



02 July 2024

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Dungannon at Mid Ulster District Council, Council Offices, Circular Road, Dungannon, BT71 6DT on Tuesday, 02 July 2024 at 18:00 to transact the business noted below.

Yours faithfully

Adrian McCreesh
Chief Executive

AGENDA

OPEN BUSINESS

1. Notice of Recording
This meeting will be webcast for live and subsequent broadcast on the Council's You Tube site [Live Broadcast Link](#)
2. Apologies
3. Declarations of Interest
Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.
4. Chair's Business

Matters for Decision

Development Management Decisions

5. Receive Planning Applications 5 - 180

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2022/1737/F	Replacement dwelling (existing dwelling retained for ancillary use) at lands 30m E of 23	APPROVE

		Iniscarn Road Desertmartin for FJS Contracts	
5.2.	LA09/2023/0015/F	Retrospective farm storage shed and associated landscaping at 110m S of 31 Crancussy Road, Dunamore, Cookstown, for Mr Patrick O'Gara	REFUSE
5.3.	LA09/2023/0380/F	2 replacement dwellings at 4-6 Gortfad Lane ,Gortfade Glebe, Cookstown, for Mr Kenny Henry	APPROVE
5.4.	LA09/2023/0853/F	Alterations and extension to listed dwelling at 180 Maydown Road, Benburb, for Mr and Mrs Kieran and Rebecca Hughes	APPROVE
5.5.	LA09/2023/0910/O	Site for a dwelling and domestic garage at 60m NE of 46 Drumsamney Road, Magherafelt for Mr Ivor Austin	REFUSE
5.6.	LA09/2023/0939/F	Retention of agricultural building to be used for agricultural storage at 26 Reenaderry Road, Coalisland, for Mr Gerard McStrvog	REFUSE
5.7.	LA09/2023/1093/F	Licensed garden room, erection of acoustic fence and associated works at 9-10 The Square, Moy, for Mr Barry McNeice	APPROVE
5.8.	LA09/2023/1095/F	Change of use from nightclub to 4 flats (2 No two bedroom and 2 No one bedroom) at 24 - 28 The Square, Coalisland for Mr Declan Dorrity	APPROVE
5.9.	LA09/2023/1218/F	Erection of a cover spectator stand, 4 floodlights and extension to walkway around pitch with access steps to primary school. at 1 Convent Road, Cookstown for Cookstown Fr Rocks GFC	APPROVE
5.10.	LA09/2023/1238/F	Competition level 8-lane running track and IFA intermediate level 3G soccer pitch with class 1 floodlighting. Banked spectator terraces and pathways with bollard lighting, fencing, landscaping and associated site works. at 47A Tullywiggan Road, Loughry, Cookstown for Mid Ulster District Council	APPROVE
5.11.	LA09/2024/0090/LBC	Reducing the reservoir's water level to access necessary repairs	APPROVE

		and suggesting 2 new valves configuration along with pipes and headwall at Dungannon Park, Moy Road, Dungannon for Mid Ulster District Council	
5.12.	LA09/2024/0144/O	Dwelling and garage approx 50m to rear of 146 Washingbay Road, Coalisland for Mr Oliver Brady	REFUSE
5.13.	LA09/2024/0155/O	Dwelling and garage approx 110m W of 39 Castle Road, Cookstown for Mr Ricky Boyd	REFUSE
5.14.	LA09/2024/0262/F	To complete dwelling commenced - approved M/2005/2046/O and M/2009/0130/RM at 100M SE of 16C Annaloughan Road, Augher for Stephen Maxwell	APPROVE

6. Receive Deferred Applications

181 - 266

	Planning Reference	Proposal	Recommendation
6.1.	LA09/2019/0483/O	Infill dwelling and garage at approx 51m SW of 12 Fallylea Road, Maghera for Mr Fergal Rafferty	APPROVE
6.2.	LA09/2020/1380/F	Erection of Dwelling, relocation of existing dwelling and site restoration adjacent & 100m E of 18 Shantavny Road, Garvaghy. for Ciaran Owens	APPROVE
6.3.	LA09/2021/1700/O	Dwelling and garage at land off Pomeroy Road, approx. 285m NE of 47 Kilmardle Road, Dungannon for Mr Robert Quinn	APPROVE
6.4.	LA09/2023/0874/F	Farm shed at lands approx 53m E of 17A Corvanaghan Road, Cookstown for Mr Charles Quinn	APPROVE
6.5.	LA09/2023/0916/F	Off site replacement dwelling and garage at 180m W of 16 Carncoose Road, Cranny, Moneymore for Mr Gregory McGovern	APPROVE
6.6.	LA09/2023/1215/O	Site for two dwellings and detached garages at lands between 21 and 23 Halfgayne Road, Maghera for Mr Francis Bradley	APPROVE

Matters for Information

7. Planning Committee Minutes of Meeting held on 4 June 2024 267 - 282

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

Matters for Information

8. Planning Committee Confidential Minutes of Meeting held on 4 June 2024
9. Enforcement Cases Opened
10. Enforcement Cases Closed



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 2 July 2024	Item Number: 5.1
Application ID: LA09/2022/1737/F	Target Date: 31 March 2023
Proposal: Replacement dwelling with the existing dwelling retained for ancillary use to the new house	Location: Lands 30 Metres East of 23 Iniscarn Road Desertmartin
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: FJS CONTRACTS 12a Gortahurk Road Draperstown BT45 7JY	Agent Name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SQ
Executive Summary: The current application is presented as an approval, however it is being presented at Committee following receipt of 2no. objections from Nos. 21 and 23 Iniscarn Road.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	NIEA	PRT LA09-2022-1737-F.PDF
Statutory Consultee	NIEA	PRT LA09-2022-1737-F.PDF
Statutory Consultee	DFI Roads - Enniskillen Office	Full Tri.DOCX

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	2
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

The objector's concerns are addressed below:

- Affects local ecology, objector has raised concerns that there is a large range of wildlife found in the surrounding area – NIEA (NED) have been consulted. These concerns have been addressed within this report.

- Close to adjoining properties – Officers are content that there is an appropriate separation distance from the proposed dwelling and neighbouring properties.
- Conflict with local plan – These concerns have been addressed within this report.
- Development too high – These concerns have been addressed within this report.
- General dislike of proposal – This is not a material planning consideration.
- Loss of light – Officers are content that there is an appropriate separation distance from the proposed dwelling and neighbouring properties, and this proposal will have minimal impact on loss of light.
- Severely affect neighbour's privacy – Officers are content that there is an appropriate separation distance from the proposed dwelling and neighbouring properties, and this proposal will have minimal impact on neighbouring amenity.
- Out of keeping with character of area – These concerns have been addressed within this report.
- Over development – These concerns have been addressed within this report.
- Proposed dwelling is significantly bigger than surrounding properties – These concerns have been addressed within this report.
- Applicant is a building contractor and would sell the dwelling for profit, with anticipation to build more properties on surrounding ground – This is not a material planning consideration.
- Special consideration must be given as Slieve Gallion is classified as an Area of Outstanding Natural Beauty, and Area of High Scenic Value – The application site is not within an AONB. It has been acknowledged within this report that the site is within an Area of High Scenic Value, and this has been addressed within this report.
- Proposal is contrary to CTY 1 by eroding the rural character of the area – These concerns have been addressed within this report.
- Proposal adds to existing ribbon development, therefore fails to meet policy CTY 8 – Officers do not believe this proposal will add to ribbon development, but instead a new dwelling in this location will cluster with existing development.

Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan 2015. The site is within an Area of High Scenic Value, and just outside an Area of Outstanding Natural Beauty boundary. The derelict, single storey dwelling to be replaced is situated within on agricultural land which is part of a much larger field. The site is accessed via a laneway from the Iniscarn Road, though the existing entrance to the site is overgrown. The application site cannot be seen from the public road. The northern boundary is defined by mature hedging, while the remaining boundaries remaining undefined. The surrounding area is rural in nature, with predominantly agricultural land uses, with scattered dwellings and their associated outbuildings.

Description of Proposal

This is a full planning application for a replacement dwelling with the existing dwelling retained for ancillary use to the new house, at lands 30m East of No. 23 Iniscarn Road, Desertmartin.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Relevant Planning History

H/2009/0165/O – Site for replacement dwelling. 50M North Of 21 Iniscarn Road, Moneymore, Magherafelt. Permission granted – 11.06.2009

Planning Assessment of Policy and Other Material Considerations

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030 - Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 1: General Principles

PPS 2: Natural Heritage

PPS 3: Access, Movement and Parking

PPS 21: Sustainable Development in the Countryside

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight. Transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside. Section 6.77 states that ‘proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety’.

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

Policy CTY 3 of PPS 21. Following my site visit, it is my opinion that the building to be replaced exhibits the essential characteristics of a dwelling with external structural walls substantially intact. The building appears to be a dwelling and therefore, I am content this constitutes a valid replacement opportunity. It is also important to note that the existing building on site was granted outline approval for a replacement dwelling under planning application H/2009/0165/O, however this was never followed with a Reserved Matters or Full planning application, therefore the permission expired and development never commenced.

As the red line of this site extends into the neighbouring field, and the proposed dwelling is to be located in this field, this application is to be considered as an off-site replacement. Policy CTY 3 states proposals for a replacement dwelling will only be permitted where all the following criteria are met:

- *the proposed replacement dwelling should be sited within the established curtilage of the existing building, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.*

It was clear from my site visit and from orthographic images, that the existing curtilage of the dwelling is very limited. I am of the opinion that if the dwelling were to be replaced in situ, there would be an unacceptable amount of usable and quality amenity space available, and the existing curtilage is so restricted it would be unable to accommodate a modest sized dwelling. By extending the red line of the site to include part of the neighbouring field, it has provided an appropriate size of site for a new modest sized dwelling. For these reasons, it is my opinion that criteria (a) has been met.

- *the overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building*

It is my opinion that the proposed dwelling will have the same significant visual impact as the existing dwelling – which is very limited. The existing dwelling cannot be seen from the public road. I hold the view that this application is able to be comply with CTY 3.

Policy CTY 13 states that the proposed development is able to visually integrate into the surrounding landscape and be of appropriate design. Following group discussion, officers were of the opinion that a new dwelling will not appear as a prominent feature in the landscape. There is existing vegetation and mature trees on the site, and these will provide a suitable degree of enclosure for the building to integrate into the landscape. Whilst new landscaping may be required along certain boundaries, it will not be relied on primarily, as the existing vegetation and mature trees on the site will provide necessary integration. Officers are content that the design of the building is appropriate for the site and its locality. The proposed dwelling is a modest, two storey dwelling and is traditional in form. There will also be very limited public views of the dwelling from the public road. For these reasons, officers were content it is appropriate. With this in mind, I am content that this application is in compliance with CTY 13 of PPS 21.

Policy CTY 14 states that planning permission will be granted for a building where it does not cause a detrimental change to, or further erode the rural character of the area. Following group discussion, it was considered that a new dwelling would not appear unduly prominent in the landscape. A dwelling in this location will not result in a suburban style build-up of development. I am of the opinion that a new dwelling in this location will cluster with existing development. The surrounding area is rural in nature, with predominantly agricultural land uses, with scattered dwellings and their associated outbuildings. Therefore, I am of the opinion, this proposed dwelling will respect the traditional pattern of settlement exhibited in the area. The character of the immediate area at this location will not be detrimentally impacted. With this in mind, I am content that this application is in compliance with CTY 14 of PPS 21.

PPS 2: Natural Heritage

A Preliminary Ecological Appraisal (PEA) and Bat Roost Potential (BRP) were submitted by the agent. NIEA (NED) were consulted and reviewed these documents and referred officers to DAERA Standing Advice – NED – Single Dwellings. Within the PEA it was stated that breeding behaviour had been observed at the existing dwelling, however it is noted that the existing dwelling is to be retained exactly how it currently is, and no works carried out to it, therefore we have no concerns. To protect nests during breeding season within the existing hedgerow surrounding the dwelling, the standing advice order recommends a condition to be attached recommending all removal to be undertaken outside specific dates, which will be attached to this application, if approved. In terms of bat roosting, if it transpires that the cottage requires to be removed as a part of the application, NIEA will require that bat emergence/return surveys are conducted. However, as previously stated it is proposed that this dwelling is to be retained. Therefore, it was not considered necessary to request these surveys. I am content the proposal is appropriate, subject to the condition recommended within the DAERA Standing Advice with respect to the protection of breeding birds. I am content that this proposal complies with PPS 2: Natural Heritage.

Policy CON 1

The site is located within an Area of High Scenic Value, and planning permission will not be granted to development proposals that would adversely affect the quality and character of the landscape. A Landscape Analysis was submitted by the agent, and considered. I am content the proposal complies with Policy CON 1.

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

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

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

Condition 2

Upon occupation of the new dwelling, the dwelling to be replaced, coloured green on Drawing No. 01 (uploaded on the planning portal on 15th December 2024), shall no longer be used or adapted for purposes of human habitation and may only be used for storage purposes.

Reason: To ensure that the proposed development does not result in the creation of an additional dwelling in this rural area.

Condition 3

The existing native species hedges surrounding site, as identified and annotated on Drawing No. 02 (uploaded on the planning portal on 15th December 2024), shall be permanently retained. No looping, 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 Council in writing within one week of work being carried out.

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

Condition 4

The scheme of planting hereby approved shall be carried out in accordance with Drawing No. 02 (uploaded on the planning portal on 15th December 2024) during the first available planting season after the commencement of development. Trees or shrubs dying, removed, or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Mid Ulster District Council gives written consent to any variation.

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

Condition 5

No vegetation clearance/removal of hedgerows, trees or shrubs shall take place between 01st March and 31st August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the MUDC Planning Department within 6 weeks of works commencing.

Reason: To protect breeding birds.

Condition 6

The vehicular access including visibility splays 2.4 x 60 metres and any forward sight

distance, shall be provided in accordance with Drawing No. 02 (uploaded on the planning portal on 15th December 2024) prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Signature(s): Seáinín Mhic Íomhair

Date: 12 June 2024

ANNEX	
Date Valid	16 December 2022
Date First Advertised	3 January 2023
Date Last Advertised	3 January 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 21 Iniscarn Road Moneymore Londonderry BT45 7RH The Owner / Occupier 23 Iniscarn Road Moneymore Londonderry BT45 7RH	
Date of Last Neighbour Notification	28 May 2024
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: H/1995/0242 Proposals: SITE OF RETIREMENT DWELLING Decision: WITHDR Decision Date: Ref: LA09/2022/1737/F Proposals: Replacement dwelling with the existing dwelling retained for ancillary use to the new house Decision: Decision Date: Ref: LA09/2019/1428/PAD Proposals: Potential sites for Hospitality Business Decision: PAD Decision Date: 01-JAN-20 Ref: H/2009/0165/O Proposals: Site for replacement dwelling. Decision: PG Decision Date: 12-JUN-09	

Ref: H/2000/0527/O
Proposals: Site of Dwelling and Garage
Decision: PG
Decision Date: 23-OCT-00

Ref: H/2001/1045/F
Proposals: Dwelling & Garage
Decision: PG
Decision Date: 18-FEB-02

Ref: H/2003/0665/O
Proposals: Site of dwelling and garage.
Decision: PR
Decision Date: 19-FEB-05

Ref: LA09/2020/1476/O
Proposals: New dwelling and garage
Decision: PR
Decision Date: 20-SEP-22

Ref: H/1995/0527
Proposals: DWELLING AND GARAGE
Decision: PG
Decision Date:

Ref: H/2002/0675/O
Proposals: Site of Dwelling
Decision: PR
Decision Date: 12-NOV-02

Ref: H/1996/0429
Proposals: 11 KV O/H LINE
Decision: PG
Decision Date:

Ref: H/1996/0319
Proposals: 11KV O/H LINE BM4053/95
Decision: PG
Decision Date:

Ref: H/2004/0848/O
Proposals: Site of dwelling and garage.
Decision: PR
Decision Date: 20-DEC-05

Summary of Consultee Responses

NIEA-PRT LA09-2022-1737-F.PDF
NIEA-PRT LA09-2022-1737-F.PDF
DFI Roads - Enniskillen Office-Full Tri.DOCX

Drawing Numbers and Title

Site Location Plan Plan Ref: 01
Site Layout or Block Plan Plan Ref: 02
Proposed Floor Plans Plan Ref: 03
Proposed Elevations Plan Ref: 04

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 2 July 2024	Item Number: 5.2
Application ID: LA09/2023/0015/F	Target Date: 21 April 2023
Proposal: Retrospective farm storage shed and associated landscaping	Location: 110M South of 31 Crancussy Road Dunamore Cookstown BT80 9PW
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr PATRICK O'GARA 33 CRANCUSSY ROAD DUNAMORE COOKSTOWN BT80 9PW	Agent Name and Address: Mr AUSTIN MULLAN 38b AIRFIELD ROAD TOOMEBRIDGE BT41 3SG
Executive Summary: This is a retrospective application for a farm storage shed. The shed has recently been completed and is fully functional as it is currently being used for the storage of agricultural machinery. The applicant has a farm business with a Category 1 farm business number which was allocated in 1991 and the business has been active for each of the past 6 years. Four objections were received in respect of the proposed development, the contents of which are all considered in the case officers report. The critical issue in the assessment of this proposed development is that the storage shed has not been sited beside existing buildings on the farm. Instead, the storage shed has been located around 80m from the nearest building. If the proposed building had been erected approximately 5m closer to the existing buildings on the farm, it would have benefitted from permitted development rights. Whilst the proposed development is contrary to planning policy CTY 12 in that respect, Committee members may wish to consider the environmental and amenity benefits of the proposed site as discussed in the case officers report, as opposed to the alternative of siting the building beside existing buildings on the farm.	

The proposal has been assessed against the relevant planning policies which are mainly PPS 2 Policy NH1, PPS 21 Policies CTY 12 and CTY 13 and PPS 15.

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	NIEA	PRT LA09-2023-0015-F.PDF
Non Statutory Consultee	Shared Environmental Services	LA09-2023-0015-F - HRA Elimination 19-01-24.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - Full response.docxDC Checklist 1.doc
Non Statutory Consultee	DAERA - Omagh	LA09-2023-0015-F.docx
Non Statutory Consultee	Shared Environmental Services	
Statutory Consultee	NIEA	PRT LA09-2023-0015-F.pdf

Representations:

Letters of Support	0
Letters Non Committal	1
Letters of Objection	4
Number of Support Petitions and signatures	
Number of Petitions of Objection	

Summary of Issues

Four representations have been received in respect of this proposed development and relate to the following issues:-

- The applicants address is incorrect as they do not reside at No. 31 Crancussy Road; The applicants address has been corrected to no.33 Crancussy Road.

- The applicant is the landlord of the sitting tenant at No.31 Crancussy Road; This is a statement of fact and has been corroborated by the applicant.

- An engineering business is registered at No.31 Crancussy Road and the three directors are relatives of the applicant's;

The applicant and/or his relatives may register a company at any address and this point is not a matter for consideration within this planning application.

- The applicant is not the developer for this application;

The applicant does not have to be the developer. They have however, submitted the application in their own name and have provided their farm details, The application will therefore be assessed on that basis.

- The actual resident has not been notified of the application;

As this point does not state who the actual resident of which address the objection refers to, I assume it relates to the occupier of no.31 Crancussy Road. The occupier of no.31 Crancussy Road was notified as the site shares the same access laneway as the dwelling and passes the gable of no.31. The neighbour notification letter was issued on 14th February 2023. The objector has commented on the application and is therefore obviously aware of the application.

- The shed was erected prior to submission of the application and it is well known within the local and wider community that the building is not intended to be utilised for agricultural use.

It is a fact that the building was erected without planning approval, however, this is not an offence. Following the instigation of enforcement action, the applicant submitted this retrospective application to regularise the situation. The intended use of the building can only be taken as to be what is stated on the application form, i.e. for farm storage.

- The potential for the shed to be used for the preparation of rally cars;

If the proposed shed were to be approved and was used for any other use, this would be an issue to be raised with Council's Enforcement Section.

- It is highly unlikely that approval would be granted for such a use;

This is a matter for Committee to determine based on a full assessment of the facts provided.

- The site is adjacent to Lough Doo ASSI;

This issues has been considered in the case officers report below. However, as the proposed site is outside the ASSI, this does not preclude development on that site.

- There is a need for a condition restricting the use of the shed to agricultural use;

As stated above, the proposed use is for agricultural use. If the shed is used for any other use, this would require a change of use application. As the proposed building is not located close to a third party dwelling, it is not considered necessary to restrict the use

beyond the proposed use as stated.

- This application has a very real possibility of damaging the environment of the Crancussy Road area;

The objector has not elaborated on how they feel the environment would be damaged. However, as the proposal is for a farm storage shed located on farm land which is not within a sensitive area and which meets the necessary environmental requirements, in my opinion, I disagree with this point.

- The applicant was advised by a planning consultant to locate the development in an industrial estate;

There is nothing within this application to suggest the applicant has considered any alternative site nor to suggest that they have received such advice from a consultant.

- The electricity supply is provided by a 3-phase supply with an underground cable cut through the ASSI;

The applicant has again rebutted this and has advised that the power supply is not via a three phase supply but via single phase. They also advise that NIE inspected the power supply and found nothing untoward with that supply.

- The applicant has demolished sheds without permission;

The applicant does not require planning permission to demolish agricultural sheds unless they are Listed.

- There is no business plan and what modern machinery is required to service a hill sheep farm;

The applicant is not required to have nor produce a business plan nor to state what machinery is required in order to apply for a farm storage shed. The machinery was evident on inspecting the shed.

- An assumption that the applicant will construct another sheep shed alongside the proposed building;

The applicants future intentions are not an issue for consideration in the assessment of this planning application.

- The applicant does not state what size his flock is or will be;

The applicant does not have to state the size of his current or future flock. The requirement is that they have an active and established farm business, which DAERA have conformed is the case.

- The site is on a hillside where runoff can enter a tributary of the Ballinderry River;

The proposal is for a farm storage shed. It has not been stated that the shed will be used for animal shelter. At the time of site inspection there were no animals in the shed.

However, the applicant would be subject to other legislation including SAFFO regulations which require persons with custody or control of a crop being made into silage, livestock slurry or certain fuel oil to carry out works and take precautions or other steps for preventing pollution of waterways for the purposes of Part II of the Water (Northern Ireland) Order 1999.

- The applicant has not sought animal shelter before, so why now;

The applicant has not stated that the proposed shed is for animal shelter, however, they have the right to apply for animal shelter whenever they choose.

- The integration of the shed is ludicrous as it can be seen from all angles in and around the location;

The integrational potential of the proposed shed has been discussed later in the case officers report.

- There will be an increase in traffic;

It is acknowledged that there may be an increase in traffic along the laneway, however, this is a private laneway under the ownership of the applicant and DfI Roads have no objection to the proposal.

- Storage of hazardous or toxic materials should not be allowed;

The proposal does not include the storage of any hazardous materials.

- a waterway from Loughaslane has been altered at the site by a series of concrete pipes covered in earth in a land grab;

The watercourse has been altered by the insertion of four no. three foot pipes which are the same size as those already in place. This has been confirmed by the applicant and has been done solely for the purpose of providing a widened access for the larger more modern machinery which will be utilising the site.

- Why has the objection been redacted;

As advised on Council's Planning Portal, any remarks or information that can be considered as falling within the description detailed below will be removed:

Defamatory, malicious or libellous remarks about Planning staff, individuals or companies. Swear words, incorrect information about others, innuendos about others, lies or un-sustained truths about the application, defamation of character statements and offensive material of a religious, sexual or political nature. Those sections of the objections which were redacted were considered to fall within the scope of the above.

- DAERA should be informed about the erection of the shed;

It is not a matter for Council to inform DAERA that the applicant has erected any building. However, a consultation was issued to DAERA to confirm whether the applicant had an active and established farm business and therefore they were made aware of the shed through this consultation.

- The shed cost in excess of £100,000 to erect;

The cost of the proposed shed is irrelevant and is not a matter for consideration in this application.

- DAERA must provide Council with a formatted plan of the Modernisation stated by the applicant and that all monies due to His Majesties Revenues and Customs are in order.

The above issues are not matters for consideration in the assessment of this planning application and have not been requested.

Characteristics of the Site and Area

The surrounding area is characterised by rural dwellings and farm buildings sited on road frontage sites as well as being set back off the road. The surrounding area contains a number of sand and gravel quarries with associated loughs. The area also contains Lough Doo ASSI which abuts the site.

The site is located off the Crancussy and in an area of undulating land which rises and falls steeply. The site is set back around 350m off the Crancussy Road and is accessed via an existing laneway. The laneway rises up steeply from the road before leading past

a single storey detached bungalow (no.31) with a small iron clad shed to the rear. No.31 is within the applicants ownership but at the time of inspection was occupied by one of the objectors. The site can also be accessed via a second laneway which extends past the applicants dwelling at no.33 Crancussy Road. This second laneway also rises up steeply from the Crancussy Road.

Description of Proposal

The proposal is for a retrospective farm storage shed and associated landscaping. The shed is a four bay shed, measuring 22.0m x 16.0m with a ridge height of 7.300m above finished floor level. The external walls are constructed of shuttered concrete to a height of 2.8m above FFL and sheeted above that with green coloured cladding. The roof is constructed with the same profiled cladding. There is one large roller shutter door on the front gable elevation with a single pedestrian door also to the front. A single pedestrian door exists at the north western corner, on the side elevation.

At the time of the initial site inspection, the shed was completely empty and gave the impression that it was only completed very recently. A large circulation space has been created around the outside of the shed with earth bunds constructed along the south eastern and south western sides of the shed with a smaller bund along the north eastern boundary next to the agricultural laneway serving the site. A single tracked excavator was parked at the rear southern corner of the shed.

However, at the time of a second unannounced site inspection, upon my request the shed was opened and contained the following:-

MF 6715 S Tractor with Kuhn trailed mower

MF 5470 Tractor with power link box

Redrock tub diet feeder

8' x 4' bales of barley straw

MIG welder

Trolley jack

Extension lead

Hydraulic press

Work bench

Workshop tools. And

Numerous lengths of timbers and timber sheeting.

In addition to the items listed above, the following machinery/items were parked along the outer, north western side of the shed;

Two livestock trailers

A car trailer

A hydraulic tipping dump trailer

A rubber wheeled JCB excavator

An empty oil tank.

A modern JCB shovel was parked at the front pedestrian entrance to the shed.

It is noted from the details submitted with the application that the applicant is a sheep farmer. As the proposal is described as a farm storage shed, there is the possibility that it could also be used for housing sheep during the lambing season. There is however, no slurry tank proposed within the shed, so any animals kept in the shed would be kept on dry bedding.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Relevant planning history

There is no previous planning history on the application site., however the proposed building is the subject of a current enforcement case LA09/2022/1047/CA as the building was erected without planning approval.

Development Plan and key policy considerations

The main policy consideration in the assessment of this proposed development are:-

PPS 21 – Sustainable development in the countryside

Policy CTY 12 Agricultural and forestry development

Policy CTY 13 Integration and design of Buildings in the Countryside

PPS 15 Planning and Flood Risk

Policy FLD 4 Artificial modification of a water course

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

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

The site lies outside any defined settlement limits and is open countryside as identified in the Cookstown Area Plan 2010. No other constraints have been identified.

PPS 21 Policy CTY 12 Agricultural and Forestry Development states the planning permission will be granted for development on an active and established agricultural or forestry holding where the proposal satisfies all the stated criteria. Therefore it is necessary to first consider if the farm business is both active and if it has been established for more than the required period of 6 years. DAERA have confirmed that the farm business stated on the P1C has been established for more than 6 years and that it has claimed payments in each of the last 6 years. Therefore the business is both

active and established for the required time.

Subsequently it is necessary to assess the proposal against each of the policy tests as follows:-

1. The proposed development is necessary for the businesses efficient use;
The applicant has stated in the application that the shed is required for farm storage. On inspecting the farm, the site and surrounding area there are only two dwellings (no's. 31 and 33) together with two outbuildings on the holding. No.31 is a single dwelling with a small iron clad building set to the rear, while no.33 is a second bungalow with a small block built shed to the rear.
Neither of the existing outbuildings could realistically accommodate the machinery which is currently stored in the proposed shed, namely tractors, a mower and a diet feeder. Nor could the existing buildings be adapted to accommodate such machinery due to the low roof structure on both buildings.
Therefore, it is my opinion that the proposed shed is necessary for the efficient use of the agricultural enterprise.
2. it is appropriate in terms of character and scale;
The proposed shed may be considered appropriate in terms of character and scale as it is proposed to be used as a farm storage shed. The nature of the machinery, described earlier in the report, is such that it requires a large shed with a door opening approximately 4-5m wide and 4-5m high. The proposed shed is consistent with what would be expected on any modern farm and as this is the first building of its type, it is considered appropriate.
3. it visually integrates;
Although the site occupies an elevated location in the overall landscape, it is set into the rising landscape and with the help of the earth bunds and the excavations undertaken to create a level platform, which has reduced the site levels to those at the front of the site, the proposed building does not appear prominent in the landscape. Due to the distance the proposed building is set back from the public road, it is less visible from the Crancussy Road as the site is set back over the crest of a hill and is not visible from either access laneway. Although the proposed building does not have long established boundaries, or existing vegetation to provide it with a sense of enclosure, the earth bunds together with the reduced ground levels, provide a sufficient degree of integration. This could be further enhanced with the provision of boundary planting particularly along the earth bunds. Whilst the proposed shed is visible from the Lough Doo Road, those critical views are from a distance of approximately 800m, from where the proposed building is set against a backdrop of rising ground. Those long distant views, coupled with the dark green colour of the cladding, results in a building which achieves an acceptable degree of integration.
4. there will be no adverse impact on natural or built heritage;
The site is adjacent to, but lies outside Lough Doo ASSI. The proposal is for a farm storage shed which does not include slurry storage tanks and therefore it is not anticipated that there will be any adverse impact on natural heritage. There is no built heritage in the vicinity of the site to be affected.
5. there will be no detrimental impact on residential amenity;

If the proposed building had been constructed beside either of the existing dwellings, it would have had the potential to have a detrimental impact on residential amenity. This is because the application does not specify that the building is for machinery storage only. Therefore, it must be accepted that the applicant has the potential to use the proposed shed for animal shelter. Consequently, a nuisance may be caused by way of odours, smells and/or noise. Although, both dwellings are within the applicant's ownership, the applicant only resides in no.33 with no.31 being let out to a third party who was unconnected to the farm business. Although the proposed shed could have been constructed beside the applicant's own dwelling at no.33, this would have had additional implications for its integrational potential as well as potentially creating an infill opportunity.

Furthermore the policy requires that where a new farm building is proposed, the applicant needs to demonstrate that;

6. there are no existing farm buildings which can be used, the design and materials are sympathetic to the locality and the proposed building is adjacent to the existing farm buildings;

As stated above, this is the first farm building on the holding which can accommodate the type of machinery currently stored in the proposed shed and therefore there are no existing buildings which can be utilised.

The design and materials of the proposed shed are typical of farm buildings and are sympathetic to the locality;

The proposal should be sited beside existing farm buildings.

The proposed building has already been constructed and is not sited beside or within 75m of existing buildings on the farm holding. The applicant explained in his submission of 23rd October 2023 that he was under the impression that if the building was erected within 75m of the farmyard and the remaining walls of the former farm sheds, that it would benefit from permitted development rights. This is obviously not the case as the buildings must be within 75m of a principal group of buildings on the farm and not just the farmyard. Therefore the proposed building does not benefit from permitted development rights. As the shed has a footprint of 352m² it would otherwise benefit from permitted development rights. Therefore, the proposed building is contrary to this part of the policy and must be recommended as a refusal.

Although the proposal is contrary to the policy requirement in that it is not sited beside existing buildings on the farm, I have considered the alternative locations available to the applicant. The first alternative is to site the proposed building either to the north or to the rear of the applicant's own dwelling (no.33). To do so would require substantial cutting and infilling of the landscape due to the landform rising steeply away from the Crancussy Road towards the southwest. Whilst it would be possible to site the proposed building at the side or rear of no.33, this would result in substantial scarring of the land which would in turn result in the proposal having a much more detrimental impact on visual amenity than the proposed siting. The other alternative is to site the proposed building to the southeast of no.33. However, to do so would create an infill opportunity for one or two dwellings between the shed and the neighbouring dwelling

at no.35. Such a situation could result in a change in character, where the situation changes from two dwellings to a ribbon of four dwellings and a farm shed.

The only other alternative is for the applicant to site the farm building beside the second dwelling on the farm holding. That dwelling is located approximately 100m to the northeast of the site. However, that dwelling, whilst owned by the applicant was let to a third party who was unconnected to the farm holding. Therefore, to site the proposed building beside that dwelling could lead to nuisance complaints due to noise, odour and/or smells.

Exceptionally an alternative site may be acceptable away from a group of existing farm buildings and where it is essential for the efficient functioning of the business and there are demonstrable health and safety reasons.

The proposed shed is located away from a group of existing farm buildings and on the basis of the information submitted in support of the proposed development, it is my opinion that the proposed building is essential for the efficient functioning of the farm business. No demonstrable health and safety reasons have been provided.

Therefore, in my opinion, whilst the proposed location does not satisfy the policy requirement for a farm building to be located beside existing farm buildings and is consequently being recommended for refusal, members may wish to consider the environmental benefits of the proposed location.

Policy FLD 4 Artificial modification of a water course states that permission will only be granted for 'the artificial modification of a watercourse, including culverting...in either of the following circumstances' which includes 'where the culverting of short length of a watercourse is necessary to provide access to a development site or part thereof.' A short length of a watercourse has been culverted, as advised by the applicant, which extends to the insertion of four no. three foot concrete pipes. These are required to improve access on the laneway and to accommodate the larger and more modern farm machinery which will be using the site.

Planning Policy Statement 2 Natural Heritage Policy NH 1 – European and Ramsar Sites – International states that;

Planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on: a European Site (Special Protection Area, proposed Special Protection

Area, Special Areas of Conservation, candidate Special Areas of Conservation and Sites of Community Importance).

As the Planning Authority is the competent authority under The Conservation (Natural Habitats, etc.) Regulations 1995 (as amended), this responsibility extends to the carrying out

of Habitat Regulations Assessments (HRAs) before a planning decision is made. This planning application was considered in light of the assessment requirements of Regulation 43(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as

amended) by Shared Environmental Service on behalf of Mid Ulster District Council which is the competent authority responsible for authorising the project.

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

Elimination Reason: The proposal site is within 7.5km of Upper Ballinderry River SAC, Black Bog SAC, and Owenkillew River SAC. As detailed in the supporting information the proposal is for storage of agricultural machinery. No livestock will be housed, there is therefore no source or pathway for operational impacts to the European sites. A condition will be required to ensure the proposal proceeds as detailed in the supporting information. Storm water is discharged to the adjacent small stream. On the basis of the proposal description there will be no effluent or other discharges that could impact storm water quality. It is concluded that there is no viable pathway to the tributary of the Ballinderry River 150m to the northeast.

Recommendations

That planning approval be refused for the proposed development for the reasons listed below:-

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to policy CTY12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the proposed development is not located beside existing farm buildings.

Signature(s): Malachy McCrystal

Date: 22 May 2024

ANNEX	
Date Valid	6 January 2023
Date First Advertised	17 January 2023
Date Last Advertised	17 January 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 31 Crancussy Road Pomeroy Tyrone BT80 9PW	
Date of Last Neighbour Notification	14 February 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: I/1992/0256 Proposals: Replacement Dwelling Decision: PR Decision Date: Ref: I/1999/0503/O Proposals: Dwelling and garage Decision: PG Decision Date: 20-NOV-00 Ref: I/2002/0640/RM Proposals: Proposed dwelling and garage Decision: PG Decision Date: 26-FEB-03 Ref: LA09/2023/0015/F Proposals: RETROSPECTIVE FARM STORAGE SHED AND ASSOCIATED LANDSCAPING Decision:	

Decision Date:

Ref: I/1995/0322

Proposals: Replacement dwelling

Decision: PG

Decision Date:

Ref: I/2002/0348/F

Proposals: Extension to Sand Pit in a Northerly Direction.

Decision: PG

Decision Date: 14-NOV-02

Ref: I/1981/0003

Proposals: FARM BUNGALOW

Decision: PG

Decision Date:

Ref: I/1991/0337

Proposals: 11 KV Rural Spur

Decision: PG

Decision Date:

Summary of Consultee Responses

NIEA-PRT LA09-2023-0015-F.PDF

Shared Environmental Services-LA09-2023-0015-F - HRA Elimination 19-01-24.pdf

DFI Roads - Enniskillen Office-Roads Consultation - Full response.docxDC Checklist
1.doc

DAERA - Omagh-LA09-2023-0015-F.docx

Shared Environmental Services-

NIEA-PRT LA09-2023-0015-F.pdf

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Floor Plans Plan Ref: 03

Proposed Elevations Plan Ref: 04

Roof Details Plan Ref: 05

Proposed Plans Plan Ref: 06

Notification to Department (if relevant)

Not Applicable

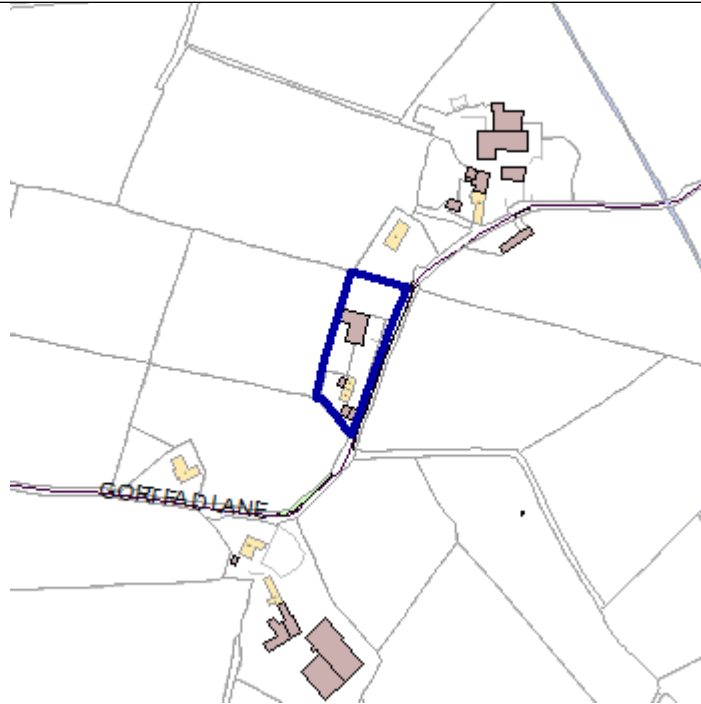


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 2 July 2024	Item Number: 5.3
Application ID: LA09/2023/0380/F	Target Date: 18 July 2023
Proposal: Erection of 2 No replacement dwellings	Location: 4-6 Gortfad Lane Gortfade Glebe Cookstown BT80 9BT
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr Kenny Henry 15 Finnard Road Rathfriland Newry BT34 5BL	Agent Name and Address: Mr Marcus Bingham 9 Tullyquilly Road Rathfriland Newry BT34 5LR
Executive Summary: This application is being presented to Committee as one third-party objection has been received from Ms Olive Dobson, the owner / occupier of no. 8 Gortfad Lane, the property immediately north of the site. The issues relate to road safety and surface water run-off from the site.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	NIEA	PRT LA09-2023-0380-F.PDF
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - Full response.docxDC Checklist 1.doc
Statutory Consultee	NIEA	PRT LA09-2023-0380-F MI.PDF
Statutory Consultee	NIEA	PRT LA09-2023-0380-F.pdf

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The site is located in the rural countryside, as depicted within the Cookstown Area Plan, approx. 2.5km southeast of The Rock, 2.5km southwest of Sandholes and 1.8km west of the A29 road a heavily trafficked protected route connecting Cookstown and Dungannon.

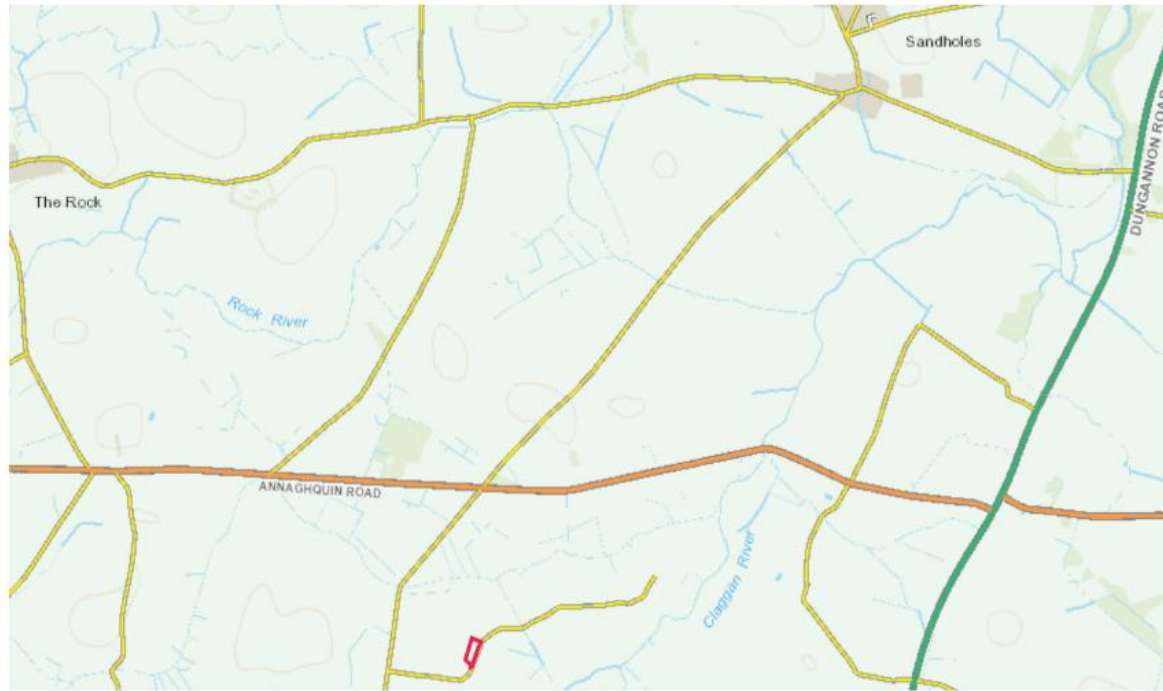


Fig 1: Site outlined red.



Fig 2: Site outlined red.

The site is a relatively rectangular shaped plot located off Mulnagore Road via a dead-end lane

'Gortfad Lane' serving approx. 8/9 dwellings. The site sits immediately adjacent the lane and comprises nos. 4 and 6 Gortfad Road, two 2-storey semi-detached dwellings and their curtilage including a few small and overgrown ancillary outbuildings located to their south side and large sheds with a small paddock located to their north side (see Figs 3, 4 and 5 below).



Fig 3: Photos of the front and rear of the dwellings to be replaced.



Fig 4: Photo from rear of dwellings showing overgrown ancillary outbuildings located to their south side.



Fig 5: Photos of south side and rear of large sheds located to north of dwellings.

The dwellings, which have a rectangular shaped floor plan and a pitched roof construction with three chimneys expressed along their ridgeline, both have a single storey pitched roof front porch and no. 6 also has a single storey flat roofed rear return. The dwellings have a rough render finish to their walls with brick to the chimneys; dark roof slates / tiles; and wooden window frames and doors.

The dwellings, ancillary buildings, sheds and paddock on site are accessed off the adjacent lane via an agricultural gate located immediately to the front of no. 4 with a driveway then sweeping past the front of both dwellings through a concrete yard providing access to the large sheds to their north and agricultural lands beyond the site to their west.

The site is bound to its roadside frontage by a mix of post and wire fencing and hedging; to its south side by post and wire fencing and hedging / trees; and to its north by thick mature trees. Whilst post and wire fencing cordons off the yard to the front and north side of the dwellings and an area to their rear the western boundary of the site is undefined onto neighbouring agricultural lands.

The landform in the immediate vicinity rises east to west through the site and beyond. As such the site, which is relatively flat to its east half, sits just above the level of the adjacent lane and the dwellings and sheds on site cut into the rising lands to their rear.

Views of the site and the buildings on are limited to over a short distance on the southwest approach along Gortfad Lane, whereby the roof of the large sheds is visible, and passing along its roadside frontage due to its location along Gortfad Lane, a dead-end lane; the undulating topography of the area; the vegetation bounding the site; and both the vegetation and development within wider vicinity enclosing and screening it.

The area surrounding the site is typically rural in nature comprising undulating agricultural lands interspersed by single dwellings, ancillary buildings, and farm groups. A single storey dwelling, no. 8 Gortfad Lane, exists immediately to the north of the site.

Description of Proposal

This is a full planning application for the replacement of two 2-storey semi-detached dwellings, nos. 4 and 6 Gortfad Lane, with two new single storey detached dwellings and associated siteworks including new individual accesses.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

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

Regional Development Strategy 2030
Strategic Planning Policy Statement for Northern Ireland
Cookstown Area Plan 2010
Planning Policy Statement 2: Natural Heritage
Planning Policy Statement 3: Access, Movement and Parking
Planning Policy Statement 21: Sustainable Development in the Countryside
Development Control Advice Note 15: Vehicular Standards
Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

Consultations

1. DFI Roads were consulted in relation to access, movement and parking arrangements. DFI Roads raised no objections to this proposal, subject to standard conditions and informatives. Accordingly, subject to adherence with the conditions advised, which will be attached to any subsequent decision notice, I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
2. NIEA were consulted at the outset of this application, which seeks to demolish all buildings on site including two semi-detached dwellings, ancillary outbuildings and sheds, with a Biodiversity Checklist & Extended Ecological Statement. NIEA Natural Environment Division responded that the buildings on site may support roosting bats and advised that a Bat Roosting Potential Survey be carried out to determine the likelihood of bats using the structures for shelter. If this report indicates that the buildings have potential for roosting bats a full bat survey will be required to fully assess the potential impact on natural heritage features. A bat survey was subsequently received on 10 JAN 2024. NIEA Natural Environment Division were re-consulted for further comment and advised that they had considered the impacts of the proposal on the site and based on the information provided are content with the proposal. That the evidence submitted in the bat survey report shows that the demolition of the buildings on site is unlikely to significantly impact the local bat population.

History on Site

I/2007/0579/F - Removal of all existing structures and erection of 2 replacement dwellings - 4-6 Gortfad Lane Gortfad Glebe Cookstown – Granted 9th July 2009

Key Policy Considerations

Cookstown Area Plan - The site is located in the rural countryside.

The Strategic Planning Policy Statement for Northern Ireland - Retains the policy provisions of Planning Policy Statement 21: Sustainable Development in the

Countryside.

Planning Policy Statement 21: Sustainable Development in the Countryside is the overarching policy for development in the countryside. It provides certain instances where the development of a dwelling is considered acceptable in the countryside subject to criteria. These instances are listed in CTY1 of PPS21. The current proposal has applied under one of these instances - a replacement dwelling in accordance with Policy CTY3. This proposal is for the replacement of two 2-storey semi-detached dwellings, nos. 4 and 6 Gortfad Lane.

Policy CTY3 – Replacement Dwellings states planning permission will be granted for a replacement dwelling where the building to be replaced exhibits all the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact.

I consider this application in principle acceptable under CTY3. The buildings to be replaced do exhibit all the essential characteristics of a dwelling (see 'Characteristics of the Site and Area') and on the date of site inspection it was occupied. Whilst it was considered that the dwellings to be replaced are vernacular and make an important contribution to the heritage, appearance and character of the locality and as such policy encourages their retention, I am content given site inspection and supporting information submitted by the agent that they are not reasonably capable of being made structurally sound or otherwise improved as such also in line with policy they can be replaced. As detailed by the agent the dwellings in question are approximately 150 – 200 years old, they are constructed in solid stone and have been built off the clay with no foundation thereby leaving the walls showing subsidence. This is evident by way of cracks in the walls etc. In addition, water has been flowing down from the higher ground to the rear for a long number of years and has undermined the wall to the rear and underneath the floor. To rectify this would involve substantial structural work. Roof timbers have decayed over the years mainly due to the ingress of water. As a result, roof timbers need to be replaced including the wallplate. When the buildings have been stripped down very little (if any) of the old structure will remain thereby leaving the project not viable.

Policy CTY 3 sets out a number of criteria all replacement cases must meet to be permitted and I am content this proposal complies with all of them in that:

- I am content that whilst the existing dwellings to be replaced occupy the south half of the site their curtilage include the few small and overgrown ancillary outbuildings located to their south side and the large sheds with a small paddock located to their north side as such the new dwellings, one located in the south half and the other the north half of the site will be located within the established curtilage of the existing properties.
- Whilst the replacement dwellings are to be detached rather than semi-detached like the properties that they will replace I am content they should integrate into the surrounding landscape without having a visual impact significantly greater than the existing dwellings and buildings including large sheds they will replace. From the limited public views as detailed further above in the 'Characteristics of the Site and Area' the replacement dwellings will benefit from their low ridge design and the undulating topography of the area; existing and proposed vegetation bounding

the site; and vegetation and development within wider vicinity helping to provide them with a sense of enclosure, screen and backdrop.

- The scheme is of high quality and appropriate to the site and its rural setting. Whilst there were initial concerns regarding the design of both dwellings submitted at the outset being identical given the proposal an urban feel a revised scheme to show an acceptable level of variation between the two properties was requested and received during the processing of the application. I believe the dwellings are a contemporary twist on simple rural form and of an appropriate size, scale and design that they should integrate on to this site in accordance with Policy CTY13 and with minimal disruption to the rural character of the area in accordance with CTY14. The dwellings are 1 ½ storey of bungalow appearance. The main body of the dwellings, which front onto the public road, have a rectangular shaped floor plan and a pitched roof construction (approx. 7.3m above FFL) with chimneys expressed along the ridge line to both gables and a small centrally located front porch. Both dwellings also have a smaller annex unit attached to their south gable via a small link corridor extension. The smaller annex units comprising a kitchen, dining and living room also have a rectangular floor plan however are orientated gable end fronting onto the public road but one has a barrel the other a pitched roof construction (approx. 4.8m above FFL). Finishes to the dwellings include dark slates and dark grey metal cladding to the roof; granite dash to walls with granite stonework to front porch; and cream upvc window frames.
- All necessary services are available or should be able to be provided including septic tanks for sewage disposal which I am content will be located at adequate separation distances from the proposed dwellings and existing neighbouring properties and as such subject to necessary consents from relevant bodies being obtained should not give rise to any residential amenity issues such as noise or odour.
- Access to the dwellings is to be via two new paired accesses, centrally located along the site frontage, onto Gortfad Lane. Consultation was carried out with DfI Roads (see 'Consultees') and they raised no concerns from a road safety aspect subject to standard conditions and informatives, which will be applied to any subsequent decision notice.

I have no concerns regarding the proposed dwellings adversely impacting each other or neighbouring amenity, namely no. 8 Gortfad Road located immediately to the north, to any unreasonable degree in terms of overlooking or overshadowing given the location, size, scale, design, and orientation of the dwellings; the separation distances that will be retained; and the existing vegetation bounding the site that will be conditioned to be retained.

Representations

Neighbour notification and press advertisements have been carried out in line with the Council's statutory duty. At the time of writing, one third-party objection has been received from Ms Olive Dobson, the owner / occupier of no. 8 Gortfad Lane, the property immediately north of the site.

Ms Dobson's objected to the proposal for the following reasons:

- Existing road safety issues on Gortfad Lane and the proposed intensification of these issues by the proposal.
- Existing surface water run-off from the site running down Gortfad Lane, which in adverse weather conditions freezes causing treacherous road conditions.

Whilst the objection above and issues within have been taken into account in the consideration of this proposal the opinion remains to approve. In relation to bullet point one it is not considered that there is intensification of the lane as this proposal is to replace two existing dwellings with two new dwellings and consultation was carried out with DfL Roads (see 'Consultees') and they raised no concerns from a road safety aspect subject to standard conditions and informatives, which will be applied to any subsequent decision notice. In relation to bullet point two the site is elevated above the level of the road and as such water will naturally fall from higher to lower ground and as such 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. Any subsequent planning approval does not give authority to discharge any drainage into DfL Roads drainage system.

Other Policy and Material Considerations

In addition to checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available, online have been checked and identified no built heritage assets of interest or natural heritage features of significance on site.

That said existing native species vegetation bounds the site to the sides and in part to the front of the site. Planning Policy NH 5 of Planning Policy Statement 2 'Habitats, Species or Features of Natural Heritage Importance' outlines that planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to priority habitats. Whilst I recognise that the vegetation bounding the site is a priority habitat that offers biodiversity value, I am content having considered NIEA and the Ecologists Reports submitted that it can be conditioned to be retained albeit a small portion of the roadside hedge will be required to be removed to accommodate the vehicular accesses including visibility splays into the site. Outside of the openings a new native species hedge can be conditioned to be replaced behind the required splays. Subject to these conditions I consider this proposal should not result in an unacceptable adverse impact on, or damage to this priority habitat.

Flood Maps NI identified no flooding on site.

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

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

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

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

Condition 2

The dwellings hereby permitted shall not be occupied until the existing buildings, coloured green on approved Drawing No. 01 received 4 APR 2023 are demolished, all rubble and foundations have been removed and the site restored in accordance with the details on the approved plans.

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

Condition 3

The existing mature trees and vegetation bounding the site, as indicated in green on Drawing No. 02 REV.02 received 9 MAY 2024, shall be retained in perpetuity except where it is required to provide access and / or 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 biodiversity, visual and residential amenity.

Condition 4

All proposed landscaping as indicated in yellow on Drawing No. 02 REV.02 received 9 MAY 2024, shall be carried out during the first available planting season following the commencement of the development hereby approved. Any trees or shrubs, which within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of biodiversity, visual and residential amenity.

Condition 5

The vehicular accesses including visibility splays of 2.4m x 45m in both directions onto the public road and any forward sight distance shall be provided in accordance with Drawing No. 02 REV.02 received 9 MAY 2024 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Condition 6

The access gradients to the dwellings hereby permitted 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.

Condition 7

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

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

Signature(s): Emma Richardson

Date: 17 June 2024

ANNEX	
Date Valid	4 April 2023
Date First Advertised	18 April 2023
Date Last Advertised	18 April 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 8 Gortfad Lane Cookstown Tyrone BT80 9BT	
Date of Last Neighbour Notification	7 April 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: LA09/2023/0380/F Proposals: Erection of 2 No replacement dwellings Decision: Decision Date: Ref: I/2001/0246/RM Proposals: Proposed dwelling Decision: PG Decision Date: 20-JUN-01 Ref: I/2007/0579/F Proposals: Removal of all existing structures and erection of 2 replacement dwellings Decision: PG Decision Date: 21-JUL-09 Ref: I/2000/0713/O Proposals: Bungalow Decision: PG Decision Date: 05-MAR-01	

Summary of Consultee Responses

NIEA-PRT LA09-2023-0380-F.PDF

DFI Roads - Enniskillen Office-Roads Consultation - Full response.docxDC Checklist
1.doc

NIEA-PRT LA09-2023-0380-F MI.PDF

NIEA-PRT LA09-2023-0380-F.pdf

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02 S/S

Block/Site Survey Plans Plan Ref: 03

Elevations and Floor PlansPlan Ref: 04

Elevations and Floor PlansPlan Ref: 05

Elevations and Floor PlansPlan Ref: 06

Elevations and Floor PlansPlan Ref: 07

Site Layout or Block Plan Plan Ref: 02 REV.01 S/S

Site Layout or Block Plan Plan Ref: 02 REV.02

Elevations and Floor PlansPlan Ref: 04 REV.01 S/S

Elevations and Floor PlansPlan Ref: 04 REV.02

Elevations and Floor PlansPlan Ref: 05 REV.01 S/S

Elevations and Floor PlansPlan Ref: 05 REV.02

Elevations and Floor PlansPlan Ref: 06 REV.01 S/S

Elevations and Floor PlansPlan Ref: 06 REV.02

Elevations and Floor PlansPlan Ref: 07 REV.01

Elevations and Floor PlansPlan Ref: 08

Elevations and Floor PlansPlan Ref: 09

Elevations and Floor PlansPlan Ref: 10

Elevations and Floor PlansPlan Ref: 11

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 2 July 2024	Item Number: 5.4
Application ID: LA09/2023/0853/F	Target Date: 28 November 2023
Proposal: Alterations and extension to listed dwelling	Location: 180 Maydown Road Benburb BT71 7LJ
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr and Mrs Kieran and Rebecca Hughes 33C Grange Road Dungannon BT71 7EJ	Agent Name and Address: Colm Donaghy Chartered Architect 43 Dungannon Street Moy BT71 7SH
Executive Summary: This proposal is for the renovation of and an extension to the rear of a derelict gate lodge. The proposed works are identical to those that had previously been approved (LA09/2019/0833/F) for the site. However, since this previous application was granted there has been a change in the lease relating to the access road to the south of the site which provided vehicular access and car parking for the site. This is now not possible, hence the re-application for the same works, but without car parking at the site.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - Recon response.docx
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - response.docxDC Checklist 1.doc

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The site is within the Countryside as defined in the Dungannon and South Tyrone Area Plan 2010. It is located less than 500m to the south-east of Benburb village centre, and ~220m outside and to the south of Benburb Settlement Limit. The site falls within, but on the very edge of the Local Landscape Policy Area, Benburb Historic Park, Garden and Demesne, which also encompasses Benburb Castle and the Servite Priory, and Benburb/Milltown Site of Local Nature Conservation Importance.

The surrounding area is predominantly agricultural grassland with sporadic detached dwellings, most with associated out-buildings. The River Blackwater is ~30m to the south of the site, with this section of the wider river valley wooded.

The application site is rectangular shaped, with a fall to the west towards the rear of the site. The site comprises an existing derelict gate lodge to the east, along the Maydown Road, and an unmaintained open area to the rear which is beginning to scrub over. The gate lodge is a modest two room stone built cottage with slate tiled hipped roof. The windows and doors have been removed and boarded up. It is a listed building.

The site boundaries consist of the Maydown Road to the east, established wooded areas along the north and west boundaries at a slightly higher level than the site, and a lane accessing the rear of the Priory grounds to the south.

Description of Proposal

This is a full application for alterations to the existing gate lodge and an extension to the rear of the dwelling, at 180 Maydown Road, Benburb.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

Representations

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

Planning History

A planning search identified five applications at site.

LA09/2023/0854/LBC - Alterations and extension to listed dwelling – this is the LBC application associated with this application. – Pending decision

LA09/2020/1340/LBC - Alterations and extension to listed dwelling - Granted

LA09/2019/0833/F - Alterations and extension to dwelling (Amended Plans) - Granted

M/2007/1231/F - Erection of one & half storey extension and refurbishment of existing cottage – Granted.

M/2000/0575/F - Extension to dwelling – Granted

Mid Ulster Development Plan 2030 – Draft Plan Strategy

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th

September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

Dungannon and South Tyrone Area Plan 2010

The site is within the Countryside as defined in the Dungannon and South Tyrone Area Plan 2010 outside of any Settlement Limit. The site falls within, but on the very edge of the Local Landscape Policy Area, Benburb Historic Park, Garden and Demesne, and Benburb/Milltown Site of Local Nature Conservation Importance.

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

PPS21 – Sustainable Development in the Countryside: CTY1 sets out development that will generally be acceptable in the countryside and allows development that accords with PPS7 addendum for residential extension. It is considered if the proposal meets with policies in PPS7 Addendum it will meet with CTY1.

Addendum to PPS 7 - Residential Extensions and Alterations: sets out planning policy and guidance for achieving quality in relation to proposals for residential extensions and alterations.

No conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and those of retained policies regarding issues relevant to this application. Consequently, the relevant policy context is provided by the Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations (The Addendum). Policy EXT1 of APPS7 indicates that planning permission will be granted for a proposal to extend or alter a residential property where four specific criteria are met.

Scale, Massing, Design and Appearance

The proposal is for the renovation of an existing derelict gate lodge, and an extension to the rear of this cottage.



Existing gate lodge

The extension has a rectangular form, extending 15.8m in total length from the rear of the gate lodge and is 7.6m wide at the widest point. It consists of 3 sections. Immediately to the rear of the existing building is a single storey glazed link corridor. This leads to the main two-storey section of the extension, beyond which is a single storey orangery.



Side elevation of renovated gate lodge and proposed extension.

The 3 sections have varying ridge heights which reduces the visual impact of the extension onto a small gate lodge. Due to the fall in ground level behind the gate lodge, the ridge height of the two-storey section is the same as the ridge height of the single storey gate lodge, with the other two sections being lower. This also minimises the visual impact of the extension.

The gate lodge is currently vacant and appears to have been so for a period of time. This proposal includes renovation works to the gate lodge to bring the derelict building back into use and will consist of a study and a bedroom. Connected to the rear of the gate lodge is a shower room and hallway to the main extension. The first floor of this section extension will have two bedrooms. The kitchen, utility, and open plan dining and den will be on the ground floor of this section. Beyond this is an orangery.

This renovation and extension will help the overall finished dwelling meet modern amenity standards, will not be oversized, and remains sensitive to its setting in the rural landscape.

The external finishes to the existing building will use like for like materials.

- The existing roof structure will be made good and second hand Bangor blue slates and ridge tiles to match the existing colour and size will be used.
- The existing corbelled eaves detail will be retained, made good as necessary and repointed with lime mortar.
- The existing rainwater goods will be replaced with cast aluminium circular pipes and half circular gutters.
- The cement pointing will be removed from the external stonework and repointed with lime mortar.
- The existing windows and doors will be repaired and repainted.

The proposed finishes will complement the character of the property. The materials are on a like for like basis and the renovation will bring an existing derelict dwelling back into use.

The external finishes of the proposed extension will use contemporary materials to those of the gate lodge.

- The main roof will be natural slate, with the linked hallway and orangery having a lead roof.
- The external walls will have a painted smooth render finish.
- Windows and external doors will be painted sliding sash timber windows and painted hardwood doors.
- Rainwater goods will be painted aluminum circular pipes and half circular gutters.

The use of contemporary materials on the extension will complement the appearance and character of the gate lodge. To try to replicate the stonework of the gate lodge is unlikely to be successful, with the use of contemporary materials demonstrating the contrast between the older gate lodge and the modern extension. As stated in E3 (3) in Annex E of PPS6 – ‘where there is the addition of a substantial wing, it may be acceptable for new work to make its own architectural statement’.

The extension forms an integral part of the overall scheme, with the design respecting the

character of the gate lodge and will not detract from the character of the surrounding area. In addition, being located to the rear of the site minimises any impact.



Artist impression of finished renovation and extension.

The dwelling stands within its own property and there remains space around the site for maintenance.

Neighbour Amenity

The closest neighbour to the site is approximately 200m to the south. There are no direct views to the neighbouring dwelling, and works will not create unacceptable impact on neighbouring amenity.

Impact on Trees and Environmental Quality of this Area

There are a few small pioneer trees along the northern boundary of the site which may need to be removed for the retaining wall to be built along this bank. However, the loss of these few small trees will have minimal environmental impact on the area. The remaining trees along this and the western boundary will be retained.

Amenity Space, Parking and Manoeuvring

This proposal is for the same renovation and extension works that had previously been approved (LA09/2019/0833/F). However, since this previous application was granted there has been a change in the lease of the access road to the south of the site which provided vehicular access and car parking for the site. This is now not possible, hence the re-application for the same works, but without car parking. It is noted that the provision of parking spaces was not a condition of the previously granted application.

There does remain amenity space.

PPS 6 Planning, Archaeology and Built Heritage

The following policies in PPS6 are relevant to this proposal:

BH8 – Extension or alteration of a listed building

BH11 – Development affecting the setting of a listed building

BH6 – The protection of historic parks, gardens and demesnes

Historic Environment Division were consulted and are content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

Other Considerations

Checks have been completed on the statutory NED and flooding map viewers. There are no issues relating to this site.

The proposal is recommended for approval as it complies with Policy EXT 1 in PPS 7 Addendum.

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

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

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

Condition 2

All finishes and materials shall be as noted on the stamped approved drawings No. 02-Rev02 and No. 04-Rev01 dated recieved 26.04.24.

Reason: To ensure the proposed design uses sympathetic materials in the setting of a Listed Building and to ensure the protection and enhancement of the historic built environment.

Signature(s): Mark Edgar

Date: 18 June 2024

ANNEX	
Date Valid	15 August 2023
Date First Advertised	28 August 2023
Date Last Advertised	28 August 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier No Neighbours Identified Adjoining site	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Roads Consultation - Recon response.docx Historic Environment Division (HED)- DFI Roads - Enniskillen Office-Roads Consultation - response.docxDC Checklist 1.doc	

Drawing Numbers and Title

Site Location Plan Plan Ref: 01
Site Layout or Block Plan Plan Ref: 02
Proposed Plans Plan Ref: 03
Existing Plans Plan Ref: 04
Proposed Plans Plan Ref: 05
Site Location Plan Plan Ref: 01 REV 01
Site Layout or Block Plan Plan Ref: 02 REV 02
Existing and Proposed Floor Plans Plan Ref: 03 REV 02
Elevations and Floor Plans Plan Ref: 04 REV 01
Cross Sections Plan Ref: 05 REV 01

Notification to Department (if relevant)

Not Applicable

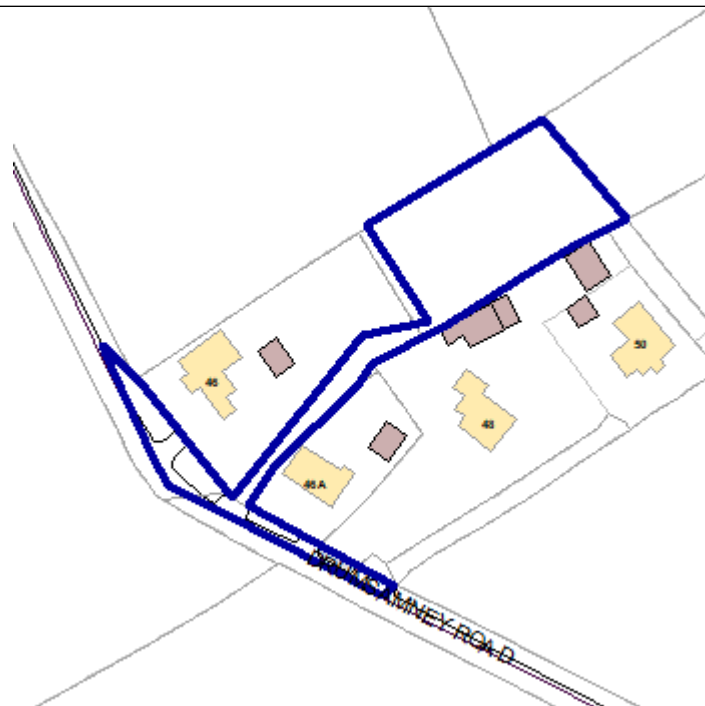


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 2 July 2024	Item Number: 5.5
Application ID: LA09/2023/0910/O	Target Date: 15 December 2023
Proposal: Site for a dwelling and domestic garage	Location: 60M North East of No. 46 Drumsamney Road Magherafelt
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Ivor Austin 45 Motalee Road Desertmartin BT45 5JX	Agent Name and Address: Mr Brendan Monaghan 45 Letteran Road Moneymore, Magherafelt BT45 7UB
Executive Summary: The current application for a proposed site for a dwelling and domestic garage is presented as a refusal as it fails to meet Policy CTY 1 and Policy CTY 2a of PPS 21: Sustainable Development in the Countryside. * CTY 1 – This proposal fails to meet Policy CTY1 in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement. * CTY 2a – This proposal fails to meet Policy CTY 2a as the cluster is not located at a cross-roads. * CTY 2a – This proposal fails to meet Policy CTY 2a of PPS 21 as proposal site is not bounded on at least two sides with other development in the cluster.	

Case Officer Report

Site Location Plan



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Consultations:

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

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan 2015. The site is identified as 60m Northeast of No. 46 Drumsamney Road, Magherafelt. The application site is agricultural land which is part of a much larger agricultural field, which is set to the rear of Nos. 46 and 46a Drumsamney Road, and accessed via an existing lane. The northern and southern boundaries are

defined by mature hedgerow and trees, while the remaining boundaries remain undefined. The surrounding area is rural in nature, with predominantly agricultural land uses, with scattered dwellings and their associated outbuildings.

It is important to note that immediately west of the application site, within the blue land, there is an existing unauthorised partially constructed building which does not benefit from planning permission.

Description of Proposal

This is an outline application for a proposed site for a dwelling and domestic garage. The site is identified as 60m Northeast of No. 46 Drumsamney Road, Magherafelt.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Representations

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

Relevant Planning History

No relevant planning history.

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

Mid Ulster Local Development Plan 2030 - Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 1: General Principles

PPS 3: Access, Movement and Parking

PPS 21: Sustainable Development in the Countryside

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

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

The SPPS provides a regional framework of planning policy that will be taken into

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

Development in the countryside is controlled under the provisions of PPS 21: Sustainable Development in the Countryside. Policy CTY 1 provides clarification on which types of development area are acceptable in the countryside. In this instance the application is for a new dwelling in an existing cluster therefore this development must be considered under CTY 2a of PPS 21. Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- The cluster appears as a visual entity in the local landscape;
- The cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads,
- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- Development would not adversely impact on residential amenity.

I am content the cluster of development lies outside of a farm, and the cluster consists of four or more buildings of which at least three are dwellings (Nos. 46, 46a, 48 and 50 Drumsamney Road). Following my site visit, I am content the cluster appears as a visual entity in the local landscape. I am content the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside and at the proposed dwelling would not adversely impact on residential amenity.

Following group discussion, officers are of the opinion that the cluster is not located at a cross-roads, as it is too far removed, and therefore fails this criteria of Policy CTY 2a. I informed the agent about this concern, and at this time he provided an example, planning approval LA09/2020/1115/O, in which this application was approved based on the fact that the site was located close to the Playing Field, and that in that case the separation distance was greater than in this case. However, these cases are not comparable. Policy CTY 2a states the cluster must be associated with a focal point...or

is located at a cross-roads. In planning approval LA09/2020/1115/O it was considered that the cluster was associated with the playing field and this separation distance was considered acceptable, however in this case the test is not to be associated with a cross-roads but must be located at a cross-roads. Therefore, it was considered this proposal does not comply with this criteria of Policy CTY 2a.

The identified site provides a suitable degree of enclosure, however following group discussion, officers are of the opinion that the site is not bounded on at least two sides with other development in the cluster. The application is bound by development to the south (Nos. 48 and 50 Drumsamney Road), however all remaining sides remain unbounded. The existing unauthorised partially constructed building cannot be relied upon for the site to be bound on the western boundary. The agent did request to submit an amended site location map with the red line of the site extended to include the unauthorised building, so that the western boundary would then be bound by No. 46 Drumsamney Road. However, the red line of the site cannot be extended within this current planning application, and we could not accept a revised site location map. Therefore, it was considered this proposal does not comply with this criteria of Policy CTY 2a.

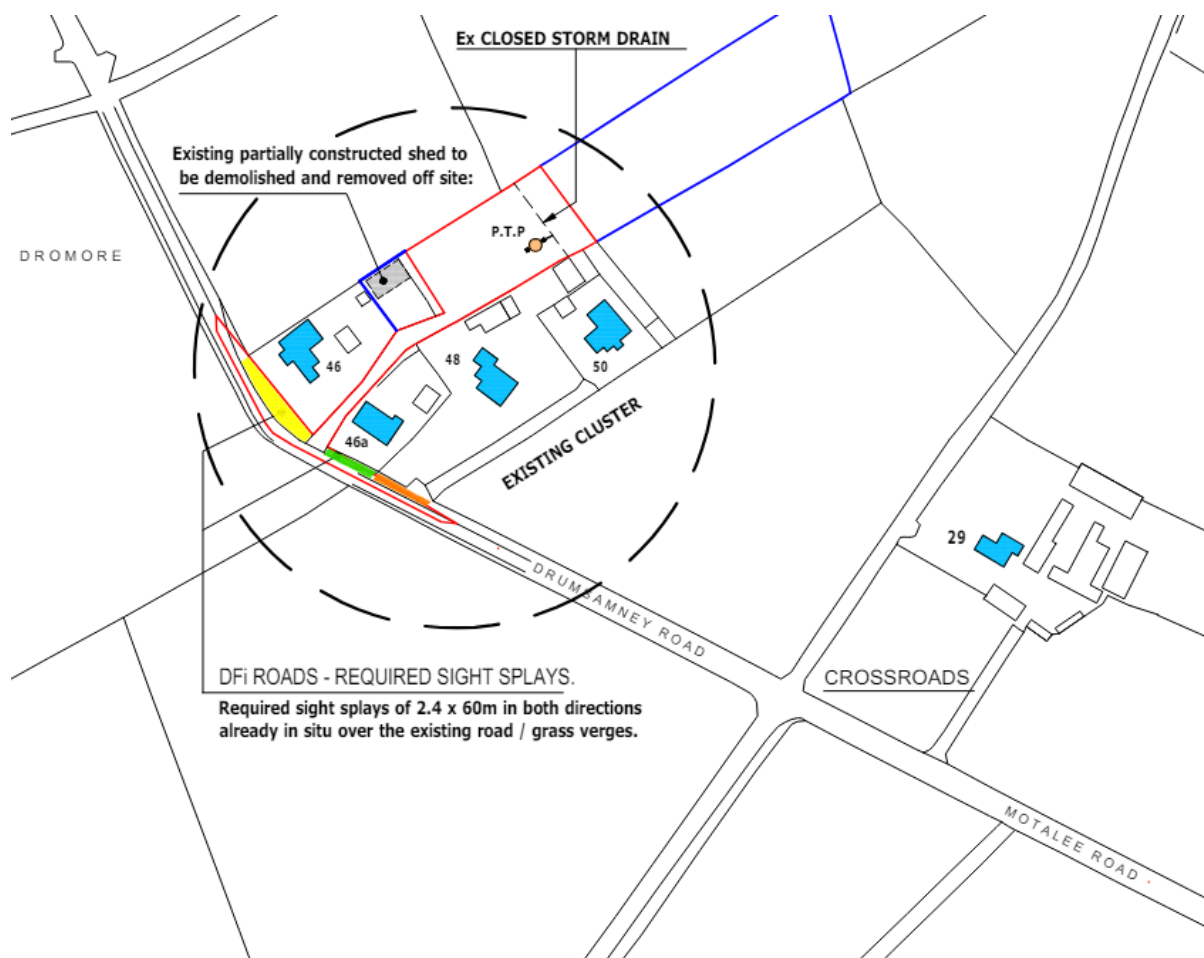


Figure 1 – Site Location map



Figure 2 – Image of existing unauthorised partially constructed building

The proposed development must also comply with policies CTY 13 and 14. This application is for outline planning permission, therefore the scale, siting and design of the proposed dwelling will not be assessed under this application, however it is considered the design should be in keeping with Building in Tradition guidance. I am of the opinion that an appropriately designed dwelling will be able to visually integrate into the surrounding landscape and will not cause detrimental harm to the rural character of the area. I am content that the associated tests of integration and character within CTY 13 and CTY 14 are met.

Other policy and material considerations

PPS 3: Access, Movement and Parking

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

I have no flooding, ecological or residential amenity concerns.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY 2a of Planning Policy Statement 21: Sustainable Development in the Countryside in that the cluster is not located at a cross-roads.

Reason 3

The proposal is contrary to Policy CTY 2a of Planning Policy Statement 21: Sustainable Development in the Countryside in that the proposal site is not bounded on at least two sides with other development in the cluster.

Signature(s): Seáinín Mhic Íomhair

Date: 14 June 2024

ANNEX	
Date Valid	1 September 2023
Date First Advertised	12 September 2023
Date Last Advertised	12 September 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 50 Drumsamney Road Desertmartin Londonderry BT45 5LA The Owner / Occupier 48 Drumsamney Road Desertmartin Londonderry BT45 5LA The Owner / Occupier 46A Drumsamney Road Desertmartin Londonderry BT45 5LA The Owner / Occupier 46 Drumsamney Road Desertmartin Londonderry BT45 5LA	
Date of Last Neighbour Notification	12 September 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: H/1991/0291 Proposals: SITE OF REPLACEMENT DWELLING WITH GARAGE Decision: PG Decision Date: Ref: H/2003/0734/O Proposals: Site of dwelling and garage. Decision: Decision Date: Ref: H/2011/0390/RM Proposals: Dwelling and Domestic Garage on Farm Decision: PG Decision Date: 19-SEP-11 Ref: LA09/2023/0910/O Proposals: Proposed site for a dwelling and domestic garage (Outline) (App Submitted	

based on policy CTY 2a)

Decision:

Decision Date:

Ref: H/2004/0574/O

Proposals: Site of dwelling and garage

Decision: PG

Decision Date: 18-FEB-05

Ref: H/2003/0396/O

Proposals: Site of bungalow and garage.

Decision:

Decision Date:

Ref: H/2005/0427/O

Proposals: Site of dwelling and garage

Decision: PR

Decision Date: 21-JUN-07

Ref: H/2006/0341/F

Proposals: Extension to dwelling to provide bedrooms, sunlounge and larger living room

Decision: PG

Decision Date: 20-SEP-06

Ref: H/1984/0138

Proposals: EXTENSION TO BUNGALOW

Decision: PG

Decision Date:

Ref: H/1986/0200

Proposals: HOUSE WITH GARAGE

Decision: PG

Decision Date:

Ref: H/1992/0157

Proposals: RIDING SCHOOL AND STABLES

Decision: PG

Decision Date:

Ref: H/2004/0215/F

Proposals: Extension to a dwelling and roofspace conversion.

Decision: PG

Decision Date: 22-APR-04

Ref: H/1998/0197

Proposals: SITE OF BUNGALOW AND GARAGE

Decision: PG
Decision Date:

Ref: H/1999/0705/F
Proposals: Bungalow and Garage
Decision: PG
Decision Date: 24-JAN-00

Ref: H/1992/6018
Proposals: SITE OF RIDING SCHOOL DRUMSAMNEY ROAD MAGHERAFELT
Decision: QL
Decision Date:

Ref: H/1992/0594
Proposals: REPLACEMENT DWELLING HOUSE
Decision: PG
Decision Date:

Ref: H/2011/0076/O
Proposals: Dwelling and domestic garage on farm
Decision: PG
Decision Date: 01-APR-11

Ref: H/1981/0206
Proposals: HV O/H LINE (BM 4726)
Decision: PG
Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline resp.docx

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable

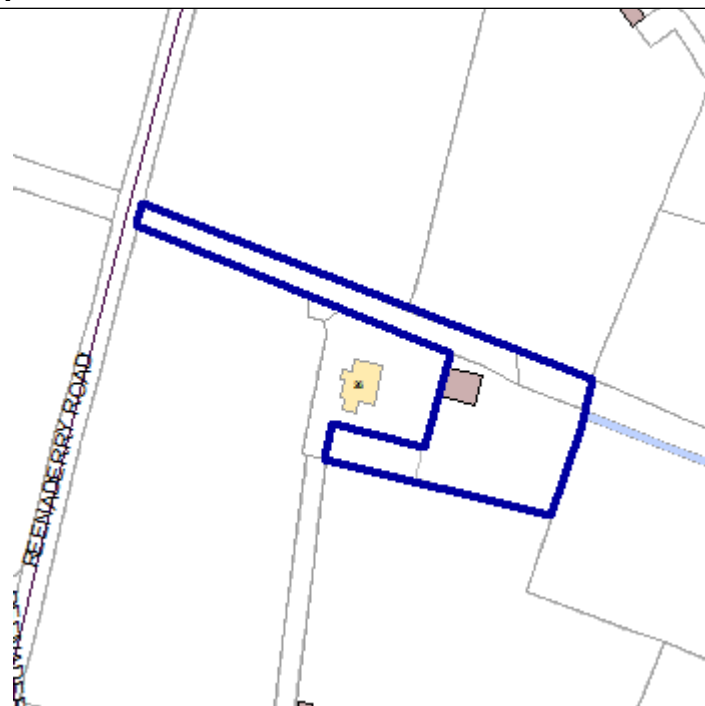


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 2 July 2024	Item Number: 5.6
Application ID: LA09/2023/0939/F	Target Date: 21 December 2023
Proposal: Retention of agricultural building to be used for agricultural storage	Location: 26 Reenaderry Road Coalisland BT71 4QN
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Gerard McStrvog 26 Reenaderry Road Coalisland BT71 4QN	Agent Name and Address: CMI Planners 38 Airfield Road Toomebridge BT41 3SQ
Executive Summary: No third party representations have been received. The proposal does not meet all the criteria in CTY 12 in PPS 21 as it has not been demonstrated that it is necessary for the efficient use of the active and established agricultural holding; there are no suitable existing buildings on the holding or enterprise that can be used; the proposal is sited beside existing farm buildings; there are no alternative sites available at another group of buildings on the holding; health and safety reasons exist to justify an alternative site away from the existing farm buildings; and that the alternative site is essential for the efficient functioning of the business.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Shared Environmental Services	LA09-2023-0939-F HRA elimination 13-12-23.pdf
Statutory Consultee	Historic Environment Division (HED)	
Non Statutory Consultee	DAERA - Omagh	LA09-2023-0939-F.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - response.docx
Statutory Consultee	Shared Environmental Services	
Statutory Consultee	NIEA	PRT LA09-2023-0939-F ADV.PDF

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The application site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and the predominant land uses are agricultural fields, groups of farm buildings and dwellings on single plots. There is minimal development pressure in the immediate area from the construction of single dwellings. Across the road from the site is an engineering business Tyrone Trailers which encompasses several sheds, a yard and outdoor storage area. The application site is set back from the public road along an access lane to 26 Reenaderry Road which comprises of a large two storey dwelling. The encompasses a large yard area and two sheds, one of which is the subject of this application.

Description of Proposal

This is a full application for retention of agricultural building to be used for agricultural storage at 26 Reenaderry Road, Coalisland.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

Representations

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

Planning History

M/2006/0382/F - Proposed dwelling - 130M North Of 28 Reenaderry Road Coalisland – permission granted 12.12.2006.

LA09/2019/1317/F - Single storey side extension to dwelling to allow bedroom and

bathroom - 26 Reenaderry Road, Coalisland - permission granted 19.11.2019.

LA09/2023/0068/CA - Unauthorised Building/Building Extension and unauthorised Manufacturing Business – still ongoing.

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

Dungannon and South Tyrone Area Plan 2010

The site is outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010, so SETT 1 does not apply. The site is within an Area of Constraint on Mineral Development designation MN1/ACMD02.

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

PPS 2 – Natural Heritage

This site is within 7.5km of Lough Neagh/Lough Beg Ramsar. Shared Environmental Services were consulted and responded on the 13th December 2023 stating there was no viable hydrological connection to Lough Neagh so they were content with the proposal subject to no livestock being housed within the sheds at any time.

Natural Environment Division Water Management Unit responded on the 3rd October 2023 stating they were content with the proposal based on the assumption that no animals are to be housed in the shed, only dry feed storage and the shed will not be used for commercial repair or end of life vehicle facility.

Planning Policy Statement 21

Policy CTY 12 – Agricultural and Forestry Development

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside PPS21 is the overarching policy for development in the countryside. Policy CTY 12 Agricultural and Forestry Development states that planning permission will be granted for development on an active and established agricultural or forestry holding where the proposal satisfies all the stated criteria. Therefore, it is necessary to first consider if the farm business is both active and if it has been established for more than the required

period of 6 years.

DAERA have confirmed that the farm business stated on the P1C has been established for more than 6 years and that it has claimed payments in each of the last 6 years including for the land subject to this application. Therefore, I am satisfied the farm business is both active and established for the required time.

Subsequently it is necessary to assess the proposal against each of the policy tests as follows: -

A supporting statement has been provided to allow the applicant to demonstrate the need for the shed. It is stated the applicant owned 23 acres of agricultural land and this has been supplemented by the submission of farm maps to show all the land the applicant owns. It is stated this is an agricultural shed for the storage of farm machinery, feedstuffs and general farm equipment. At the time of my site visit I was unable to gain access to inside the shed to substantiate these claims. The applicant has stated he currently owns 13 sheep and has a herd number for these sheep. On the 13th June 2024 the applicant submitted information from DAERA with the latest flock list and flock number, confirming the applicant currently has 13 sheep. I consider a shed of this size is not required for 13 sheep. It is stated in the supporting statement that the applicant has no other farm buildings for storage purposes or to isolate sick animals when necessary. I am of the opinion, having accessed all the submitted evidence the shed is not necessary for the efficient use of the agricultural holding.

The proposed shed has a long rectangular form with a depth of 18.9m and 18.9m in width and 5.8m to finished floor level. The shed is set on a large plot to the rear of a two-storey dwelling so I am content the shed will not overdevelop the site. The shed has agricultural finishes of grey agricultural sheeting on the roof and walls and there is the appearance of an agricultural building. The site is set back from the public road and the shed sits behind the dwelling. Overall, I have no concerns about the scale and massing of the shed, and I am content it will not detract from the character of the surrounding area as there are limited critical views from the public road.

As stated earlier the site is set back from the public road and sits with existing buildings, I am content the proposal will visually integrate into the landscape.

The site is within the 200m buffer zone of archaeological site and monument TYR055:006. HED stated in their consultation response that they were content with the proposal.

The site is within Lough Neagh and Lough Beg Ramsar site and as stated earlier in the assessment SES were content with the proposal. It is stated the use of the shed is for agricultural storage. There are no dwellings immediately abutting the site and the nearest dwelling is 141m to the south. I am content there will not be unacceptable neighbouring amenity through noise, smells or emissions.

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

- There are no suitable existing buildings.

It is stated in the supporting statement the applicant has no farm buildings of his own and until now has rented space in the local area. There are two other buildings at the site as shown in figure 1 and I emailed the agent on the 22nd May 2024 asking what is the use of the sheds and are they agricultural. At the time of writing no information has been provided.



Figure 1 – Image of other sheds at the site.

The proposal is for the retention of an agricultural storage shed. I am content the building has the appearance of an agricultural shed with grey sheet cladding to match the adjacent building. The shed is along set back from the public road, and I am content the proposal will not be a prominent feature in the landscape.

As shown in figure 2 below there is an existing shed to the west and within the curtilage of the shed in this application but there are no planning approvals for this shed. Figure 1 shows the adjacent shed has been on site for over five years, but it has not been demonstrated this shed is being used for agricultural purposes and cannot be classed as a farm building. I do not consider the proposal is sited beside existing farm buildings.



Figure 2 – Orthphotography image of the site in 2016.

As stated above, this is the first agricultural building at this location and therefore it is not sited beside any existing farm buildings. An exception may be made to this policy test provided there are no other sites available at another group of farm buildings on the holding or where it is essential for the functioning of the business or there are health and

safety reasons.

I consider there are no existing farm buildings and the main building on the farm is the two storey dwelling at 26 Reenaderry Road. As stated earlier in the assessment I do not consider the shed is essential for the efficient functioning of the farm business. CTY 12 does not provide for new start up farms where the farm business is not active and established and there are no group of farm buildings.

Having accessed all the evidence, I consider the proposal does not meet all the criteria in CTY 12.

Policy CTY 13 Integration and Design of Buildings in the Countryside and Policy CTY 14 Rural Character

The shed to be retained is located to the rear of an existing dwelling and shed so will read with other buildings in critical views. I am content the proposal will not be a prominent feature in the landscape. There are established trees to the rear which are within the applicant's ownership which provide a backdrop in the main view along the public road. I consider the shed will integrate into the landscape and not have a detrimental impact on rural character.

PPS 3 – Access, Movement and Parking

AMP 2 – Access to Public Roads

The site does not access onto a protected route, so I have no concerns in this regard.

I consider the proposal to be an intensification of existing agricultural access, so DFI Roads were consulted. Roads responded on the 2nd November 2023 stating they were content with the proposal.

Other Considerations

I completed checks on the statutory map viewers and there are no other ecological, built heritage or flooding issues at the application site.

Summary of Recommendation:

Refuse is recommended

The proposal is recommended for refusal as it does not meet all the criteria in CTY 12 in PPS 21.

Refusal Reasons

Reason 1

The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been satisfactorily demonstrated that:-

it is necessary for the efficient use of the active and established agricultural holding;
there are no suitable existing buildings on the holding or enterprise that can be used;
the proposal is sited beside existing farm buildings;
there are no alternative sites available at another group of buildings on the holding;
health and safety reasons exist to justify an alternative site away from the existing farm buildings; and
that the alternative site is essential for the efficient functioning of the business.

Signature(s): Gillian Beattie

Date: 10 June 2024

ANNEX	
Date Valid	7 September 2023
Date First Advertised	
Date Last Advertised	19 September 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 26 Reenaderry Road Coalisland BT71 4QN	
Date of Last Neighbour Notification	11 January 2024
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: M/2006/0382/F Proposals: Proposed dwelling Decision: PG Decision Date: 18-DEC-06 Ref: LA09/2019/1317/F Proposals: Single storey side extension to dwelling to allow bedroom and bathroom Decision: PG Decision Date: 19-NOV-19 Ref: LA09/2023/0939/F Proposals: Retention of agricultural building to be used for agricultural storage Decision: Decision Date:	
Summary of Consultee Responses Shared Environmental Services-LA09-2023-0939-F HRA elimination 13-12-23.pdf Historic Environment Division (HED)- DAERA - Omagh-LA09-2023-0939-F.docx DFI Roads - Enniskillen Office-Roads Consultation - response.docx Shared Environmental Services- NIEA-PRT LA09-2023-0939-F ADV.PDF	

Drawing Numbers and Title
Site Location Plan Plan Ref: 01 Site Layout or Block Plan Plan Ref: 02
Notification to Department (if relevant)
Not Applicable

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

Notification to Department (if relevant)

Not Applicable

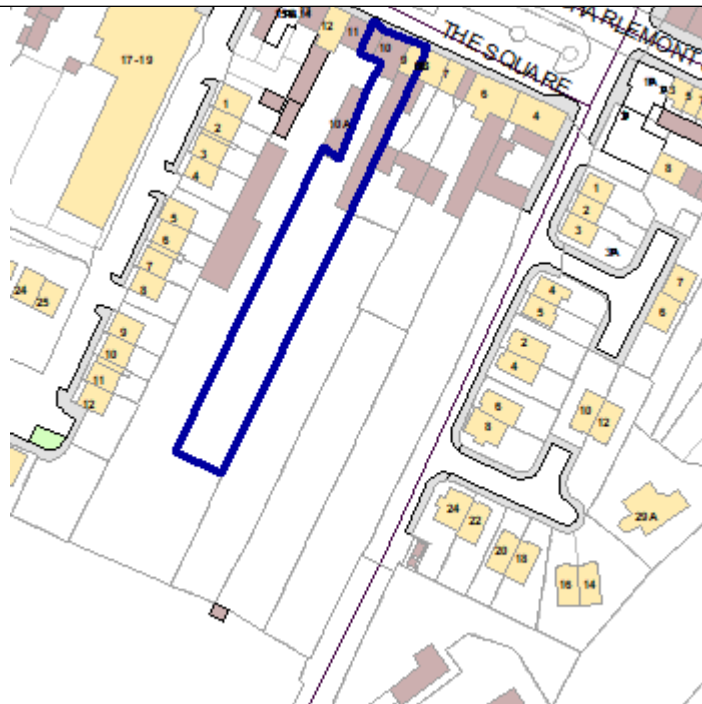


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 2 July 2024	Item Number: 5.7
Application ID: LA09/2023/1093/F	Target Date: 30 January 2024
Proposal: Proposed licensed garden room, erection of acoustic fence and associated works	Location: 9-10 The Square Moy BT71 7SG
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr Barry McNeice 8 The Square Moy BT71 7SG	Agent Name and Address: Mr Paul Douglas 16 Collegelands Road Charlemont Moy BT71 7SE
Executive Summary: 6no. objections received and the following issues are raised <ul style="list-style-type: none">- Impact on private amenity.- Noise nuisance- Increase in anti-social behavior.- Devaluation of property- Car parking issues- The site was previously used for live music in 2020 and this led to issues with noise and anti-social behavior. If this was approved it is stated by the objector mitigation measures such as sound proofing of residents' homes, security, toilet facilities in the garden room, appropriate opening hours.- Noise Abatement Noise had to be issued previously by Environmental health due to issues with noise.- Too close to residential properties- Increase in traffic and pollution.- Loss of privacy A Noise Impact Assessment was submitted and assessed by Environmental Health who are content with the proposal subject to mitigation measures.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	Updated Response LA09 2023 1093 F.pdf
Statutory Consultee	MUDC Environment and Conservation Team	LA09-2023-1093.F.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	Response LA09 2023 1093 F.docx
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	MUDC Environment and Conservation Team	
Statutory Consultee	Historic Environment Division (HED)	

Non Consultee	Statutory	Environmental Health Mid Ulster Council	
Representations:			
Letters of Support		0	
Letters Non Committal		0	
Letters of Objection		6	
Number of Support Petitions and signatures			
Number of Petitions of Objection and signatures			
Summary of Issues			
Characteristics of the Site and Area			
<p>The application site is within the settlement limit of Moy as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is semi-rural in character and the predominant land uses are characteristic of a village such as residential, convenience shops, hairdressers, bars, cafes, and other independent shops. The site faces onto The Square in Moy which comprises of a grassed area, memorial, and car parking spaces. Running through The Square is a highly trafficked road between Moy travelling towards Armagh. The site is in a row of three-storey buildings that face onto a car parking area, The Square, in the Moy.</p> <p>The application site is a Grade 2 Listed building and is a three-storey mid terrace property with a pitched roof with natural slate tiles, a smooth render with a painted finish external walls and softwood painted sliding sash windows. The site is currently a public bar 'Tomneys' with the bar on the ground floor and living accommodation on the upper floors of the building. To the rear of Tomneys bar and within the curtilage is a long narrow rear garden. Within this area there is a shed with external finishes of sheet cladding and several picnic tables.</p>			
Description of Proposal			
<p>This is a full application for the proposed licensed garden room, erection of acoustic fence and associated works at 9-10 The Square, Moy.</p>			
Planning Assessment of Policy and Other Material Considerations			
<u>Policy Consideration</u>			

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

Planning History

LA09/2019/0847/F - Extension of public house into the existing basement - Tomney's Bar, 9-10 The Square, Moy – permission granted 24th September 2019.

LA09/2019/0850/LBC - Extension of public house into the existing basement - Tomney's Bar, 9-10 The Square, Moy – consent granted 24th September 2019.

LA09/2020/1533/F - Retention of steel framed building with cladded roof for storage for the public house. (Amended Proposal) - 9-10 The Square, Moy – under consideration.

Representations

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, 6no. third-party objections were received.

2no. objections have been received from residents of Brick Row to the east of the site.

2no. objections have been received from residents of Diamond Court to the west of the site.

2no. objections have been received by email with no address stated.

Concerns

- Impact on private amenity.
- Noise nuisance
- Increase in anti-social behavior.
- Devaluation of property
- Car parking issues
- The site was previously used for live music in 2020 and this led to issues with noise and anti-social behavior. If this was approved it is stated by the objector mitigation measures such as sound proofing of residents' homes, security, toilet facilities in the garden room, appropriate opening hours.
- Noise Abatement Noise had to be issued previously by Environmental health due to issues with noise.
- Too close to residential properties
- Increase in traffic and pollution.
- Loss of privacy

Consideration of Objections

The objectors raise several significant concerns which need thorough consideration. There is potential for the proposal to have a detrimental impact on the private rear amenity of the residents of Diamond Court and Brick Row and an assessment of this will

be considered in the report. Details of an acoustic fence have been provided and considered by Environmental Health. The operating hours would be dealt with by way of condition should the application receive approval. Devaluation of property whilst understandable as a concern for the residents is not a material consideration, we as the council can accredit any weight.

Strategic Planning Policy Statement (SPPS)

The SPPS provides a regional framework of planning policy that is taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. The SPPS encourages development in villages and small settlements of a scale, nature and design appropriate to the character of the settlement. In my opinion, the proposed garden room with acoustic fence will increase the amount of area for entertainment in Moy, however these changes will not have a positive impact on the local area. Paragraph 6.278 of the SPPS stated that policies and proposals in villages and small settlements must be consistent with the aim, objectives and policy approach for town centres and retailing, meet local need (i.e. day to day needs), and be of a scale, nature, and design appropriate to the character of the settlement.

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

Dungannon and South Tyrone Area Plan 2010

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

PPS 6 – Planning, Archaeology and the Built Heritage

BH8 – extension or alteration of a listed building

The proposal is for the erection of a licensed new garden room associated with Tomneys bar with the settlement of Moy. The building is 15m in length, 9m in width, 5.8m in height on the front elevation and 7.3m in height on the rear elevation as the building is on a sloping site. There will also be a 2.3m high wooden acoustic fence at sections along the boundaries as shown in figure 1. I do not consider the scale and massing of the proposed garden room and fencing is excessive for the site as it will be situated within a

long garden area to the rear of the existing bar at Tomneys.

I am content that the design and external materials of the garden room make use of traditional building materials and are in keeping with the character of the surrounding area. The building will have rendered and whitewashed walls and limestone on the front elevation. The applicant has shown cast iron black rainwater goods and emerald, green hardwood doors and windows. I am content that the architectural details will not detract from the character of the adjacent listed buildings.

There will be no critical views of the building from the public road so the proposal will not detract from the visual amenity of the area or the property. Objections received with this application have raised issues with noise and impact on private amenities. The rear of Tomneys bar was previously an outdoor bar area with picnic tables which created previously created issues with noise. In discussions with Environmental Health, it was stated there has been a Noise Abatement Noise at the site since October 2021. There have been no noise complaints about Tomneys bar since Summer 2022 and no noise complaints about other bars in the Moy in the past 2 years. This proposal is for an indoor bar area which would be a betterment of any current outdoor bar area. The agent has stated that live music will be played inside the garden room. The applicant has proposed to keep all windows shut, have dummy windows, automatic closes on doors and acoustic fencing along the walkway from Tomneys bar to the garden room. I think the use of the building as a licensed garden room is acceptable as the site is within the settlement limit and to the rear of an existing bar. I am content the proposal respects the character of the setting of the building.



Figure 1 – Image of the proposed block plan.

Historic Environment Division (HED) were consulted as the building is a listed building HB 13/08/009B. HED responded on the 6th November 2023 stating they had incomplete information to allow a substantive response and following this a longitudinal section was submitted, further specification on the acoustic fencing and a change to the external walls to rendered or stone finish. On the 30th November 2023 HED responded stating they were content with the proposal subject to conditions about finishes.

Having accessed all the issues, I am content the proposal meets all the criteria within BH 8 in PPS 6.

BH12 – New development in a conservation area

The site is within Moy Conservation Area so policy BH12 in PPS 6 applies. The Council will normally only permit development proposals for new building, alterations, extensions and changes of use in, or which impact on the setting of, a conservation area where all of the following criteria are met:

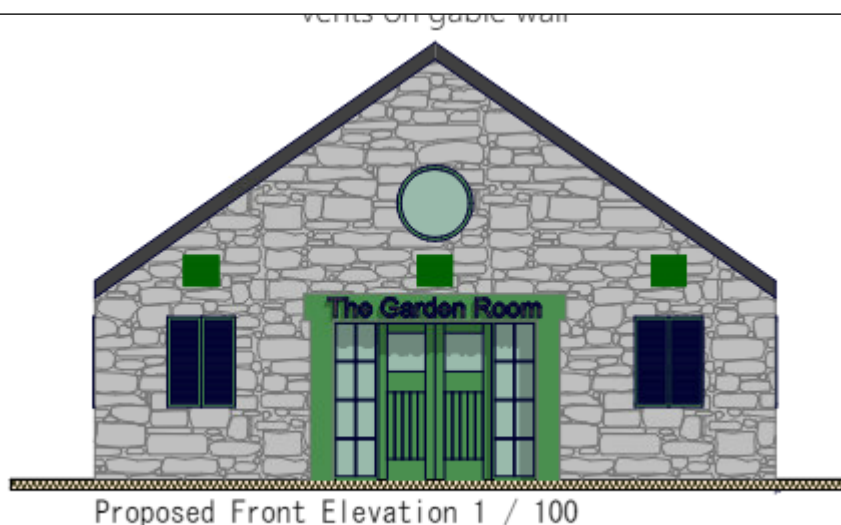


Figure 2 – Image of the front elevation of the proposed building.

The proposal is for a new garden room which will serve as an extension of Tomneys bar in the current garden area to the rear of Tomneys. There are no public views from The Square in Moy, and I consider the proposed finishes of the building are sympathetic to the built form of the area. Mid Ulster Council's Conservation Team were consulted and had no concerns with the proposal. I consider the scale of the building will not detract from the character of adjacent buildings within the conservation area. However, character not only includes the design of the building but how the proposal impacts on the character of the settlement of Moy. Objections have been raised that previous uses of this area as a beer garden have led to issues of noise and a noise abatement notice had to be served. However, this proposal for a bar area is inside a building as opposed to previous applications which were an outside beer garden, and the applicant has shown that all windows are to be fixed shut and a mechanical ventilation and heat recovery system is to be installed to ventilate the building. As mitigation against noise Environmental Health have proposed several conditions relating to noise levels and design. The agent has stated that live music will be played inside the garden room. The applicant has proposed to keep all windows shut, have dummy windows, automatic closes on doors and acoustic fencing along the walkway from Tomneys bar to the garden room. There are no trees or landscape features being removed as part of the proposal. I am content that the proposal is in accordance with Moy Conservation Area Guidance. Having assessed all the evidence, I consider the use of the rear garden area as a bar area will preserve the character of Moy Conservation Area and thus meets all the criteria within BH 12 in PPS 6.

Moy Conservation Area Guidance

Moy Conservation Area guidance provides guidance on design, materials, details, and colors within the conservation area. It is stated new buildings should have a simple rectangular form and windows with a vertical emphasis. In terms of materials, guttering should be cast iron or aluminum, natural slate roof tiles, smooth rendered and painted elevations will be the most suitable finish. As the building will have rendered

whitewashed walls with cast iron rainwater goods, I am content the proposal will meet the design and materials criteria in Moy Conservation Area Guidance.

Parking Standards

I am aware there can be issues with parking in Moy, especially at busy times. There are spaces at the front of the site at The Square, which are shared with other businesses and there is on-street car parking within Moy. On balance, given the scale of the additional floor space and the type of development it relates to, I consider it will not significantly increase the need for parking provision within the village.

DCAN 7 Public Houses

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

As stated in paragraph 9 of DCAN 7 the effects of noise, disturbance and traffic safety are the main planning considerations in relation to public houses. It is stated a public house will not generally be acceptable within a wholly residential area due to problems with noise. As paragraph 12 states it is possible to reduce the likelihood of excess noise using such measures as sound proofing and self-closing doors on the entrance and exits. In this application under consideration a 2.3m high absorbent acoustic fence has been proposed along sections of the boundary as mitigation. It is stated in technical information provided that the acoustic barriers will absorb unwanted noise in a contained space. In addition, all windows on the building will be fixed shut to reduce the impact of noise.

Summary of Recommendation:

Approve is recommended

I am content that the proposal meets all the policies in BH 8 and BH 12 in PPS 6 Planning, Archaeology and the Built Heritage and SETT 1 in the Dungannon and South Tyrone Area Plan 2010.

Approval Conditions

Condition 1

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

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

Condition 2

The overall building Composite Rw value shall be a minimum of 47 dB as per the specification sheet for walls, glazing and roof constructions on page 10 of the Acoustic Report carried out by Grainger Acoustics Ltd and dated 7th November 2023 (received by Planning and published on 6th February 2024).

Reason: To protect amenity of nearby residential properties.

Condition 3

All lobby doors of the building as identified on approved drawing 02 Rev 3 date received 12 APR 2024 shall be fitted with automatic closers and maintained thereafter.

Reason: To protect amenity of nearby residential properties.

Condition 4

The development hereby approved shall not become operational until details about a sound level control system have been submitted and agreed by the Council. A sound level control system (sound limiter device) designed to monitor sound levels and provide a trigger when a preset maximum sound level is exceeded shall be installed and maintained in accordance with the manufacturer's instructions and user manual. The system shall include a display screen that is easily viewable by musical performers inside the venue. The device shall be capable of being calibrated and set so that sound levels are not permitted to exceed 95 dBA internally.

Reason: To protect amenity of nearby residential properties.

Condition 5

The applicant shall ensure that noise levels associated with the proposal shall not exceed internal levels stipulated below at any 3rd party residential receptor:

A) not exceed 35dB dB LAeq (1 hour) at any time between 07:00hrs and 23:00hrs within any habitable room, with the windows closed.

B) not exceed 30 dB LAeq at all other times measured over a five minute period within any habitable room with the windows closed.

C) not exceed 45 dB LAMax for any single sound event between 23:00hrs and 07:00hrs within any habitable room with the windows closed.

Reason: To protect amenity of nearby residential properties.

Condition 6

Within 4 weeks of a written request by the Planning Department, following receipt of a complaint, a noise survey shall be undertaken, submitted to and agreed in writing with the Council. The duration of such monitoring shall be sufficient to provide comprehensive information on noise levels associated with the proposal and demonstrate whether or not the noise limits stipulated in condition 5 are being complied with. All monitoring shall be carried out at the operator's expense. The Council shall be notified not less than 2 weeks

in advance of the commencement of the noise survey.

Reason: To protect amenity of nearby residential dwellings.

Condition 7

Following completion of the noise survey and where noise monitoring demonstrates non-compliance of noise limits stipulated in condition 5 the applicant shall provide details of additional noise mitigation measures that will be incorporated into the proposal to ensure compliance with condition 5. Any remedial measures required shall be carried out to the satisfaction of the Council within 4 weeks of their approval and shall be permanently maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect amenity of nearby residential dwellings.

Condition 8

Hardwood external doors and windows as identified on approved drawing 02 Rev 3 date received 12 APR 2024 shall have final coat of opaque paint hand applied on site as opposed to factory finish. Factory applied primer is acceptable.

Reason: to ensure that the materials and detailing used are of appropriate quality in the interests of maintaining the character and appearance of the setting of the listed building.

Condition 9

Ventilation terminals in external walls as shown on approved drawing 02 Rev 3 date received 12 APR 2024, and above ground drainage, shall be in metal painted to match Rainwater Goods.

Reason: to ensure that the materials and detailing used are of appropriate quality in the interests of maintaining the character and appearance of the setting of the listed building.

Condition 10

Prior to the use of the approved development, a 2.4m high acoustic fence shall be sited as shown on approved drawing 01 Rev 1 date received 30 OCT 2023.

Reason: To protect amenity of nearby residential dwellings.

Signature(s): Gillian Beattie

Date: 17 June 2024

ANNEX	
Date Valid	17 October 2023
Date First Advertised	30 October 2023
Date Last Advertised	30 October 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier RNN - 10A The Square Moy BT71 7SG The Owner / Occupier 9 The Square Moy BT71 7SG The Owner / Occupier 10 The Square Moy BT71 7SG The Owner / Occupier 8B The Square Moy BT71 7SG The Owner / Occupier 8 The Square Moy BT71 7SG The Owner / Occupier 8C The Square Moy BT71 7SG The Owner / Occupier RNN - 11 The Square Moy BT71 7SG	
Date of Last Neighbour Notification	4 April 2024
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: LA09/2020/1533/F Proposals: Retention of change of use of lands to rear of existing public house to beer garden including steel framed building with clad roof for storage for the public house with acoustic fence to perimeter. (Amended Proposal) Decision: Decision Date:	

Ref: LA09/2019/0847/F

Proposals: Extension of public house into the existing basement

Decision: PG

Decision Date: 24-SEP-19

Ref: M/1995/0684

Proposals: Re-roofing of existing premises

Decision: PG

Decision Date:

Ref: M/1999/0636/F

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

Decision: PR

Decision Date: 08-MAY-01

Ref: M/1995/6182

Proposals: Refurbishment of properties 8,9,10,11 & 12 The Square Moy

Decision: QL

Decision Date:

Ref: M/1995/0685

Proposals: Re-roofing of existing premises

Decision: PG

Decision Date:

Ref: M/1999/1178/DCA

Proposals: Renovations and conversion of existing store to create dwelling house (apartment).

Decision:

Decision Date:

Ref: LA09/2023/1093/F

Proposals: Proposed licensed garden room, erection of acoustic fence and associated works

Decision:

Decision Date:

Ref: LA09/2019/0850/LBC

Proposals: Extension of Public House in to Existing Basement

Decision: CG

Decision Date: 24-SEP-19

Summary of Consultee Responses

Environmental Health Mid Ulster Council-
Environmental Health Mid Ulster Council-
Environmental Health Mid Ulster Council-Updated Response LA09 2023 1093 F.pdf
MUDC Environment and Conservation Team-LA09-2023-1093.F.docx
Environmental Health Mid Ulster Council-Response LA09 2023 1093 F.docx
Historic Environment Division (HED)-
Environmental Health Mid Ulster Council-
Environmental Health Mid Ulster Council-
MUDC Environment and Conservation Team-
Historic Environment Division (HED)-
Environmental Health Mid Ulster Council-

Drawing Numbers and Title

Site Location Plan Plan Ref: 01 Rev 1
Site Layout or Block Plan Plan Ref: 02 Rev 3
Site and Detailed Drawings Plan Ref: 03 Rev 1

Notification to Department (if relevant)

Not Applicable

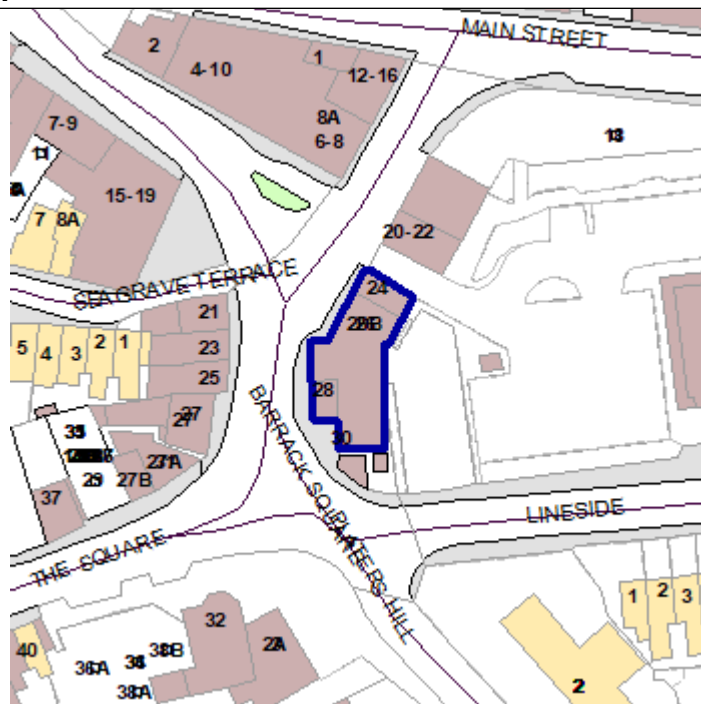


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 2 July 2024	Item Number: 5.8
Application ID: LA09/2023/1095/F	Target Date: 30 January 2024
Proposal: Change of use from nightclub to 4 No flats (2 No two bedroom and 2 No one bedroom)	Location: 24 - 28 The Square Coalisland
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr Declan Dorrity 7 Brackaville Road Coalisland BT71 4NH	Agent Name and Address: Building Design Solutions 76 Main Street Pomeroy BT70 2QP
Executive Summary: This application is being presented to Committee as NI Water are recommending refusal and Planning contrary to NI Water are recommending approval.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	NI Water - Multiple Units West	LA09-2023-1095-F.pdf
Non Statutory Consultee	NI Water - Multiple Units West	LA09-2023-1095-F.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	DFI Roads - Enniskillen Office	06-12-2023.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response LA09-2023-1095-F.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	

Representations:

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

and signatures

Summary of Issues

Characteristics of the Site and Area

The site is within the Settlement Limits, Town Centre and Area of Townscape Character of Coalisland as defined in the Dungannon and South Tyrone Area 2010.



Fig 1 & 2: Site outlined in red.

This site, which is relatively centrally located within the town at 24 - 28 The Square, contains a large two storey detached building situated between and fronting onto two small mini roundabouts. The building has white rendered walls, dark roof tiles / slates and black windows frames. It comprises a barber shop (BOYZ 2 MEN), a public house (VENUE) and a beautician's (Niamh Rafferty Beauty) on the ground floor with ancillary shopfronts, signage and an enclosed and partially covered beer garden to the rear of the property; and a vacant nightclub above on the first floor with relatively uniformed windows primarily in the front elevation but with a window and couple of doors in the rear elevation accessing onto a first floor smoking area and an external staircase. There is also a hardcored / tarmac parking and turning area to the rear of the property which allows traffic to flow off around the rear of the site.



Figs 3 & 4: Front and rear of building on site, respectively.

The surrounding area is urban in character and the predominant land uses are

apartments, dwellings, and retail use and services including a pharmacy located to north of the property to the other side of a vehicular entry; and a café, charity shop, opticians and solicitors located to the west of the property to the opposite side of the road. A large public car park exists immediately east of the site around the Cornmill Heritage Centre and community building.

Description of Proposal

This is a full planning application for the change of use of a first floor nightclub to 4 flats (2 two bedroom and 2 one bedroom) within a two storey building located at 24 - 28 The Square Coalisland.

This proposal comprises largely of internal alterations to the existing first floor of the building on site to enable its functional change of use into 4 flats. The flats are to be accessed directly off Main Street via a ground floor door and stairs located to the front of the property. The stairs, off a small lobby area including bin store, will lead to a small first floor landing and then hall that each flat will access off.

External works proposed to the building on site will include:

- the replacement of 10 and 1 new first floor window in its front elevation.
- the replacement of 1 and 7 new first floor windows in its rear elevation. 1 of the new rear windows will replace an existing door providing access to an external smoking area to the rear of the building that is to be removed as part of this proposal alongside a set of external stairs and a door.
- 2 new first floor windows in its north gable elevation.

All external finishes to the property are to be retained.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Dungannon and South Tyrone Area Plan 2010
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 6 (Addendum): Areas of Townscape Character
- Planning Policy Statement 7: Quality Residential Environments

- Planning Policy Statement 7 (Addendum) - Safe Guarding the Character of Established Residential Areas
- Creating Places
- Development Control Advice Note 8: Housing in Existing Urban Areas
- Development Control Advice Note 15: Vehicular Access Standards
- Parking Standards

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

Representations

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

Relevant Planning History

- M/1985/0038 - Extension to licensed premises and erection of 2 shop units - The Square Coalisland - Granted
- M/1985/0628 - Change of use from shop to bakery and shop - The Square Coalisland - Granted
- M/1986/0005 - Licensed premises and 2 shop units - The Square Coalisland - Granted
- M/1991/0078 - Extension to licensed premises to provide snooker and pool room and restaurant - The Venue The Square Coalisland - Granted
- M/1996/0766 - Extension to bar to include 4 no. Retail units bar store and rear access - The Venue Bar The Square Coalisland - Granted
- M/2002/0254/F - Change of use from bakery to licensed premises and alterations to existing lounge - 26 The Square Coalisland - Granted 2002
- M/2007/0959/F - Proposed outdoor licensed smoking area connected to existing public bar - Lands at the rear of O'Neills public bar 24-28 The Square Coalisland - Granted 2007
- M/2008/1355/F - Proposed off license in vacant shop and 2 Storey extension - 24-28 The Square Coalisland - Granted 2009
- M/2009/0598/F - Provide 4 no temporary art pieces on above gables in Coalisland town centre as part of re-imaging scheme - Four Sites, 2 no images O'Neills Bar 26/28 The Square Coalisland, 1 No Image 11 Barrack Square Gable, 1 No Image 3 Barrack Square Gable - Granted 2009
- M/2013/0545/F - Proposed off licence in existing public bar - 24-28 The Square Coalisland - Granted 2014
- LA09/2015/0239/F - Alterations to façade and openings to provide improved shop fronts - 24 - 26 The Square Coalisland - Granted
- LA09/2016/0263/A - Retention of existing raised letter signage (backlit) to front and back elevation and proposed LED display (backlit) - 24-26 The Square Coalisland - Consent Granted

- LA09/2018/0724/F - Extension to the rear to provide covered smoking area / fire escape and replacement of existing vacant retail unit fronting The Square to create new entrance into existing function room - 24-28 The Square Coalisland - Granted
- LA09/2021/0559/F - Change of use from first floor lounge to offices including 2 new windows to rear & 1 new window to side gable - 24-26 The Square Coalisland - Granted
- LA09/2021/0560/A - Backlit LED sign to rear of building and totem sign to corner of existing yard wall - 24-26 The Square Coalisland - Granted
- LA09/2023/1396/F - Extension to rear to create 2 no commercial units, coffee dock and outdoor seating area - 24-28 The Square Coalisland - Granted 15th March 2024

Consultees

1. Dfl Roads were consulted and advised the applicant has not provided any in-curtilage parking and that the number of spaces required for this development are 6 unassigned or 7 assigned parking spaces with parking and turning for service vehicles e.g. oil delivery lorries. On-street parking cannot be relied on as the proposed site is located between two mini roundabouts on a B class road with a high volume of traffic and constrained for room on both sides by footways and buildings. That Council should note that the applicant appears to own / control land to the rear of the property (within blue outline) which could be considered for use as parking.
 - I do not consider in this instance it is necessary to seek additional car-parking or servicing arrangements for the proposed development to those that already exist as detailed by Dfl Roads to the rear of the property within the control of the applicant, which may be utilised under recent planning application LA09/2023/1396/F (see 'Relevant Planning History' further above). I consider the existing provision sufficient given the nature of the proposal a change of use from a nightclub to 4 flats which should result in a significantly lesser number of person attending the building; given this development is located within Coalisland Town Centre well served by other modes of transport; that a number of existing shops and properties in the vicinity are and I consider it reasonable that this proposal be accommodated from the adjacent street, the large car park within the square and parking in surrounding streets and car parks.
2. NI Water were consulted and advised whilst there was capacity in the receiving public sewer an assessment indicated network capacity issues. That the downstream catchment is constrained by overloaded sewage infrastructure including one or more downstream Unsatisfactory Intermittent Discharges (UID's at Barrack Square CSO and Washingbay Road CSO which both discharge to the Torrent River) which are causing a negative impact on the environment. For this reason, NI Water is recommending the refusal of this application, that connections to the public sewerage system are curtailed. Accordingly, the agent was contacted and asked on a without prejudice basis to provide additional information looking at loading in the network from the authorised and proposed uses on site to address NI Water consultation response regarding capacity in the

network issues. The agent subsequently submitted additional information regarding the loading capacity at the premises. He advised that the existing approved use is for a nightclub venue, and it has approval for the premises to hold 135 persons on the entertainment licence. The new proposal is for 2 no. of two-bedroom flats that will house a maximum of 4 persons per flat and 2 no. of one-bedroom flats that will house a maximum of 2 persons per flat. Even with some casual visitors the total persons that will be within the flats will be a maximum of possibly 20 persons. When this is compared to 135 persons, it is very clear that the loading is significantly reduced from what is currently approved at the premises. The percentage reduction is 85% in terms of loading. NI Water was re-consulted with this additional information however their response remained to refuse as before. That subject to the applicant engaging with NI Water through the WWIA process to establish if this change of use is like for like or betterment is through NI Water may reconsider its recommendation. Taking account of NI Water's response, I consulted with Mid Ulster's Environmental Health Department who advised the nightclub had an entertainment licence with capacity for 110 persons, whilst not the 135 persons quoted, it is still a significant number and therefore given the significantly reduced number of persons the current proposal should generate I consider it reasonable to accept this proposal as betterment without further re-consultation with NI Water required.

3. Environmental Health Mid Ulster Council were consulted and raised no objections to the current proposal having noted a previous proposal for a change of use from the first floor lounge (nightclub) of the building on site to offices granted under LA09/2021/0559/F; and a more recent proposal for the extension and alterations to the ground floor of the building on site to provide a change of use from existing bar to 2 commercial units, coffee dock and outdoor seating granted under LA09/2023/1396/F. Environmental Health advised drawing no 02 submitted alongside the current proposal shows the ground floor entrance to the first-floor flats whereby a bin store is provided for flat residents and that the following informative be attached to any subsequent decision issued:

- The Clean Neighbourhood and Environment Act (Northern Ireland) 2011. It is important that appropriate arrangements are put in place for the storage, collection and management of waste at the proposed development. The applicant is advised to ensure there is appropriate and adequate waste provision for the occupants at the property and that there is satisfactory waste management at the site.

I am content the applicant via a standard informative attached to any decision would be advised to refer to the informative advice provided by consultees in their responses which are available to view at www.midulstercouncil.org.

Consideration

Dungannon and South Tyrone Area Plan 2010 – The site is located within the settlement limits of Coalisland therefore Plan Policy SETT 1 'Settlement Limits' is a relevant policy. The site is also located within Coalisland Town Centre therefore Plan Policy RSO1 'Dungannon and Coalisland Town Centres' applies; and located within Coalisland Area of Townscape Character CATC 01 designation which alongside Plan Policy CON 5

‘Areas of Townscape Character’ applies.

I am content as the proposal complies with Planning Policy Statement 7 Quality Residential Environments as detailed further below it will also comply with Plan Policies SETT 1 and ROS1. I am also content the proposal will comply with designation CATC 01 and Plan Policy CON 5 Areas of Townscape Character as the minimal external works as detailed further above in the ‘Description of Proposal’ in my opinion should not detract from but rather enhance the overall character and appearance of the area in line with the Addendum to Planning Policy Statement 6 Areas of Townscape Character and The Strategic Planning Policy Statement for Northern Ireland, particularly with the removal of an existing external metal staircase and smoking area to the rear of the building more suited to a temporary building.

The Plan under Policy HOUS 2 ‘Town Centre Housing’ also looks favourably on proposals for residential uses above existing shops/commercial premises. I consider housing in town centres can contribute to the vitality and viability of the town centre.

It is noted town centre public car parking facilities such as those adjacent the site are protected by Plan Policy TRAN 2 ‘Retention of Car Parks in Dungannon and Coalisland Town Centres’. This proposal does not include any works to the adjacent car park.

The Strategic Planning Policy Statement for Northern Ireland – 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.

In term of housing the SPPS gives specific provision for Housing in Settlements subject to a number policy provisions. It highlights the need to deliver sustainable forms of development, that the use of greenfield land for housing should be reduced and more urban housing accommodated through the recycling of land and buildings and the encouragement of compact town and village forms. It also highlights that within town centres, residential use above shops and other business premises should be facilitated, where appropriate, as this can promote sustainability through utilising underused space, maintaining the fabric of buildings and contributing to the vitality and viability of town centres.

I do not consider the SPPS presents any change in policy direction from the retained planning policies relevant to this proposal.

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

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

I believe this proposal will respect the surrounding context and is appropriate to the character and topography of the site. This proposal comprises largely of internal alterations to the existing first floor of the building on site to enable its functional change of use from a nightclub into 4 flats with the only external works as detailed in the 'Description of Proposal' being the replacement of existing windows and additional windows that are of a number, size, scale, position, and finish in y opinion of a scale appropriate to the building, existing fenestration and the area. As detailed earlier in this report I consider the removal of an existing external metal staircase and smoking area to the rear of the building more suited to a temporary building alongside the proposed external works will enhance the character of the building and the area.

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

Whilst the building on site is located within the buffer of archaeological sites and monuments (references: TYR047:503 canal basin and TYR047:500 not detailed) I am content as this proposal is only for internal and external works as detailed in the 'Description of Proposal' further above to an existing building that appears to have been modified on a number of occasions over the years it should not have a detrimental impact on any identified archaeological site and monuments as such consultation with Historic Environment Division is not considered necessary. There are no landscaped features within or on the boundaries of the site to be impacted by the proposal.

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

Public open space is not a requirement for this type of proposal. And whilst the proposed development does not provide any private amenity space, I believe it is not critical to this proposal given the site's location within Coalisland Town Centre within walking distance of public amenity areas such as Gortgonis Playing Fields and Coalisland Canal walk.

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

I am dealing solely with an application for 4 flats in which local neighbourhood facilities in their own right would not be required. It is also noted the apartments will be located within Coalisland Town Centre where these facilities are already provided close by.

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

The site is situated within Coalisland Town Centre, adjacent a footpath connecting to other streets within the town as such those occupying the flats should have adequate

and convenient ease of access to public transport, a no. of services, shops, playing fields / parks etc. Accordingly, this proposal should support walking and cycling; and meet the needs of people whose mobility is impaired.

f) adequate and appropriate provision is made for parking;

The proposed development does not propose to provide any car parking or servicing arrangements, and ordinarily some should be provided in accordance with Parking Standards. However, as detailed earlier (see 'Consultees', 'DfI Roads', further above') I consider the existing provision sufficient given the nature of the proposal a change of use from a nightclub to 4 flats which should result in a significantly lesser number of person attending the building; given this development is located within Coalisland Town Centre well served by other modes of transport; that a number of existing shops and properties in the vicinity are and I consider it reasonable that this proposal be accommodated from the adjacent street, the large car park within the square and parking in surrounding streets and car parks.

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

I consider the removal of the removal of an existing external metal staircase and smoking area to the rear of the building more suited and proposed external works proposed as part of this proposal will uplift and enhance the existing appearance of the building and in turn that of the surrounding area.

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

I am content through consultation with Environmental Health this proposal should not conflict with adjacent land uses. In my opinion the occupiers of the flats should be aware they will be staying above existing retail units and a bar and should expect a level of noise disturbance from such. Additionally, should the works under LA09/2023/1396/F (see 'Relevant Planning History') be implemented on site the opening hours of the commercial units were conditioned to between 8am and 6pm to protect the occupants of these potential flats from unacceptable neighbour amenity. I do not foresee any unreasonable noise or other disturbance arising from this proposal impacting the adjacent properties or land uses in the area. Furthermore, given the location of the proposed windows overlooking the Cornmill car park and toward the gable of an existing chemist, the separation distance to neighbouring properties and fact the only external change to the building will be the replacement and proposed windows the proposal should not cause any unacceptable overlooking, loss of light or overshadowing. I am also content there is sufficient space for the storage of waste and recycling bins within the ground floor bin store provided for flat residents. This internal bin store will allow the bins to be screened from public view.

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

I am satisfied that the apartments are located within the Town Centre where there are a

number of properties close by and street lighting to deter crime to some degree.

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

PPS 7 (Addendum) - Safe Guarding the Character of Established Residential Areas
Policy LC1 of the addendum 'Protecting Local Character, Environmental Quality and Residential Amenity' does not apply to this proposed change of use to apartments as the application site is within Coalisland Town Centre as designated in the Dungannon and South Tyrone Area Plan 2010.

Policy LC2 of the addendum 'The Conversion or change of use of existing buildings to flats or apartments' does apply and as the proposal meets all the relevant criteria in QD1 in PPS 7 I am content it meets the relevant criteria in LC2.

I do not believe that by allowing this development that it will result in unacceptable damage to the local character, environmental quality or residential amenity of this area. This proposal is sensitive in design terms to people living in this area and is in harmony with local character. The proposal also offers a variety to the different types of accommodation found within the town centre in Coalisland.

This proposal will maintain the form, character and architectural features, design and setting of the existing building.

The first-floor portion of the property to be converted comprises approx. 288 square metres gross internal floorspace which is greater than the 150 square metres gross internal floorspace required by Policy LC2 of the addendum.

All flats are self-contained i.e., having separate bathroom, w.c. and kitchen available for use only by the occupiers.

The development does not contain any flat which is wholly in the rear of the property and without access to the public street. All apartments including that in the extension of the building are accessed from the public street.

Other Considerations

Flood maps indicate no flooding on site.

Case Officer Recommendation

Approval

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

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

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

Signature(s): Emma Richardson

Date: 23 May 2024

ANNEX	
Date Valid	17 October 2023
Date First Advertised	31 October 2023
Date Last Advertised	31 October 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 20-22 The Square Coalisland Tyrone BT71 4LN The Owner / Occupier RNN - 26B The Square Coalisland Tyrone BT71 4LN The Owner / Occupier 21 The Square Coalisland Tyrone BT71 4LN The Owner / Occupier RNN - 30 The Square Coalisland Tyrone BT71 4LN The Owner / Occupier RNN - 6-8 The Square Coalisland Tyrone BT71 7SG The Owner / Occupier 23 The Square Coalisland Tyrone BT71 4LN The Owner / Occupier 27 The Square Coalisland Tyrone BT71 4LN The Owner / Occupier 26 The Square Coalisland Tyrone BT71 4LN The Owner / Occupier 25 The Square Coalisland Tyrone BT71 4LN The Owner / Occupier 28 The Square Coalisland Tyrone BT71 4LN The Owner / Occupier RNN - 24 The Square Coalisland Tyrone BT71 4LN The Owner / Occupier RNN - 15-19 The Square Coalisland Tyrone BT71 4LN The Owner / Occupier RNN - 16 The Square Coalisland Tyrone BT71 4LN The Owner / Occupier RNN - 8A The Square Coalisland Tyrone BT71 4LN The Owner / Occupier The Square Coalisland Tyrone BT71 4LN	
Date of Last Neighbour Notification	17 May 2024
Date of EIA Determination	
ES Requested	<events screen>

Planning History

Ref: M/1989/0435

Proposals: Public Car Park

Decision: PG

Decision Date: 21-SEP-89

Ref: M/1985/0628

Proposals: CHANGE OF USE FROM SHOP TO BAKERY AND SHOP

Decision: PG

Decision Date:

Ref: M/1996/0766

Proposals: Extension to bar to include 4 no. Retail Units, Bar Store and Rear Access

Decision: PG

Decision Date:

Ref: LA09/2015/0239/F

Proposals: Alterations to façade and openings to provide improved shop fronts

Decision: PG

Decision Date: 28-AUG-15

Ref: LA09/2021/0560/A

Proposals: Backlit LED sign to rear of building and totem sign to corner of existing yard wall.

Decision: CG

Decision Date: 04-AUG-21

Ref: M/1995/0077

Proposals: Proposed rear extension to provide snooker and pool and restaurant accommodation

Decision: WITHDR

Decision Date:

Ref: LA09/2016/0263/A

Proposals: Retention of existing raised letter signage (backlit) to front and back elevation and proposed LED display (backlit)

Decision: CG

Decision Date: 06-JUN-16

Ref: LA09/2018/0724/F

Proposals: Extension to the rear to provide covered smoking area / fire escape and replacement of existing vacant retail unit fronting The Square to create new entrance into

existing function room

Decision: PG

Decision Date: 06-NOV-18

Ref: M/2002/0254/F

Proposals: Change of use from Bakery to licensed premises and alterations to existing lounge

Decision: PG

Decision Date: 23-MAY-02

Ref: M/1985/0038

Proposals: EXTENSION TO LICENSED PREMISES AND ERECTION OF 2 SHOP UNITS

Decision: PG

Decision Date:

Ref: M/1986/0005

Proposals: LICENSED PREMISES AND 2 SHOP UNITS

Decision: PG

Decision Date:

Ref: LA09/2021/0559/F

Proposals: Change of use from first floor lounge to offices including 2 new windows to rear & 1 new window to side gable

Decision: PG

Decision Date: 04-AUG-21

Ref: LA09/2018/1324/F

Proposals: The works will include the provision of new high quality natural stone paving, formal parking bays, carriageway resurfacing, street furniture, landscaping, signage, street lighting, festive lighting and drainage

Decision: PG

Decision Date: 09-JAN-19

Ref: LA09/2017/1242/PAN

Proposals: The works will include the provision of new high quality natural stone paving, carriageway, resurfacing, street furniture, tree planting, signage, street lighting, festive lighting and drainage

Decision: PANACC

Decision Date: 11-MAR-19

Ref: LA09/2017/1442/PAD

Proposals: Works will include the provision of new high quality natural stone paving, carriageway resurfacing, street furniture, tree planting, signage, street lighting, festive lighting and drainage

Decision: PAD

Decision Date: 30-JAN-18

Ref: LA09/2017/0999/PAD

Proposals: Public realm scheme

Decision: PAD

Decision Date: 30-JAN-18

Ref: M/2009/0598/F

Proposals: Provide 4 nr temporary art pieces on above gables in Coalisland town centre as part of re-imaging scheme

Decision: PG

Decision Date: 02-NOV-09

Ref: M/2008/1355/F

Proposals: Proposed off license in vacant shop and 2 Storey extension

Decision: PG

Decision Date: 16-NOV-09

Ref: M/1988/0672

Proposals: Public Car Park

Decision: PG

Decision Date: 20-DEC-88

Ref: M/2007/0959/F

Proposals: Proposed outdoor licensed smoking area connected to existing public bar.

Decision: PG

Decision Date: 26-NOV-07

Ref: M/1996/0647

Proposals: Extension to shop to include storage facilities

Decision: PG

Decision Date:

Ref: M/1990/0340

Proposals: Shop Sign

Decision: PG

Decision Date:

Ref: M/1990/0276

Proposals: Change of use from Existing Dwelling to shop with offices above (Development will involve an extension)

Decision: PG

Decision Date:

Ref: M/2013/0025/A

Proposals: Shop sign and projector sign

Decision: CG
Decision Date: 21-FEB-13

Ref: M/1988/0809
Proposals: Amenity Open Space
Decision: WITHDR
Decision Date:

Ref: M/1992/0042
Proposals: 33/11 KV system improvement (Part 5)
Decision: PG
Decision Date:

Ref: M/1991/0078
Proposals: Extension to licensed premises to provide snooker and pool room and restaurant
Decision: PG
Decision Date:

Ref: M/2013/0545/F
Proposals: Proposed off licence in existing public bar.
Decision: PG
Decision Date: 12-FEB-14

Ref: LA09/2023/1095/F
Proposals: Change of use from nightclub to 4 No flats (2 No two bedroom and 2 No one bedroom)
Decision:
Decision Date:

Ref: LA09/2022/1611/F
Proposals: Planning Ref Number: LA09/2018/1324/F Development Type: Public Realm Works within Coalisland Town Centre. Condition to be amended: Variation of Condition regarding the need for a stage 4 Road safety Audit. Reason for removal: As no collision data is available from the start of 2020 to present day and as per GG119, there may be no need for a stage 4 RSA. it states (Page 24), that "a stage 4 RSA report is not needed where no road traffic collisions have been recorded in the vicinity of the highway scheme over the 12 month period of post opening validated road traffic collision data". This has also been checked with DFI roads.
Decision: WDN
Decision Date: 16-MAY-23

Summary of Consultee Responses

NI Water - Multiple Units West-LA09-2023-1095-F.pdf
NI Water - Multiple Units West-LA09-2023-1095-F.pdf

Environmental Health Mid Ulster Council- DFI Roads - Enniskillen Office-06-12-2023.docx Environmental Health Mid Ulster Council-Planning response LA09-2023-1095-F.pdf Environmental Health Mid Ulster Council- Environmental Health Mid Ulster Council-
Drawing Numbers and Title Site Location Plan Plan Ref: 01 Proposed Plans Plan Ref: 02 Existing Plans Plan Ref: 03
Notification to Department (if relevant) Not Applicable



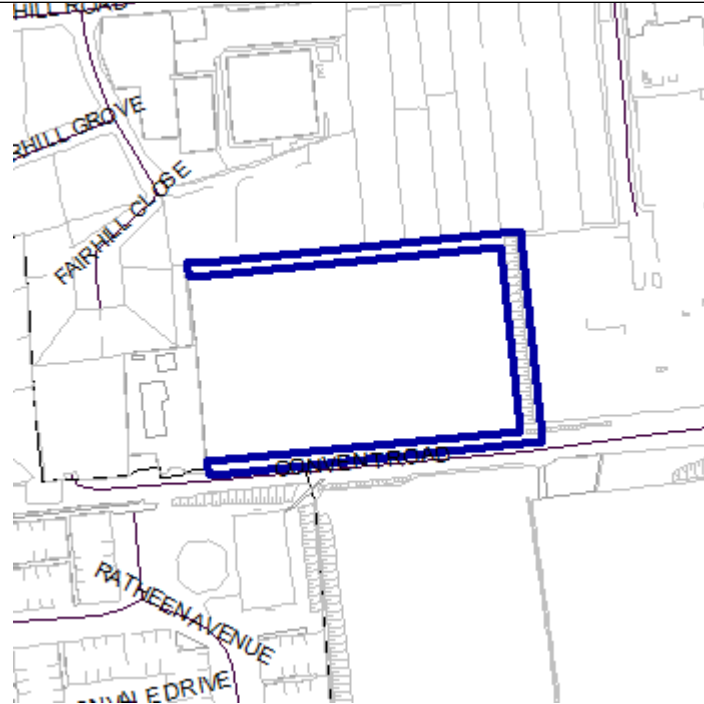
Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 2 July 2024	Item Number: 5.9
Application ID: LA09/2023/1218/F	Target Date: 28 February 2024
Proposal: Erection of a cover spectator stand, 4 no floodlights and extension to walkway around pitch with access steps to primary school.	Location: 1 Convent Road Cookstown
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Cookstown Fr Rocks GFC 1 Convent Rd Cookstown BT80 8DH	Agent Name and Address: Mr Stephen Mulligan 87 Church Street Cookstown BT80 8HT
Executive Summary: This Full application for the erection of a cover spectator stand, 4 no floodlights and extension to walkway around pitch with access steps to primary school is being presented to committee as an approval, however it is being presented to committee following receipt of 3no. objections Nos.14, 16 and 18 Fairhill Close Cookstown. Issues raised include concerns around noise disruption, lighting pollution, anti-social behaviour, overshadowing, impacts on viewpoints, original location of the spectator stand, the impact the stand would have on the wildlife and decrease in objectors' property value due to the proposed stand. The above objections have been considered throughout this report, it is noted that not all objection points raised are material planning considerations. Following receipt of the 3no. objections an amended scheme was submitted to which the neighbours/objectors were renotified, it is important to note that no further objections have since been received to date. This proposal has been assessed under all relevant policy and guidance, that is the SPPS, the Cookstown Area Plan 2010, PPS8 and Planning Strategy for Rural Northern Ireland. The proposal is not at conflict with any of the relevant policies.	

Environmental Health were consulted on the application to which concerns had been raised regarding the LUX levels of the proposed flood lighting, amended plans were submitted in light of this and a re-consultation from Environmental Health stated they have no objection subject to conditions.

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2023.1218.F.pdf
	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2023.1218.F 31st May 2024.pdf

Representations:

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

Summary of Issues

The objector's concerns are addressed below:

- The objections (No. 16 & No.18) noted a reasonable alternative that could accommodate the proposal in that the spectator stand be located on the Convent

Roadside of the site which would not adversely impact on any resident – Following receipt of the objections the applicant/agent amended the scheme to reflect this.

- Noise disruption – I am content that the amended scheme to relocate the stand will ensure noise disruption is restricted, furthermore Environmental Health have advised an operational time condition to be added to any decision notice which in turn will ensure noise disruption is limited.
- Light pollution, due to the proposed floodlighting – Environmental Health were consulted to which they requested amended plans to lower the LUX levels of the floodlighting which the agent provided, following a re-consultation Environmental Health are now content the proposal meets the requirements of the Obtrusive Light Limitation for pre-curfew obtrusive light levels for Environmental Zone – E3 (suburban).
- Impact on view and vantage points from objectors' properties – The scheme has since been amended ('02 rev 1') and the spectator stand has now been relocated to Convent Roadside, as a result I am content will not disrupt the objectors' viewpoints.
- Impact on wildlife within the existing hedge located between the objector's property and proposed site (original plans '02') – The scheme has since been amended ('02 rev 1') and the hedge in question will now remain unaffected from the proposal due to the spectator stand being relocated to the Convent Roadside, therefore I am of the opinion a consultation to NIEA (NED) was not necessary for the process of this application.
- Decrease in objectors' property value – This is not a material planning consideration.
- Antisocial behavior, the objectors stated that the proposed spectator stand would amplify anti-social behavior – This is not a material planning consideration.

Characteristics of the Site and Area

The site is located within the settlement limits of Cookstown as defined in the Cookstown Area Plan 2010. The site is identified as 1 Convent Road, currently contained within the site is Cookstown Fr Rocks GFC. To the south and east of the site lies the existing clubhouse and associated outbuilding. The site has existing strong vegetation to the north and east of the existing football pitch, otherwise the site boundaries consist of a blue coloured twin wire mesh fencing. Immediately adjacent to the site there is a playfield with fencing, ball stoppers, hardstanding, and terracing. I note that the surrounding area is characterised by a mixture well established housing developments to the south and north of the site, with a single detached dwelling to the further west of the site. Additionally, immediately east of the site is Holy Trinity Primary school and located to the south east of the site lies a Holy Trinity College.

Description of Proposal

This is a full application for the proposed erection of a cover spectator stand, 4 no

floodlights and extension to walkway around pitch with access steps to primary school.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Representations

Thirteen (13) neighbouring properties were notified, and press advertisement was carried out in line with the Council's statutory duty. To date three (3) third party objections have been received.

Consultations

Consultation responses from Environmental Health have provided no objections to the proposed subject to conditions.

Relevant Planning History

Reference: LA09/2023/1219/F, Proposal: Proposed demolition of existing club room building and toilet block and erection of new 2 storey clubroom building and wall ball court, Location: 1 Convent Road, Cookstown, Decision and Date: Permission Granted 19.02.2024

Reference: I/2011/0342/F, Proposal: Bitmac surfacing, timber fencing, 1m high Diamond dry block wall retaining system and concrete terracing (Amended Plans), Location: Cookstown FR Rocks GFC, Pairc UI Cuilleann, Convent Lane, Cookstown BT80 8QA, Decision and Date: Permission Granted 15.12.2011

Reference: I/2007/0267/F, Proposal: The erection of 1 no. mobile classroom, as part of an Irish medium primary school, Haiscoil, Cookstown. Spaces within these mobiles will include a classroom, foyer, office, stores and a toilet, Location: Father Rocks Gaa Club, Convent Road, Cookstown, Decision and Date: Permission Granted 13.09.2007

Planning Assessment of Policy and Other Material Considerations

- Cookstown Area Plan 2010
- SPPS - Strategic Planning Policy Statement for Northern Ireland
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation
- Planning Strategy for Rural Northern Ireland

Cookstown Area Plan 2010

The land is located within the Cookstown settlement limit as defined in the Cookstown Area Plan 2010. Given the site location within the settlement development limit of Cookstown, SETT 1 of the CAP 2010 applies. The site is on undesignated white land. I am content that the proposed is in keeping to the character of Cookstown in terms of scale, form, design and use of materials.

Policy COM 1 Community Uses

Planning permission will be granted for community uses within settlement development limits provided particular criteria are met. I am content that the proposed will have no significant detrimental effect on amenity.

It is noted that 3 objections have been received listing amenity concerns however I am content these have been rectified as the agent has since submitted amended plans which demonstrate the proposed spectator stand being relocated the opposite side of the football pitch which in turn will ensure the proposal does not prejudice the comprehensive development of surrounding lands. I am content the proposed plans are in keeping with the size and character of the settlement and its surroundings. Additional infrastructure by way of a new spectator stand, walkway around the existing pitch along with access steps to primary school. The proposed makes use of the same unaltered access arrangements.

SPPS – Strategic Planning Policy Statement for Northern Ireland

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

I am content that the proposed satisfies the Regional Strategic Objectives as provided in the SPPS for Open Space, Sport and Outdoor Recreation. The proposal is for the erection of a cover spectator stand, 4 no floodlights and extension to walkway around pitch with access steps to primary school associated with Cookstown Father Rocks GAA Club and thus does not absorb any considerable degree of the green space within and on the outside edge of the existing boundaries. It is taken that this development will aid in continuing to provide a sporting facility that is convenient and accessible for all sections of society, including children, especially given its location within the town.

Mid Ulster District Council Draft Plan Strategy 2030

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so as far as material to the application, and to any other material considerations. Sections 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation

This Planning Policy Statement, PPS 8 ‘Open Space, Sport and Outdoor Recreation’, sets out the Department’s planning policies for the protection of open space, the provision of new areas of open space in association with residential development and the use of land for sport and outdoor recreation, and advises on the treatment of these issues in development plans.

Policy OS 1 of PPS 8 deals with the protection of open space. The proposed is for the erection of a cover spectator stand, 4 floodlights and associated walkway which includes steps to the primary school located east of the pitch. The proposal seeks to enhance the existing facility and does not propose the loss of open space therefore I am content the proposed complies under Policy OS 1.

Policy OS 4 of PPS 8 provides that proposals for intensive sports facilities will only receive permission where these are located within settlements. I am satisfied that the proposed is not only within the settlement of Cookstown but is also within the site of the existing sporting facility. In all cases the development of intensive sports facilities will be required to meet all the following criteria:

- There is no unacceptable impact on the amenities of people living nearby by reason of the siting, scale, extent, frequency or timing of the sporting activities proposed, including any noise or light pollution likely to be generated;

The proposed spectator stand is proposed at 5.9 metres in height, with the amended scheme to position the stand at Convent Roadside I am content there will be no unacceptable impact on any neighbouring amenities. From internal group meetings the proposed scale and massing is deemed acceptable and will be proportionate to the newly approved clubhouse building. I am content there are no nearby dwellings close enough to the spectator stand that would give rise to overshadowing concerns. Given the proposed is within an existing sports facility, it is taken that there will be no change to levels of noise at the site. Environmental Health have provided no objection to the proposed floodlighting, as detailed above.

- There is no adverse impact on features of importance to nature conservation, archaeology or built heritage;

I am content there will be no impact on nature conservation, archaeology or built heritage.

- Building or structures are designed to a high standard, are of a scale appropriate to the local area or townscape and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment;

Proposed materials for the spectator stand include a single skin metal wall cladding and roof panel, coloured navy, the stand includes sponsorship signage. The stand will further include a degree of sand cement render walls with Insitu concrete steps to terraced stand and seating (hard plastic, navy coloured). The finishes are modest, and I am content the design is considered to be acceptable at this location.

- The proposed facility takes into account the needs of people with disabilities and is located so as to be accessible to the catchment population giving priority to walking, cycling and public transport;

This is an existing sporting facility surrounded by residential development, with Convent Lane adjacent to the east and Fairhill close to the north and northeast. Furthermore, the south sits a large residential development known as Ratheen Avenue. Thus, the proposed redevelopment does not change the current accessibility to the catchment population.

- The road network can safely handle the extra vehicular traffic the proposal will generate, and satisfactory arrangements are provided for site access, car parking, drainage and waste disposal.

The proposal involves the use of an existing unaltered access to convent lane. The submitted P1 application form states no additional or expected increase in vehicles by the proposal.

I am content that the proposed satisfies Policy OS 4 of PPS 8.

The proposed involves the erection of 4 floodlights. Policy OS 7 provides that the development of floodlighting associated with sports and outdoor recreational facilities will only be permitted where the following criteria are met:

- There is no unacceptable impact on the amenities of people living nearby;
- There is no adverse impact on the visual amenity or character of the locality; and
- Public safety is not prejudiced.

An initial consultation to Environmental Health provided that the floodlights LUX levels have the potential to impact residential amenity. As a result, the agent was posed to supply amended plans, following a second consultation to Environmental Health they have provided a time condition to be applied to the decision notice which will ensure neighbouring amenity remains primarily unaffected.

Regarding the objections points raised by neighbouring properties, I have carefully considered the impact on the neighbouring properties at No. 14, 16 and 18 of Fairhill Close. I believe that due to the existing floodlighting in place and the amended plans submitted the conditions to be imposed by environmental health, the proposal will not adversely affect the nearby properties thus, there is no conflict with policy OS7 of PPS8.

To conclude, I am of the opinion that the proposal complies with the above policies within PPS8.

Planning Strategy for Rural Northern Ireland

Policy PSU 1 Community Needs identifies a need to allocate sufficient land to meet the anticipated needs of the community, in terms of health, education and other public facilities. The policy provides that emphasis should be placed upon making the best

possible use of existing sites.

Policy DES 2 Townscape observes the need for development proposals within towns and villages to make a positive contribution to townscape whilst being sensitive to the character of the surrounding area in terms of design, scale and use of materials.

Given the proposal is within an existing site that is currently utilised for the same football club, I am content the proposed redevelopment of the Father Rocks Football Club complies with Policy PSU 1 and Policy DES 2 of the Planning Strategy for Rural Northern Ireland.

Other Considerations

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

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

The site is not subject to any issue issues pertaining to flooding.

Habitats Regulations Assessment

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

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

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

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

Condition 2

Within 4 weeks of a written request by the Planning Department, following a reasonable complaint about lighting, the site operator shall, at his/her expense, employ a suitably qualified and competent person, to assess the level of light from the site at the

complainant's property. Details of the lighting monitoring survey shall be submitted to the Planning Department for written approval prior to any monitoring commencing.

Reason: To protect the amenity of nearby residential properties with respect to obtrusive light.

Condition 3

In compliance with the submitted flood light analysis any artificial lighting to the development must minimise obtrusive light and conform to the requirements of the Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone - E3 (Suburban) contained within Table 3 of the Institute of Light Engineers Guidance Note 1 for the reduction of obtrusive light, GN01-21, dated 2021.

Reason: To protect amenity of nearby residential dwellings with respect to obtrusive light.

Condition 4

Floodlights associated with the proposal shall not operate after 23:00hrs.

Reason: To protect amenity of nearby residential dwelling with respect to obtrusive light.

Condition 5

Construction works, which are audible at any noise sensitive property outside the site, shall only take place between the hours of 07:00 -19:00 hours on Monday to Friday, 07:00 -14:00 hours on Saturday with no works being undertaken on Public/Bank Holidays. Outside of these hours, work at the site shall be limited to emergency works, or construction work that is not audible at any noise sensitive property.

Reason: To control the noise levels from construction works at noise sensitive locations.

Signature(s): Ciara Carson

Date: 14 June 2024

ANNEX	
Date Valid	15 November 2023
Date First Advertised	20 February 2024
Date Last Advertised	28 November 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 9-29 Holy Trinity College Chapel Street Cookstown Tyrone BT80 8QB The Owner / Occupier Holy Trinity Primary School 44 Fairhill Road Cookstown Tyrone BT80 8AG The Owner / Occupier 50 Fairhill Road Cookstown Tyrone BT80 8AG The Owner / Occupier 52 Fairhill Road Cookstown Tyrone BT80 8AG The Owner / Occupier 54A Fairhill Road Cookstown Tyrone BT80 8AG The Owner / Occupier 54 Fairhill Road Cookstown Tyrone BT80 8AG The Owner / Occupier 56 Fairhill Road Cookstown Tyrone BT80 8AG The Owner / Occupier 58 Fairhill Road Cookstown Tyrone BT80 8AG The Owner / Occupier 18 Fairhill Close Cookstown Tyrone BT80 8DH The Owner / Occupier 16 Fairhill Close Cookstown Tyrone BT80 8DH The Owner / Occupier 14 Fairhill Close Cookstown Tyrone BT80 8DH The Owner / Occupier 2 Fairhill Close Cookstown Tyrone BT80 8DH The Owner / Occupier 4 Fairhill Close Cookstown Tyrone BT80 8DH	
Date of Last Neighbour Notification	7 February 2024
Date of EIA Determination	
ES Requested	<events screen>

Planning History

Ref: I/1978/0082

Proposals: EXTENSION TO EXISTING CLUBHOUSE FOR LICENSED CLUB

Decision: PG

Decision Date:

Ref: I/1976/0042

Proposals: PUBLIC AUTHORITY HOUSING (217 NO. UNITS)

Decision: PG

Decision Date:

Ref: I/1998/0282

Proposals: Two storey dwelling

Decision: PG

Decision Date:

Ref: I/2010/0269/F

Proposals: Removal of 24 no. existing temporary classrooms from Holy Trinity College off-site. Replacement of 16 no. temporary classrooms (2 science rooms & general classrooms) to site of existing temporary classroom.

Decision: PG

Decision Date: 30-JUL-10

Ref: LA09/2019/0665/F

Proposals: Demolition of existing school building construction of new 16,000m² , 1300 pupil school building and associated works on the existing school site to accommodate in-curtilage bus, car park drop offs and turning areas, 3G synthetic pitch and Multi-Use games area.

Decision: PG

Decision Date: 12-AUG-20

Ref: LA09/2023/1219/F

Proposals: Proposed demolition of existing club room building and toilet block and erection of new 2 storey clubroom building and wall ball court.

Decision:

Decision Date:

Ref: LA09/2023/1218/F

Proposals: Erection of a cover spectator stand, 4 no floodlights and extension to walkway around pitch with access steps to primary school.

Decision:

Decision Date:

Ref: I/1990/0528

Proposals: Domestic Garage and Store

Decision: PG

Decision Date:

Ref: I/1994/0097

Proposals: Domestic garage/store

Decision: PG

Decision Date:

Ref: I/1996/0475

Proposals: Extension to Primary School. New Access Road and
Re-location of mobile classrooms

Decision: PG

Decision Date:

Ref: I/1976/0502

Proposals: ERECTION OF CLASSROOM - BLOCK EXTENSION

Decision: PG

Decision Date:

Ref: I/1990/0445

Proposals: Extension to School

Decision: PG

Decision Date:

Ref: I/1985/0233

Proposals: 3 NO MOBILE CLASSROOMS

Decision: PG

Decision Date:

Ref: I/2015/0017/F

Proposals: Two new single storey flat roof extensions with escape steps and ramp and
relocation of existing stage

Decision: PG

Decision Date: 23-MAR-15

Ref: I/2001/0716/F

Proposals: Single Mobile Classroom Unit

Decision: PG

Decision Date: 31-DEC-01

Ref: I/2014/0247/PREAPP

Proposals: Proposed new build school

Decision:

Decision Date:

Ref: I/1976/004201

Proposals: PUBLIC AUTHORITY HOUSING WITH AMENITIES

Decision: PG

Decision Date:

Ref: I/1981/0109

Proposals: VIEWING FACILITIES TO FOOTBALL PITCH

Decision: PG

Decision Date:

Ref: I/2011/0342/F

Proposals: Bitmac surfacing, timber fencing, 1m high Diamond dry block wall retaining system and concrete terracing (Amended Plans)

Decision: PG

Decision Date: 22-DEC-11

Ref: I/1994/0247

Proposals: Extension to Clubhouse

Decision: PG

Decision Date:

Ref: I/2006/0791/F

Proposals: Proposed new storage and toilet facilities, with associated wall and pillars with gates along Convent Road, new turn stiles and internal fencing.

Decision: PG

Decision Date: 16-JUL-07

Ref: I/2007/0267/F

Proposals: The erection of 1 no. mobile classroom, as part of an Irish medium primary school, Haiscoil, Cookstown. Spaces within these mobiles will include a classroom, foyer, office, stores and a toilet

Decision: PG

Decision Date: 21-SEP-07

Ref: I/2001/0400/A41

Proposals: Garage Conversion to Provide Additional Bedroom and Bathroom

Decision: 205

Decision Date: 26-JUL-01

Ref: I/1981/0120

Proposals: HOUSING DEVELOPMENT

Decision: PG

Decision Date:

Ref: I/1981/012001

Proposals: ERECTION OF DWELLING

Decision: PG

Decision Date:

Ref: I/2003/0113/F

Proposals: New Garage

Decision: PG

Decision Date: 09-APR-03

Ref: I/1985/0158

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: I/1986/0016

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: I/2000/0210/F

Proposals: Extension to dwelling

Decision: PG

Decision Date: 29-JUN-00

Summary of Consultee Responses

Environmental Health Mid Ulster Council-LA09.2023.1218.F.pdf

Environmental Health Mid Ulster Council-

Environmental Health Mid Ulster Council-LA09.2023.1218.F 31st May 2024.pdf

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Plans Plan Ref: 03

Proposed Elevations Plan Ref: 04

Proposed Plans Plan Ref: 05

Site Levels Plan Ref: 06

Existing Site Survey Plan Ref: 07

Site Layout or Block Plan Plan Ref: 02 rev 1

Proposed Plans Plan Ref: 05 rev 1

Proposed Plans Plan Ref: 03 rev 1

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 2 July 2024	Item Number: 5.10
Application ID: LA09/2023/1238/F	Target Date: 13 June 2024
Proposal: The project is to deliver a new competition level 8-lane running track and IFA intermediate level 3G soccer pitch both with class 1 floodlighting. Additionally there will be banked spectator terraces and pathways with bollard lighting, fencing, landscaping and associated site works.	Location: 47A Tullywiggan Road Townland of Loughry Cookstown
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr Raymond Lowry Mid Ulster District Council Council Offices Circular Road Dungannon BT71 6DT	Agent Name and Address: Mr Aaron Duffy McGurk Architects 33 King Street Magherafelt BT45 6AR
Executive Summary: Application is for a new intermediate level 3G soccer pitch and running track at Mid Ulster Sports Arena (MUSA). Site is bounded by MUSA on two sides and represents an obvious opportunity to extend MUSA complex. Application has been presented to committee because it is a major development and also because it is being carried out by the Council. Consultations has been carried out with NIEA (NED and WMU), HED, DFI Roads, DFI Rviers, NI Water, MUDC Env health Dept. At the time of writing the report, all consultees apart from NIEA (NED) had returned with favourable responses.	

Members should note that the use of microplastics on 3G pitches is controversial and has resulted in the need for an HRA to be carried out. HRA has been carried out by ECL consulting and has eliminated the proposal at Stage 2 : appropriate assessment.

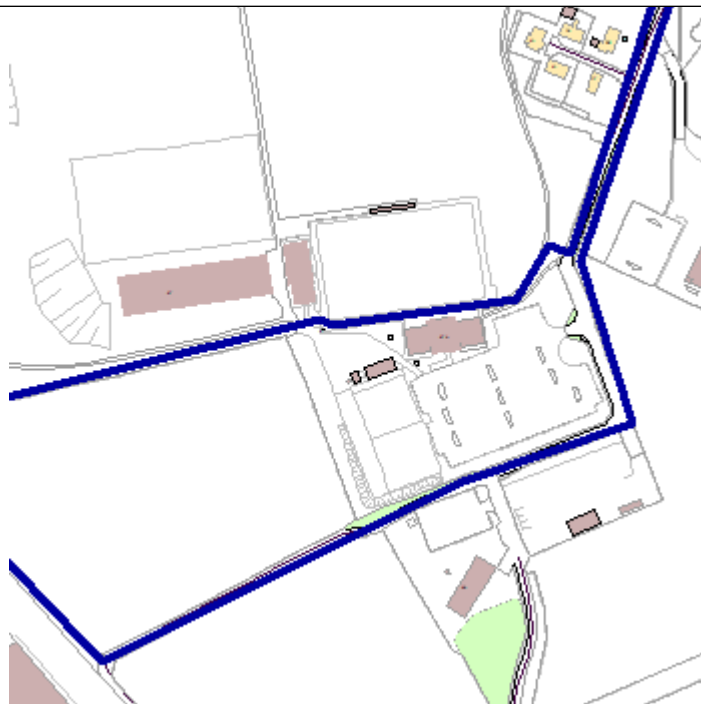
No objections received.

Application has been screened for Environmental Statement under Regulation 12 of The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017, which found that Environmental Statement is not required.

Recommendation is to approve subject to conditions.

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2023.1238.F .pdf
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	NIEA	PRT LA09-2023-1238-F.pdf
Statutory Consultee	Rivers Agency	854532 - Final reply.pdf
Statutory Consultee	NIEA	PRT LA09 2023 1238 F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	consultation in error. NO DFI comments. Gerry
Statutory Consultee	Historic Environment Division (HED)	
	Historic Environment Division (HED)	
Non Statutory	NI Water - Strategic	LA09-2023-1238-F.pdf

Consultee	Applications	
Statutory Consultee	NIEA	PRT LA09-2023-1238-F.pdf
Statutory Consultee	NIEA	PRT - LA09-2023-1238-F.PDF
Statutory Consultee	Rivers Agency	229336 - Final reply.pdf
Statutory Consultee	NIEA	
	NIEA	
Representations:		
Letters of Support	0	
Letters Non Committal	0	
Letters of Objection	0	
Number of Support Petitions and signatures		
Number of Petitions of Objection and signatures		
Summary of Issues		
Characteristics of the Site and Area		
<p>The site consists of a quadrilateral shaped field which slopes from the north to south and is a field of biomass crops consisting of willow and elephant grass. The site is located in the countryside as per the Cookstown Area Plan (CAP). It is located adjacent to the Mid Ulster Sports Arena Complex (MUSA). Indeed, the red line of the application includes the MUSA car park, main pavilion and tennis courts. There is an indoor sports facility immediately to the north along with a 3g 11 a side football pitch. Having said that, the site is not within the area zoned for outdoor sports as part of the Loughry Agri Food Park zoning in the CAP.</p> <p>The site was included within I/2012/0459/F which related to the renovation of the sports hall building at Loughry College. Part of the site was included in I/2012/0192/F which granted permission for an additional changing pavilion at MUSA although the main part of the site was not included within this application.</p> <p>A PAD process has been carried out in relation to this application under LA09/2022/1368/PAD.</p> <p>The character of the site suggests that it is very much part of the MUSA complex. As mentioned, part of it includes some of the MUSA complex and when visiting the main part of the site, I was able to view the site from the tennis courts in MUSA (photo below) as well as from walking along the path to the south of the existing indoor sports hall which is immediately to the north.</p>		



Description of Proposal

The project is to deliver a new competition level 8-lane running track and IFA intermediate level 3G soccer pitch both with class 1 floodlighting. Additionally there will be banked spectator terraces and pathways with bollard lighting, fencing, landscaping and associated site works. Access to the proposal will be from the main entrance to MUSA, off the Tullywiggan Road. A new access pathway will be provided to link the development into the existing MUSA facility.

Essentially, the proposal constitutes an extension of MUSA complex.

The new football pitch is a 90x55m 3G pitch, constructed to IFA intermediate level standards. There is a spectator fence surrounding the pitch with recesses for the dugouts and goalposts. There is a path surrounding the pitch with 5m high stop nets behind each goalpost. There will be an 8 lane running track surrounding the pitch on the outside of the spectator area. The running track will have its own spectator fence (1.2m in height as with the spectator fence surrounding the pitch). There will be a banked spectator area to the north of the running track.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

The relevant policy considerations in relation to this proposal are;

- Cookstown Area Plan 2010 (CAP)
- Mid Ulster Local Development Plan 2030 – draft Plan Strategy
- Strategic Planning Policy (SPPS)
- PPS 21 – Sustainable Development in the Countryside
- PPS 8 – Open Space, Sport and Outdoor Recreation
- PPS 2 – Natural Heritage
- PPS 6- Planning Archaeology and the Built Heritage
- PPS 3 – Access Movement and Parking
- PPS 15 – Planning and Flood Risk

Cookstown Area Plan 2010 (MAP)

The site lies outside any settlement limit defined in the CAP and as such, the prevailing planning policies for the rural area should be applied in this assessment. The site is very closely linked to the MUSA complex although it is not within the designated zoning R2 which promotes outdoor sports facilities.

Mid Ulster Local Development Plan 2030 – draft Plan Strategy

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

Background research into open space provision in Mid Ulster, conducted in 2015 as part of the LDP process, shows that by the year 2030 (based on 2011 population projections), when education provided grass pitches are discounted, Mid Ulster will require 46 new pitches and when education provided grass pitches are included we will have a surplus of 10 pitches. This shows therefore that as a district we are heavily dependent on the use of grass pitches which are owned by educational facilities and would suggest that new 3g pitches should be encouraged where these can be

developed in a sustainable manner.

Strategic Planning Policy Statement (SPPS)

Para. 6.201 states that new open space areas and sporting facilities should be convenient and accessible for all sections of society especially children, older people and those with disabilities. They should also be in keeping with the principle of conservation and help promote and enhance biodiversity as well as achieving high standards of design and landscaping.

This proposal for a new sporting facility is located directly adjacent to and will be linked to MUSA, which is a facility that is accessible to all members of the community and is heavily used by everyone in the local area. Issues regarding conservation and biodiversity are addressed in the discussion below in relation to how the development accords with prevailing policy.

PPS 21 – Sustainable Development in the Countryside

CTY 1 of PPS 21 states that planning permission will be granted for non-residential development in the countryside in a range of circumstances, one of which is outdoor sport and recreation uses, where they are in accordance with PPS8. PPS 8 therefore becomes the default policy consideration for this proposal.

PPS 8 – Outdoor Sport and Recreation

Policy OS 4 of PPS 8 refers to the provision of intensive sports facilities. The J&A for this policy states that intensive sports facilities include stadia, leisure centres, sports halls, swimming pools and other indoor and outdoor sports facilities that provide for a wide range of activities. This proposal will have a raised spectator viewing area but this is not considered to be a stadium as per this policy. Neither will it be built to cater for a “wide range of activities” with just football and athletics / running the sole purpose. Therefore for the purposes of this report, I do not consider that OS 4 is relevant to this proposal.

Policy OS 3 deals with outdoor sport and recreation uses in the countryside and lays out the criteria which must be complied with in order for a development to be acceptable. These criteria are as follows:

- (i) there is no adverse impact on features of importance to nature conservation, archaeology or built heritage;
- (ii) there is no permanent loss of the best and most versatile agricultural land and no unacceptable impact on nearby agricultural activities;
- (iii) there is no adverse impact on visual amenity or the character of the local landscape and the development can be readily absorbed into the landscape by taking advantage of existing vegetation and/or topography;
- (iv) there is no unacceptable impact on the amenities of people living nearby;
- (v) public safety is not prejudiced and the development is compatible with other countryside uses in terms of the nature, scale, extent and frequency or timing

of the recreational activities proposed;

- (vi) any ancillary buildings or structures are designed to a high standard, are of a scale appropriate to the local area and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment;
- (vii) the proposed facility takes into account the needs of people with disabilities and is, as far as possible, accessible by means of transport other than the private car; and
- (viii) the road network can safely handle the extra vehicular traffic the proposal will generate and satisfactory arrangements are provided for access, parking, drainage and waste disposal

In relation point (i), this will be discussed in the policy consideration relating to PPS 6 and PPS 2 so does not need to be repeated here.

The land at present is used for growing biomass crops and does not represent important agricultural land in terms of grazing livestock or growing crops for food production.

As stated above, the site is located immediately adjacent to the MUSA complex which immediately bounds the site to the north and the east. Views of the site are exclusively from the grounds of MUSA and when viewed from here, this proposal will read with the existing indoor facility, football pitches, pavilion and floodlighting which already form part of the MUSA complex.

There are no residential properties which will be affected by this development to a greater extent than is already the case. There is a small cul de sac of five houses which are accessed off the existing access to MUSA and which are located approx. 320m from the centre of the proposed football pitch. There are also houses to the west at Killycolp Road which are approx. 400m away. MUDC Env. Health have been consulted and have responded to say that they accept the findings of the lighting luminance drawing which shows that no impact will be had in terms of floodlighting on the nearest residential properties. Noise will not be an issue from this development given its location in an area already used regularly for sports activities.

The development will form part of MUSA complex and this is accessible by car as well as via a footpath which links the site to Cookstown to allow pedestrian access. DFI Roads have been consulted in relation to the impact on the road network and the agent has also submitted a Transport Assessment Form (TAF). DFI Roads have responded to say that they do not offer objection in relation to this application.

Policy OS 7 of PPS 8 deals with floodlighting of outdoor sport and recreational facilities. It states that floodlighting of sports facilities will only be permitted where there is no unacceptable impact on nearby residential amenity or visual amenity of the area and where public safety is not prejudiced. The impact on residential amenity and visual amenity has been discussed in the assessment of OS 3 above and it has been concluded that there will be no negative impact in either regard. The lighting spill drawings show that there will be no light spill onto any public road and DFI Roads have not objected. Therefore I do not see how the floodlights element of the proposal could

prejudice public safety.

Given all of the above, I am content that the proposal is in accordance with PPS 8, subject to satisfactory assessment against policies within PPS 6 and PPS 2 in order to demonstrate that the proposal will not have an adverse impact on features of importance to nature conservation, archaeology or built heritage.

PPS 2 – Natural Heritage

Given the nature of the development in relation to its size, location and use of floodlighting, a preliminary ecological appraisal has been submitted by the agent, prepared by Aulino Wann and Associates Environmental Consultants. This has been submitted to NIEA for comment.

NIEA NED responded to the proposal to state that they had concerns about lighting overspill of >1Lux falling outside the site boundary and landing on hedgerows to the north west. They express concern that this is will stop bats from forging along this hedgerow post construction. Policy NH 2 of PPS 2 states that planning permission will not be granted for a development proposal that would cause harm to a European protected species, which is what bats are.

In response to this, the agent submitted further drawings and an updated lighting report. Lighting layout 1(uploaded on 29/4/24) shows the lighting spill for an arrangement of 200 lux on the pitch and 200 lux on the track. Layout drawing 2 (uploaded on 26/4/24) shows the spill for an arrangement of 200 lux on and track and 500 lux on the pitch. The lighting report uploaded on 29/4/24 demonstrates the small pockets of spill which will be over 1 lux (1.6 lux maximum) with the maximum of +0.8 on the north west boundary.

I have spoken to the agent and he has advised that the specialist lighting engineers (Delap and Waller) have commented that the lighting can be adjusted once built on site but that modelling software cannot model the required adjustments to show this overspill at a level beneath 1 lux.

Given the small level of lighting over 1 lux and the minimal level of overt brightness involved I feel that if this lighting was to be the end result of the proposal, that whilst it would have a negative impact on bat foraging, it would not be a significant impact. Added to this, I am conscious of the commitment given by the agent, that when actually constructed on the ground, the lighting can be adjusted to ensure there is no unacceptable overspill to the NW boundary.

With all that in mind, I am off the view that this issue of lighting overspill can be managed by way of a condition which would stipulate than no lighting overspill of more than 1 lux shall fall upon the north west boundary, where the area of woodland which concerns NIEA is located.

I have reconsulted NIEA (NED) to ask for their opinion on this approach. I consulted them on 1st May 2024 and sent a reminder on 28th May 2024. At the time of writing they have not responded.

PPS 6 – Archaeology and the Built Heritage

The application is adjacent to two scheduled monuments; a bronze age settlement and a wedge tomb. It is also close to Tullaghoge Fort and within the proposed Tullaghoge ASAI. Policies BH 1 and BH 6 of PPS 6 are therefore relevant.

Historic Environment Division (HED) of the Department for Communities have been consulted and having considered the proposals, have commented that they are satisfied that the proposal satisfies PPS 6 subject to conditions requiring the developer to implement a programme of archaeological works (POW).

The applicant has submitted the archaeological POW on 19th March 2024 and a subsequent response from HED has been received wherein they are content with the POW and have therefore removed the condition requiring the submission and approval of this POW.

PPS 15 – Planning and Flood Risk

The site is of a size which means that a drainage assessment is required in accordance with policy FLD 3 of PPS 15. The site is not within the food plain and accordingly, FLD 1, FLD 2, 4 and 5 do not apply.

A drainage assessment has been submitted and DFI Rivers have been consulted in relation to it. The drainage assessment proposes the use of SUDs in the form of a private soakaway system which will involve percolation into the soil strata. DFI Rivers have not commented upon this form of drainage system as they do not have knowledge and expertise in this area. In absence of DFI Rivers commenting, I have no alternative but to defer to the conclusion of the consultant who prepared the drainage assessment, who have proposed this solution. I am also mindful of the recommendation made by NIEA water management unit on the 11th March 2023 which stated that “*the use of Sustainable Drainage Systems (SuDS) is recommended for pitch drainage and where practicable these SuDS features should discharge into the ground. Any perimeter drains should discharge to the SUDS system and be fitted with a granulate trap which prevents the rubber crumb from entering the drainage system*”.

The use of SUDs in this instance appears to be acceptable and the proposal is in accordance with all policies of PPS 15.

PPS 3 Access, Movement and Parking

The development will form part of MUSA complex and this is accessible by car as well as via a footpath which links the site to Cookstown to allow pedestrian access. The proposal will utilise the existing car parking which is on offer at MUSA. DFI Roads have been consulted in relation to the impact on the road network and the agent has also submitted a Transport Assessment Form (TAF). DFI Roads have responded to say that they do not offer objection in relation this application.

OTHER MATERIAL CONSIDERATIONS

Given the use of microplastics on the 3g pitch and the proximity of this site to the Killymoon River, which eventually flows into the Ballinderry River and eventually on to Lough Neagh, SES have advised through informal consultation that an HRA must be completed and that because the applicant is MUDC, we, as the competent authority must carry out the assessment. MCL consulting have been appointed to carry out the assessment and have concluded that the proposal can be screened out at stage 2: appropriate assessment, from having any significant impacts on a European site, as a result of mitigating measures which will be implemented.

NIEA Water Management Unit, have also been consulted on the use of microplastics in the proposal and have responded to state that they are content with the proposal subject to conditions.

Summary of Recommendation:

Approve is recommended

Given all of the above policy considerations, I am of the view that this proposal is in accordance with all relevant policy and can be approved subject to the following conditions.

Approval Conditions

Condition 1

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

Reason: Time Limit.

Condition 2

No site works of any nature or development shall take place until a fence has been erected around the area specified, on a line to be agreed with the Historic Environment Division (Historic Monuments). No works of any nature or development shall be carried out within the fenced area. No erection of huts or other structures, no storage of building materials, no dumping of spoil or topsoil or rubbish, no bonfires, nor any use, turning or

parking of plant or machinery shall take place within the fenced area. The fence shall not be removed until the site works and development have been completed.

Reason: to prevent damage or disturbance of archaeological remains adjacent to the application site.

Condition 3

No site works of any nature or development shall take place other than in accordance with the programme of archaeological work which was uploaded to the MUDC planning portal on 19th March 2024 .

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

Condition 4

A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work which was uploaded to the MUDC planning portal on 19th March 2024 . These measures shall be implemented and a final archaeological report shall be submitted to Mid Ulster District Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Mid Ulster District Council.

Reason: To ensure that the results of archaeological works are appropriately analysed and disseminated and the excavation archive is prepared to a suitable standard for deposition.

Condition 5

Within 6 weeks of the development becoming operational a lighting survey shall be submitted to MUDC which demonstrates that the overspill of lighting from the site to the existing boundary hedges and woodland area on the north west boundary of the site, does not exceed 1 lux.

Reason: To ensure no harm is caused to bat population.

Condition 6

Construction works, which are audible at any noise sensitive property outside the site, shall only take place between the hours of 07:00 -19:00 hours on Monday to Friday, 07:00 -13:00 hours on Saturday with no works being undertaken on Public/Bank Holidays. Outside of these hours, work at the site shall be limited to emergency works, or construction work that is not audible at any noise sensitive property.

Reason: To protect amenity of nearby residential properties.

Signature(s): Colin McKeown

Date: 17 June 2024

ANNEX	
Date Valid	16 November 2023
Date First Advertised	28 November 2023
Date Last Advertised	28 November 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 35 Tullywiggan Road Cookstown Tyrone BT80 8SG The Owner / Occupier 37 Tullywiggan Road Cookstown Tyrone BT80 8SG The Owner / Occupier Unit 2 Food Business Incubation Centre 45 Tullywiggan Road Cookstown Tyrone BT80 8SG The Owner / Occupier Unit 3 Food Business Incubation Centre 45 Tullywiggan Road Cookstown Tyrone BT80 8SG The Owner / Occupier Unit 4 Food Business Incubation Centre 45 Tullywiggan Road Cookstown Tyrone BT80 8SG The Owner / Occupier Unit 6 Food Business Incubation Centre 45 Tullywiggan Road Cookstown Tyrone BT80 8SG The Owner / Occupier CAFRE 45 Tullywiggan Road Cookstown Tyrone BT80 8SG The Owner / Occupier Franm McGorran Facilities Manager CAFRE - Loughry Campus 76 Dungannon Road Cookstown BT80 9AE The Owner / Occupier Good 4 U Unit 7 Food Business Incubation Centre 45 Tullywiggan Road Cookstown Tyrone BT80 8SG	
Date of Last Neighbour Notification	27 November 2023
Date of EIA Determination	
ES Requested	<events screen>

Planning History

Ref: I/2009/0068/F

Proposals: Replacement of existing grass surface to sports pitch with 3rd generation synthetic surface, proposal also includes floodlighting to pitch

Decision: PG

Decision Date: 24-APR-09

Ref: I/2013/0205/F

Proposals: A two storey extension to existing Food Technology Centre to form a new Food Innovation Centre with classrooms, laboratories, commercial kitchen and seminar facilities

Decision: PG

Decision Date: 14-AUG-13

Ref: I/2014/0344/F

Proposals: Proposed installation of Bio-Mass BOILER ENCLOUSER - APPROX 40SQM

Decision: PG

Decision Date: 17-DEC-14

Ref: LA09/2019/0786/PAD

Proposals: Redevelopment of existing accommodation to include Science centre, admin building and student accommodation

Decision: PAD

Decision Date: 23-JUL-20

Ref: I/2006/0130/F

Proposals: Yard for Rivers Agency - jack-leg unit (office, small kitchen, changing/locker room and toilets. Store- for plant and materials. Wash bay and storage bays for sand hardcore

Decision: PG

Decision Date: 17-JUN-06

Ref: I/2006/1163/F

Proposals: 25m (hub height) tall wind turbine to generate electricity

Decision: PG

Decision Date: 19-FEB-07

Ref: I/1995/0427

Proposals: 33 KV System Improvements

Decision: PG

Decision Date:

Ref: LA09/2023/0176/PAD

Proposals: Redevelopment of the existing educational campus at Loughry to provide modern and improved facilities for staff and students

Decision: PAD
Decision Date: 09-JUN-23

Ref: I/1994/0424
Proposals: 33/11kv change over (Part 1)
Decision: PG
Decision Date:

Ref: LA09/2017/0852/PAD
Proposals: Replacement of buildings with new. Re-development keeping within existing footprint.
Decision: PAD
Decision Date: 02-MAR-23

Ref: I/2008/0782/F
Proposals: Proposed replacement dwelling with car port
Decision: PG
Decision Date: 12-FEB-09

Ref: I/1996/0228
Proposals: Proposed Incubation Units
Decision: PG
Decision Date: 09-OCT-96

Ref: I/2012/0224/F
Proposals: The construction of a 25m x 95m engineered fabric building to house 3no. synthetic sports pitches. The building will be a steel frame construction and shall include internal floodlighting
Decision: PG
Decision Date: 05-SEP-12

Ref: I/2011/0489/F
Proposals: Proposed additional changing pavillion
Decision: PG
Decision Date: 16-FEB-12

Ref: I/2009/0546/F
Proposals: Proposed 2 storey sports pavillion
Decision:
Decision Date:

Ref: I/2001/0528/F
Proposals: Pavillion including changing room facilities
Decision: PG
Decision Date: 29-MAR-02

Ref: I/2003/0184/F

Proposals: Clubhouse and stores, carpark, access road and endurance area (Amended Scheme)

Decision: PG

Decision Date: 15-APR-03

Ref: I/2012/0192/F

Proposals: Proposed additional changing pavilion

Decision: PG

Decision Date: 02-AUG-12

Ref: I/2014/0316/F

Proposals: Demolition of existing building and construction of new build office building to accommodate 85 staff, including 44 car parking spaces

Decision: PG

Decision Date: 10-DEC-14

Ref: LA09/2023/0296/PAN

Proposals: Redevelopment of CAFRE Loughry Campus including demolition of existing Packaging, Administration, Science and Food Education buildings and development of replacement Science building, Student Hub, staff facilities building, student residential accommodation and energy centre; reconfiguration of surface level car parks; provision of cycle parking facilities; enhanced landscaped and open spaces; and improvements to elevational treatments to existing buildings.

Decision: PY

Decision Date: 24-MAR-23

Ref: LA09/2023/1238/F

Proposals: The project is to deliver a new competition level 8-lane running track and IFA intermediate level 3G soccer pitch both with class 1 floodlighting. Additionally there will be banked spectator terraces and pathways with bollard lighting, fencing, landscaping and associated site works.

Decision:

Decision Date:

Ref: LA09/2022/1368/PAD

Proposals: New 8 lane running track, with 3G pitch inside, Changing facilities and associated landscaping

Decision: PAD

Decision Date: 10-OCT-22

Ref: LA09/2023/0351/PAN

Proposals: Creation of an outdoor running track, formation of spectator viewing area, 3G sports pitch, erection of lighting columns, access alterations and associated development

Decision: PY

Decision Date: 30-MAR-23

Ref: I/2006/0815/F

Proposals: Floodlighting to two existing sports pitches, construction of machine store and minor ancillary works

Decision: PG

Decision Date: 16-OCT-06

Ref: I/2000/0455/F

Proposals: Development of pitches, running track and carpark

Decision: PG

Decision Date: 08-APR-02

Ref: I/2004/0735/F

Proposals: Extension to Dwelling and New Access

Decision: PG

Decision Date: 15-OCT-04

Ref: I/2008/0082/O

Proposals: Dwelling and garage

Decision: PG

Decision Date: 01-OCT-10

Ref: I/2010/0549/F

Proposals: New single storey dwelling and associated parking/landscaping

Decision: PG

Decision Date: 19-AUG-11

Ref: LA09/2015/0158/F

Proposals: Proposed dwelling and garage to supercede planning permission I/2010/0549 (amended scheme)

Decision: PG

Decision Date: 14-JAN-16

Ref: LA09/2015/1067/F

Proposals: Retention of mobile home to facilitate the construction of a new dwelling on site

Decision: PG

Decision Date: 16-FEB-16

Ref: I/1994/0439

Proposals: Electricity System Improvement (Part 5)

Decision: PG

Decision Date:

Ref: I/2012/0459/F

Proposals: Proposed extension and renovations to sports hall building

Decision: PG
Decision Date: 12-APR-13

Ref: I/1995/0073
Proposals: 33 KV line (system improvement)
Decision: PG
Decision Date:

Ref: LA09/2015/0775/NMC
Proposals: Demolition of Existing Building and Construction of New Build Office Building to Accommodate 85 Staff, including 44 Car Parking Spaces
Decision: CG
Decision Date: 30-SEP-15

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Roads Consultation full approval.docx
Environmental Health Mid Ulster Council-LA09.2023.1238.F .pdf
Historic Environment Division (HED)-
NIEA-PRT LA09-2023-1238-F.pdf
Rivers Agency-854532 - Final reply.pdf
NIEA-PRT LA09 2023 1238 F.pdf
DFI Roads - Enniskillen Office-consultation in error.

NO DFI comments.

Gerry
Historic Environment Division (HED)-
Historic Environment Division (HED)-
NI Water - Strategic Applications-LA09-2023-1238-F.pdf
NIEA-PRT LA09-2023-1238-F.pdf
NIEA-PRT - LA09-2023-1238-F.PDF
Rivers Agency-229336 - Final reply.pdf
NIEA-
NIEA-

Drawing Numbers and Title

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 2 July 2024	Item Number: 5.11
Application ID: LA09/2024/0090/LBC	Target Date: 9 May 2024
Proposal: Reducing the reservoir's water level to access necessary repairs and suggesting 2 new valves configuration along with pipes and headwall	Location: Dungannon Park, Moy Road, Dungannon
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: MUDC Circular Road Dungannon BT71 6DT	Agent Name and Address: MEA (Ltd) 3 Grange Road Toomebridge BT41 3QE
Executive Summary: Council application to undertake works to Dungannon Lake dam wall.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	Rivers Agency	189593 - FINAL Response 29 March 2024.pdf
Statutory Consultee	Historic Environment Division (HED)	

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The site is within the grounds of Dungannon Park which is ~1.5 km to the SE of Dungannon town centre. It is within the Dungannon Settlement as defined in the Dungannon and South Tyrone Area Plan 2010.

The application site is at the dam wall at the south-eastern end of the lake within the park. Dungannon Park consists of the lake, wooded areas, informal amenity grassland, playing fields, allotments, caravan park, etc. Immediately adjacent to the dam wall is the lake to the north-west, a small area of maintained amenity grassland on the low side of the dam (the south-east), beyond which and along the south-west and north-east is mature woodland.

The general area surrounding the park is comprised of detached houses with gardens to the immediate north-east, a combination of commercial and residential premises at Moygashel to the south, agricultural grassland to the west, and open parkland and dwellings to the north-west and north.

Description of Proposal

This is a Listed Building Consent to reduce the reservoir's water level to access necessary repairs to the listed dam and suggesting 2 new valves configuration along with associated pipes and headwall.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

Representations

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

Planning History

A planning search identified a number of applications. Most of these were in relation to the development of the overall park and amenity space.

M/1986/0469 – Development of lands for active and passive recreation – withdrawn

M/1986/0564 - 19.5 acres of playing fields, 45 acres of park (including 11 acres lake) - granted

M/1986/056401 - 19.5 acres of playing fields, 45 acres of park (including 11 acres lake) - granted

M/1989/0006 - Temporary toilets and changing accommodation at playing fields – granted

M/1997/0094B - Transit Caravan Park – granted.

M/2013/0588/F - Shower/toilet block, 12 additional caravan parking bays, etc. – granted.

LA09/2023/0917/LBC - Reduce reservoir water level for inspection of dam wall. - granted

LA09/2024/0088/LDP - Repair of dam wall and installation of new valves and pipeworks – pending consideration

Mid Ulster Development Plan 2030 – Draft Plan Strategy

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th

September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

Dungannon and South Tyrone Area Plan 2010

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

Plan Policy SETT1 – Settlement Limits

Favourable consideration will be given to development proposals within settlement limits including zoned sites provided a number of criteria are met. It is considered that if the application meets all the criteria in Policy BH 8 Extension or Alteration of a Listed Building, and Policy BH 11 Development affecting the Setting of a Listed Building within PPS 6 – Planning, Archaeology and Built Heritage, it will also meet the criteria in SETT1.

SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance. No conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and those of retained policies regarding issues relevant to this application.

PPS 6 – Planning, Archaeology and Built Heritage

BH 8 Extension or Alteration of a Listed Building,

BH 11 Development affecting the Setting of a Listed Building

The application site is the dam at the south-eastern end of Dungannon Lake in Dungannon Park. The dam is Grade B1 listed (HB13 16 019). The application is to lower the water level of the lake to ascertain and undertake necessary repairs to the dam, and two new valve configurations along with associated pipes and headwall.

There are two existing valves, A and B and pipelines (please see figure 1) within the lake that are used to lower the water level of the lake. These connect to pipelines on the low side of the dam for water release.



Figure 1 – Existing Site Plan



Photograph of dam wall.

The proposal is to install a silt screen around the existing valve during the lowering operation. This will prevent silt entering the watercourse during operations.

It is also proposed to install new pipework connecting the existing pipework at the base of the dam to two new sluice valves C and D (please see figure 2). These will be accessed via a new concrete slabbed manhole and there will be a headwall at this location. All new pipework and valves will be underground.

When this valve, pipework and screen have been completed, the water level of the lake will be lowered to enable an inspection of the dam wall to be undertaken. Currently it is uncertain what repairs will be required, as this can only be ascertained after the water level has been lowered and a complete inspection carried out.



Figure 2 – Proposed plan.

As the dam is Grade B1 listed, Historic Environment Division were consulted as the statutory authority. HED are content with the proposal, and it is therefore considered it meets all the criteria in BH8 and BH11 in PPS 6

The proposal is recommended for approval as it complies with Policy SETT1 and with Policies BH8 and BH11 in PPS 6.

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

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

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

Condition 2

The proposed alterations shall be carried out, strictly in accordance with that as detailed on approved drawing 03 Rev01 date received 16 April 2024 and drawing 04 date received 22 January 2024.

Reason: To ensure that the proposals respect the character of the listed asset and is compliant with Policies BH 8 (Extension or Alteration of a Listed Building) and BH11 (Development affecting the Setting of a Listed Building) of the Department's Planning, Policy Statement 6: Planning, Archaeology and the Built Heritage.

Condition 3

The proposed paladin fencing and associated gates shall have a maximum height of 1.2 metres from finished ground level.

Reason: To ensure the detailed design respects the listed asset in terms of height.

Condition 4

The proposed silt curtain shall be temporary for a period of 5 years from the date of approval of this application. Immediately upon the expiration of the 5-year period from the approval of this application, the silt curtain and any associated equipment must be removed and the site reverted to its current condition, unless otherwise agreed in writing with the Council in conjunction with HED (Historic Buildings) via a renewed application.

Reason: To ensure the essential character of the setting of the asset is retained and its features of special interest remain intact and unimpaired.

Condition 5

Existing mature trees and planting shall be retained in perpetuity unless otherwise shown on the application drawings submitted.

Reason: To protect the character and appearance of the setting of the listed asset.

Condition 6

There shall be no props or fixings physically connected to the existing listed structure unless explicitly shown on the application drawings submitted.

Reason: In the interests of ensuring that no damage is caused to the asset.

Condition 7

No listed fabric shall be removed from the site, unless otherwise agreed in writing with HED (Historic Buildings) and the Council.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the asset under Section 80 of The Planning Act (NI) 2011.

Signature(s): Mark Edgar

Date: 22 May 2024

ANNEX	
Date Valid	25 January 2024
Date First Advertised	5 February 2024
Date Last Advertised	5 February 2024
Details of Neighbour Notification (all addresses) The Owner / Occupier NN Not Required For LBC	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: M/1986/0469 Proposals: DEVELOPMENT OF LANDS FOR ACTIVE AND PASSIVE RECREATION Decision: WITHDR Decision Date: Ref: M/2004/0207/F Proposals: replacement dwelling Decision: PG Decision Date: 28-MAY-04 Ref: M/1978/044301 Proposals: DWELLING HOUSE Decision: PG Decision Date: Ref: M/1978/0443 Proposals: ERECTION OF A PRIVATE DWELLING Decision: PG Decision Date: Ref: LA09/2018/0699/F Proposals: Proposed two storey extension to side / front of house	

Decision: PG

Decision Date: 26-JUL-18

Ref: LA09/2020/1585/F

Proposals: Proposed 2No. storey extension to western facade of house with single storey glazed link. New stand alone 2no storey garage and loft to eastern end of driveway.

Decision: PG

Decision Date: 29-JAN-21

Ref: M/1998/0606

Proposals: Extension to Dwelling

Decision: PG

Decision Date:

Ref: M/2013/0588/F

Proposals: Proposed New Build Shower/Toilet Block for Caravan users and associated office /store/laundry & minor alterations to existing pavillion & provision of 12 no. additional caravan parking bays, extension to car park & alterations to ex. DRD Road on Ballynorthland Demense to improve vehicular traffic movement.

Decision: PG

Decision Date: 30-JUL-14

Ref: M/1997/0094B

Proposals: Transit Caravan Park

Decision: PG

Decision Date:

Ref: M/1989/0006

Proposals: Temporary toilets and changing accommodation at playing fields

Decision: PG

Decision Date:

Ref: M/1986/0564

Proposals: 19.5 ACRES OF PLAYING FIELDS, 45 ACRES OF PARK (INCLUDING 11 ACRE LAKE)

Decision: PG

Decision Date:

Ref: M/1986/056401

Proposals: 19.5 ACRES OF PLAYING FIELDS, 45 ACRES OF PARK (INCLUDING 11 ACRE LAKE)

Decision: PG

Decision Date:

Ref: LA09/2024/0090/LBC

Proposals: Reducing the reservoir's water level to access necessary repairs and suggesting 2 new valves configuration along with pipes and headwall

Decision:

Decision Date:

Ref: LA09/2024/0088/LDP

Proposals: Works involve the repair of the existing dam wall fish screen and the installation of new valves and pipeworks along with the construction of a new headwall and chamber

Decision:

Decision Date:

Ref: LA09/2023/0917/LBC

Proposals: MEA has been appointed by MUDC to perform operations at Dungannon Park Reservoir. Our objective is to reduce the water level in the reservoir for a thorough inspection of the reservoir wall. Additionally, we have proposed the installation of new valves and pipeline work, along with the construction of a chamber and headwall.

Decision: CG

Decision Date: 24-OCT-23

Summary of Consultee Responses

Historic Environment Division (HED)-
Rivers Agency-189593 - FINAL Response 29 March 2024.pdf
Historic Environment Division (HED)-

Drawing Numbers and Title

Site Location Plan Plan Ref: 01
Existing Plans Plan Ref: 02
Site Layout or Block Plan Plan Ref: 03
Proposed Plans Plan Ref: 04
Site Layout or Block Plan Plan Ref: 03 Rev01

Notification to Department (if relevant)

Not ApplicableNot Applicable

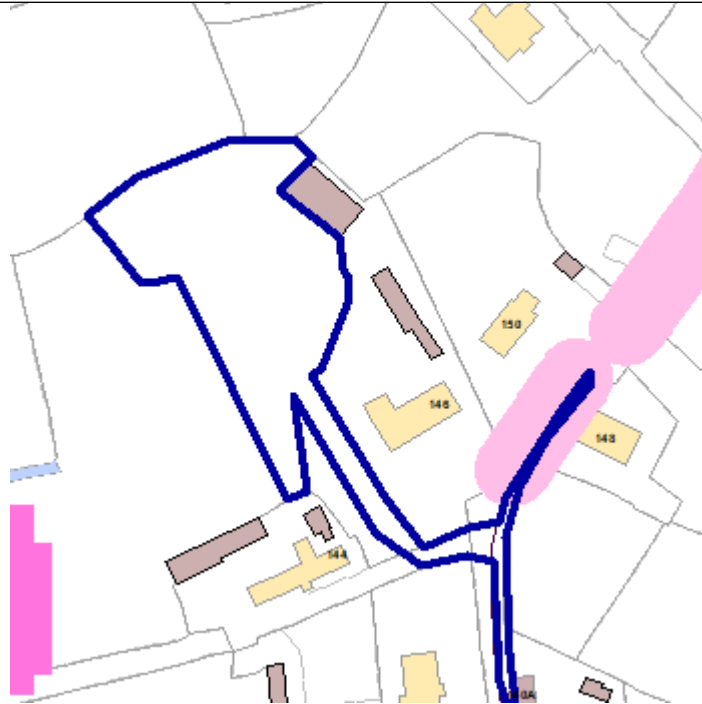


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 2 July 2024	Item Number: 5.12
Application ID: LA09/2024/0144/O	Target Date: 21 May 2024
Proposal: Proposed dwelling and garage	Location: Approx 50M to rear of No 146 Washingbay Road Coalisland
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Oliver Brady 146 Washingbay Road Dungannon BT71 5EQ	Agent Name and Address: Mr Eamonn Cushnahan 4 Glenree Avenue Dungannon BT71 6XG
Executive Summary: No third party representations have been received. The application site is not at a focal point or at a crossroads so does not meet all the criteria in CTY 2a in PPS 21 Sustainable Development in the Countryside.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Outline & RS1 form.DOCXDC Checklist.doc
Statutory Consultee	Historic Environment Division (HED)	

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The application site is in the countryside and outside any settlement limits as defined in

the Dungannon and South Tyrone Area Plan 2010. The site is approximately 3km west of Coalisland and 6km north of Tamnamore. The surrounding area is rural in character and the predominant land uses are agricultural fields, groups of farm buildings and detached dwellings on single plots. The site is an irregular shaped agricultural field to the rear of No.144 and No.146 Washingbay Road. The slopes upwards from the west towards the northeast boundary.

Description of Proposal

This is an outline application for proposed dwelling and garage at Approx 50M to rear of No 146 Washingbay Road, Coalisland.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

Representations

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

Planning History

No planning history at the site.

Adjacent site to the northwest

LA09/2023/0683/O - Outline permission for a proposed dwelling at an existing cluster - Adjacent to and SW of 150A Washingbay Road, Coalisland – permission granted 17th May 2024.

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

In light of this, the draft Plan Strategy does not yet carry determining weight.

Dungannon and South Tyrone Area Plan 2010

The site is outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010 and is not within any other designations or zonings in the Plan. The site is located within the Greenbelt as defined in the Dungannon and South Tyrone Area Plan 2010. The introduction of PPS21 resulted in Greenbelts being removed and a new suite of policies for development in the countryside.

SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out that

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

Planning Policy Statement 21

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for one dwelling in a cluster CTY 2a is the relevant policy in the assessment.

CTY 2a – New Dwellings in existing clusters

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided that all criteria are met. The cluster of development lies outside of a farm and consists of four or more buildings. There are dwellings at No.144 and No.146 Washingbay Road to the south of the site. There are two dwellings north and northeast of the red line of the site (150A and 150B). There are dwellings at No. 142, 148, 148A and 150 further south at the roadside. Thus, I am content that there are at least four dwellings within the cluster. The cluster is read together and appears as a visual entity in the local landscape. The first and second criteria of CTY 2a have been met.

The third criterion of CTY 2a requires the cluster to be associated with a focal point such as a social/community building/facility or is located at a crossroads. The agent acknowledges in the supporting statement that the site is not associated with a focal point or a crossroads. However adjacent and northeast of the site LA09/2023/0683/O was approved on the 17th May 2024 as a dwelling in a cluster. This application was like this application under assessment in that the site was not at a focal point or crossroads. The application was approved at planning committee as it was deemed to be within the

spirit of the cluster policy and was granted as an exception to CTY 2a. I consider as the application site is adjacent to LA09/2023/0683/O it is also within the spirit of the cluster policy. Members may wish if they want to give a different weight to the material consideration of the recent neighbouring approval which was granted as an exception to Policy CTY 2a.

The site is located north of existing dwellings at No.144 and No.146. To the east of the site are two sheds and to the west and abutting the boundary are two small buildings and a horse arena. I consider that the site is bounded on at least two sides with other development in the cluster and therefore the proposal meets the fourth criterion of Policy CTY2a.

I consider the site is set back from the public road and has development on eat least two sides. The proposal will not add or create a ribbon of development and I believe will round off the existing cluster.

I consider a suitably sited dwelling would not create unacceptable overlooking, dominance or loss of light to neighbouring dwellings.

In conclusion, the proposal is considered contrary to the third criterion held within Policy CTY 2a. Policy CTY 2a states that all criteria must be met, therefore the proposal is contrary to policy and as such refusal is recommended.

CTY 13 – Integration and Design of Buildings in the Countryside and CTY 14 – Rural Character

Policies CTY 13 and CTY 14 are also applicable in relation to the proposal. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. However, given the limited views available of the site from public viewpoints and existing landscaping as shown in figure 1, I consider that the impact of a suitably designed dwelling would be minimal at this site if approval was forthcoming.



Figure 1 – image from the site visit of the application site.

PPS 3 – Access, Movement and Parking

The site does not access onto a protected route, so I have no concerns in this regard.

DfI Roads were consulted on the application and have offered no objection to the proposal, subject to condition if approval were to be forthcoming. I am content that more than 30m of hedgerow will not need to be removed to provide the visibility splays, so an ecological assessment is not required in this instance.

Other Considerations

I checked the statutory map viewers, and I am satisfied there are no other ecological, historical or flooding issues at the site.

Historic Environment Division were consulted as the site is within the statutory 200m buffer zone of archaeological site and monument TYR047:011 which is an enclosure. HED responded and has no objections to the proposal.

Summary of Recommendation:

Refuse is recommended

The proposal is recommended for refusal as it does not meet all the criteria in CTY 2a in PPS 21 Sustainable Development in the Countryside.

Refusal Reasons

Reason 1

Contrary to CTY 1 - Development in the Countryside in PPS 21 as there is no overriding reason why the proposed development is essential in this rural location and could not be located within a settlement.

Reason 2

Contrary to CTY 2a - New Dwellings in Existing Clusters in PPS 21 in that the cluster is not associated with a focal point or is not located at a crossroads.

Signature(s): Gillian Beattie

Date: 12 June 2024

ANNEX	
Date Valid	6 February 2024
Date First Advertised	19 March 2024
Date Last Advertised	20 February 2024
Details of Neighbour Notification (all addresses) The Owner / Occupier RNN -150 Washingbay Road Coalisland Tyrone BT71 4QE The Owner / Occupier 148A Washingbay Road Coalisland Tyrone BT71 4QE The Owner / Occupier 140 Washingbay Road Coalisland Tyrone BT71 4QE The Owner / Occupier 144 Washingbay Road Coalisland Tyrone BT71 4QE The Owner / Occupier 142 Washingbay Road Coalisland Tyrone BT71 4QE The Owner / Occupier 146 Washingbay Road Coalisland Tyrone BT71 4QE The Owner / Occupier RNN 140A Washingbay Road Coalisland Tyrone BT71 4QE The Owner / Occupier 148 Washingbay Road Coalisland Tyrone BT71 4QE	
Date of Last Neighbour Notification	5 March 2024
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: M/1986/0449 Proposals: EXTENSION AND IMPROVEMENTS TO DWELLING Decision: PG Decision Date: Ref: M/2003/1299/O Proposals: Dwelling and garage Decision: PG Decision Date: 12-NOV-03 Ref: LA09/2024/0144/O	

Proposals: Proposed dwelling and garage

Decision:

Decision Date:

Ref: LA09/2023/0683/O

Proposals: Outline permission for a proposed dwelling at an existing cluster

Decision:

Decision Date:

Ref: M/2015/0073/O

Proposals: Proposed infill site for dwelling

Decision: PG

Decision Date: 31-MAR-15

Ref: LA09/2015/0490/RM

Proposals: Proposed dwelling and domestic garage

Decision: PG

Decision Date: 15-OCT-15

Ref: M/1980/0418

Proposals: ERECTION OF BUNGALOW

Decision: PG

Decision Date:

Ref: LA09/2020/0034/O

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

Decision: WDN

Decision Date: 07-JUN-21

Ref: M/1979/0183

Proposals: IMPROVEMENTS TO EXISTING DWELLING

Decision: PG

Decision Date:

Ref: M/1994/0504

Proposals: Site for dwelling and garage

Decision: WITHDR

Decision Date:

Ref: M/1979/0624

Proposals: BUNGALOW

Decision: PG

Decision Date:

Ref: M/1993/0170

Proposals: Replacement Bungalow

Decision: PG
Decision Date:

Ref: M/2014/0213/RM
Proposals: Proposed replacement dwelling
Decision: PG
Decision Date: 24-JUL-14

Ref: LA09/2018/1640/F
Proposals: Ground floor extension to rear of dwelling to accommodate rear sitting room, ground floor toilet and additional utility space
Decision: PG
Decision Date: 05-MAR-19

Ref: M/2013/0427/O
Proposals: Replacement dwelling and garage
Decision: PG
Decision Date: 04-NOV-13

Ref: LA09/2021/0384/RM
Proposals: Replacement rural type storey and half dwelling and garage.
Decision: PG
Decision Date: 08-JUN-21

Ref: M/2005/1799/RM
Proposals: Proposed dwelling house
Decision: PG
Decision Date: 25-NOV-05

Ref: M/1994/0680
Proposals: Site for Dwelling and Garage
Decision: PG
Decision Date:

Ref: M/2000/0394/O
Proposals: Dwelling and Domestic Garage
Decision: PG
Decision Date: 20-OCT-00

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Roads Outline & RS1 form.DOCXDC Checklist.doc
Historic Environment Division (HED)-

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Site Layout or Block Plan Plan Ref: 03

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 2 July 2024	Item Number: 5.13
Application ID: LA09/2024/0155/O	Target Date: 24 May 2024
Proposal: Dwelling and garage	Location: Approx 110M West of 39 Castle Road Cookstown
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Ricky Boyd 39 Castle Road Cookstown BT80 8TN	Agent Name and Address: C McIlvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
Executive Summary: This outline application for a dwelling and garage is brought to the Planning Committee with a recommendation for refusal. The proposal does not offend planning policy. However, through consultation with DfI Roads, it is considered that the proposal would impact on the construction works associated with the planned route of the A29 Cookstown Bypass project and prejudice the implementation of this strategically significant Northern Ireland Executive Flagship project. It is for this reason alone that a recommendation for refusal is provided.	

Case Officer Report

Site Location Plan

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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads REFUSAL.DOCX
Statutory Consultee	NI Water - Single Units West	LA09-2024-0155-O.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response.pdf
Statutory Consultee	NI Water - Single Units West	LA09-2024-0155-O.pdf
	Environmental Health Mid Ulster Council	

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The site of the proposed development is located on the inside edge of the Cookstown settlement limit as defined in the Cookstown Area Plan 2010. The white land site comprises an agricultural field which is set adjacent to and east of no. 33 Castle Road, which comprises a dwelling and farm buildings. The site encompasses the roadside verge which slopes down from the road. On the site is an old unlisted wall structure. The eastern boundary of the site, which shares its border with the settlement limit, is defined partially by post and wire fencing. The southern site boundary is undefined and the western boundary is also made up of post and wire fencing. The wider surrounding environment consists of a mix of various land uses. To the west and north west of the site is the built up form of Cookstown. To the north east and east of the site are more agricultural fields with a number of farm buildings and dwellings along the Castle Rd. Approximately 150m south of the site is the Killymoon Demesne and 100m south west of the site is a waste water treatment works.

Description of Proposal

This is a full application for a dwelling and garage.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

Relevant Planning History

None

Cookstown Area Plan 2010

The site of the proposed development is located on the inside edge of the Cookstown settlement limit as defined in the Cookstown Area Plan 2010. Map no. 36a (Cookstown) of the CAP 2010 shows the site is within urban white land. The eastern boundary of the site marks the edge of the settlement limit and the same map also denotes the proposed location of the new Eastern Distributor Road. DfI Roads Western Division are progressing the design and development of the Northern Ireland Executive Flagship project, which is also known as the Cookstown Bypass.

- Plan Policy SETT 1 Settlement Limits

Favourable consideration will be given to development proposals within settlement limits including zoned sites. This is provided a list of criteria is met.

The proposal is for a single dwelling and garage. This is an outline application and therefore final design details are withheld. It is considered that a well design dwelling with a ridge height to match that of no. 33 Castle Road would be sensitive to the urban context to the west of the site and rural context to the east of the site.

The closest dwelling to the site is that which is adjacent and west – no. 33 Castle Rd, and this land is within the ownership of the applicant. Across the road from the site to the north is third party dwelling no. 30 Castle Rd. Given the application site sits much lower than this land I anticipate there will be no loss of amenity for the occupants of this dwelling as well. There is a separation distance of over 200 metres from the site to the next third part dwelling to the east of the site. Given this, It is expected that the proposal would result in no loss to nearby residential amenity. No third party objections have been received from notified neighbours. The proposal involves the creation of a new access onto the main road and splays are provided in both directions on the site location map. DfI Roads were consulted and have not appraised the proposed access arrangements for reasons outlined below and under the consideration of PPS 3: Access, Movement and Parking.

- Plan Policy SETT 2 Protection of Access

The proposal does not encroach on any protected access points as pinpointed on the Cookstown settlement limit map. Elsewhere within settlements, there will be a presumption against development proposals that would prejudice future potential development opportunities. DfI Roads have recommended that the application be refused for the reason that ‘the proposed development impacts on the construction works associated with the planned route of the A29 Cookstown bypass project, as provided for within the associated Notice of Intention to make a Direction Order and would, if permitted, prejudice the implementation of this strategically significant Northern Ireland Executive Flagship project. Given the above there is a presumption against the outline proposal for a dwelling and garage at this site.

Representations

No third party representations have been received.

Other Constraints

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

This site is not located within or adjacent to any listed buildings / structures.

There are no issues relating to flooding.

Mid Ulster District Council Draft Plan Strategy 2030

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

SPPS – Strategic Planning Policy Statement for Northern Ireland

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

Planning Policy Statement 7: Quality Residential Environments

Policy QD1 of PPS 7 states that planning permission will be granted for new residential development only where it is demonstrated that it will create a quality and sustainable residential environment. It indicates that housing will not be permitted in established residential areas where it would result in unacceptable damage to local character, environmental quality or residential amenity of these areas. The Policy sets out criteria which all residential development proposals are expected to meet.

This is an outline application for a dwelling and garage and therefore finalized design details, including landscaping, are withheld. It is however considered that a dwelling of an appropriate scale, drawing upon the best local traditions of form, materials and detailing, could respect the site and surrounding context.

There are no nearby features of the archaeological and built heritage and thus the proposal will not impact such.

Given the proposal is for a single dwelling there is no requirement for the provision of public open space. It is expected that the site is adequately sized to allow for the provision of private amenity space and parking. The development is located within the settlement limit of Cookstown and is therefore within convenient walking distance to public transport services in and around the town.

At this outline stage, there is no reason to suspect that a dwelling at this site would result in any unacceptable adverse impacts on neighbouring properties by way of overlooking, loss of light, overshadowing, noise or other disturbance.

Policy QD 1 also stipulates that proposals cannot create conflict with adjacent land uses. Environmental Health were consulted in this application and raised concerns about the potential for odour associated with the nearby waste water treatment works to the south west of the site. No objection to the proposal, nor any conditions recommended for inclusion with any approval decision notice, are included to this regard. Environmental Health only recommend that future occupants of the proposed development be made aware of the existence of the nearby waste water treatment works and the potential for associated odour nuisance at times. Concerns were also raised about the proposed A29 Cookstown Bypass. Environmental Health provide the comment that although the bypass is not constructed, it has the potential to impact residential amenity at the site for the dwelling and garage once completed. Again, no objection is raised to this regard, nor conditions recommended for inclusion with the decision notice, though Environmental Health provide a recommendation that all habitable rooms be provided with a standard of glazing which should help to mitigate issues arising from noise associated with the bypass (full details in response). As already discussed in the report, DfI Roads have recommended that the application be refused on the basis that it will impact the construction works for the bypass. Given all of the above, the proposal fails to comply with Policy QD 1 in that it would, if permitted, create conflict with adjacent land uses – namely, the Cookstown Bypass.

Planning Policy Statement 3: Access, Movement & Parking

The proposal involves the creation of a new access onto the public road. DfI Roads have not appraised the access arrangements given their outright objection to the proposal on

a whole for reasons outlined above. It is considered that the access would not prejudice road safety or significantly inconvenience the flow of traffic. The proposed access arrangements do not offend Policies AMP 2 and AMP 3 of PPS 3 at this outline stage.

A Planning Strategy for Rural Northern Ireland

Policy DES 2 Townscape requires development proposals in towns and villages to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials. It is considered that the site can accommodate a well designed dwelling that can read as part of the wider area and as such will be sympathetic.

Recommendation

The proposal does not offend planning policy. However, the planning department of Mid Ulster Council must hold weight to issues raised by its statutory consultees. It is therefore recommended that the application be refused for the reason that the proposal, if approved, would impact on the construction works associated with the planned route of the A29 Cookstown Bypass project and prejudice the implementation of this strategically significant Northern Ireland Executive Flagship project.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal, if approved, would impact on the construction works associated with the planned route of A29 Cookstown Bypass project and prejudice the implementation of this strategically significant Northern Ireland Executive Flagship project.

Signature(s): Benjamin Porter

Date: 11 June 2024

ANNEX	
Date Valid	9 February 2024
Date First Advertised	20 February 2024
Date Last Advertised	20 February 2024
Details of Neighbour Notification (all addresses) The Owner / Occupier 30 Castle Road Cookstown Tyrone BT80 8TN The Owner / Occupier 31 Castle Road Cookstown Tyrone BT80 8TN The Owner / Occupier 33 Castle Road Cookstown Tyrone BT80 8TN The Owner / Occupier 39 Castle Road Cookstown Tyrone BT80 8TN	
Date of Last Neighbour Notification	20 February 2024
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: LA09/2016/0616/DC Proposals: Discharge Archaeological Condition No's 7 and 8 of Planning Approval I/2014/0179/O Decision: AL Decision Date: 02-JUN-16 Ref: LA09/2024/0155/O Proposals: Dwelling and garage Decision: Decision Date: Ref: I/2014/0179/O Proposals: Erection of dwelling and detached garage Decision: PG Decision Date: 01-OCT-14 Ref: I/2015/0053/RM Proposals: Erection of dwelling and detached garage	

Decision: PG
Decision Date: 07-JUL-15

Ref: LA09/2023/0286/F
Proposals: Stable and riding area
Decision: WDN
Decision Date: 20-SEP-23

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Roads REFUSAL.DOCX
NI Water - Single Units West-LA09-2024-0155-O.pdf
Environmental Health Mid Ulster Council-Planning response.pdf
NI Water - Single Units West-LA09-2024-0155-O.pdf
Environmental Health Mid Ulster Council-

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not ApplicableNot Applicable

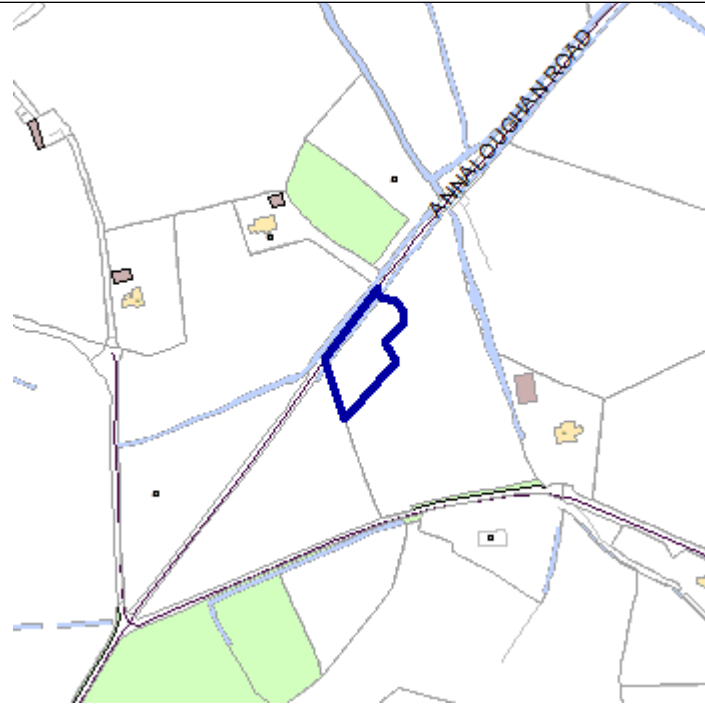


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 2 July 2024	Item Number: 5.14
Application ID: LA09/2024/0262/F	Target Date: 14 June 2024
Proposal: Permission to complete dwelling commenced - approved under M/2005/2046/O and M/2009/0130/RM	Location: 100M SE of 16C Annaloughan Road Augher
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Stephen Maxwell 266 Favor Royal Road Augher County Tyrone BT77 0EG	Agent Name and Address: Gary Maxwell 41 Annaghilla Road Augher BT77 0BR
Executive Summary: This application is being presented to Committee because a fallback position, that the dwelling approved on site has lawfully commenced, has not been confirmed with a Certificate of Lawfulness.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	22-03-2024.DOCX

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The application site is located in the rural countryside, as defined within the Dungannon and South Tyrone Area Plan 2010, approx. 1.7km northeast of Augher.

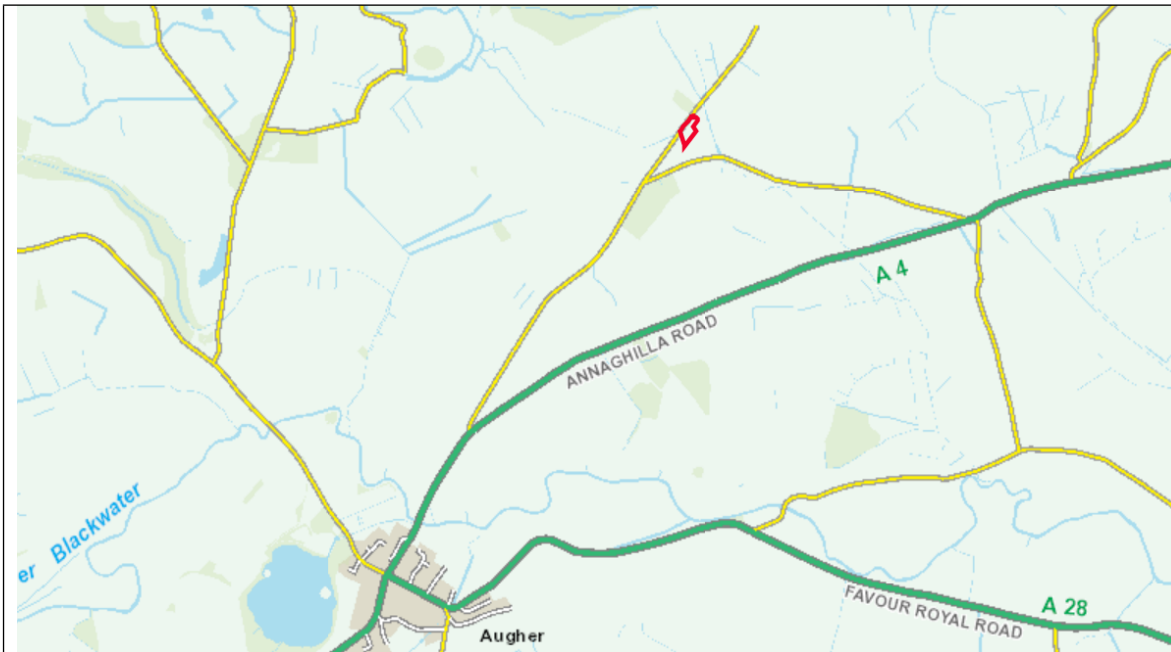


Fig 1: Site outlined red.



Fig 2: Site outlined red.

The site is a relatively flat rectangular shaped plot. It comprises the roadside frontage and most western corner of a much larger agricultural field located adjacent the Annaloughan Road, a minor rural road.

The roadside frontage boundary of the site appears to have been recently cut and removed. The western boundary of the site is well defined by mature tree vegetation within an adjacent planting. The remaining northeast and southeast boundaries are undefined onto the host field. The site contains 4 concrete structural piles driven into the ground at the 4 corners of the main footprint of a dwelling previously approved on site to

form part of its substructure (see 'Planning History' and 'Consideration' further below).

Critical views of the site are limited from the Annaloughan Road until passing along the roadside frontage of the host field due to the topography of the area and existing vegetation bounding the host field.

The area surrounding the site is characterised by tree plantings; and agricultural land interspersed with single dwelling, ancillary building and farm holdings.

Description of Proposal

This is a full planning application seeking permission to complete a dwelling approved under planning applications M/2005/2046/O and M/2009/0130/RM respectively and commenced on lands approx. 100m SE of 16C Annaloughan Road Augher.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

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

The Planning (NI) Act 2011

The Planning (NI) Order 1991

Regional Development Strategy 2030

Dungannon and South Tyrone Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 3 - Access, Movement and Parking

Planning Policy Statement 21 - Sustainable Development in the Countryside

Supplementary Planning Guidance for PPS21 - 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

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

Representations

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

Planning History

- M/2005/2046/O - Erection of new dwelling - Annaloughlin Road (60m SW of 18 Annaloughlin Road Augher) - Mr Stephen Maxwell - Granted 14th February 2006
- M/2009/0130/RM - Erection of domestic dwelling - 60m SW of 18 Annaloughlin Road Augher - Mr Stephen Maxwell - Granted 9th March 2009
- LA09/2023/0810/LDP - Completion of dwelling by way of works commenced under M/2009/0130/RM and M/2005/2046/O - 60m SW of 18 Annaloughlin Road Augher - Mr Stephen Maxwell - Returned 1st March 2024 as invalid as the application does not meet the legal test for having commenced, the access was not provided prior to the commencement of the development.

Consideration

Dungannon and South Tyrone Area Plan 2010 – The DSTAP is the statutory local development plan for the application site. The site lies outside any settlement limit defined in the plan and is not subject to any plan designations, as such, existing planning policies should be applied in this assessment.

The Strategic Planning Policy Statement for Northern Ireland - The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. It does not present any change in policy direction therefore existing policy applies.

Planning Policy Statement 3 Access, Movement and Parking - Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. DFI Roads were consulted in relation to the proposal and whilst they required some amendments to the notes on the site layout drawing provided and drainage measures detailed, which were subsequently received, they offered no objection to the access arrangements provided of 2m x 60m in both directions onto the public road. Accordingly, I am content the proposal complies with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

Planning Policy Statement 21: Sustainable Development in the Countryside – PPS 21 is the overarching policy for development in the countryside. It provides certain instances where the development of a dwelling is considered acceptable in the countryside subject to criteria. These instances are listed in Policy CTY1 of PPS21.

See 'Planning History' further above. This full planning application seeking permission to complete a dwelling approved under planning applications M/2005/2046/O and M/2009/0130/RM respectively and commenced on site has been submitted as the applicant previously submitted a Certificate of Lawfulness application for a Proposed

Use or Development under LA09/2023/0810/LDP to determine that the works commenced on site were lawful, which could not be approved as the pre-commencement conditions set down were not complied with. It is not clear if the access was provided entirely as approved prior to the commencement of the development, an opening was created in hedge in the location approved. No details are available to show the sightlines were provided. However, the applicant has advised this access was used to provide access to the site for the provision of 4 no. of piles on site.

This development does not meet with any instances listed in Policy CTY1 of PPS 21 however it is quite clear that through applications M/2005/2046/O and M/2009/0130/RM respectively planning permission was granted for a dwelling on this site in the countryside.

Outline planning permission M/2005/2046/O granted on the 14th February 2006 reserved the means of access to the site to be detailed for further consideration under any subsequent Reserved Matters application. It also applied conditions requiring the access to be provided to be in accordance with an RS1 Form attached (provided by Roads Service); and that the vehicular access, including visibility splays and any forward sight line, be provided in accordance with the approved plans, prior to the commencement of any works or other development hereby permitted.

Reserved Matters application M/2009/0130/RM was subsequently applied for and granted on the 9th March 2009¹⁷. It considered the details of the access and like the outline application required the vehicular access, including visibility splays and any forward sight line, be provided in accordance with the approved plans, prior to the commencement of any works or other development hereby permitted. This is commonly referred to as a Grampian or negative condition and is a pre-commencement condition; that is, it must be carried out before other works are able to commence.

Due to the failure to provide details to demonstrate the access had been fully completed on site, the applicant was unable to obtain a Certificate of Lawfulness. The consideration of whether or not development is lawful is a legal test set down by legislation, if it cannot meet those tests then it should be refused.

A planning application, as has now been submitted, however allows the decision makers to weigh up all potential facts and make a balanced decision on the probability of the facts occurred. In this case, as detailed below, it is considered that the applicant has clearly commenced development on the site within the time frame set out in their planning permissions and an access was provided.

Section 63 of the Planning Act states '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;'

This is the same as was stated in Article 36 of the Planning Order, which was in effect at the time the development on site was begun.

From the evidence provided and site inspection I am content that work of construction in

the course of the erection of the dwelling approved under M/2005/2046/O and M/2009/0130/RM respectively has taken place on the site in accordance with the plans approved under M/2009/0130/RM. Works have commenced on the 2nd May 2009 within the timeframe set out in the planning permissions in the form of 4 concrete structural piles being driven into the ground to form part of the dwelling's substructure. The 4 piles were driven in at the 4 corners of the main footprint of the dwelling. Whilst these piles were crimped at recessed/site level and backfilled for animal/machinery safety after being driven they were retained as evident on-site inspection and along with additional piles will be capped and overlaid with ground beams to form the foundation of the dwelling. A letter from Mr Ross Patterson (Director) for and on behalf of Stabilisure Ltd confirmed that whilst working at a previous company he was commissioned by the applicant to oversee the works detailed on the 2nd May 2009. An invoice for the test piles from 'pro drive' dated 2nd May 2009 for £1200 was also received in support of the works carried out.

It had not been demonstrated that the vehicular access, including visibility splays and any forward sight line, was not provided in accordance with the approved plans under M/2005/2046/O and M/2009/0130/RM respectively, prior to the commencement of any works or other development hereby permitted. Usually, the access must be in place before any other development commences as the access will be used for the construction traffic to serve the site. However, there are occasions where an access is conditioned to be provided at another time.

It is unclear if there is a legitimate fallback position, the applicant does not have a Certificate of Lawfulness for a Proposed Use or Development in place. I have however taken account of the following factors that I believe are site specific and would not create a wide-ranging precedent for new dwellings in the countryside:

- planning permission was previously granted for this dwelling.
- Whilst not clear if the access was provided entirely as approved prior to the commencement of the development, an opening was created in hedge in the location approved. The applicant advised this access was used to provide access to the site for the provision of 4 no. of piles on site.
- substantial works, in the form of test piles that will form part of the foundations as detailed further above, have been carried out in the course of the erection of the building within the timeframe set out in the planning permissions.
- the access is now in place.

Other Policy/Considerations

In addition to checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED), map viewers available online have been checked. No built heritage assets of interest were identified on or near the site; and whilst NED map viewer identified the site to be within an area known to breeding waders, I am content that the site comprises improved grassland of limited value to breeding waders as such its development should be unlikely to harm the population of breeding waders.

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

Recommendation

Taking all the above into consideration I would recommend the approval of this application, that it would be unduly harsh to not allow this dwelling to be completed as approved.

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

All proposed landscaping to the rear of the sight lines and along all new site boundaries as detailed on Drawing No. 02 REV.01 received 16 MAY 2024, shall be carried out during the next available planting season following the date of this decision. Any trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

Condition 2

The vehicular access including visibility splays of 2m x 60m in both directions onto the public road and any forward sight line shall be provided in accordance with Drawing No. 02 REV.01 received 16 MAY 2024, within 3 months of the date of this permission. 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.

Signature(s): Emma Richardson

Date: 17 June 2024

ANNEX	
Date Valid	1 March 2024
Date First Advertised	25 March 2024
Date Last Advertised	11 March 2024
Details of Neighbour Notification (all addresses) The Owner / Occupier 16C Annaloughan Road Augher Tyrone BT77 0BW	
Date of Last Neighbour Notification	13 March 2024
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-22-03-2024.DOCX	
Drawing Numbers and Title Site Location Plan Plan Ref: 01 Site Layout or Block Plan Plan Ref: 02 Proposed Plans Plan Ref: 03	
Notification to Department (if relevant) Not Applicable	

Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2019/0483/O Recommendation: Approve	Target Date: 4 June 2019
Proposal: Infill dwelling and garage	Location: Approx 51M South West Of 12 Fallylea Road Maghera
Applicant Name and Address: Mr Fergal Rafferty 12 Fallylea Road Maghera	Agent name and Address: Cmi Planners 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: <p>This application was first before Members with a recommendation to refuse at August 2019 Planning Committee. It was considered that the proposal failed to comply with Policies CTY 1, CTY 8, CTY 14 of PPS 21 and Policy FLD 3 of PPS 15 in that there was not a substantial and built up road frontage and that if a dwelling were erected it would create a ribbon of development along this section of the Fallylea Road. It was also considered that the applicant failed to submitted any information to deal with the concerns around surface water flooding in the site. Members agreed to defer the application for an office meeting which was facilitated. Following a site inspection and a re-consideration of the proposal, the application is now being recommended for approval and the justification for this is detailed further in this report.</p>	
Summary of Consultee Responses: 	
Characteristics of the Site and Area <p>The site consists of a small narrow field approx. 51M South West of a dwelling at 12 Fallylea Road Maghera. No.12 is set back from the road with the driveway and front garden space extending to the road. The northern boundary is defined by the driveway of No.12 whilst the north-eastern and south-western boundaries are defined by post and railing fencing with a sporadic hedge containing mature trees along the south-eastern boundary. A farm shed sits on a separate plot immediately adjacent to the south-western boundary and has a frontage with the Fallylea Road. To the north of the site there is a small field which rises up steeply from the</p>	

applicant's dwelling at no.12. This field has an extant planning approval LA09/2018/1242/O for a dwelling which has not yet been constructed, however the garage associated with the approval has been erected. This plot extends to the Fallylea Road.

The area is rural in character and has a scattering of detached dwellings and agricultural outbuildings. It has an undulating topography. The application site has a history of surface water flooding.

Description of Proposal

This is an outline application for a dwelling and garage to be assessed under Policy CTY 8 as an infill opportunity.

Deferred Consideration:

In terms of the principle of a dwelling on this site, I am re-considering this application under 2 primary policies - CTY 8 and CTY 14 of PPS 21. In order to assess whether or not an infill opportunity exists under CTY 8, it is first necessary to identify if a substantial and continuously built up frontage, containing a gap is present. Having visited the site I consider the frontage to include the following - the detached garage associated with the approval to the immediate North of the site (LA09/2020/0465/F). This garage is complete. The red line of this approval extends to the Fallylea Road and therefore the garage constitutes a road frontage development. To the South of the site is a detached dwelling and detached garage. The previous case officer did not consider this garage as a part of the road frontage, however it is my opinion that it is a substantial building in its own right and follows the same building line as the dwelling. As such it can be considered as a third building for the purpose of the policy. Furthermore there is a 4th building, an agricultural building located further to the South West which has a frontage to the Fallylea Road. I would therefore contend that there are 4 buildings in this immediate location which all front onto the Fallylea Road and meet the test of the policy in terms of having a substantial and built up road frontage.

The next test is whether there exists a gap within this frontage which would accommodate a maximum of 2 dwellings based on the existing development pattern along this stretch of road. It is my assessment that there is no uniformity with regards to the shape or size of the plots or in terms of their actual length of frontage. I do acknowledge that the application site is of a size that it does not act as a visual break between the agricultural building to the South West and the other development to the North. The rural character of the area has already been destroyed due to the pre-existing built up road frontage. I am satisfied that the development of this site would not create a ribbon of development and so there is no conflict with policy CTY 8 nor is there conflict with CTY 14 in terms of impact on rural character.

In addition to policies CTY 8 and CTY 14 of PPS 21, Policy FLD 3 of PPS 15 is also a consideration in this assessment as the site is impacted by surface water flooding according to Rivers Agency Strategic Flood Maps. Policy FLD 3 requires the submission of a Drainage Assessment if a proposed development is located in an area where there is evidence of a "history" of surface water flooding. This site is mapped for surface water flooding and the previous case officer's interpretation of the policy was incorrect. If a site is mapped for surface water flooding it is the developers responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site. This advice can be an informative if Members decide to approve this application.

Consideration has also been given to Policy NH5 of PPS 2 in terms of any potential loss of priority habitat. The proposed development does not require the removal of any hedgerow to provide site splays along the site frontage. A bio-diversity checklist has not been considered necessary. A condition is being recommended for the retention of vegetation along site boundaries as well as the introduction of landscaping. This will further ensure the protection of priority habitat inline with Policy NH5.

There have been no third party objections to this application and I recommended that Members approve this application subject to the conditions below.

Conditions/Reasons for Refusal:

Approval Conditions

Condition 1

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

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

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

Condition 2

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

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

Condition 3

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

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

Condition 4

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

Reason: In the interest of visual amenity and to ensure the provision, establishment and

maintenance of a high standard of landscape

Condition 5

The existing natural screenings of this site shall be permanently retained.

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

Condition 6

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

Reason: To ensure the dwelling integrates into the landform.

Condition 7

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

Reason: In the interest of visual amenity

Signature(s):Karla McKinless

Date: 17 June 2024



**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0483/O	Target Date:
Proposal: Infill dwelling and garage	Location: Approx 51m South West of 12 Fallylea Road Maghera
Referral Route: This application is being presented to Committee as it is being recommended for Refusal.	
Recommendation:	REFUSE
Applicant Name and Address: Mr Fergal Rafferty 12 Fallylea Road Maghera	Agent Name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
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 representations have been received in respect of this application.

Description of the proposal

The proposal is an outline application for an infill dwelling and garage.

Characteristics of the site and area

The site consists of a small narrow field set to the side of a dwelling. The dwelling is set back from the road with the driveway and front garden space extending to the road. The site also includes the driveway to the existing house and site in front of the detached garage which is sited to the side of the dwelling. The northern boundary is defined by the driveway whilst the north-eastern and south-western boundaries are defined by post and rails fencing with a sporadic hedge containing mature trees along the south-eastern boundary. A farm shed sits on a separate plot immediately adjacent to the south-western boundary. To the north of the site there is a small field which rises up steeply from the applicant's dwelling at no.12. This field has an extant planning approval for a dwelling which has not yet commenced under LA09/2018/1242/O.

Planning Assessment of Policy and Other Material Considerations**Relevant planning history**

There is previous planning history on this site, however this relates to the existing dwelling which was approved under the following applications:-

H/1997/0215 – Site for dwelling Approved 18.07.1997

H/1998/0057 – Dwelling Approved 17.04.1998

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

The Strategic Planning Policy Statement (SPPS) provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP – Draft Plan Strategy has been published for consultation, therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS.

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

Magherafelt Area Plan 2015 - the site lies outside any defined settlement limits and is open countryside as identified in the Magherafelt Area Plan 2015. The site also lies within the Sperrins Area of Outstanding Natural Beauty.

PPS 21 – sustainable development in the countryside

The proposal falls to be considered under Policy CTY 8. In order to assess whether or not an infill opportunity exists, it is first necessary to identify if a substantial and continuously built up frontage, containing a gap is present. Secondly, an assessment of the gap is required in order to ascertain whether it is 'small' in the context of the policy. Although it does not purport to provide an exhaustive list of circumstances, CTY 8 states that a substantial and built up frontage "includes a line of 3 or more buildings along a road frontage without accompanying development to the rear".

The site is bounded to the south west by a single farm building which has a frontage to the Fallylea Road. To the north/north-east is the existing dwelling at no.12 again with a frontage to the Fallylea Road. Although there is a detached garage to the side of no.12, the garage is set to the side of the dwelling and to the rear of the proposed site. It therefore does not have any frontage to the public road and cannot be considered to be one of the three buildings required to constitute the substantial and built up frontage. To the immediate north of no.12 is the site approved under LA09/2018/1242/O, however, this site has not commenced and therefore like

the detached garage cannot be considered to be one of the required three buildings required to have a gap site. Consequently, as there are not three buildings within a substantial and built up frontage, the proposed site does not constitute a gap site. Furthermore, a dwelling on this site would create a ribbon of development stretching from no.12 to the farm building to the south west. The proposed development is contrary to the key test of this policy and should be refused.

While the site fails to satisfy the requirements of CTY 8, it also has to be considered under other policies ie. CTY 13 – Integration and CTY 14 – rural character.

CTY 13 – Integration

Given the level of vegetation in existence around and on the approach to the site, a dwelling on the proposed site would not have a detrimental impact on visual amenity.

CTY 14 – Rural Character

As the proposed site is not considered to be an infill site, the construction of a dwelling on this will visually link the existing dwelling to the farm shed, albeit only when viewed from the proposed access point. However, when viewed from the proposed access point, which will be a shared access and thereby a public viewpoint, it will have a cumulative impact which leads to the erosion of rural character in this area. The proposal is therefore considered to be contrary to this policy.

PPS Planning and Flood Risk advises that 'A Drainage Assessment will also be required for any development proposal, except for minor development, where:

- The proposed development is located in an area where there is evidence of a history of surface water flooding.'

The site lies within an area identified as a pluvial surface water flood zone on Rivers Agency's flood maps. Therefore the applicant is required to provide a drainage assessment. This assessment was requested from the agent on 8th May 2019 and again on 13th May 2019, however to-date, the necessary information has not been provided. The proposal is therefore considered to be contrary to PPS 15 Policy FLD 3.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019.

The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan.

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

Consultations

Transport NI and NI Water have advised that they have no issues of concern with the proposed site.

Recommendation

On consideration of the above, it is my opinion that planning permission should be refused for the following reasons:-

Neighbour Notification Checked	Yes
Summary of Recommendation:	
Refuse for the reasons listed below:-	

Refusal Reasons

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a gap site within a substantial and continuously built up frontage and would, if permitted, result in the creation of ribbon development along this stretch of the Fallylea Road.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted create a ribbon of development at that part of the Fallylea Road and therefore result in a detrimental change to the rural character of the countryside.
4. The proposal and ancillary works are contrary to Policy FLD3 of Planning Policy Statement 15 Planning and Flood Risk in that the development would if permitted be at risk from flooding as the site is located in an area where there is evidence of a history of surface water flooding and as provided for within Section 40 of the Planning Act (Northern Ireland) 2011, the applicant has failed to provide sufficient information to enable Mid Ulster District Council to determine this proposal, in respect of its potential to flood.

Signature(s)**Date:**

ANNEX	
Date Valid	9th April 2019
Date First Advertised	25th April 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 12 Fallylea Road Maghera Londonderry	
Date of Last Neighbour Notification	9th May 2019
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2019/0483/O Proposal: Infill dwelling and garage Address: Approx 51m South West of 12 Fallylea Road, Maghera, Decision: Decision Date: Ref ID: H/1991/0215 Proposal: HOUSING DEVELOPMENT Address: MULLAGH ROAD MAGHERA Decision: Decision Date: Ref ID: H/1997/0215 Proposal: SITE OF DWELLING Address: 80M SOUTH OF 10 FALLYLEA ROAD MAGHERA Decision: Decision Date: Ref ID: H/1998/0057 Proposal: DWELLING Address: SITE AT 80M SOUTH OF 10 FALLYLEA ROAD MAGHERA Decision: Decision Date: Ref ID: H/2003/1125/O Proposal: Site of dwelling. Address: 20m South of 10 Fallylea Road, Maghera. Decision:	

<p>Decision Date: 07.11.2005</p> <p>Ref ID: H/2003/1306/O</p> <p>Proposal: Site of dwelling.</p> <p>Address: 40m South East of 12 Fallylea Road, Maghera.</p> <p>Decision:</p> <p>Decision Date: 10.04.2006</p>
<p>Summary of Consultee Responses</p> <p>DfI Roads responded without raising any issues of concern.</p> <p>Due to the failure of the applicant to provide the requested information in relation to flooding, it was not possible to consult Rivers Agency in this respect.</p>
<p>Drawing Numbers and Title</p>
<p>Drawing No. 01</p> <p>Type: Site Location Plan</p> <p>Status: Approved</p>
<p>Notification to Department (if relevant)</p> <p>Date of Notification to Department:</p> <p>Response of Department:</p>



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Mid Ulster
District Council

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

Further Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/1380/F	Target Date: <add date>
Proposal: Erection of Dwelling, relocation of existing dwelling and site restoration	Location: Adjacent & 100m East of 18 Shantavny Road Garvaghy.
Applicant Name and Address: Ciaran Owens Shantavny Road Garvaghy Ballygawley	Agent name and Address: T A Gourley 35 Moveagh Road Cookstown BT80 9HE
Summary of Issues: This application has been changed to the Erection of Dwelling, relocation of existing dwelling and site restoration, it was previously considered for the retention of a dwelling though it was located close to a chambered grave and is now proposing to relocate the dwelling beside the existing dwelling at 18 Shantavny Road.	
Summary of Consultee Responses: DFI Roads – recommend conditions to be attached if the Council wish to approve Historic Monuments Division – no objections to the resiting, recommend conditions to be attached for surveillance of archaeology Loughs Agency – no objections in principle	
Characteristics of the Site and Area: This application site is located along a private laneway off the Shantavny Road. The boundary of Fermanagh and Omagh District Council sits 300 metres to the west of this site, with Garvaghy approximately 2 kilometres further west and Ballygawley 5.5 kilometres to the south east. The surrounding area is quite remote and typically characteristic of an elevated site with gorse vegetation and poor quality agricultural land. Shantavny Scotch Wind Farm sits close by on the opposite side of the road to this site. This application site occupies a parcel of land on which a modular dwelling is sited some 120 metres off the Shantavny Road. This dwelling for which this application seeks permission to relocate measures 14.4 metres in length, is 7.2 metres wide and has a ridge height of 4.3 metres FGL. The walls are a yellow render cast with blue/black roof tile and white uPvc windows and doors. This dwelling accommodates 3 bedrooms and has a bay window on the front elevation. It has no openings on the eastern gable which faces the road and the western gable has double doors.	

There are 3 windows on the rear northern elevation and 3 windows on the front southern elevation with the bay window to the left of the front door. The dwelling is to be moved to beside the existing bungalow and outbuilding at the end of the lane. This laneway also serves No 18 Shantavny Road, a bungalow which sits to the west of this site and is occupied by the applicant's 2 sisters.

Planning History

There is no relevant planning history associated with this site.

Description of Proposal

This application seeks planning permission for the Erection of Dwelling, relocation of existing dwelling and site restoration on land adjacent to and 100m East of 18 Shantavny Road, Garvaghy.

Deferred Consideration:

This application was before the Planning Committee in April 2021, March 2023 and again in January 2024 with a recommendation to refuse. Prior to the January 2024 Meeting the agent submitted the following details:

- Confirmation by a contractor who has been engaged for over 10 years to carry out work for the applicant, receipts for cutting and bailing silage for 2018, 2019, 2020, 2021, 2022, and 2023. The first invoices are dated 28 September 2018
- Letter from GP about family member who would benefit from the applicant residing close by
- Solicitors letter and Land registry documents to show land is solely owned by Kieran (Ciaran) Owens and all charges have been removed from the land
- Revised site layout
- Structural report for the existing house which demonstrates it is damp
- Archaeological Assessment

The description of the development was amended to Erection of Dwelling, relocation of existing dwelling and site restoration. This was subject to re-advertisement and neighbour notification and consultation were undertaken.. No objections have been received to the proposal.

This application has been submitted on the basis of 2 different policies,

- CTY6 for personal and domestic reasons,

The Personal and domestic circumstances have been previously been assessed and members will be aware there is a high bar for meeting this test. The applicant has put forward medical information and a letter from their GP. The GP has advised it would be of a benefit to have the applicant living close by. There is no information to explain the undue hardship that would be incurred if this was refused. Other information about the condition of the existing house and why an extension could not be provided are noted however I do not consider there is a personal and domestic case for this dwelling.

- CTY10, for a dwelling on a farm.

This application has taken a long time to process, members will note that it was received in 2020 and due to delays in providing information it has been nearly 4 years in the system. Initially the applicant submitted details from 2016 to show activity on the farm, tis added to the recent invoices does prove the applicant has, in my opinion, been involved in farming on the holding for the required 6 years. I am of the view this is an active and established farm and the first criteria of CTY10 is met. The applicant has recently registered the land in his name, the documents relate to the entire farm and so I am content there have not been any building opportunities or sites sold off the farm in the last 10 years. I have conducted a search of the lands and can advise there are no other plans passed for a dwelling on this farm in the last 10 years. The second criteria of CTY10 is therefore met. The final criteria requires the new dwelling to be sited beside a group of buildings on the farm. To the west of the where it is proposed to re-site the dwelling, and contained within the land identified in blue as other land owned, is No 18 Shantavny Road. This dwelling has a

garden shed and some smaller outbuildings around it. I consider these as other buildings on the farm and as such the 3rd criteria is met.

DFI Roads had issues with the access where it meets the public road, this was due to a drawing not being easily read. Amended plans were submitted and they now have no concerns about the safety of the access.

The existing dwelling is sited beside an historic chambered grave, the applicant has submitted an archaeological survey for the relocation of the dwelling. Historic Environment Division have assessed this and are content that the dwelling can be sited as proposed without unduly impacting on the historic monument. They have recommended some monitoring conditions to ensure that any historic remains that are unearthed during the relocation works are properly documented.

Members are advised the existing dwelling on this site is the subject of an enforcement notice that requires it to be removed. This followed an appeal against the Enforcement Notice to the Planning Appeals Commission who upheld the notice but varied it to give the applicant 10 months to comply. In light of this and the need to provide an Archaeological Program of Works I consider it is appropriate and reasonable to condition this permission is similarly time bound to ensure the historic monuments setting is reinstated as soon as possible.

Following the provision of the additional information and in consultation with DFI Roads and DfC HED I recommend this application is approved.

Reasons for Refusal:

1. The development hereby permitted shall be begun before the expiration of 10 months from the date of this permission.

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

2. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by Mid Ulster District Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:
 - The identification and evaluation of archaeological remains within the site;
 - Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;
 - Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and
 - Preparation of the digital, documentary and material archive for deposition.

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

3. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 2.

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

4. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 2. These measures shall be implemented and a final archaeological report shall be submitted to Mid

Ulster District Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Mid Ulster District Council.

Reason: To ensure that the results of archaeological works are appropriately analysed and disseminated and the excavation archive is prepared to a suitable standard for deposition.

5. Within 6 weeks of the date of this decision the vehicular access, including visibility splays of 2.4m x 60.0m in both directions and other details as set out in drawing No 04/1 bearing the stamp dated 26 APR 2021 shall be provided as approved. 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. All hard and soft landscape works as detailed on drawing no 03 Rev 1 received on 5 JAN 2024 be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

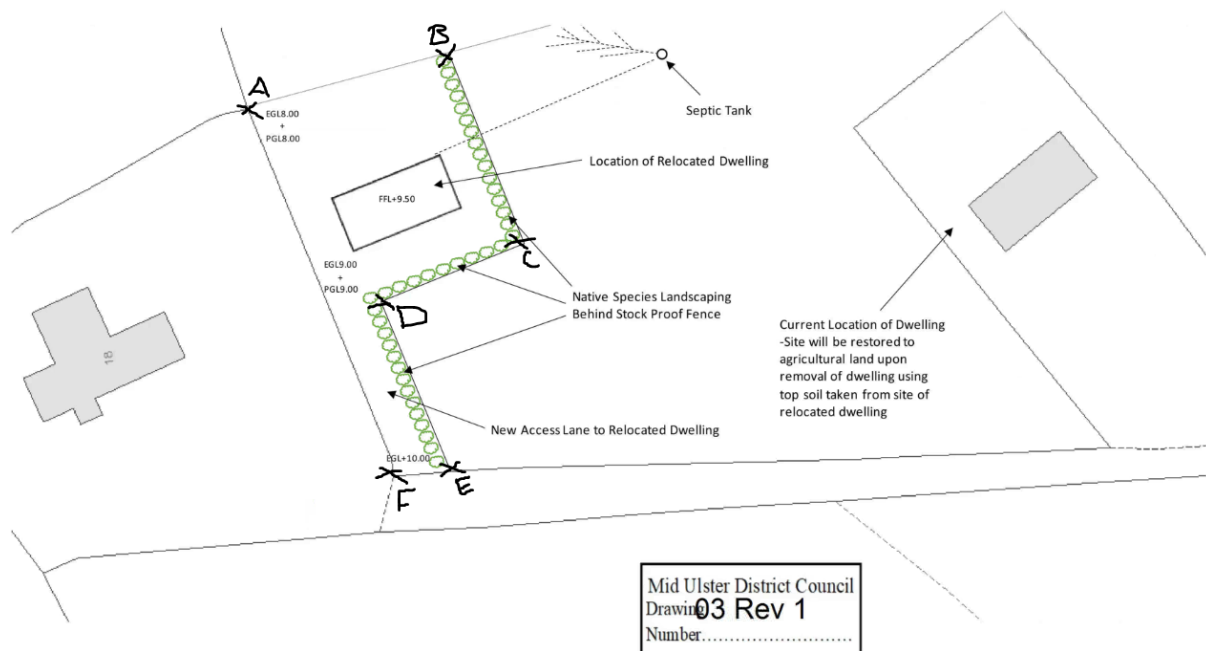
Reason in the interest of visual amenity

7. The curtilage of the proposed dwelling shall be as indicated between points A,B,C,D,E,F on drawing No 03 Rev 1 received on 5 Jan 2024.

Reason: To ensure that the amenities incidental to the enjoyment of the dwelling will not adversely affect the countryside.

Signature(s):

Date



Retention of Dwelling For Ciaran Owens

At Adjacent and 100 metres East of 18 Shantavny Road, Garvaghy



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District Council

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Local Planning Office
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Further Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/1380/F	Target Date: <add date>
Proposal: Retention of dwelling	Location: Adjacent & 100m East of 18 Shantavny Road Garvaghy.
Applicant Name and Address: Ciaran Owens Shantavny Road Garvaghy Ballygawley	Agent name and Address: T A Gourley 35 Moveagh Road Cookstown BT80 9HE
Summary of Issues: This application has been changed to the erection of a dwelling, it was previously considered for the retention of a dwelling though it was located close to a chambered grave and is now proposing to relocate the dwelling beside the existing dwelling at 18 Shantavny Road.	
Summary of Consultee Responses: DFI Roads – recommend conditions to be attached if the Council wish to approve Historic Monuments Division – no objections to the resiting, recommend conditions to be attached for surveillance of archaology Loughs Agency – no objections in principle	
Characteristics of the Site and Area: This application site is located along a private laneway off the Shantavny Road. The boundary of Fermanagh and Omagh District Council sits 300 metres to the west of this site, with Garvaghy approximately 2 kilometres further west and Ballygawley 5.5 kilometres to the south east. The surrounding area is quite remote and typically characteristic of an elevated site with gorse vegetation and poor quality agricultural land. Shantavny Scotch Wind Farm sits close by on the opposite side of the road to this site. This application site occupies a parcel of land on which a modular dwelling is sited some 120 metres off the Shantavny Road. This dwelling for which this application seeks permission for measures 14.4 metres in length, is 7.2 metres wide and has a ridge height of 4.3 metres FGL. The walls are a yellow render cast with blue/black roof tile and white uPvc windows and doors. This dwelling accommodates 3 bedrooms and has a bay window on the front elevation. It has no openings on the eastern gable which faces the road and the western gable has double doors. There are 3 windows on the rear northern elevation and 3 windows on the front southern elevation with the bay window to the left of the front door. The curtilage of the dwelling is marked	

by a concrete wall beyond which is a barbed wire fence and gravel surrounds the dwelling and joins to the tarmaced lane. This laneway also serves No 18 Shantavny Road, a bungalow which sits to the west of this site and is occupied by the applicant's 2 sisters.

Planning History

There is no relevant planning history associated with this site.

Description of Proposal

This application seeks planning permission for the retention of a dwelling on land adjacent to and 100m East of 18 Shantavny Road, Garvaghy.

Deferred Consideration:

This application was before the Planning Committee in April 2021 and again in March 2023 with a recommendation to refuse. Prior to the March Committee Meeting the agent submitted a list of details that he was working on and would be submitting:

- justification for the dwelling under Policy CTY 6
- report from Archaeology & Heritage Consultancy Limited, recommending that the proposed
- justification for the dwelling under Policy CTY 10
- solicitors letters to address issues in relation to land ownership

The application was deferred to allow the submission of this further information, however despite reminders to the agent no additional information has been submitted.

There has been a lack of response to correspondence in relation to this application to address the issues that have been raised. In light of the length of time that I have been waiting for the information and with no alternative proposal to assess, I recommend the application is refused for the reasons stated below.

Reasons for Refusal:

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. This proposal is contrary to Policy CTY 6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated there are compelling and site specific reasons for this proposal related to the applicant's specific personal or domestic circumstances.
3. The proposal is contrary to Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated this proposal meets any of the criterion.
4. The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the dwelling to integrate into the landscape, and the design of the building is inappropriate for the site and its locality.
5. The proposal is contrary to Policy BH 1 of PPS 6 Planning, Archaeology and the Built Heritage, as it would have an unacceptable adverse impact upon the integrity of the setting of the adjacent Scheduled Monument (TYR 52: 22).

Signature(s):

Date



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Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/1380/F	Target Date: <add date>
Proposal: Retention of dwelling	Location: Adjacent & 100m East of 18 Shantavny Road Garvaghy.
Applicant Name and Address: Ciaran Owens Shantavny Road Garvaghy Ballygawley	Agent name and Address: T A Gourley 35 Moveagh Road Cookstown BT80 9HE
Summary of Issues: This application is for the retention of a dwelling that has been constructed without the benefit of planning permission. The dwelling is located beside an historic monument, a personal circumstances case has been made but does not set out why there is a site specific need and a farming case put forward has not been verified. The modular home is not an appropriate rural design and the site lacks any features to integrate the dwelling.	
Summary of Consultee Responses: DFI Roads – recommend conditions to be attached if the Council wish to approve Historic Monuments Division – contrary to BH1 of PPS6 as this has an adverse impact on a scheduled monument Loughs Agency – no objections in principle	
Characteristics of the Site and Area: This application site is located along a private laneway off the Shantavny Road. The boundary of Fermanagh and Omagh District Council sits 300 metres to the west of this site, with Garvaghy approximately 2 kilometres further west and Ballygawley 5.5 kilometres to the south east. The surrounding area is quite remote and typically characteristic of an elevated site with gorse vegetation and poor quality agricultural land. Shantavny Scotch Wind Farm sits close by on the opposite side of the road to this site. This application site occupies a parcel of land on which a modular dwelling is sited some 120 metres off the Shantavny Road. This dwelling for which this application seeks permission for measures 14.4 metres in length, is 7.2 metres wide and has a ridge height of 4.3 metres FGL. The walls are a yellow render cast with blue/black roof tile and white uPvc windows and doors. This dwelling accommodates 3 bedrooms and has a bay window on the front elevation. It has no openings on the eastern gable which faces the road and the western gable has double doors. There are 3 windows on the rear northern elevation and 3 windows on the front southern	

elevation with the bay window to the left of the front door. The curtilage of the dwelling is marked by a concrete wall beyond which is a barbed wire fence and gravel surrounds the dwelling and joins to the tarmaced lane. This laneway also serves No 18 Shantavny Road, a bungalow which sits to the west of this site and is occupied by the applicant's 2 sisters.

Planning History

There is no relevant planning history associated with this site.

Description of Proposal

This application seeks planning permission for the retention of a dwelling on land adjacent to and 100m East of 18 Shantavny Road, Garvaghy.

Deferred Consideration:

This application was before the Planning Committee in April 2021 with a recommendation to refuse. The application was deferred to allow the submission of further information to address the issues raised in the case officers report to committee.

Following the meeting additional information was provided for consideration by DFI Roads and medical information about the applicant's sister. DFI Roads are now content with revised access details and this can be conditioned if planning permission is granted. The medical information for the personal circumstances case does not provide any details and the last documentation was for 2015. of the current circumstance since 2015. Without any recent information I am not convinced or persuaded there is a current medical or personal circumstances case for a separate dwelling. Information has been provided that states the applicants sisters house is not fit for extension and has issues with damp. No response has been provided to the suggestion this is replaced with a new dwelling to accommodate everyone.

The land the applicant claims to own is not registered in his name and despite requests for additional information to address this, no new information has been presented. The agent has advised the applicants solicitor is getting the land registered his name, however there has been no further details about this since 19 May 2022 despite further request in October 2022.

The agent advised they have engaged the services of an Archaeologist to deal with the issues of the Scheduled Monument and they would be submitting details showing the house moved to a more suitable position. Again there has been no further information submitted to deal with this despite requests.

While the dwelling is located off a private laneway, there is no vegetation or land features to integrate it from views on the lane. The lane is not solely to access this property but also serves the applicant sisters house further to the west. In light of this the views from the lane are a material consideration and the dwelling does not integrate nor is its prefabricated design and appearance acceptable in the rural area.

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

There has been a lack of response to correspondence in relation to this application to address the issues that have been raised. In light of the length of time that I have been waiting for the information and with no alternative proposal to assess, I recommend the application is refused for the reasons stated below.

.

Reasons for Refusal:

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. This proposal is contrary to Policy CTY 6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated there are compelling and site specific reasons for this proposal related to the applicant's specific personal or domestic circumstances.
3. The proposal is contrary to Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated this proposal meets any of the criterion.
4. The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the dwelling to integrate into the landscape, and the design of the building is inappropriate for the site and its locality.
5. The proposal is contrary to Policy BH 1 of PPS 6 Planning, Archaeology and the Built Heritage, as it would have an unacceptable adverse impact upon the integrity of the setting of the adjacent Scheduled Monument (TYR 52: 22).

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1380/F	Target Date:
Proposal: Retention of dwelling	Location: Adjacent & 100m East of 18 Shantavny Road Garvaghy.
Referral Route: This application fails CTY 1 and also CTY 10 and CTY 13 of PPS 21. It also fails to meet AMP 2 in PPS 3 and BH 1 of PPS 6	
Recommendation:	Refusal
Applicant Name and Address: Ciaran Owens Shantavny Road Garvaghy Ballygawley	Agent Name and Address: T A Gourley 35 Moveagh Road Cookstown BT80 9HE
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Advice
Statutory	Foyle Carlingford & Irish Lights Commission	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	NIEA	Advice

Representations:

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

Characteristics of the Site and Area

This application site is located along a private laneway off the Shantavny Road. The boundary of Fermanagh and Omagh District Council sits 300 metres to the west of this site, with Garvaghy approximately 2 kilometres further west and Ballygawley 5.5 kilometres to the south east. The surrounding area is quite remote and typically characteristic of an elevated site with gorse vegetation and poor quality agricultural land. Shantavny Scotch Wind Farm sits close by on the opposite side of the road to this site.

This application site occupies a parcel of land on which a modular dwelling is sited some 120 metres off the Shantavny Road. This dwelling for which this application seeks permission for measures 14.4 metres in length, is 7.2 metres wide and has a ridge height of 4.3 metres FGL. The walls are a yellow render cast with blue/black roof tile and white uPvc windows and doors. This dwelling accommodates 3 bedrooms and has a bay window on the front elevation. It has no openings on the eastern gable which faces the road and the western gable has double doors. There are 3 windows on the rear northern elevation and 3 windows on the front southern elevation with the bay window to the left of the front door. The curtilage of the dwelling is marked by a concrete wall beyond which is a barbed wire fence and gravel surrounds the dwelling and joins to the tarmaced lane. This laneway also serves No 18 Shantavny Road, a bungalow which sits to the west of this site and is occupied by the applicant's 2 sisters.

Planning History

There is no relevant planning history associated with this site.

Description of Proposal

This application seeks planning permission for the retention of a dwelling on land adjacent to and 100m East of 18 Shantavny Road, Garvaghy. This planning application was submitted in response to Court action which is currently being pursued regarding the unauthorised construction of the dwelling under Enforcement Case LA09/2016/0219/CA.

Planning Assessment of Policy and Other Material Considerations

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations.

Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received have been subject to a Counter Representation period. In light of this the Draft Plan cannot currently be given any determining weight.

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

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

The agent provided a supporting statement in which they claim the dwelling met the criteria of both CTY 6 and CTY 10 of PPS 21.

CTY 6 in PPS21 sets out that permission will be granted for a dwelling in the countryside where there are compelling reasons related to the applicant's personal or domestic circumstances, provided the following criteria is met:

- a) The applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused; and
- b) There are no alternative solutions to meet the specific circumstances of the case, such as:
 - An extension or annex attached to an existing dwelling
 - The conversion or re-use of another building within the curtilage of the property
 - The use of a temporary mobile home for a limited period to deal with immediate short term consequences.

Medical information was submitted in the form of doctor's records, ambulance reports and hospital discharge letters all dating from 2001 -2015. However, this did not refer to the applicant, but to the applicant's sister who lives at No 18. The agent states the applicant "is involved in caring for his sister who lives together with another sister at No 18. The applicant's partner who resides with him also provides care for the sister when the applicant is at work with a local employer.

While the agent has provided medical records for the applicant's sister covering the years 2011- 2015 to demonstrate as to why this application should be considered under CTY 6 - Special Personal and Domestic Circumstances, I am not persuaded by this information. The agent has not identified the level of care which the applicant provides or any medical evidence documenting the care plan required by Sheila from a medical professional. I am not satisfied the information put forward by the applicant that genuine hardship would be caused if planning permission were refused.

The agent has claimed the existing dwelling at No 18 given its age and layout would not readily facilitate an extension. I am not satisfied by this statement nor convinced that this option has ever been fully investigated. Therefore I am of the opinion this proposal fails to satisfy the requirements of CTY 6, and thus it does not meet this policy.

Policy CTY 13 stipulates that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The shallow pitch of this dwelling and the design is not appropriate in this location. As mentioned above, this site is located in an upland area which is very exposed. There is an absence of any natural boundaries on this site which means it is unable to provide a suitable degree of enclosure for the dwelling to integrate into the surrounding landscape, thereby failing to meet the policy requirements of CTY 13.

The agent in the supporting statement states the applicant owns a farm of over 40 acres since 1979 and has maintained the land in good condition. A number of invoices for bailing were submitted for 2016 - 2018. A lack of information detailing the land within the applicant's ownership and where it is located, along with an absence of any Farm Business ID number, I have been unable to determine if this proposal complies with the criteria required, therefore it fails to meet CTY 10.

Representations and Consultations

Historic Environmental Division of NIEA were consulted as this dwelling is located next to TYR 52: 22. They responded saying this monument of regional importance is the site of a scheduled prehistoric wedge tomb which is afforded statutory protection under the provisions of the Historic Monuments and Archaeological Objects (NI) Order 1995 and thus BH 1 of PPS6 is applicable. The dwelling to be retained in this application is located approximately 36 metres from the monument and is in line with the functional alignment of the tomb. The site is located to the south-west of this monument and the eastern boundary runs along the edge of the scheduled area around the wedge tomb. HED (Historic Monuments) is concerned as this application is contrary to Policy BH 1 of PPS 6 ? Planning, Archaeology and the Built Heritage, as it would have an unacceptable adverse impact upon the integrity of the setting of the adjacent Scheduled Monument (TYR 52: 22).

This application site falls within a Loughs Agency Consultation Zone. So the Foyle Carlingford & Irish Lights Commission were consulted and have no objections to this application.

DfI Roads were consulted and responded stating they could not provide comment due to the poor quality of the drawings submitted. Appropriate accurate drawings were requested from the agent, however this was not submitted which meant DfI could not comment on this proposal due to a lack of information.

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

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

Neighbour Notification Checked

Yes

Summary of Recommendation:

Having considered the policy set out in PPS 21, this proposal fails as it does not meet any of the criteria in CTY 1 and also CTY 10 and CTY 13. It also fails to meet AMP 2 in PPS 3 and BH 1 of PPS 6 also as detailed below.

Reasons for Refusal:

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

2. This proposal is contrary to Policy CTY 6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated there are compelling and site specific reasons for this proposal related to the applicant's specific personal or domestic circumstances.

3. The proposal is contrary to Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated this proposal meets any of the criterion.

4. The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the dwelling to integrate into the landscape, and the design of the building is inappropriate for the site and its locality.

5. This proposal is contrary to Policy AMP 2 of PPS 3 Access, Movement and Parking, in that it has failed to demonstrate that the access will not prejudice road safety or significantly inconvenience the flow of traffic, due to an absence of sufficient information.

6. The proposal is contrary to Policy BH 1 of PPS 6 Planning, Archaeology and the Built Heritage, as it would have an unacceptable adverse impact upon the integrity of the setting of the adjacent Scheduled Monument (TYR 52: 22).

Signature(s)

Date:

ANNEX	
Date Valid	5th November 2020
Date First Advertised	1st December 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 18 Shantavny Road, Garvaghy. Co Tyrone	
Date of Last Neighbour Notification	10th December 2020
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2020/1380/F Proposal: Retention of dwelling Address: Adjacent & 100m East of 18 Shantavny Road, Garvaghy., Decision: Decision Date: Ref ID: K/2007/0821/F Proposal: Application under Article 28 of the Planning Order to remove Conditions 6 and 7 and modify Condition 11 of Planning Approval K/2005/0597/F Address: Slieve Divena Hill (In the townlands of Altamooskan) Decision: Decision Date: 16.10.2007	
Summary of Consultee Responses	
Drawing Numbers and Title	

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

Drawing No. 02
Type: Farm Boundary Map
Status: Submitted

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

Drawing No. 04
Type: Road Access Plan
Status: Submitted

Drawing No. 05
Type: Elevations and Floor Plans
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2021/1700/O	Target Date: <add date>
Proposal: Proposed dwelling and garage	Location: Land off Pomeroy Road approx. 285m North East of 47 Kilmardle Road Dungannon
Applicant Name and Address: Mr Robert Quinn 47 Kilmakardle Road Dungannon	Agent Name and Address: Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
Summary of Issues: This application is for the erection of a dwelling on a farm. The dwelling is not sited to cluster with a group of buildings on the farm and has given reasons why this is not possible. The proposed site has new boundary landscaping that will ensure a new dwelling will integrate.	
Summary of Consultee Responses: DFI Roads - access to be in accordance with RS1 DAERA – farm business currently active and established	
Characteristics of the Site and Area: The site is located in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan, approx. halfway between Donaghmore and Pomeroy. The site is a relatively square shaped plot cut from the roadside frontage and northern corner of a larger agricultural field situated adjacent and accessed off the Pomeroy Rd. A mix of post and wire fencing and light vegetation bound the northeast / roadside and northwest boundaries of the site. The remaining boundaries are undefined and open onto the host field. Whilst the site and host field comprises largely flat low-lying land approx. 1½ m below the level of the adjacent Pomeroy Rd an area around the existing access into the site has been filled in with hardcore and inert material to create level	

entry. There will be open views of the site from the Pomeroy Rd over 300m approx. on the northwest approach, over approx. 100m on the southeast approach and passing along the frontage of the site.

The area surrounding the site is predominantly flat low lying agricultural land interspersed with detached dwellings, ancillary building and farm groups. A dwelling and small no. outbuildings sit on a gravelled yard directly opposite the site to the other side of the Pomeroy Rd; and the applicant's farm buildings including dwelling, poultry units and ancillary buildings / sheds are well set back to the southwest of the site visible from the Pomeroy Rd.

Description of Proposal

This is an outline planning application for a dwelling and garage on a farm. The site is located on lands off Pomeroy Road approx. 285m North East of 47 Kilmardle Road Dungannon.

Deferred Consideration:

This application was before the Planning Committee in April 2022 and it was agreed to defer to allow a meeting with the Planning Manager to discuss the proposal further.

At a meeting with the Planning Manager the applicants advised they have chicken houses which have an access approved off the Pomeroy Road. The farmyard behind the chicken houses is accessed off a shared lane which is through another farmers lands and the sight lines onto Kilmakardle Road are substandard. They are unable to improve the access as they do not own the lands either side of it. Biosecurity issues with chicken houses mean they cannot access the farm yard through the proposed lane and any dwelling in the farm yard will be beside other chicken houses. The farm yard is a busy working environment and it would be a health and safety risk to access a site through it or site in close proximity to it. The applicant further advised that even if it were not for the exclusion zone around the chicken houses, they considered the lands to the

Following the meeting the applicants have carried out a landscaping scheme along the roadside and to the north west boundary of the field. They have planted heavy standard trees on the boundaries and these have taken and are in full leaf. (Figs 1 and 2)

Members are advised the only issues here relate to the siting of the dwelling away from a group of buildings on the farm and the integration prospects on the proposed site. Policy CTY10 allows the decision maker to approve development away from a group of buildings on the farm provided there are no other groups on the farm and the site is acceptable in all other environmental terms. It is important to note the Ministerial Statement from then Minister Attwood which highlighted health and safety concerns from development beside busy farmyards. The application for the most recent hen house (LA09/2016/1346/F) explored the potential for access off Kilmakardle Road and the applicants could not meet the minimum standards. EHO have advised that dwellings, even those on the farm, should be located away from hen houses. It is accepted there are bio-security issues that mean dwellings should not be located in close proximity to chicken houses. Taking account of the issue with the access off Kilmakardle Road, the existing chicken houses and the farm yard, I consider there are genuine health and safety reasons to site away from the existing buildings and so the proposal should be assessed against the policies CTY13 and CTY 14.

The site is located below the level of the road and the access has already been approved

which requires the removal of some of the roadside vegetation but not all of it. The roadside vegetation is composed of immature single trees that are well spaced out, they do not form a species rich thick hedgerow and I do not consider it is a priority habitat as referenced in Policy NH5 of PPS2. In my view the loss of the small part of this hedge will not result in loss of a priority habitat. The vegetation to the north west and the dwellings to the southeast of the site reduce close up critical views of the site to the immediate road frontage. From here a dwelling would not appear prominent in the landscape as it will have a backdrop of the chicken houses and the rising land to the rear. There will be longer distance views of the site from the north west (from Pomeroy) and initially, while longer distance, a dwelling here would have been more open to views. The recent landscaping has, in my view provided a screen to the site. Members will be aware that a proposal cannot be approved on the promise of landscaping to provide integration, however in this case a landscaping scheme has been implemented. The landscaping has taken and is in leaf so I am content this is now existing vegetation to define the site boundary. This will provide a screen to any development on the site when viewed from longer distance from the north west. I am of the opinion that a modest dwelling would be acceptable here, it would not be a prominent feature and would be satisfactorily integrated in to the landscape. The dwelling would use the approved access and I would take the opportunity to request additional landscaping along the rear of the sight lines and along the new site boundaries to augment the existing vegetation.

In my opinion the applicant has demonstrated there are genuine health and safety reasons why a dwelling cannot be sited beside existing buildings on the farm. I consider it is appropriate to consider the exception in CTY10. A dwelling on this site would not , in my view, result in an unduly prominent development and would not lead to ribbon development nor adversely impact on the rural character of the area. In light of the above it is my recommendation that planning permission is approved.



Fig 1 and 2 landscaping on the site and frontage vegetation

Conditions/Reasons for Refusal:

1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-
 - i. the expiration of 5 years from the date of this permission; or
 - ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

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

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

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

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

4. 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 uploaded form RS1 including sight lines of 2.4m by 145.0m in both directions and a forward sight distance of 145.0m where the access meets 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.

5. The dwelling hereby approved shall have a ridge height not exceeding 7.0m above the finished floor level and the underbuilding shall not exceed 0.4m at any part.

Reason: To ensure the dwelling is not prominent and respects the character of the area.

6. A detailed landscaping plan shall be submitted and approved as part of the Reserved Matters application and shall identify the location, species and numbers of trees and hedges to be retained and planted. All new curtilage boundaries shall be identified by new planting, and shall include a mix of hedge and tree planting. The retained and proposed landscaping shall be indicated on a landscape plan, with details to be agreed at reserved matters stage. During the first available planting season after the commencement of development on site, all proposed trees and hedges indicated in the approved landscaping plan at Reserved Matters stage, shall be planted as shown and permanently retained thereafter, unless otherwise agreed by Mid Ulster Council in writing.

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

7. 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.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

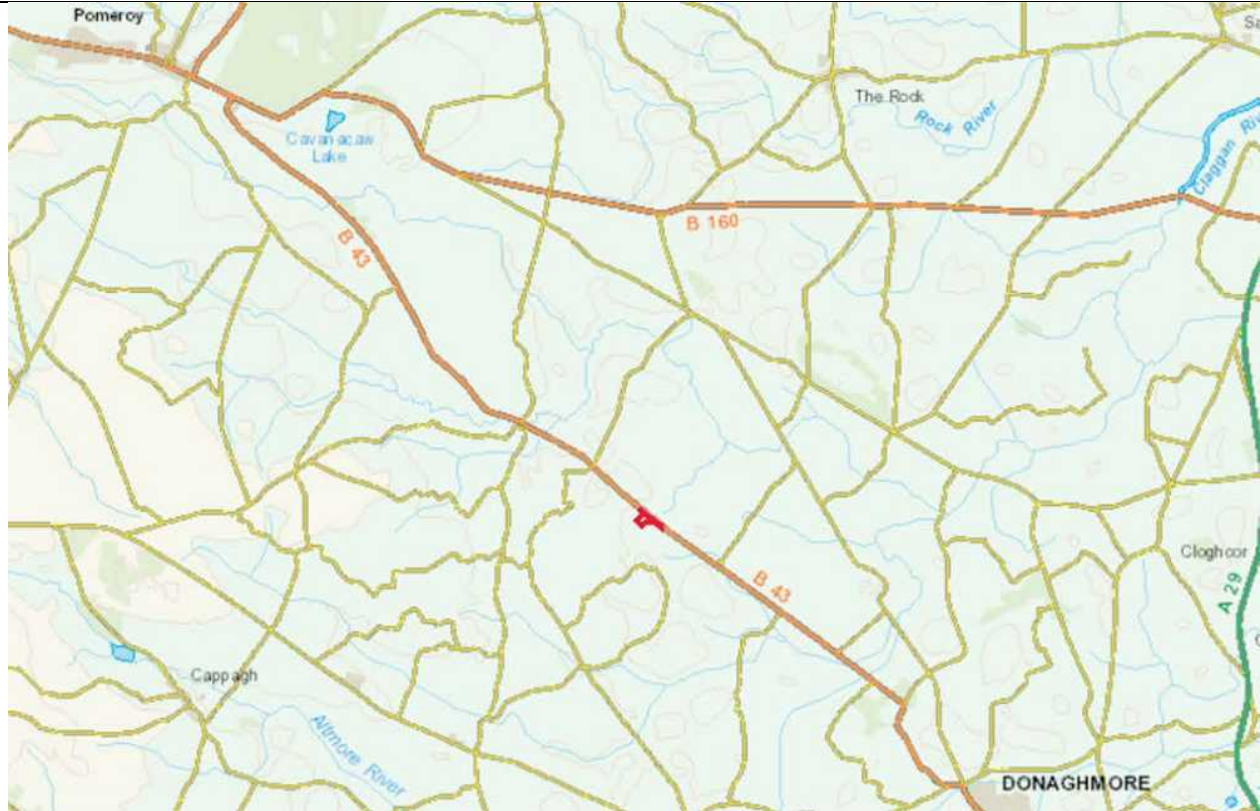
Mid-Ulster
Local Planning Office
Mid-Ulster Council Offices
50 Ballyronan Road
Magherafelt
BT45 6EN

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/1700/O	Target Date:
Proposal: Proposed dwelling and garage	Location: Land off Pomeroy Road approx. 285m North East of 47 Kilmardle Road Dungannon
Referral Route:	
Recommendation:	REFUSE
Applicant Name and Address: Mr Robert Quinn 47 Kilmakardle Road Dungannon	Agent Name and Address: Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
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Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	DAERA - Omagh	Considered - No Comment Necessary
Representations:		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
Description of Proposal This is an outline planning application for a dwelling and garage on a farm. The site is located on lands off Pomeroy Road approx. 285m North East of 47 Kilmardle Road Dungannon.		
Characteristics of the Site and Area The site is located in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan, approx. halfway between Donaghmore and Pomeroy. The site is a relatively square shaped plot cut from the roadside frontage and northern corner of a larger agricultural field situated adjacent and accessed off the Pomeroy Rd. A mix of post and wire fencing and light vegetation bound the northeast / roadside and northwest boundaries of the site. The remaining boundaries are undefined and open onto the host field. Whilst the site and host field comprises largely flat low-lying land approx. 1½ m below the level of the adjacent Pomeroy Rd an area around the existing access into the site has been filled in with hardcore and inert material to create level entry. There will be open views of the site from the Pomeroy Rd over 300m approx. on the northwest approach, over approx. 100m on the southeast approach and passing along the frontage of the site. The area surrounding the site is predominantly flat low lying agricultural land interspersed with detached dwellings, ancillary building and farm groups. A dwelling and small no. outbuildings sit on a gravelled yard directly opposite the site to the other side of the Pomeroy Rd; and the applicant's farm buildings including dwelling, poultry units and ancillary buildings / sheds are well set back to the southwest of the site visible from the Pomeroy Rd.		
Planning Assessment of Policy and Other Material Considerations Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.		

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 21: Sustainable Development in the Countryside

Development Control Advice Note 15: Vehicular Standards

Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

Representations

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

Planning History

On Site

- M/1989/0038 - Dwelling and garage - Opposite 37 Mullaghmore Rd Mullaghmore Dungannon - Granted 10th April 1989
- M/1989/0038B - Dwelling and garage - Opposite 37 Mullaghmore Rd Mullaghmore Dungannon - Granted 31st May 1990

The time for implementing the above applications has expired.

Adjacent

- M/2005/0994/O - Proposed Dwelling - Adjacent to 170 Pomeroy Rd Donaghmore Dungannon - Granted 8th June 2006
- M/2007/1462/F - Site for dwelling (under article 28 of the Planning (NI) Order 1991) without compliance with conditions 13 %14 with regards to re-siting of vehicular access of previous approval reference M/2005/0994/O - Withdrawn 28th January 2009

The above applications located on lands along the Pomeroy Rd between the site and no. 170 Pomeroy Rd to its southeast were made by the farm owner on the current application.

- M/2013/0499/F Proposed additional 1no. free range poultry shed and feed bin - Land approx. 120m north east of 47 Kilmakardle Rd Dungannon - Granted 30th December 2013
- LA09/2016/1349/F - Proposed 1no. additional free range poultry shed with 1no. feed bin (New shed to contain 7000 free range egg laying hens taking the total site capacity 36840 free range egg laying hens) - Land approx. 150m North of 47 Kilmakardle Rd Dungannon - Granted 8th May 2017

The above applications made by the farm owner on the current application relate to 2no. poultry units set back from the Pomeroy Rd to the southwest of the site.

Consultees

1. DfI Roads were consulted in relation to access arrangements and have no objection subject to standard conditions and informatives. Accordingly, I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
2. Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted on this application and confirmed the farm business stipulated on the P1C Form accompanying the application is currently active and has been established for at least 6 years.

Consideration

Dungannon and South Tyrone Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – is the overarching policy for development in the countryside. Policy CTY1 of PPS 21 states "There are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aim of sustainable development". These include dwellings on farms in accordance with Policy CTY 10 of PPS 21, which the applicant has applied under.

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

1. the farm business is currently active and has been established for at least 6 years,

The applicant has a farm business and as confirmed with the Department of Agriculture, Environment and Rural Affairs (DAERA) this farm business (identified on P1C Forms and Farm maps submitted along with the application) has been active and established for over 6 years. Criterion (1) of CTY 10 has been met.

2. 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 or since PPS 21 was introduced on 25th November 2008,

I have checked the farm maps associated with the application and there is no evidence to indicate that any dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within the last 10 years from the date of the application. Criterion (2) of CTY 10 has been met.

3. the new building is visually linked or sited to cluster with an established group of buildings on the farm. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
- demonstrable health and safety reasons; or
 - verifiable plans to expand the farm business at the existing building group(s).

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

A dwelling and garage on the proposed site would not visually link or cluster with the applicant's farm group including a dwelling, poultry units and ancillary buildings / sheds which are located well set back and removed from the Pomeroy Rd to the southwest of the site (see Fig 1 below). Furthermore, no health and safety reasons to justify siting away from the farm group or verifiable plans to expand the farm business at the existing building group have been submitted. Criterion (3) of CTY 10 has not been met.

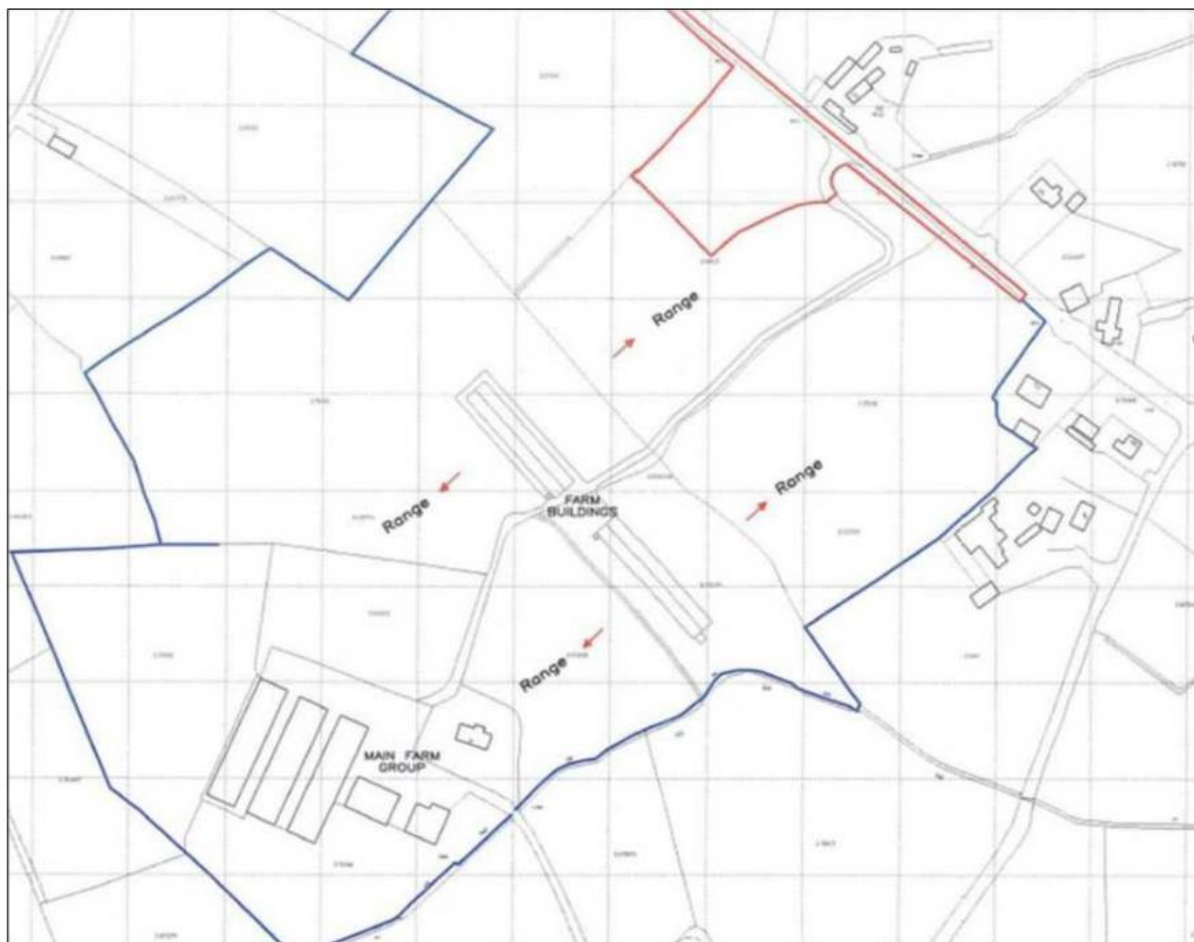


Fig 1: Site location plan showing site outlined red and applicant's farmlands including buildings outlined blue

Nor has the site has the capacity to integrate a dwelling and garage in accordance with policies CTY 13 and CTY 14 of PPS21 as also required by policy CTY 10. The site in my opinion lacks sufficient long established natural boundaries to provide a dwelling and garage on this site, when viewed from the public road, with a suitable degree of

enclosure to integrate it into the landscape without detriment to the rural character of the area.

As detailed above, whilst criteria 1 and 2 of Policy CTY10 has been met, criteria 3 of CTY10 has not been met as a dwelling and garage on the proposed site would not visually link or cluster with the applicant's farm group. Additionally, the site does not have the capacity to integrate a dwelling and garage in accordance with policies CTY 13 and CTY 14. Therefore this proposal is contrary to policies CTY10, 13 and 14.

Additional considerations

Had the principle this proposal been established I would have had no concerns regarding a new dwelling located on this site impacting the amenity of existing or potential neighbouring properties to any unreasonable degree in terms of overlooking or overshadowing given the location of the site and separation distances that would be retained.

In addition to checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED), map viewers available online have been checked and identified no built heritage assets of interest or natural heritage interests of significance.

Flood Maps NI indicate no flooding on site.

Recommendation: Refuse

Neighbour Notification Checked

Yes

Summary of Recommendation

Refuse

Refusal reasons

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that proposed new building will not be visually linked or sited to cluster with an established group of buildings on the farm.
2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries therefore is unable to provide a suitable degree of enclosure for the new building to integrate into the landscape.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the new building would, if permitted, be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

Signature(s)

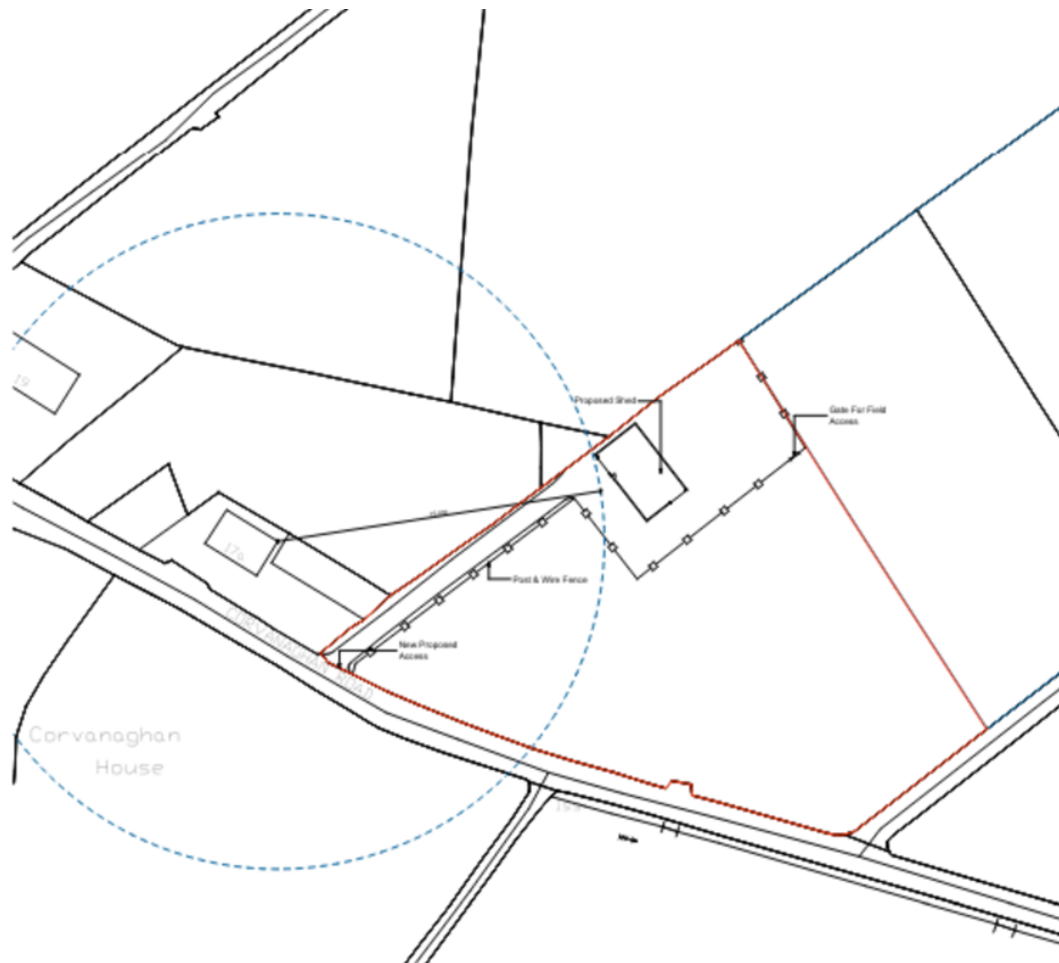
Date:

Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2023/0874/F Recommendation: Approve	Target Date: 1 December 2023
Proposal: Proposed farm shed	Location: Lands Approx 53M East of 17A Corvanaghan Road Cookstown
Applicant Name and Address: Mr Charles Quinn 35 Corvanaghan Road Cookstown BT80 9TW	Agent Name and Address: Mor Architects 11 Dunamore Road Cookstown BT80 9NR
Summary of Issues: <p>This application was first before Members at February 2024 Planning Committee. It was recommended for refusal as it was considered that the proposal failed to comply with the SPPS and Policies CTY 1, CTY 12, CTY 13 and CTY 14 of PPS 21. It had not been adequately demonstrated that there is an active and established farm holding, that the building is necessary for the efficient use of the agricultural holding and in terms of character and scale it is not appropriate to its location and it will not visually integrate into the local landscape. The proposal is also not sited beside existing farm buildings. Concern was also raised that the building would be overly prominent in the local landscape. Members agreed to defer the application for an office meeting which was facilitated on the 16th February 2024. Following this office meeting in which the farm case was explored, a site visit carried out and consideration of a letter from a Solicitor setting out the intentions around the farm business, I am recommending the application be approved. Justification for this is provided further in this report.</p>	
Summary of Consultee Responses: <p>No new consultations were issued to inform this deferred consideration.</p>	

Description of Proposal

This is a full planning application for a proposed farm shed.



Deferred Consideration:

In order to fully assess the principle of this proposal under Policies CTY 1 and CTY 12 of PPS21 it is important to set out the details of the farm business. Policy CTY 12 requires there to be a currently active and established agricultural holding (for at least 6 years). The applicant is Mr Charles Quinn of 35 Corvanaghan Road. The farm business is registered to Charles and Shane Quinn, Shane being Charles' son who resides at the same address. DAERA have verified that the Category 1 business has been registered since 2005. The only lands associated with this farm business are the field in which the site sits as well as the field behind this (3.74 hectares in total). Claims have been made of the land in each of the past 6 years. The only buildings associated with this farm business are a dwelling and shed at number 35 Corvanaghan Road. This shed was at one time agricultural but is now used for domestic purposes. Farming activity involves making and selling round bale silage. They currently have no animals due to a lack of housing but it is the intention of Shane to start a sheep enterprise and he wishes to build a shed on this site to enable this. It will house sheep and store feed. A Solicitors letters from Doris and MacMahon has been submitted which certifies that they have been instructed by Charles to transfer the 3.74 hectares to his son Shane.

On the basis of the information at hand, I am satisfied that there is an active and established agricultural holding. Having visited the site I would take the view that the existing shed beside the dwelling at number 35 Corvanaghan Road is not appropriate for the housing of sheep. It is clearly the only domestic shed associated with the dwelling, it sits at very close proximity to a busy road and does not have easy access to the fields which are intended to be used. It would be a sensible solution to erect a small shed in the field in question. The fact that a solicitor has verified that the transfer of lands is in process is also evidence that the intention for Shane to follow through with his farming plans is there. I am therefore satisfied that the agricultural building being applied for is necessary for the efficient use of the holding and adequate justification has been provided for siting away from number 35.

Having visited the site and its surrounds I can confirm that the immediate area is characterised by a mix of dwellings and agricultural buildings scattered throughout in a dispersed pattern. The topography of the land is undulating and rises from the Corvanaghan Road. Most dwellings and agricultural buildings are sited as the land rises. I have no concerns that an agricultural building is out of character in this area and its scale is not excessive nor inappropriate. It will have a back drop of rising land to assist its integration and reduce any prominence concerns. There have been no third party objections to this proposal. The nearest third party dwelling to the site is 17a Corvanaghan Road and it is more than 75m away from where the proposed shed is located. This will ensure that neighbouring amenity is protected.

I have also given consideration to the impact of this development priority habitat. The proposal is not for intensive agriculture and it will not result in the generation of ammonia unlike cattle houses/poultry houses. It will however require the removal of hedgerow along the front on the site to provide splays. DFI Roads have indicated approx. 90m of hedge and fence to be removed to the SE. If this hedgerow was in excess of 1m in height and 0.5m in width then the submission of a biodiversity checklist would be necessary, however this is a very low set hedgerow, less than 1m and its potential for being priority habitat is minimal. New planting will be a condition of approval and as such, I am satisfied there is no conflict with Policy NH5 of PPS 2.

I recommend that this application be approved subject to the conditions below.

Conditions/Reasons for Refusal:

Approval Conditions

Condition 1

The works hereby permitted shall be begun not later than the expiration of 5 years beginning with the date on which this consent is granted.

Reason: As required by Section 94 of the Planning Act (Northern Ireland) 2011

Condition 2

The vehicular access, including visibility splays of 2.4m x 90m in both directions and a 90m forward sight line shall be provided in accordance with the approved plans, prior to the commencement of any 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.

Condition 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 is completed 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.

Condition 4

The development hereby approved shall be used only for the purposes of agricultural storage and the housing of sheep.

Reason: To ensure the protection of residential amenity and to prevent an unauthorised use

Condition 5

The existing natural screenings of this site shall be permanently retained, except where removal is required to provide splays.

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

Condition 6

During the first available planting season after the completion of the development hedge shall be planted in a double staggered row 200mm apart, at 450 mm spacing, 500 mm to the rear of the sight splays along the front boundary of the site and along the post and wire fencing defining the new site curtilage.

Reason: To ensure the development integrates into the landscape and to encourage biodiversity

Signature(s):Karla McKinless

Date: 18 June 2024



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 February 2024	Item Number: 5.23
Application ID: LA09/2023/0874/F	Target Date: 1 December 2023
Proposal: Proposed farm shed	Location: Lands Approx 53M East of 17A Corvanaghan Road Cookstown
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Charles Quinn 35 Corvanaghan Road Cookstown BT80 9TW	Agent Name and Address: Mor Architects 11 Dunamore Road Cookstown BT80 9NR
Executive Summary: <p>The proposal is being presented to members with the recommendation to refuse the application as it is contrary to CTY 12 in that it has not been demonstrated that the proposal is necessary for the efficient use of the agricultural holding. Insufficient evidence has been provided to demonstrate that there is a need for the building. Furthermore, the size and scale of the building is unsuitable for the site. It is not sited beside existing farm buildings and again, no evidence has been provided to demonstrate it is essential for the efficient functioning of the business. The proposal also fails to comply with CTY 13 & CTY 14 due to the size and scale and the location of the proposed shed, it would result it becoming a prominent feature in the landscape.</p> <p>DfI Roads were consulted and requested amendments which to date have not been requested or provided by the agent. Therefore, in its current form the application also fails to comply with PPS 3. It is likely that these issues could be overcome with the amendments being made as requested. No third party objections were received.</p>	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc Roads Consultation full.docx
Statutory Consultee	DAERA - Omagh	LA09-2023-0874-F.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response.pdf
Statutory Consultee	DAERA - Omagh	LA09-2023-0874-F.docx

Representations:

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

Summary of Issues

The proposal is contrary to CTY 1, 12, 13 & 14 of PPS 21. The proposal is also contrary to PPS 3.

Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the Cookstown Area Plan 2010. The red line of the application site is located within the southern part of a larger agricultural field which extends further north east. The land rises in a north direction gradually. The southern boundary of the site is defined by a low level hedgerow separating the site and the public road. The northern boundary is defined partly by the gable end of a third party dwelling and garage, with trees defining the remainder of the boundary at that side. The south eastern boundary is partially defined by trees and hedgerows. The corner of the site is open with a field access. The north-eastern boundary is currently undefined with the agricultural field extending further. The surrounding area is a mix of residential dwellings located immediately to the north west, with single dwellings located sporadically throughout the countryside.

Description of Proposal

This is a full planning application for a proposed farm shed.

Representations

No third-party representations have been received.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Cookstown Area Plan 2010

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS 3: Access, Movement and Parking

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

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

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

(a) it is necessary for the efficient use of the agricultural holding or forestry enterprise;

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

Firstly, with regards to determining if the agricultural holding is active and established as set out within Policy CTY 10, DAERA responded to confirm that the farm business is active and established.

With regards to criteria A, I am not satisfied enough justification and information has been provided to justify the need for the shed and how it is necessary for the efficient use of the holding. The agent submitted a statement of case in which the applicant stated they wishes to start a sheep enterprise now, and they state no animals are currently kept on the holding as there is no housing available. However, within the statement of case they contradict this by stating there is an agricultural shed adjacent to the applicants dwelling that is being used mainly for domestic storage as there is no garage associated with the dwelling. The agricultural shed identified at the applicants home at 35 Corvanaghan Road measures approximately 170sqm with the proposed shed measuring approximately 230sqm. From this, I believe it is reasonable to assume that the existing shed at 35 Corvanaghan Road could be utilised for the storage of animal feed, veterinary medicine, straw and hay. The onus is on the applicant to provide information on why the proposed shed is necessary for the efficient use of the agricultural holding, which I do not believe is the case.

I do not believe the character and scale of the proposal is appropriate for the local landscape and it will not visually integrate into the local landscape. The agent has not provided a strong enough justification for the need for the proposed shed, especially one of this size. In my opinion, the proposed shed is larger than what is required to accommodate a small herd of sheep. In terms of the ridge height the proposed shed measures approximately 6.3m in height above finished floor level. The shed also has a roller shutter door which is common with agricultural buildings to store machinery such as tractors and other machinery. If the applicant owns any machinery which they have not confirmed, it will leave the question where these are currently stored. The applicant has not provided any clear need for the proposed shed and why it is required to be at the scale proposed. With regards to the site, although there are boundaries on the wider boundary of the site, I believe it is a very open site, with the land rising in a north-eastern direction, it would result in the building being prominent and failing to integrate into the local landscape. The proposed block plan only indicates proposed post and wire fence being used on the boundary of the site, which will not aid integration of the proposal.

I have no concerns that the proposal will not have an adverse impact on the natural or built heritage. Environmental Health were consulted on the proposal and advised that the original plans showed the proposed shed located within 75m of a third party dwelling and it may result in nuisance. The agent then amended the site block plan and moved the proposed shed further north east to ensure there was a separation distance of at least 75m between the proposed shed and third party dwellings. Furthermore, a

condition could be applied to any approval to ensure that the shed is used only for lambing purposes and general storage of farm machinery and feed.

Policy CTY 12 states further that;

In cases where a new building is proposed applicants will also need to provide sufficient information to confirm all of the following:

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

I believe there is a suitable building located on the holding at the applicants home address at 35 Corvanaghan, which in the statement of case has been referred to as an agricultural shed. While the scale of the proposed shed is excessive I am content with the design and materials being proposed. The proposal is not sited beside existing farm buildings.

Exceptionally, consideration may be given to an alternative site away from existing farm buildings, provided there are no other sites available at another group of buildings on the holding, and where;

- *It is essential for the efficient functioning of the business; or*
- *There are demonstrable health and safety reasons.*

I am content that there no alternative sites available at the group of buildings at No.35 Corvanaghan Road, based on the information provided by the agent. However, I am not satisfied that it is essential for the efficient functioning of the business. No demonstrable health and safety reasons have been provided.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. As previously mentioned, I do not believe the proposal visually integrates into the local landscape. It will result in the building being a prominent feature in the landscape and lacks long established natural boundaries to provide a suitable degree of enclosure. While the scale of the proposal is not acceptable in the local area, I am satisfied that the design of the building in terms of its finishes is acceptable.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As previously mentioned, the proposal will result in the building being a prominent feature in the landscape which will erode the rural character. I have no concerns regarding suburban style build-up of development or add to or create a ribbon development.

PPS 3: Access, Movement and Parking

DfI Roads were consulted on the proposed plans and requested a number of amendments be made to ensure that a safe access is being provided. These amendments were not sought as the principle of development has not been accepted at this location. As such, in its current form the proposal is contrary to Policy AMP 2 of PPS 3 as insufficient information has been provided to demonstrate that the proposal will create a safe access onto the public road. It should be noted for members that should the principle of development be accepted here in line with other prevailing policy, any concerns related to PPS 3 are likely able to be overcome.

Other Material Considerations

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

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that; there is an active and established farm holding, the building is necessary for the efficient use of the agricultural holding and in terms of character and scale it is not appropriate to its location and it will not visually integrate into the local landscape and no additional planting has been proposed. The proposal is also not sited beside existing farm buildings.

Reason 3

The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that in terms of character and scale it is not appropriate to its location and it will be a prominent feature in the landscape.

Reason 4

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would be unduly prominent in the landscape.

Signature(s): Ciaran Devlin

Date: 23 January 2024

ANNEX	
Date Valid	18 August 2023
Date First Advertised	29 August 2023
Date Last Advertised	29 August 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 17A Corvanaghan Road Cookstown Tyrone BT80 9TN	
Date of Last Neighbour Notification	24 August 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: I/1991/0269 Proposals: Dwelling and Garage Decision: PR Decision Date: Ref: I/1981/032701 Proposals: ERECTION OF BUNGALOW Decision: PG Decision Date: Ref: I/1981/0327 Proposals: BUNGALOW Decision: PG Decision Date: Ref: I/2001/0802/O Proposals: Site for dwelling Decision: PG Decision Date: 14-JAN-02 Ref: LA09/2023/0874/F Proposals: Proposed farm shed	

Decision:
Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-DC Checklist 1.doc
Roads Consultation full.docx
DAERA - Omagh-LA09-2023-0874-F.docx
Environmental Health Mid Ulster Council-Planning response.pdf
DAERA - Omagh-LA09-2023-0874-F.docx

Drawing Numbers and Title

Site Location Plan Plan Ref: 01
Site Layout or Block Plan Plan Ref: 02
Proposed Floor Plans Plan Ref: 03
Proposed Elevations Plan Ref: 04

Notification to Department (if relevant)

Not Applicable



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2023/0916/F Recommendation: Approve	Target Date: 15 December 2023
Proposal: Proposed off site replacement dwelling and garage	Location: 180M West of No 16 Carncoose Road Cranny Moneymore
Applicant Name and Address: Mr Gregory McGovern 31 Tirgan Road Moneymore BT45 7RZ	Agent Name and Address: CMI Planners 38B Airfield Road Toomebridge BT41 3SG
Summary of Issues: This application was first before Members at February 2024 Planning Committee with a recommendation to refuse. It was considered that the proposed development was contrary to Policy CTY 3 of PPS 21 in that the proposed dwelling would have a significantly greater visual impact than the dwelling it was replacing. Members agreed to defer the application for an office meeting which was facilitated on the 16 th February 2024. Following this office meeting and a subsequent site inspection, the proposal is now recommended for approval with justification for this recommendation provided further in this report.	
Summary of Consultee Responses: No consultations were carried out to inform this deferred consideration	
Description of Proposal This is a full application for a proposed offsite replacement dwelling and garage. The existing dwelling is shown in the photo below and it is proposed to replace it with the dwelling detailed in the plan drawing further below.	



Deferred Consideration:

The main concern with this application is that it was considered that the proposed dwelling would have a significantly greater visual impact than the dwelling it was replacing. As such, it was considered contrary to policy CTY 3 of PPS 21.

CTY 3 states that the overall size of a new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing dwelling. Having carried out a site inspection I can confirm that the existing dwelling cannot be viewed from the public road. The policy allows for off site locations in certain circumstances and in this application the applicants justification for an off site location has been considered acceptable. Moving the dwelling off-site is resulting in a dwelling that will be viewable from the public road. The site is set back from the Carnose Road and the presence of mature roadside and field boundaries will filter and soften any views of the dwelling and it is considered that whilst the new dwelling will have a greater visual impact, it will not be significantly greater. This is also helped by the fact that the dwelling is single storey and incorporates a good landscaping scheme, which will be a condition of approval to ensure the dwelling integrates into the surrounding landscape.

Consideration has also been given to Policy NH5 of PPS2 which deals with the potential loss of priority habitat resulting from the removal of hedgerow along the site frontage to provide visibility splays. As more than 30m of hedgerow of a height in excess of 1m and a width in excess of 0.5m is required the applicant was asked to submit a biodiversity checklist. This has been submitted and completed by a certified ecologist. It confirms that the hedgerow is mainly gorse. No notable species were observed during a site inspection and it is recommended that the hedge only be removed after the 1st September and before 1st March. Any proposed planting behind splays should be native species. This can be a condition of any favourable decision.

Members are advised to approve this application as it is considered that there is no conflict with Policy CTY 3 of PPS 21 or NH5 of PPS 2.

Conditions/Reasons for Refusal:**Approval Conditions****Condition 1**

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

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

Condition 2

The construction of the dwelling hereby permitted, including the clearing of topsoil, shall not commence until the existing building, coloured green on drawing no. 01, uploaded on Public Access on 1 September 2023, is demolished, all rubble and foundations have been removed in accordance with the details on the approved plans

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

Condition 3

The vehicular access including visibility splays 2.4 x 33 metres East and 2.4 x 45 metres West and any forward sight distance, shall be provided in accordance with Drawing No. 06 uploaded on Public Access on 12 January 2024, prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Condition 4

During the first available planting season after the occupation of the dwelling hereby approved, the proposed trees and vegetation shall be planted in accordance with drawing no. 02 uploaded on Public Access on the 1 September 2023.

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

Condition 5

The existing natural screenings of this site, as identified on drawing 02, uploaded on Public Access on 1 September 2023, shall be permanently retained, except where removal is required to provide splays along the site frontage. During the first available planting season after the occupation of the dwelling, a (hawthorn/natural species) hedge shall be planted in a double staggered row 200mm apart, at 450 mm spacing, 500 mm to the rear of the sight splays along the front boundary of the site.

Reason: To ensure the development integrates into the surroundings, to ensure the maintenance of screening to the site and in the interests of promoting biodiversity.

Signature(s):Karla McKinless

Date: 18 June 2024

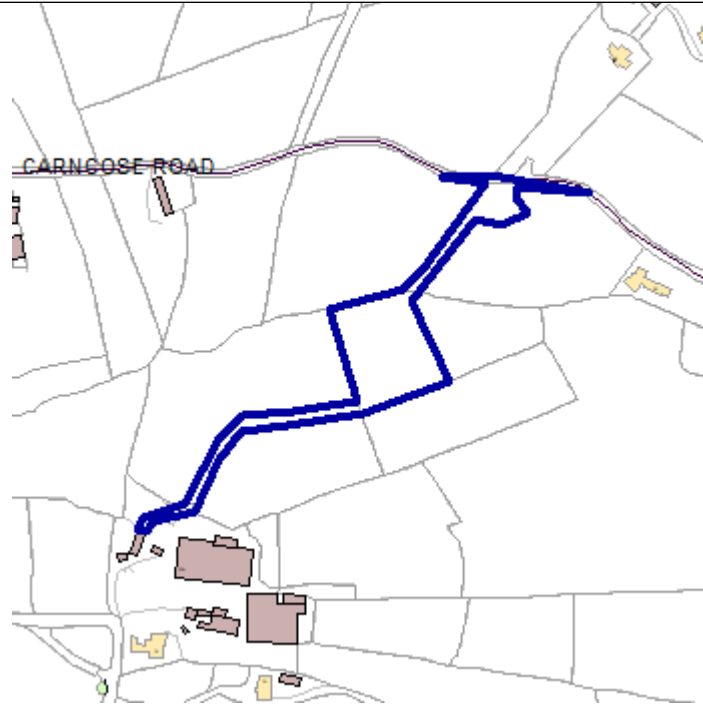


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 February 2024	Item Number: 5.26
Application ID: LA09/2023/0916/F	Target Date: 15 December 2023
Proposal: Proposed off site replacement dwelling and garage 180m West of No. 16 Carnose Road, Cranny, Moneymore, BT45 7RY	Location: 180M West of No 16 Carnose Road Cranny Moneymore
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Gregory McGovern 31 Tirgan Road Moneymore BT45 7RZ	Agent Name and Address: CMI Planners 38B Airfield Road Toomebridge BT41 3SG
Executive Summary: This proposed full application for an off-site replacement dwelling is brought to the planning committee with a recommendation for refusal. The proposed fails to meet the criteria in Policy CTY 3 of PPS 21 in that it would, if permitted, have a significantly greater visual impact than the existing dwelling. I am however content that the proposed complies with Policy CTY 13 and CTY 14 of PPS 21.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The site of the proposed development is in the rural countryside outside any designated settlement limit as defined in the Magherafelt Area Plan 2015. The site for the proposed dwelling is 180m west of no. 16 Carncoose Road Moneymore and comprises a hilltop portion of a larger agricultural field. The site is set back approximately 90 metres from

the Carncoose Rd. Boundaries include field hedgerow along the northern and southern edges of the site and post and wire fencing along the western boundary. The site for the dwelling is 170 metres north west of Tir-con Engineering which is comprised of a large built up yard area with a series of large sheds. The existing dwelling to be replaced lies along the western edge of this yarded area and is marked in green within the red-lined area of the site location map.

Description of Proposal

This is a full application for the proposed off site replacement dwelling and garage 180m west of no. 16 Carncoose Road, Cranny, Moneymore, BT45 7RY.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

Planning History

LA09/2023/0357/F – Proposed off-site replacement dwelling and detached garage – Lands approx. 1110m NE of 37 Tirgan Road Moneymore – Permission Granted 13/11/2023

Representations

To date no third party representations have been received.

Magherafelt Area Plan 2015

The site of the proposed development is in the rural countryside outside any designated settlement limit as defined in the Magherafelt Area Plan 2015.

Other Constraints

The site is located in the Sperrins AONB. The proposal is considered against Policy NH 6 of PPS 2 in the main body of the report.

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

There are no issues pertaining to flooding at the site.

Mid Ulster District Council Draft Plan Strategy 2030

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

SPPS – Strategic Planning Policy Statement for Northern Ireland

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

PPS 3 – Access, Movement and Parking

The proposed involves the creation of a new access to a public road. Given this is a replacement dwelling, there will be no intensification of the use of this access and thus the proposed will not prejudice road safety. DfI Roads were consulted in this application and provided no objection to the proposal, subject to condition. I am content that the proposed satisfies policy AMP 2 of PPS 3.

PPS 21 – Sustainable Development in the Countryside

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY 1 of PPS 21 lists development proposals that are considered to be acceptable forms of development in the countryside, including replacement dwellings, subject to policy criteria within CTY 3 - Replacement Dwellings being met.

The existing building on site exhibits the essential characteristics of a dwellinghouse, including what appears to be the remnants of a fireplace / chimney and domestic-scale door and window gaps. All four walls are substantially intact. Thus I am content that the existing dwelling qualifies for replacement. It is not a listed building and nor is it considered to make an important contribution to the heritage, appearance or character of the locality.

Policy CTY 3 provides that the proposed replacement dwelling should be sited within the established curtilage of the existing building. I acknowledge that the existing building is located along the western edge of a heavily built up and busy yard area with limited existing domestic curtilage and therefore it is accepted that the proposed replacement dwelling cannot be sited at this location.

The design of the replacement dwelling is considered to be appropriate for its rural setting, with rendered walls and flat dark concrete tiles. All necessary services can be provided without significant adverse impact on the environment and the access to the public road is considered to be in compliance with PPS 3, as established above.

Finally, the overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building. While the proposed dwelling is single storey and modest in size, it is considered that the siting for the dwelling on what is a significantly more prominent position atop a hill, will result in the dwelling having a significantly greater visual impact than the existing dwelling. The agent was asked to consider with the applicant an alternative siting location for the replacement dwelling, including the agricultural field just north of the existing dwelling, though this has not been forthcoming. Because of this I have to advise that the proposal fails on this aspect of the policy and therefore fails to meet Policy CTY 3.

Consideration is given to a similar application which was recently granted planning permission. Planning approval was granted to the off-site replacement dwelling under LA09/2023/0357/F, the existing dwelling of which was the adjoining dwelling to the south of the existing dwelling in this current case under consideration. There were initial concerns raised pertaining to the height of the dwelling in that case, and as a result the proposed dwelling was reduced to single storey. While this current application also proposes a single storey dwelling, the siting by comparison to the siting of that approved, results in a significantly greater visual impact than that of the existing dwelling.

Policy CTY 13 states planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As above, the design of the dwelling is considered to be acceptable. The proposed site is complete with a degree of long established natural boundaries which include field hedgerow to the north western and south eastern boundaries. There is a degree of proposed landscaping at the site consisting of natural species feature trees dotted around the proposed dwelling. It is considered that the proposed dwelling would not be a prominent feature in the environment, though it is important to note that this does not mean that the proposed dwelling does not have a significantly greater visual impact than that of the existing dwelling as has been established for the purposes of Policy CTY 3 above. I am content that the proposal meets the criteria under Policy CTY 13.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It is considered that the site and its environs are suitable for absorbing a dwelling of this size and scale. I am content that the proposal meets the criteria under Policy CTY 14.

Recommendation

Having carried out an assessment of the planning policy and other material considerations pertaining to this proposal, I recommend that this application for planning

permission be refused.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal fails to comply with Policy CTY 3 of PPS 21 in that it would, if permitted, have a significantly greater visual impact than the existing dwelling.

Signature(s): Benjamin Porter

Date: 18 January 2024

ANNEX	
Date Valid	1 September 2023
Date First Advertised	12 September 2023
Date Last Advertised	12 September 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 31 Tirgan Road Moneymore Londonderry BT45 7RZ The Owner / Occupier 19 Carncoose Road Moneymore Londonderry BT45 7RY	
Date of Last Neighbour Notification	12 September 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: LA09/2023/0624/F Proposals: Proposed single storey rear extension and alterations to dwelling Decision: PG Decision Date: Ref: H/2006/0145/O Proposals: Site of proposed Community Hall (Removal of Existing) for Social Community Events & Provision of Car Parking Facilities Decision: PG Decision Date: 06-SEP-07 Ref: H/2003/1362/O Proposals: Site of dwelling and garage. Decision: Decision Date: Ref: H/1994/0553 Proposals: SITE OF RETIREMENT DWELLING Decision: WITHDR Decision Date: Ref: H/2008/0293/F	

Proposals: Proposed new access laneway into house No. 31a Tirgan Road, Moneymore
Decision: PG
Decision Date: 15-APR-09

Ref: H/1988/0118
Proposals: ALTERATIONS AND ADDITIONS TO BUNGALOW
Decision: PG
Decision Date:

Ref: H/1980/0051
Proposals: ALTERATIONS AND ADDITIONS TO BUNGALOW
Decision: PG
Decision Date:

Ref: H/2006/0355/F
Proposals: Proposed new access laneway into house No. 31a Tirgan Road, Moneymore
Decision:
Decision Date:

Ref: LA09/2023/0928/LDE
Proposals: Existing Manufacture, Storage & Office Buildings for Tircon Engineering specialising in the Manufacture & Erection of steel agricultural sheds
Decision:
Decision Date:

Ref: H/2000/0836/PA
Proposals: Telecommunications Apparatus
Decision: 53
Decision Date: 03-JAN-01

Ref: H/1989/0368
Proposals: RETIREMENT BUNGALOW
Decision: PG
Decision Date:

Ref: LA09/2023/0357/F
Proposals: Proposed off-site replacement dwelling and detached garage
Decision:
Decision Date:

Ref: H/1975/0200
Proposals: 11KV AND M/V O/H LINES (C.7060)
Decision: PG
Decision Date:

Ref: H/2000/0771/F

Proposals: 11kv Overhead Line

Decision: PG

Decision Date: 18-DEC-00

Ref: LA09/2023/0916/F

Proposals: Proposed off site replacement dwelling and garage 180m West of No. 16 Carncoose Road, Cranny, Moneymore, BT45 7RY

Decision:

Decision Date:

Ref: LA09/2020/0500/F

Proposals: Proposed off Site Replacement Dwelling

Decision: WDN

Decision Date: 16-JUN-21

Ref: LA09/2021/0934/O

Proposals: Dwelling & Garage

Decision: WDN

Decision Date: 06-SEP-23

Ref: H/2008/0628/F

Proposals: Extension and refurbishment to existing dwelling and erection of new garage for domestic use.

Decision: PG

Decision Date: 18-FEB-09

Ref: H/2007/0861/F

Proposals: Replacement Dwelling

Decision:

Decision Date:

Ref: H/2015/0084/LDP

Proposals: Improvement works are proposed within the existing NI water service reservoir site to facilitate deployment of emergency tankering operations if required during extreme weather conditions. The works include creation of a parking bay, new posts to abut existing fence proposed concrete post and strained wire fence

Decision: PG

Decision Date: 06-AUG-15

Ref: H/1996/0448

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: H/1995/0441

Proposals: SITE OF DWELLING

Decision: WITHDR

Decision Date:

Ref: H/1996/0028

Proposals: SITE OF DWELLING

Decision: PG

Decision Date:

Ref: H/1983/0136

Proposals: REINFORCED CONCRETE RESERVOIR AND OUTSTATION

Decision: CROWN

Decision Date:

Ref: LA09/2016/0019/RM

Proposals: Proposed dwelling and garage for residential purposes

Decision: PG

Decision Date: 25-FEB-16

Ref: LA09/2015/0642/O

Proposals: One dwelling house and garage

Decision: PG

Decision Date: 09-NOV-15

Ref: H/2003/1280/O

Proposals: Site of single dwelling.

Decision: PG

Decision Date: 01-MAR-05

Ref: H/1986/0123

Proposals: BUNGALOW AND GARAGE

Decision: PG

Decision Date:

Ref: H/1977/0430

Proposals: ALTERATIONS AND ADDITIONS TO HOUSE

Decision: PG

Decision Date:

Ref: H/1975/0244

Proposals: 11KV AND MV O/H LINES C7240

Decision: PG

Decision Date:

Ref: H/1974/0053

Proposals: SITE OF CONVERSION OF RECREATION BUILDING TO OFFICES AND STORES

Decision: PG
Decision Date:

Ref: H/1994/0053
Proposals: REPLACEMENT DWELLING
Decision: PG
Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Full Resp.docx
DFI Roads - Enniskillen Office-Full Resp.docx

Drawing Numbers and Title

Site Location Plan Plan Ref: 01
Site Layout or Block Plan Plan Ref: 02
Proposed Floor Plans Plan Ref: 03
Proposed Floor Plans Plan Ref: 04
Proposed Elevations Plan Ref: 05
Road Access Plan Plan Ref: 06

Notification to Department (if relevant)

Not Applicable



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2023/1215/O Recommendation: Approve	Target Date: 26 February 2024
Proposal: Site for two dwellings and detached garages	Location: Lands Located between No 21 and No 23 Halfgayne Road Maghera
Applicant Name and Address: Mr Francis Bradley 30 Sunnyside Park Maghera BT46 5BG	Agent Name and Address: 2Plan NI 47 Lough Fea Road Cookstown BT80 9QL
Summary of Issues: This application was first before Members at April 2024 Planning Committee with a recommendation to refuse. It was considered that the proposal failed to comply with Policies CTY 1, CTY 8 and CTY 14 of PPS 21 in that the site did not represent a small gap along a substantially built up road frontage and if approved it would create a ribbon of development which would have a negative impact on the rural character of this area. Members agreed to defer the application for an office meeting which was facilitated on the 16 th May 2024. Following this meeting, a subsequent site visit and consideration of additional supporting information I am recommending this application be approved with my justification for this detailed further in this report.	
Summary of Consultee Responses: No new or additional consultations were considered necessary to inform this deferred consideration.	

Description of Proposal

This is an outline application with a proposal for a site for two dwellings and detached garages to be accessed under CTY8.

Deferred Consideration:

In terms of the principle of a dwelling on this site, I am re-considering this application under 2 primary policies - CTY 8 and CTY 14 of PPS 21. In order to assess whether or not an infill opportunity exists under CTY 8, it is first necessary to identify if a substantial and continuously built up frontage, containing a gap is present. To the immediate South of the site is a detached dwelling, number 21. Although set back off the Road it has a definite frontage with the Halfgayne Road. To the North of the site is farm dwelling, number 23, which is sited gable onto road and an associated agricultural outbuilding. Based on the number of buildings I am content that there is a substantial and built up road frontage.

It was previously considered that a small plot of land to the South of the access to the farm dwelling at number 23 was not part of its curtilage and in turn this resulted in a gap that was excessive in size for the purpose of the policy test. The applicant has since submitted additional information to demonstrate that this plot of land is in fact part of the curtilage of number 23. This includes a letter from the occupant of number 23 confirming its use as domestic curtilage since 2010, a 2010 google earth image showing it prepped for re-seeding as lawn and confirmation that it is not accessed via a separate agricultural access. Having considered this information I would take the view that it is indeed part of the domestic curtilage of number 23.

This then leads to a determination as to whether or not the gap being considered is a small gap site sufficient to accommodate up to a maximum of 2 dwellings provided it respects the existing pattern of development in this immediate area. In assessing this I have looked at whether the gap is of a size that it provides a visual break which maintains the rural character in this area. Having visited the site on the ground I take the view that the buildings along this frontage are clearly read together when travelling along the Halfgayne Road, and the gap in question does not provide a visual break. Any rural openness has already been destroyed because of this existing frontage. The development further to the North contributes to this also, despite not being road frontage. The elevation of the land means they can be viewed to the rear of number 23. For these reasons I am of the opinion that the proposal is in keeping with Policies CTY 8 and CTY 14 of PPS21 and the development of this site with 2 dwellings will not create a ribbon of development.

Policy NH5 of PPS2 is also a consideration when assessing the impact of a development on priority habitat. The development of this site to provide 2 dwellings will require the removal of some hedgerow and semi mature trees to provide sight splays. This does not equate to 30m as a substantial part of the frontage is defined by wire and post fencing. As such, I have not requested the submission of a biodiversity checklist, nor is it my opinion that the proposal will have an conflict with Policy NH5. New planting behind sight splays will be recommended as a condition of approval which will compensate for the loss of hedgerow and existing site boundaries will be conditioned to be retained.

There was 1 objection to this proposal which was considered by the previous case officer. It was submitted on behalf of the occupant of number 21 Halfgayne Road.

The first point raised concern regarding the removal of the boundary wall and fence and the objector requested submission of a detailed site access plan. I am satisfied that this level of detail can be submitted with any future Reserved Matters application which the objector will be notified of. It is not deemed necessary under this outline application.

The second point raised concerns regarding the siting of the proposed dwellings stating this will affect the amenity of the existing dwelling located at No.21 Halygayne Road. The objection stated that if the proposed were to be sited closer to the roadside they would sit in front of No.21 and if they were to be sited rear, they would sit above No.21. I would recommend that a ridge height and siting condition be attached to reduce any potential impacts on neighbouring amenity.

I recommend that Members approve this application subject to the conditions referred to below.

Conditions/Reasons for Refusal:

Approval Conditions

Condition 1

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

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

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

Condition 2

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

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

Condition 3

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

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

Condition 4

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

Reason: To ensure the dwellings integrate into the landform to ensure resident's privacy is not adversely affected

Condition 5

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

Reason: In the interest of visual amenity

Condition 6

The proposed dwellings shall be sited in the areas shaded green and orange on the drawing no. 01 uploaded on Public Access on 10 Nov 2023

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21

Condition 7

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

Reason: To ensure that the development satisfactorily integrates.

Condition 8

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

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

Condition 9

The existing natural screenings of this site shall be permanently retained.

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

Signature(s):Karla McKinless

Date: 17 June 2024



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 9 April 2024	Item Number: 5.14
Application ID: LA09/2023/1215/O	Target Date: 26 February 2024
Proposal: Site for two dwellings and detached garages - CTY8.	Location: Lands Located between No 21 and No 23 Halfgayne Road Maghera
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Francis Bradley 30 Sunnyside Park Maghera BT46 5BG	Agent Name and Address: 2Plan NI 47 Lough Fea Road Cookstown BT80 9QL
Executive Summary: <p>This proposal has been assessed under all relevant policy and guidance, that is the SPPS, the Magherafelt Area Plan 2015, PPS3, PPS 21 (CTY 1, 2, 8, 13 AND 14). Issues raised by the Planning Department include conflict with planning policy 21 specifically CTY 1, 8 and 14 therefore it is recommended for refusal.</p> <p>This proposal fails to meet Policy CTY 8 of PPS 21 as the gap under consideration is of a size that it could accommodate more than two dwellings. It consists of two plots of land, one of which is not within the red line of the site. Furthermore, the 3 buildings identified by the agent as being part of the roadside frontage are considered not to have substantial and continuously built up frontage along the Halfgayne road.</p> <p>Consultations were sent to DFI Roads, NI Water and HED which have raised no concerns.</p> <p>One third party objection has been received to date, points of concern raised around the siting of the proposed dwellings and how this could affect amenity of No.21, the objection also stated that the proposal will require the removal of a wall and fence owned by No.21 Halfgayne Road.</p>	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Statutory Consultee	NI Water - Single Units West	LA09-2023-1215-O.pdf

Representations:

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

Summary of Issues

1 objection was received on the 16/02/2024 and it raised the following concerns: The first point raised concern regarding the removal of the boundary wall and fence and the objector requested submission of a detailed site access plans however, this is not a material consideration for the process of this application and the following would be dealt with at Reserved Matters/Full application which could be conditioned for submission of a

detailed site access plan. The second point raised concerns regarding the siting of the proposed dwellings stating it will affect the amenity of the existing dwelling located at No.21 Halygayne Road. The objection stated that if the proposed were to be sited closer to the roadside they would sit in front of No.21 and if they were to be sited rear, they would sit above No.21.

Characteristics of the Site and Area

The site is located within the open countryside as defined in the Magherafelt Area Plan 2015. The site is located approximately 3.5 miles north west of the development limits of Maghera, and also lies within an area of Dispersed Rural Communities (Carntogher). The site comprises of a much larger agricultural field, the red line covers a somewhat rectangular fragment of the land which sits on the roadside, the topography of which slopes slightly from the roadside and gradually rises. The northern and southern site boundaries consist of post and wire fencing. The west roadside boundary consists of post and wire fencing interspersed by numerous trees, whilst the east boundary is undefined with mature trees beyond the red line. I note that the immediate surrounding area is characterised by a mixture of single detached residential dwellings alongside outbuildings and a sprawling agricultural fields.

Description of Proposal

This is an outline application with a proposal for a site for two dwellings and detached garages to be accessed under CTY8.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Representations

Three (3) neighbouring properties were notified, and press advertisement was carried out in line with the Council's statutory duty. When writing this report, to date no third party representations have been received.

Relevant Planning History

Reference: H/1999/0034

Proposal: Site of dwelling

Location: 75M South East Of 23 Halfgayne Road Maghera

Decision and Date: Permission Refused

Planning Assessment of Policy and Other Material Considerations

- Magherafelt Area Plan 2015
- SPPS - Strategic Planning Policy Statement for Northern Ireland
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Planning Policy Statement 3: Access, Movement and Parking

- Planning Policy Statement 6: Planning, Archaeology and the Built Heritage
- Planning Policy Statement 21: Sustainable Development in the Countryside

Magherafelt Area Plan 2015

The Magherafelt Area Plan 2015 identifies the site as being in the countryside situated in an Carntogher area of Dispersed Rural Communities (DRC) therefore policy COU04/01 must be considered. Carntogher DRC is located to the north north-west of Maghera on the edge of the Sperrin Area of Outstanding Natural Beauty, I believe the proposed development will have no conflict with Plan Policy COU04.

SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. 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. It does not present any change in policy direction therefore existing policy applies, the primary consideration being PPS21 – Sustainable Development in the Countryside.

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 Policy CTY 8 of PPS 21 remains my primary policy consideration in this assessment.

Mid Ulster District Council Draft Plan Strategy 2030

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so as far as material to the application, and to any other material considerations. Sections 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

Planning Policy Statement 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves a new

access onto the Halfgayne Road. DFI Roads have no concerns subject to visibility splays of 2.4m x 70m with the hedge and fence to be set back as per the RS1 form, if approved this will be conditioned to be complied with at Reserved Matters stage.

Planning Policy Statement 6: Planning, Archaeology and the Built Heritage

The Northern Ireland Monuments and Buildings Record (NIMBR) makes available to the public information on sites of archaeological interest contained in the Northern Ireland Sites and Monuments Record (NISMR), as well as information on listed and other historic buildings and structures, industrial heritage features and historic parks, gardens and demesnes.

This site is located within approximately 200 metres from a (NISMR planning buffer zone), therefore HED Historic Monuments were consulted in which the response stated, 'Historic Environment Division (Historic Monuments) has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.'

Planning Policy Statement 21 – Sustainable Development in the Countryside

Policy CTY 1- Development in the Countryside

Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. In this instance the application is for an infill dwelling and as a result the development must be considered under CTY 8 of PPS 21.

Policy CTY 2 – Development in Dispersed Rural Communities

As previously mentioned, the site lies within a DRC, however, it is necessary to deal with this application under policy CTY 8 as the proposal is for two infill dwellings.

CTY 8 - Ribbon Development

Policy CTY 8 of PPS 21 states that planning 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.

Having assessed the site and surrounding area I do not consider the site meets with the requirements of Policy CTY 8. I do not believe this application site can be considered as a small gap site sufficient only to accommodate up to a maximum of two houses. The gap under consideration takes in the application site and a separate smaller parcel of land to the North of the application site which the applicants wants considered as established curtilage to number 23.

From review of Mid Ulster District Ortho's the last published ortho photography shows this parcel of land being used as a field in 2018(Figure 1). In the absence of a certificate of lawfulness which would demonstrate the change of use of this piece of land as residential curtilage to number 23 I do not consider this as being residential curtilage. For this reason, I am of the opinion that the gap site could potentially hold more than two dwellings creating a gap which acts as a visual break between number 23 and number 21.

Figure 1: (Ortho from 2018)



With regard to the built up frontage; I hold the view that north of the site, dwelling house at No.23 and the detached outbuilding associated with no. 23 Halfgayne Road along with the dwelling house No.21 southeast of the site do not hold a have substantial and continuously built up frontage along the Halfgayne road. With consideration given to the agents case put forward, I deem that the application fails to meet tests of paragraph 5.33 of CTY8.

Overall, I hold the view that the proposed application does not comply and is contrary to Policy CTY 8.

CTY 13 - Integration and Design of Buildings in the countryside

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. I note that this is only an outline application therefore no design details have been submitted however, given the landform and landscape, and the proposed concept plan provided by the agent, I believe that an appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape. Additional landscaping would be required to aid integration therefore a landscaping scheme would be required in any reserved matters application. From which, I am content that the application is able to comply under CTY 13.

CTY 14 - Rural Character

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 previously mentioned I am content that an appropriately designed dwelling will not appear prominent in the landscape however, since I have considered the application does not meet the exception under Policy CTY 8 I consider the proposal will be unacceptable under CTY 14 as it will, in my opinion, create a ribbon of development. It is therefore considered the proposal fails under Policy CTY 14.

Other Considerations

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

Northern Ireland Water were consulted on the application to which they have no objection to the proposed subject to standard conditions which can be viewed on Public Access.

It has been identified that there is a small degree of surface water flooding to the front of the site which has been confirmed through River Agency Strategic Flood Maps. I note that the agent has indicated the preferred siting for the two dwellings by means of a concept plan which lies outside the affected area, therefore for this reason it may be prudent to add a siting condition implement this if this application were to be approved.

Habitats Regulations Assessment

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

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it does not constitute a small gap site sufficient only to accommodate up to a maximum of two houses within a substantial and continuously built up frontage. If permitted this development would create a ribbon of development along the Halfgayne Road.

Reason 3

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21: Sustainable Development in the Countryside in that it would result in a detrimental change to the rural character of the countryside, in that the two dwellings would, if permitted, create a ribbon of development along this section of the Halfgayne Road.

Signature(s): Ciara Carson

Date: 19 March 2024

ANNEX	
Date Valid	13 November 2023
Date First Advertised	28 November 2023
Date Last Advertised	28 November 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 23 Halfgayne Road Maghera Londonderry BT46 5NZ The Owner / Occupier 22 Halfgayne Road Maghera Londonderry BT46 5NZ The Owner / Occupier 21 Halfgayne Road Maghera Londonderry BT46 5NZ	
Date of Last Neighbour Notification	21 November 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: H/2011/0158/F Proposals: Erection of agricultural shed Decision: Decision Date: Ref: H/2011/0368/F Proposals: Erection of Domestic Garage Decision: PG Decision Date: 26-SEP-11 Ref: H/2012/0011/F Proposals: Proposal to increase the size and scale of a shed for domestic use (previous approved under Ref: H/2011/0368/F) and an increase to the curtilage of the original dwelling to accommodate the repositioning of the shed Decision: PG Decision Date: 25-APR-12 Ref: LA09/2023/1215/O Proposals: Site for two dwellings and detached garages - CTY8.	

Decision:

Decision Date:

Ref: H/1990/0200

Proposals: FARM BUNGALOW

Decision: PG

Decision Date:

Ref: H/1999/0034

Proposals: SITE OF DWELLING

Decision: PR

Decision Date:

Ref: H/1989/0590

Proposals: SITE OF FARM BUNGALOW

Decision: PG

Decision Date:

Summary of Consultee Responses

Historic Environment Division (HED)-
DFI Roads - Enniskillen Office-Outline resp.docx
NI Water - Single Units West-LA09-2023-1215-O.pdf

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not ApplicableNot Applicable

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 4 June 2024 in Council Offices, Circular Road, Dungannon

Members Present

Councillor Robinson, Chair

Councillors Bell, Black (6.05pm), J Buchanan, Carney, Clarke, Cuthbertson, Graham, Kerr, Mallaghan, McElvogue, McFlynn, D McPeake, S McPeake, Varsani

Officers in Attendance

Mr Bowman, Head of Strategic Planning (HSP)
Ms Donnelly, Council Solicitor
Ms Doyle, Head of Local Planning (HLP)
Mr Marrion, Senior Planning Officer (SPO)
Ms McCullagh, Senior Planning Officer (SPO)
Mr McClean, Senior Planning Officer (SPO)
Ms McKinless, Senior Planning Officer (SPO)
Miss Thompson, Committee and Member Services Officer

Others in Attendance

Councillor McAleer (6.09pm)

LA09/2021/1546/F Mr Scurfield
LA09/2023/1074/F Mr McCann
Mr Gourley
LA09/2021/0443/O Ms Quinn

The meeting commenced at 6.00 pm

P078/24 Notice of Recording

Members noted that the meeting would be webcast for live and subsequent broadcast on the Council's You Tube site.

P079/24 Apologies

Councillor Martin.

P080/24 Declarations of Interest

The Chair, Councillor Robinson reminded members of their responsibility with regard to declarations of interest.

P081/24 Chair's Business

The Head of Strategic Planning (HSP) referred to the recent passing of their colleague Siobhan Farrell who had worked within the planning department from 2017. The HSP stated that colleagues were all very shocked and saddened to hear

of Siobhan's passing and wanted to take the opportunity tonight to again pass on sincere condolences to Siobhan's family and friends.

The Head of Local Planning (HLP) referred to recent judgement in relation to planning applications for infill dwellings considered under policy CTY8 and where the decision of Newry, Mourne and Down District Council was quashed by the Court of Appeal. The HLP stated that a copy of the judgement was circulated as part of the addendum and advised Members to make themselves aware of the judgement in greater detail following tonight's meeting. The HLP outlined some of the key points from the judgement –

Judges considered the wording of policy CTY8 in detail and considered the thrust of the policy which is to refuse the infilling of gap sites, they also addressed what is a small gap site and the definition of a substantially and continuously built up frontage, the balance of planning judgement versus observable facts, the conditions of the small gap exception and the requirement which inherently exists in CTY8 which is to protect those gaps in the countryside that provide relief and visual breaks to maintain rural character. In their conclusion the judges warned against the temptation by planning officers and members of a planning committee to view policy CTY8 as a permissive policy and that unlike other policies in PPS21 CTY8 does not begin by setting out that planning permission will be granted for a certain type of development and that on the contrary it begins by explaining that planning permission will be refused where it results in or adds to a ribbon of development. The HLP stated there is nothing in the judgement which gives cause for concern as to how this Council is interpreting policy CTY8 when considering a gap site. The HLP advised Members to be mindful going forward that this judgement will be considered as a material consideration in the assessment of applications for infill development. The HLP stated that judges also addressed the decision of the planning committee in Newry, Mourne and Down Council not to carry out a site visit to assess the application site for themselves and noted that whilst this was not a legal error they were not satisfied that the planning committee were properly equipped to take the decision they did based on the case officers mis-application of a substantial and continuously built up frontage. The HLP stated again that the judge's decision had been circulated and that she would strongly advise Members to take cognisance of it going forward.

The Chair, Councillor Robinson encouraged Members to take time and read the judge's decision circulated as he felt there will be something to learn and that it highlights the importance of the role of a member of the Planning Committee.

Councillor Black entered the meeting at 6.05 pm.

The Head of Local Planning referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred from tonight's meeting schedule for an office meeting –

Agenda Item 5.4 - LA09/2023/0340/F - Dwelling and Garage at lands approx. 40m S of 117 Cavanakeeran Road, Pomeroy for Ms Kate McAleer.

Agenda Item 5.6 - LA09/2023/0771/O - Site for a dwelling and domestic garage at approx. 120m E of 65 Moneysharvan Road, Swatragh for Mr Patrick Turner.

Agenda Item 5.7 - LA09/2023/0852/O - Dwelling and garage at 55m E of 64 Aughrim Road, Magherafelt for Mr Andrew Watterson.

Agenda Item 5.10 - LA09/2023/1263/O - Dwelling and garage at land approx. 20m SE of 8 Tullywiggan Road, Cookstown for Mrs Fenella Turkington.

Agenda Item 5.11 - LA09/2023/1265/O - Site for dwelling and garage at 60m SW of 99 Tullyvar Road, Aughnacloy for Mr Jeffrey Reid.

Agenda Item 5.13 - LA09/2023/1410/F - Light industrial unit to include ancillary storage, administration space, and staff facilities, and, associated car parking and landscaping at approx. 145m N of 34 Sydney Street, Aughnacloy for Mr Michael Treanor.

Agenda Item 5.16 - LA09/2024/0177/O - Dwelling and garage in an existing cluster with access onto Curr Road at land adjacent to 33 Moneymore Road, Desertmartin for Thomas and Brigid McGuigan.

The HLP advised that the following applications had been withdrawn from tonight's schedule for consideration of / submission of further information –

Agenda Item 6.2 – LA09/2022/0641/F - Retention of boundary wall/fence at 29 Glengomna Road, Draperstown for Barry O'Kane.

Agenda Item 6.5 - LA09/2023/0916/F - Off site replacement dwelling and garage at 180m W of 16 Carnose Road, Cranny, Moneymore for Mr Gregory McGovern.

Resolved That the planning applications listed above be deferred for an office meeting / withdrawn for consideration of / submission of further information.

The Chair, Councillor Robinson stated he would have to leave the meeting early tonight at which point the Deputy Chair, Councillor Kerr will Chair the meeting.

Matters for Decision

P082/24 Planning Applications for Determination

The Chair drew Members attention to the undernoted planning applications for determination.

LA09/2018/1643/F	Residential development comprising of 42 units (30 semi-detached and 12 detached), creation of a new access/right turn lane from Coolshinney Road, open space/private amenity space, landscaping and ancillary site works at lands 100m SW of 13 Coolshinney Road And 20m N of 2 Thornhill, Magherafelt for Mullaghboy Construction Ltd
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Members considered previously circulated report on planning application LA09/2018/1643/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor S McPeake and

Resolved That planning application LA09/2018/1643/F be approved subject to conditions as per the officer's report.

LA09/2021/1546/F **Sand & gravel extraction including access from the Camlough Road and Internal Haul Road. Landscaped earth berms and progressive restoration to a mix of agricultural and wetland nature conservation habitats. At lands E of 220 Camlough Road (Westland Horticultural), Camlough Road, Pomeroy for Loughdoo Aggregates & Concrete Ltd**

The Chair, Councillor Robinson stated that this item will be moved to confidential business as there were some personal circumstances in relation to the application.

Proposed by Councillor Bell
Seconded by Councillor Mallaghan and

Resolved To move planning application LA09/2021/1546/F to confidential business.

Councillor McAleer entered the meeting at 6.09 pm.

LA09/2021/1819/F **Demolition of an existing building and development of 65 dwellings (28 detached, 30 semi-detached, 1 chalet bungalow and 6 apartments) and associated garages, open space, access and site works at land between 1 Spires Manor and 96 Moneymore Road (directly S & E of Spires Manor and S of Spires Integrated PS), Magherafelt for Waterside Leisure (Ni) Ltd**

Members considered previously circulated report on planning application LA09/2021/1819/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2021/1819/F be approved subject to conditions as per the officer's report.

LA09/2023/0340/F **Dwelling and Garage at lands approx. 40m S of 117 Cavanakeeran Road, Pomeroy for Ms Kate McAleer**

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2023/0484/RM **Phase One of Business Park development (Outline LA09/2018/1361/O), including 3 units for light industrial use, a security gatehouse building, and roadway at lands immediately W of Kilcronagh Business Park, Cookstown for MACM (NI) Ltd**

Members considered previously circulated report on planning application LA09/2023/0484/RM which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2023/0484/RM be approved subject to conditions as per the officer's report.

LA09/2023/0771/O **Site for a dwelling and domestic garage at approx. 120m E of 65 Moneysharvan Road, Swatragh for Mr Patrick Turner**

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2023/0852/O **Dwelling and garage at 55m E of 64 Aughrim Road, Magherafelt for Mr Andrew Watterson**

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2023/1074/F **2 storey dwelling and domestic garage at land immediately E of 103D Ballagh Road, Fivemiletown for Caran Ltd**

Mr Marrion (SPO) presented a report on planning application LA09/2023/1074/F advising that it was recommended for approval.

The Chair advised the committee that requests to speak on the application had been received and invited Mr McCann to address the committee in the first instance.

Mr McCann stated he was speaking on behalf of his own family and the other neighbours who have objected to the proposal. Mr McCann stated that the case officers report has been considered and that they would respectfully disagree with the interpretation and a number of the opinions and assertions that have been made. Mr McCann stated that the application is not in keeping with the character of the area and that it is having a significant impact on existing neighbours and their wellbeing. Mr McCann stated he did not believe the application meets the requirements of policy CTY2a and whilst there is reference to a Church as a focal point, local people living in the area see this as a landmark in the area and not a focal point. McCann stated there were also issues with intrusion and privacy and this is reflected in the number of objections which have been made. Mr McCann stated he would also contend that the site cannot be absorbed into the existing cluster and that it will alter the existing character and visually intrude into the open countryside. Mr McCann felt that there are also some questions about the history of planning on the site as it is obvious that applications have been cleverly sequenced to engineer a case for a

cluster. Mr McCann stated that the people who have bought the houses have done so in good faith on the understanding that there would be no more development behind them and are now finding out that there are proposals for further development. Mr McCann asked the Committee to visit the site and take further time to consider the application.

Councillor Cuthbertson referred to the application going behind existing houses and asked if there is an issue with windows overlooking.

Mr Marrion stated that separation distances have been assessed between the proposed dwelling and development around it and that it is felt that the separation distances and proposed landscaping is enough to mitigate concerns in relation to overlooking.

Mr Gourley stated he would agree with the case officer's position in relation to policy CTY2a and that all criteria is being met in terms of the number of buildings and dwellings. Mr Gourley stated that the area in question is already significantly developed and stated that the thrust of PPS21 is to cluster development together to have a position of where there is existing development in the landscape that new development should be nestled within it rather than on a greenfield site so that there is no further visual impact. Mr Gourley stated that there are a number of dwellings and community facilities in the form of a Church and that development of the site is in keeping with PPS21 and meets all the individual criteria set out in policy CTY2a.

Councillor Black stated it was important to hear from both parties and whilst it has been said that the proposal meets criteria he felt that objectors concerns should also be considered and that a site visit would allow for this. Councillor Black proposed that the application be deferred for a site visit.

Councillor Graham seconded Councillor Black's proposal.

Resolved That planning application LA09/2023/1074/F be deferred for a site visit.

LA09/2023/1195/F **Demolition of existing buildings, erection of discount supermarket, provision of car parking, landscaping, and associated site works at Nos. 22 and 26 Orritor Road and Nos. 47 and 49 Burn Road, Cookstown for Lidl Northern Ireland**

Members considered previously circulated report on planning application LA09/2023/1195/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2023/1195/F be approved subject to conditions as per the officer's report.

LA09/2023/1263/O **Dwelling and garage at land approx. 20m SE of 8 Tullywiggan Road, Cookstown for Mrs Fenella Turkington**

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2023/1265/O **Site for dwelling and garage at 60m SW of 99 Tullyvar Road, Aughnacloy for Mr Jeffrey Reid**

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2023/1372/F **Installation of CO2 Liquefaction Recovery Unit, associated concrete plinth, pipework and all other site works (Noise Report received) at 20A Granville Road, Granville Industrial Estate, Dungannon for Bio Capital Ltd**

Mr Marrion (SPO) presented a report on planning application LA09/2023/1372/F advising that it was recommended for approval.

Proposed by Councillor Cuthbertson
Seconded by Councillor Black and

Resolved That planning application LA09/2023/1372/F be approved subject to conditions as per the officer's report.

LA09/2023/1410/F **Light industrial unit to include ancillary storage, administration space, and staff facilities, and, associated car parking and landscaping at approx. 145m N of 34 Sydney Street, Aughnacloy for Mr Michael Treanor**

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2024/0086/F **Retrospective garage at 33 Quarry Road, Knockcloghrim for Mr Michael O Boyle**

Members considered previously circulated report on planning application LA09/2024/0086/F which had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2024/0086/F be approved subject to conditions as per the officer's report.

LA09/2024/0174/O **Dwelling and domestic garage (renewal of LA09/2020/0153/O) adjacent and NE of junction with Mullaghmoyle Road on Colliers Lane, Coalisland for Marianne Sturtridge**

Members considered previously circulated report on planning application LA09/2024/0174/O which had a recommendation for approval.

Proposed by Councillor Kerr
Seconded by Councillor Carney and

Resolved That planning application LA09/2024/0174/O be approved subject to conditions as per the officer's report.

LA09/2024/0177/O **Dwelling and garage in an existing cluster with access onto Curr Road at land adjacent to 33 Moneymore Road, Desertmartin for Thomas and Brigid McGuigan**

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2024/0184/O **Renewal of approval LA09/2020/0795/O (dwelling and domestic garage) at land between 37 and 43 Tulnavern Road, Ballygawley for Noel Stinson**

Members considered previously circulated report on planning application LA09/2024/0184/O which had a recommendation for approval.

Proposed by Councillor Varsani
Seconded by Councillor Clarke and

Resolved That planning application LA09/2024/0184/O be approved subject to conditions as per the officer's report.

LA09/2024/0190/O **Dwelling at site adjacent to and immediately SSE of 60 Kilnaslee Road, Kilmore, Galbally for Mr Michael Cummings**

Mr Marrion (SPO) presented a report on planning application LA09/2024/0190/O advising that it was recommended for refusal.

Councillor S McPeake felt a site visit may be useful and referred to the officer's comments that the lane doesn't constitute frontage and asked where the house would have to be to allow frontage as he felt in other cases lanes had been allowed as frontage.

Mr Marrion stated that in this case the application site would be the frontage to the road.

The Head of Local Planning (HLP) stated that PAC are clear that laneways on their own are not frontage and that it is her understanding that the Planning Committee

have not accepted a laneway on its own before. The HLP stated that where a laneway comes to the front of the road there needs to be a defined area on either side to have frontage and in this case the field that is the application site breaks a frontage so the house behind is not considered to have a frontage.

Councillor S McPeake asked if there was a narrow strip alongside the laneway could that constitute a frontage.

The HLP advised that there have been cases where a narrow strip has been maintained as part of a garden area but that in this case it is just the laneway that has frontage to the road.

Councillor S McPeake stated that given the judgement discussed at the start of the meeting was critical that a site visit had not happened he felt a site visit would be helpful in this case and proposed same.

Councillor Varsani seconded Councillor S McPeake's proposal.

Resolved That planning application LA09/2024/0190/O be deferred for a site visit.

LA09/2024/0411/RM **Dwelling and garage at approx. 20m SE of 41 Moneyhaw Road, Moneymore for Mr and Mrs L Jordan**

Members considered previously circulated report on planning application LA09/2024/0411/RM which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2024/0411/RM be approved subject to conditions as per the officer's report.

LA09/2024/0454/O **Site for an off-site replacement dwelling and detached domestic garage, with the existing dwelling retained as farm storage at 50m W of 22 Tirgan Road, Moneymore for Mr Malachy McCrystal**

Members considered previously circulated report on planning application LA09/2024/0454/O which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2024/0454/O be approved subject to conditions as per the officer's report.

Mr Marrion (SPO) presented a report on planning application LA09/2021/0443/O advising that it was recommended for refusal.

The Chair advised the committee that a request to speak on the application had been received and invited Ms Quinn to address the committee.

Ms Quinn advised that the application site had been left to her by her father and that it was her intention that she would build a home in the area that she grew up in and loves. Ms Quinn stated that the site is beside her home house where her elderly mother lives and that she is the sole carer. Ms Quinn advised that her mother suffers from mental health problems which have worsened since the death of her father and that her mother relies on her hence the need to be in close proximity. Ms Quinn stated that she has lived in rented accommodation for 21 years and that she would like to have a stable home. Ms Quinn stated that she has lived and worked in the area all her life and that her partner has a farm id which she is proposing to use, this farm is 25 miles away and is not suitable because of the need to be close to her mother. Ms Quinn stated she also has a local beauty business which she has built up and stands to lose if she moved from the area. Ms Quinn stated she was aware of another site in the area which had a farming id used to achieve approval. Ms Quinn stated that she would be happy to move the proposal within the site if it helped to overcome planning concerns in relation to ribbon development and stated that there will be no further development on the site.

Councillor Bell stated that the dwelling is currently proposed to be sited along the roadside and that the applicant has advised they are willing to move the proposal further back in the field, the Councillor asked if this was attainable and if a site visit would be worthwhile.

The Head of Local Planning (HLP) stated it was up to Members if they wanted a site visit and highlighted that there are four reasons for refusal which involve five policies. The HLP stated that in terms of CTY10 a case has not been proven that there is a need to site away from the group of farm buildings and to move the site back in the field may overcome ribboning but that there would still be CTY15 to overcome in relation to distinction of settlement limits. The HLP referred to the two houses that were approved previously and that these were approved because there was the bookend at that stage and that the discussion at that time that development would go no further. The HLP stated that this application will extend limits further out creating further sprawl and advised Members that all reasons for refusal cannot be overcome.

Councillor Bell stated he recalled a previous application for sheds outside of development limits of Moortown and that exceptional circumstances were made on that occasion. Councillor Bell stated that to the West of the proposed site there is a cluster of buildings that those sheds were built in. Councillor Bell stated that due to the fact that the Committee looked at another application albeit under different circumstances he felt it right that this application is given further consideration and proposed that a site visit be held.

The HLP stated that each application is considered on its own merits and that she was not aware of the circumstances of making an exception to the application Councillor Bell was referring to. The HLP also referred to the court judgement which clearly defines the importance of maintaining visual breaks in the countryside. The HLP stated that policy CTY8 is a dismissive policy, not permissive, and that the importance of CTY8 is to maintain important visual breaks and where there is a gap that could take more than two houses is contrary to CTY8.

Councillor McFlynn seconded Councillor Bell's proposal.

Resolved That planning application LA09/2021/0443/O be deferred for a site visit.

LA09/2022/0641/F Retention of boundary wall/fence at 29 Glengomna Road, Draperstown for Barry O'Kane

Agreed that application be withdrawn from tonight's schedule for consideration of further information.

LA09/2023/0652/O Dwelling on a Farm at site at 150m W of 18A Ballynacross Road, Maghera for Mr David Fulton

Members considered previously circulated report on planning application LA09/2023/0652/O which had a recommendation for approval.

Proposed by Councillor Black
Seconded by Councillor Buchanan and

Resolved That planning application LA09/2023/0652/O be approved subject to conditions as per the officer's report.

LA09/2023/0693/F Temporary mobile home at 20 Loughbracken Road, Pomeroy for Mr Aidan Molloy

The Chair, Councillor Robinson stated that, similar to last time presented, this item will be moved to confidential business.

LA09/2023/0916/F Off site replacement dwelling and garage at 180m W of 16 Carncoose Road, Cranny, Moneymore for Mr Gregory McGovern

Agreed that application be withdrawn from tonight's schedule for submission of further information.

LA09/2023/1071/O Dwelling and garage at approx. 50m NE of 2 Cullenramer Road, Dungannon for Mr Michael Walls

Members considered previously circulated report on planning application LA09/2023/1071/O which had a recommendation for approval.

Proposed by Councillor Varsani
Seconded by Councillor McElvogue and

Resolved That planning application LA09/2023/1071/O be approved subject to conditions as per the officer's report.

P083/24 Receive Report on Deforestation on Davagh Forest

Ms McCullagh (SPO) presented previously circulated report which advised of statutory consultation received from Forest Service, an Agency of the Department of Agriculture, Environment and Rural Affairs (DAERA) in accordance with the Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006 (as amended) in relation to a deforestation proposal at Davagh Forest, Co. Tyrone.

Councillor Clarke declared an interest as he is involved in Sperrins Partnership.

Councillor Clarke stated he is glad to see the proposal as he knows the area and felt that it is ground that should never have been planted in the first place. The Councillor stated that Council should be encouraging more of this activity and referred to another area which was planted known as Maeve's Hollow and that there should be more restoration in this area in the future.

Councillor Varsani stated that in her time on this Committee she felt this is one of the most important papers brought forward as it addresses the issue of carbon and native species and supporting natural habitats. The Councillor felt there are lessons to learn when looking at issues in relation to Lough Neagh and praised the recommendations in the report and that more of the same should be encouraged across Mid Ulster.

Proposed by Councillor Clarke
Seconded by Councillor Varsani and

Resolved To agree and submit response to consultation on proposed deforestation at Davagh Forest as attached at appendix 2 of report.

Matters for Information

P084/24 Minutes of Planning Committee held on 7 May 2024

Proposed by Councillor Mallaghan
Seconded by Councillor S McPeake and

Resolved To note previously circulated minutes of Planning Committee held on 7 May 2024.

Live broadcast ended at 6.55 pm.

Councillor Robinson vacated the Chair and Councillor Kerr took the Chair.

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Mallaghan
Seconded by Councillor Kerr 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 P082/24 (cont'd) and P085/24 to P090/24.

Matters for Decision

P082/24 Planning Applications for Determination (Continued)
P085/24 Receive Report on Tree Preservation Records
P086/24 Receive Enforcement Report

Matters for Information

P087/24 Confidential Minutes of Planning Committee held on 7 May 2024
P088/24 Enforcement Cases Opened
P089/24 Enforcement Cases Closed
E090/24 Enforcement Live Case List

P091/24 Duration of Meeting

The meeting was called for 6 pm and ended at 8.19 pm.

Chair _____

Date _____

Annex A – Introductory Remarks from the Chairperson

Good evening and welcome to the Council's [Planning, Policy & Resources /Environment/ Development] Committee in the Chamber, [Cookstown /Dungannon/Magherafelt].

I specifically welcome the public watching us through the Live Broadcast. The Live Broadcast as aforesaid, will run for the period of our Open Business but will end just before we move into Confidential Business. I will let you know before this happens.

I would remind the public and press that taking photographs of proceedings or using any means to enable anyone not present to see or hear proceedings, or making a simultaneous oral report of the proceedings are not permitted.

Thank you and we will now move to the agenda.



ADDENDUM TO PLANNING COMMITTEE AGENDA

FOR PLANNING COMMITTEE MEETING ON: 4th June 2024

Additional information has been received on the following items since the agenda was issued.

Chair's Business

Copy of Judgement for Court of Appeal - Gordon Duff v Newry Mourne and Down Borough Council

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
5.1	<p>Application was agreed at May Committee, only change is the addition of conditions 6 and 7.</p> <p>These are in relation to the timing of the provision of and management of the areas of public open space. No other changes or amendments have been made to the application.</p>	Members to note
5.2	<p>Under 'Description of Proposal' as noted in the body of the report – the following paragraph has been included in error-</p> <p>'The proposal submitted is for Winning and working of minerals (sand and gravel) across and area of c.12 ha, the construction of a new site access and haul route, erection of processing plant and machinery (washing plant),</p>	Members to note

	<p>weighbridge and ancillary office, with restoration of the land to agriculture.'</p> <p>The correct description is on the front cover and under planning assessment. No weighbridge, washing plant or office is proposed.</p> <p>Late objection also received</p>	<p>All issues raised have been addressed</p>
5.8	Late objection received	No new issues raised, members to be advised about ecology