarran Road, Cookstown (opposite Corby Road Junction) for Wesley Hamilton

Members considered previously circulated report on planning application LA09/2021/0773/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Glasgow and

Resolved That planning application LA09/2021/0773/F be approved subject to conditions as per the officer's report.

LA09/2021/0882/O Two storey dwelling and garage at 50m SE of 115a Ruskey Road, Loup, for Nuala McVey and Enda McLaughlin

Members considered previously circulated report on planning application LA09/2021/0882/O which had a recommendation for approval.

Proposed by Councillor Corry
Seconded by Councillor Colvin and

Resolved That planning application LA09/2021/0882/O be approved subject to conditions as per the officer's report.

LA09/2021/0905/O 3 detached dwellings to the rear of 9-11 Killyveen Park, Granville, Dungannon, for Mr Jim Fay

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2021/1036/F New entrance in substitution to LA09/2020/0631/F at approx 60m SW of 137 Lurgylea Road Galbally Dungannon, for Mr Damian Corr

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2021/1048/O Site for off-site replacement dwelling and detached garage at 50m SE of 22 Tirgan Road, Tullynagee, Moneymore, for Malachy McCrystal

Members considered previously circulated report on planning application LA09/2021/1048/O which had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor Clarke and

Resolved That planning application LA09/2021/1048/O be approved subject to conditions as per the officer's report.

LA09/2021/1050/O Site for dwelling & domestic garage / store at 60m E of 80 Drumaspil Road, Drumhorrik, for Ryan McKenna

Members considered previously circulated report on planning application LA09/2021/1050/O which had a recommendation for approval.

Proposed by Councillor Robinson
Seconded by Councillor S McPeake and

Resolved That planning application LA09/2021/1050/O be approved subject to conditions as per the officer's report.

LA09/2021/1225/F 2 detached two storey dwellings with shared dual site entrance at lands directly adjacent to 31 Whitelough Road Aughnacloy, for Alan Campbell

Mr Marrion (SPO) presented a report on planning application LA09/2021/1225/F advising that it was recommended for refusal.

Proposed by Councillor Mallaghan
Seconded by Councillor Corry and

Resolved That planning application LA09/2021/1225/F be refused on grounds stated in the officer's report.

LA09/2021/1265/O Infill site for 2 dwellings (renewal of LA09/2018/0977/O) adjacent to and immediately SE of 26 Whitetown Road Newmills, Dungannon, for Mrs Muriel Magee

Members considered previously circulated report on planning application LA09/2021/1265/O which had a recommendation for approval.

Proposed by Councillor Brown
Seconded by Councillor Colvin and

Resolved That planning application LA09/2021/1265/O be approved subject to conditions as per the officer's report.

LA09/2021/1274/F Dwelling with 6.5m Ridge height at site between 87 and 91 Kinrush Road Cookstown for Dwayne Mc Kenna

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2021/1275/O Dwelling on a farm at 75m W of 125 Bush Road, Dungannon, for Mr Paul Cranston

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2021/1313/O Two storey dwelling between 55c and 59 Cadian Road
Dungannon (site 1), for Mr R P Reid**

**LA09/2021/1314/O Two storey dwelling between 55c and 59 Cadian Road
Dungannon (site 2), for Mr R P Reid**

Mr Marrion (SPO) presented a report on planning applications LA09/2021/1313/O and LA09/2021/1314/O advising that they were recommended for refusal.

Councillor Cuthbertson proposed the officer recommendation.

Councillor S McPeake asked for the widths of curtilages of adjacent sites.

Mr Marrion advised that in relation to the dwelling and garage to the south there is a frontage of 50m. The frontage of the dormer bungalow to the north is 70m.

The Service Director of Planning asked if the case officer was including the gap to the north in their considerations which was why they felt the site could accommodate three dwellings.

Mr Marrion felt this was the case.

The Service Director of Planning stated that taking into consideration the character to the south of the site he would not be adverse to offering an office meeting in this case.

Councillor Mallaghan stated he felt the offer of an office meeting was fair and that he would also like to get a better understanding regarding the access to the north of the site. Councillor Mallaghan proposed that an office meeting be held for both applications.

Councillor McKinney seconded Councillor Mallaghan's proposal.

The Chair, Councillor Black asked Councillor Cuthbertson if he wanted to leave his proposal on the table.

Councillor Cuthbertson stated that the will of the meeting seemed to be for an office meeting but felt that there should be some contact from the applicant.

The Service Director of Planning stated he felt the applications were worthy of more investigations in this instance.

The Chair, Councillor Black stated that Councillor Cuthbertson's comments were fair but that he also felt the applications merited an office meeting.

Resolved That planning applications LA09/2021/1313/O and LA09/2021/1314/O be deferred for an office meeting.

LA09/2018/1258/F Storage building and infilling of land at approx. 110m NE of Portafill International Ltd, Dungannon Business Park, Killyliss road, Dungannon, for Acrow Formworks NI

Mr Marrion (SPO) presented a report on planning application LA09/2018/1258/F advising that it was recommended for refusal.

The Chair advised the committee that a request to speak on the application had been received and invited Mr Cassidy to address the committee.

Mr Cassidy advised that Acrow Foamworks operate out of several sites in the Granville Industrial Estate and that the company has seen unprecedented growth over the past five years. Mr Cassidy advised that the company operates throughout the UK and Europe and employs 70 people at the Granville site. Mr Cassidy referred to the Council report in relation to the redevelopment of the former Maghera High School site which states that the shortage of development land is the single most important development constraint for medium and large sized companies in Mid Ulster and that this lack of land is a barrier to growth of local businesses. Mr Cassidy states that this is more than evident in the Dungannon area where companies are crying out for land. Mr Cassidy advised that Acrow Foamworks owns the entire area of what is known as the Black Lough and is a total of 70,000 sq m and that they have maintained this area at their own expense over the years. Mr Cassidy stated that the proposal is for a storage unit in the western edge of the area and is adjacent to Portafill International. Mr Cassidy advised that not all of the development is within the Site of Local Nature Conservation Importance (SLNCI) and the area of the SLNCI affected equates to 4% of the total area. Mr Cassidy advised that a number of surveys were undertaken to establish that the SLNCI would not be affected, an ecology report and report on breeding birds were commissioned and both reports concluded that there would be no significant impact. Mr Cassidy advised that a drainage assessment concluded that the development would have no impact on the Black Lough. A habitat management plan for the site was also drawn up with schemes agreed to ensure the future of the site. Mr Cassidy stated that the proposal meets the core policy tests and that the scale of the development does not harm the nature of the area and that there would be environmental benefits as a result of the redevelopment and the management plan being adopted. Mr Cassidy stated that the proposal will allow the company to remain in the area where it already employs 70 people and will see a further 10 jobs created. Approval will also secure the future regeneration of the remaining 96% of the grasslands. Mr Cassidy advised that NIEA were contacted with a view to seeking a solution but they advised that they had no resources to do this, further to this, Mr Cassidy stated that communication with NIEA has proved frustrating and he believed the management plan can address NIEA concerns and could be secured by conditions. On this basis, Mr Cassidy asked the committee to reconsider the recommendation.

Councillor S McPeake stated that Mr Cassidy had quoted a number of reports which had been submitted and asked what area is concerning officers and what do they feel is absent.

Mr Marrion stated that the application was last brought to Committee in October 2019 and was deferred at that time to allow for further information to be submitted.

Mr Marrion advised that nothing further has been submitted since then despite requests. Mr Marrion advised that the last response from NIEA is in relation to a habitat conservation management plan and that they state it fails to adequately address the concerns raised regarding the permanent loss of the priority fen habitat and the significant effect on the Black Lough area. Mr Marrion stated that the NIEA position remains unchanged.

The Service Director of Planning advised that the development limit was drawn in such a way so as to protect the Black Lough area. The Service Director stated he was conscious that a lot has been done to expand development in that area but that he was also conscious of COP26 currently taking place and that a key theme is wetlands and how they help to absorb CO2 from the atmosphere and that the Black Lough is close to an industrial estate. The Service Director felt that a precautionary approach should be taken in relation to the application as NIEA are stating they have concerns and if the applicant is dissatisfied with the decision to refuse the application then this can be taken to the Planning Appeals Commission.

Councillor Colvin stated that the Service Director of Planning has explained why the site is outside of the development limit and current concern for the environment. Councillor Colvin proposed the officer recommendation.

Councillor Mallaghan stated that there have been previous conversations in relation to the Granville site and its importance to the economy and asked if it is a case there will never be any further expansion at this location or what mitigations can be put in place as a long term strategy is needed for industrial space in Mid Ulster.

The Service Director of Planning advised that the Draft Plan Strategy indicates some additions to Granville on the opposite side of the road and also on the main road and stated that a planning application has already been allowed on the main road through Granville. The Service Director felt that Granville is reaching saturation point and hoped there will be new opportunities along the A4 in the future and that there will be further expansion in this area in the future. The Service Director of Planning stated that the Committee have allowed for development outside settlement limits as an exception in the past and that this may happen again in the future but that he did not feel an exception was appropriate in this case due to the specifics of the site. The Service Director of Planning again stated that if the applicant is dissatisfied with a refusal then the application can be brought to planning appeal.

The Chair, Councillor Black stated he understood Councillor Mallaghan's comments but that the Service Director of Planning has indicated other avenues for expansion at Granville in the future and that the application site under consideration was not included in the settlement limit due to the particular environmental issues.

Councillor McKinney seconded Councillor Colvin's proposal.

Resolved That planning application LA09/2018/1258/F be refused on grounds stated in the officer's report.

**LA09/2019/1105/O Site for a farm dwelling and double domestic garage
approx. 70m W of 25a Corrycroar Road, Pomeroy for Mr
Connor Carberry**

Ms Doyle (SPO) presented a report on planning application LA09/2019/1105/O advising that it was recommended for refusal.

It was advised that a request to speak on the application had been received however the agent was not present at the meeting either online or in person to address the committee.

The Service Director of Planning stated there are clusters of shelters on the farm but that these are not buildings and should not be considered as such. The Service Director stated that if there was a reasonable argument an exception could be made but, in this case, there didn't seem to be an argument other than the applicant doesn't like the other options.

Councillor Mallaghan stated he was aware of the alternative site location and felt that the topography of the site, particularly field 8, does not lend itself to build a house on. The Councillor also stated that, although not a planning consideration, he did not think a mortgage would be obtainable for fields 2, 3, 4, 6 and 7 and further to this a river runs behind field 4. Councillor Mallaghan stated that the area is not an easy location to build a house and felt there is an opportunity for a site visit to understand the reason why the applicant may not want to build on the suggested location. Councillor Mallaghan proposed that the application be deferred for a site visit.

Councillor Brown seconded Councillor Mallaghan's proposal.

The Chair, Councillor Black felt it would be beneficial to see the site and in the interests that the agent has not been in attendance tonight.

Councillor Glasgow stated it would not be easy to make a decision based on the map shown tonight and that he could concur with Councillor Mallaghan's comments in relation to the topography of the site. Councillor Glasgow stated he would support a site visit.

Resolved That planning application LA09/2019/1105/O be deferred for a site meeting.

**LA09/2020/0024/F 3 lodges for short term accommodation to facilitate access
to adjacent lough shore nature area at 210m SW of 35
Brookend Road, Ardboe for Donal Coney**

Agreed that application be deferred for further information to be submitted earlier in meeting.

LA09/2020/0804/O Two storey dwelling & domestic garage at lands 350m S of 293 Pomeroy Road, Lurganeden for Mr Ben Sinnamon

Ms Doyle (SPO) presented a report on planning application LA09/2020/0804/O advising that it was recommended for refusal.

The Chair advised the committee that a request to speak on the application had been received and invited Mr Nugent to address the committee.

Mr Nugent stated that the application is based on a 165 acre farm and is run by the applicant's father and brother. Beef cattle, poultry and sheep are farmed and the objective is to sub divide the 165 acre farm into two sustainable stand alone farms. Mr Nugent stated that this is a bona fide working farm and that the two brothers both attended Loughry College to study farming. Mr Nugent stated that the case officers report dating back almost a year clearly indicates that the site is suitable for a two storey house and felt that the information brought tonight is contradictory. Mr Nugent referred to planning policy paragraph 5.41 which states that if an existing building group is well landscaped planning permission can be granted for a new dwelling even though visual linkage is limited or virtually non existent. Mr Nugent stated that there is a substantial landscaping around the existing cluster of farm buildings and the site and therefore he felt that the proposal meets with this statement. Mr Nugent went on to refer to planning policy paragraph 5.42 which asks for verifiable information to be offered in relation to farm expansion and environmental or welfare reasons as to why the client needs to look for a site other than the principal farm. Mr Nugent stated that numerous documents have been submitted along with a supporting letter from the Ulster Farmer's Union. Photographic evidence has also been provided showing current and new buildings being erected on the farm, copy of an up to date flock book was also submitted which shows a substantial increase in growth of flock in recent years. Mr Nugent felt that this all goes to show the growth of this farm and that this can be seen on the ground. Mr Nugent stated that it is felt that the application meets the terms of the policy in full and that a lot of evidence has been submitted to support the application.

Councillor Robinson stated that it is evident that the applicant wants to expand the farm business and if he wants to farm at this location he will need a dwelling. Councillor Robinson stated that taking into consideration the expanding farm this may be the only viable site to build a dwelling on and felt that, although difficult, the Committee should be doing everything it can to assist the applicant.

The Service Director of Planning referred to the three agricultural buildings and asked what these were.

Mr Nugent stated these were poultry houses.

The Service Director of Planning asked where the farm house is.

Mr Nugent advised that it was to the south of the poultry houses.

The Service Director of Planning stated he could understand why someone would not want to build next to poultry houses but that there appeared to be fields all over and asked why a house could not be built towards the existing houses on the farm.

Mr Nugent stated that the principal farm holding is where the farm expansion is happening at the moment.

The Service Director of Planning stated there were numerous other fields which would still be close by.

Mr Nugent stated that the objective is to separate the farm geographically so that the two farms can be run independently of each other.

The Service Director of Planning stated that an argument to subdivide the farm is not helpful. The Service Director stated it is clear a viable site could be achieved if there was willing.

Mr Nugent stated that he was open to suggestions.

The Service Director of Planning suggested that the application be deferred in order for the applicant to consider an alternative site.

Councillor McKinney stated he understood the argument being made by the agent and since a site meeting has already been agreed for the Pomeroy area he stated he would like to see this site. Councillor McKinney proposed that the application be deferred a site meeting.

Councillor Robinson seconded Councillor McKinney's proposal.

Councillor Glasgow agreed that since Members will be in the area a site meeting for this application would be useful.

The Chair, Councillor Black stated he felt the proposal is a sensible way forward.

Councillor Mallaghan felt that both an office meeting and site meeting would be required.

Councillor McKinney clarified that his proposal was for a both an office meeting and site meeting.

The Service Director of Planning stated that he did not feel an office meeting would be beneficial. The Service Director stated that the agent is aware tonight of the need to look at alternative sites and to have that conversation with the applicant. The Service Director stated that Members should undertake a site meeting and that the Head of Development Plan will then brief him on the situation with a view to reaching a resolution.

Councillor McKinney agreed to amend his proposal to undertake a site meeting only.

Resolved That planning application LA09/2020/0804/O be deferred for a site meeting.

LA09/2020/0864/F Car parking and block of semi detached dwellings at lands approx 50m W of 39 Charlemont Street, Moy for Hemel Ltd

Members considered previously circulated report on planning application LA09/2020/0864/F which had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor Mallaghan and

Resolved That planning application LA09/2020/0864/F be approved subject to conditions as per the officer's report.

Councillor Glasgow referred to the addendum and letter from NI Water regarding connection to public sewer.

Mr Marrion stated that there is a capacity issue at Moy waste water treatment works and that there has been a condition attached to the approval in relation to connection to the waste water treatment works. Mr Marrion advised that the letter included in the addendum has been received by the agent to advise them that, provided they meet certain criteria, they can connect to the NI Water infrastructure.

Councillor Glasgow stated this was positive.

LA09/2020/0888/O Site for dwelling & garage (re-advertised and neighbour notified due to amended address) at Drummurrer Lane 90m NE of 20 Annaghnaaboe Road, Coalisland for Mr Paul Henry

Members considered previously circulated report on planning application LA09/2020/0888/O which had a recommendation for approval.

Proposed by Councillor Colvin
Seconded by Councillor S McPeake and

Resolved That planning application LA09/2020/0888/O be approved subject to conditions as per the officer's report.

LA09/2020/0890/O Infill site for dwelling & garage (re-advertised and neighbour notified due to amended address) at Drummurrer Lane 60m N of 20 Annaghnaaboe Road, Coalisland for Mr Paul Henry

Members considered previously circulated report on planning application LA09/2020/0890/O which had a recommendation for approval.

Proposed by Councillor Brown
Seconded by Councillor Glasgow and

Resolved That planning application LA09/2020/0890/O be approved subject to conditions as per the officer's report.

LA09/2020/1140/O Infill dwelling and detached garage between 104 Ballygawley Road and an agricultural building 100m NE of 104 Ballygawley Road Glenadush, for Bernard McAleer

Agreed that application be deferred for an office meeting earlier in meeting.

Councillor S McPeake asked why this application was deferred.

The Service Director of Planning advised that the application is described as infill dwelling however the siting has changed which means it is no longer an infill dwelling but rather a dwelling on a farm. The Service Director advised that if the application was approved with its current description it could be perceived to be unsound and that it would be better to amend the description.

LA09/2020/1157/O Site for 2 storey dwelling and domestic garage 90m SE of 46 Airfield Road, Toomebridge for Centrum NI Farms Ltd

Members considered previously circulated report on planning application LA09/2020/1157/O which had a recommendation for approval.

Proposed by Councillor D McPeake
Seconded by Councillor Corry and

Resolved That planning application LA09/2020/1157/O be approved subject to conditions as per the officer's report.

LA09/2020/1308/F 2 detached dwellings at lands between 8 and 12 Findrum Road, Ballygawley, for Jonathan Kirkland

Members considered previously circulated report on planning application LA09/2020/1308/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Robinson and

Resolved That planning application LA09/2020/1308/F be approved subject to conditions as per the officer's report.

LA09/2020/1371/F Replace cycle/footpath approved under M/2004/0778/F to a 2m wide footpath at Shanmoy Downs, Eglish, Dungannon for T G Developments Ltd

Members considered previously circulated report on planning application LA09/2020/1371/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Corry and

Resolved That planning application LA09/2020/1371/F be approved subject to conditions as per the officer's report.

LA09/2021/0096/F Retention of existing agricultural shed on lands to the E of 15 Tamlaghtmore Road, Cookstown for Mr and Mrs Hutchinson

Members considered previously circulated report on planning application LA09/2021/0096/F which had a recommendation for approval.

Proposed by Councillor Brown
Seconded by Councillor Robinson and

Resolved That planning application LA09/2021/0096/F be approved subject to conditions as per the officer's report.

Matters for Information

P153/21 Minutes of Planning Committee held on 5 October 2021

Members noted minutes of Planning Committee held on 5 October 2021.

P154/21 Receive report on Planning Performance

The Service Director of Planning presented previously circulated report which outlined Council's performance in relation to planning, progress against national statistics and in comparison to other Councils.

The Service Director of Planning also highlighted some staffing issues however he stated that three permanent planning officers had recently been appointed and that he would be speaking to HR further on the matter. The Service Director advised that some planning officers and staff had also been diverted to assist with the configuration of the new planning portal. The Service Director of Planning stated he was conscious that agents may feel there have been delays however he stated that these delays are often caused by agents themselves having to resubmit information and again referred to the delays in receiving responses from consultees such as DfI Roads. The Service Director stated that there are a mixture of factors which are causing delays and that he suspected that targets for this year will not be met however he was not unduly concerned as the department has managed to weather the storm of Covid and the staffing issues and that he felt performance is good given the circumstances.

The Chair, Councillor Black stated there were issues indicated however steps are being taken to address these. The Chair took the opportunity to highlight the good job being done by the planning department particularly in difficult circumstances.

Councillor Glasgow concurred with the comments of the Chair however he stated that he had been approached by a number of agents in relation to delays in processing of applications. The Councillor stated he was satisfied with the Service

Director's explanation tonight and that he would relay the message back to those agents. Councillor Glasgow stated he had a concern and not a criticism in relation to continued working from home whereby communication can be difficult. The Councillor stated he had been waiting for a response for two weeks in relation to an application and felt that lines of communication need to be strengthened and asked that this be looked into.

The Service Director of Planning stated that Councillor Glasgow's comments concerned him and that it is not normal to have to wait that long on a response. The Service Director advised that if a query is copied into himself or the Head of Development Management they will ensure that a timely response is provided. The Service Director advised that officers working from home are contactable and he was glad the Councillor had raised the issue.

Councillor Glasgow stated that it was not a criticism of staff but that he wanted to ascertain if officers working from home needed to be better resourced.

The Chair, Councillor Black highlighted that if an officer is working from home they have access to email, phone and computer systems the same as if there were in the office therefore it should be business as usual.

The Service Director of Planning stated that Covid has changed the world and has encouraged remote working. The Service Director advised that remote working reduces the need to travel which in turn reduces pollution in the atmosphere however officers do need to be in the office some of the time. The Service Director stated there are opportunities for efficiencies and highlighted that an applicant/agent will be able to upload revised plans to the new planning system when it is operational and that he felt this will help to speed things up greatly.

Councillor Brown referred to objections to applications and amended plans being sent in and the timescale taken to get these uploaded to the portal when people are not in the office and asked if this can be improved. Councillor Brown also spoke in relation to the number of applications in the system and asked if it is possible to get a breakdown report on this.

The Service Director of Planning advised that the number of live applications can be seen online – what has been submitted over 6 months or a year – and that this can be contrasted against previous years. The Service Director advised that, at the moment, there are approximately over 1000 live applications in the system and that he would see a normal figure for this as being 600. The Service Director stated he did not foresee any problem in being able to work through these applications.

Councillor Brown asked if there is a way of getting a breakdown of these applications ie. how many have been in the system for a long time.

The Service Director of Planning advised that a breakdown of figures can be seen online, in the last quarterly report.

Councillor Mallaghan stated that he felt remote working works well and even the amount of travelling for Members has been vastly reduced through being able to use

different platforms to attend meetings. The Councillor stated that attending meetings remotely offers Members more time at home with their families and where it can be used it should be going forward. Councillor Mallaghan echoed the positive comments made about planning officers and stated that he would also like to mention the admin staff as they also respond to queries and do so in great detail. Councillor Mallaghan stated he did have a concern whereby an application is submitted and goes through the process and if it is a refusal it is put on the agenda for the Planning Committee without any further communication with the applicant/agent and opportunity to submit further information.

Councillor Cuthbertson left the meeting at 8.40 pm

The Service Director of Planning stated that applications are regularly put back if it is felt there is a solution. The Service Director referred to his earlier comments in relation to the Judicial Review and that this gives an opportunity to look at the Planning Protocol and Scheme of Delegation and that it would be useful to have a workshop on this in the future.

Councillor Mallaghan stated that Council is a customer facing organisation and when an applicant has spent money on submitting a planning application and doesn't even receive a phonecall to say an application is up for refusal he felt this was concerning.

The Service Director of Planning stated that planning applications often involve more than one party and all need to be treated equitably. The Service Director advised that the way this is dealt with is to put all recommendations on the website and that everyone has the same opportunity to request to speak at the committee or seek a deferral and that this protects Council. The Service Director of Planning stated although he felt there are difficulties with what Councillor Mallaghan was referring to he would look into the matter a bit more.

The Chair, Councillor Black stated that there were some interesting suggestions being made and that this can be discussed further at a workshop meeting.

Councillor S McPeake echoed the previous commendation of staff and stated that he always found them courteous and amenable in bringing back information although he realised that planning can be complex and there can be delays in getting responses back from other parties which can hold things up. Councillor S McPeake stated he had some concern in relation to the loss of staff from the Magherafelt team which he felt is going to compound issues and that officers should not be afraid of investing in additional resources.

The Service Director of Planning noted concerns of Members with regard to staffing issues at present which have been compounded due to the backlog of applications and Covid but highlighted that the three officers on leave from the Magherafelt team would be returning in due course. The Service Director advised that a further officer from the Magherafelt team has recently taken a career break and that other staff will get the opportunity to act up during this time however he would look to see whether there is a need to hold to Councillor S McPeake's comments in relation to the assertion of the need for staff.

Proposed by Councillor Brown
Seconded by Councillor S McPeake and

Resolved To note the content of the report.

Live broadcast ended at 8.50 pm.

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Glasgow
Seconded by Councillor Corry 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 P155/21 to P159/21.

Matters for Decision

P155/21 Receive Enforcement Report

Matters for Information

P156/21 Confidential Minutes of Planning Committee held on 5 October 2021

P157/21 Confidential Minutes of Special Planning Committee held on 13 October 2021

P158/21 Enforcement Cases Opened

P159/21 Enforcement Cases Closed

P160/21 Duration of Meeting

The meeting was called for 7 pm and concluded at 8.56 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, I will ask each member to confirm whether you are for or against the proposal or abstaining from voting
- 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 - apologies and then roll call of all other Members in attendance.



ADDENDUM TO PLANNING COMMITTEE AGENDA

FOR PLANNING COMMITTEE MEETING ON: 2 November 2021

Additional information has been received on the following items since the agenda was issued.

Chairs Business

Receive letters from NI Assembly Committee for Infrastructure and Minister Mallon in relation to Policy Advice Note on the Strategic Planning Policy on Development in the Countryside.

Enforcement appeal decision 2020/E0029- The appeal on ground **(g)- period for compliance** fails. The Enforcement Notice is upheld. The appellant wanted 4 months, however, the Commissioner ruled 60 days was sufficient to comply with the notice. The enforcement team will monitor the situation on the ground. The appeal was for the alleged unauthorised material change of use of the land for storage purposes including the storage of motor vehicles, end of life vehicles, motor vehicle parts, trailers, plant, miscellaneous items and other materials. the alleged unauthorised laying of hardcore on land association with the unauthorised use. the alleged unauthorised widening of two access points to serve the alleged unauthorised use on the land at lands approx 65m south east of 38 Aghnagar Road, Ballygawley. Co Tyrone BT70 2HP for Mr Ryan Mulgrew.

Receive response from DfI Divisional Roads Manager following concerns raised by Dr Boomer at consultation response delays.

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
4.24	Map with siting condition not uploaded with the report	Members to note
5.5	Agent has provided further details relating to waste water treatment	Members to note
5.6	Agent has submitted an indicative layout showing a proposed access	Members to note

5.7	Agent has submitted an indicative layout showing a proposed access	Members to note

Report on	DfC, HED Written Response to MUDC Public Consultation on Conservation Principles Guidance for the sustainable management of the historic environment in Northern Ireland
Date of Meeting	7 th December 2021
Reporting Officer	Sarah McNamee, Conservation Planning Officer
Contact Officer	Dr. Chris Boomer, Service Director

Is this report restricted for confidential business?	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	x

1.0	Purpose of Report
1.1	To inform Members of the Department for Communities, Historic Environment Division's written response to Mid Ulster District Council regarding the Council's submission to their ' <i>Public Consultation Conservation Principles Guidance for the Sustainable Management of the Historic Environment in Northern Ireland.</i> ' DfC, HED written response received via email on 18.11.2021, Annex A.
2.0	Background
2.1	Mid Ulster District Council (MUDC) submitted a written representation on 08.10.2021, to the Department for Communities, Historic Environment Division's in response to the public consultation specific to draft ' <i>Conservation Principles Guidance for the Sustainable Management of the Historic Environment in Northern Ireland.</i> '
3.0	Main Report
3.1	MUDC Planning Department welcomes DfC HED's formal written response dated 18.11.2021 and the information contained therein.
3.2	The Council is aware of the Department for Infrastructure's review of the Planning Act (NI) 2011 and await the outcome of said Call for Evidence. The Council note the Department for Communities intent to develop a Culture, Arts and Heritage Strategy for Northern Ireland. The Council welcomes the opportunity to partake in public debate and discussions relevant to the draft DfC Culture Arts and Heritage Strategy in 2022.
3.3	MUDC Planning Department thanks Mr Iain Greenway, Director of Historic Environment Division for his kind invitation to arrange an office meet with Dr. Chris Boomer, Service Director of Planning in the near future. However, given the need to comply with MUDC's governance procedures and to facilitate an open,

	transparent and forthright public discussion on the matters contained therein Dr. Chris Boomer, Service Director of Planning must decline the offer of a private discussion.
3.4	That said MUDC has welcomed the opportunity to attend the established Historic Environment Stakeholders Group and to take part in proactive and positive conversations regarding the future sustainable management, maintenance and monitoring of Northern Ireland's Historic Environment within the wider NGO and local heritage networks. Mr Tony McChance, Head of Culture and Arts has agreed to attend on the Council's behalf. However, the Stakeholders Group is an informal forum for discussion and sharing of ideas, it does not adhere to Civil Service and Local Government governance and accountability mechanisms.
3.5	The Council notes the suggestion that future discussions on the governance, accountability and organisational structures relevant to Northern Ireland's Historic Environment ' <i>might be better taken forward via the Planning Forum and the review of the Planning Act (NI) 2011 by DfI.</i> '
3.6	On this point, the Council respectfully requests that consideration is given to the establishment of a formal Inter-Government Historic Environment Forum consisting of all 11 Local District Councils, DfC, HED and DfI at an appropriate senior management level to enable direct transparent early engagement on the future sustainable management, maintenance and monitoring of Northern Ireland's Historic Environment.
3.7	The Council look forward to the publication of all submitted written representations received on the public consultation ' <i>Consultation Principles Guidance for the Sustainable Management of the Historic Environment in Northern Ireland.</i> '
4.0	Other Considerations
4.1	Financial, Human Resources & Risk Implications
	Financial: N/A
	Human: N/A
	Risk Management: N/A
4.2	Screening & Impact Assessments
	Equality & Good Relations Implications: N/A
	Rural Needs Implications: N/A

5.0	Recommendations
5.1	The Council notes the response and instructs the Service Director to write to Historic Buildings Division advising that the Council still wish its suggestion on reform of Historic Buildings Division to be published and considered as part of the consideration of the public consultation.
6.0	Documents Attached & References
6.1	Annex A: DFC HED written response 18.11.2021 Conservation Principles Public Consultation.



Historic Environment Division
Ground Floor
NINE Lanyon Place
Townparks
Belfast
BT1 3LP

Email: ian.greenway@communities-ni.gov.uk

Our Ref: Conservation Principles Public
Consultation

Your Ref: DfC HED PC07/21

Date: 18 November 2021

Dr. Chris Boomer
Planning Manager
Mid Ulster District Council
Council Offices
50 Ballyronan Road
Magherafelt
BT45 6PN

By email: planning@midulstercouncil.org

Dear Chris,

CONSERVATION PRINCIPLES PUBLIC CONSULTATION

Thank you for Mid Ulster District Council's detailed response to our Conservation Principles Public Consultation. You also provided comments in relation to other areas such as funding, communications and governance. The scope of the comments is broad, but I would like to take the opportunity to provide you with some background and information on the different areas.

NI Regulatory Framework Historic Environment

Our role, responsibilities and aims are similar to that of our sister organisations despite differences in legislation. Both Historic England and Historic Environment Scotland operate as arm's length public bodies, whereas Cadw is similar to Historic Environment Division in that it forms part of the civil service. Cadw's status was reviewed a few years ago, with the conclusion that it should retain its current status.

With regard to legislation concerning the historic environment, HED acknowledges the aspiration to have a specific Act for the historic environment in Northern Ireland. This would require significant changes to and consolidation of existing primary legislation. You will be aware of DfI's current review of the Planning Act 2011. This has provided an opportunity to put forward suggestions to DfI on areas where the legislation can be improved, including those provisions around the historic environment. HED staff are engaged with DfI in discussing relevant responses to the Call for Evidence.

Historic Environment NI strategy

You may be aware of the Communities Minister's intention to develop a Culture Arts and Heritage Strategy, which would draw out the longer term approach to ensure that these key elements can fully support the intentions of the Programme for Government and Community Plans. We expect work on the strategy to commence in 2022; its development will allow the debate and discussion of a wide range of strategic issues.

HED reports annually on its activities across the historic environment for the NI Environmental Statistics Report. This is a compendium which reports on a range of environmental indicators, including heritage, and provides links to government strategies. HED also provides input to the 5 year strategy for the Department 2020-25 [DfC Five Year Strategy 2020-2025](#)

Historic Environment NI Grants and Loans

We note your comments on levels of funding. You will be aware of the processes for determining priorities across Departments and business areas during the annual budgeting process. Funding through the Historic Environment Fund (HEF) sits alongside a wide range of other funding from various sources, including through loans and social funding routes as well as grants. We have recently completed a review of the HEF and will shortly be engaging with stakeholders on this.

We are also working to connect more closely to other sources of funding, for instance through the Village Catalyst scheme which is operated by HED and DAERA with support from the Architectural Heritage Fund. Stronger connections between funding streams, and a wider range of funding streams beyond traditional grants, are essential if we are to deliver to best effect for the historic environment in a constrained funding climate.

The Department maintains a funding webpage which provides information on support sources which we are aware of, that is available to owners and groups to maintain repair and reuse historic buildings. You can access this at the following address: [Historic Environment Funding & Grants | Department for Communities \(communities-ni.gov.uk\)](#)

Historic Environment Communications strategy

HED has comprehensive guidance and information on our webpage. We use social media platforms on a daily basis to publicise and inform on our work and the historic environment in general. District Councils are able to disseminate this further through their own channels. We are very happy to consider areas which you feel are under-developed in this regard.

I would stress however that the historic environment sector and community is far larger than HED. We convene an Historic Environment Stakeholder Group which is very widely drawn and meets regularly. The group has published Heritage Delivers as a statement of the benefits and value that the historic environment can deliver, and Heritage Statistics ([NI Heritage Statistics \(niheritagedelivers.org\)](#)) to provide evidence of that. The group recently provided a sectoral response to the PfG consultation, and is currently involved in discussions on how it can evolve further. MUDC has recently joined the Group, and will be able to be involved in these discussions.

Historic Environment NI Education and Training Strategy

HED is committed to increasing sectoral skills. We support the achievement of accreditation by our professional staff, and require appropriate accreditation for works that we grant-fund. We have recently convened a group including SPAB Ireland, IHBC, RTPI, ClfA, IAI, BCNI and RSUA to develop a series of joint CPD, Conservation in Common, and have disseminated this information. This programme is designed to enhance the CPD available to local professionals, and to increase the opportunities for them to engage with each other across professions.

We are also partners with the Prince's Foundation in schemes to increase the availability of craft skills, something which is vital if we are to see historic assets appropriately maintained. And we would be very happy to contribute to your Elected Members training and development programme, having done so for other Councils.

Heritage and the Climate Crisis

HED is part of the DfC Climate Change Working Group; the Department has recently published its 2021-2022 Action Plan [DfC Climate Change Action Plan 2021 - 22 | Department for Communities \(communities-ni.gov.uk\)](#) We note your comment in connection with heritage and embodied carbon for consideration specific to the principles draft document, and agree that climate change considerations will have to be at the heart of everything we do.

Planning Policy Statement 23: Enabling Development for the Conservation of Significant Places (withdrawal)

This is within the remit of DfI. I would note however that to withdraw this may not benefit some assets. It is a thorough policy in that it requires much work to prove, and therefore is not often used. There are also other mechanisms in place that can be employed by councils to ensure that development is not to the detriment of an asset eg. Agreements through Section 76 of the Planning Act.

Historic Environment NI Public Archive

HERoNI (Historic Environment Record of NI) holds significant collections and information relating to all aspects of our historic environment. It is open to the public, currently via appointment [Historic Environment Record of Northern Ireland \(HERoNI\) | Department for Communities \(communities-ni.gov.uk\)](#)

The Department is currently progressing work to consider the future conservation and management of the State Care Monuments, and to determine the best route to completing the Second Survey of Buildings of Special Architectural or Historic Interest.

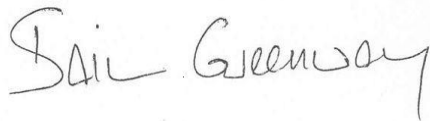
Heritage staff

In this section of your letter, you raise some suggestions which could fundamentally change the settlement that was reached via the Review of Public Administration. Discussions on these might be better taken forward via the Planning Forum rather than bilateral engagement with a single statutory consultee. The review of the Planning Act by DfI would be another potential avenue for these points.

DfC recently funded a pilot scheme for a Heritage Development Officer to a District Council for 3 years. [Derry City & Strabane - Heritage Development Officer \(derrystrabane.com\)](http://derrystrabane.com) Reporting on the initiative is expected in due course for evaluation. A number of councils have appointed heritage officers (including Ards & North Down Borough Council and Newry, Mourne and Down District Council) and would I am sure be willing to share the insights that they have gained through doing so.

Once again, I appreciate the range of comments that you have provided. Given the breadth of the comments, it might be helpful to get together to discuss them further, now that face to face engagement is becoming more possible. It is a number of years since we worked together in DOE. If you could be content with that approach, I would be happy to arrange to come to your offices to discuss matters further.

Yours sincerely

A handwritten signature in dark ink, reading "Iain Greenway". The signature is written in a cursive style with a large 'I' and a long, sweeping 'y'.

IAIN GREENWAY

Director, Historic Environment Division

