



04 September 2018

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Magherafelt at Mid Ulster District Council, Ballyronan Road, MAGHERAFELT, BT45 6EN on Tuesday, 04 September 2018 at 19:00 to transact the business noted below.

Yours faithfully

Anthony Tohill
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 5 - 180

	Planning Reference	Proposal	Recommendation
4.1.	LA09/2018/0542/F	General purpose store for the storage of equipment for approved hard standing and storage compound at 50m S of 136 Ballynakilly Road, Coalisland, for General Cabins Ltd.	APPROVE
4.2.	LA09/2017/0766/F	Conversion of waste land into a car park at land adjacent to 25 High Street, Moneymore, for Weir & Co.	APPROVE
4.3.	LA09/2017/1208/F	Housing development, associated access and site works at land to	APPROVE

		N of 15 Killyfaddy Road, Magherafetl, for Choice Housing Ireland Ltd.	
4.4.	LA09/2017/1685/O	Site for infill dwelling and domestic garage 60m SW of 72 Deerpark Road, Castledawson, for Mr P Keenan.	REFUSE
4.5.	LA09/2017/1775/O	Dwelling and garage 30m S of 11 Motalee Road, Magherafelt, for Gillian Montgomery.	REFUSE
4.6.	LA09/2017/1788/F	Expansion of existing facilities to include Truss units, associated wood store and 2 light industrial units at site adjacent to and S of Ardboe Business Park, Kilmascully Road, Ardboe, for Quinn Building Supplies Ltd.	APPROVE
4.7.	LA09/2018/0236/F	Retention of re-use of redundant agricultural/rural building as a car mechanic business to the rear of 275 Mountjoy Road, Carnan, Stewartstown, for Mr Kevin McElhennon.	APPROVE
4.8.	LA09/2018/0469/O	Site for infill dwelling and garage 70m NW of 81 Ballymacombs Road, Bellaghy, for William Mulholland.	REFUSE
4.9.	LA09/2018/0481/O	Dwelling and garage on land adjacent and N of 2 Glenarny Road, Cookstown, for Mr P & Mrs U Rogers.	APPROVE
4.10.	LA09/2018/0501/O	Site for new 2 storey attached town house adjacent to 6 Fireside Close, Knockloughrim, for Mr Aubrey Sheils.	REFUSE
4.11.	LA09/2018/0511/LBC	Replacing two single glazed windows (sash) at the front of property facing Main Street with double glazing at 53 Main Street, Benburb, for Mr Bob Turner.	REFUSE
4.12.	LA09/2017/0542/F	Lateral extensions in a Westerly and Southerly direction to existing quarry development site and holistic restoration of previous and proposed mineral extraction areas at Brackagh sand and gravel quarry, 29 Disert Road, Draperstown, for Creagh Concrete Products Ltd.	APPROVE

4.13.	LA09/2018/0610/F	First floor conversion of existing garage to provide 2 additional bedrooms, shower room and living area at 54 Kilnacart Road, Dungannon, for Mr Gary McCann.	APPROVE
4.14.	LA09/2018/0654/O	Site for dwelling at land between 36 and 40 Frenchmans Lane, Castlecaulfield for Mr Gary McConville	APPROVE
4.15.	LA09/2018/0746/O	Infill dwelling and garage 50m NE of 49 Fivemile Straight, Carnamone, Draperstown, for Mr Connor McPeake	REFUSE
4.16.	LA09/2018/0754/O	Dwelling and garage 20m W of 35 Moss Road, Ballymaguigan, for Christopher Cassidy.	REFUSE
4.17.	LA09/2018/0983/F	Single storey extension to rear of dwelling at 26 Whitetown Road, Newmills, Dungannon, for Mrs Muriel Magee.	APPROVE
4.18.	LA09/2018/1022/O	Site for dwelling at lands approx. 45m SW of 24 Cranlome Road, Galbally, Dungannon, for R McElvogue	APPROVE

5. Receive Deferred Applications

181 - 196

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2016/1686/F	New seating area and changing facilities building within existing fishery at land approx. 80m NE of 41 Gorestown Road, Dungannon, for Gorestown Lough Fishery Ltd.	APPROVE
5.2.	LA09/2017/0899/F	Cattle shed, force pen, cattle crush, collecting pen and hard standing area at lands to the front of and NE of 102 and 104 Ballygawley Road and S of 101 Ballygawley Road, Glenadush, for Mr Bernard McAleer.	REFUSE
5.3.	LA09/2017/0936/F	2 additional broiler poultry sheds, 4 feed bins, 2 gas tanks, biomass boiler shed and pellet bin, ancillary building and cattle shed with underground slurry tank, new covered silage pit, covered yard area and general farm storage	APPROVE

		building at land approx. 300m NW and 100m SW of 27 Terryscollop Road, Annagh, Dungannon, for CAP Farms Ltd.	
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Matters for Information

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| 6 | Minutes of Planning Committee held on Tuesday 7 August 2018 | 197 - 206 |
| 7 | Receive Appeal Decisions | 207 - 230 |

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

8. Receive report on confirmation of TPO (i)
9. Receive report on TPO confirmation (ii)
10. Receive response to CC&G Council POP consultation
11. Receive Enforcement Report

Matters for Information

12. Minutes of Confidential Business of Planning Committee held on Tuesday 7 August 2018
13. Enforcement Live Case List
14. Enforcement Cases Opened
15. Enforcement Cases Closed

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/0542/F	Target Date:
Proposal: Lateral extensions in a Westerly and Southerly direction to existing quarry development site and holistic restoration of previous and proposed mineral extraction areas	Location: Brackagh sand and gravel quarry 29 Disert Road Draperstown Magherafelt
Referral Route: Committee - Major application	
Recommendation:	APPROVE
Applicant Name and Address: Creagh Concrete Products Ltd Blackpark Road Toome Magherafelt BT41 3SL	Agent Name and Address: Quarryplan Ltd 6 Saintfield Road Crossgar Downpatrick BT30 9HY
Executive Summary: Considerable attention has been paid to the future restoration plans with the submission of a number of amended plans.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	Rivers Agency	Advice
Non Statutory	Shared Environmental Services	Substantive Response Received
Statutory	NIEA	Extension Required
Statutory	Historic Environment Division (HED)	Extension Required
Statutory	NIEA	
Statutory	NIEA	
Statutory	Historic Environment Division (HED)	

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The application is for the extension of the existing Brackagh Quarry which is located some 5km southwest of Draperstown. The site is accessed off the B162 Lough Fea Road. The existing quarry is bounded by agricultural fields to the north, south and west. To the east of the site is the Disert Road. Brackagh Quarry sits high in the landform and to the south east lies the small 'Black Water' watercourse which feeds into the larger 'White Water' watercourse to the northeast.

At present minerals are being extracted from two distinct extraction areas in the north of the site and the south of the site. The site offices are in the north east of the site, adjacent to the site's main access road.

Description of Proposal

This application is for the lateral extension in a westerly and southerly direction to existing quarry development site and holistic restoration of the previous and proposed mineral extraction areas.

Planning Assessment of Policy and Other Material Considerations

Strategic Planning Policy Statement
The Regional Development Strategy 2035
Magherafelt Area Plan 2015
A Planning Strategy for Rural Northern Ireland
Planning Policy Statement 2 - Natural Heritage
Planning Policy Statement 6 - Planning, Archaeology and the Built Heritage
Planning Policy Statement 21 - Sustainable Development in the Countryside

The RDS 2035 provides an overarching strategic planning framework to facilitate and guide the public and private sectors. There are 8 revised aims within the RDS 2035 one of which is "To take actions to reduce our carbon footprint and facilitate adaptation to climate change". It also states that we need to reduce harmful green house gas emissions to help reduce the threat of climate change and promote sustainable construction, consumption and production.

The SPPS is a statement of the Department's policy on important planning matters that should be addressed across NI. The SPPS acknowledges that the minerals industry makes an essential contribution to the economy and to our quality of life, providing primary minerals for construction, such as sand, gravel and crushed rock, and other uses and is also a valued provider of jobs and employment, particularly in rural areas. Minerals can only be extracted from sites where they occur, and there may be limited opportunities for consideration of alternative sites with a further challenge being the restoration of sites upon completion of work associated with the extraction and processing of materials.

The regional strategic objectives for minerals development are to:

- Facilitate sustainable minerals development through balancing the need for specific minerals development proposals against the need to safeguard the environment;
- Minimise the impacts of minerals development on local communities, landscape quality, built and natural heritage, and the water environment; and
- Secure the sustainable and safe restoration, including the appropriate re-use of mineral sites, at the earliest opportunity.

This application seeks planning permission for a proposed extension to both the west and south of the existing Creagh Concrete Sand and Gravel Pit. Sand and gravels are currently being

worked from two distinct extraction areas; the first extraction area is located to the north of the site, with the quarry faces being developed towards their permitted northern and north-western extraction limits; while the second extraction area is in the south of the site, with the quarry faces being developed to their permitted southern extraction limits. Following extraction, the site is to be restored to conservation habitat.

The red line circles the entire c.65 hectare extant quarry area which has been approved under the following applications:

- H/2004/1385: Consolidation of previous planning consents H/1996/0130, H/1996/0221, H/1998/0180 and a Westerly lateral extension. Provision of complete restoration.
- H/2009/0662: Northerly extension to the existing sand and gravel quarry at Brackagh with restoration to a variety of conservation habitats
- H/2011/0508: non-compliance with condition No. 10 of planning permission H/2004/1385/F; southern extension to the existing sand and gravel quarry with a restoration to a variety of habitats.

The westerly extension is to be approximately 4.6 ha and the southerly extension was 8.6ha which will result in an entire quarry area of some 77 ha.

An area of peat overburden was translocated under the 2009 and 2011 planning applications to lands in the east and north east section of the existing quarry at Brackagh. Subsequently, these lands were subject to a planning application seeking to construct and operate 3 No wind turbines. Planning permission for the wind turbines and associated infrastructure was granted planning permission in 2010. There was no provision of a scheme to relocate the peat and the applicant considered this current application provides MUDC and the applicant an opportunity to address the holistic restoration of the quarry site and matters which have been affected by the grant of planning permission for the wind turbines.

Mineral can only be extracted from where it is found. The applicant has stated that a quarry location is not only governed by geological constraints, but in NI as haulage comprises such a large percentage of selling price (in the region of 25-40%), geographical location is also a key component. Due to the market forces of supply and demand this constrains mineral operations to a given distance from a target market.

Policy MIN1 of A Planning Strategy for Rural Northern Ireland (PSRNI) states that extensions to existing mineral workings which minimise environmental disturbance in the countryside will normally be preferred to new workings on greenfield sites. As assessment is required of the need for a mineral resources against the need to protect and conserve the environment. The agent has detailed the selection process that has been adopted in arriving at the position that an extension of the Brackagh operation provides the Best Practical Environmental Option (BPEO) for a development of this magnitude. Details have been provided on 5 options and has concluded that the westerly and southern extensions will involve the translocation of peat, the removal of marshy grasslands and the removal of wet modified bog during the "winning" process. There are a number of owner/operators of the existing operations who are in direct competition with the applicant and are unwilling to dispose of their site. It is the contention of the agent that by removing the active peatland, providing a translocation plant for the remaining habitats and a holistic restoration concept, in line with PPS 2 Policy NH 5, the grant of planning permission is unlikely to result in the acceptable adverse impact on the environment.

As referred to above glaciofluvial sands and gravels are currently being worked from two distinct extraction areas: the first extraction area is located to the north of the site, with the quarry faces being developed towards their permitted northern and north-western extraction limits; while the second extraction area is in the south of the site, with the quarry faces being developed to their permitted southern extraction limits. The ES states that all quarry faces are currently being developed as a series of benches with the use of either a ~10m-reach 360° excavator or a ~7m

reach wheeled front-loading shovel. Excavated mineral is transported via dump truck to a fixed screening plant in the centre of the site where it is washed and screened into a series of graded quarry products. It is understood this method of extraction will continue to be adopted for the proposed western extension currently under consideration.

The workable deposit at Brackagh Quarry is represented by the central Glacio-Fluvial sand and gravel unit. These materials comprise silty, coarse sand and gravel with some clay horizons. The gravels predominantly comprise igneous and metamorphosed igneous rock types.

The development proposals of Brackagh Quarry seek to ensure that maximum use of the deposit is achieved. This requires that multiple areas are worked simultaneously to enable the areas of predominantly fine grained sand to be blended with areas of coarser grained sands and gravels. Once the quarry has worked out its northwards limit, extraction will progress both westwards and southwards. New silt lagoons will be constructed in worked out northern parts of the quarry and will ultimately be completely filled with silt and capped with peat in a similar manner to the existing restored northern silt lagoons. Additional silt capacity will be accounted for in the south west part of the site and these are expected to eventually dry out and be left to naturally regenerate. As the base of deposit deepens southwards, the resultant water body will be deepest in the far south of the restored quarry workings and will shallow gradually northwards towards the existing plant site. Since the minerals being worked are glaciofluvial the sand and gravel is not uniform and there are several faces being worked at any one time. Materials from different locations within the quarry are taken, washed and blended to provide the correct consistency for the applicant's downstream concrete products. This will affect how the quarry is restored in the future as it cannot be a phased restoration.

Brackagh Quarry lies on a plateau like feature approximately 2-3 sq. km in area. The topography rises gently to the north before dropping steeply to the Moyola River channel 1.5km to the north west and to the White Water channel 1.5km to the north east. Generally, topography drops gently to the south and to the west of the site. The proposed extension area immediately to the west of the existing quarry lies in a shallow basin and displays a thicker development of peat.

Effects on the water environment

The site is situated within Lower Neagh Bann-Moyola management area of the Neagh Bann River Basin District. There are no significant surface watercourses within the lands comprising the proposed extensions. The entirety of the site and its immediate surrounding are drained south-eastwards and eastwards to the Black Water River.

The existing quarry, proposed extension and their surrounding areas present a large catchment for incident rainfall. Surface drainage upon upland sections of the catchment is provided by a network of man-made drainage channels, which, in the vicinity of the site, drain south-eastwards to the Black Water River which is a tributary of the Moyola River and to the north of the site drain north-eastwards, directly to the Moyola River.

There will be no significant modifications of the current pattern of groundwater recharge and as such there will be no discernible impact upon groundwater levels and flows. It has also been concluded there will be no discernible secondary impact upon the levels, quantities or quality of groundwater supported features associated with extraction of mineral from the unsaturated zone (i.e. within the sands and gravels above the water table).

Working and restoration of the proposed development will increase the area of the groundwater pond by c. 15.75ha (from the current open water area of c.2.45ha to c.15.75ha). Having calculated values of effective rainfall there will be no discernible adverse effect upon groundwater or surface water resources associated with the potential effect of evaporative losses.

The ES details an estimation method which has been employed to evaluate the likely distance – drawdown associated with planned dewatering operations. It has been concluded there will be no significant impact and therefore mitigation measures and / or planning controls are not necessary in this regard. Notwithstanding this it is considered prudent by the agent that monthly surveillance monitoring of groundwater levels be continued throughout the life-span of the proposed development to provide data for future review.

With regards to water quality the ES has concluded there will be no significant primary effects relating to changes to natural attenuation within the Superficial Aquifer and so it follows there will be no secondary impacts upon features reliant upon the extant quality of groundwater.

Quarrying is an historical and on-going activity at the site and it has been considered the potential scale, likelihood of occurrence, or consequences of groundwater contamination will not be materially increase as a result of the proposed development. However in recognition of the potential for groundwater quality derogation resulting from accidental spillage or undetected long-term leakage of fuel, oils etc., measures to minimise these risks have been formulated, as advanced below:

- Fuel-oil powered mobile plant shall be restricted to that necessary to undertake mineral extraction, remedial measures and subsequent restoration of the site;
- A code of practice should be developed for the refuelling and maintenance of machinery. This code should be incorporated into a formal Environmental Management System (EMS, or similar) that should be incorporated into the overall site management system.
- Any oil storage tanks to be located within the proposed extension should be sited upon impermeable bases enclosed by oil-tight walls.
- All fill and draw pipes emanating from oil storage tanks should be provided with locking mechanisms and be contained within the impermeable enclosure;
- No refuelling or maintenance should be carried out in areas of mineral working;
- Operators should check their vehicles on a daily basis before starting work to confirm the absence of leakages. A reporting system should be implemented to ensure that repairs are undertaken to that vehicle before it enters the working area;
- Sufficient oil sorbent material should be available on site to cope with a loss equal to the total fluid content of the largest item of plant.
- Hydraulic and fuel oil lines on all plant operated within the extraction areas shall be renewed at the manufacturer's recommended service intervals to minimise the potential for contamination following failure of hoses or lines.

With regards to surface water quality there are believed to be no existing or proposed routes for runoff that may be contaminated by accidental spillages or long-term undetected leakages of such fluids to enter the surface water network surrounding the site by direct overland flow.

With regards to flood risk it has been considered that the proposed development accords with the following key tests:

- That the proposed development will not be prone to fluvial flooding;
- That the proposed development represents appropriate development in the context of prevailing flood risk zonation's;
- That whilst the proposed development has potential for flooding from groundwater, appropriate and practicable measures will be applied for the complete amelioration of associated risk;
- That neither the operational or post-restoration phases of the proposed development will increase flood risk elsewhere; and
- That the proposed development is safe with respect to prevailing and anticipated flood risk.

Water Management Unit has considered the impacts of the proposal on the surface water environment and on the basis of the information provided is content with the proposal subject to:

- The applicant referring and adhering to standing advice;
- Any required statutory permissions being obtained.

The Regulation Unit of the Land and Groundwater Team has considered the impacts of the proposal on the aquatic environment (especially groundwater) and on the basis of the information provided is content with the proposal with conditions.

Rivers Agency are content with the proposed development. They stated the applicant should ensure that the lowering of ground in pursuit of quarrying activity close to a watercourse doesn't compromise ground stability which can lead to a catastrophic failure of the river back and resultant rapid inundation of the quarry by flood water.

Noise Impact Assessment

A detailed noise impact assessment has been undertaken in accordance with Planning Practice Guidance with both existing operational and background noise levels having been measured. The predicted noise levels at the noise sensitive receptors due to the proposed lateral and deepening quarrying extension will meet the suggested PPG noise limit and there will be no significant change in existing noise levels. The predicted noise levels from the proposed quarrying activities will also be less than the WHO recommended guideline noise limit. The ES concludes that all practical measures will continue to be taken to ensure that the noise emissions associated with the proposed quarry extension do not cause excessive noise impact upon the local residents.

The Environmental Health Department have considered the contents of the report, and given that the overall impact from the proposed extension will result in minimal change in noise levels at the receptor locations accept the conclusions of the report.

Ecology

There are several designated sites around Brackagh Quarry. Teal Lough SAC lies 1km southwest of the quarry at its closest point and has been designated for the presence of Blanket Bog. However there is no known downstream hydrological link between this and the application site. Ballynahone Bog and Black Bog are Ramsar sites located within 15km of the quarry and both comprise raised bog but neither have downstream hydrological connectivity with the application site though it is noted that Ballynahone Bog drains into the same main river system. The ES concluded there are no sites of international importance within the potential zone of influence of the proposal.

Teal Lough and Slaghtfreeden Bog ASSI and Teal Lough Part II ASSI are closest to the application site. However the ES states the nature of the quarry means that there is limited dust created and neither of these ASSI's have designated features that are considered to be affected by noise.

Cloughfin Wood SLNCI is an area of ash woodland and has been found to have direct downstream biological connectivity with the application site and is associated with the White Water River. The ES states there are two minor tributaries of the Black Water River that arise within the application site and the Black Water River joins the White Water River at the uppermost end of Cloughfin Wood. Lough Patrick SLNCI is c. 160m to the north west of the proposed quarry extension and is the only SLNCI within the potential zone of influence of the application site that might be considered to be sensitive to either dust or noise impacts. However the Noise Impact Assessment and Dust Deposition Monitoring Survey have concluded the impacts will be negligible beyond 160-200m from the application site.

The proposed western extension consists mostly of vegetation that appears to the Ecologist to have derived from former blanket bog. The habitat on the upper slopes is a mix of species-poor marshy grassland with purple moor-grass, heath rush for example. Further down the slope the vegetation consists of wet modified bog with aspects of wet dwarf shrub heath. There is evidence of peat extraction at this location. The Ecologist has concluded the vegetation corresponds to the NI Priority Habitats "Blanket Bog" and "Upland Heath". The lowest slopes have been found to be covered in hydrologically-intact and relatively undamaged blanket bog which is quite extensive though less than 0.1 ha of this blanket bog lies within the application site.

The proposed southern extension consists of vegetation that has developed over a layer of peat but this has been found to be generally shallow in depth. The vegetation in the majority of this area has been mapped as marshy grassland and the vegetation, being transitional in character does not correspond very closely to any one NVC community type nor does it align with any Annex 1 or NI Priority Habitat type.

The existing quarry at some 63.5 ha encompasses actively worked areas, silt lagoons and hardstand with three large areas of open water. These waterbodies have been created through active and ongoing quarrying operations, and generally have fluctuating water levels and murky water, with very little aquatic or marginal vegetation. Habitat restoration is described as an active, ongoing process which is to be continued and expanded under the terms of the current proposals.

The ES lists the bird species that were recorded within the application site during surveys that were undertaken in 2013 and 2015. These included otters, sand martins, lesser black-backed gull, common sandpiper and Irish hare. Quarrying activity is likely to directly affect all habitats within the proposed southern and western quarry expansion areas. However the ES states the proposal is not envisaged to have any direct physical impacts outside of the red-line boundary of the application site.

The ES identifies the main potential physical impacts that quarrying may have on the receiving environment as being:-

- Dust deposition
- Noise
- Hydrological impacts for example siltation of watercourses and increased run off.

The potential for negative impacts upon the quality of either groundwater or surface water resulting from the proposal is limited to:

- Accidental spillages or leakages of potential pollutants
 - o These are not considered to be materially increased as a result of the proposed quarry extension. Nonetheless the ES lists several mitigation measures which aim to minimise any potential risks and I have outlined these above.
- Fugitive suspended solids

The probability of the impact has been stated to be Probable in the ES.

With regards to the potential impacts on habitats the direct impacts include the permanent loss of less than 0.1ha of blanket bog, the permanent loss of 4.54ha of wet modified bog and wet heath and the permanent loss of 8.31ha of marshy grassland. Turning to the potential impacts on protected species and species of conservation importance there will be an impact of minor significance on otters, there will be a short-term impact of moderate significance on the breeding bird assemblage at Brackagh and a permanent impact of minor significance on the general bird assemblage. Without mitigation measures the proposed extension has the potential to result in a permanent impact of minor significance on any local Irish hare population.

As detailed above there are undoubted impacts on the local ecology from a proposed quarry extension at this location. DEARA: Natural Environment Division have been consulted on this application and several meetings have taken place between myself, Chris Perry of NED, the applicant and their many representatives due to the initial concerns held by NED over the proposed quarry extension. Following the submission of further information NED were reconsulted and having considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, NED has no concerns subject to a number of suggested conditions. NED now considered it unlikely that the proposal will have a significant effect on nationally or internationally designated sites. NED is content with the revised approach to habitat recreation and restoration described in the Outline Habitat and Environmental Management Plan, however further detail will be required in a final document to be submitted and agreed before extraction commences.

NED acknowledges the limitations and uncertainties of priority habitat recreation/restoration, however they consider that the measures described should allow for the development of ecologically valuable habitats on the site over time and compensate for the loss of biodiversity during continued extraction. Long term monitoring is required to ensure that it delivers on its objectives and that any necessary contingency or remedial measures can be undertaken in an appropriate timeframe.

NED notes the restoration proposals includes some elements of environmental management, however it does not specifically include all of the mitigation measures described in Table 8 of the previously submitted Ecological Assessment. NED considers that additional environmental management measures, such as specific mitigation measures for the protection of the surface water environment and mitigation for breeding birds, are required and should be contained within a separate Environmental Management Plan to be submitted and agreed before the development commences.

Visual appraisal

The proposed application site is located on exposed elevated lands to the south east of the Sperrins AONB and is predominantly surrounded by grassland, heathland and peatbog. Sand and gravel extraction has taken place in the nearby area since the 1970's.

Within the wider area the existing land uses include residential dwellings, cultural attractions, tourist attractions, agricultural uses, and other quarrying activities together with a number of approved and constructed wind turbines.

There are a number of small woodlands in the wider area with the larger Davagh Forest several kilometres to the west. Lough Fea is the largest water body within several kilometres and a designated public pathway around its perimeter and some picnic tables and a small children's park.

The site lies within the Sperrins AONB. It also lies in a central position within Regional Landscape Character Area 7 - Sperrins. The key characteristics of this LCA are;

- The more elevated Sperrin mountains are characterised by expansive swathes of moorland with coniferous forest plantations contrasting harshly with the windswept broad summits which give an open character to these areas. Hedgerows and stone walls become more prevalent moving away from the higher grounds giving a more interconnected feeling at these locations;
- The higher peaks in the northern part of the RLCA are distinctly more mountainous, comprising a ridge with knife-like projections and rocky summits beyond. These mountains provide the backdrop for many of the views from the lower hills in the area.

- Given the elevated position of the landform and the low-lying nature of much of the surrounding area, expansive views are provided over the Moyola Valley towards Lough Neagh.
- Fast flowing streams throughout the RLCA have resulted in the formation of deep steeply sided gullies and valleys in places with native tree cover becoming much denser along the floors of valleys.
- Main transport routes and settlements are confined to the valleys surrounding mountains, including the Strule, Glenelly, Owenkillew, Douglas and Moyola Rivers and their tributaries.
- Bessy Bell the westward outlier of the Sperrins range is a distinctive landmark in the area given its isolated position beyond the main ridge and the deep wooded Strule Valley which separates it from Slieveard. Similarly Slieve Gallion is a major presence from the lowlands to the east.
- Though the valleys are populated, the hill areas of the Sperrins are a sparsely settled area with a high degree of remoteness and tranquillity. The mountains and upper glens have significant wildness character arising from their inaccessibility, and are a dark sky resource.

The site is located centrally within Landscape Character Area 41 - Slieve Gallion and its key characteristics are listed as:

- Steep, flat topped summit of a former volcanic plug with a distinctive, uneven slope profile;
- Striking landmark at the eastern limit of the Sperrins; summit has a single tall mast;
- Undulating landscape at the foot of the mountain, deeply dissected by narrow, branching glens;
- Mixed woodland within glens and small conifer plantations;
- Varied patchwork of pastures and dense, well managed hedgerows with numerous hedgerow trees;
- Fairly large farms and scattered buildings along narrow, winding lanes.

The LCA goes on to state

"The summit and steep slopes of Slieve Gallion are extremely sensitive to change as they are prominent in views throughout the lowlands on the western shores of Lough Neagh. The existing conifer plantations on these slopes are highly visible and their blocky forms may detract from the sweeping character of the slopes. The landscape of areas underlain by granite is generally in slightly better condition than the farmland to the north. However, there is some evidence of hedgerow removal in these areas, suggesting that there is pressure for more intensive agriculture. There is extensive sand and gravel quarrying on the fringes of Lough Fea. Areas of glacial moraine on the upland plateau are affected and the scenic qualities of this unusual and attractive combination of landscape elements is threatened by the quarries, their machinery and the associated roads".

Given the variation in the quality of the minerals that are to be extracted several faces and sources within the subject site are worked concurrently in order to achieve a commercially viable blend appropriate to the applicant's downstream concrete products. This will inhibit the potential for orderly progressive restoration. Through the submission of amended plans for future restoration DAERA: NED are content with the proposals subject to a number of conditions.

It is accepted that given the location of the site it is largely obscured to the north and west with the majority of clear views from the east and the south. However given the existing quarry use the proposal will result in some disruption to local landscape character rather than introduce new and uncharacteristic features in the local or wider landscape setting.

Dust

The primary sources of dust associated with the development will be in the removal and storage of remaining overburden, loading of mineral, and haulage of mineral within and from the site. There will be no processing of material at this site. The proposal may have the potential to generate levels of dust through its operation. The applicant has proposed mitigation measures which should mean the proposed development will not significantly impact air quality at sensitive locations in the vicinity of the site.

The Environmental Health Department of Mid Ulster District Council has stated the proposed activity has the potential to generate dust, which could give rise to loss of residential amenity to the occupants of neighbouring properties. EHD have assessed and accept the contents of the submitted dust deposition monitoring survey prepared by Quarryplan and would request its contents be conditioned should planning permission be granted.

Vehicle Movements and Highways

The level of vehicles using the road is not proposed to increase over and above the existing levels experienced and therefore there is not an issue of intensification and a traffic impact assessment was not considered necessary.

Department for Infrastructure: Roads have stated that based upon the information contained in Section 25 of the P1 form and in Section 11 of the Environmental Statement, DFI Roads have no objection to the proposed development.

Archaeology

The closest recorded site to the proposed development area is a scheduled wedge tomb known as Giant's Grave c. 135 metres to the southwest. Due to the proposed design availing of the existing contours of the surrounding landscape, the applicant has stated the quarry extension will be appropriately screened from views from the wedge tomb.

Although there are no known sites located within the boundaries of the proposed extension area, the research has concluded that the site is of high archaeological potential.

Historic Environment Division: Historic Monuments has considered the impacts of the proposal. HED: HM is content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. This is to identify and record any archaeological remains in advance of new construction, or to provide for their preservation in situ, as per Policy BH 4 of PPS 6.

Following the assessment above I would recommend an approval of the application subject to the conditions listed below.

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

1. Within 6 months of the date of the planning permission the developer must present to Mid Ulster District Council a Management Plan with details of a supporting trust to ensure that funding will be available to carry out the restoration as shown in the restoration plan.

Reason: To ensure the resources are made available for the future restoration of the land.

2. Within 6 months of the cessation of the extraction as approved or within 2 years of the quarry becoming dormant restoration shall be carried out unless otherwise agreed in writing with Mid Ulster District Council. Full landscaping works should be completed within 9 months of commencement of said landscaping works.

Reason: To ensure restoration takes place in its entirety.

3. The developer will provide information and demonstrate that contributions are being made to the landscaping trust as set out in the management plan. Where the developer is unable to do this all quarrying activities should cease.

Reason: To ensure the resources are made available for the future restoration of the land.

4. No development activity, including ground preparation or vegetation clearance shall take place until a final Habitat Management and Restoration Plan (HMRP) has been submitted to and approved in writing by the Planning Authority. The approved HMRP shall be implemented in accordance with the approved details and all works on site shall conform to the approved HMRP, unless otherwise approved in writing by the Planning Authority. The HMRP shall include the following:
 - a) Appropriate assessment and description of pre-construction, baseline habitat conditions;
 - b) Appropriate maps, clearly identifying habitat management and restoration areas;
 - c) Clear aims and objectives of proposed habitat management and restoration;
 - d) Detailed methodology and prescriptions of habitat management and restoration measures, including details of peat excavation, movement, storage and placement, details of peat receptor cells, timing and phasing of works and defined criteria for the success of the measures;
 - e) Details of the regular, long term monitoring of habitat management and restoration measures using appropriate methodology (e.g. fixed quadrats, fixed point photography) during the extraction period and for a minimum of 10 years after extraction has ceased.
 - f) Details of contingency measures to be implemented should monitoring reveal unfavourable results;
 - g) Details of the production of monitoring reports to be submitted to the Planning Authority within 6 months of the end of each monitoring year.
 - h) The appointment of a suitably qualified ecologist with experience in peatland restoration and the implementation of habitat management plans to supervise all habitat management and restoration measures and to develop the long term monitoring plan.

Reason: To compensate for the loss of and damage to Northern Ireland priority habitats and to mitigate for impacts to priority species/breeding birds.

5. No development activity, including ground preparation or vegetation clearance, shall take place until an Environmental Management Plan (EMP) has been submitted to and approved in writing by Mid Ulster District Council. The approved EMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved EMP, unless otherwise approved in writing by Mid Ulster District Council. The EMP shall include the following:
 - a) Pollution Prevention Plan; including the appropriate stabilisation of screening mounds to minimise release of suspended solids and details of the establishment of a 20m

- buffer zone to the western tributary of the Black Water River within which no works or storage of materials will be permitted;
- b) Site Drainage Management Plan; including all proposed silt management measures to prevent run-off containing suspended solids from reaching any watercourse;
 - c) Water Quality Monitoring Plan; including water sampling and analysis of both the western and eastern tributaries of the Black Water River at regular intervals;
 - d) Environmental Emergency Plan;
 - e) Details of the creation, maintenance and monitoring of a silt-hydro barrier along the western boundary of the extraction area to protect the hydrology of adjacent blanket bog;
 - f) Details of ornithological mitigation measures, including no overburden extraction to take place between 1 March and 31 August and the checking of exposed sandbanks for nesting sand martins prior to extraction commencing by an experienced ornithologist.

Reason: To protect Northern Ireland priority habitats and species and to ensure implementation of mitigation measures identified within the Environmental Statement.

6. No development activity shall take place until the applicant has prepared and submitted to Mid Ulster District Council a brief environmental monitoring plan to include the recommendation for groundwater level monitoring. The monitoring plan should give details on location of monitoring points, parameters, frequency and review mechanisms.

Reason: To protect the aquatic environment.

7. No site works of any nature or development shall take place until a programme of archaeological work has been implemented, in accordance with a written scheme and programme prepared by a qualified archaeologist, submitted by the applicant and approved by the Department. The programme should provide for the identification and evaluation of archaeological remains within the site, for mitigation of the impacts of development, through excavation recording or by preservation of remains, and for preparation of an archaeological report.

Reason: To ensure that archaeological remains within the application site are properly identified and protected or appropriately recorded.

8. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department to observe the operations and to monitor the implementation of archaeological requirements.

Reason: To monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition or agreement is satisfactorily completed.

Informatives

1. The applicant's attention is drawn to Article 4 of the Wildlife (NI) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:
 - Kill, injure or take any wild bird; or
 - Take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
 - At any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
 - Obstruct or prevent any wild bird from using its nest; or
 - Take or destroy an egg of any wild bird; or
 - Disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
 - Disturb dependant young of such a bird.

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

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

2. The applicant's attention is drawn to The Conservation (Natural Habitats etc.) Regulations (NI) 1995 (as amended), under which it is an offence:
 - a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes the otter (*Lutra lutra*);
 - b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
 - c) Deliberately to disturb such an animal in such a way as to be likely to;
 - i. Affect the local distribution or abundance of the species to which it belongs;
 - ii. Impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - iii. Impair its ability to hibernate or migrate;
 - d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
 - e) To damage or destroy a breeding site or resting place of such an animal.

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

3. The applicant's attention is drawn to Article 10 of the Wildlife (NI) Order 1985 as amended under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the smooth or common newt (*Lissotriton vulgaris*, formerly *Triturus vulgaris*). It is also an offence to intentionally or recklessly damage or destroy, or obstruct access to, any structure or place which newts use for shelter or protection; damage or destroy anything which conceals or protects any such structure; disturb a newt while it is occupying a structure or place which it uses for shelter or protection.

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

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

4. The applicant must refer and adhere to all the relevant precepts contained in Standing Advice Note No.4 - Pollution Prevention Guidance.

Water Management Unit recommends the applicant refers and adheres to all the relevant precepts contained in Standing Advice Note No 5 - Sustainable Drainage Systems. The applicant must refer and adhere to all the relevant precepts in Standing Advice No No 11 - Discharges to the Water Environment.

The applicant should be informed that it is an offence under the Water (NI) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata.

Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment.

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

5. For guidance on the preparation of the Written Scheme and Programme of Archaeological Work, which should be submitted for approval at least 4 weeks before work is due to begin, contact:

Historic Environment Division - Historic Monuments
Causeway Exchange
1-7 Bedford Street
Belfast
BT2 7EG
Tel: 028 9082 3100

Quote reference: SM11/1 TYR 40:09

Application for the excavation licence, required under the *Historic Monuments and Archaeological Objects (NI) Order 1995*, should be submitted at least 4 weeks before work is due to begin, by a qualified archaeologist responsible for the project to:

Historic Environment Division - Historic Monuments Unit
Causeway Exchange
1-7 Bedford Street
Belfast
BT2 7EG

6. In order to ensure that the evening and night-time recommended noise limits in National Planning Practice Guidance - Minerals 2014 are not exceeded you are advised the quarry shall not remain open
 - a. Prior to 07:00 hours and after 19:00 hours Monday to Friday
 - b. Prior to 07:00 hours and after 15:00 hours on SaturdayAt any time on Sunday.
7. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the quarry site. Any mud or refuse etc. deposited on the road as a result of the quarry activities, must be removed immediately by the operator.
8. The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department of Regional Development for which separate permissions and arrangements are required.
9. The applicant is advised that under Article 11 of the Roads (NI) Order 1993, the Department for Infrastructure is empowered to take measures to recover any reasonably incurred expenses in consequence of any damage caused to the public road as a result of extraordinary traffic generated by the proposed development.
10. All construction plant and materials shall be stored within the curtilage of the site.
11. 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.

12. Under the terms of Schedule 6 of the Drainage (NI) Order 1973 any proposal either temporary or permanent, in connection with the development which involves interference with any watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc. requires the written consent of Rivers Agency.

Signature(s)

Date:

ANNEX	
Date Valid	20th April 2017
Date First Advertised	5th May 2017
Date Last Advertised	
Details of Neighbour Notification (all addresses)	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History <p>Ref ID: LA09/2016/1317/PAN Proposal: A Lateral Southern Extension to the Existing Sand and Gravel Quarry Address: 29 Disert Road, Brackagh, Draperstown, Decision: WITHDR Decision Date: 26.10.2016</p> <p>Ref ID: LA09/2016/1598/PAN Proposal: Lateral extensions to Brackagh Quarry in a Westerly (4.6 hectares) and Southerly direction (8.6 hectares) with Holistic Restoration of the previous and proposed extraction areas Address: Creagh Concrete Products Ltd, Brackagh Sand and Gravel Pit, 29 Disert Road, Draperstown, Decision: PANACC Decision Date:</p> <p>Ref ID: LA09/2017/0542/F Proposal: Lateral extensions in a Westerly and Southerly direction to existing quarry development site and holistic restoration of previous and proposed mineral extraction areas Address: Brackagh sand and gravel quarry, 29 Disert Road, Draperstown, Magherafelt, Decision: Decision Date:</p>	

Ref ID: LA09/2016/1315/DETEI

Proposal: Pre Application Screening Determination for Planning Approval H/2011/0508/F
Address: Creagh Concrete Products Ltd, Brackagh Sand and Gravel Pit, Disert Road, Draperstown,
Decision:
Decision Date:

Ref ID: LA09/2015/0354/F

Proposal: Relocation of the substation within an approved wind farm compound. The relocated site and compound avails of planning permission granted under H/2013/0233/F
Address: Brackagh Quarry, 29 Disert Road, Brackagh, Lough Fea, Draperstown, BT45 7JN,
Decision: PG
Decision Date: 04.11.2015

Ref ID: LA09/2015/0664/PAN

Proposal: As stated under Section 27(4) of the Planning Act 2011 and advised with paragraph 2.4 of the DMPN 10 - the description provided is a general description to be finalised after consultation with the community: A lateral Westerly Extension to the Existing Sand and Gravel Quarry.
Address: Creagh Concrete Products Limited, Brackagh Sand and Gravel Quarry, 29 Disert Road, Draperstown,
Decision:
Decision Date:

Ref ID: LA09/2015/0534/F

Proposal: Variation of conditions 07, 08 and 09 of Planning approval H/2013/0233
Address: Creagh Concrete Products Ltd, Brackagh Sand and Gravel Pit, 29 Disert Road, Draperstown,
Decision: WITHDR
Decision Date: 16.09.2015

Ref ID: H/2013/0233/F

Proposal: Proposed minor repositioning of eastern most wind turbine, alteration of internal site access roads with additional construction/assembly area and increase in area around wind turbines to include turbine blade oversail. Relating to application previously consented on 15 December 2011 (H/2011/0495/F).
Address: Creagh Concrete Products Ltd, Brackagh Quarry, 29 Disert Road, Draperstown,
Decision: PG
Decision Date: 01.05.2014

Ref ID: H/2011/0475/F

Proposal: 33kv overhead powerline to connect from Draperstown North substation to Brackagh Quarry to serve approved wind turbine development.

Address: Townlands Drumard, Cahore, Cloughfin, Straw Mountain, Brackagh, Corick,
Decision:
Decision Date: 18.06.2012

Ref ID: H/2012/0156/F
Proposal: 33kv Overhead Powerline
Address: Townlands: Drumard, Cahore, Cloughfin, Straw, Mountain Brackagh, Corick,
Decision: PG
Decision Date: 19.11.2012

Ref ID: H/2012/0158/DETEIA
Proposal: Proposed westerly extension to existing sand and gravel pit
Address: Brackagh Sand and Gravel Pit, Brackagh, Draperstown,
Decision: DRES
Decision Date:

Ref ID: H/2000/0837
Proposal: Pre-application Enquiry, Extension to Sand & Gravel Pit.
Address: Disert Road, Brackage, Draperstown.
Decision:
Decision Date:

Ref ID: H/2011/0508/F
Proposal: non-compliance with condition No. 10 of planning permission H/2004/1385/F;
southern extension to the existing sand and gravel quarry with a restoration to a variety
of habitats.
Address: Brackagh Sand and Gravel Pit, Disert Road, Draperstown,
Decision: PG
Decision Date: 18.06.2013

Ref ID: H/2004/1385/F
Proposal: Consolidation of previous planning consents H/1996/0130, H/1996/0221,
H/1998/0180 and a Westerly lateral extension. Provision of complete restoration.
Address: Brackagh Sand & Gravel Pit, Disert Road, Draperstown, Co Londonderry.
Decision:
Decision Date: 15.05.2006

Ref ID: H/2009/0662/F
Proposal: Northerly extension to the existing sand and gravel quarry at Brackagh with
restoration to a variety of conservation habitats
Address: Brackagh Sand and Gravel Pit, Disert Road, Draperstown, Co Londonderry
Decision:
Decision Date: 25.06.2010

Ref ID: H/1998/0180
Proposal: SAND AND GRAVEL EXTRACTION
Address: DISERT ROAD BRACKAGH DRAPERSTOWN
Decision:
Decision Date:

Ref ID: H/1998/0133
Proposal: MOBILE SCREENING PLANT
Address: 29 DYSART ROAD DRAPERSTOWN
Decision:
Decision Date:

Ref ID: H/1996/0221
Proposal: SAND AND GRAVEL EXTRACTION
Address: DISERT ROAD BRACKAGH DRAPERSTOWN
Decision:
Decision Date:

Ref ID: H/1997/0334
Proposal: CONCRETE PLANT AND CONTROL ROOM
Address: DISERT ROAD BRACKAGH DRAPERSTOWN
Decision:
Decision Date:

Ref ID: H/1995/0642
Proposal: RETENTION OF EXISTING QUARRY WORKSHOP, SCREENING AND WASHING PLANT
Address: DISERT LANE BRACKAGH DRAPERSTOWN
Decision:
Decision Date:

Ref ID: H/1996/0130
Proposal: EXTRACTION OF SAND AND GRAVEL
Address: DISERT ROAD BRACKAGH DRAPERSTOWN
Decision:
Decision Date:

Ref ID: H/2009/0075/F
Proposal: Erection of three 1.3MW wind turbines and associated electrical infrastructure.
-
Address: Creagh Concrete Products Ltd, Brackagh Quarry, 29 Disert Road, Draperstown, Magherafelt
Decision:
Decision Date: 28.06.2010

Ref ID: H/2010/0472/F

Proposal: Amendment to granted permission H/2009/0075/F. Amendment requested to increase the consented blade tip height from 91m to 110m (amended noise impact assessment received)

Address: Creagh Concrete Products Ltd, Brackagh Quarry, 29 Disert Road, Nr Draperstown, Magherafelt

Decision:

Decision Date: 19.04.2011

Ref ID: H/2011/0495/F

Proposal: Construction and operation of three wind turbines of max. 2.5MW individual capacity, not exceeding a rotor diameter of 80 m and blade tip height of 110m. The development parameters of this proposal remain unchanged from those consented on 15th April 2011 (H/2009/0075/F)

Address: Creagh Concrete Products Ltd, Brackagh Quarry, 29 Disert Road, Draperstown, Magherafelt, BT45 7JN,

Decision:

Decision Date: 15.12.2011

Ref ID: H/1979/0607

Proposal: EXTRACTION AND WASHING OF SAND AND GRAVEL

Address: DISERT ROAD, BRACKAGH, DRAPERSTOWN

Decision:

Decision Date:

Ref ID: H/1996/0145

Proposal: OFFICE AND WEIGHBRIDGE

Address: DISERT ROAD TULLYBRICK DRAPERSTOWN

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 01

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 04

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 05

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 06

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 07

Type: Levels and Cross Sections

Status: Submitted

Drawing No. 08

Type: Miscellaneous

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:	Item Number:
Application ID: LA09/2017/0766/F	Target Date:
Proposal: Proposal to convert an existing area of waste land into a carpark	Location: Land adjacent to 25 High Street Moneymore
Referral Route: Approval to committee - 1 objection received and contrary to the opinion of Historic Environment Division: Historic Buildings.	
Recommendation:	APPROVE
Applicant Name and Address: Weir And Co. Chartered Accountants The Manor House 30 High Street Moneymore	Agent Name and Address: Lissan Design 45 Letteran Road Moneymore BT45 7UB
Executive Summary: Approval	
Signature(s): Peter Henry	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Advice
Non Statutory	Environmental Health Mid Ulster Council	No Objection
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Historic Environment Division (HED)	Advice
Statutory	Historic Environment Division (HED)	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Historic Environment Division (HED)	Advice
Statutory	Historic Environment Division (HED)	Advice
Statutory	DFI Roads - Enniskillen Office	Content

Representations:

Letters of Support	12
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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 connection with this application however there were 12 letters of support also received. The application is also in conflict with the views of Historic Environment Division: Historic Buildings.

The summary of the objection is as below:

Reference was made to the Post Office which abuts the site in that it is stated that this is a listed building within a conservation area, in so far that this building has been identified on the register of buildings at risk, reinforcing the importance of this building for the Moneymore area. It was expressed that the proposed car park is not in keeping with the 'intrinsic part of the setting.' Went on to refute the description of the land as 'waste land' rather it was neglected garden space that belongs to the Post Office. Also disputed the claims that the Sweet Chestnut tree on site as being rotten, they employed specialists who concluded that the tree is very healthy and not rotten. Issues raised that the Post Office hosts a colony of roosting bats. Overall it is felt that the proposed car park will not help alleviate the 'park and ride' parking on High Street.

Characteristics of the Site and Area

The proposed site is located along High Street of Moneymore within the settlement limits of Moneymore as defined by the Cookstown Area Plan 2010. The site is located within a conservation area, an area archaeological potential it also lies adjacent to the listed Grade B2 Post Office building. The current use of the site is described as waste land however during the site visit it did appear overgrown and underused space. The site is bounded by a stone wall along the western and north western boundary wherein the northern and eastern are defined by a line of fencing. The proposed site is in an area defined by a mix of development inclusive of fast food outlets, commercial properties, public houses and residential development.

Relevant planning history

Reference	Location	Proposal/Complaint	Status	Date
LA09/2017/1401/LBC	19-21 High Street, Moneymore,	Renovation of listed building	PERMISSION GRANTED	13.04.2018
LA09/2017/0766/F	Land adjacent to 25 High Street, Moneymore	Proposal to convert an existing area of waste land into	CONSULTATION(S) ISSUED	
LA09/2017/0722/TPD	25 High Street, Moneymore,	Consent to remove sweet chestnut tree	WORKS TO TPD - GRANTED	
I/2007/0252/DCA	Land linking and including 25 High Street	Proposed demolition of rear lean-to annex and ancillary	PERMISSION GRANTED	06.10.2008
I/2006/0243/LB	25 High Street, Magherafelt, Moneymore	Proposed refurbishing existing Post Office into 1 No. App	PERMISSION GRANTED	06.10.2008
I/2006/0193/F	Land linking and including 25 High Street	Proposed refurbishing existing Post Office into 1 No. App	PERMISSION GRANTED	06.10.2008
I/2000/0017/F	Footpaths and carriageway areas; 1 - 2	Environment improvement scheme including constructio	PERMISSION GRANTED	18.08.2000
I/1998/0556	27 High Street Moneymore	Proposed Carpark extension and erection of boundary f	PERMISSION GRANTED	19.11.2001
I/1997/0310	27 HIGH STREET MONEYMORE	Office Accommodation and Car Park	PERMISSION GRANTED	
I/1979/0170	25 MAIN STREET, MONEYMORE	CONVERSION OF BUILDING TO A 2 STOREY DWEL	PERMISSION GRANTED	

Representations

There were eight neighbour notifications sent out however there 12 letters of support received and one objection.

Description of Proposal

This is a full application for the conversion of an existing area of wasteland into a car park. The proposal involves the change of use of the derelict grassland to the side of the former post office for the provision of a car park. In addition the proposal involves the addition of three bollards to prevent parking to the front of No. 27 High Street formerly known as the 'Chambers Building'.

Planning Assessment of Policy and Other Material Considerations

Cookstown Area Plan 2010
Strategic Planning Policy Statement (SPPS)
PPS 1: General Principles
PPS 3: Access, Movement and Parking
PPS 6: Planning, Archaeology and the Built Heritage

PPS 3: Access, Movement and Parking sets out the planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking. Policies AMP 9, AMP 10 are applicable.

Policy AMP 9 (Design and Car Parking) states that the Council will expect a high standard of design, layout and landscaping to accompany all proposals for car parking. Planning permission will only be granted for a proposal where all the following criteria are met:

- (a) it respects the character of the local townscape/landscape;
- (b) it will not adversely affect visual amenity; and
- (c) provision has been made for security, and the direct and safe access and movement of pedestrians and cyclists within the site.

Due to the site being located within the Conservation Area of Moneymore it felt necessary to consult Mid Ulster Councils Conservation Team, in their initial response concluded that the proposal as submitted does not enhance nor does it protect and preserve the established and historical character and appearance of the Moneymore Conservation Area, contrary to s.104 (11) (a) & (b). In that the proposed hardstanding, signage and road marking that would be required for a car park would detrimentally detract from the existing character and appearance of this site both with High Street streetscape and the conservation area. Therefore the proposal is unacceptable under existing planning policy, namely the SPPS, Cookstown Area Plan and PPS 6 BH12. There were a number of amendments and the conservation team were subsequently re-consulted however held the same opinion as previously. For this reason I am of the opinion that the proposal has failed to comply with AMP 9 of PPS 3.

Policy AMP 10 (Provision of Public and Private Car Parks) states that planning permission will only be granted for the development or extension of public or private car parks, including park and ride and park and share where it is demonstrated that:

- they do not significantly contribute to an increase in congestion;
- are not detrimental to local environmental quality;
- they meet a need identified by the Department for Regional Development in Transport Plans or accepted by DRD following robust analysis provided by a developer;
- within defined areas of parking restraint they are only used for short-stay parking and are appropriately managed to deter long stay commuter parking; and
- they are compatible with adjoining land uses.

DFI Roads were consulted on this application and in their initial response stated that DFI Roads do not feel that this is a viable option as it would interfere with the free flow of traffic and road safety on this busy road, as the visibility to the right hand side is well below the acceptable standard therefore must recommend refusal. The agent in response of these comments submitted a supporting statement along with 12 supporting letters. DFI Roads were re-consulted to respond to this statement and responded to state that the applicant had no addressed any of the concerns regarding road safety and for this reason must recommend refusal as this is contrary to AMP 2 of PPS 3. After further discussions with the agent and subsequent amended plans being submitted, DFI Roads in their final response confirmed that the proposal is now acceptable subject to the following conditions and informatives. From this I am content on balance that the application is acceptable under PPS 3.

PPS 6: Planning, Archaeology and the Built Heritage

As the site is located adjacent to the listed building of the Post Office therefore it was necessary to consult Historic Environment Division. To start HED: Historic Monuments has assessed the application and is content on the basis of the information provided. HED: Historic Buildings also have considered the proposal and in their initial response considers that the proposal has an adverse impact on the building under BH 11 (Development affecting the Setting of a Listed Building) of PPS 6. HED:HB first noted that they had a meeting with the owner of the post office building however this meeting was only to deal with the refurbishment of the listed building in that this application does not relate to that meeting. In their analysis of the application, HED:HB considered the amount of car parking to be excessive and appropriate in the setting of the listed building and consider the nature of the use proposed does not respect that character of the setting of the building. Made note that during a site visit that there is a large area to the rear of the site which could accommodate car parking and request that this area be considered. In addition to this HED:HB consider that the loss of the green space would be detrimental to the overall setting of the listed building and wider streetscape as it is a rare piece of greenery in the streetscape and as such should be retained. HED:HB noted that an application was made for the removal of the existing tree and HED:HB are of the view that this tree with the complementing back drop of hills to be an intrinsic element contributing to the setting of the listed building and wider streetscape and would expect that every effort is made to retain this tree. Final note was that due to the site being located within the conservation area that the conservation officer should make comment on the impact of the proposal on the conservation area.

As previously stated the agent submitted a supporting statement to respond to issues of DFI Roads and HED:HB, a re-consultation was sent to HED who acknowledged the additional information submitted by the agent however they reiterate their initial response with additional comments. HED:HB reiterated again that yes they met with the owner on 10th March 2017 however this meeting was only in reference to the refurbishment of the post office which they are in favour of a sympathetic restoration. Only other points made were that HED:HB fully support the points raised by the conservation officer and the letter from Moneymore Heritage Trust dated 26.10.2017. From this the agent amended the scheme reducing the spaces and altering the access position, a further consultation went out to HED for comment. And again they reiterated their stance from their previous responses, that this proposal would have an adverse impact on the building under BH 11 of PPS 6. Again made comment on the importance of the listed post office building and the importance of its setting within this area. In that HED:HB view the impact of the proposed car park would if permitted result in a loss of amenity to the listed building along with the removal of the mature tree which both significantly contribute to the immediate setting of the Post Office, how it is seen, experienced and appreciated. HED:HB hold the opinion that the proposed development would also compromise the character of the streetscape which provides the setting for a number of other listed buildings along High Street. With regards to the amended drawing HED:HB noted that the amended proposal that the large opening in the adjoining wall for the access would have a detrimental impact on the setting of the listed building and would be visually disruptive to the street frontage and is not appropriate in the conservation area. HED:HB

made a request that for an alternative location to the rear of the post office site is used for car parking.

The agent sent in final amendments and a further re-consultation was initiated with HED, who in their latest response held the same opinion as previously. Reiterated the concerns that the proposed application would have on the setting of the listed building and how it would result in a loss of amenity. In that HED:HB hold the view that the proposed development would also compromise the character of the streetscape which provides the setting for a number of listed buildings along High Street. Especially the large opening in the adjoining wall as it is seen to have a detrimental impact as it would be visually disruptive to the street frontage and is not appropriate in the conservation area. In addition raised issue that the car park would compromise view to and from the listed building, particularly along the north gable elevation. HED:HB raised concerns that the car park has the potential to a loss of privacy and overlooking concerns which would possibly compromise future reuse of the building. In terms of privacy/overlooking it is noted that the applicant has confirmed he owns the former post office reducing this concern. It was noted that the proposed box hedge planting along the boundary with the post office could potentially have a detrimental impact of the management of damp to the ground floor of the building. In addition that this planting has the potential of obscuring of light/aspect into and from the listed building. HED:HB ended in reiterating their request for an alternative location to the rear of the post office is used for parking and that their previous responses also relate and comment that settings of listed buildings are degraded by the cumulative effect of insensitive design. Whilst I acknowledge all the concerns raised by HED:HB it was agreed after discussions with the Planning Manager that the proposed car park is acceptable on balance. As noted above there is already consent for the mature tree to be removed and that this car park is seen as betterment with regards to the existing parking arrangements in front of No. 27 High Street.

As the application falls within the Conservation Area of Moneymore it feel necessary to consult Mid Ulster District Council's Conservation Team. As like the other consultees the Conservation Team had initial concerns and objections to the proposed car park. The concerns raised that the proposal does not enhance nor does it protect and preserve the established and historical character and appearance of Moneymore Conservation Area, contrary to s.104(11) (a)&(b). In that the proposed hardstanding, signage and road markings that would be required for a car park would detrimentally detract from the existing character and appearance of this site both within the High Street streetscape and Moneymore Conservation Area. The proposal is not acceptable under existing planning policy, namely SPPS paragraph's 6.18 and 6.19, Cookstown Area Plan Planning Policy CON 3 and PPS BH12 criteria (a) to (g). It is noted that this opinion remained after numerous amended plans being submitted until after an office meeting between the applicant and agent with the Council (members of Development Management and Conservation Team). At the office meeting the Conservation Team were able set out their concerns directly to the both afterwards the agent agreed to amend the application accordingly. Subsequent amended plans were submitted however the Conservation Team raised that it was unclear of any proposed changes to the ground levels across the site therefore requesting levels and cross-sectional drawings clearly showing existing and proposed finish levels. In addition requested additional detailing on the proposed bollards and proposed finishing to the entrance of the car park. These were subsequently submitted by the agent and the Conservation Team agreed that they were now content on balance with the proposed application subject to conditions and informatives.

Consultations were also sent to Environmental Health, who responded no objection to the proposal.

With regards to the objection letter received it is noted that the concerns with regards to the car park within this setting has been addressed through this application and that it has been agreed with the Planning Manager that this is acceptable. In terms of any mention of the Sweet Chestnut

tree on site, it is noted that consent has already been attained for the removal of this tree. With regards to the colony of roosting bats within the Post Office raised it is noted that this application does not involve any works to the building whatsoever. Furthermore the issue that this car park will not help alleviate the 'park and ride' parking on High Street, it is noted that this is a private car park and DFI Roads have deemed it to be acceptable.

Therefore on balance of the above I am content on balance that the proposal is acceptable and I recommend approval for the application.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approval 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. All landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 03/1 date stamped 10th August 2018 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. All works shall be carried out in accordance with stamped approved drawing Nos. 02/3 bearing the date stamp 21st June 2018 and 03/1 bearing the date stamp 10th August 2018 as annotated on the scaled drawings. The surface finish of the car park will be 12/15mm washed stone/pebbles with soft landscaping strips as per the drawing 03/1 dated 10th August 2018.

Reason: To protect, conserve and enhance the existing heritage values associated with the listed building Moneymore Post Office, the streetscape along High Street and the wider Moneymore Conservation Area.

5. The proposed bollards as shown on Drawing 04 bearing the date stamp 10th August 2018, shall be erected in the identified position as indicated on Drawing 03/1 bearing the date stamp 10th August 2018.

Reason: In the interests of road safety.

6. No other development hereby permitted shall become operational until the vehicular access and alterations to the DFI Roads maintained carriageway and footway has been constructed in accordance with Drawing No 02/3 bearing the date stamp 21st June 2018 and Drawing No. 03/1 bearing the date stamp 10th August 2018.

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

7. No other development hereby permitted shall become operational until the vehicular access to the existing parking area in front of the existing (Chambers) building as indicated on Drawing No 03/1 bearing the date stamp 10th August 2018 has been permanently closed and the carriageway/footway properly reinstated to DFI Roads satisfaction.

Reason: In order to minimize the number of access points on to the public road in 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 Department or other statutory authority. The developer's attention is expressly drawn to the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 which has application to the development hereby granted planning permission.

4. All works to a protected heritage asses should be carried out in accordance with BS 7913:2013 Guide to the conservation of historic buildings.

5. 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 land owned or managed by the Department for Infrastructure for which separate permissions and arrangement are required.

Notwithstanding the terms and conditions of the Planning Authority's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the 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. A monetary deposit will be required to cover works on the public road.

It is the responsibility of the developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and

does not allow water from the road to enter the site. This planning approval does not give authority to discharge any drainage into a DFI Roads drainage system.

Signature(s)

Date:

ANNEX	
Date Valid	5th June 2017
Date First Advertised	22nd June 2017
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 19-21 High Street Moneymore The Owner/Occupier, 19A High Street Moneymore Londonderry The Owner/Occupier, 19B High Street Moneymore Londonderry The Owner/Occupier, 1A Smith Street Moneymore Londonderry The Owner/Occupier, 23 High Street Moneymore Londonderry The Owner/Occupier, 27 High Street Moneymore Londonderry Trevor and Irene barclay 6 Durnascallon Lane Desertmartin Londonderry George Glover 84, Magherafelt Road, Moneymore, Londonderry, Northern Ireland, BT45 7UR The Owner/Occupier, Apartment A 21 High Street Moneymore The Owner/Occupier, Apartment B 21 High Street Moneymore Maura Johnston Chairperson, Moneymore Heritage Trust, Manor House, 30 High Street, Moneymore, BT45 7PD Jackie & Michael Corey Coriprint, 10 Lawford Street, Moneymore, Co. Derry, BT45 7PQ George Brownlee Director, Farmvet Systems Ltd, 27 High Street, Moneymore, BT45 7PA John Devlin Director, Moneymore Manufacturing Co. Ltd, 7 Smith Street, Moneymore, Magherafelt, BT45 7PF Robert Carmichael Jungle NI Ltd, Manor House, 30 High Street, Moneymore, BT45 7PD The Owner/Occupier, Manor House, Moneymore, BT45 7PD James Lawrence Newsagents, 15 High Street, Moneymore, Co. Derry, BT45 7PA Aimee Fields Shear Delights Barbours, 20 High Street, Moneymore, Co. Derry, BT45 7PD Kevin McElwee Solicitor, 5 High Street, Moneymore, Co. Derry, BT45 7PB	

Fred Chambers The Golden Chip, 14 High Street, Moneymore, Co. Derry, BT45 7PA Bronagh Heaney Tiny Treasure Day Care, 8A High Street, Moneymore, Co. Derry, BT45 7PD Trevor & Irene Barclay Vintage Tea Room, Manor House, 30 High Street, Moneymore, BT45 7PD	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2017/1401/LBC Proposal: Renovation of listed building Address: 19-21 High Street, Moneymore, Decision: CG Decision Date: 13.04.2018 Ref ID: LA09/2017/0766/F Proposal: Proposal to convert an existing area of waste land into a carpark Address: Land adjacent to 25 High Street, Moneymore, Decision: Decision Date: Ref ID: LA09/2017/0722/TPO Proposal: Consent to remove sweet chestnut tree Address: 25 High Street, Moneymore, Decision: CG Decision Date: Ref ID: I/2007/0252/DCA Proposal: Proposed demolition of rear lean-to annex and ancillary blocks - retaining main block. Address: Land linking and including 25 High Street and 11 Circular Road, Moneymore Decision: Decision Date: 06.10.2008 Ref ID: I/2006/0243/LB Proposal: Proposed refurbishing existing Post Office into 1 No. Apartment and the retention of 1 Retail Unit. Address: 25 High Street, Magherafelt, Moneymore Decision: Decision Date: 06.10.2008	

Ref ID: I/2006/0193/F

Proposal: Proposed refurbishing existing Post Office into 1 No apartment and the retention of 1 Retail Unit and 38 new build apartments and 5 new build town houses - Total 44 units

Address: Land linking and including 25 High Street and 11 Circular Road, Money more

Decision:

Decision Date: 06.10.2008

Ref ID: I/2000/0017/F

Proposal: Environment improvement scheme including construction of lay - bys, paving, tree planting, street furniture and car parking delineation.

Address: Footpaths and carriageway areas; 1 - 27 and 2 - 30 High Street, Money more and 4 - 6 Stonard Street, Money more.

Decision:

Decision Date: 18.08.2000

Ref ID: I/1998/0556

Proposal: Proposed Carpark extension and erection of boundary fence/wall to existing coach hire business

Address: 27 High Street Money more

Decision:

Decision Date: 19.11.2001

Ref ID: I/1997/0310

Proposal: Office Accommodation and Car Park

Address: 27 HIGH STREET MONEY MORE

Decision:

Decision Date:

Ref ID: I/1979/0170

Proposal: CONVERSION OF BUILDING TO A 2 STOREY DWELLING

Address: 25 MAIN STREET, MONEY MORE

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

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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:

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1208/F	Target Date:
Proposal: Proposed Housing development of 2 Five person 3 bed semi detached, and 7 Three person 2 bed detached and semi detached general needs houses associated access and site works (Receipt of Landscape Management and Maintenance Plan)	Location: Land to the north of 15 Killyfaddy Road Magherafelt
Referral Route: This application is being presented to Committee as a number of objections have been received in respect of the proposed development.	
Recommendation:	APPROVE
Applicant Name and Address: Choice Housing Ireland Ltd Leslie Morrell House 37-41 May Street Belfast	Agent Name and Address: McCartan Muldoon Architects Studio 1 Marina Centre 135a Shore Road Ballyronan Magherafelt BT45 6JA
Executive Summary: Approval	
Signature(s): Malachy McCrystal	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

Letters of Support	None Received
Letters of Objection	11

Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
Summary of Issues <p>There have been 8 letters of objection to the planning application which raised the following issues:-</p> <ul style="list-style-type: none"> • The presence of Japanese Knotweed; • Density and over development; • Retention and protection of boundary vegetation during construction; • Modification of the junction and rerouting of the existing laneway; • Creation of bin collection area; • Implications/likelihood of future development in the area; • Preference for accommodation suited to the retired or elderly; • Out of character with the existing housing; • Increase in traffic and traffic safety; • Increase in noise; • Anti-social behaviour; • Loss of privacy; • Trespassing; • Ability of MUDC to access Leckagh Cottages for bin collection purposes; • Provision of bin collection area; • Restricting access by utility providers and residents; • Other access options exist; • The site address is oncorrect; • MUDC claiming part of the laneway for bin collection point; <p>Transport NI were consulted regarding the proposed access and layout and following requests for a number of amendments, accepted the proposed layout and have agreed the Private Streets Determination.</p>	
Characteristics of the Site and Area <p>The site sits is located between existing housing developments at Monor Park and Levkagh Cottages with the access being directly onto Killyfaddy Road. The site is located within the settlement development limits of Magherafelt and is on an area zoned for Housing identified in the Magherafelt Area Plan 2015 as MT06. The site is located within the north-eastern half of the zoned lane.</p> <p>The area is typically surrounded by housing with other road frontage plots having direct access onto the Killyfaddy Road.</p>	
Description of Proposal <p>This application is for a housing development to include 8 No. two storey semi-detached units and 1 no. two-storey detached unit. The development will be accessed directly of the Killyfaddy Road with the existing access to Leckagh Cottages being altered to access of the new access road.</p>	
Planning Assessment of Policy and Other Material Considerations <p>Assessment of planning policies and other considerations</p>	

The relevant policies for consideration of this application are:

Magherafelt Area Plan 2015

Strategic Planning Policy Statement

Planning Policy Statement 3 - Access, Movement and Parking.

Planning Policy Statement 7 - Quality Residential Environments.

Planning Policy Statement 12 - Housing in Settlements

Planning Policy Statement 13 - Transportation and Land Use

Creating Places

The lands in question are contained within the zoned lands as MT06 in the Magherafelt Area Plan 2015.

MT06 details 3 key site requirements, which are as follows:

The housing development shall have a minimum density of 15 dwellings per hectare;

The private laneway along the northern boundary shall be incorporated into the access road serving the proposed housing;

Trees and vegetation along the boundaries shall be retained except for where they have to be removed for access purposes.

The proposed layout meets all of the above requirements.

PPS 7 Quality Residential Environments – Policy QD 1 Quality in new Residential Environments requires new residential developments to create a quality residential environment which should be based on a concept plan which drawn on the positive aspects of the surrounding area.

Proposals must conform to nine criteria listed in the policy in order to protect residential amenity, residential character, environmental quality and movement. Any proposals which fails to satisfy the criteria, even if the site is designated for residential use, will not be acceptable.

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

(a) It could be argued that the proposal does not meet the first of these criteria in that it fails to respect the surrounding context in terms of layout as the density is higher than the adjoining developments. However, the layout must also satisfy the key site requirement of having a minimum density of 15 dwellings per hectare. The density of the proposed development is 23 dwellings per hectare.

(b) There are no features of archaeological or built heritage on this site. There are no TPO's near the site.

(c) This layout is for 9 dwellings and therefore there is no requirement for the provision of public open space. All dwellings have adequate private amenity space with the minimum being 48m².

(d) As the site is close to and within walking distance of the town centre, the provision of neighbourhood facilities are not deemed necessary within the site;

(e) The site has direct access onto the Killyfaddy Road and 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 is made for parking of vehicles with some sites having incurtilage parking provided.

(g) The design of the development is acceptable in terms of form, materials and detailing;

(h) The proposal will not create a conflict with adjacent land uses as these are all existing dwellings.

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

Issues raised in the representations received;

- The presence of Japanese Knotweed;

NIEA have advised that Japanese Knotweed has been recorded on site. This is a highly invasive plant species and control measures must be taken to ensure that any works do not cause it to

spread either on or off the site. Japanese knotweed spreads entirely via fragments of plant material or rhizome root)

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

- Density and over development;

The density is in keeping with the key site requirements as stated in the Magherafelt Area Plan 2015.

- Retention and protection of boundary vegetation during construction;

This can be dealt with by way of condition;

- Modification of the junction and rerouting of the existing laneway;

This is a key site requirement and DfI Roads have not raised any issues of concern regarding the proposed junction;

- Creation of bin collection area;

The bin collection area is welcomed and will be available for residents of Leckagh Cottages who need to leave their bins at the roadside for collection. This area will be adequately screened by a 1.8m high brick wall. Residents of the proposed development will be able to avail of bin collection within the development;

- Implications/likelihood of future development in the area;

The proposal takes account of the potential for future development to the rear of the site as an access point has been provided to facilitate this;

- Preference for accommodation suited to the retired or elderly;

As the key site requirements do not define the type of housing to be provided on this site, it is a matter for the applicant what type dwellings or occupants they cater for;

- Out of character with the existing housing;

Although it is acknowledged that the layout is of a higher density and the units are smaller than those in the immediate area, it is not accepted that it is to such an extent that they are out of character with the surrounding area;

- Increase in traffic and traffic safety;

DfI Roads have advised that the proposal is acceptable following receipt of amendments;

- Increase in noise;

Environmental Health have not raised any issues regarding noise, either during or after construction;

- Anti-social behaviour;

There is no reason to suggest that the development, if approved would lead to anti-social behaviour;

- Loss of privacy;

As the proposed development sits considerably lower, approximately 5.0m, than the adjoining property at Leckagh Cottages, it will not have an impact on the privacy of existing dwellings.

Although one objection raised an issue regarding being able to see into the rear of some of the proposed dwellings, given the level of existing boundary vegetation and the fact that this is to be retained, this should not be an issue;

- Trespassing;

Trespass is a civil matter and one for the respective land owners to consider;

- Ability of MUDC to access Leckagh Cottages for bin collection purposes;

Following discussion with Environmental Services, the content of which is recorded on file, the normal bin collection service will continue. DfI Roads Service have not raised any issue regarding the ability of refuse collection vehicles to access Leckagh Cottages;

- Restricting access by utility providers and residents;

The proposed development does not restrict access by either existing residents or utility providers,

- Other access options exist;

As defined by the key site requirements, the site access must incorporate the existing access to Leckagh Cottages. Therefore the point of access must be close to that existing access and therefore limits the potential point of access;

- The site address is incorrect;

The address has now been corrected and the application was re-advertised on 29th November 2017;

Transport NI requested the submission of additional information in relation to Private Streets Layout and following receipt of this information, advised that the layout was acceptable subject to suggested conditions.

Recommendation

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

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approve subject to the conditions listed

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 trees and hedgerows along all boundaries of the site shall be retained at a minimum height of 4m and allowed to grow on.

Reason: In the interest of visual amenity and to ensure the maintenance of screening to the site.

3. All proposed planting as indicated on the stamped approved drawing no. 13 received 2nd march 2018 shall be undertaken during the first available planting season following occupation of the dwelling hereby approved.

Reason: In the interest of visual amenity and to ensure the maintenance of screening to the site.

4. The management and maintenance of all trees and shrubs shall be carried out in accordance with the stamped approved 'Landscape Management and Maintenance Plan' date stamped 9th February 2018 and shall continue to be maintained in accordance for a period of not less than 20 years or as may subsequently be agreed in writing with Mid Ulster District Council.

Reason: To ensure the continuity and sustainability of the approved landscape design through its successful establishment and long term maintenance to achieve a quality residential development consistent with Planning Policy Statement 7.

5. If any retained hedge/tree is removed, uprooted or destroyed or dies within 5 years from the date of the development hereby approved, becoming operational another hedge/tree or trees

shall be planted at the same place and that hedge/tree(s) shall be of such size and species and shall be planted at such time as may be specified by Mid Ulster District Council.

Reason: In the interest of visual amenity, to ensure the maintenance of screening to the site and to ensure the continuity of amenity afforded by existing hedges/trees.

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

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

7. The visibility splays at the junction of the proposed access road with the public road, shall be provided in accordance with Drawing No. 12/2 bearing the date stamp 29 May 2018, prior to the commencement of any other works or other development. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

The Department for Infrastructure hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 12/2 bearing the date stamp 29 May 2018.

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.

9. No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number 12/2 bearing the date stamp 29 May 2018. 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.

10. Street lighting on the access road shall be positioned only on the western road side.

Reason: To avoid lighting the site boundaries and protect bats.

11. Street lighting on site shall use only asymmetric beam lights orientated so that the glass is parallel to the ground and lamps shall be low pressure sodium.

Reason: To protect bats.

Informatives

1. This approval notice relates to Drawing No. 01/1, 13 received 2nd March 2018, 02/3 received 11th May 2018, 04/1, 05/1, 06/1, 07/1, 08/1, 09/1, 10/1 received 28th November 2017, 12/2 received 29th May 2018, Landscape Management and Maintenance Plan received 9th February 2018.

2. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Department or other statutory authority. The developer's attention is expressly drawn to the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 which has application to the development hereby granted planning permission.

3. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.

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

5. 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.

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

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

7. The developer, future purchasers and their successors in title should note that DfI Roads will not adopt any 'street' as defined in The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992 until such time an Article 161 agreement between the developer and NI Water for the construction of foul and storm sewers including any attenuation holding tanks and discharge pipes has been fully implemented and works upon completion approved by NI Water Service.

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

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

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

11. 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.

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

13. 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 and that 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 DfI Roads drainage system.

14. Water Management Unit have no specific comment on this development other than to advise that the conditions and informatics set out in DAERA Standing Advice Note No. 2 –Multiple Dwellings, are applicable.

http://www.planningni.gov.uk/index/advice/northern_ireland_environment_agency_guidance/standing_advice_2_multiple_dwellings.pdf

The advice and guidance contained in Standing Advice Note. 4 – Pollution Prevention Guidance and Standing Advice Note No. 5 – Sustainable Drainage Systems, is also applicable.

http://www.planningni.gov.uk/index/advice/northern_ireland_environment_agency_guidance/standing_advice_5_sustainable_drainage_systems.pdf

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

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

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

16. It is therefore advised that any tree, hedge loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season including 1st March to 31st August, unless pre-clearance surveys show an absence of breeding birds.

17. The applicant's attention is drawn to Article 15 of The Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence for any person to plant or otherwise cause to grow in

the wild any plant included in Part II of Schedule 9 of the Order, which includes Japanese knotweed (*Fallopia japonica*). This highly invasive plant species has been recorded on site and control measures must be taken to ensure that any works do not cause it to spread either on or off the site.

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

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

Please see the following link for Best Practice Guidance:

<http://invasivespeciesireland.com/toolkit/invasive-plant-management/terrestrialplants/japanese-knotweed/>

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

18. The applicant's attention is drawn to the attached information note from Northern Ireland Electricity.

Signature(s)

Date:

ANNEX	
Date Valid	7th September 2017
Date First Advertised	21st September 2017
Date Last Advertised	14th December 2017
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Parklane Magherafelt Londonderry The Owner/Occupier, 11 Killyfaddy Road Magherafelt Londonderry Tommy & Margaret Ewart 11, Killyfaddy Road, Magherafelt, Londonderry, Northern Ireland, BT45 6EX Lesley Sands 11a, Killyfaddy Road, Magherafelt, Londonderry, Northern Ireland, BT45 6EX Lesley Sands 11a, Killyfaddy Road, Magherafelt, Londonderry, Northern Ireland, BT45 6EX The Owner/Occupier, 13 Killyfaddy Road Magherafelt Londonderry The Owner/Occupier, 15 Killyfaddy Road Magherafelt Londonderry The Owner/Occupier, 179 Leckagh Cottages, Magherafelt, Londonderry, BT45 6EY, The Owner/Occupier, 180 Leckagh Cottages, Magherafelt, Londonderry, BT45 6EY, The Owner/Occupier, 180, Leckagh Cottages, Magherafelt, Londonderry, Northern Ireland, BT45 6EY The Owner/Occupier, 181 Leckagh Cottages, Magherafelt, Londonderry, BT45 6EY, Heather Phillips 181, Leckagh Cottages, Magherafelt, Londonderry, Northern Ireland, BT45 6EY Heather Phillips 181, Leckagh Cottages, Magherafelt, Londonderry, Northern Ireland, BT45 6EY The Owner/Occupier, 182 Leckagh Cottages, Magherafelt, Londonderry, BT45 6EY, Mervyn and Jennifer Conway 182, Leckagh Cottages, Magherafelt, Londonderry, Northern Ireland, BT45 6EY The Owner/Occupier, 183 Leckagh Cottages, Magherafelt, Londonderry, BT45 6EY, The Owner/Occupier, 183, Leckagh Cottages, Magherafelt, Londonderry, Northern Ireland, BT45 6EY Paul Hamill MRTPI 79 Mount Prospect Road, Derrylin, Co. Fermanagh, BT92 9LT Paul Hamill 79 Mount Prospect Road, Derrylin, Co. Fermanagh, BT92 9LT Paul Hamill MRTPI 79 Mount Prospect Road, Derrylin, Co. Fermanagh, BT92 9LT	

Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
<p>Planning History</p> <p>Ref ID: LA09/2017/1208/F Proposal: Proposed Housing development of 2 Five person 3 bed semi detached, and 7 Three person 2 bed detached and semi detached general needs houses associated access and site works Address: Land to the East of 181 Killyfaddy Road, Magherafelt, Decision: Decision Date:</p> <p>Ref ID: LA09/2017/0260/PAD Proposal: Potential site for transfer to Housing Association for Social Housing. (Approx. 4-5 units as per KSR) Address: Land at Leckagh Cottages, Magherafelt, Decision: Decision Date:</p> <p>Ref ID: H/1993/0558 Proposal: ROADS LAYOUT AND DWELLING Address: KILLYFADDY ROAD MAGHERAFELT Decision: Decision Date:</p> <p>Ref ID: H/1985/0517 Proposal: ALTERATIONS AND ADDITIONS TO BUNGALOW Address: 5 LECKAGH COTTAGES, MAGHERAFELT Decision: Decision Date:</p> <p>Ref ID: H/2008/0044/O Proposal: Site of proposed replacement dwelling & garage Address: 179 Killyfaddy Road, Magherafelt Decision: Decision Date: 26.11.2008</p>	

Ref ID: H/2011/0530/O
Proposal: Proposed replacement dwelling and garage
Address: 179 Killyfaddy Road, Magherafelt,
Decision:
Decision Date: 09.01.2012

Ref ID: H/2005/0518/F
Proposal: Dwelling and Garage
Address: Rear of 13 Killyfaddy Road, Magherafelt
Decision:
Decision Date: 15.12.2006

Ref ID: H/1995/6116
Proposal: SITE OF HOUSING DEVELOPMENT KILLYFADDY ROAD MAGHERAFELT
Address: KILLYFADDY ROAD
Decision:
Decision Date:

Ref ID: H/2000/0700/F
Proposal: Replacement dwelling
Address: 6 Leckagh Cottages, 181 Killyfaddy Road, Magherafelt
Decision:
Decision Date: 27.11.2000

Ref ID: H/1995/0521
Proposal: SITE OF HOUSING DEVELOPMENT
Address: 6 LECKAGH COTTAGES KILLYFADDY ROAD MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/2005/1200/O
Proposal: Site of Dwelling & Garage
Address: Rear of 11 Killyfaddy Road, Magherafelt
Decision:
Decision Date: 05.05.2006

Ref ID: H/2005/0463/O
Proposal: Site Of Dwelling
Address: Site Adjacent To 1 Manor Lane, Magherafelt
Decision:
Decision Date:

Ref ID: H/1993/0248
Proposal: SITE OF HOUSING DEVELOPMENT
Address: KILLYFADDY ROAD MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1993/6101
Proposal: HOUSING DEVELOPMENT KILLYFADDY ROAD MAGHERAFELT
Address: KILLYFADDY ROAD
Decision:
Decision Date:

Summary of Consultee Responses

All consultees responded positively.

Drawing Numbers and Title

Drawing No.

Type:

Status: Submitted

Drawing No. 12/2

Type: Roads Details

Status: Submitted

Drawing No. 11/2

Type: Roads Details

Status: Submitted

Drawing No. 02/2

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 01/1

Type: Site Location Plan

Status: Submitted

Drawing No. 13

Type: Landscaping Plan

Status: Submitted

Drawing No. 10/1

Type: Proposed Elevations

Status: Submitted

Drawing No. 09/1

Type: Proposed Elevations

Status: Submitted

Drawing No. 08/1

Type: Proposed Elevations

Status: Submitted

Drawing No. 07/1

Type: Proposed Elevations

Status: Submitted

Drawing No. 06/1

Type: Proposed Elevations

Status: Submitted

Drawing No. 05/1

Type: Proposed Elevations

Status: Submitted

Drawing No. 04/1

Type: Proposed Floor Plans

Status: Submitted

Drawing No. 03

Type: Site Levels

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: LA09/2017/1685/O	Target Date:
Proposal: Proposed site of infill dwelling and domestic garage for residential purposes	Location: 60m South West of 72 Deerpark Road Castledawson
Referral Route: Contrary to CTY 1, 8, 14 of PPS 21	
Recommendation:	Refusal
Applicant Name and Address: Mr P Keenan 49 Hillhead Road Toomebridge	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	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
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
Summary of Issues; No issue	
Characteristics of the Site and Area <p>The site is located approximately 2 miles south of Bellaghy in open countryside in accordance with the Magherafelt Area Plan 2015. The site is located 20m south of No 72 Deerpark Road and consists of a cut out portion of a roadside triangular shape field. The northeast and west (roadside) boundaries are defined by 2m high hawthorn hedge, the south and east boundaries are undefined. Approximately 550m south of the site works is under way to construct the A6 Castledawson to Toome Dualling Scheme</p> <p>The surrounding area is characterised by dispersed roadside dwellings, farm buildings and relatively flat landscape. The predominant land use is of an agricultural nature.</p>	
Description of Proposal <p>The application seeks outline planning permission for a proposed infill dwelling and garage</p>	
Planning Assessment of Policy and Other Material Considerations <p>Relevant Site History: H/2014/0005/O - Proposed dwelling and garage. Approved 10th April 2014 (No 72) H/2014/0202/RM - Dwelling and garage. Approved 3rd October 2014 (No 72)</p> <p>Representations: 2 neighbour's notification letters were sent to Nos 72, 76 & 77 Deerpark Road, Castledawson. No letters of representation have been received.</p> <p>Development Plan and Key Policy Consideration: Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.</p> <p><u>Magherafelt Area Plan 2015:</u> The site is located in the open countryside. There are no other designations on the site.</p> <p><u>SPPS – Strategic Planning Policy Statement for Northern Ireland:</u> sets out the guiding principle in determining planning applications is that sustainable development should be permitted, having regards to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.</p> <p>Infill/Ribbon Development, provision should be made for the development of a small gap site in an otherwise substantial and continuously built up frontage.</p> <p><u>PPS 3: Access, Movement and Parking (Revised 2005) and PPS 3 (Clarification 2006):</u> sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking.</p> <p><u>PPS21: Sustainable Development in the Countryside:</u> sets out planning policies for development in the countryside. CTY 1 states that there are a range of types of development which in principle are considered acceptable in the countryside. One of these is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with CTY 8.</p>	

Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses. Policy CTY 8 requires four specific elements to be met:

- The gap site must be within an otherwise substantial and continuously built up frontage and includes a line of 3 or more buildings along a road frontage without accompanying development to the rear;
- The gap site must be small;
- The existing development pattern along the frontage must be respected;
- And other planning and environmental requirements must be met.

The site is a cut out portion of a large agricultural field with a road frontage on to the Deerpark Road along the western boundary of the site. To the south of the site there is a two storey dwelling with a road frontage. Adjoining the site along the northern boundary there is a newly constructed two storey dwelling (No 72) and a large detached garage set back 38m from the road with a road frontage. Therefore I am satisfied that the proposal meet with the first part of CTY 8 in that there is built up frontage which includes a line of 3 or more buildings with a road frontage.

CTY 8 requires the gap to be small and should be sufficient only to accommodate up to a maximum of two dwellings. The properties at No 78 is located in a small linear plot with a road frontage of 14m. Although both buildings at No 72 are located within a large plot, the plot sits at a 45 degree angle with the road and as a result it only has a 40m road frontage. The average road frontage for both properties is approximately 27m, whilst the existing gap between Nos 72 and 78 extends to 149m which is significantly more than the two existing properties put together and could feasibly accommodate greater than two dwellings. With regards to plots sizes the site would respect the plot size of the adjoining property at No 72 but would not respect the plot size of the property at No 78 which is approximately 5 times smaller than the site, the site area of No 78 is approximately 0.06ha whilst the area of the site is 0.32ha. Therefore, the site would not respect the existing development pattern along the frontage in terms of road frontage width and plot sizes. Therefore, the proposal is contrary to Policy CTY8.

Integration

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. Due to the existing grass verge between the road and the site the visibility spays are mostly existing and will only require minimal hedge removal along the front boundary of the site. The front boundary along with the existing northeast boundary would provide a suitable degree of enclosure for a new dwelling to integrate. The existing mature trees and vegetation along the northeast boundary of the host field would provide an adequate backdrop to allow a dwelling with a ridge height of 8m to visually integrate into the surrounding landscape. The design of the dwelling will be assessed at reserved matters if approval is forthcoming. The proposal complies with CTY13.

Impact on Character and Appearance of the Area

Policy CTY14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It has already been determined that the proposal is contrary to CTY 8. Paragraph 5.34 of policy PPS 21 states that many frontages in the countryside have gaps between houses or other buildings that provide relief and visual breaks in the developed appearance of the locality. I consider that the lands between Nos 72 and 78 provide an important visual break which should be retained and that the proposals shares a common frontage with existing development when travelling in either direction along Deerpark Road. Accordingly, the proposals would remove an

important visual break and create ribbon development on this part the road to the detriment of rural character. This would be contrary to criteria (b) (c) and (d) of Policy CTY 14.

Other Matters

The applicant has not sought to argue that the proposed development falls into any other category of acceptable development identified in Policy CTY1. No evidence has been advanced that the proposed development could not be located in a settlement. Therefore the proposal is contrary to CTY1 of PPS21.

Other Material Consideration.

I am satisfied that the proposal will not lead to a significant deterioration in road safety under the provisions of PPS 3 Access, Movement and Parking. Furthermore I am satisfied that the proposed site will not have significant adverse impact on neighbouring amenity and this will be further considered at RM stage if approval is forthcoming.

Neighbour Notification Checked

Yes

Summary of Recommendation: Contrary to CTY 1, 8 & 14 of PPS 21

Refusal Reasons

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent an infill opportunity and would, if permitted, result in the creation of ribbon development along this stretch of the Deerpark 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, result in a suburban style build-up of development when viewed with existing buildings and would, if permitted not respect the traditional pattern of settlement exhibited in that area and would, if permitted create a ribbon of development at this stretch of the Deerpark Road and therefore will result in a detrimental change to the rural character of the countryside.

Signature(s)

Date:

ANNEX	
Date Valid	30th November 2017
Date First Advertised	14th December 2017
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 72 Deerpark Road Castledawson Londonderry The Owner/Occupier, 76 Deerpark Road Castledawson Londonderry The Owner/Occupier, 77 Deerpark Road Castledawson Londonderry The Owner/Occupier, 78 Deerpark Road Castledawson Londonderry	
Date of Last Neighbour Notification	20th December 2017
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2017/1685/O Proposal: Proposed site of infill dwelling and domestic garage for residential purposes Address: 60m South West of 72 Deerpark Road, Castledawson, Decision: Decision Date: Ref ID: H/1984/0292 Proposal: HV O/H LINE (BM 6676) Address: DEERPARK ROAD, CREAGH AND LEITRIM, TOOMEBRIDGE Decision: Decision Date: Ref ID: H/2014/0202/RM Proposal: Dwelling and garage Address: 60m to the west of no.76 Deerpark Road, Castledawson, Decision: PG Decision Date: 03.10.2014	
Summary of Consultee Responses	
Drawing Numbers and Title	

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:

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1775/O	Target Date:
Proposal: Proposed dwelling and garage	Location: 30m South of 11 Motalee Road Magherafelt
Referral Route: Committee - Refusal - Contrary to CTY 1, 10 and 13 of PPS 21.	
Recommendation:	REFUSE
Applicant Name and Address: Mrs Gillian Montgomery 29 Thornhill Road Dungannon	Agent Name and Address: Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8nn
Executive Summary: Refusal	
Signature(s): Peter Henry	

Case Officer Report

Site Location Plan



Consultations:

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

Summary of Issues

Contrary to CTY 1, 10 and 13 of PPS 21.

Characteristics of the Site and Area

The site is located approximately 0.64km east of Magherafelt and it situated within the open countryside as identified in the Magherafelt Area Plan 2015. This is an outline application for a proposed farm dwelling and garage, in that the site is located within an agricultural field 30m south of 11 Motalee Road. It is noted that the entire site is bounded by a mix of mature trees and hedging however during the site visit it is noted that some of boundary had been cut along the eastern boundary, the land falls away from the roadside to the eastern boundary. To the north of the site sits a detached dwelling along with two large outbuildings. The site is to be accessed via an existing agricultural access which will be needed to be upgraded if approval is attained. The surrounding area is predominantly agricultural uses with a scattering of farm holdings and dwellings.

Relevant planning history

LA09/2015/0375/O - Dwelling and domestic garage - 110 m south west of 98 Desertmartin Road Magherafelt (with access form Mullaghboy Hill) for Thomas Stewart – Permission Granted – 27/11/15.

LA09/2015/0865/O - Proposed dwelling and garage on a farm - Land approx. 100m NW of 12 Lisnagleer Road, Dungannon, BT70 3LN for Cyril Montgomery – Permission Granted – 08/03/16.

Representations

There were two neighbour notifications sent out however no representations were received in connection with this application.

Description of Proposal

This is an outline application for a proposed dwelling and garage. The site is located 30m South of 11 Motalee Road, Magherafelt. On the basis of the information provided the application is to be considered as a farm case under CTY 10.

Planning Assessment of Policy and Other Material Considerations

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

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 10 – Dwellings on Farms

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

CTY14 – Rural Character

PPS 3 - Access, Movement and Parking;

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

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill

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

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

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

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

With respect to (a) DAERA were consulted and responded to confirm that the applicant's Farm Business ID has been in existence for at least the required six year period. Went on to confirm that the business has claimed Single Farm Payment, Less Favoured Compensatory Allowances or Agri Environment Schemes in the last six years. However it must be noted that the site is located on a farm map belonging to a different farm business.

With respect to (b), after a history search with regards to farm business it was revealed that the same farm business number has already been used in planning application LA09/2015/0865/O to attain an approval under CTY 10 of PPS 21. From this I am of the opinion that the proposal fails under this criteria as farm business has already used its 1 in 10 allocation. As mentioned the proposed site is located on a farm map under a different farm business and upon further investigation appears to have attained an approval under CTY 10 within the previous ten years also under planning reference LA09/2015/0375/O.

With respect to (c) there is some ambiguity over what lands are owned due to the differing names on the farm maps that were submitted, clarification was requested from the agent however was never forthcoming. It is noted that there is a group of farm buildings directly north of the site which could act a group of farm buildings that would allow the site to be able to successfully cluster with. After a land registry check it was confirmed that the lands to the north are under the ownership of the applicant however these lands have no association with the farm business on the P1C. Therefore whilst I acknowledge that the site is capable to visually link with a group of farm buildings it has failed to demonstrate that the site is able to visually link with a group that is associated with the submitted farm business. The policy does state where practicable that access should be taken from an existing laneway, in this case the site intends to use an existing agricultural access which will need to be upgraded.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is first worth noting that this is an outline application therefore exact siting and design details have not been put forward at this stage. Due to the existing landscaping and landform I am of the opinion that an appropriately designed dwelling would not be prominent in the landscape. However it is felt necessary that where best possible that as much of the existing

landscaping is retained and aided with additional landscaping where necessary therefore a landscaping plan is necessary to be submitted as part of any 'reserved matters' application. Due to the landform and nearby properties it is felt to restrict the ridge height to 6.0m from the finished floor level. Final note with regards to the clustering or visually linking with farm buildings it has already been demonstrated that the site does not cluster or visually link with farm buildings of the associated farm business therefore failing this criteria.

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 appropriate designed dwelling would not appear as visually prominent. I am of the opinion that the proposed application would not result in a suburban style build-up of development when viewed with existing and approved buildings. I am of the opinion that if permitted the proposed development would not result the creation of additional development through infilling and complies with CTY 14 of PPS 21.

Other policy and material considerations

PPS 3 - Access, Movement and Parking;
DFI Roads advised that they had no objection subject to conditions.

Consultations were also sent to NI Water and Environmental Health, all of which came back with no objection subject to conditions and informatives.

I have no ecological, flooding or residential amenity concerns.

As the application has complied under PPS 21 I must therefore recommend approval for the application.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal

Reasons for Refusal:

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

2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the site is able to visually link or cluster with a group of buildings associated with the farm business. It appears that the farm business has already benefitted from an approval for a dwelling under CTY 10 within the previous ten years.

3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to

cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

Signature(s)

Date:

ANNEX	
Date Valid	18th December 2017
Date First Advertised	11th January 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 11 Motalee Road Magherafelt Londonderry The Owner/Occupier, 6 Motalee Road Magherafelt Londonderry	
Date of Last Neighbour Notification	18th January 2018
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2017/1775/O Proposal: Proposed dwelling and garage Address: 30m South of 11 Motalee 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. 01
Type: Site Location Plan
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1788/F	Target Date:
Proposal: Proposed expansion of existing facilities to include a proposed Truss units, associated wood store and two light industrial units	Location: Site adjacent to and to the south of Ardboe Business Park Kilmascally Road Ardboe Dungannon
Referral Route: A major application.	
Recommendation:	
Applicant Name and Address: Quinn Building Supplies Ltd 78 Kilmascally Road Ardboe Dungannon	Agent Name and Address: Bannvale Architectural Services 104A Ballynease Road Portglenone BT44 8NX
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues Noise and sewerage

Characteristics of the Site and Area

This application is within the development limits of Ardboe as identified in the Cookstown Area Plan 2010. The site is also zoned for Industry/Mixed Business Use in the Cookstown Area Plan 2010.

The site itself is a relatively flat elongated field. It is bounded by various forms of fencing around the field. To the south is a mixture of sheds used for commercial business and also detached houses. To the North is Ardboe Business Park which contains a mix of business uses, including a hot food take away, beauty salon, a crèche and Ardboe Coldstores for example. There is a public road along the western boundary of the site and also the southern boundary of the site. Further along to the north east is a Creagh Concrete.

Description of Proposal

The application is for the proposed expansion of existing facilities to include a proposed truss unit, associated wood store and two light industrial units.

Planning Assessment of Policy and Other Material Considerations

Strategic Planning Policy Statement
Cookstown Area Plan 2010
Planning Policy Statement 3 - Access, Movement and Parking
Planning Policy Statement 4 - Planning and Economic Development

The SPPS recognises that a modern, efficient and effective planning system is essential to supporting the Executive, and wider government policy, in its efforts to promote long term economic growth in the interests of all the people in this region. The SPPS encourages a positive approach to appropriate economic development proposals, and proactively support and enable growth generating activities. 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.

Policy PED 1 "Economic Development in Settlements" of Planning Policy Statement 4 states that a development proposal of a Class B2 light industrial use or Class B3 general industrial use will be permitted in an area specifically allocated for such purposes in a development plan or in an existing industrial/employment area provided it is of a scale, nature and form appropriate to the location. As has been addressed above this application is for an industrial and business use on zoned land for industry/mixed business use in the Cookstown Area Plan 2010.

Planning Policy Statement 4, Policy PED 9 lists the General Criteria for Economic Development which a proposal for economic development will be required to meet and I will address each of these in turn.

- (a) The proposed uses are compatible with the surrounding land uses, given there are commercial premises and business on three sides of the application site. There are some individual residential properties but it is not considered that the proposed uses would be in conflict with these dwellings;
- (b) I do not consider the proposed uses will harm the amenities of the nearby residents as there are other commercial uses in between the dwellings and the application site;
- (c) There are no features of the natural or built heritage that it will have an adverse impact on;
- (d) There is one area of pluvial flooding in the north-west corner of the site. A drainage assessment has been submitted and DfI Rivers have confirmed that providing the

drainage works described in the DA and noted on drainage layout drawing C-02 RevA contained within the report are implemented and schedule 6 approval is obtained as stated, the proposed development should not increase the risk of flooding to the development or elsewhere. DfI Rivers stated they cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective.

- (e) Environmental Health have been consulted with the Acoustic Report;
- (f) There are no concerns in relation to emissions or effluent;
- (g) DfI Roads have been consulted and do not have any concerns with regards to road safety or capacity of the local road network to cope with the additional traffic being generated. The agent has listed the breakdown of additional traffic per day as 6 staff vehicles, 10 visitor/customer vehicles and 5 goods vehicles.
- (h) DfI Roads do not have any concerns with regards to access arrangements, parking and manoeuvring areas.
- (i) The application is within a zoned area of land in the development limits of Ardboe. There are no impacts on public rights of way that I am aware of. There is an Ulsterbus service to Ardboe and access for people with impaired mobility is not an area of concern and will also be covered under separate building regulations;
- (j) The site layout, building design and associated infrastructure are considered to be acceptable. A fence line has been shown with all landscaping to be planted behind the fence line and the visibility splays into each site;
- (k) There is an appropriate boundary treatment and means of enclosure has been provided to each of the four sites;
- (l) There is a 1.8m fence proposed along each of the site boundaries which provide a safe environment;
- (m) This application is in the development limits of Ardboe and not in the open countryside. Landscape proposals have been shown nonetheless.

Having considered the information above I am satisfied the proposed development fulfils the requirements of PPS 4.

A number of consultations were issued as part of the application. There are no issues raised by Rivers and Roads. NI Water have advised there is no capacity at the WWTW and an alternative interim measure is needed at the expense of the applicant which will not be adopted by NI Water. The agent has submitted details of a temporary package treatment plant and EHO have returned a consultation that does not raise any objections.

I recommend an approval of the application.

Neighbour Notification Checked	Yes
Summary of Recommendation:	
Approval. The proposal is in zoned industrial land in the Cookstown Area Plan and there are no objections.	
Conditions:	
1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.	
Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.	

2. The vehicular access, including visibility splays of 2.4m x 90m (RHS) and 2.4m x 62m (LHS), shall be in place, in accordance with Drawing No 02 bearing the date stamp 20th December 2017, prior to the commencement of any other works or other works or other development hereby permitted.

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

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

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

4. The access gradient(s) to the units shall not exceed 8% (1 in 12.5) over the first 5m 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.

Signature(s)

Date:

ANNEX	
Date Valid	20th December 2017
Date First Advertised	11th January 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 28 Kilmasally Road Dungannon Tyrone The Owner/Occupier, 32 Kilmasally Road Dungannon Tyrone The Owner/Occupier, 42 Kilmasally Road Dungannon Tyrone	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/1181/PAN Proposal: Expansion of existing facilities to include a proposed truss unit associated wood store and two light industrial units Address: Site adjacent to the South of Ardboe Business Park, Kilmasally Road, Dungannon, Decision: PANACC Decision Date: Ref ID: LA09/2017/1788/F Proposal: Proposed expansion of existing facilities to include a proposed Truss units, associated wood store and two light industrial units Address: Site adjacent to and to the south of Ardboe Business Park, Kilmasally Road, Ardboe, Dungannon, Decision: Decision Date: Ref ID: I/2006/0963/F Proposal: Extension of an Existing Concrete Storage Yard, for the Storage of Precast Floor Slabs Produced in the Adjoining Factory. Address: Site Adjacent to Creagh Concrete Factory, Kilmasally Road, Ardboe, Co.Tyrone. (north of existing yard) Decision:	

Decision Date: 21.03.2008

Ref ID: I/2006/1233/F

Proposal: Proposed 2918m2 extension to existing Coldstore, extension located to side (North) comprising of additional storage and office areas. Also Associated siteworks and plant room extension with 27 No. proposed car parking spaces & 3 HGV spaces

Address: Ardboe Coldstore Ltd, Ardboe Business Park, Kilmasally Road, Ardboe, Dungannon

Decision:

Decision Date: 23.07.2007

Ref ID: I/1992/0457

Proposal: Proposed Resource Centre, Workshop Units, cold store, serviced sites, horticultural park and associated access road

Address: 200 M NORTH EAST OF 32 KILMASCALLY ROAD MULLINAHOE ARDBOE

Decision:

Decision Date:

Ref ID: I/1992/0506

Proposal: Timber Store

Address: KINRUSH AIRFIELD ARDBOE COOKSTOWN

Decision:

Decision Date:

Ref ID: LA09/2016/0104/PAD

Proposal: Expansion of existing facilities to include a proposed truss unit, associated wood store and two light industrial units

Address: Site adj to and to the South of Ardboe Business Park, Kilmasally Road, Dungannon,

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Elevations and Floor Plans

Status: Submitted

Drawing No. 04

Type: Elevations and Floor Plans

Status: Submitted

Drawing No. 05

Type: Elevations and Floor Plans

Status: Submitted

Drawing No. 06

Type: Block/Site Survey Plans

Status: Submitted

Drawing No. 07

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: LA09/2018/0236/F	Target Date:
Proposal: Retention of re-use of redundant agricultural/rural building as a car mechanic business	Location: Rear of 275 Mountjoy Road Carnan Stewartstown Dungannon
Referral Route: Objections received	
Recommendation:	Approval
Applicant Name and Address: Mr Kevin McElhennon 275 Mountjoy Road Carnan Stewartstown Dungannon	Agent Name and Address: Blackbird Architecture 4 Glenree Avenue Dungannon BT71 6XG
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

Letters of Support	12
Letters of Objection	1
Number of Support Petitions and signatures	No Petitions Received

Number of Petitions of Objection and signatures	No Petitions Received
<p>Summary of Issues</p> <p>There was one representation made from the owners of neighbouring property No. 05 Carnan Road.</p> <p>Concerns raised were;</p> <p>High levels of noise disturbance Increased traffic flow Loss of privacy Long opening hours in summer months.</p>	
<p>Characteristics of the Site and Area</p> <p>The site comprises a rectangular plot of land located at number 275 Mounjoy Road, Carnan. The site includes a two storey detached dwelling finished in a white render with a dark tile roof. To the rear of the dwelling there are two existing sheds, a smaller one which has a domestic appearance and then a larger one further to the rear. The larger shed has a tall end with a barn style arched roof and is painted a dark green colour, the shorter section has a mono pitched roof painted the same colour with a concrete wall around the bottom. The barn style shed has a large open side to the east, and the smaller section has a large roller shutter door and seems to be where the focus of the mechanics business takes place. The rest of the site is a concrete yard and access lane and a small fenced grass area to the north which includes a small timber shed.</p> <p>The site lies within the open countryside outside all other areas of constraint. It lies a short distance to the East of the settlement of Stewartstown and to the West of Lough Neagh. The surrounding area is predominantly rural by nature with a scattering of single dwellings and farm holdings located along the roadside. There are single dwellings approx 50 metres to the North and the East of the proposed mechanics building.</p>	
<p>Description of Proposal</p> <p>The proposal seeks planning permission for the retention of a car mechanic business</p>	
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>Planning Assessment of Policy and Other Material Considerations The following planning publications and planning policy statements establish the policy context.</p> <ul style="list-style-type: none"> • Strategic Planning Policy Statement (SPPS) • Dungannon and South Tyrone Area Plan 2010 • Planning Policy Statement 21 <p>Dungannon Area Plan 2010- the site is located within unzoned land in the open countryside. The policy provisions of PPS21 and SPPS apply.</p> <p>Relevant Planning History</p>	

The building in question was an existing farm shed and has the appearance of a hay barn and storage shed. An Enforcement Case was opened under ref LA09/2018/0008/CA as it appeared that a vehicle repair business operated from the building without gaining planning approval. This building was initially built to accommodate livestock and to store farm equipment.

Planning Policy and 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. 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.

Departmental publications cancelled by the introduction of the SPPS include PPS 1: General Principles, PPS 5: Retailing and Town Centres and PPS 9: The Enforcement of Planning Control.

Paragraph 5.27 states that planning authorities should be guided by the principle that sustainable development should be permitted...unless the proposed development will cause demonstrable harm.

Paragraph 6.87 states that 'the guiding principle for policies and proposals for economic development in the countryside is to facilitate proposals likely to benefit the rural economy and support rural communities, while protecting or enhancing rural character and the environment, consistent with strategic policy elsewhere in the SPPS. Farm diversification, the re-use of rural buildings and appropriate redevelopment and expansion proposals for industrial and business purposes will normally offer the greatest scope for sustainable economic development in the countryside. Such proposals may occasionally involve the construction of new buildings, where they can be integrated in a satisfactory manner.'

In this case there are numerous letters of support from the local community and it is clear it will be of a benefit to and support the rural community and economy. This proposal does not necessitate the construction of a new building but the re use of an existing agricultural unit, with work carried out primarily within the existing unit there should be minimal impact on the rural character as a result. This type of development are common place within rural Northern Ireland, and the spirit of the entrepreneur is very much at the heart of the SPPS.

The use of the shed as a mechanics are all confined to one unit and will be kept as part of the existing larger domestic unit and not exist in separation, which can be confirmed by conditioning the use to the owner occupier.

The proposal is for the retention of the change of use from existing redundant farm shed to motor repairs. Part of the existing shed appears remain for storage, while the remaining is proposed to be for vehicle repairs.

PPS 4 - The Conversion and Reuse of Existing Non-Residential Buildings.

This policy states that planning permission will be granted to proposals for the sympathetic conversion, with adaptation if necessary, of a suitable non-residential building for a variety of alternative uses, including use as a single dwelling, where this would secure its upkeep and retention.

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; The building has been constructed some time, albeit for a different use, however, the block construction of the base would demonstrate that this is not a temporary building.

(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; The proposal involves very little change to the appearance of the existing building. The building will still appear as a farm shed with the addition of a set of roller doors at the rear and will therefore have no impact of the character of the locality.

(c) any new extensions are sympathetic to the scale, massing and architectural style and finishes of the existing building; There is no proposed extension.

(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; The nearest receptor is approx. 46 metres away from the shed. Between the buildings there is a concrete laneway, a post and wire fence, a small paddock and in addition a mature hedgerow. The applicant has also submitted an acoustics report which have been sent to environmental health for consultation. They responded with no objections subject to conditions.

(e) the nature and scale of any proposed non-residential use is appropriate to a countryside location; This type of car repair business is commonly found within the countryside and the size is not unusual, the building appears like a standard agricultural shed.

(f) access and other necessary services are available or can be provided without significant adverse impact on the environment, the character of the locality or road safety. TNI have been consulted and have no objections subject to conditions.

Overall, the scheme of conversion involves minimal intervention; and the overall scale of the proposal and intensity of use is considered appropriate to the locality.

In terms of character and scale, the building is acceptable. In terms of the proposed use as a vehicle repair business, as long as the works are confined to inside the building, opening hours are adhered too, including deliveries and dispatches, no more than 2 vehicles are stored in the outside yard at any one time in association with the business, and the compressor is situated as detailed on the plans, then I am of the view that the character of the area nor residential amenity will not be detrimentally impacted. In my view, through the use of planning conditions, the impacts of noise and visual amenity on nearby residential amenity and rural character will be at an acceptable level.

The proposal will not have any detrimental impact on natural or built heritage. The site is not located within or hydrologically connected to any N2K sites. It is the responsibility of the developer to ensure that proper drainage is in place.

Other considerations

There was one representation made from the owners of neighbouring property No. 05 Carnan Road.

Concerns raised were;

1)- High levels of noise disturbance

As detailed in the above report it is my opinion that through the use of planning conditions, the impacts of noise and visual amenity on nearby residential amenity and rural character will be at an acceptable level.

2) - Increased traffic flow

TNI have been consulted and have no objections subject to conditions, through planning conditions, vehicular traffic to the site will be contained to the main opening hours and finally the applicant has submitted a transport assessment form detailing low levels of traffic to the site. The site also has adequate space for parking and turning within the rear yard.

3)- Loss of privacy

Due to the separation distance of nearly 50 metres and the presence of a mature hedgerow there should be no overlooking and minimal impact on private amenity of the neighbouring dwellings.

4)- Long opening hours in summer months.

The response from environmental health has detailed specific opening hours which would alleviate this problem. Planning conditions will ensure these hours are adhered too.

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

Transport NI recommend visibility splays of (2.4m x 33m) in Southern splay and (2.4m x 60m) in Northern splay so as to provide a safe and satisfactory access to the public road.

Environmental Health (EHD) were consulted on this proposal and have no objections subject to planning conditions including;

- hours of operation 0900 to 1800 Mon -Fri, and, 0800-1300 Sat
- no deliveries or dispatches outside hours of operation
- no working on cars shall be undertaken in the external yard area,
- the compressor should be situated and enclosed as per drawings.

Recommendation Approval

Neighbour Notification Checked

Yes

Conditions

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

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

2. The vehicular access, including visibility splays of (2.4m x 33m) in Southern splay and (2.4m x 60m) in Northern splay in both directions, shall be in place, in accordance with Drawing No. 01 bearing the date stamp 20th February 2018, within six weeks from the date of this decision notice.

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

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

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

4. The hours of operation of the business should be restricted to 09:00- 18:00hrs Monday to Friday and 08:00- 13:00 hrs Saturday.

Reason; In the interests of neighbouring residential amenity.

5. No deliveries or dispatches should take place outside of the opening hours.

Reason; In the interests of neighbouring residential amenity.

6. All working on cars should take place in the designated workshop. No servicing or repairs should take place outside of this area.

Reason; In the interests of neighbouring residential amenity.

7. The compressor should be situated and enclosed as detailed in the technical drawing 02 dated 20 Feb 2018.

Reason; In the interests of neighbouring residential amenity.

8. The car mechanic business hereby permitted shall only be used by the owner or occupier of number 275 Mountjoy Road as shown on the approved plan attached and any resident dependents.

Reason: The site is located in the rural area where it is the policy of the Council to restrict development and the planning permission hereby granted, in the interests of neighbouring residential amenity.

9. Notwithstanding the provisions The Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revoking and re-enacting that Order, the provisions permitted under Schedule 1, Part 9, Class A, B and C of that Order shall not be carried out without the prior written consent from Mid Ulster District Council.

Reason: To control the size and scale of the car mechanics hereby approved and to preserve the amenity of surrounding residents.

10. There shall be no outdoor storage of machinery, equipment or material associated with the car mechanics hereby approved.

Reason: In the interest of visual and residential amenity.

11. No part of the site shall be used for the sale or display of motor vehicles.

Reason: In the interest of visual and residential amenity.

Informatives

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

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

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

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

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

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

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

REASON: In the interest of public safety and traffic management.

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

REASON: In the interest of public safety and traffic management.

Signature(s)

Date:

ANNEX	
Date Valid	20th February 2018
Date First Advertised	8th March 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) S Quinn 11 Back Lower Road, Dungannon, Tyrone, Northern Ireland, BT71 5ER Stuart Hamilton 12 Carnan Road, Stewartstown, Tyrone, Northern Ireland, BT71 5NU Joseph Duffy 251 Mountjoy Road, Stewartstown, Tyrone, Northern Ireland, BT71 5LJ Michael Duffy 266, Mountjoy Road, Stewartstown, Tyrone, Northern Ireland, BT71 5HA Eamon O'Neill 273 Mountjoy Road, Dungannon, Co Tyrone The Owner/Occupier, 273 Mountjoy Road, Stewartstown, Tyrone, BT71 5HA, The Owner/Occupier, 275 Mountjoy Road, Stewartstown, Tyrone, BT71 5AE, Robert Crawford 31 Ballynagowan Road, Stewartstown, Tyrone, Northern Ireland, BT71 5AG LeePaul Brackenbury 321 Mountjoy Road, Stewartstown, Tyrone, Northern Ireland, BT71 5LJ Mark Howell 4 Carnan Road, Stewartstown, Tyrone, Northern Ireland, BT71 5NU Sydney and Shirley Walker 47 Drumcairne Road, Stewartstown, Co. Tyrone, BT71 5AE Ernest & Heather Crawford 49 Ballynafeagh Road, Stewartstown, Tyrone, Northern Ireland, BT71 5NT The Owner/Occupier, 5 Carnan Road Stewartstown Tyrone Brendan Rooney 5 Carnan Road, Stewartstown, Tyrone, Northern Ireland, BT71 5NU Raymond Scullion 67 Ballynafeagh Road, Stewartstown, Tyrone, Northern Ireland, BT71 5NT Leanne Megaw Email Address	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No

Planning History

Ref ID: LA09/2018/0236/F

Proposal: Retention of re-use of redundant agricultural/rural building as a car mechanic business

Address: Rear of 275 Mountjoy Road Carnan Stewartstown Dungannon,

Decision:

Decision Date:

Ref ID: I/1997/0222

Proposal: Replacement dwelling and garage

Address: SITE ADJACENT TO 271 MOUNTJOY ROAD COALISLAND DUNGANNON

Decision:

Decision Date:

Ref ID: I/1997/0415

Proposal: Dwelling and garage

Address: ADJACENT TO 271 MOUNTJOY ROAD COALISLAND

Decision:

Decision Date:

Ref ID: I/2004/1450/RM

Proposal: Replacement one & half storey domestic dwelling (including slight re-location) with domestic twin garages.

Address: 275 Mountjoy Road, Dungannon

Decision:

Decision Date: 06.05.2005

Ref ID: I/2004/0924/O

Proposal: Replacement one and a half domestic dwelling (including slight relocation) with domestic twin garages.

Address: 275 Mountjoy Road, Dungannon

Decision:

Decision Date: 30.10.2004

Ref ID: I/2007/0215/RM

Proposal: Proposed new dwelling and garage.

Address: Approx 85m North north east of no. 275 Mountjoy Road, Dungannon.

Decision:

Decision Date: 21.06.2007

Ref ID: I/2004/0050/O

Proposal: Domesic Dwelling with Twin Domestic Garages

Address: Approximately 85 m North North East of 275 Mountjoy Road, Dungannon

Decision:

Decision Date: 19.04.2004
Summary of Consultee Responses Transport NI recommend visibility splays of (2.4m x 33m) in Southern splay and (2.4m x 60m) in Northern splay so as to provide a safe and satisfactory access to the public road. Environmental Health (EHD) were consulted on this proposal and have no objections subject to planning conditions including; - hours of operation 0900 to 1800 Mon -Fri, and, 0800-1300 Sat - no deliveries or dispatches outside hours of operation -no working on cars shall be undertaken in the external yard area, -the compressor should be situated and enclosed as per drawings.
Drawing Numbers and Title
Drawing No. 02 Type: Elevations and 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:

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/0469/O	Target Date:
Proposal: Proposed site of infill dwelling and domestic garage	Location: 70 m North West of 81 Ballymacombs Road Bellaghy
Referral Route: To Committee - Refusal - Contrary to policies CTY 1, 8 and 14.	
Recommendation:	REFUSE
Applicant Name and Address: William Mulholland 83 Ballymacombs Road Bellaghy BT45 8JW	Agent Name and Address: Diamond Architecture 77 Main Street Maghera BT46 5AB
Executive Summary: Refusal	
Signature(s): Peter Henry	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice

Representations:

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

Summary of Issues

Contrary to policies CTY 1, 8 and 14.

Characteristics of the Site and Area

The site is located approximately 2.46 km from the settlement limit of Bellaghy and is defined to be in the open countryside as per the Magherafelt Area Plan 2015. The site is located 70m North west of 81 Ballymacombs Road and is currently a grassed area used for storage. The site is bounded by post and wire fencing on all boundaries with a line of mature trees along the southern boundary. The site is accessed off a private laneway that serves one other dwelling off the Ballymacombs Road. The immediate locality is characterised by residential development, with the wider surrounding area is characterised by agricultural land uses.

Relevant planning history

Reference	Location	Proposal/Complaint	Status	Date
LA09/2018/0469/O	70 m North West of 81 Ballymacombs Road	Proposed site of infill dwelling and domestic garage	VALID APPLICATION RECEIVED	
LA09/2015/0806/NMC	79B Ballymacombs Road, Tamlaghtduff	The dwelling to be mirrored on the site so that the rear garden is increased	NON MATERIAL CHANGE GRANT	
H/2008/0121/RM	Adjacent to 81 Ballymacombs Road, Ballymacombs	Proposed dwelling & garage	PERMISSION GRANTED	18.08.2008
H/2007/0892/F	Site adjacent to 81 Ballymacombs Road	New dwelling & garage	PERMISSION GRANTED	16.10.2008
H/2006/0823/F	Site adjacent to 81 Ballymacombs Road	Dwelling and garage	PLANNING APPEAL WITHDRAWN	
H/2003/1515/O	Adjacent to 71 Ballymacombs Road, Ballymacombs	Site of new dwelling and garage.	PERMISSION GRANTED	24.02.2005
H/2003/0320/O	Site adjacent to 81 Ballymacombs Road	Site of single storey dwelling and garage	PERMISSION GRANTED	28.08.2003

Representations

There was only one notification letter sent out however no representations were received on this application.

Description of Proposal

This is an outline application for the proposed site of infill dwelling and domestic garage.

Planning Assessment of Policy and Other Material Considerations

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

Magherafelt Area Plan 2015
Strategic Planning Policy Statement (SPPS)
PPS 21 Sustainable Development in the Countryside

The application is for a proposed site of infill dwellings and domestic garage. The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development in the countryside 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. As identified in the submitted Design and Access Statement the agent has argued that the continuous built up frontage includes Nos. 79b, 81 and 83. However whilst I acknowledge the attempt to constitute these buildings as the built up frontage however I am of the opinion that this is not the case, reasoning for this is that nos. 81 and 83 front on to the Ballymacombs Road whilst the site and No. 79b front onto the private

laneway off the Ballymacombs Road. For this reason the buildings cannot constitute as a continuous built up frontage if they do not share a common frontage. For this reason I am of the opinion that this application fails the policy requirements of CTY 8.

CTY 13 states that the proposed development must still be able to visually integrate into the surrounding landscape and is of appropriate design. As this is only an outline application no design details have been submitted however I am of the opinion that an appropriately designed dwelling would not appear prominent in the landscape. It is noted that there is a line of mature trees along the southern boundary which should be retained however additional planting would be necessary to aid integration therefore a landscaping scheme would be needed. It is felt necessary to restrict any approved dwelling in this location to a single storey as not to have an adverse impact on 79b and to reflect the area.

Policy CTY 14 allows for a building in the countryside where it does cause a detrimental change to, or further erode the rural character of an area. As stated an appropriately designed dwelling would not appear prominent in the landscape. However as it has been demonstrated that the site does not constitute compliance under CTY 8 that I am of the opinion that it therefore does not respect the traditional pattern of development and would add to a ribbon of development along the Ballymacombs Road which would result in a detrimental change to the character of the area.

After discussions with the agent in which it was noted that the application did not comply under CTY 8 it was raised by the agent that the application would be amended to be considered under CTY 10 instead. However after numerous weeks no farm details were ever provided and after a final letter this application must therefore proceed to committee. It must be noted that after a closer inspection it appeared that the dwelling adjacent to the proposed site had already been sold off the farm meaning the application cannot be considered as a farm case. No other policy considerations were raised by the agent, from this I still hold the opinion of a refusal.

There are no ecological, neighbouring amenity or flooding concerns.

A Consultation was sent to DFI Roads who responded to no objection subject to conditions and informatives.

The proposal has failed under CTY 1, 8, and 14 of PPS 21 therefore I must recommend refusal.

Neighbour Notification Checked	Yes
Summary of Recommendation:	
Refusal	
Reasons for Refusal:	
<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 proposal would, if permitted, result in the creation of ribbon development along the Ballymacombs Road.</p>	

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

Signature(s)

Date:

ANNEX	
Date Valid	4th April 2018
Date First Advertised	19th April 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 79b, Ballymacombs Road, Bellaghy, Londonderry,,	
Date of Last Neighbour Notification	13th April 2018
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2018/0469/O Proposal: Proposed site of infill dwelling and domestic garage Address: 70 m North West of 81 Ballymacombs Road, Bellaghy, Decision: Decision Date: Ref ID: LA09/2015/0806/NMC Proposal: The dwelling to be mirrored on the site so that the rear return is to the West of the site rather than to the East as previously approved Address: 79B Ballymacombs Road, Tamlaghtduff, Bellaghy, Decision: CG Decision Date: Ref ID: H/2008/0121/RM Proposal: Proposed dwelling & garage Address: Adjacent to 81 Ballymacombs Road, Bellaghy Decision: Decision Date: 18.08.2008 Ref ID: H/2007/0892/F Proposal: New dwelling & garage Address: Site adjacent to 81 Ballymacombs Road, Bellaghy Decision:	

Decision Date: 16.10.2008

Ref ID: H/2006/0823/F

Proposal: Dwelling and garage

Address: Site adjacent to 81 Ballymacombs Road, Bellaghy

Decision:

Decision Date:

Ref ID: H/2003/1515/O

Proposal: Site of new dwelling and garage.

Address: Adjacent to 71 Ballymacombs Road, Bellaghy.

Decision:

Decision Date: 24.02.2005

Ref ID: H/2003/0320/O

Proposal: Site of single storey dwelling and garage

Address: Site adjacent to 81 Ballymacombs Road, Bellaghy.

Decision:

Decision Date: 28.08.2003

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. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 4 th September 2018	Item Number:
Application ID: LA09/2018/0481/O	Target Date: 13 th July 2018
Proposal: Dwelling and garage CTY2A	Location: Land adjacent and North of 2 Glenarny Road Cookstown
Referral Route: Proposal does not comply with all criteria contained within Policy CTY 2A however is being recommended as an approval on the basis that it be considered an exception to policy.	
Recommendation: Approve	
Applicant Name and Address: Mr P & Mrs U Rogers 2 Glenarny Road Cookstown BT80 9DX	Agent Name and Address: 2 Plan NI 47 Lough Fea Road Cookstown BT80 9QL
Executive Summary: The subject cluster does not appear as a visual entity in the local landscape and the site is not bounded on at least two sides by development therefore it fails to comply with policy CTY2A of PPS21. It does however act as a “book end” to an existing ribbon of development and if a dwelling were to be approved on this site it would not harm rural character. As such, members are asked to consider approving this application as an exception to rural policy.	
Signature(s): <div style="height: 40px; border: 1px solid black;"></div>	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	NI Water - Single Units West - Planning Consultations	Content
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

There have been no objections to this application from any third party. The following properties have been notified:

179 Drum Road, Cookstown, Tyrone, BT80
 1A Glenarny Road, Cookstown, Tyrone, BT80 9DX
 26 Upper Kildress Road, Cookstown, Tyrone, BT80 9RS,
 4 Glenarny Road, Cookstown, Tyrone, BT80 9DZ,
 6 Glenarny Road, Cookstown, Tyrone, BT80 9DZ,

Characteristics of the Site and Area

The application site is a 1.4 hectare plot of land located a 2 Glenarny Road, Cookstown. It is outside the development limits of any settlement defined in the Cookstown Area Plan 2010. The

site comprises a large detached two storey red brick dwelling and its extensive garden area. Included within the red line is also a small triangular field to the North of the existing dwelling which is defined by low hedgerow. The entire site is relatively flat and is well screened from the public road, with all site boundaries defined by mature trees and thick hedgerow. There is a public Lay-By and picnic area located to the North of the Northern site boundary. The host dwelling on the site has two accesses, the main one onto the Glenarny Road and a secondary onto the lay-by/A505.

This area is rural in character with a low development pressure. The main A505, a Protected Route, runs just North of the site. To the West of the site is Drum Manor Historic Park, Garden and Demesne and its associated Listed Gate Lodge and Screen and Drum Manor House, which is also Listed. There are two detached dwellings to the North of the site at the opposite side of the A505. To the South of the site is another detached dwelling.

Description of Proposal

This is an outline application for a dwelling in a cluster. It is proposed to site the dwelling in the small triangular field to the Immediate North of number 2 Glenarny Road. An application for a dwelling on this site was submitted in 1999 under planning reference I/1999/0232 and was subsequently withdrawn. A second application was submitted in 2005 under planning reference I/2005/0848/O. This was application was refused. The decision was appealed under 2006/A0895 and the appeal was dismissed.

Planning Assessment of Policy and Other Material Considerations

The primary policy considerations in this assessment are:

- Cookstown Area Plan 2010
- SPPS – Strategic Planning Policy Statement for Northern Ireland
- PPS 3 – Access, Movement and Parking
- PPS 6 – Planning, Archaeology and the Built Heritage
- PPS21 – Sustainable Development in the Countryside

Cookstown Area Plan 2010

This site is outside any settlement defined in the Cookstown Area Plan 2010, therefore existing rural planning policy must be adhered to.

SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS gives provision for development in the countryside subject to a number policy provisions, including new dwellings in existing clusters. There has been no change in policy direction in the SPPS in respect of new dwellings in existing clusters, therefore CTY 2a of PPS 21 remains my primary policy consideration in this assessment.

PPS21 – Sustainable Development in the Countryside

Policy CTY 2a – New Dwellings in Existing Clusters

This policy permits a dwelling at an existing cluster where all the following criteria are adhered to:

The cluster lies outside of a farm and consists of 4 or more buildings of which at least 3 are dwellings.

It is evident from site inspection that the cluster lies outside of a farm. The development to be considered in this cluster includes, 2 detached dwellings at number 2 and number 4 Glenarny Road. 2 detached dwellings to the North of the site, number 179 Drum Road and 26 Upper Kildress Road. Drum Manor Gate Lodge and Drum Manor House. It could be argued that the lay-by and picnic area also form part of this cluster.

The cluster appears as a visual entity in the local landscape.

This cluster of buildings and ancillary developments, as referred to above, do not appear as a visual entity in this particular area. This is due to the presence of the mature vegetation along the Northern site.

The cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads.

This site is located where the Glenarny Road meets the A505. This is a T-Junction and not a cross roads. The site is however just opposite the Listed Gate Lodge to Drum Manor House. It is my opinion that this can be regarded as a focal point in this immediate area.

The site provides a suitable degree of enclosure and is bounded on at least 2 sides with other development in the cluster.

It is proposed to site a dwelling in the small rectangular field in the Northern portion of the site. It will benefit from a mature and heavily vegetated Northern boundary. The road side boundary with the Glenarny road is also vegetated. These two boundaries will provide a suitable degree of enclosure for a dwelling on this site. This site is not however bounded on 2 sides by development. It is bounded to the South by number 2 Glenarny Road but the remaining boundaries are void of any development.

Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter the existing character, or visually intrude into the open countryside.

A dwelling on this site will not extend development outside of this cluster. Given the existing mature boundary treatment I am satisfied that a dwelling on this site will not visually intrude into the open countryside.

Development will not adversely impact on residential amenity

A dwelling located on this site, if appropriately sited and designed will not impact on the residential amenity of number 2 Glenarny Road. The overall site is of a size that there will be no overlooking/loss of privacy, no loss of light and no overshadowing. Number 2 still has more than adequate private amenity space.

CTY 8 – Ribbon Development

The proposal cannot be considered a gap site within a substantial built up frontage as there are no buildings to the immediate North of the site. The ribbon consists of a dwelling and garage at number 6, a dwelling and garage at number 4 and a dwelling at number 2, all of which front onto the Glenarny road. The proposed site would be the last pocket of land that could be developed to the Northern end of this ribbon. The important point to note here is the presence of the mature Northern boundary prevents any views into this site from the A505 and acts as a book end to this ribbon and if this site were to be developed it would not have any negative impact on the rural character of this area.

Members are therefore requested to consider this application as an exception to policies CTY 2a and CTY 8.

Policy CTY 13 – Design and Integration

This site is flat and benefits from mature boundary treatment. There is also a large detached two storey dwelling within the site. On this basis I am satisfied that a 2 storey dwelling with a maximum ridge height of 8m from FFL will not appear overly prominent in the local landscape. Any critical views will be short term and will be from the minor Glenarny Road and not the main A505. All existing boundary treatment will be conditioned to be retained to ensure integration. New landscaping will be necessary but will not be primarily relied upon for integration. As this is an outline application design is not a consideration. A dwelling on this site will benefit from a backdrop of mature trees which will be appreciated more during the spring and summer months.

CTY 14 – Rural Character

For the reasons noted above under CTY 13 I am satisfied that a dwelling on this site will not be unduly prominent in the local landscape. It will not create or add to ribbon development. Given the existing development in the area it can be considered that there is an existing sense of build-up. Another dwelling will not create build up. On this basis there will be no negative impact on rural character.

PPS 3 – Access, Movement and Parking

The concept plan submitted shows the new access joining up with the existing access for number 2 so that there will be no new direct access onto the Glenanry Road. DFI Roads have raised no concerns. They do require the submission of a 1:500 block plan at Reserved Matters stage showing provision of 2.4m x 70m splays and a 70 forward site distance. This can be a condition of approval.

PPS 6 – Planning, Archaeology and the Built Heritage

Historic Environment Division (HED) have been consulted as the site is adjacent to a Listed Manor House and a Listed Gate Lodge and Screen. They have responded stating that as there is mature planting and landscaping bounding the application site they are content that the gate screen and lodge are sufficiently screened from the proposed dwelling, thereby reducing any potential impacts. They have recommended conditions to retain boundaries and to protect these boundaries during works. On the basis of this advice I am satisfied that this proposal shows compliance with policies BH 11 of PPS 6 (Development affecting the setting of a Listed Building)

Neighbour Notification Checked

Yes

Summary of Recommendation:

If members are agreeable to accepting the departure from policy in this instance, I recommend the application to be approved subject to standard planning conditions.

Conditions

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

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

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

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

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

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

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

4. The proposed dwelling shall have a ridge height of 8.0 metres or less above finished floor level.

Reason: To ensure that the development is not prominent and is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21 - Sustainable Development in the Countryside.

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

Reason: In the interest of visual amenity.

6. No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by Mid Ulster Council.

Reason: To ensure the dwelling integrates into the landform.

7. Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 70m and any forward sight line, shall be provided in accordance with the 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.

8. The existing mature trees and vegetation along the site boundaries 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 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 and to protect the setting of the Listed Gate Lodge and Screen

9. All existing boundary treatment should be protected during construction works.

Reason: To ensure the proposed works respect the character of the setting of the Listed Gate Lodge and Screen

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

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

Signature(s)

Date:

ANNEX	
Date Valid	30th March 2018
Date First Advertised	19th April 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Glenarny Road, Cookstown, Tyrone, BT80 9DX The Owner/Occupier, 179 Drum Road Cookstown Tyrone The Owner/Occupier, 1A Glenarny Road, Cookstown, Tyrone, BT80 9DX The Owner/Occupier, 26 Upper Kildress Road Cookstown Tyrone The Owner/Occupier, 3 Glenarny Road, Cookstown, Tyrone, BT80 9DX The Owner/Occupier, 3A Glenarny Road, Cookstown, Tyrone, BT80 9DX The Owner/Occupier, 4 Glenarny Road Cookstown Tyrone The Owner/Occupier, 6 Glenarny Road Cookstown Tyrone	
Date of Last Neighbour Notification	24th April 2018
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: I/1984/0187 Proposal: PROPOSED DWELLING HOUSE Address: DRUM, COOKSTOWN Decision: Decision Date: Ref ID: I/1984/018701 Proposal: ERECTION OF DWELLING Address: DRUM, COOKSTOWN Decision: Decision Date:	

Ref ID: LA09/2018/0481/O

Proposal: Dwelling and garage CTY2A

Address: Land adjacent and North of 2 Glenarny Road, Cookstown,

Decision:

Decision Date:

Ref ID: I/1988/0192

Proposal: SITE FOR DWELLING

Address: GLENARNEY ROAD/DRUM ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1989/0327

Proposal: Dwelling and Garage

Address: AT JUNCTION OF GLENARNY ROAD & DRUM ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1999/0232

Proposal: Proposed Dwelling and Domestic Garage

Address: Adjacent to 2 Glenarny Road Cookstown

Decision:

Decision Date: 22.05.2000

Ref ID: I/2005/0848/O

Proposal: Site for dwelling house and garage

Address: Adjacent to No2 Glenarny Road, Cookstown

Decision:

Decision Date:

Ref ID: I/1990/0188

Proposal: Erection of dwelling and garage

Address: AT JUNCTION OF DRUM ROAD AND GLENARNY ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1989/0207

Proposal: Dwelling and Garage

Address: AT JUNCTION OF GLENARNEY ROAD AND DRUM ROAD COOKSTOWN

Decision:

Decision Date:

Summary of Consultee Responses

DFI Roads – No objections subject to conditions
 HED – No objections subject to conditions
 NIW – No objections

Drawing Numbers and Title

Drawing No. 03
 Type: Site Layout or Block Plan
 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: LA09/2018/0501/O	Target Date:
Proposal: Proposed site for new 2 Storey attached town house.	Location: Adjacent to No.6 Fireside Close Knockloughrim Magherafelt.
Referral Route: Contrary Planning Policy Statement 7: Quality Residential Environments, Policy QD1 and 'Creating Places'	
Recommendation:	Refusal
Applicant Name and Address: Mr Aubrey Shiels 6 Fireside Close Knockloughrim Magherafelt. BT45 8SD	Agent Name and Address: Gibson Design & Build 25 Ballinderry Bridge Coagh Cookstown BT80 0BR
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	No Objection
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection

Representations:

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

Summary of Issues – Impact on residential amenity overdevelopment and loss of views

Characteristics of the Site and Area

The site is located in Knockcloughrim in accordance with the Magherafelt Area Plan 2015. The site is located adjacent to No 6 Fireside Close an end terrace two storey dwelling. The site outline in red consists of a large single storey detached garage and an area of hardstanding located to the front of the garage. The site measures 25m along the northeast boundary and tapering down to 15mm along the southeast boundary and is 11m wide. The site is bound by post and rail fence along the southwest and 1.6m close board fence along the southeast boundary.

The area is predominantly residential made up of single and two storey dwellings.

Description of Proposal

An outline application for 1 No. two storey dwelling attached to gable of No 6 Fireside Close.

Planning Assessment of Policy and Other Material Considerations**Relevant Site History:**

H/2003/0263/F - Dwelling and garage. Approved 13th September 2006

H/2006/1034/F - Proposed revised house type and resiting of dwelling and Garage from that approved under H/03/0263/F. Refused 15th June 2007

H/2007/0602/F - Proposed New Housing Development consisting of 3 no. Terraced Townhouses, 4 no. Semi-detached Dwellings & Detached garages. Approved 9th May 2011

LA09/2016/1388/O - Proposed Site for 2 Storey Detached Town House. Approved 8th February 2017

LA09/2017/0408/RM - Proposed site for new 2 storey detached town house and attached garage. Approved 3rd July 2017

LA09/2018/0723/F - Proposed change of use from communal land to extension of dwelling curtilage. Current application

Representations:

2 neighbour notification letters were sent to the occupiers No 6 Fireside Close and No 345 Hillhead Road Knockloughrim

1 letter of representation has been received from Mr and Mrs Wilson who resides at No 345 Hillhead Road a two storey dwelling which back onto the site along its south east boundary, points raised:

1. Overlooking
2. Loss of privacy
3. Overshadowing
4. Overdevelopment
5. Loss of views and encroachment

The objections shall be considered in greater detail in the policy assessment below.

Development Plan and Key Policy Consideration:

Magherafelt Area Plan 2015.

SPPS

Planning Policy Statement 3: Access, Movement and Parking (PPS 3)

Planning Policy Statement 7: Quality Residential Environments (PPS7)

Creating Places: Achieving Quality in Residential Developments

Planning Policy Statement 12: Housing in Settlements (PPS12)

DCAN 8: Housing in existing Urban Areas

DCAN 15 - Vehicular Access Standards 2nd Edition.

The application site is defined as white land and is situated within the settlement limits of Knockloughrim by the Magherafelt Area Plan 2015 and therefore the principle of development is acceptable subject to the relevant policy tests.

Policy QD1 of PPS7 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 1 No. dwelling located in the side garden of No 17 Meetinghouse Avenue. The Policy sets out nine criteria which all residential development proposals are expected to meet. The Council's has concerns relating to criteria (a), (c), and (h).

Criterion (a) requires development to respect 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 site outlined in red comprises of a single storey garage and side garden belonging to the end terraced dwelling located at No 6 Fireside Close. The application proposes to demolish the existing garage to make way for a new end terraced two storey dwelling. Due to the site narrowing in at the rear the proposed dwelling will have to sit forward of the existing terrace breaking the established building line which would not respect the surrounding context of the area. In terms of plot size the proposed site is broadly similar to existing plots sizes within the terrace. Scale, proportions, massing and appearance of buildings, structures and landscape and hard surfaced area are not relevant for this application. The proposal is contrary to Criterion (a).

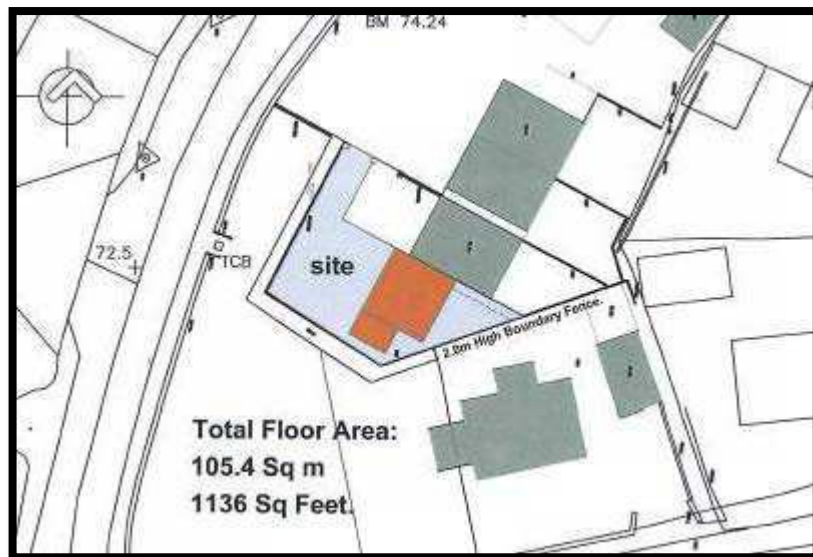
Criterion (c) requires adequate provision of public and private open space and landscaped areas as an integral part of the development. Paragraph 5.19 of Creating Places refers to private open space provision and states that in lower density areas all houses should have an area of private amenity space behind the building line and should be calculated as 70sqm per house or greater and while smaller areas will be more appropriate for houses with 1 or 2 bedrooms or houses located opposite or adjacent to public or communal open space. Creating places goes on to state for any individual house an area less than around 40sqm will generally be unacceptable. The private amenity space for the existing terrace properties ranges from 65sqm up to 90sqm. I am satisfied that an adequate amount of amenity space will be retained for the existing dwelling at No 6, however the proposed amenity space for the new dwelling is a triangular shaped area approximately 30sqm. Whilst I acknowledge that there is a significant area of open space located southeast of the site, the proposed amenity space would still fall short of 40sqm required for a house with 1 to 2 bedrooms and house with 3 bedrooms would require more. I would also have concerns regarding the restrictive triangular shape and usability of the space for practical tasks such as children playing, drying clothes and space for a potential house extension. The proposal is contrary to Criterion (c).

Criterion (h) of indicates that the design and layout should 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. Creating Places states where a development abuts the private garden areas of existing properties, a separation distance greater than 20m will generally be appropriate to minimise overlooking. The image below shows the rear of the objector's dwelling backing onto the existing garage which will be demolished to make way for the proposed dwelling.



The objector's property also sits approximately 1m lower than the proposal site and due to the orientation of the site rather than backing directly onto the objector's property it will sit at a 45 degree angle. The concept plan shows 7.5m separation distance between the proposal and the objector's dwelling which falls significantly short of the recommended 20m. Approval has also been granted for a new two storey dwelling located immediate south of the site under applications LA09/2016/1388/O and LA09/2017/0408/RM. Construction has not yet commenced, however the proposal will remain live until 2022. The concept plan shows that a 7m separation distance between the proposal and the approved dwelling. A two storey dwelling this close to a common boundary is likely to have a negative effect in terms of overlooking, overshadowing and dominance on the occupants of No 345 and the future occupants of the new dwelling located south of the proposal site.

With regards to overshadowing and taking into account the path of the sun rising in the east early morning and setting in the west late evening, I am satisfied that the proposal will not significantly overshadow either the existing residential properties at No 345 or the dwelling approved under applications LA09/2016/1388/O and LA09/2017/0408/RM. The proposal is contrary to Criterion (h).



The proposal is contrary to Criterion (h).

Neighbour Notification Checked **Yes**

Summary of Recommendation: Refuse - Contrary to QD1 of PPS 7.

Refusal Reason

1. The proposed development is contrary to policy QD1 of Planning Policy Statement 7: Quality Residential Environments, and associated guidance in that it would if permitted not respect the surrounding context, result in over development of the site creating undesirable living conditions for prospective residents due to overlooking and insufficient private amenity space. The proposal, if permitted, would also be harmful to the living conditions of existing residents through overlooking, dominance and loss of private amenity space. The proposed development would therefore fail to create a quality residential environment.

Signature(s)

Date:

ANNEX	
Date Valid	12th April 2018
Date First Advertised	26th April 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 345 Hillhead Road, Knockloughrim, Magherafelt Wilson 345, Hillhead Road, Knockcloghrim, Londonderry, Northern Ireland, BT45 8QT The Owner/Occupier, 6 Fireside Close Knockcloghrim Londonderry	
Date of Last Neighbour Notification	30th April 2018
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2018/0501/O Proposal: Proposed site for new 2 Storey attached town house. Address: Adjacent to No.6 Fireside Close, Knockloughrim, Magherafelt., Decision: Decision Date:	
Ref ID: H/2007/0602/F Proposal: Proposed New Housing Development consisting of 3 no. Terraced Townhouses, 4 no. Semi-detached Dwellings & Detached garages, 1 no. Detached Dwelling & Detached Garage & conversion of ex public bar/dwelling to 3 no. Town Houses. Address: Site No's 1,3 & 5 Quarry Road, Knockloughrim, Magherafelt (amended scheme) Decision: Decision Date: 09.05.2011	
Ref ID: H/2003/1007/F Proposal: Alterations and additions to nite club area. Address: Fireside Inn, Quarry Road, Knockloughrim. Decision: Decision Date: 05.07.2005	
Ref ID: H/1977/0384 Proposal: BAR EXTENSION AND CONVERSION OF OUTHOUSING Address: FIRESIDE INN, KNOCKLOUGHRIM Decision: Decision Date:	

Ref ID: H/1991/0514

Proposal: CONVERSION OF STORES TO EXTEND LICENSED PREMISES

Address: 1-3 QUARRY ROAD KNOCKLOUGHRIM

Decision:

Decision Date:

Ref ID: H/1988/0622

Proposal: ALTS AND ADDS TO LICENSED PREMISES

Address: FIRESIDE INN 3 QUARRY ROAD KNOCKLOUGHRIM

Decision:

Decision Date:

Ref ID: H/1996/0628

Proposal: NEW TOILETS AND PUBLIC BAR

Address: FIRESIDE INN QUARRY ROAD KNOCKLOUGHRIM

Decision:

Decision Date:

Ref ID: H/2003/0263/F

Proposal: Dwelling and garage.

Address: 25m West of 2 Termoneany Road, Knockloughrim.

Decision:

Decision Date: 25.09.2006

Summary of Consultee Responses

Drawing Numbers and Title

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: LA09/2018/0511/LBC	Target Date:
Proposal: Removal of two single glazed windows (sash) at the front of property facing Main Street. Replacing the above Like for like the alteration being the addition of double glazing	Location: 53 Main Street Benburb Dungannon
Referral Route: Contrary to policy	
Recommendation:	Refusal
Applicant Name and Address: Bob Toner 53 Main Street Benburb Dungannon	Agent Name and Address: Annvale Joinery Works Tullygoonigan Industrial Estate 89 Moy Road Armagh BT61 8DR
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

none

Characteristics of the Site and Area

The site comprises a small single storey terraced dwelling at number 53 Main Street, Benburb. The dwelling is finished in a grey dash render, with two white single glazed sliding sash windows on the front elevation as well as a red door. There is a decorative pitch above the front door with a dark slate roof. The roof peak has detailing along all edges and a red brick chimney.

The site lies within the settlement development limits of Benburb as highlighted within the Dungannon & South Tyrone Area Plan 2010. It is also within an area of townscape character and across the road from the Benburb priory, (local landscape policy area). This row of dwellings are all listed buildings.

Description of Proposal

The proposal seeks listed building consent for the removal of two single glazed windows (sash) at the front of property facing Main Street. Replacing the above like for like, the alteration being the addition of double glazing

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. Dungannon & South Tyrone Area Plan 2010.
3. Planning Policy Statement (PPS) 6 – Planning, Archaeology, and the Built Heritage.

There is no relevant planning history.

Representations

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.

The Strategic Planning Policy Statement (SPPS) for Northern Ireland – Planning for Sustainable Development, is a material consideration. The SPPS supersedes the policy provision within Planning Policy Statement (PPS) 1, 5 and 9. The policy provision within PPS 6 has been retained under transitional arrangements. This is a Listed Building application and it is therefore assessed against the Policy provision contained within Policy BH8 (Extension or Alteration of a Listed Building) of PPS 6.

In assessing this application I have consulted with the Historic Environment Division (HED) of the Department of Communities, as the competent authority in assessing the impact of the proposal on the amenity of the listed building. They have responded and feel that the proposed work fails to satisfy the policy requirements of SPPS (para 6.12 & 6.13) and policy BH8 (Extension or Alteration of a Listed Building) Planning Policy Statement 6: Planning, Archaeology and the Built Heritage. The reason given stated that it would directly affects HB03/11/009: 53 Main Street Benburb, a Grade B listed building of special architectural and historic interest as set out in Section 80 and is protected under the Planning Act (NI) 2011.

In this instance it is felt that double glazed units in multi-paned windows fundamentally alter the appearance of the window and detract from the special character of your property is deemed to possess.

Recommendation Refusal

Neighbour Notification Checked

Yes

Summary of Recommendation:

The proposed work fails to satisfy the policy requirements of SPPS (para 6.12 & 6.13) and policy BH8 (Extension or Alteration of a Listed Building) Planning Policy Statement 6: Planning, Archaeology and the Built Heritage

Refusal Reasons

1.The proposal is contrary to Policy BH8 of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage in that the building is listed under Section 80 of the Planning Act (NI) 2011 and the alterations would, if permitted, detract from its appearance and result in a loss of its architectural integrity by reason of the use of unsympathetic design and materials which are out of keeping with those found on the building.

2.The proposal is contrary to Policy BH11 of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage in that the development would, if permitted, adversely affect the setting of a group of buildings listed under section 80 of the Planning Act (NI) 2011 by reason of the use of unsympathetic design and materials which are out of keeping with those found on the listed building.

Signature(s)

Date:

ANNEX	
Date Valid	16th April 2018
Date First Advertised	3rd May 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier,	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2018/0511/LBC Proposal: Removal of two single glazed windows (sash) at the front of property facing Main Street. Replacing the above Like for like the alteration being the addition of double glazing Address: 53 Main Street, Benburb, Dungannon, Decision: Decision Date: Ref ID: M/1984/0643 Proposal: RESTORATION OF BUILDINGS AND CONVERSION OF 6 HOUSES INTO 4 Address: 45-55 MAIN STREET, BENBURB Decision: Decision Date:	
Summary of Consultee Responses HED were consilted and responded with refusal recommended.	
Drawing Numbers and Title	

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

Drawing No. 06
Type: Proposed Elevations
Status: Submitted

Drawing No. 05
Type: Cross Sections
Status: Submitted

Drawing No. 04
Type: Cross Sections
Status: Submitted

Drawing No. 03
Type: Cross Sections
Status: Submitted

Drawing No. 02
Type: Cross Sections
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:	Item Number:
Application ID: LA09/2018/0542/F	Target Date:
Proposal: Proposed general purpose store - for the storage of forklift and associated equipment for approved hard standing and storage compound	Location: Land 50m south of 136 Ballynakilly Road Coalisland dungannon
Referral Route: Recommendation to Approve	
Recommendation: Approve	
Applicant Name and Address: General Cabins Ltd 21-25 Corr Road Coalisland Dungannon	Agent Name and Address: Brendan Johns 13 Sperrin View Omagh BT78 5BJ
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
Statutory	DFI Roads - Enniskillen Office	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

Characteristics of the Site and Area

The site is located in the rural countryside just to the southwest of the Moor Road and Ballynakilly Road T-junction. Single dwellings and farm buildings are the prominent built form in the area. There is a joinery business at the opposite side of the road and to the southeast of the site located in the corner of the T-junction and a car business, McNulty Motors just to the south again, further along the Ballynakilly Road.

The site itself which is a flat rectangular shaped plot located adjacent the Ballynakilly Road comprises an approved storage yard bound by metal security fencing with what appears to relatively recently planted trees to the inside along the front boundary of the site. There is mature vegetation along the rear and south boundary of the site and a mature stand of trees along the southern site boundary. A concrete lane-way accessed off the Ballynakilly Road and providing access to dwellings and a farm group further to the east of the site runs along the southern boundary of the site. To the opposite side of this lane is a dwelling, no. 157 Ballynally Road with stables to its rear. A gravel lane-way off the Ballynakilly Road also runs along the northern boundary of the site. There are two roadside dwellings just to the north of the site at the opposite side of the road.

Views of the site are primarily when passing along its roadside frontage and from the T-junction just to the southeast and on the approach to it along the Moor Road. Views are limited on both the northwestern and a southeastern approach to the site along the Ballynakilly Road due to the topography off the area and existing mature vegetation both along the southern boundary of the site and within the wider vicinity of the site to the north.

Description of Proposal

This is a full planning application for a general purpose store to be located on lands 50 metres south of 136 Ballynakilly Road, Coalisland, Dungannon. The store is to be used for the storage of forklift and associated equipment for use on this site which has previously gained approval as a hard standing and storage compound.

Planning Assessment of Policy and Other Material Considerations

History on Site

- M/2005/1949/F - Full planning permission for the retention of a hard standing and storage yard - Refused 21st February 2007
- M/2005/0077CA - unauthorised hardcoring of land & unauthorised access onto protected route - Planning approval granted - M/2008/0453/F – Case closed.
- M/2008/0453/F - Full planning permission for a hard standing and storage compound - Granted 17th September 2009.
- M/2010/0490/F - Full planning permission for a general purpose store - for the storage of forklift and associated equipment for approved hard standing and storage yard - Granted 2nd June 2011.
- M/2010/0057CA - breach of condition of M/2008/0453/F relating to soil bunding & landscaping - Due to the resources spent and the level of this breach, it has been decided it was not expedient to pursue – Case closed.

- M/2010/0066CA - Breach of Planning Condition - Breach of condition No.2 of M/2008/0453/F - Duplicate case with M/2010/0057CA – Case closed.
- M/2013/0044/F - Full planning permission for the removal of condition 4 (erection of an earth bund) of planning permission M/2010/0490/F - Granted 5th August 2014.

Policy

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon And South Tyrone Area Plan 2010

Planning Policy Statement 21 - Sustainable Development in the Countryside

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 3 (Clarification): Access, Movement and Parking

Planning Policy Statement 4 - Planning and Economic Development

Planning Policy Statement 4: Clarification of PED 7

Assessment

The SPPS retains the policy provisions of PPS21, PPS4 and PPS3.

PPS21, Policy CTY 1 – Development in the Countryside, outlines 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 that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan. All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. Access arrangements must be in accordance with the Department's published guidance.

One type of development outlined in PPS21 which in principle is considered acceptable in the countryside and that will contribute to the aims of sustainable development: is industry and business uses in accordance with PPS 4.

Policy PED 2 - Economic Development in the Countryside states proposals for economic development uses in the countryside will be permitted in accordance with the provisions of the following policies:

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

Economic development associated with farm diversification schemes and proposals involving the re-use of rural buildings will be assessed under the provisions of Planning Policy Statement 21 'Sustainable Development in the Countryside'. All other proposals for economic development in the countryside will only be permitted in exceptional circumstances.

This proposal is considered to be the expansion of an established economic development use, as such the provisions of Policy PED 3 apply.

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.

Such proposals will normally be expected to be accommodated through the reuse or extension of existing buildings on site. Where it is demonstrated that this is not possible, new buildings may be approved provided they are in proportion to the existing building(s) and will integrate as part of the overall development.

Any new building should respect the scale, design and materials of the original building(s) on the site and any historic or architectural interest the original property may have. In all cases, measures to aid integration into the landscape will be required for both the extension and the existing site.

This proposal for a general purpose store for use on the site which gained approval as a storage compound under M/2008/0453/F complies with PED 3. As it is the expansion of an established economic development use, a storage compound.

This same proposal has previously been considered acceptable by the Department under M/2010/0490/F which granted its approval on the 2nd June 2011 (expired 1 June 2016). This approval was subject to the erection of an earth bund and landscaping around the site within 6 months of the commencement of development. Subsequently under M/2013/0044/F a change to this condition was requested to allow a landscaping scheme to be provided instead of the earth bund (this permission also sought the erection of security fencing around the site.) Under this application it was considered that the robust landscaping scheme submitted would provide the necessary screening to the site, and as such this proposal to change the bund to the landscaping scheme gained approval on the 5th August 2014. Under this application an objector raised a concern about an access onto the lane to the south of this site. This access was conditioned to be closed up and permitted development rights removed. The current application is as per the previously approvals.

Opposite and southeast of this site, on moor road, are industrial buildings which are open to views. I consider this proposed building for a storage shed with a floor area of 12.6m x 25.6 and a ridge height of approx. 6 metres is not out of character with the area and will in fact be well screened from public views by existing and proposed landscaping. There will be no increase in the site area of the enterprise. Normally PED 3 expects proposals to be accommodated through the reuse or extension of existing buildings on site, there are no building on site in association with its approved use so in this instance a new building is required

In addition to Policy PED 3, this proposal is required to meet the requirements of Policy PED 9 - General Criteria for Economic Development, which for the following reasons I considered it does:

- this proposal is considered compatible with the surrounding land uses given the existing similar economic uses in the vicinity including those at the opposite side of the road to the southeast of the site located in the corner of the T-junction.
- This development site is on a heavily trafficked road close to a very busy junction which results in high background noise levels. Environmental Health have been consulted and have no objections on the basis the building is for storage as they state this would indicate no loss of amenity to any neighbouring receptors.
- It will not adversely affect features of the natural or built heritage as there are no features of built heritage on site or in the immediate vicinity and the existing vegetation on site is to be retained.
- The site is not located in an area at flood risk and as such it should not cause or exacerbate flooding.

- This proposal is for a storage shed and it has been stated on the application that there will be no waste from the site.
- Transport NI have been consulted and provided the access is amended they do not raise any concerns about road safety or parking and turning within the site. I consider it is appropriate to attach a condition requiring the amended access is provided before the building becoming operational. There is an access from the site onto the private laneway to the south, the access from this onto the road is in an undesirable location due to the junction here and as such I consider it is reasonable and necessary to condition the permanent closing up of the access. I consider it necessary to remove permitted development rights to ensure a new access onto the lane can be created. It is acknowledged there are no footpaths that the site can link to and that the majority of access to the site will be vehicular, therefore it is not possible to encourage walking to the site that would be considered safe.
- The proposed landscaping is of native species and will, when fully provided screen the site and improve the habitat.
- The proposal does not involve any new fences, the existing paladin fences already provide adequate security.

Objections / representations

An objection letter has been received stating:

- This site is an eyesore with a history of unauthorised development and enforcement action.
- This site is not used for the purpose original planning was granted, that it is little more than a dumping ground for all manner of things including wasted silage which has leaked into the ground causing an environmental issue.
- That its further development is unnecessary and likely to further adversely affect the environment.
- That this planning application gives the council another opportunity to address that has been allowed to get into an awful condition over recent years.
- If this application was granted a screening bund should be reinstated.

The content of this objection has been considered. It is recognised this proposal follows a lengthy planning history. However the site has already been approved for and considered to be in use as a storage compound (M/2008/0453/F) and whilst a previous approval (M/2010/0490/F) for the same proposal, a general purpose shed expired on the 1st June 2016, the Department considered this same proposal acceptable and I agree with their assessment and decision and as there have been no significant changes on site or in policy since the previous approval, approval is again recommended. With regard to the earth bund the Department considered it replacement with an acceptable landscaping scheme to be acceptable. Under this proposal a similar landscaping scheme was sought and received on the 20th July 2018, whilst a few additional trees are proposed in this more recent scheme their height at planting has decreased from 3-4m to 2-3m, I do not considered this to be a significant departure from the original scheme which I consider will provide a suitable degree of screening to aid the integration of the proposed shed on site.

Recommendation: Approve

Neighbour Notification Checked

Yes

Summary of Recommendation:

That planning permission be approved subject to the following conditions.

Conditions

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

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

2. All existing trees and hedgerows within the site and on the site boundaries shall be permanently retained intact and no lopping, topping, felling or removal shall be carried out without the prior written approval 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 within one week of the work being carried out.

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

3. All proposed planting approved by the Council as shown on Drawing No. 02 (Rev.01) bearing the date received 20-JUL-2018 and detailed in the written landscape details date received 20-JUL-2018, shall be carried out in the first planting season following the commencement of development on site and any trees or shrubs that die within 5 years of planting shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure the provision of a high standard of landscape.

4. No machinery shall be operated, no process shall be carried out and no deliveries taken at, or dispatched from the site outside the following times 8.00am - 6.00pm Monday - Friday and 8.00am - 1.00pm on Saturday nor at any time on Sundays, Bank or Public Holidays.

Reason: To safeguard the living conditions of residents in adjoining and nearby properties.

5. The vehicular access, including visibility splays of 2.4m x 120m Northwest, 2.4m x 100m Southeast, and any forward sight distance shall be provided in accordance with drawing Nos 01 (Rev.01 and 02 (Rev.01) bearing the date received 20-JUL-2018, prior to the occupation of the 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. Prior to the commencement of the development hereby approved the access from the site onto the laneway to the south of the site shall be permanently closed, as indicated on drawing No 02 (Rev.01) bearing the date received 20-JUL-2018.

Reason: In the interests of traffic management and road safety.

7. Notwithstanding the provisions of the Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revoking and re-enacting that Order, no new accesses to this site shall be formed, other than that expressly authorised by this permission.

Reason: In the interests of traffic management, roads safety and residential amenity

Informatives

1. This approval does not apply to any signs or advertising material which the developer or occupier may wish to erect at the premises.
2. Signs may require separate approval under the Planning (Control of Advertisements) Regulations (NI) 1992. Their size, construction, content and siting should be approved by the Department BEFORE any such signs are erected.
3. The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department for Regional Development for which separate permissions and arrangements are required.
4. Notwithstanding the terms and conditions of the Department of Environment's approval set out above, you are required under Article 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Regional Development'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 whose address is Main Street, Moygashel, Dungannon.
A monetary deposit will be required to cover works on the public road.
5. Provision shall be made to the satisfaction of Roads Service, to ensure that surface water does not flow from the site onto the public road. In the interest of public safety and traffic management.
6. Provision shall be made to the satisfaction of Roads Service, to accommodate the existing roadside drainage and to ensure that surface water does not flow from the public road onto the site. In the interest of public safety and traffic management.

Signature(s)

Date:

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 04.09.2018	Item Number:
Application ID: LA09/2018/0610/F	Target Date: 21.8.2018
Proposal: Existing garage first floor conversion to allow for 2 additional bedrooms, shower room and living area	Location: 54 Kilnacart Road Dungannon
Referral Route: 2 Objections received.	
Recommendation:	Approve
Applicant Name and Address: Mr Gary McCann 54 Kilnacart Road Dungannon	Agent Name and Address: Simon Black 164 Tirnascobe Road Richhill BT61 9RF
Executive Summary: This proposal is for the conversion of the first floor of an existing garage to provide for ancillary accommodation to the dwelling at No. 54 Kilnacart Road, Dungannon. The proposal includes the provision of dormer windows to the rear elevation of the existing garage building and all other works are internal. Having assessed the proposal against the policy provision contained within The First Addendum to PPS 7, I am content that the proposed works are compliant with the policy provision contained therein. Accordingly approval is recommended.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
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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

No consultations were considered necessary on this application. Two third-party representations were received and all other material considerations have been addressed within the determination below.

Characteristics of the Site and Area

The site is located at 54 Kilnacart Road, Dungannon, Co. Tyrone. This area is categorised as countryside within the Dungannon & South Tyrone Area Plan 2010.

The area surrounding the site exhibits a relatively undulating nature with a series of rolling drumlins and hills. This is quite an enclosed area of the countryside with a complex network of open fields bound by small scale mature hedgerows. The application site includes a semidetached dwelling (No. 54) and two outbuildings, including a small outbuilding to the north (rear) of the site and an existing garage building to the north east. The application relates to the existing garage building. The closest neighbouring dwelling is noted as being No.52 Kilnacart Road, which is connected to the dwelling at No. 54 (the applicant's home). The existing dwelling is a two storey property and includes a small side projection and single storey rear return. The existing garage is a storey and a half type building with two front facing rolling garage doors. The site is accessed from the Kilnacart Road to the south.

Description of Proposal

This application seeks planning permission for the conversion of the first floor of the garage building to allow for 2 additional bedrooms, a shower room, and living area. The applicant has noted that the additional living space is to provide ancillary accommodation to the dwelling for friends and family while visiting. The ground floor of the garage will remain as garage space.

In terms of alterations to the existing garage building, the application will introduce 3 no. dormer windows on the roof of the building, however it is noted that the windows are to the rear of the property and will not be visible from the front. All other alterations to the property are internal and do not affect the external appearance or size/scale of the existing building. The roof height of the building is not being altered.

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. Dungannon & South Tyrone Area Plan 2010.
3. PPS 21 – Sustainable Development in the Countryside.
4. PPS 7 Residential Extension and Alterations 'The Addendum' (APPS 7).

Planning History

M/2007/1428/F - Proposed removal of 3 no. stores to be replaced with double garage and store, 54 Kilnacart Road, Eglish, Dungannon. PG - 22.01.2008.

Representations

Neighbour Notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, 2 third party objections were received – see consideration of same, below.

Assessment

The Strategic Planning Policy Statement (SPPS) for Northern Ireland – Planning for Sustainable Development, is a material consideration. The SPPS supersedes the policy provision within

Planning Policy Statement (PPS) 1, 5 and 9. The policy provision within PPS 21 has been retained under transitional arrangements.

PPS 21 outlines that there are a range of developments which may be acceptable in the countryside. One such development is an extension to a dwelling house where it is in accordance with the policy provision within the Addendum to PPS 7 (APPS 7).

The principle of development, a proposed extension to an existing residential property is considered to be acceptable, providing the proposal satisfies four criteria tests as outlined under Policy EXT 1 of the first addendum to PPS7;

In regards to Visual amenity, part A identifies that the overall siting, scale and design of the proposal should appear subordinate to the original host property and should not be detrimental to the character and appearance of the surrounding area. The proposed development is sited within an existing building (garage) on the site and as such the proposal will not create or add to the existing setting. The proposed dormer windows included on the proposal are located to the rear of the existing building and again will ensure that the proposal does not create any greater impact when compared with the existing setting. Other alterations to the property are internal and will not impact upon the character or setting of the existing dwelling.

In consideration of that above, I am content that the proposal will not be detrimental to the character of the surrounding area or the existing host dwelling. The provision of this ancillary accommodation is not considered to significantly alter the character and appearance of the application property or the character of the surrounding area and landscape. The proposed development is therefore considered to be acceptable in regards to the objectives of Part A of Policy EXT 1.

Part B of Policy EXT 1 identifies that a development proposal of this nature would only be considered acceptable where there would be no harmful impact conferred upon the occupiers of adjoining or neighbouring properties.

The existing garage building is located to the rear of the dwelling at No. 54, it is in close proximity to the attached dwelling at No.52 (west) and the side gable of the existing garage faces onto the rear garden area of No. 56 – to the east.

In terms of dominance and over shadowing, I note that the proposal is utilising the existing garage building and I therefore do not consider that the proposed works will create an overbearing impact in this regard. With regard to privacy the two neighbouring properties are a concern. The proposal includes a gable window on both side elevations. The side elevation which looks onto No. 52 is a window on a stair well and it is therefore not from a main room in the proposal. The side window which looks onto No.56 is from a play room/pool room and I consider this to be a main habitable room in the proposed accommodation.

In terms of private amenity space the most sensitive area is noted as being the first 4/5 metres from the rear of a dwelling. It is noted that there is approx. 20m between the rear amenity space of No. 56 and the existing garage building. I consider this to be a sufficient distance so as to not cause a detrimental impact in terms of privacy. Furthermore I note that the existing garage includes an office on this side elevation and when compared with the existing setting I do not consider the proposed development will make a significantly detrimental impact.

I am content that the proposal will not have a significant or material detrimental impact on the amenity of any surrounding residential dwellings. The distance between both the existing property and the proposed works, is a material factor here. The proposal is therefore considered to accord with the objectives of Part B of Policy EXT 1.

There would be no loss of any landscape features or no reduction in private amenity space. The proposal is therefore considered to satisfy the objectives of Part C and D of Policy EXT 1.

Representations received

There were two objections received on this application from two neighbouring residents. The objections raised issues around the principle of the development, residential amenity, traffic intensification, and house values.

The principle of the development – the conversion of an existing outbuilding to provide ancillary residential accommodation is acceptable providing the policy criteria within APPS 7 are complied with. As discussed above I am content that the proposal is compliant with prevailing policy, including where it relates to residential amenity and I would note that any forthcoming permission will be subject to a condition stipulating that the garage building will provide ancillary accommodation for No.54 only – not a separate residential unit.

With regards to traffic and the assertion that the proposal will bring about an increased traffic flow in this area, I again note that the proposal relates to ancillary accommodation to the existing dwelling and not a separate residential unit. I do not consider that the proposal will bring about a negative impact in this regard.

Finally I note that house values are not considered to be a material planning consideration.

Conclusion

The proposed development is considered to be in compliance with the objectives of Policy EXT 1 of the first addendum to PPS 7 'Residential Extensions and Alterations', and accordingly approval is recommended.

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

Approve, subject to the conditions below.

Conditions/Reasons for Refusal:**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 garage and bedrooms shall not become a separate planning unit and shall only be used for purposes ancillary to the dwelling known as No. 54 Kilnacart Road.

Reason: To prevent the creation of additional dwelling units in this rural location.

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 planning unit and use of this land is a dwelling with domestic garage as ancillary accommodation.

Signature(s)

Date:

ANNEX	
Date Valid	8th May 2018
Date First Advertised	24th May 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 52 Kilnacart Road Dungannon Tyrone Arlene Campbell 52 Kilnacart Road, Dungannon, Tyrone, Northern Ireland, BT70 1PD The Owner/Occupier, 56 Kilnacart Road Dungannon Tyrone Cyril Hawe Kilnacart Road,Dungannon,BT70 1PD	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2018/0610/F Proposal: Existing garage first floor conversion to allow for 2 additional bedrooms, shower room and living area Address: 54 Kilnacart Road, Dungannon, Decision: Decision Date: Ref ID: M/2007/1428/F Proposal: Proposed removal of 3 no. stores to be replaced with double garage and store Address: 54 Kilnacart Road, Eglish, Dungannon Decision: Decision Date: 22.01.2008 Ref ID: M/2002/0638/F Proposal: Proposed extension to dwelling & new garage Address: 56 Kilnacart Road, Dungannon Decision: Decision Date: 27.09.2002 Ref ID: M/1990/4089	

Proposal: Extension and Improvements to dwelling
Address: 52 KILNACART ROAD DUNGANNON
Decision:
Decision Date:

Ref ID: M/1994/0693
Proposal: Site for dwelling
Address: ADJACENT TO 52 KILNACART ROAD KILNACART DUNGANNON
Decision:
Decision Date:

Ref ID: M/1995/0522
Proposal: Retirement Dwelling
Address: ADJACENT TO 52 KILNACART ROAD KILNACART DUNGANNON
Decision:
Decision Date:

Ref ID: M/2008/0910/F
Proposal: Two-storey rear extension (ground floor dining, utility and toilet with bedroom above) to dwelling.
Address: 52 Kilnacart Road, Dungannon
Decision:
Decision Date: 23.10.2008

Summary of Consultee Responses

None – N/A.

Drawing Numbers and Title
Drawing No. 01 Type: Site Location Plan Status: Submitted
Drawing No. 02 Type: Proposed Plans Status: Submitted
Drawing No. 03 Type: Proposed Plans Status: Submitted
Drawing No. 04 Type: Proposed Plans Status: Submitted
Drawing No. 05 Type: Existing Plans Status: Submitted
Drawing No. 06 Type: Existing Plans Status: Submitted
Drawing No. 07 Type: Existing Plans Status: Submitted
Drawing No. 08 Type: Existing Plans Status: Submitted
Drawing No. 09 Type: Proposed Plans Status: Submitted
Notification to Department (if relevant)
Date of Notification to Department: N/A Response of Department: N/A



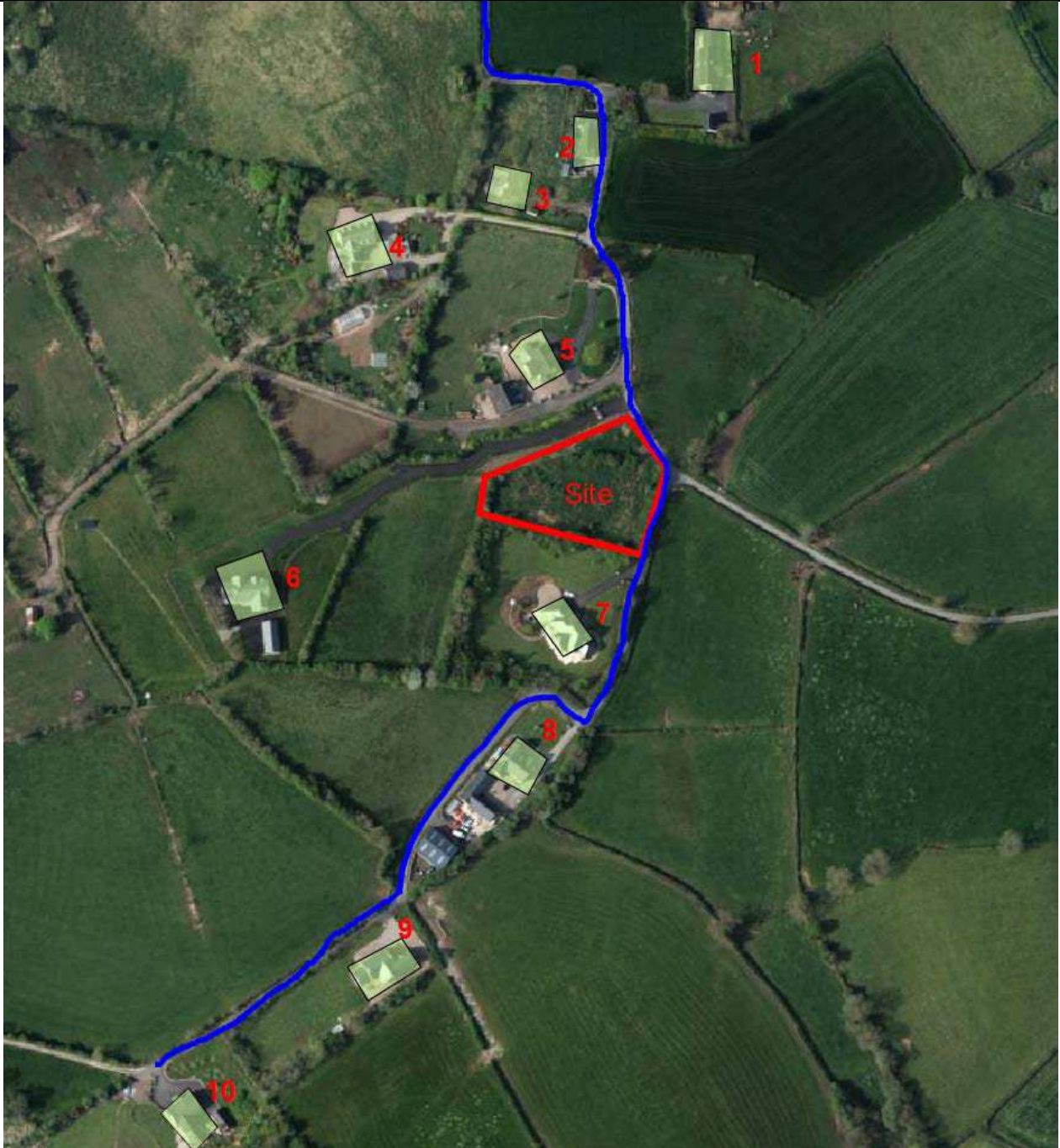
Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/0654/O	Target Date:
Proposal: Site for dwelling	Location: Lands between 36 & 40 Frenchmans Lane Castlecaufield Dungannon
Referral Route: Exception to policy	
Recommendation:	Approval
Applicant Name and Address: Gary McConville 36 Frenchmans Lane Castlecaufield Dungannon BT70 3DF	Agent Name and Address: Blackbird Architecture 4 Glenree Avenue Dungannon BT71 6XG
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice

Representations:

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

Number of Petitions of Objection and signatures	No Petitions Received
Summary of Issues none	
Characteristics of the Site and Area <p>The site comprises a portion of land between number 36 and 40 Frenchmans Lane, Castlecaulfield. The site is bounded a public road to the North and east as well a private laneway to the south east and accompanying native species hedgerows. The reamining boundaries are defined by mature hedgerows. The site slopes from the roadside to the rear and at time of site visit was very overgrown with vegetation.</p> <p>The site lies a short distance of approx 400 metres to the West of the settlement limits of Castlecaulfield, the surrounding area is predominantly rural in character, however, there does appear to be a large number of decent size one off dwellings along this stretch of road.</p>	
Description of Proposal The proposal seeks outline planning permission for a site for a dwelling.	
Planning Assessment of Policy and Other Material Considerations <p>Dungannon Area Plan 2010 - located in the rural remainder PPS1- General Principles PPS3- Access, Moving and Parking PPS21- Sustainable Development in the Countryside CTY 1: Development in the Countryside CTY 2A: Clusters CTY 8: ribbon development CTY13: Integration and Design of Buildings in the Countryside CTY14: Rural Character SPPS</p> <p>No letters of objection received</p> <p>Planning History There is no relevant planning history.</p> <p>The Strategic Planning Policy Statement (SPPS) for Northern Ireland – Planning for Sustainable Development, is a material consideration. The SPPS supersedes the policy provision within Planning Policy Statement (PPS) 1, 5 and 9. The policy provision within PPS 21 has been 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.</p>	

Under Policy CTY 1- of PPS21, there are a range of types of development which in principle are considered 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 that development is essential and could not be located in a settlement.

Under policy CTY2A of PPS21, the site does lie within a cluster of 11 dwellings, the cluster would appear as a visual entity in the local landscape, the site is bounded on at least two sides by other development and does have a suitable degree of enclosure, the site is positioned in the centre of the cluster and could easily be absorbed and would not alter the existing character or visually intrude on the area, and finally were a dwelling of appropriate size to be built, there would be no impact on visual amenity. However, the site is not associated with a focal point such as a community building or is located at a cross roads.

The proposal fails to comply with all of the criteria in policy CTY2a of PPS21.

Between number 36 and 40 Washingbay road Road, there is a gap of approx. 60 metres building to building or 35 metres plot frontage. The site lies in the middle of a row of dwellings, however, even though they seem to be a line of dwellings they may not constitute a continuously built up frontage as the lane way meanders between number 36 and 28 meaning they do not front the road on the same side. In my opinion this row therefore does not constitute the definition of a substantially built up frontage. The gap between the frontages of development is under 40 metres and is therefore sufficient to accommodate no more than 2 dwellings when taking into account existing plots sizes of between 30m and 50m and the roadside frontage size of surrounding dwellings.

The proposal fails to comply with all of the criteria in policy CTY8 of PPS21.

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. Furthermore as the site has existing buildings on both sides, mature boundary vegetation along its boundaries, it is considered that the site has the capacity to absorb a dwelling of a suitable size and scale. I have no concerns regarding integration. 6 metres ridge.

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. 6 metres.

No objections were received.

The application was advertised on 31st May 2018 and Neighbour Notifications were issued on 30th May 2018.

The proposal fails to meet all of the policy criteria of either CTY2A or CTY8, however, in this case given the circumstances of the proposal it is my opinion that we may consider the proposal as exception to policy.

The sites may not have a focal point to be considered as a clustering, nor a continuous built up frontage to be considered an infill. However, there is a definite visual appearance of a ribbon of development when viewed from the public road. The site benefits from mature boundary vegetation, and is located at what appears to be a gap in this ribbon of development which is read as one entity. In my opinion it would be considered rounding off and would not have an impact on the character of the area as there does not seem too much of a rural character left to preserve.

Recommendation approval.	
Neighbour Notification Checked	Yes
<p>Summary of Recommendation:</p> <p>The proposal fails to meet all of the policy criteria of either CTY2A or CTY8, however, in this case given the circumstances of the proposal it is my opinion that we may consider the proposal as exception to policy.</p> <p>There is a definite visual appearance of a ribbon of development when viewed from the public road. The site benefits from mature boundary vegetation, and is located at what appears to be a gap in this ribbon of development which is read as one entity. In my opinion it would be considered rounding off and would not have an impact on the character of the area as there does not seem too much of a rural character left to preserve.</p>	
<p>Conditions</p> <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; or ii. 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. Prior to commencement of any development hereby approved, the vehicular access as detailed in the attached form RS1, including visibility splays of 2.4m x 35m(NW) and 2.4m X 45m(SE), 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</p> <p>REASON: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.</p> <p>4. The proposed dwelling shall have a ridge height of less than 6 metres above finished floor level.</p> <p>Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21.</p>	

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

Reason: In the interest of visual amenity.

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

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

Informatives

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

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

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

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

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

REASON: In the interest of public safety and traffic management.

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

REASON: In the interest of public safety and traffic management.

Signature(s)

Date:

ANNEX	
Date Valid	14th May 2018
Date First Advertised	31st May 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 28 Frenchmans Lane Dungannon Tyrone The Owner/Occupier, 36 Frenchmans Lane Dungannon Tyrone The Owner/Occupier, 38 Frenchmans Lane,Dungannon,Tyrone,BT70 3DF, The Owner/Occupier, 40 Frenchmans Lane Drumreany Dungannon	
Date of Last Neighbour Notification	30th May 2018
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2018/0654/O Proposal: Outline Planning Permission for an In-fill Dwelling / Dwelling in an Existing Rural Cluster Address: Lands between 36 & 40 Frenchmans Lane, Castlecaulfield, Dungannon, Decision: Decision Date: Ref ID: M/1994/0364 Proposal: Erection of Stables Address: 40 FRENCHMAN'S LANE CASTLECAULFIELD Decision: Decision Date: Ref ID: M/2007/0572/RM Proposal: Proposed dwelling and garage Address: 250m South of 40 Frenchmans Lane, Castlecaulfield, Dungannon Decision: Decision Date: 19.03.2008 Ref ID: M/2004/0351/O	

Proposal: 1 No.Dwelling & Garage
Address: 260 M South of 40 Frenchmans Lane, Dungannon
Decision:
Decision Date: 11.10.2004

Ref ID: M/2008/0002/F
Proposal: Proposed dwelling house and domestic garage.
Address: 260m South of 40 Frenchmans Lane, Dungannon
Decision:
Decision Date: 17.07.2008

Ref ID: M/2007/0836/RM
Proposal: Proposed two storey dwelling and domestic garage
Address: 200m North West of 40 Frenchmans Lane, Castlecaulfield, Dungannon
Decision:
Decision Date: 17.08.2007

Ref ID: M/2009/0675/F
Proposal: Proposed amendment of previously approved house type M/2007/0836/RM
Address: 200m north west of 40 Frenchmans Lane, Castlecaulfield Dungannon
Decision:
Decision Date: 18.09.2009

Ref ID: M/2009/0521/F
Proposal: Proposed change in orientation of hay and fodder store from previous approval M/2004/1322/F including changing position of access doors from side to gable ends.
Address: 28 Frenchmans Lane Castlecaulfield
Decision:
Decision Date: 17.08.2009

Ref ID: M/2004/2032/O
Proposal: Removal of condition No. 4 (siting) from Outline Planning Approval M/2004/0351/O approved 11.10.04
Address: 260m South of No 40 Frenchmans Lane, Dungannon
Decision:
Decision Date: 31.05.2005

Ref ID: M/2002/1203/O
Proposal: Proposed two storey dwelling
Address: Site 200 Metres South of 40 Frenchmans Lane, Castlecaulfield, Dungannon
Decision:
Decision Date: 10.12.2002

Ref ID: M/2004/1322/F

Proposal: Proposed hay & fodder store

Address: 250 South West of 40 Frenchmans Lane, Castlecaulfield

Decision:

Decision Date: 18.10.2004

Ref ID: M/2003/0473/RM

Proposal: Proposed dwelling and detached garage/stables

Address: 200 Metres South of 40 Frenchmans Lane, Castlecaulfield, Dungannon

Decision:

Decision Date: 19.05.2003

Ref ID: M/2003/0173/RM

Proposal: Proposed dwelling

Address: 170 Metres South of 40 Frenchmans Lane, Castlecaulfield

Decision:

Decision Date: 10.09.2003

Ref ID: M/2001/0940/O

Proposal: Proposed Dwelling

Address: Site 170 M South of 40 Frenchman's Lane, Castlecaulfield

Decision:

Decision Date: 10.12.2001

Ref ID: M/2001/0026/O

Proposal: Site for Dwelling

Address: Site 90m south of 40 Frenchmans Lane Castlecaulfield

Decision:

Decision Date: 02.04.2001

Ref ID: M/2006/2138/RM

Proposal: Proposed dwelling, garage & landscaping

Address: 430m South West of 40 Frenchman's Lane, Dungannon

Decision:

Decision Date: 17.05.2007

Ref ID: M/2007/1266/O

Proposal: Proposed Dwelling and Garage

Address: 300m South of 40 Frenchmans Lane, Castlecaulfield, Dungannon

Decision:

Decision Date: 17.10.2011

Ref ID: M/2004/0376/O

Proposal: proposed dwelling

Address: 250m south of 40 Frenchman's Lane, Castlecaulfield, Dungannon Decision: Decision Date: 03.06.2004
Drawing Numbers and Title
Drawing No. 05 Type: Housing Concept Plan Status: Submitted Drawing No. 03 Type: Block/Site Survey Plans Status: Submitted Drawing No. 01 Type: Site Location Plan Status: Submitted Drawing No. 02 Type: Site Location Plan Status: Submitted Drawing No. 04 Type: Housing Concept 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: LA09/2018/0746/O	Target Date:
Proposal: Infill site for one dwelling house and domestic garage	Location: 50m North East of 49 Fivemile Straight Carnamoney Draperstown
Referral Route: Contrary to CTY 1, 8, 13 &14 of PPS 21 and Contrary to AMP 2 of PPS 3	
Recommendation:	Refusal
Applicant Name and Address: Mr Connor McPeake 31a Spring Road Ballinderry Cookstown BT80 0BD	Agent Name and Address: Architectural Services 5 Drumderg Road Draperstown BT45 7EU
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	Environmental Health Mid Ulster Council	Substantive Response Received

Representations:

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

Summary of Issues No Issues

Characteristics of the Site and Area

The site is located approximately 2 miles northwest of Moneyneany in the open countryside in accordance with the Magherafelt Area Plan 2015. The site is located on the Five Mile Straight between two dwellings, Nos 47a and 53b and consist of a cut out portion of a linear agricultural field. The site rises gradually from the road for approximately 140m, levels out for a short distance and falls away to the rear. The northeast boundary consists of existing mature hedgerow approximately 2-4m high and trees, the northwest and southwest boundaries are defined by post and wire fence and the southeast boundary is undefined.

Description of Proposal

The application seeks outline planning permission for a proposed infill dwelling and garage.

Planning Assessment of Policy and Other Material Considerations**Relevant Site History:**

No relevant history

Representations:

6 neighbour's notification letters were sent to Nos 47a, 49, 51, 53, 53a & 53b Five Mile Straight Draperstown

No letters of representation have been received.

Development Plan and Key Policy Consideration:

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

Magherafelt Area Plan 2015: The site is located in the open countryside. There are no other designations on the site.

SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out the guiding principle in determining planning applications is that sustainable development should be permitted, having regards to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. Infill/Ribbon Development, provision should be made for the development of a small gap site in an otherwise substantial and continuously built up frontage.

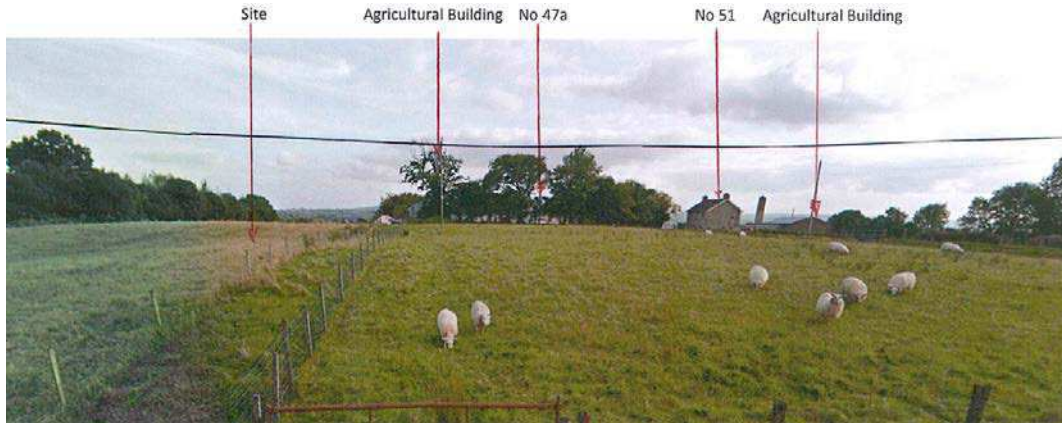
PPS 3: Access, Movement and Parking (Revised 2005) and PPS 3 (Clarification 2006): sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking.

PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. CTY 1 states that there are a range of types of development which in principle are considered acceptable in the countryside. One of these is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with CTY 8. Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses. Policy CTY 8 requires four specific elements to be met:

- The gap site must be within an otherwise substantial and continuously built up frontage and includes a line of 3 or more buildings along a road frontage without accompanying development to the rear;
- The gap site must be small;

- The existing development pattern along the frontage must be respected;
- And other planning and environmental requirements must be met.

The site is a cut out portion of a linear agricultural field which has a 45m frontage onto Fivemile Straight. To the northeast of the site there are 3 residential properties, Nos 53, 53a and 53b. The dwelling and garage at No 53 both have a frontage onto the road. Whilst the dwellings at Nos 53a and 53b are located behind No 53 and therefore do not have road frontage. To the southwest of the site there are 3 residential properties, Nos 47a, 49 and 51 and a number of agricultural buildings which are set back approximately 150m from Fivemile Straight and are separated from the road by agricultural land. As a result, the properties at Nos 47a, 49 and 51 do not have a road frontage and therefore do not form part of a substantial and continuously built up frontage.



Ribbon development can occur even where development does not have frontage to a road. Paragraph 5.33 of PPS 21 states that buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they are visually linked. During the summer months the dwelling and agricultural building located at No 47a would be heavy screened by mature vegetation and trees along the northwest (front) boundary, however during the winter months as the trees and hedgerow loses their foliage both buildings would be visible. As a result, the site would be visually linked with the two dwellings at No 47a & 51 and two agricultural buildings and would add to a ribbon of development along this stretch of Fivemile Straight. The proposal is contrary to Policy CTY8.

Integration

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrate into the surrounding landscape. The indicative block plan shows the new dwelling set back 85m from the road and sited between two existing dwellings. The dwelling will be located on an elevated site and due to there being no boundary definition along the front and rear boundaries of the proposed curtilage a single storey dwelling would be a prominent feature in the landscape and read as skyline development. The site would be unable to provide a suitable degree of enclosure and would be heavily reliant on new planting to achieve integration. The proposal is contrary to criteria (a), (b), (c) and (f) of Policy CTY 13.

Impact on Character and Appearance of the Area

Policy CTY14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It also states that a new building will be unacceptable where it results in a suburban style build-up of development when viewed with existing development and approved buildings and where it creates or adds to a ribbon of development. I have already determined that the proposal would add to a ribbon of development which is a suburban style of development. This would therefore cause detrimental change to, and further erode the rural character of the area. The proposal is contrary to criteria (b) and (d) of Policy CTY 14.

Other Matter

The applicant has not sought to argue that the proposed development falls into any other category of acceptable development identified in Policy CTY1. No evidence has been advanced that the proposed development could not be located in a settlement. Therefore, the proposal is contrary to CTY1 of PPS21.

Other Material Consideration.

DFI Roads have confirmed that visibility splays of 2.4m x 110m are required in both direction and that the northeast (critical direction) visibility splay will require 1 BT pole set back and approximately 31m of hedge removed which appears to be outside of the applicant's control. Furthermore, the southeast visibility splay will require 2 BT poles set back and approximately 17m of hedge faced which also appears to be outside of the applicant's control. As the principle of an infill site has not been established under CTY8 the amendments required by DFI Roads have not been requested. Therefore, the applicant has failed to demonstrate that he has control of all the land necessary to provide safe access onto the public road and the proposal is contrary to AMP 2 part (a) of PPS 3 Access, Movement and Parking.

Neighbour Notification Checked**Yes****Summary of Recommendation: Refuse - Contrary to CTY 1, 8, 13 & 14 of PPS 21 and Contrary to AMP 2 of PPS 3.****Refusal Reasons**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent an infill opportunity and would, if permitted, result in would add to a ribbon of development along this stretch of the Fivemile Straight.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed two dwelling would be a prominent feature in the landscape, lacks long established natural boundaries, is unable to provide a suitable degree of enclosure, relies primarily on the use of new landscaping for integration, fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop and therefore would not visually integrate into the surrounding landscape.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape and would result in a suburban style build-up of development when viewed with existing buildings and would not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to, and further erode the rural character of the countryside.
5. The proposed development would, if permitted, prejudice the safety and convenience of road users since it has not been demonstrated that the applicant can provide the necessary land within the application site to provide visibility splays of 2.4m x 110m

Signature(s)**Date:**

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ANNEX	
Date Valid	29th May 2018
Date First Advertised	14th June 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 47a Five Mile Straight Draperstown The Owner/Occupier, 51 Five Mile Straight Draperstown Londonderry The Owner/Occupier, 52 Five Mile Straight Draperstown Londonderry The Owner/Occupier, 53 Five Mile Straight Draperstown Londonderry The Owner/Occupier, 53a Five Mile Straight Draperstown The Owner/Occupier, 53b Five Mile Straight Draperstown	
Date of Last Neighbour Notification	19th June 2018
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2018/0746/O Proposal: Infill site for one dwelling house and domestic garage Address: 50m North East of 49 Fivemile Straight, Carnamoney, Draperstown, Decision: Decision Date: Ref ID: H/2003/0120/F Proposal: Extension To Dwelling Address: 49 Fivemile Straight, Draperstown. Decision: Decision Date: 10.04.2003 Ref ID: H/1979/0474 Proposal: SITE OF 4 BUNGALOW'S Address: FIVE MILE STRAIGHT, CARNAMONEY, DRAPERSTOWN, MAGHERAFELT Decision: Decision Date: Ref ID: H/1992/0283 Proposal: ALTS + ADDS TO BUNGALOW Address: NEW BUNGALOW FIVE MILE STRAIGHT DRAPERSTOWN	

Decision:
Decision Date:

Ref ID: H/1979/0654
Proposal: SITE OF BUNGALOW
Address: FIVE MILE STRAIGHT, CARNMONEY, DRAPERSTOWN
Decision:
Decision Date:

Ref ID: H/2011/0490/RM
Proposal:
New one and a half storey farm dwelling and garage
Address: 24m West of 53A Fivemile Straight, Draperstown,
Decision:
Decision Date: 24.11.2011

Ref ID: H/1986/0128
Proposal: SITE OF DWELLING
Address: ADJACENT TO 53 FIVE MILE STRAIGHT, CARNMONEY, DRAPERSTOWN
Decision:
Decision Date:

Ref ID: H/1985/0477
Proposal: SITE OF HOUSE AND GARAGE
Address: ADJACENT TO 53 FIVEMILE STRAIGHT, CARNAMONEY, DRAPERSTOWN
Decision:
Decision Date:

Ref ID: H/2008/0111/F
Proposal: Replacement of existing two storey dwelling to proposed single storey dwelling
Address: 53 Five Mile Straight, Draperstown
Decision:
Decision Date: 19.08.2008

Ref ID: H/1984/0243
Proposal: SITE OF BUNGALOW
Address: FIVE MILE STRAIGHT, CARNAMONEY, DRAPERSTOWN
Decision:
Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

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:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 4/9/18	Item Number:
Application ID: LA09/2018/0754/O	Target Date: 12/9/18
Proposal: Dwelling and garage	Location: 20 metres West of 35 Moss Road Ballymaguigan Magherafelt
Referral Route: Application is being recommended for refusal	
Recommendation: Refuse	
Applicant Name and Address: Christopher Cassidy 58 Aughrim Road Magherafelt	Agent Name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge
Executive Summary: Proposal fails to Comply with policies CTY 1, CTY 8, CTY14 and CTY 15 of PPS 21	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Summary of Issues

The following neighbouring properties have been notified and to date there have been no objections from any of these occupants or any other third party.

- 30 Moss Road, Magherafelt, Londonderry, BT45 6LJ,
- 32 Moss Road, Magherafelt, Londonderry, BT45 6LJ,
- 35 Moss Road, Magherafelt, Londonderry, BT45 6LJ,
- 37 Moss Road, Magherafelt, Londonderry, BT45 6LJ,
- 36 Moss Road, Magherafelt, Londonderry, BT45 6LJ,

•
There have been no objections from any consultee.

Characteristics of the Site and Area

The application site is a 0.1 hectare plot of vacant land located 20m West of number 35 Moss Road, Ballymaguigan, Magherafelt. It is just outside the settlement limit of Magherafelt as is designated in the Magherafelt Area Plan 2015. The site is flat and partially hard cored. Access to site comes directly off the Moss Road and the access point is currently blocked up with high metal fencing. The remainder of the roadside boundary is defined by a mix of low level hedgerow and high hedgerow. The Eastern and Southern boundaries are defined by thick mature hedgerow. The Western boundary is undefined with the exception of a vacant portable unit.

This area is rural in character and has a flat topography. To the East and SE of the site are 2 detached dwellings and associated outbuildings. Opposite the site and within the development limits of Ballymaguigan are a grouping of commercial buildings "Moss Tiles" and a detached dwelling. To the NW of the site is another detached dwelling. Lough Neagh, A European Designated Site, is located approx. 500m to the East of the site.

Description of Proposal

This is an outline application for a dwelling and garage.

Relevant Planning History

H/2002/0467/F - Site of Dwelling and Garage on land adjacent to 35 Moss Road, Ballymaguigan, Magherafelt. Application Withdrawn on 17.10.2002

H/2004/0708/O - Site of Two Storey Dwelling. 58 Metres West of 35 Moss Road, Ballymaguigan, Magherafelt. Refused and Appeal Dismissed.

H/2004/0714/O - Site of two storey dwelling. 38m west of 35 Moss Road, Ballymaguigan, Magherafelt. Refused and Appeal Dismissed.

LA09/2015/0347/LDE - Portacabin used by CMI Planners for meeting and storage rooms on lands adjacent to 35 Moss Road, Magherafelt. Application required to be submitted.

LA09/2015/0598/F - Replacement office and storage unit associated with an established business (retrospective) 50m West of 35 Moss Road, Ballymaguigan, Magherafelt. Refused on the 25.05.2016

LA09/2016/0635/LDE - Portacabin for storage purposes, 40m NW of 35 Moss Road, Ballymaguigan, Magherafelt. Permitted Development.

LA09/2016/0761/F - Extension to existing portacabin to provide storage and office accommodation 40m North West of 35 Moss Road, Ballymaguigan, Magherafelt. Permission Refused on the 05.10.2017

Relevant Enforcement History

LA09/2015/0055/CA - Unauthorised modular structure, set on supporting concrete bases and hardcore. Adjacent to 35 Moss Road, Ballymaguigan, Magherafelt, Londonderry, BT45 6LJ.

LA09/2016/0076/CA Unauthorised change of use of portacabin from storage to office accommodation on lands adjacent to 35 Moss Road, Ballymaguigan, Magherafelt, Londonderry, BT45 6LJ,

Planning Assessment of Policy and Other Material Considerations

The primary policy considerations in this assessment are:

Magherafelt Area Plan 2015

SPPS – Strategic Planning Policy Statement for Northern Ireland

PPS 2 – Natural Heritage

PPS 3 – Access, Movement and Parking

PPS21 – Sustainable Development in the Countryside

Magherafelt Area Plan 2015

This site is outside any settlement defined in the Magherafelt Area Plan (MAP) 2015 and is not affected by any MAP designations. The MAP offers no specific policy or guidance in respect of the proposed development and is therefore not material. PPS21 policy provisions are therefore applicable in this assessment.

SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The SPPS gives provision for development in the countryside subject to a number policy provisions, including CTY 8 of PPS 21 which deals with Ribbon Development. There has been no change in policy direction in the SPPS in respect of Ribbon Development therefore CTY 8 of PPS 21 remains my primary policy consideration in this assessment.

PPS 2 – Natural Heritage

This site is located approximately 500m to the West of Lough Neagh SPA/RAMSAR, a European Designated site and there is a water course to the South of the application site that has the potential to link into Lough Neagh. This has triggered an informal consultation with Shared Environment Service (SES). SES have confirmed that there is a buffer of 55m between the site and the watercourse which is sufficient to ensure no run-off pollutants. I am therefore satisfied that the proposal if approved would not have any significant effect on the features of this European Site. The site is not within any NIEA consultation zones for ornithology.

PPS 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. A direct access onto the Moss Road is proposed. DFI Roads have been consulted and have no objections subject to the provision of 2.4m x 65m splays and a 65m forward sight distance. This can be dealt with by planning condition.

PPS21 – Sustainable Development in the Countryside

Policy CTY 8 – Ribbon Development

Policy CTY 8 of PPS21 states that permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however 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. A substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

The applicant has indicated on his site location plan that he considers that the existing portable unit to the immediate West of the site, the detached dwelling at number 35 and its associated detached garage be considered as a line of 3 buildings along this section of the Moss Road. I however, would disagree. It is my opinion that the garage associated with number 35 does not read as part of this frontage given its subordinate and setback position. This was also the view taken by the Planning Appeals Commission in paragraph 31 of Appeal Decision 2016/A0070. I would further question as to whether or not the existing portable unit, which is temporary by its very nature can be considered as a building. Mid Ulster District Council has accepted that the portable unit for storage purposes approved under LA09/2016/0635/LDE has been on site in excess of 5 years and is immune from any enforcement action. This approval simply permits the applicant to use it for storage purposes. It is my opinion that it is more representative of a “Caravan”, in that it is a structure which is capable of being moved from one place to another (whether being towed, or by being transported on a motor vehicle or trailer). As such, the application site cannot be considered as a gap within a substantial and built up frontage as the frontage only comprises one building (ie) detached dwelling at number 35.

Policy CTY 13 – Design and Integration

This is an outline application therefore design is not under consideration. Integration is however a material consideration. Given the flat topography of the site and the lack of any long term critical views from the Moss Road, a modest single storey dwelling would not appear overly prominent in the local landscape. Existing boundary treatment along the roadside boundary, if retained, will screen views into the site to a certain degree. The existing Eastern boundary, if retained, will also assist integration and will act as a backdrop when travelling in a SE direction along the Moss Road. Additional planting along the Western and Southern boundaries will further aid integration but will not be primarily relied upon for the purposes of integration. This site was deemed acceptable in terms of integration under Appeal Decision 2006/A1003 (Paragraph 4) and in my opinion remains acceptable.

Policy CTY 14 – Rural Character

As referred to above, a single storey dwelling on this site will not appear overly prominent given its flat topography and the lack of long term critical views. I do however have concerns that a dwelling on this site would result in a build-up of development in this particular rural area. The site, despite the presence of the existing portable unit just outside the NW boundary, still acts as visual break between the edge of the settlement of Ballymaguigan and the existing rural properties, numbers 35 and 37 Moss Road. A dwelling on this site would result in a visual consolidation between these dwellings and their outbuildings and the development within the settlement limit of Ballymaguigan. I do acknowledge that the rural character of this area may have already suffered from a high level of existing development, but this does not justify a further erosion of rural character. This was also the view taken by the Planning Appeals Commission in Paragraph 31 of Appeal Decision 2016/A0070 and Paragraph 6 of Appeal Decision 2006/A1003.

Policy CTY 15 – The Setting of Settlements

If a dwelling were to be approved on this site, it would result in a visual consolidation between number 35 and 37 Moss Road, their associated outbuildings and the existing development within the development limit of Ballymaguigan. In effect it would mar the distinction between the settlement and the surrounding countryside and would be contrary to this policy. This also was recognised in Appeal Decision 2016/A0070 (Paragraph 32)

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

I recommend the application to be refused as it fails to comply with CTY 1, CTY 8, CTY 14 and CTY 15 of PPS 21.

Refusal Reasons

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site is not located within a substantial and continuously built up road frontage.
3. 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 further erode the rural character of the countryside.
4. The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, mar the distinction between the defined settlement limit of Ballymaguigan and the surrounding countryside.

Signature(s)**Date:**

ANNEX	
Date Valid	30th May 2018
Date First Advertised	14th June 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 30 Moss Road Magherafelt Londonderry The Owner/Occupier, 32 Moss Road, Magherafelt, Londonderry, BT45 6LJ, The Owner/Occupier, 35 Moss Road Magherafelt Londonderry The Owner/Occupier, 37 Moss Road Magherafelt Londonderry The Owner/Occupier, Moss Tiles 36 Moss Road Magherafelt	
Date of Last Neighbour Notification	9th July 2018
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2018/0754/O Proposal: Dwelling and garage Address: 20 metres West of 35 Moss Road, Ballymaguigan, Magherafelt, Decision: Decision Date: Ref ID: LA09/2017/1405/F Proposal: Part use of Port A Cabin for office use (retrospective) Address: 40m South East of 35 Moss Road, Ballymaguigan, Decision: Decision Date: Ref ID: LA09/2015/0598/F Proposal: Replacement office and storage unit associated with an established business (retrospective) Address: 50m West of 35 Moss Road, Ballymaguigan, Magherafelt, Decision: PR Decision Date: 25.05.2016	

Ref ID: LA09/2015/0347/LDE

Proposal: Portacabin used by CMI Planners for meeting and storage rooms

Address: Lands adjacent to 35 Moss Road, Magherafelt,

Decision: PR

Decision Date:

Ref ID: H/2004/0708/O

Proposal: Site Of Two Storey Dwelling

Address: 58 Metres West Of 35 Moss Road, Ballymaguigan, Magherafelt

Decision:

Decision Date:

Ref ID: H/2002/0467/F

Proposal: Site of Dwelling and Garage

Address: Adjacent to 35 Moss Road, Ballymaguigan, Magherafelt

Decision:

Decision Date: 17.10.2002

Ref ID: H/2004/0714/O

Proposal: Site of two storey dwelling.

Address: 38m west of 35 Moss Road, Ballymaguigan, Magherafelt.

Decision:

Decision Date:

Ref ID: H/1998/0679

Proposal: DWELLING AND GARAGE

Address: IN FRONT OF 37 MOSS ROAD BALLYMAGUIGAN MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2006/0693/F

Proposal: Replacement dwelling and detached garage

Address: 37 Moss Road, Ballymaguigan, Magherafelt

Decision:

Decision Date: 08.12.2008

Ref ID: H/1992/0061

Proposal: ALTS & ADDS TO DWELLING

Address: 37 MOSS ROAD BALLYMAGUIGAN MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2003/0365/F

Proposal: Proposed sun room extension and first floor conversion to dwelling.

Address: 37 Moss Road, Magherafelt.

Decision:

Decision Date: 29.07.2003

Ref ID: H/1993/0120

Proposal: SITE OF REPLACEMENT DWELLING

Address: 37 MOSS ROAD BALLYMAGUIGAN

Decision:

Decision Date:

Ref ID: H/1989/0106

Proposal: SITE OF REPLACEMENT DWELLING

Address: 37 MOSS ROAD BALLYMAGUIGAN

Decision:

Decision Date:

Ref ID: H/1999/0025

Proposal: REPLACEMENT DWELLING

Address: 37 MOSS ROAD BALLYMAGUIGAN

Decision:

Decision Date:

Ref ID: H/1997/0292

Proposal: SITE OF REPLACEMENT DWELLING

Address: 37 MOSS ROAD BALLYMAGUIGAN MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2004/1497/F

Proposal: Extension to a dwelling and detached garage

Address: 37 Moss Road, Magherafelt

Decision:

Decision Date: 22.05.2005

Ref ID: H/2009/0190/O

Proposal: Site of proposed residential housing development and proposed widening of Moss Road and provision of footway between the proposed site and B18 Ballyronan Road.

Address: No 36 Moss Road, Ballymanguigan, Magherafelt including lands immediately to the east and the west.

Decision:

Decision Date: 10.12.2009

Ref ID: H/2011/0360/O

Proposal: Proposed infill dwelling and garage

Address: 40m NW of 37 Moss Road, Ballymaguigan, Magherafelt,

Decision:

Decision Date: 20.01.2012

Ref ID: LA09/2016/0197/F

Proposal: Alterations and extension to existing dwelling to form additional single storey sun lounge

Address: 37 Moss Road, Ballymaguigan, Magherafelt,

Decision: PG

Decision Date: 31.03.2016

Ref ID: LA09/2016/0761/F

Proposal: Extension to existing portacabin to provide storage and office accommodation

Address: 40m North West of 35 Moss Road, Ballymaguigan, Magherafelt,

Decision: PR

Decision Date: 05.10.2017

Ref ID: LA09/2016/0635/LDE

Proposal: Portacabin for storage purposes

Address: 40m NW of 35 Moss Road, Ballymaguigan, Magherafelt,

Decision: PG

Decision Date:

Summary of Consultee Responses

DFI – Roads – No objections subject to standard conditions

NIW – No objections

EH – No objections

SES (informal) – No objections

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/0983/F	Target Date:
Proposal: Proposed single storey extension to rear of dwelling	Location: 26 Whitetown Road Newmills Dungannon
Referral Route: Recommendation to Approve	
Recommendation: Approve	
Applicant Name and Address: Mrs Muriel Magee 19 Kilcorig Road Lisburn	Agent Name and Address: Kee Architecture Ltd 9a Clare Lane Cookstown BT80 8RJ
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
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Representations:

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

Characteristics of the Site and Area

The site is located in the rural countryside adjacent the Whitetown Road, approx. ½ a mile north of Newmills.

The site contains a modest single storey dwelling, its curtilage and a portion of a field to its rear. The dwelling which is accessed directly off the adjacent road Whitetown Road, has a simple rectangular floor plan and pitched roof construction; white dash walls; white upvc window frames and doors; and grey roof tiles. The dwelling sits on a flat concrete base and occupies a slightly elevated position above the level of the adjacent road, as the land within the site rises from the roadside, up to the dwelling, to its rear boundary and beyond the site to the west. The curtilage of the dwelling is defined by a mix of approx. 1.2 metre high post and wire fencing (northwestern and rear boundary) and mature vegetation (southeastern and roadside boundary). A garden / grass amenity area runs right round the dwelling though primarily to its front and rear. Incurtilage parking is provided in the driveway off the Whitetown Road, which runs along the southeast side of the dwelling.

Views of the dwelling on site are limited. There are no views on the southeastern approach travelling along the Whitetown Road until almost passing its entrance, primarily due to the mature vegetation along the southeastern boundary of the site and along the roadside on the approach; but also due an existing line of roadside development to the southeast of the site.

Views are also limited on northwestern approach, from a point approx. 200 metres to the north west and over a short distance there is a long distance glimpse of the dwelling but after this again it is screened by roadside vegetation until passing along the roadside frontage of the dwelling.

This area of countryside is typically rural, characterised primarily by undulating agricultural land with dwellings and farm groups dispersed along the roadside. Immediately adjacent and southeast of the site is a number of large agricultural buildings and sheds set back from the roadside. To the southeast again is two roadside bungalows, no.28 which is orientated gable end unto the road and no. 30 fronting onto the road. There is another dwelling set back from the roadside to rear and south of no.30.

Description of Proposal

This is a full planning application for a single storey extension to the rear of an existing single storey, detached property, located at number 26 Whitetown Road, Newmills, Dungannon. The extension will accommodate a new bathroom and bedroom.

Planning Assessment of Policy and Other Material Considerations

History

M/20000279/F – full application for a dwelling – granted 27th June 2000.

LA09/2018/0977/O – outline application for an Infill site for 2 no dwellings with demolition and removal of redundant agricultural buildings – This application in the field immediately south east of the current site is still under consideration and for the same applicant Mrs Muriel Magee. Mrs Magee is the sister of elected member Cllr Kenneth Reid.

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland (SPPS) - Planning for Sustainable Development

Dungannon and South Tyrone Area Plan 2010

Addendum to PPS 7 Residential Extensions and Alterations

PPS21 Sustainable Development in the Countryside

The site lies outside any settlement defined under the Dungannon and South Tyrone Area Plan 2010 as such PPS21 Sustainable Development in the Countryside applies. PPS21 Policy CTY1 outlines

The proposal meets the criteria of Planning Policy Statement 7 as set out in Policy EXT 1 Residential Extensions and Alterations in that:

The scale, massing and design of the proposed extension are sympathetic with the built form and appearance of the existing property, and as such when viewed from the surrounding vantage points as highlighted earlier will not detract from the appearance and character of the property or the area. Additionally the extension which is to be located to the rear of the dwelling is sub ordinate in size to the existing dwelling with material finishes to match.

The extension will not affect the privacy or amenity of neighbouring residents in terms of overlooking / overshadowing as there are none in close proximity to the site. The site is also well enclosed / screened by vegetation along its south east boundary.

The extension will not cause any loss of, or damage to, trees or other landscape features contributing significantly to local environmental quality.

Sufficient space will be retained within the curtilage of the property for recreational and domestic purposes.

No objections or representations have been received.

Case Officer recommendation: Approve

Neighbour Notification Checked

Yes

Summary of Recommendation: This proposal is recommended for approval.

Conditions

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

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

Signature(s)

Date:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/1022/O	Target Date: 6/11/2018
Proposal: Site for dwelling	Location: Lands approx. 45m S.W. of 24 Cranlome Road Galbally Dungannon
Referral Route: Contrary to Policy, criteria 3 of CTY2a of PPS21.	
Recommendation:	Approve
Applicant Name and Address: R McElvogue Cabragh Road Dungannon	Agent Name and Address: Building Design Solutions 76 Main Street Pomeroy BT70 2QP
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Representations: None Received

Description of proposal

This is an outline application for a dwelling in the countryside.

Characteristics of site and area

This site is set back approx. 50m from Cranlome Road and is accessed from an existing private lane. The NE boundary is shared with the rear boundary of No. 24 (a 2 storey property) and is defined by a 2m high close boarded fence and some semi-mature trees. The SW boundary is not clearly defined and open to a larger field. Remaining boundaries, including the laneway, are defined by a mix of hedgerow, some mature trees and fencing.

Adjacent and SE is No. 18 which is single storey. To the NW is No. 24c a single storey dwelling, with No. 24d located west which is a newly constructed 2 storey property. North is No. 24a, another 2 storey property on a roadside site.

Surrounding the site and within the locality the area is defined by mature tree coverage, roadside hedgerows, agricultural land and a mix of single and 2 storey dwellings. The character is rural in nature.

Planning Assessment of Policy and Other Material Considerations

Area Plan

The application is for a new dwelling in an existing cluster. The site is located in the open countryside as defined by the Dungannon and South Tyrone Area Plan 2010. Development in the countryside is controlled under the provisions of the SPPS and PPS 21 Sustainable Development in the countryside and must have regard to the Development plan.

Planning History

There is no relevant planning history to consider.

3rd Party Representation

No representations, including objections, have been received and all relevant neighbours have been notified.

Policy Consideration

The SPPS provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, 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'.

Policy CTY2a of PPS21 states that planning permission will be granted for a dwelling at an existing cluster of development provided 6 criteria are met.

The first criteria requires the development to lie outside a farm and consist of 4 or more buildings, at least 3 of which are dwellings. I am content that the cluster of development lies outside of a farm holding/complex. In close proximity of the site there is a grouping of 7 no. dwellings with associated garages.

Criteria 2 requires the cluster of development to appear as a visual entity in the landscape. When driving along Cranlome Road you are aware of a row of 4 no. dwellings to the SW. There are 3 dwellings to the rear of these roadside properties which are not obvious from the public road due to existing mature tree coverage, and you only become aware of these when you access a private laneway on each side of No. 24. When on either of these laneways you do become aware of the surrounding development and in this respect the cluster appears as a visual entity in the landscape.

Criteria 4 requires the site to provide a suitable degree of enclosure and bounded on at least 2 sides with other development in the cluster. This site is bounded on 3 sides by dwellings, No.s 18, 24 and 24c, which in my view provides a suitable degree of enclosure. A mature boundary to the SW also assists with enclosure.

Criteria 5 directs that that the development should be capable of being absorbed into the existing cluster through rounding off and will not significantly alter surrounding character or visually intrude into the countryside. Surrounded by 5 no. dwellings with associated garages, this site represents a rounding off of development within this cluster. Plot size is also respected and is representative of those within the existing cluster. This dwelling will not encroach into the open countryside as it will infill a gap between development consolidating the cluster in the landscape and will not have a detrimental impact on rural character or visual amenity.

In my view existing and proposed residential amenity can be respected given separation distance from adjacent dwellings. In my view a dwelling can be designed and sited that will result in no overlooking or overshadowing of neighbouring property. As this is an outline application no design details have been presented. Impacts on amenity can be addressed when full design details are provided. Criteria 6 is met.

Policy CTY 2a also directs that the cluster is associated with a focal point such as a social / community building / facility, or is located at a cross roads. While the site or area does not

include any of these focal points, it is my view that the overall thrust of the policy has been respected, with all other policy points being satisfactorily achieved. Rounding off and consolidation of development is achieved without detriment to rural character and in this case I find it not determining that the cluster is not located at a focal point of cross-roads. Policy CTY2a is met in the round and the proposed development is acceptable in principle under this policy. The Planning Appeals Commission support this interpretation under 2017/A0222.

The site benefits from set-back from the public road and screening from existing vegetation and buildings and grouping with other development therefore policies CTY8, 13 and 14 are met.

Design will be considered at Full or Reserved Matters stage.

Other Considerations

DfI Roads have been consulted regarding the proposal and have no objections subject to pre commencement condition. Visibility splays of 2.4 m x 60 m are required to the NW and 2.4m by 45m to the Southeast.

I am also content that there are no ecological or flooding issues. Built heritage will not be impacted.

It is my opinion that the proposal accords with the policy tests of the SPPS and PPS 21, therefore I recommend approval for this development.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That permission is granted subject to the following conditions.

Conditions

1. As required by Section 62 of the Planning Act (Northern-Ireland) 2011, application for approval of the reserved matters shall be made to the Local Planning Authority 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: Time Limit.

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 Local Planning Authority, in writing, before any development is commenced.

Reason: To enable the Local Planning Authority to consider in detail the proposed development of the site.

3. A 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 planted and retained. 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 the Local Planning Authority in writing.

Reason: In the interest of visual amenity.

4. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the 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.

5. The dwelling hereby permitted shall have a ridge height not more than 7.5m from finished floor level.

Reason: So that the building integrates into the surrounding countryside, to respect the character of development in this area, and, in the interest of privacy and amenity.

6. The under build of the proposed dwelling shall not exceed 0.45m at any point within its proposed footprint.

Reason: So that the building integrates into the surrounding countryside.

7. 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 and in the interest of privacy and amenity.

8. 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 60m to the Northwest and 2.4m by 45m to the Southeast onto the public 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:

ANNEX	
Date Valid	23rd July 2018
Date First Advertised	9th August 2018
Date Last Advertised	16th August 2018
Details of Neighbour Notification (all addresses) The Owner/Occupier, 18 Cranlome Road,Dungannon,Tyrone,BT70 2HS, The Owner/Occupier, 24 Cranlome Road,Dungannon,Tyrone,BT70 2HS, The Owner/Occupier, 24a ,Cranlome Road,Dungannon,Tyrone,BT70 2HS, The Owner/Occupier, 24c ,Cranlome Road,Ballygawley,Tyrone,BT70 2HS, The Owner/Occupier, 24d ,Cranlome Road,Ballygawley,Tyrone,BT70 2HS,	
Date of Last Neighbour Notification	30th July 2018
Date of EIA Determination	NA
ES Requested	No

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2016/1686/F	Target Date:
Proposal: Proposed new seating area and changing facilities building within existing fishery	Location: Land approx. 80m North East of 41 Gorestown Road Dungannon
Applicant Name and Address: Gorestown Lough Fishery Ltd 37 Gorestown Dungannon BT71 7EX	Agent name and Address: www.niplanningpermission.co.uk Scottish Provident Building 7 Donegall Square West Belfast BT1 6JH
Summary of Issues: Scale of the development is appropriate in the countryside.	
Summary of Consultee Responses: Roads - need to show parking and servicing areas EHO - details of septic tank to be agreed NI Water - no foul sewer available	
Characteristics of the Site and Area: The site as proposed is very restricted in area and is located on the south boundary of Gorestown Fisheries. The fisheries complex is located on the south side of Gorestown Road and it slopes down from west to east. There is a hard cored car park in the west boundary and 2 man-made ponds in the east part of the site. Planning permission has been granted for 3 tourist caravans, beside the existing car park. Mature trees are located along the east boundary of the site and a low hedge is along the majority of the other boundaries.	

The site is approximately 2.5kms west of Moy and the site is overlooked by a large detached dwelling with a thatched roof that sits on higher ground to the west. The area is characterised by agricultural land and farm buildings as well as single rural houses.



Description of Proposal

The proposed development before the members is for the erection changing facilities and coffee dock, seating area. The building proposed will be sited in the south of the site, it will have a ridge height of 6m, above finished floor level, 13m long and 9m wide and finished with are cedar coloured timber cladding to the walls and a slate roof.

Deferred Consideration:

Members are advised this application was deferred at the June meeting to allow the applicant to meet with the planning manager to discuss reducing the scale and size of the development. Following the meeting amended plans were submitted for a smaller building which is 13m x 9m

with a ridge height of 6m above finished floor level. The revised proposal is for male and female changing rooms, a coffee dock and seating area associated with the existing Gorestown Lough Fishery and the tourist accommodation on the site. It will be finished with wooden walls and a slate roof and is sited beside a low hedge along the south boundary of the site

The proposed development must now be assessed against Policies OS6 of PPS8 (Open Space, Sport and Outdoor Recreation) and TSM 2 and TSM7 in PPS16 (Tourism). I consider if the proposed development meets with the requirements of these policies it will meet with the policies in PPS3 – Access Movement and Parking, PPS15 (Planning and Flood Risk and PPS21 (Sustainable Development in the Countryside).

The new building is set within the grounds of the existing fishery where the only other buildings on the site are Romany caravans for tourist accommodation. These were recently approved and while one or a number of these could be converted to provide the changing rooms, I consider this is not feasible as it would reduce the tourism potential on the site. The proposed building is modest in scale and with its timber walls and slate roof, I consider it will compliment the existing buildings on the site. Given the rising ground to the south and west and the existing caravans on the site, I consider the proposal will not be unduly prominent and will satisfactorily integrate into the landscape. I consider it is appropriate to provide additional landscaping to further integrate the proposed development.

The building is in the countryside and does not have any footpaths linking it to any other settlements, users of the site primarily arrive by car and these are accommodated by the existing car park on the site which has a substandard access, I consider it is necessary to attach a condition to require the access to be upgraded and this can be achieved within the applicants own land. The 300sqm car parking area serves the existing uses on the site and I consider it could accommodate 25 car parking spaces. The car park will be linked to the building by a pathway which it is in the developers interest to surface in such a way as to accommodate less abled members of the public who may visit the site. The proposed development is primarily to accommodate the existing users of the site and as such I do not consider it is necessary to provide any additional parking to serve this proposal. The building is located approx. 80m from the nearest dwelling not associated with enterprise, this dwelling is not currently occupied. I do not consider this development will have any significant detrimental impact given that it is for changing rooms with a small coffee dock and seating area. There are no known historic buildings or monuments close to the proposed building, the fishery lake is man-made and all water from the site generally collects in it. While there are no details of waste treatment facilities, there is adequate space within the site to provide a septic tank and any discharge from this will be dealt with by NIEA under a Consent to Discharge license.

As the proposal is of a scale and design that I consider is appropriate to this site, I recommend to the committee that planning permission is granted..

Conditions/Reasons for Refusal:

Conditions

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

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

2. The vehicular access, including visibility splays of 2.4m x 60.0m and any forward sight line shall be provided in accordance with drawing no 03 Rev 1 bearing the stamp dated 19 JUL 2018, prior to the commencement of any works or 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 levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. Prior to the commencement of any development thereby approved a landscaping scheme shall be submitted to the Council for its written approval. The scheme shall include details of those trees to be retained and measures for their protection during the course of development; details of all new landscaping to be provided around the proposed building and along the south boundary of the site. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice

REASON: To ensure the development integrates into the landscape.

4. All hard and soft landscape works shall be carried out in accordance with the details approved in accordance with condition 3 and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any part of the development. 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: To ensure the provision, establishment and maintenance of a high standard of landscape.

Informatives

Signature(s):

Date

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2017/0899/F	Target Date: <add date>
Proposal: Cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard-standing areas for a new hobby farm holding for raising rare cattle and sheep breeds	Location: Lands to the front of and NE of 102 and 104 Ballygawley Road and South of 101 Ballygawley Road Glenadush
Applicant Name and Address: Mr Bernard McAleer 7 Glenree Avenue Dungannon BT77 6XG	Agent name and Address: Blackbird Architecture 4 Glenree Avenue Dungannon BT71 6XG
Summary of Issues: Transport NI, Rivers Agency, NIEA (DAERA Planning Response Team), the Council's Environmental Health Department (EHD) and Department for Communities Historic Environment Division (HED) were consulted and have made comment on this application. Seven letters of objection and two letters of support have been received and the comments made have been considered below. All material considerations, including policy considerations, have been addressed within the determination of this application.	
Summary of Consultee Responses: EHO – conditions to be attached to protect residential amenity Roads – access to be conditioned NIEA – no objection Historic Environment Division – Content Rivers Agency – content that proposal complies with PPS15	

Characteristics of the Site and Area:



The site is situated on the Ballygawley Road, Dungannon, Co. Tyrone. The site is some 1.25km west of Dungannon and approx. 130m east of the nearby Eskragh Lough. This area is categorised as countryside within the Dungannon & South Tyrone Area Plan 2010.

The area surrounding the site exhibits an undulating nature and can be described as a rural area with an element of small scale variation in elevation. The area surrounding the site is quite enclosed by landform and mature vegetation, however there is a greater degree of openness to the west of the application site where views open up across Eskragh Lough.

The application site is bound on each of its sides by vegetation and hedgerows. The site is currently accessed via an existing agricultural access which is situated to the north western corner of the site. The access is currently obtained via an existing laneway which serves the existing dwellings at numbers 104 and 106 Ballygawley Road. The field within which the application site is located makes up the entirety of this farm holding and members are advised that the lands within this farm holding do not host any farm buildings.

No's 104, 106, and 102 Ballygawley Road are residential dwellings in close proximity to the application site, to the west and south west respectively.

In terms of elevation the site area rises from the road at the north to the south of the site where the proposed farm building is sited.

Description of Proposal

The proposed application is for proposed cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard standing areas for a new hobby farm holding for raising rare cattle and sheep breeds. The applicant has highlighted that the purpose of the proposed building is to house and farm machinery/equipment, fodder, and to isolate cattle for testing by a vet. The applicant also notes that only breeding stock will be retained all year round and it is anticipated to be 2 no. rare breed cows. The breeding stock is to be housed in the shed over the winter months with the remainder sold off before winter.

The application relates to a 'hobby farm' which for the purposes of the application relates to a farm which the applicant will use to house rare breed cattle and sheep as a hobby in his retirement.

The proposal is sited to the south western corner of the application site and is measured at 12.6m in width and 21m in length. The maximum ridge height of the proposed shed is measured at 5.2m. The proposal includes the provision of external cattle pens and a cattle crush to the side of the shed in an area measured at 6m in width and 21m in length. Materials to be used on the proposed shed include a rendered masonry to lower walls, upper walls and roof cladding – goose wing grey, and goose wing grey rainwater goods.

Deferred Consideration:

Members are advised this application was before the committee in December 2017 with a recommendation to refuse as the applicant was not an active farmer and the development would have had an adverse impact on the neighbours due to noise and odours. The application was deferred for a meeting with the applicant and the planning department to explain the issues.

There has been no additional information submitted to demonstrate Mr McAleer is an active farmer and it is clear from all the information presented it is Mr McAleer's intention to become a farmer of rare breeds. A case has been put forward that as this is not an active farmer Policy CTY12 is not the appropriate policy for consideration and that it should be considered as other development in the countryside as provided for at the end of Policy CTY1. Policy CTY12 is the policy which must be considered when assessing applications for agricultural buildings. As this proposal is for an agricultural building it is clear in my mind this is the relevant policy that it must be assessed against. Members are advised there is no policy to facilitate a new farmer to obtain buildings in the countryside, it is clear the applicant must be an active and established farmer. Mr McAleer owns this land and has advised he is unable to get a farm business ID from DEARA without a herd number and is unable to get a herd number if he does not have any buildings on the farm. I am aware that members are sympathetic to new farmers and the desire to encourage people into the farming industry, however, members are also aware of the significant commitment that farming demands. I do not consider the desire to farm is sufficient to justify allowing a building, it is possible to obtain a herd number if the applicant can have the use of buildings. This land is currently farmed by another farmer who, the applicant has acknowledged, rents buildings close by to allow them to meet the DEARA requirements. I do not consider an exception to the policy can be accepted in this case at this time.

The siting of the building is within 20 metres of the private patio area at the rear door or no 102 Ballygawley Road, I met the occupiers of the house on site and they indicated this is the space they use mostly. (See area identified yellow in attached map)



I am conscious that planning permission M/2000/0486/F was granted for a domestic garage, store and stables with a paddock area immediately adjacent to the rear wall of no 102, though there are no animals in the paddock area and it is currently used for storing a mobile home. Environmental Health have considered the noise and odour reports submitted and have suggested conditions that would reduce the impacts of the development on the neighbours. However members should note the closeness of the proposed building to no 102 which I consider is too close, EHO may not consider the proposal would constitute a statutory nuisance, however the test for loss of amenity is lower than that statutory nuisance limits. I accept there will be mitigation of the impacts by way of walls on this side of the building, a thick landscaping belt as well as the existing hedge along the lane and a wall around the patio area, I also consider that animals could be located in the paddock to the rear of 102, however having visited the site I share the concerns with the residents of 102 and consider this development would have an unacceptable adverse impact on their amenity due to noise, odours and flies. As the applicant has not demonstrated that he is an active farmer and as I consider the proposal will have an adverse impact on residential amenity I consider the proposal should be refused.

Conditions/Reasons for Refusal:

Refusal Reasons

1. The proposal is contrary to Policy CTY 12 of Planning Policy Statement 21, sustainable development in the countryside in that it has not been demonstrated that the farm business has been established for a period of at least 6 years and that the development, if permitted, would result in a detrimental impact on the amenity of nearby residential dwellings by reason of noise, odour and flies due to its close proximity.

Signature(s):

Date

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2017/0936/F	Target Date: <add date>
Proposal: Proposed 2No. additional broiler poultry sheds (to contain in total 74000 broilers taking the total farm capacity to 148000 broilers) with 4No. feed bins ,2No gas tanks, biomass boiler shed and pellet bin, ancillary building and proposed cattle shed with underground slurry tank (to contain 80 beef cattle) new covered silage pit, covered yard area and general farm storage building	Location: Lands approx. 300m North West and 100msouth west of 27 Terryscollop Road Annagh Dungannon
Applicant Name and Address: CAP Farms Ltd 27 Terryscollop Road Annagh Dungannon	Agent name and Address: Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
Summary: This is a Major application which has been recommended to Committee for approval, it is likely to have an affect on Areas of Special Scientific Interest and is subject to objection from Natural Environment Division, Department of Agriculture, Environment and Rural Affairs (DAERA). This application was brought before the Committee on 8 th January 2018 and it was resolved to approve the development subject to notification to the Department for Infrastructure (DfI), as the legislation requires. Following notification the DfI, by way of a letter dated 14 th February 2018, directed that the Council do not grant planning permission for this application (Appendix 1 of this report). Subsequently DfI, by way of a letter dated 1 st March 2018 informed the Council that it does not intend to determine the application and that the Council should continue to process the application. DfI has advised the Council that it should hold a Pre-Determination Hearing before taking a decision. Further iDfI acknowledged that NIEA did not respond to the Councils requests for information in relation to concerns it had about the development. DfI have provided NIEA concerns and have asked that these are considered as well as the cumulative impact of the proposed and existing development in any report.	

This application was subject to a Pre Determination Hearing at the June Committee Meeting where the committee decided to place the application before the full council on 23 August 2018 for ratification of its resolution to recommend approving planning permission. This decision was taken in the basis that Local Government Reform was indicating where a Pre Determination Hearing has been held that the decision must be taken by full Council.

Further investigation of the law has determined that the Planning Committee has the power to decide this application and Dr Boomer requested that full Council, at its meeting on 23 August 2018, return this application to the Planning Committee for final decision.

Summary of Consultee Responses since the Pre Determination Hearing on 5th June 2018:

NIEA provided a response to the planning application on 6th June 2018, the day after the Planning Committee Meeting, requesting additional information to allow them to consider the impacts of the proposal. NIEA advise the council should consider the impacts on the Areas of Special Scientific Interest (ASSI's) from unauthorised development and 80 cattle grazing

The Planning Department emailed NIEA and explained they had the opportunity to attend the Pre Determination Hearing on the 5th June 2018 and did not take this opportunity to appear before the Planning Committee. They were further advised that information presented by the applicant indicates the levels of ammonia affecting the ASSI's, even with this proposed development, will be less now than in 2010 and that no evidence has been presented by NIEA to show those higher levels had a detrimental impact on the ASSI's. NIEA were given a clear indication the Planning Committee had resolved to present this application to the full Council on 23rd August 2018 to ratify its recommendation to approve planning permission unless they provide evidence of a demonstrable adverse impact on the ASSI's. NIEA were also asked to explain how the ASSI's would be damaged by this development given that in 2010 they were subject to significantly higher levels of ammonia.

Members are advised NIEA have not provided any further information or correspondence to rebut or challenge the information presented that clearly shows the ammonia levels in the area have decreased since 2010. No information has been provided to suggest that those levels in 2010 had any adverse or detrimental impacts on the ASSI's identified by NIEA. The planning enforcement team are not currently aware of any unauthorised activity at the farm and as such the concerns of NIEA have not been substantiated or demonstrated.

Characteristics of the Site and Area:

This is a working farm located in the rural area south of the village of Eglish. There are a number of existing cattle houses and agricultural buildings located beside the farm house on a hilltop position. The existing buildings are a mixture of older corrugated iron buildings and newer buildings with cladding. There is an existing concrete yard with 2m high walls located beside the existing cattle shed and silage pit. 2 poultry units are located on lower land to the NW of the main farm group, these are accessed off an existing private lane in a larger agricultural field which slopes towards the south west.

The surrounding area is undulating drumlin landscape with small farm groups, poultry buildings and single houses.

Description of Proposal

The proposal involves the extension of the existing buildings to accommodate a total of 80 cows and 2 poultry units to allow housing of 74000 broilers. The extensions are to provide:

- 1) 27m x 17m building with an 8m high pitched roof over the existing concrete yard,
- 2) removal of the existing lean-to over the cattle pens and extension over an existing tank and extension of the tank, to create a 30m x 29m building with a 6.6m pitched roof to create an additional 12 cattle pens the building and
- 3) 27m x 29m building with a 11m high pitched roof over a general farm storage building and silage pit.

All the buildings will have grey cladding to the upper walls and roofs and concrete to the lower walls.

The proposed poultry houses are 98m x 21m with a ridge height of 6.6m, the buildings are linked on the frontage with a 6m x 6.5m building which has a 4m ridge height, behind this is 8.9m high silo for wood pellets to feed a biomass boiler contained in a 10m x 4m building that is 4m high. It is also proposed to provide 4 additional feed silos of 8.9m high and a 7m x 6m x 4m high ancillary building beside a retaining structure for the ramped vehicular access between the existing and the proposed buildings

The plans also show underground storage tanks for dirty water out of the poultry units, swales to provide rain water attenuation and native species landscaping around the buildings.

Deferred Consideration:

Dungannon & South Tyrone Area Plan Planning acknowledges that agriculture is an important use in the area. It does not have any policies in relation to this application but it identifies the site within the rural area where Planning Policy Statement 21 – Sustainable Development in the Countryside provides the policy considerations.

The Strategic Planning Policy Statement re-states the policies contained in **PPS21**, and I consider the most appropriate policy for consideration is CTY 12 which sets out criteria that allows planning permission to be granted for agricultural development subject to consideration of the status of the farm business; its impacts on the locality, neighbouring residents, natural and built heritage. Members should note the Ministers Review into the Operation of Planning Policy Statement 21 recognised there would be a significant number of planning applications for poultry houses to supply the agri-food sector. It does not provide any policy guidance but it does clearly

recognise this industry is a key economic driver for the rural economy which I consider is supportive of this type of development.

The proposed development is an expansion of an existing active and established farm and the buildings are sited beside the existing buildings, are similar in size, scale and appearance to some of the existing buildings on the site and I consider the development to be appropriate to the location. The existing vegetation around the site, existing buildings on the site, topography of the landscape along with the additional landscaping proposed around the buildings will, in my view, assist the integration of the buildings into the landscape especially the cattle houses which have critical but limited views from the minor road network to the south and east. The poultry units will be seen in fleeting views from the Eglish Road, these are seen with a backdrop of rising ground and the existing units, again I consider the proposed landscaping will assist screening of these new buildings.

Members should note the expansion of the cattle houses is close to an historic monument, a rath. Historic Environment Division have been consulted and do not have any concerns with impacts from the proposed development on any historic features.

An Environmental Statement was submitted with the application which addressed noise, air quality and odour, the ecology, the water environment, transport, socio-economic impacts and waste disposal and nitrates management. The statutory agencies, except NIEA-NED have not objected to this development, provided some conditions to mitigate against possible environmental effects are attached to any planning permission. NIEA – Industrial pollution and Radiochemical Inspectorate have advised this site is the subject of a Pollution Prevention and Control Permit and it will need to be amended to take account of the new building. This is a separate regulatory regime to the Planning system. Environmental Health officers have advised the reports have indicated there will be no significant adverse impacts on sensitive dwellings from odour or noise.

PPS2 – Natural Heritage, Northern Ireland Environment Agency – NED have considered the proposed development in relation to nitrogen emission impacts on Benburb ASSI, Benburb & Mulltown ASSI, Knocknacloy ASSI and Rehaghy Wood ASSI. NIEA have advised, in a response that was only forthcoming following the notification to DfI, the nitrogen critical loads in the area exceed the upper critical level, an example for Knocknacloy ASSI, a mountain hay meadows habitat has been provided. NIEA also advised the proposal must take account of the loads from the existing development as well as the proposed development and that the existing cattle sheds have not been taken into account. The Environmental Statement submitted with the application sets out the background levels for ammonia levels measured in 2010 – 2012 and have been used to consider the proposal and the impacts from it on Rehaghy Wood, Knocknacloy and Benburb. The background levels have been calculated on the basis of the average of actual measured data over a 3 year period. Council has been advised by the consultants acting for the applicant in this matter, the background levels include the existing cattle sheds and as such they have been considered within the overall assessment of the impacts. Following notification to DfI, and the receipt of the NIEA response setting out the levels, the consultant provided revised ammonia concentration levels on 5 March 2018, these are for 2014-2016. It is notable that the most recent background levels are lower than in the original assessment, despite the 2 poultry units on the farm being constructed and contributing to these levels. NIEA were consulted with these revised figures on 4th April 2018 and have not provided any analysis or consideration of the figures, they

state ‘ there are significant challenges for the Department in considering agricultural expansion and development in areas where the critical loads of nitrogen deposition are already exceeded.’. They have not provided any response or analysis of the significance of these figures or advice on the validity of the figures or possible reasons for this reduction in the levels. Members are advised the environmental statement and the updated figures for ammonia levels acknowledge the critical loads still exceed the Predicted Environmental Concentration Guidelines, however the levels have fallen in the most recent figures and the impacts from this development and the existing buildings on the farm is assessed as having a less than 1% contribution to the overall levels of ammonia. Members should be aware that a consultee must provide evidence or substantiate any concerns they may have about a development, in this case NIEA are relying on figures that show the levels of ammonia are in exceedance of the guidelines. This is accepted by the applicants, however the applicants have provided information that shows they have assessed the cumulative impact of the proposed development and the existing development and the overall operations account for less than 1% of the ammonia figures. In view of this limited increase, on levels that are shown to be falling, I consider it is reasonable to deduce the application has been shown not to have a significant impact on the levels and as such will have a limited impact on the sites identified.

Shared Environmental Service have advised the potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43(1) of the Conservation (Natural Habitat, etc) Regulations (NI) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site. In light of this I am content the proposal meets with policies contained in PPS2.

PPS3 – Access, Movement and Parking, TNI consider the access point, where it meets the minor road is sub-standard as the existing visibility splays are not adequate. A proposed improvements to the access is acceptable provided it is carried out prior to the commencement of development and I consider it is reasonable to condition the provision of these improvements.

PPS15 – Planning and Flood Risk, due to the size of the proposed development, policy FLD3 places a requirement for a drainage assessment to be carried out to demonstrate adequate measures are put in place to mitigate against flooding. The proposal includes a storm water attenuation system which DARD (NI) Rivers Agency accepts and have they not offered any objections to the proposal. I am content a condition requiring the provision of the flood attenuation scheme is required to ensure this is provided.

It is recommended this application is approved with the following conditions

Conditions:

Conditions:

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

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

2. The vehicular access, including visibility splays of 2.4m x 33.0m and 33.0m forward sight line shall be provided in accordance with Drawing No 02 Rev 01 bearing the stamp dated 27 SEP 2017, prior to the commencement of any works or 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 levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. All hard and soft landscape works shall be carried out in accordance with the details as shown on drawing No 02 Rev 1 bearing the stamp dated 27 SEP 2017 and the appropriate British Standard or other recognised Codes of Practice. The landscaping shown around the new cattle houses shall be carried out prior to any of the cattle houses becoming operational and the landscaping around the new poultry houses shall be carried out prior to any of the poultry houses becoming operational. 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, establishment and maintenance of a high standard of landscape.

4. Prior to the construction of any of the poultry buildings or laying of any concrete surfaces associated with the poultry units, the storm water drainage run and swale located beside the poultry buildings as detailed on drawing no 02 REV 1 bearing the stamp dated 27 SEP 2017 shall be provided as detailed.

Reason: To attenuate the storm water from the site and reduce the risk of flooding.

5. Prior to the construction of any of the cattle houses or laying of any concrete surfaces associated with the cattle houses, the storm water drainage run and swale located beside the cattle houses as detailed on drawing no 02 REV 1 bearing the stamp dated 27 SEP 2017 shall be provided as detailed.

Reason: To attenuate the storm water from the site and reduce the risk of flooding.

6. Prior to the poultry houses hereby approved becoming operational the washings tank shown on drawing no 02 REV 1 bearing the stamp dated 27 SEP 2017 shall be provided with no overflow or outfall permitted to the adjoining waterways. All dirty water generated on this site by these buildings must be collected in the tank.

Reason: To ensure there are no adverse impacts on the selection features of Lough Neagh ASSI and Lough Neagh and Lough Beg SPA.

Informatives

1. When making this decision the Council has taken into consideration environmental information within the terms of the Planning (Assessment of Environmental Effects) Regulations (Northern Ireland) 2015.
2. The applicant will be required to obtain a Pollution Prevention and Control (PPC) permit variation prior to first operating the expanded facility.
3. Your attention is drawn to Standing Advice Notes 12, 23, 4, 11, 5 and 18 published by NIEA and available to view of NI Planning Portal under NIEA Guidance.

Signature(s):

Date

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 7 August 2018 in Council Offices, Ballyronan Road, Magherafelt

Members Present

Councillor Glasgow, Chair

Councillors Bateson, Bell, Clarke, Cuthbertson, Gildernew, Kearney, McAleer (7.06 pm), McElDowney, McKinney, McPeake, Mullen, Robinson,

Officers in Attendance

Dr Boomer, Planning Manager
Mr Bowman, Head of Development Management
Ms Doyle, Senior Planning Officer
Ms Kearney, Senior Planning Officer
Mr Marrion, Senior Planning Officer
Mr McCrystal, Senior Planning Officer
Ms McNally, Council Solicitor
Ms Grogan, Democratic Services Officer

Others in Attendance

Councillor B McGuigan

The meeting commenced at 7 pm.

P102/18 Apologies

Councillors Mallaghan and Reid.

P103/18 Declarations of Interest

The Chair reminded members of their responsibility with regard to declarations of interest.

P104/18 Chair's Business

The Chair advised that he had no issues.

The Planning Manager updated members on Planning Performance Statistics for 2017/18 which came out at the end of June. He advised that the number of planning applications received overall in Northern Ireland was 12,770, a decrease of 1% on last year. He said that four of the eleven Councils received more local applications compared to the previous year with Mid Ulster and advised that 1415 planning applications were received and that Mid Ulster was the third highest in Northern Ireland after Belfast City and Newry, Mourne and Down.

He advised that the NI approval rate for all planning applications was 94%, similar to the rate last year and approval rates varied across Councils in 2017/18 and was pleased to advise that Mid Ulster District Council came out on top with 97.8%. In

referring to applications decided by Council, Mid Ulster came third highest achieving 1,200.

The Planning Manager stated that he was pleased to advise that the processing time of local applications for Mid Ulster was 14.4 weeks above the Northern Ireland average of 15.2 weeks.

He advised that Mid Ulster was also processing its enforcement cases in line with regional targets.

However, he was concerned that since the start of 2018 Performance had dipped and his own records showed that we were falling short of the 50% to around 35% for deciding local applications. He stated that this was due to unforeseen circumstances such as maternity leave, car accidents, staffing resources amongst other factors and that he was trying to make the best of the staffing resources that there was by moving staff around from Development Plan to Development Management and bringing on board additional members of staff.

Councillor McAleer entered the meeting at 7.06 pm.

Councillor Clarke, enquired if Mid Ulster were still in the same situation regarding pro-rata funding from Government.

The Planning Manager stated that Mid Ulster got a raw deal from Government as Antrim & Newtownabbey get funding of around £1 million to deal with little applications and Mid Ulster were allocated £400k. He said that Mid Ulster had to bring money in from planning fees and were in a fortunate position due to the high number of applications and this was why government says that this is justified. He said if there were a huge reduction of applications received this would result in implications for the Planning Department.

Proposed by Councillor Clarke
Seconded by Councillor Gildernew and

P105/18 Planning Applications for Determination

The Planning Manager advised that the following planning applications would be deferred for an office meeting/withdrawn/submission of further information:

- LA09/2017/0541/O – Site for dwelling and garage 120m SE of 129 Ballynease Road, Portglenone for Mr Richard Mulholland – deferred for an office meeting
- LA09/2017/0968/F – Replacement storey and a half dwelling 10 Minterburn Road, Caledon for Mrs M Murphy – deferred for an office meeting with applicant and agent
- LA09/2017/1371/O – 2 storey dwelling and garage/store at 130m S of 38 Tirgan Road, Tirgan, Moneymore for Mr Declan Connery – deferred for an office meeting

- LA09/2017/1484/O – Infill dwelling and garage at land to the rear of 42 Agharan Road, Dungannon for Mr Paul McQuaid – withdrawn
- LA09/2018/0367/O – Dwelling and domestic garage 174m SSE of 11 Fallylea Road, Maghera for Mr Charlie Convery – deferred for an office meeting
- LA09/2018/0423/O – Site for infill dwellings adjacent to 30a Forgetown Road, Maghera for Mr Andrew McCrory – deferred until submission of further information
- LA09/2018/0454/F – Retention of mobile home for residential use of 170m N of 5 Doon Avenue, Aughamullen, Dungannon for Mr Martin McCaliskey – deferred for an office meeting
- LA09/2018/0495/O – 2 storey infill dwelling and garage at site adjacent to 22 Carnaman Road, Gulladuff for Mr Liam Duggan – deferred for an office meeting.

Councillor McPeake declared an interest in application LA09/2018/0495/O.

Proposed by Councillor Clarke
Seconded by Councillor Gildernew and

Resolved: That the above list of planning applications be deferred for an office meeting/ withdrawn or waiting on submission of further information and removed from tonight's list for consideration.

Matters for Decision

H/2014/0024/F 4 dwellings, access and adoptable road at 1 Loves Road, Magherafelt for Mr and Mrs McCann

The Head of Development Management presented a report on planning application H/2014/0024/F advising that it was recommended for refusal.

In response to a query, the Planning Manager advised that there was an existing house on the site and that the developer was trying to cram houses around it. He said that there was a need for them to demonstrate how this could be achieved through liaising with the planning department and felt that a favourable outcome could be achieved if worked upon. He stated that the developer had applied for 4 dwellings and it was unclear what was going to happen, as the house numbers were not consistent with spaces in between numbers, which could be seen as spaces for additional 2 dwellings.

In response to a query, the Head of Development Management advised that the site would be highly screened as it came close to high trees and hedges etc.

The Planning Manager advised that there was an onus on the Planners to approve something, which is within the character of the area.

Proposed by Councillor Glasgow
Seconded by Councillor McKinney and

Resolved: That planning application H/2014/0024/F be refused.

Councillor McKinney stated that it was disappointing that there was no representation here tonight to speak on behalf of the application and no willingness by the developer to work with the planning department.

LA09/2017/0487/F Multi-Sports and Community Hub, to include playing and training pitches, all weather skills training area multi sports games area, bowling green, tennis courts, allotment plots area, sensory garden, walking track and associated lighting and car parking at 93 Washingbay Road, Coalisland for Clonoe Rural Development Agency Ltd

Members considered previously circulated report on planning application LA09/2017/0487/F which was recommended for approval.

Proposed by Councillor McPeake
Seconded by Councillor Gildernew and

Resolved: That planning application LA09/2017/0487/F be approved subject to conditions as per the officer's report.

LA09/2017/0541/O Site for dwelling and domestic garage at 12m SE of 129 Ballynease Road, Portglenone for Richard Mulholland

Resolved: That planning application LA09/2017/0541/O be deferred for an office meeting.

LA09/2017/0713/F 3 dwellings, site road and associated siteworks at lands adjacent to and E of 100 Killyliss Road, Eglish for Mr L Cassidy

Members considered previously circulated report on planning application LA09/2017/0713/F which was recommended for approval.

Proposed by Councillor McAleer
Seconded by Councillor Gildernew and

Resolved: That planning application LA09/2017/0713/F be approved subject to conditions as per the officer's report.

LA09/2017/0968/F Replacement storey and a half dwelling at 10 Minterburn Road, Caledon for Mrs M Murphy

Mr Marrion, SPO presented a report on planning application LA09/2017/0968/F advising that it was recommended for refusal.

Councillor McPeake enquired how much square footage would be required for an average size family home as previously people were looking to increase the size of the dwelling from a small cottage.

The Planning Manager advised that the average size of a family home would be in the region of 150 square metres for a 4 bedroom home. He said that the issue wasn't about the size of the dwelling but rather how close a proposed site was to the neighbouring land, but felt that issues could be addressed easily if the applicant and agent were willing to liaise with the planners.

Councillor Gildernew said that in his opinion the way the dwelling was positioned and caked in, it was unique in character and would propose that the application be deferred until further investigation were carried out. He said that it was disappointing that there was no representation here tonight for members to have further information on the proposed application.

The Planning Manager said as it was holiday season and people could be away he would be content deferring the application for an office meeting, issuing letters to both the applicant and agent inviting them to attend.

Proposed by Councillor Gildernew
Seconded by Councillor Bell and

Resolved: That planning application LA09/2017/0968/F be deferred for an office meeting, with a letter being issued to both the applicant and agent inviting them to attend.

LA09/2017/1371/O 2 storey dwelling and garage/store at 130m S of 38 Tirgan Road, Tirgan, Moneymore for Mr Declan Connery

Resolved: That planning application LA09/2017/1371/O be deferred for an office meeting.

LA09/2017/1484/O Infill dwelling and garage at land to the rear of 42 Agharan Road, Dungannon for Mr Paul McQuaid

Resolved: That planning application LA09/2017/01484/O be withdrawn.

LA09/2018/0367/O Dwelling and domestic garage, 174m SSE of 11 Fallylea Road, Maghera for Mr Charlie Convery

Resolved: That planning application LA09/2018/0367/O be deferred for an office meeting.

LA09/2018/0423/O Site for 2 infill dwellings adjacent to 30a Forgetown Road, Maghera for Mr Andrew McCrory

Resolved: That planning application LA09/2018/0423/O be deferred until further information is submitted.

LA09/2018/0433/O Infill dwelling and garage 70m SE of 30 Tamlaghtduff Park, Tamlaghtduff, Bellaghy for Alfred Corckett

Mr McCrystal, SPO presented a report on planning application LA09/2018/0433/O advising that it was recommended for refusal.

Councillor Cuthbertson said that he would be happy to accept the officer recommendation to refuse the application.

In response to a query regarding the definition of a settlement, the Planning Manager said that it was defined as a place, which had previously been uninhabited, where people had an opportunity to expand their community into a cluster to include a focal point like a crossroads or a shop etc, and this what was being done on the area plan.

Councillor McPeake enquired what the failing was on the infill criteria as there were 2 dwellings on the north side.

The Planning Manager said that it was set back in the distance and if the site was further up the road that this could make a difference on what was being protected and where the cluster came in.

Proposed by Councillor Cuthbertson
Seconded by Councillor Robinson and

Resolved: That planning application LA09/2018/0433/O be refused.

LA09/2018/0454/F Retention of a mobile home for residential use at Approx 170m N of 5 Doon Avenue, Aughamullan, Dungannon for Martin McCaliskey

Resolved: That planning application LA09/2018/0454/F be deferred for an office meeting.

LA09/2018/0495/O 2 storey infill dwelling and garage at site adjacent to 22 Carnaman Road, Gulladuff for Liam Duggan

Councillor McPeake declared an interest in application LA09/2018/0495/O.

Resolved: That planning application LA09/2018/0495/O be deferred for an office meeting.

LA09/2018/0506/O Replacement dwelling and garage 145m SE of 16 Creevagh Road, Cookstown for Rodney Black

Members considered previously circulated report on planning application LA09/2018/0506/O which was recommended for approval.

Proposed by Councillor McKinney
Seconded by Councillor Robinson and

Resolved: That planning application LA09/2018/0506/O be approved subject to conditions as per the officer's report.

LA09/2018/0539/F Dwelling and domestic garage at 81a Killeeshill Road, Dungannon (100m W of St Paul's Church, Farriter Road, Dungannon) for Conor Holland & Maeve McKenna

Members considered previously circulated report on planning application LA09/2018/0539/F which was recommended for approval.

Proposed by Councillor Gildernew
Seconded by Councillor McAleer and

Resolved: That planning application LA09/2018/0539/F be approved subject to conditions as per the officer's report.

CONFIDENTIAL BUSINESS

Proposed by Councillor Robinson
Seconded by Councillor Clarke and

Resolved That planning application LA09/2016/1550/F be heard as confidential business.

OPEN BUSINESS

Proposed by Councillor Robinson
Seconded by Councillor McKinney and

Resolved: To resume Open Business.

LA09/2017/1158/O Site for dwelling to the rear of 5 Ballynorthland Demesne, access of Moy Road, Dungannon for Mr Keith Burgess

Members considered previously circulated report on planning application LA09/2017/1158/O which was recommended for approval.

Proposed by Councillor McKinney
Seconded by Councillor Robinson and

Resolved: That planning application LA09/2017/1158/O be approved subject to conditions as per the officer's report.

LA09/2018/0439/F Relocation and change of house type to previously approved I/2014/0016/RM (amended siting), SE of 34a Annaghmore Road, Coagh for John Quinn

Members considered previously circulated report on planning application LA09/2018/0439/F which was recommended for approval.

**Proposed by Councillor Robinson
Seconded by Councillor Bell and**

Resolved: That planning application LA09/2018/0439/F be approved subject to conditions as per the officer's report.

Matters for Information

P106/18 Minutes of Planning Committee held on 3 July 2018

Members noted minutes of Planning Committee held on Tuesday 3rd July 2018.

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Kearney
Seconded by Councillor Gildernew 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 P107/18 to

Matters for Decision

LA09/2016/1550/F Dwelling with disability adaptations 200m NE of 159
Tullyvar Road for Mr Raymond Gilmour
P107/18 Receive Enforcement Reports

Matters for Information

P108/18 Confidential Minutes of Planning Committee held
on Tuesday 3 July 2018
P109/18 Enforcement Cases Opened
P110/18 Enforcement Cases Closed

P111/18 Duration of Meeting

The meeting was called for 7 pm and concluded at 7.47 pm.

Chair _____

Date _____



ADDENDUM TO PLANNING COMMITTEE AGENDA

FOR PLANNING COMMITTEE MEETING ON: 7th August 2018

Chairs Business:

Additional information has been received on the following items since the agenda was issued.

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
4.8	Amendment to the first reason for refusal: The proposal is contrary to Policies CTY1, CTY10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm.	Members to note

Report on	Planning Appeal decisions
Date of Meeting	4 th September 2018
Reporting Officer	Chris Boomer
Contact Officer	Chris boomer

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 update on recent appeal decisions by the Planning appeals commission (PAC)
2.0	Background
2.1	As detailed below, two appeal decisions have recently been received on Enforcement cases in the MUDC area. A further appeal on a planning application has been withdrawn
3.0	Main Report
3.1	<p><u>LA09/2016/0123/CA</u></p> <p>An appeal by Paul Clarke against a Submission Notice for an application to regularise unauthorised extension of a domestic curtilage and erection of an unauthorised building was dismissed because the applicant did not provide satisfactory evidence to suggest it had occurred 5 years ago.</p>
3.2	<p><u>LA09/2016/0093/CA</u></p> <p>An appeal by Barry O'Neill for a change of use to dance studio and to a vehicle repair business was dismissed on all grounds although the applicant was given a new date to remedy the breach.</p>
3.3	<p><u>I/2014/0413/F</u></p> <p>Appeal by Beltonanean Renewable Energy for a windfarm has been withdrawn.</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 Members note the position with regard to appeal decisions
6.0	Documents Attached & References
6.1	Copies of appeal decisions

Submission Notice Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

Appeal Reference:	2018/E0001
Appeal by:	Mr Paul Clarke against a Submission Notice dated 6 th March 2018
Alleged matters that constitute development:	The unauthorised extension of domestic curtilage and erection of a domestic building outside the established curtilage of a residential property
Location:	Lands approximately 50m south-west and 50m south-east of No. 123 Gulladuff Road, Drumlamph, Maghera
Council's Reference:	LA09/2016/0123/CA
Procedure:	Informal Hearing on 19 th July 2018
Decision by:	Commissioner Julie de-Courcey, dated 14 th August 2018

Grounds of Appeal

1. As set out in Section 44 of the Planning Act (Northern Ireland) 2011 [the Act], an appeal against a submission notice (SN) issued under Section 43 thereof, may be brought on any of the following grounds:
 - a) that the matters alleged do not constitute development;
 - b) that the development alleged in the notice has not taken place;
 - c) that the period of 5 years referred to in Section 43(2) has elapsed at the date when the notice was issued.

2. The appeal was initially brought on grounds (a) and (c) but, at the hearing, the appellant advised that he was not pursuing ground (a).

Ground (c) - that the period of 5 years referred to in Section 43(2) has elapsed at the date when the notice was issued.

3. Section 43(2) of the Act says that a SN may be issued within the period of 5 years from the date on which the development to which it relates has begun, and the provisions of section 63(2) apply in determining for the purposes of this section when development shall be taken to be begun. Section 63(2) of the Act says that development shall be taken to be begun on the earliest date on which any of the following operations comprised in the development begins to be carried out -

- (a) where the development consists of or includes the erection of a building, any work of construction in the course of the erection of the building; and
- (c) where the development consists of or includes a change of use of any building or other land, that change of use.

The onus is on the appellant to show that the development alleged by the SN began before 6th March 2013. He acknowledged that the (new) building subject of the SN was erected in 2015 so is not pursuing the appeal in respect of it.

4. No. 123 Gulladuff Road is a small, traditional cottage, set gable-end onto the road. Parallel to its front elevation is an outbuilding. Both enclose a cottage-style garden. To the south is an orchard. The area of land subject of the SN lies to the rear of the outbuilding and extends south-westwards beyond the orchard. It is irregularly shaped and extends over 100m from Gulladuff Road. The area occupied by the new building adjoins a vehicular access and hardstanding both of which are outwith the area subject of the SN. This area comprises a mixture of mown and wild grasses, flowers growing both informally and in beds and a bench seat. Trees have also been planted. The boundary of the area subject of the SN to the south of the building is not contiguous with the post and wire fence that bounds a meadow/dog pen area. The area subject of the SN then comprises a mown strip south of the hardstanding that extends between the orchard and meadow/dog pen with ornamental planting on the outer side of the enclosure. Where this strip widens out is a vegetable/herb garden, compost heaps, seating, linear washing line suspended between posts that have been set in concrete and a portable clothes dryer. To the south-west is a chicken coop set within a fenced area. The mown strip extends alongside both these areas.
5. The appellant has owned, took possession of and occupied the subject lands since 2002. He said that the land was in agricultural use in 2003 but that it has not been used for grazing since 2005/6. He added that: part of the area was initially used, prior to 2006, for growing fruit and vegetables for the family's consumption; and that creation of the remainder as residential curtilage initially began in 2005 but that it was intensively developed from 2008 onwards. Mr Clarke stated that the area provides a space in which his 3 children can play, safely separated from the road. However, it also provides a sustainable lifestyle and pleasure in rural living for the whole family. He submitted a screen shot of dated files of photos from his PC's hard-drive, which he took, and attested in the sworn affidavit that these digital copies correspond to those dates. The photos show: the vegetable garden in 2005 and 2007, with seating provision; his family on the mown strip immediately south-east of the orchard in 2008 and this area in 2009 before the fence enclosing the meadow/dog pen was erected. The mown paths show no signs of wear and tear but if used predominantly by small children and their bicycles/tricycles, this would not necessarily mean that they were not used in that way. The fixed washing line is also evident in some of the photos.
6. The Council submitted two sets of Google Street View images as follows:
 - The first is dated December 2008. Both show the upper end of the host field from 2 different angles. The area that now adjoins the new building is agricultural in appearance. Work appears to be taking place on the hardstanding area; and

- The next 2 are from June 2011. The area adjoining the new building has higher vegetation than in December 2008, unsurprising given the season, and the area behind the established outbuilding, outwith the appeal site, comprises mown grass. One or two new trees are evident but, from the angle, it is hard to tell whether they are within the appeal site. The second is from the approach from the south-east on Gulladuff Road. At the distance from which it is taken relative to the linear part of the appeal site to the western side of the host field, it is difficult to see if this comprises a mown strip as opposed to the long grass on the eastern side of the host field. The poles to which the washing line is fixed are evident.

The "critical date" in terms of Section 43(2) of the Act is almost 2 years before the most recent of these photos but, the washing line apart, they provide little support for Mr Clarke's evidence that extension of the curtilage pre-dates 2008.

7. The Council submitted 4 ortho (flight) images as follows:

- May 2008 & April 2011. There appears to be a mown strip around the host field and the linear area subject of the SN. That occupied by and surrounding the new building appears to be rough grassland. There is no sign of the chicken coop and associated enclosure and I cannot be certain whether the vegetable/herb garden is in situ though the area that it now occupies appears as a slightly different colour than the surrounding apparently mowed grass;
- May 2013 (after the "critical date"). The only apparent difference from the previous 2 images is that there is less differentiation between the former mown strip and remainder of the host field suggesting the grass is longer; and
- April 2016. The chicken coop is not apparent otherwise the layout of the host field, including the site subject of the SN, appears to be consistent with what I saw on site.

8. The Department of Agriculture, Environment and Rural Affairs (DAERA), in a letter of 6 June 2018, said that:

- Mr Clarke has a farm business with Business ID number, registered at No. 123 Gulladuff Road;
- There is no correspondent herd or flock number;
- He claimed Single Farm Payment (SFP) from 2005 – 2014;
- His 2014 Single Application included two fields one of which is that containing the land subject of the SN (the host field);
- The appellant has not submitted any claims for the Basic Payment Scheme (BPS), introduced in 2015;
- The land Mr Clarke declared for SFP in 2014 has not been claimed for BFS by any other business in 2015-18.

It was not disputed that each claim year for SFP is commensurate with the calendar year. Mr Clarke said that he should have notified DAERA of the extension of his residential curtilage into the host field. However, it was de-

EA DETERMINATION SHEET

Applic. No, LA09/2017/0797F

Date Received 09.06.2017

Case Officer: Phelim Marrion

Proposal: Proposed 2 additional pig sheds (to contain a total of 4000 weaner pigs 30kg weight with 2 additional feed bins and associated site works, existing pig shed to have a reduction in pig numbers to 2000 weaner pigs 30kg (giving a total site capacity of 6000 weaner pigs 30kg)

Location: Land approx. 200m S.W. of 26 Tullyaran Road Dungannon

Deadline for Determination: 07.07.2017

Extension of time requested: Y Date Agreed to :

The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017

Does the development fall within the scope of Schedule 1 of the above Regulations: -

No

Does the development fall within the scope of Schedule 2 of the above Regulations: -

Yes

If 'Yes' which category: -

Under Regulation 12 (1) (a) this application would require determination as to the need for environmental impact assessment, as a schedule 2;

1 (c)

Intensive livestock installations (unless included in Schedule 1); as the area of floor space exceeds 500sqm.

13 (b) Any change to or extension of development of a description listed in Schedule 1 (other than a change or extension falling within paragraph 24 of that Schedule) where that development is already authorised, executed or in the process of being executed.

As per 'The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017' the site does not fall within 'a sensitive area'.

- a **the size and design of the development;**
The proposal is for a 1975sqm pig rearing shed and 2 feed bins. It will require cutting and filling of the site and the creation of a swale for water attenuation. The proposed building is for 4000 weaners (up to 30kg weight) poultry shed and ancillary development to house 16000 layers. The assessment of the visual impact will be carried out through the application consideration.
- b **the cumulation with other existing development and/or approved development**
This pig unit is in the rural area beside an existing pig shed and other agricultural buildings. The development is proposed to have a total facility capacity of 6000 weaners (up to 30kg weight). The emissions from this building will be considered through the submitted air quality assessment and slurry disposal plan.
- c **the use of natural resources, in particular land, soil, water and biodiversity;**

the buildings are in a disused sand quarry and have mature native species trees around it, no hedges or other vegetation will be removed.
- d **the production of waste;**

the nitrates and ammonia in the waste and method of disposal will be considered through the waste management proposals.
- e **pollution and nuisances;**

noise and dust from construction traffic may be issues depending on time of year of construction - odour, flies and noise generation can be considered through the development management process and submission of necessary reports.
- f) **the risk of major accidents and/or disasters which are relevant to the development concerned, including those caused by climate change, in accordance with scientific knowledge;**

There is limited risk from accidents during the operations of this site or during construction due to the nature of the proposal and the rearing of pigs. Swine flu and influenza are possibilities which will be advised by central government and managed by appropriate on site biosecurity protocols.
- g **the risks to human health (for example due to water contamination or air pollution)**

there is potential pollution which could impact on human health if appropriate guidance, construction and management guidance and methods are not properly adhered to.

2009/147/EC on the conservation of wild birds;

The site is not identified with any special areas , NIEA, EHO and Shared Environmental Service have been consulted and have not identified any potential to adversely impact on any such areas.

- vi.) areas in which there has already been a failure to meet environmental quality standards laid down in Union legislation and relevant to the development, or in which it is considered that there is such a failure or;

EHO & NIEA have not raised any issues relating to these matters.

- vii.) densely populated areas;

The surrounding area is rural in character and the proposal can be absorbed into the area without causing significant harm to the natural environment. There are several residential properties, however the level of population is not such that the proposal is likely to have a significant environmental impact.

- viii.) Landscapes and sites of historical, cultural or archaeological significance.

The site is not located within any such sites.

Characteristics of the potential impact: -

The likely significant effects of development on the environment shall be considered in relation to criteria set out under paragraphs 1 and 2 of Schedule 3 of the Planning (EIA) Regulations (NI) 2017, with regards to the impact of the development on the factors specified in regulation 5(2), taking into account –

- a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);

The impact of this proposal will be limited to the area where it can be viewed from, the air within the ammonia dispersal zone and close to where the slurry is spread.

- b) the nature of the impact;

The impact could be from ammonia dispersal which could result in raised nitrogen levels and alter habitats.

In conclusion:

In considering the proposed scheme in light of supporting information and consultation response information, it is not considered the application should be accompanied by an Environmental Statement, as there will be no significant environmental impacts.

Signatures

Dated

1.
2.
3.

registered at the end of the 2016 calendar year as set out in the Department's letter of 24th November 2016.

9. The definition of "agriculture" set out in Section 250 of the Act includes, amongst other things, horticulture, fruit growing, livestock breeding and keeping and the use of land as meadow land. The Collins English Dictionary definition of meadow is a field that has grass and flowers growing in it. The inclusion of meadow within the definition of agriculture is at odds with the appellant's stance that for land to be in agricultural use it would be sprayed. The definition would encompass long, mixed species grass including that interspersed with flowers. The definition does not preclude the growing of fruit and vegetables and the keeping of hens to lay eggs, all for the producers' family consumption. Thus establishing a vegetable/herb garden and keeping hens in pursuit of a sustainable lifestyle prior to the "critical date" does not necessarily equate to the site subject of the EN not being in use for agriculture after that date. The lack of a defensible, physical boundary between the area immediately around the dwelling and adjoining outbuilding, orchard and hardstanding area that separates it from the site subject of the SN is not, of itself, persuasive that the latter was not in agricultural use after the "critical date". The grass could have been mown to facilitate ease of access to the vegetable path and chicken coop. The photographic evidence points to the fixed washing line having been located within the appeal site before the "critical date" but this is not persuasive that the primary use of the land for agricultural purposes started before 6th March 2013.
10. The appellant said that agricultural use of the site ceased in 2005/6 yet it was registered to his agricultural holding until November 2016 and SFP was claimed until 31st December 2014. I note his evidence that this was an oversight and that DAERA did not seek to reclaim any money from him. Account has also been taken of Mr Clarke's submission that registration does not equate to certification that the land was used for agriculture and that if there is no other evidence that it has been used as such then the Council's reliance on the DEARA submission is misplaced. He added that there are legal cases supporting this stance but did not cite any.
11. Having taken into account and weighed the parties' evidence, I am not persuaded that the change of use took place prior to 6th March 2013. Accordingly the appeal on ground (c) is dismissed.

Decision

The decision on this appeal is as follows:

- (i) The appeal on ground (c) fails; and
- (ii) The submission notice is upheld.

COMMISSIONER JULIE DE-COURCEY

Appearance at Hearing

Council: Ms M Mc Kearney
Mr S Mc Nia

Appellant: Mr P Clarke

List of Documents

Council: "LPA 1" Statement of Case with 11 appendices
"LPA 2" Farm Map received post-hearing

Appellant: "APP 1" Statement of Case with appendices
"APP 2" Farm Map and DAERA letter of 24th November
2016 received post-hearing

Enforcement Appeal Decision

Park House
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Appeal Reference:	2017/E0050
Appeal by:	Mr B O'Neill
Appeal against:	An enforcement notice dated 23 rd January 2018
Alleged Breach of Planning Control:	Unauthorised change of use of: unit 4 to a dance studio with associated gymnasium; and unit 11 to a vehicle repair business
Location:	Lands 10m west and 10m north of No. 18 Cookstown Road, Dungannon, specifically identified as units 4 and 11, Ross Beg, Dungannon
Planning Authority:	Mid-Ulster District Council
Authority's Reference:	LA09/2016/0093/CA
Procedure:	Hearings on 15 th June, 6 th July & Site Visit on 2 nd August 2018
Decision by:	Commissioner Julie de-Courcey, dated 13 th August 2018

Grounds of Appeal

1. The appeal was brought on Grounds (a), (b), (c), (d), (f) and (g) as set out in Section 143 (3) of the Planning Act (Northern Ireland) 2011 [the Act].

The Notice

2. The appellant said that the Enforcement Notice (EN) should refer to a dance studio only and omit mention of "*with associated gymnasium*".
3. Entering unit 4, there is a kitchen/reception area with WC and the dance studio is off to the left. That area contains 12 no. fixed poles. Behind the vestibule is a smaller room that contains a range of fitness equipment. The Council's photo of this room, taken on 13th June 2017, is representative of what I saw on site. It also provided an extract from "Dee's Barbelles" Facebook page, the business operating from unit 4, which describes the enterprise as a "Gym/physical fitness centre". The two photos show the dance studio and the room containing a comparable range of fitness equipment to that which was in place when I visited the premises.
4. Mr Gourley said that his client filled out the statement of facts himself and misrepresented the current use of unit 4 as a gymnasium. He added that gymnasium suggests a large building that accommodates a variety of equipment and athletic activities, often with public access/for public use, that could also be a venue for other events, such as are found in many schools, and whose scale

distinguishes it from the current set-up. Whilst gymnasium is more commonly used to describe a large room or hall equipped for games or physical training, the Collins English Dictionary says that it is the same as a gym. "Gym" is the diminutive of "gymnasium". Therefore, whilst a room of the size in question would be more commonly referred to as a gym, it has not been misdescribed and there is no need to use my statutory powers to correct the EN.

Ground (b)

5. Account has been taken of the fact that in response to a Planning Contravention Notice (PCN) dated 20 February 2017 the appellant described the use of unit 4 as a "gym equipment store". However, little weight is attached to this in the context of the appeal on ground (b) as the Council subsequently described the alleged breach on the EN in a different manner. In his statement of facts on the enforcement appeal form, the appellant described the use of the units 4 and 11 as "gymnasium and vehicle repair workshop". Notwithstanding this consideration, there was no dispute that the larger room within unit 4 is used as a dance studio and that this was the case when the EN was served. The bone of contention relates to the gymnasium element of the alleged breach, which the appellant said is ancillary to the overall use of unit 4 as a dance studio.
6. Ms Cairns, the tenant of unit 4 and proprietor of "Dee's Barbelles" said that the fitness equipment is solely for her own use as she needs to be physically fit in order to provide dance and fitness instruction. Although her 2 sons help her deliver tuition, they do not use the gym. She added that it was initially available to customers when she relocated to this premises but that there was no demand for it. As is evident from her Facebook page, she employed a photographer/ designer to style it and said she couldn't afford to have the photos re-done to reflect the change in offer. The advertised range of services included resistance training, men's conditioning and one to one personal training. Ms Cairns said that the aforementioned types of training could all be provided in the dance studio and the only equipment needed to do so are the fixed poles. The appellant argued that the room containing the fitness equipment is ancillary to the dance studio in the same way that some homes include a room with fitness equipment for personal use/home gym. He characterised use of it as akin to Ms Cairns' continuing professional development. At the site visit, the appellant pointed to use of the gym for the storage of mats that were said to be associated with use of the dance studio and added that it was also used to store equipment and props as and when they were required for choreographed dance routines.
7. The appellant's evidence in this respect is persuasive, on the balance of probabilities, that although the gymnasium occupies a separate room within unit 4, its use is incidental to its primary use as a dance studio. Therefore, the appeal on ground (b) is successful in respect of the gymnasium but fails as regards unit 4's overall use as a dance studio.
8. From inspection of the premises, the activities carried out in unit 11 are correctly described on the EN. The appellant acknowledged that it is used for general servicing and repairs but not including the fixing of punctures. As the matters alleged by the EN in respect of unit 11 have occurred, the appeal on ground (b) fails.

Ground (c)

9. Class A2 of the Schedule to The Planning (Use Classes) Order (Northern Ireland) 2015 (UCO) headed "financial, professional and other services" relates to use for the provision of services which it is appropriate to provide in a shopping area, where the services provided are principally to visiting members of the public including financial services or professional services. The appeal site is located in the open countryside approximately 0.3 miles outside Dungannon's settlement development limit, as defined in the Dungannon & South Tyrone Area Plan 2010 (DSTAP) and cannot reasonably be said to be located within a shopping area. Therefore the use of unit 4 as a dance studio does not come within Class A2.
10. Article 3 (4) (k) of the UCO says that no class specified in the Schedule includes use as a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations including those involving motorised vehicles or firearms. There is no qualification within the statute that this legislative provision relates only to indoor sports or recreations carried out within large, grand, purpose-built buildings. The use of unit 4 as a dance studio providing fitness training, dance tuition and choreography for competitive dance routines constitutes an area for indoor recreation. Therefore the use of unit 4 is *sui generis*.
11. The appellant gave extensive evidence on the range of uses carried out within unit 4 prior to the current tenancy. In 2014-15 Saturn LED reportedly operated from it as an on-line wholesaler for solar panels and electrical equipment and used the premises as an office. The appellant's understanding of their business was that goods were not stored on the premises, rather Saturn was the "middle man" between the manufacturer and consumer. A letter from the apparent owner of that business confirmed the reported time-line. On the basis of this evidence, that use came within Class B1 (a) of the UCO which relates to use as an office other than use within Class A2. Saturn LED was seemingly the previous occupant of unit 4 prior to Ms Cairns.
12. When the appellant completed the PCN on 20 February 2017, he said that unit 4 was occupied by Ms Cairns, was used as a "gym equipment store" and that this use commenced in April 2012. Such a storage use falls within Class B4 of the UCO. The PCN, in laypersons' terms, referred to the provisions of Section 134 (5) and (6) of the Act as regards the criminal law implications of recklessly making a statement that is false or misleading. The appellant said that, despite the PCN being returned by planning consultants on his behalf, he did not seek their professional advice in responding to it and that he made a mistake in the information given about unit 4. Submitted evidence suggests that the current use of the premises started on or after 27 November 2015, namely: a tenancy agreement between the appellant and Ms Cairns, dated 27 November 2015; evidence taken from her Facebook page, dated 21 December 2015, about her bidding a final farewell to her previous premises in Moygashel; and another Facebook screenshot from 1 February 2016 when Ms Cairns was celebrating three years of "Dee's Barbelles" being in business. This points to current use of the premises commencing in late 2015/early 2016 and corroborates the appellant's evidence that his information given on the PCN in respect of unit 4 was incorrect. Therefore, the previous use of unit 4 came within Class B1 (a) prior to commencement of the current *sui generis* use.

13. Article 2 (1) (b) of the UCO defines "*industrial process*" as a process for or incidental to the altering, repairing, maintaining, ornamenting, finishing, cleaning, washing, packing, canning or adapting for sale of any article. Unit 11 is used as a vehicle repair business, which comes within the definition of an "*industrial process*". Class B2 of the UCO defines a light industrial use as being for any industrial process which can be carried out without detriment to amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash dust or grit. Class B3 general industrial use is defined as the carrying on of any industrial process other than one falling within Class B2. The differentiation between these two use classes is not predicated on scale. There is nothing in the UCO to suggest that Class B3 applies solely to an engineering works, complex buildings with a multitude of on-going activities, a significant enterprise or large-scale manufacturer such as Terex. The fact that no cutting, boring, metal-working, burning or smelting takes place within unit 11 does not exempt its use from potentially falling within Class B3.
14. The premises contains a hydraulic lift, that takes 33 seconds to raise/lower, and a compressor unit, used to power tools, that is limited to a noise emission of 97 db LAeq. The unit only "kicks in" when pressure falls below a certain level. Mr Armstrong demonstrated both in operation with the main door to the premises open. I was told that, despite that it is shut for 90% of the time the unit is in use, it would be impractical to require that it be kept shut all of the time. When the lift was being elevated it emitted a loud whine from my position at the gable end of No. 18 Cookstown Road opposite the unit's open door and some 8m removed. However, moving downhill from the premises towards Cookstown Road (A29), the noise dissipated relatively quickly relative to the ambient noise level from traffic at around 5pm on a Friday afternoon. The compressor's noise output was much louder. Albeit that its noise emissions are restricted and the use of both pieces of equipment intermittent, when added to any banging sounds, metal tools being dropped and welding of exhausts, the use has the potential to cause detriment to amenity by reason of noise. As the definition of Class B2 and Class B3 uses are prescribed by legislation, I do not have the discretion to take account the fact that the appellant, who owns unit 11, occupies No. 18 Cookstown Road. Accordingly, the use of unit 11 involves an industrial process that comes within Class B3 of the UCO.
15. The appellant said that the previous occupant of unit 11 was Printone and a letter from the seeming proprietor of that business said it was used "*for storage and for my print company and manufacturers of bespoke flags and bunting*". The company notepaper describes its business as, amongst other things, manufacturers of flags, bunting, signs, vehicle graphics, banners, health and safety signage, printed workwear, business cards, flyers. Evidence from Land and Property Services (LPS) said that units 10 and 11 were valued as a single entity in June 2009 as a workshop with industrial status for rating purposes on the basis that they were used for the manufacture of signs, light boxes and small trailers for sign display purposes. Printone subsequently downsized, vacated unit 10 and occupied only unit 11. When these units were split for rating purposes in December 2014, the latter was described as a workshop but no industrial status granted. This industrial de-rating was subsequently removed as the occupant did not complete and return the necessary paperwork and its rating reverted to the valuation class "warehouses, stores, workshops (Non Industrial) Garages". This is the rating applied to unit 11 since 2 November 2016 when it was occupied by Armstrong Exhausts.

16. On the basis of Printone's letter, the Council considered the use of the unit might have come within Class B4 and potentially Class B2. However, as it only extends to approximately 100 sq.m., my reading of the rather clumsily worded letter is that the Class B4 storage element was incidental to the Class B2 use as provided for by Article 3 (3) of the UCO. This is consistent with the appellant's verbal evidence. Although LPS valuation classes are not synonymous with the UCO, this evidence points towards a use from December 2014 onwards for Class B2 purposes. The reversal of industrial de-rating was attributable to Printone's inaction and administrative process with LPS as opposed to a change in the nature of the business for rating purposes. This combination of considerations leads me to conclude that the previous use of unit 11 was for light industry (Class B2).
17. The definition of "development" set out in Section 23 (1) of the Act includes the making of any material change in the use of any buildings. A change of use from Class B1 of the UCO to a *sui generis* use is not one of the uses of land not taken to involve the development of land by virtue of Section 23 (3) of the Act. The same is true for a change of use from Class B2 to Class B3. In accordance with Section 24 of the Act, planning permission is required for the carrying out of any development of land. Section 131 (1) (a) of the Act states that the carrying out of development without the planning permission requires constitutes a breach of planning control. Therefore the appeal on ground (c) fails in respect of both units.

Ground (d)

18. The onus is on the appellant to explain why that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. In accordance with Section 132 (3) of the Act, the current uses of both units 4 and 11 would have to started on or before 23 January 2013 in order for them to be immune from enforcement action.
19. For reasons set out in paragraphs 11 and 12, the current *sui generis* use of unit 4 commenced sometime after 27 November 2015. Therefore, it is not immune from enforcement action and the correspondent appeal on ground (d) fails.
20. Printone occupied units 10 and 11 in 2009, as corroborated by evidence from LPS. This same source indicated that the business vacated unit 11 by the end of July 2015 and that it lay vacant until rated in respect of "Armstrong Exhausts" in early November 2016. However, a bank statement, supplier's invoice and 2 utility bills appear to corroborate Printone's evidence that it occupied unit 11 until August 2016. Whilst not all these documents refer to unit 11, indeed one refers to unit 10-11, taking into account the earlier LPS evidence about the splitting of units 10 and 11 in 2014 for rating purposes, it is more likely than not, that they relate to unit 11.
21. When the appellant completed the PCN on 20 February 2017, he said that unit 11 was occupied by Mr Armstrong Senior, was used as a "welding equipment store" and that this use commenced in January 2016. As with the entries on the PCN in respect of unit 4, he said that he made a mistake in the information given about unit 11. Mr Armstrong gave contrary evidence saying that he had occupied the premises since 1 August 2016. Given the appellant's admission that the information on the PCN was incorrect, I prefer the Mr Armstrong's evidence. This

establishes that the material change of use occurred after 23 January 2013 and is not immune from enforcement action. Therefore the appeal on ground (d) fails in respect of unit 11.

Ground (a)

22. The site is located within the Dungannon Green Belt (GB) as designated in DSTAP. The preamble to Planning Policy Statement 21: *"Sustainable Development in the Countryside"* (PPS 21) says that its policy provisions will take precedence over those for GBs contained in existing statutory development plans. As there are no specific policies in DSTAP that are material to this development, it provides limited assistance in dealing with this appeal.
23. The provisions of the Strategic Planning Policy Statement for Northern Ireland (SPPS) are material in all decisions on individual planning applications and appeals. The SPPS sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. During this transitional period planning authorities will apply the SPPS and retained planning policy statements. Planning Policy Statement 3: *"Access, Movement and Parking"* (PPS 3), Planning Policy Statement 3 (Clarification): *"Access, Movement and Parking"*, Planning Policy Statement 4: *"Planning and Economic Development"* (PPS 4), PPS 21 and Development Control Advice Note 15: *"Vehicular Access Standards"* (DCAN 15) are such retained policy documents. Paragraph 1.12 of the SPPS says that any conflict between them and PPS 21 must be resolved in favour of the provisions of the latter.
24. Policy CTY 1 of PPS 21 sets out the types of development that are considered to be acceptable in the countryside. These include industry and business uses in accordance with PPS 4. The Preamble to PPS 4 says that for its purposes, economic development uses comprise industrial, business and storage and distribution uses defined in Part B "Industrial and Business Uses" of the UCO. As the use of unit 4 does not come within this definition, PPS 4 does not apply.
25. Policy PED 2 of PPS 4 says that proposals for economic development in the countryside will be permitted in accordance with the provisions of, amongst others, Policies PED 3 or PED 4. The latter applies to redevelopment of an established economic development use in the countryside. The overall complex, including the buildings subject of this EN, comprises 19 units. Two are subject of a Certificate of Lawfulness of Existing Use or Development (CLEUD) as manufacturing workshops and one was approved as a multi-purpose shed/store in 2006. The completed PCN suggests that the buildings that were erected prior to 2006 were formerly used as mushroom houses but that this use ceased in March 1997. Whilst the complex of buildings is an established physical feature in the countryside, save for three, their use for economic development has not been established via either planning consent or CLEUD. On this basis, Policy PED 4 of PPS 4 provides not support for the retention of unit 11.
26. Policy PED 3 relates to the expansion of an established economic development use in the countryside. It is permissive in nature and does not require the appellant to justify why such a proposal must be located in the countryside. Whilst only 3 of the units are authorised for Class B uses, I consider that this is the applicable policy against which to assess the retention of the current use of unit 11. The proposal

involves the reuse of an existing building whose footprint (approximately 110 sq.m.) and scale will not be altered. Taken in the context of the economic development uses within the overall complex, addition of unit 11 is not a major expansion of the existing industrial enterprise and does not represent a major increase in its site area. Regardless of their status in planning law, the buildings within the overall complex are an established visual feature within the rural landscape and industrial and business uses are permitted in 3 of the units. In this context, there is no persuasive evidence that the scale and nature of retention of the use of unit 11 as a vehicle repair workshop would harm the rural character or appearance of the local area. Therefore, this element of the proposal is consistent with Policy PED 2 and the Council's second and third draft reasons for refusal are not sustained in respect of it.

27. Policy PED 9 of PPS 4 says that a proposal for economic development use, in addition to its other policy provisions, will be required to meet all of 13 criteria. Again, it does not require the appellant to justify why such a proposal must be located in the countryside. The Council is concerned with criteria (a), (b), (e), (g), (h), (i) and (k).
28. A description of the potential noise impact of the use of unit 11 and its relationship to the nearest dwelling is set out in paragraph 14 above. Even with background noise from traffic on the A29 such intermittent noise, coupled with associated, additional vehicle movements could create a noise nuisance, harm the amenities of nearby residents and be incompatible with this adjoining land use contrary to criteria (a), (b) and (e) of Policy PED 9. This assessment does not take account of the potential cumulative impact from the uses within the overall complex that could exacerbate the situation. However, the appellant has ownership and control of unit 11 and could take measures to cease its use if its impact on his residential amenity were unacceptable. Accordingly, for the purposes of applying policy, little weight is attached to the proposal's potential impact on No. 18.
29. The next nearest dwelling is located approximately 80m to the south-west of unit 11 on slightly lower ground. It is set back approximately 116m from the A29 and elevated above it; both factors that would ameliorate the impact of noise from passing traffic. Units 1-4 inclusive and the appellant's dwelling are located between this sensitive receptor and unit 11 and would provide some attenuation for the intermittent noise coming from it. However, this noise source both of itself and when added to unquantified levels of noise emanating from the use of other premises within the appellant's overall complex could render the proposal inconsistent with criteria (a), (b) and (e) of Policy PED 9.. In the absence of a noise impact assessment, it is reasonable to adopt a precautionary approach and conclude that the proposal is inconsistent with the 3 criteria in this respect.
30. Criterion (g) of Policy PED 9 requires that the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified. Criterion (h) states that adequate access arrangements, parking and manoeuvring area are provided. No parking layout or details of manoeuvring areas were provided and there are no such demarcated areas on the ground. However, there appears to be sufficient space within the extensive, shared concrete hardstanding to accommodate these requirements without conflict with vehicle movements to other units or No. 18 Cookstown Road. Nevertheless, for the reasons set out

below that I find the Council's 5th and 6th draft refusal reasons to be sustained, the use of unit 11 for vehicle repairs is inconsistent with criteria (g) and (h) of Policy PED 9. Notwithstanding that there are no footpaths or cycle lanes in the vicinity of the site, no movement pattern was provided as required by criterion (i) to address the considerations set out therein. The proposal is consequently inconsistent with this requirement.

31. Units 4 and 11 will remain regardless of the outcome of this deemed planning application. As the EN does not relate to any areas of outside storage, the visual impact of their use cannot be considered in this context. Paragraph 38 of this decision sets out the required improvements to visibility to the north of the existing access. The likely scale and extent of the associated works, including the removal of vegetation, have the potential for significant, localised visual impacts. In the absence of any specific details about the visual and landscape impact of improving visibility, I cannot conclude that boundary treatment is appropriate as required by criterion (k) of Policy PED 9.
32. Whilst retention of the current use of unit 11 finds support in Policies PED 2 and PED 3 of PPS 4, it is contrary to Policy PED 9 and the Council's 4th draft reason for refusal is sustained. As it is inconsistent with the provisions of PPS 4 when considered in the round, retention of the vehicle repair use is not in accordance with the permissive approach in Policy CTY 1 of PPS 21 to industry and business uses.
33. Policy CTY 1 says that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. It adds that all such development must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for access and road safety. It states that access arrangements must be in accordance with the Department's published guidance. The appellant advanced no overriding reasons why the continued use of unit 11 for vehicle repairs is essential at this location and could not be located in a settlement. For reasons associated with noise and road safety, this element of the proposal is also inconsistent with Policy CTY 1 in site-specific terms.
34. Similarly, there are no persuasive, overriding reasons in respect of the dance studio at this location. There is unlikely to be overlap between its hours of use and those of unit 11. However, I do not have this information in respect of the other uses within the complex of buildings. The rear wall of the dance studio is approximately 50m from the dwelling to the south-west. Albeit that its only source of natural light is via opaque roof panels, as a building that was constructed for agricultural use, there is unlikely to be any in-built soundproofing and there is no evidence of any having been retro-fitted. Account has been taken that the music must be at a volume that the dance instructor can to speak over it. However, this could be done via a wearable microphone. I am also mindful that the appellant is unaware of any associated complaint to the Council's Environmental Health Department and that the planning authority's witnesses were not in a position to rebut this contention. However, without a noise impact assessment providing an appraisal of the noise levels associated with the use of unit 4 as a dance studio and the potential cumulative impact of noise from other sources within the complex of buildings, applying a precautionary approach, I cannot conclude that this

development does not have the potential to have a detrimental impact on neighbours' residential amenity. For reasons already set out, little weight is attached to the potential impact on the occupants No. 18. The road safety implications of continued use of unit 4 as a dance studio together with the potential visual impact of necessary improvements to visibility are considered elsewhere in this decision. Both these considerations weigh against retention of the use. Accordingly, Policy CTY 1 of PPS 21 provides no support for this element of the proposal.

35. The A29 is shown in Annex A of the Addendum to PPS 3 as a Protected Route (PR). All 19 units within the complex and No. 18 Cookstown Road share a single point of access onto it. Policy AMP 2 of PPS 3 says that planning permission will only be granted for a development proposal involving 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; and it does not conflict with Policy AMP 3. In respect of PRs outside settlement limits, Policy AMP 3 says that in such instances approval may be justified for other developments, which would meet the criteria for development within a GB or Countryside Policy Area (CPA) where access cannot be reasonably obtained from an adjacent minor road. As already considered, GB policy is no longer a material consideration and the site is not within a designated CPA. There is no opportunity for access being obtained from an adjacent minor road. Paragraph 1.2 of DCAN 15 says that intensification is considered to occur when a proposed development would increase the traffic flow using an access by 5% or more.
36. The dance studio provides three classes per weekday evening and although it can accommodate 11 people in addition to the instructor, Ms Cairns said that usually 8-10 participants attend. Nevertheless, it has the potential to give rise to 34 potential (return) vehicle movements per weekday (vpd). Given the hours of operation and the size of both the premises and workforce, it is reasonable to assume that no more than 2 vpd are worked on in unit 11. In addition to the Armstrongs coming and going to work on the site, a further 3 vpd for deliveries or going to collect parts would appear reasonable. As no breakdown service is provided, no associated allowance is made. This amounts to 7 return vehicle movements and 41 in total in respect of both units. A dwelling is usually assumed to generate 10 vpd. For the vpd associated with units 4 and 11 to represent less than 5% of movements associated with use of the site access onto the A29, No. 18 Cookstown Road and the other uses on the site would have to generate over 820 vpd. Construction Fasteners occupy units 17, 18 and 19, which total almost 420 sq.m. The business is engaged in engineering and distribution. Aluplas occupies units 8, 13 and 14 that total some 550 sq.m. They reportedly use the site for storage of rainwater goods, fascias, soffits etc manufactured at Cookstown's Derryloran Industrial Estate. However, the likely level of activity associated with these uses is unlikely to give rise to 810 vpd and there is no evidence that this is the case. Therefore, intensification of use of the existing access is a material consideration.
37. There was no dispute over DFI Roads' evidence that the A29 carries over 1,500 vpd. It is reasonable to assume that the uses carried out in the other 17 units generate more than 9 vpd. Albeit that it was around 5pm when we were assessing the access on site, the Council counted 12 vehicles using it in a 5 minute period with third-thirds leaving the site and I saw a further two leaving whilst we walked

from the access to unit 4. This evidence supports my assumption. This puts use of the access into the second row of Table A of DCAN 15 whereby the minimum x-distance is normally 4.5m. This may be reduced to 2.4m but only if traffic speeds on the priority road are less than 37mph and danger is unlikely to be caused. As a result of follow-on speed surveys, the appellant said that the 80%ile speed for traffic approaching from the north is 43-45mph whereas DfI Roads estimated it in the region of 53-54mph. Having carried out my own surveys, along the approaches identified by the appellant, I observed speeds from the northern direction in the range of 47-49 mph. In this context and taking into account the road's horizontal and vertical alignment to the north of the access where there is a bend in the road some 120m away and a crown slightly beyond, it is surprising that DfI Roads considers that the X distance can be reduced to 2.4m. In this evidential context, I consider the appropriate X distance to be 4.5m. In accordance with the first row of Table B of DCAN 15, the appropriate Y distance for traffic speed of 44 mph is 120m. Given that the average of the three sets of surveys is higher than that I am not persuaded that application of the bracketed figure would be appropriate. Therefore, splays of 4.5m x 120m are required in the interests of road safety. In reaching this conclusion account has been taken of the parties' evidence on the accident record in the vicinity of the access.

38. The required splay could be achieved to the south of the access with little impact on topography and relatively minor works. However, to the north is a wooded embankment that rises steeply above the road. Achieving the necessary splay and the, albeit reduced, standard of visibility in a vertical plane required by paragraph 4.2 of DCAN 15, given topography and the road alignment, TAS (Technical Approval Schedule) approval would be required and retaining structures would be likely. The Council witness said that her last experience of TAS approval took 2 years to resolve. The DfI representative said that final approval would take in excess of a year as there are only 2 engineers for NI. The appellant disputed this and said that subsequent to submission of his application, the matter could be resolved in 8-12 weeks. However, he gave no evidential basis for this time-scale. In this evidential context, significant weight is attached to the evidence of the Council's witnesses. The combination of time taken to prepare the application for TAS approval, its consideration and determination and that required to implement the works is likely to amount to well in excess of a year. With such uncertainty over when agreed works would be likely to be completed, imposition of a condition requiring the necessary improvements to visibility within a given time-scale would not be reasonable as required by paragraph 5.65 of the SPPS. In this context, retention of the unauthorised development using a sub-standard access would be likely to prejudice road safety contrary to Policy AMP 2 of PPS 3. For reasons set out above, the deemed application does not satisfy the policy tests for development in the countryside. Therefore, it is contrary to Policy AMP 3 of PPS 3, as clarified. Accordingly, the Council's 5th and 6th draft reasons for refusal are sustained.
39. For the above reasons, the deemed planning application does not comply with Policy CTY 1 of PPS 21 and the Council's first draft reason for refusal is sustained in addition to its fourth, fifth and sixth. Accordingly, the appeal on ground (a) fails.

Ground (f)

40. The onus is on the appellant to explain why the steps required by the Notice to be taken exceed what is necessary to remedy the breaches of planning control or the injury to amenity caused by those breaches. Aside from saying that the use of both units meets specified planning policy requirements having regard to the established use of both, he offered no other evidence to support his appeal on this ground. The breaches of planning control can only be remedied by permanent cessation of the unauthorised use of both units. Accordingly, the appeal on ground (f) fails.

Ground (g)

41. The appellant considers that the 60-day period for compliance with the Notice falls short of what should reasonably be allowed and asks that it be extended to 6 months to allow for the tenants to find alternative accommodation and relocate their businesses. I agree that 60 days would be rather onerous. However, given the identified potential prejudice to the safety of road users on the A29 from continued use of these units, it would be unreasonable to extend the period to 6 months. Weighing these competing considerations, I find that a period of 3 months is reasonable. The appeal on ground (g) succeeds on this basis

Decision

- The appeal on Ground (b) succeeds in respect of unit 4 only in that its current use is as a "*dance studio*" rather than a "*dance studio and gymnasium*".
- The appeal on Ground (b) fails in respect of unit 11.
- The appeal on Ground (c) fails in respect of both units 4 and 11.
- The appeal on Ground (d) fails in respect of both units 4 and 11.
- The appeal on Ground (a) fails in respect of both units 4 and 11.
- The appeal on Ground (f) fails in respect of both units 4 and 11.
- The appeal on ground (g) succeeds in respect of both units 4 and 11 and the notice is varied so that the period for compliance is 3 months.
- The notice, as varied, is upheld.

COMMISSIONER JULIE DE-COURCEY

List of Appearances

Both days unless indicated otherwise

Planning Authority:	Mr D Stewart Mr S Mc Nia Ms M Mc Kearney (Day 2 only) Mr A Alderdice, Dfl Roads (Day 1 only) Mr P Traynor, Dfl Roads, (Day 2 only)
Appellant:	Mr B O'Neill, Appellant Mr T Gourley, Planning Consultant Ms D Cairns (Tenant Unit 4) Mr R Armstrong, Tenant Unit 11 (Day 2 only) Mr K Armstrong, involved in father's business operating from Unit 11 (Day 2 only)

List of Documents

Planning Authority:	"LPA 1"	Statement of case with 8 appendices
	"LPA 2"	Supplementary statement of Case with 8 appendices
	"LPA 3"	LPS Information Request Pro Forma submitted at hearing on 06.07.18
Appellant:	"APP 1"	Statement of case with 2 appendices
	"APP 2"	Post-hearing submission dated 16.07.81

