



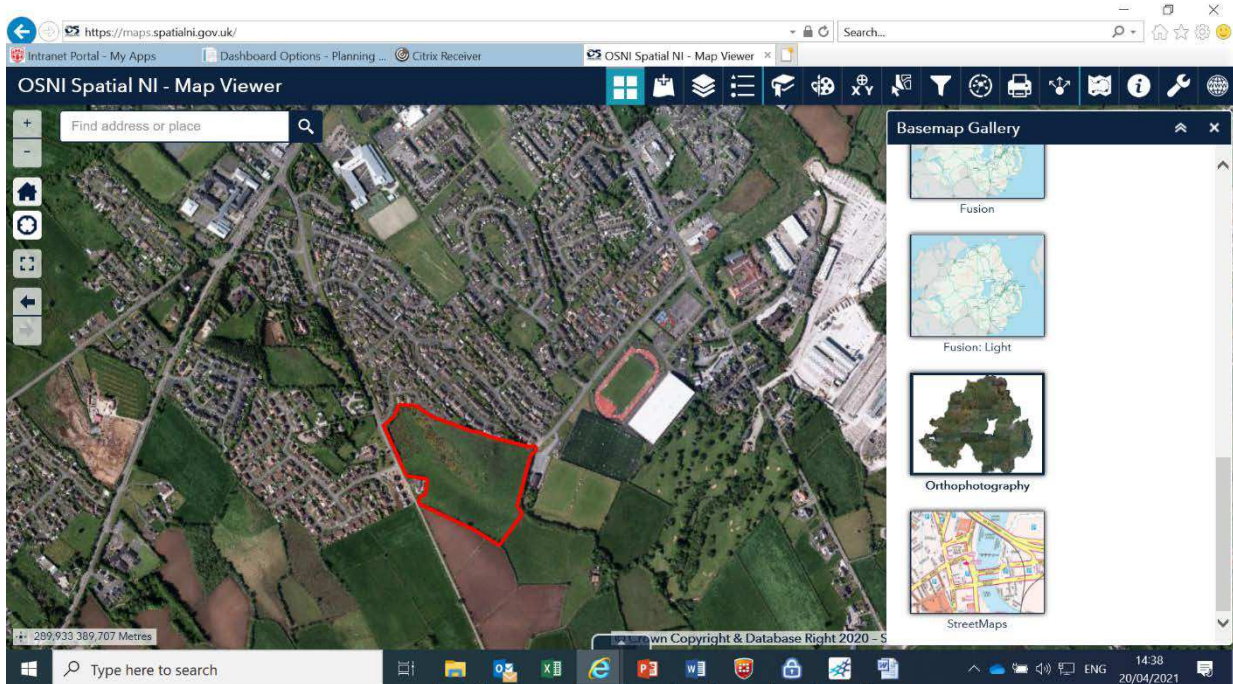
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
 District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0945/F	<b>Target Date:</b> 30/10/18
<b>Proposal:</b> Housing Development (79 no dwellings) to include 15no detached and 64no semi-detached dwellings.	<b>Location:</b> Land to the SE of No 1 Park Lane Killyfaddy Road Magherafelt
<b>Referral Route:</b>  Major Application	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> JFM Construction 75 Loughbeg Road Toomebridge BT41 3TS	<b>Agent Name and Address:</b> Manor Architects Stable Buildings 30A High Street Moneymore BT45 7PD
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

Letters of Support	None Received
Letters of Objection	5
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### Details of the Proposal:

Proposed housing development in compliance with Magherafelt Area Plan 2015, Planning Policy Statement 7 (PPS7) Quality Residential Environments and Planning Policy Statement 21 (PPS21) Sustainable Development in the Countryside.

**Characteristics of the Site and Area:**

This site is located approximately 0.8 miles south of Magherafelt Town Centre. Located between Killyfaddy Road and Meadowbank Road the landform within the site undulates with defined lower lands located close to the Killyfaddy Road. The significant changes in landform provide some steeply sloping and elevated landform. All site boundaries are well defined by hedge and trees. Beyond the northern, western and part of the eastern boundary residential development is present. Beyond the southern and part of the eastern boundary land uses are Rugby club grounds and agricultural lands. Access to the site is proposed from both Killyfaddy and Meadowbank Roads, with the housing development road providing connection between both.

Developments of the opposite side of the site boundaries include Manor Park, Manor Lane, Parkmore Heights, Parkmore Road and Park Lane.

During the processing of the application the site boundaries have been altered to achieve better compliance of the Magherafelt Area Plan boundaries.

**Relevant Site Histories:**

Relevant planning histories on site are;

H/2004/0488/O - Site of housing development - Land to the SE of No 1 Park Lane, Killyfaddy Road, Magherafelt - Refusal: 24.2.09.

Reason; The proposal is contrary to the Joint Ministerial Statement of 31st January 2005 on the grounds of prematurity, as the Draft Magherafelt Area Plan 2015 has reached an advanced stage of preparation, and objections have been lodged to the proposed housing site MT13. The effect of an approval for this proposal, individually and cumulatively with other proposals for housing on sites of this nature zoned and designated for housing in the Draft Plan and which are the subject of objection, would be prejudicial to the plan process by pre-determining decisions about the nature, scale and location of new development which ought properly be taken through the development plan process following the appropriate consideration of the objections at the Public Inquiry into the Draft Plan.

Appeal dismissed – 25.5.10.

H/2014/0331/O - Housing development - Land to the south east of No 1 Park Lane Killyfaddy Road Magherafelt – approval: 7.9.16.

This approval relates to the lands zoned as MT13 in Magherafelt Area Plan 2015 and

LA09/2017/0709/PAN – pre application notice which was advised to be acceptable on 1/12/17.

**Representations:**

Representations received from press notice or neighbourhood notification.

Consultation with Department for Infrastructure - Roads, Department for Infrastructure - Rivers, Northern Ireland Water, Environmental Health Department and Department for Agriculture Environment and Rural Affairs has raised no concerns subject to conditions and informatives. For assessment of representations see below.

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

Approximately two thirds of the original site area lie within the limit of development, half of which is zoned residential land (MT13) and half zoned white land. The remaining one third of the site lies outside the limit of development for Magherafelt as defined with the Magherafelt Area Plan 2015. As stated above the original site boundaries have been reduced and are now in general compliance with the limit of development as defined within the Magherafelt Area Plan 2015. In order to achieve a suitable link between Killyfaddy and Meadowbank Roads a wider estate road has been provided with significant buffer planting to the rural edge.

Magherafelt Area Plan 2015 identified the key site requirements for zoning MT 13, which have generally been achieved in the final proposal submitted. Access onto Park Lane was advised previously however it is quite evident that the existing road network on Park Lane would not comply with current road standards.

Submitted during the processing of the application a biodiversity checklist did not identify any natural environment issues of significance.

The proposed development provides a mix of detached and semidetached dwellings with appropriate external finishes. Both public and private open space provision has been provided to an acceptable standard achieving a quality residential estate.

### **Other Policy and Material Considerations:**

During the processing of the application comment was received in the form of objection to the proposal. These objections related to the following;

- **Development will reduce value of existing houses in Parkmore estate.**

The impact of any land use proposal on land values is not considered to be a material consideration in the processing of a planning application.

- **Negative impact on privacy and light, noise and air pollution, water run off, overloaded sewerage system, impact on wildlife and negative impact on health condition.**

The proposed development site is located along a common boundary with some objectors, however the layout of the proposed development has incorporated buffer planting as well as open space provision between existing properties and the development. This is in addition to dwellings backing onto the common boundary thus providing additional 10m rear garden separation. The closest proposed dwelling to

existing dwellings is in the region of 20 metres, the majority of which has been provided within the application site. Given these factors, I do not consider that a negative impact will exist. In addition, there exists Environmental Health legislation in relation to noise and air pollution, which can be invoked, if the issue does arise. The agent has been advised of comment in relation to run off which is a matter, should it occur between developer and any property owner impacted. During the processing of the application consultation with NI Water has raised no concerns in relation to overloaded sewerage system. In addition the submitted Biodiversity checklist submitted by the agent has not identified any natural environmental issues of significance. An objector has advised that they suffer from asthma however no further specific information has been provided in relation to this health matter.

This application being categorised as major has complied with the requirements of the Planning (Development Management) Regulations (Northern Ireland) 2015

The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site.

As the site, area has been amended and reduced to generally comply with Magherafelt Area Plan provisions assessment under Planning Policy Statement 21: Sustainable Development in the Countryside is not required. No other issues have been identified.

**Neighbour Notification Checked**

**Yes**

**Recommendation:**

I recommend that planning permission is granted subject to conditions.

**Conditions**

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

Reason: Time Limit.

2. Prior to the commencement of any part of the development hereby approved the developer shall submit to the Department and received approval in writing a landscape scheme for the overall layout. The landscape scheme shall comprise planting details including species, size at time of planting, siting and planting distances with a programme of planting. The Scheme shall also include a Management and Maintenance Schedule which includes the long term objectives, performance indicators and management responsibilities for all landscaped areas.

Reason: To ensure that there is a satisfactory standard of open space provided and maintained in perpetuity in accordance with the provisions of Planning Policy Statement 8 (PPS8) - Open Space, Sport and Outdoor Recreation.

3. All landscaping comprised in the any approved landscaping details shall be carried out in the first planting season following the occupation of more than 50% of the units hereby approved and 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.

4. No dwelling unit hereby approved shall be occupied until the Council agrees in writing that an acceptable Management and Maintenance agreement has been signed and put in place with an appropriate management company, for all areas of public open sapce and landscaping (excepting adopted road/footpath). These areas shall be permanently retained as landscape/open space. (See informative 2.)

Reason: To ensure that open space is provided, maintained and managed in accordance with the Departments Policy Statements, PPS 7 - Quality Residential Environments and PPS8 - Open Space, Sport and Outdoor Recreation and to ensure its retention in perpetuity.

5. All construction methods specified and noise mitigation measures contained in the noise report entitled, 'Acoustic Report Proposed development at Killyfaddy Road Magherafelt, date stamped 20th February 2019, prepared by Grainger Acoustics, shall be incorporated into the dwellings no.25-32 to reduce the transmission of noise.

Reason: Protection of residential amenity

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

The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 25/1 bearing the date stamp 08 March 2021

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

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

No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road including road widening and footway provision along the Killyfaddy Road have been completed in accordance with the details outlined blue on Drawing No 25/1 bearing the date stamp 08 March 2021. The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

8. The visibility splays of 4.5 metres by 90 metres at the junction of the proposed residential access road with the Killyfaddy Road, shall be provided

in accordance with Drawing No 25/1 bearing the date stamp 08 March 2021, prior to the commencement of any other works or other development. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

9. The access gradient(s) to the dwelling(s) hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary. 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.

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

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

#### Informatives

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

2. Attention is drawn to conditions 2 and 3, which require a commitment in respect of the provision and maintenance of open space. Implementation of the work required and arrangements for the long-term management of maintenance works may require the establishment of a resident's management company set up between the developer and future house-owners. Prospective purchasers should be aware of the implications of these matters and should seek legal advice.

3. Department for Agriculture Environment and Rural Affairs:

A Biodiversity checklist has been submitted and on the basis of the information submitted no further comment is required from DAERA.

4. Department for Infrastructure - Roads Informatives:

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

Under the above Orders the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the DfI Roads to make the roads (including road drainage) in accordance

with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001. Sewers require a separate bond from Northern Ireland Water to cover foul and storm sewers.

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

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

It is a DfI Roads requirement that all structures which fall within the scope of the current version of BD 2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges shall require Technical Approval. Details shall be submitted to the Technical Approval Authority through the relevant Division.

Geotechnical activities which require Geotechnical Certification shall be submitted to Engineering Policy and Parking Services through the relevant Division. Geotechnical Certification shall be in accordance with the Department for Infrastructure's Geotechnical Certification procedures as laid down in the current version of HD 22 Managing Geotechnical Risk: Volume 4: Design Manual for Roads and Bridges.

Under the terms of The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001, design for any Street Lighting schemes will require approval from DfI Roads Street Lighting Consultancy, Marlborough House, Central Way, Craigavon, BT64 1AD. The Applicant is advised to contact DfI Roads Street Lighting Section at an early stage. The Applicant/Developer is also responsible for the cost of supervision of all street works determined under the Private Streets Order (Northern Ireland) 1980.

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

Highway design shall be in accordance with the current relevant standards of the Design Manual for Roads and Bridges.

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

#### 5. Environmental Health Department comment:

1.Measures to reduce internal noise levels, will have to be used and maintained to provide a suitable internal acoustic environment.



2. ?Noise from construction activities should ?

(a) not exceed 75 dB LAeq, 1hr between 07.00 hours and 19.00 hours on Monday to Fridays, or 75 dB LAeq, 1hr between 08.00 hours and 13.00 on Saturdays, when measured at any point 1 metre from any facade of any residential accommodation, and

(b) not exceed 65 dB LAeq, 1hr between 19.00 hours and 22.00 hours on Monday to Fridays, or 13.00 hours to 22.00 hours on Saturdays when measured at any point 1 metre from any facade of any residential accommodation, and

(c) not be audible between 22.00 hours and 07.00 hours on Monday to Fridays, before 08.00 hours or after 22.00 hours on Saturdays, or at any time on Sundays, at the boundary of any residential accommodation. (As a guide the total level (ambient plus construction) shall not exceed the pre-construction ambient level by more than 1 dB(A). This will not allow substantial noise producing construction activities but other quiet activities may be possible). Routine construction and demolition work which is likely to produce noise sufficient to cause annoyance will not normally be permitted between 22.00 hours and 07.00 hours.

6. Department for Infrastructure - Rivers Informatives:

FLD2 - Protection of Flood Defence and Drainage Infrastructure. This site is unaffected by any watercourse known to DfI Rivers however if a watercourse is discovered during any development works then DfI Rivers should be contacted.

FLD3 - Development and Surface Water. The Drainage Assessment indicates the storm water system will be adopted by NIW, therefore NIW will be responsible for checking design calculations, adoption and maintenance of the system.

Therefore DfI Rivers, while not being responsible for the preparation of the report accepts its logic and has no reason to disagree with its conclusions. Consequently, DfI Rivers cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective.

It is brought to the attention of the applicant that the responsibility for the accuracy, acceptance of the Drainage Assessment and implementation of the proposed flood risk measures rests with the developer and their professional advisors. (refer to section 5.1 of PPS 15).

Under the terms of Schedule 6 of the Drainage (NI) Order 1973 any proposal either temporary or permanent, in connection with the development which involves interference with any watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc requires the written consent of DfI. This should be obtained from our Western Regional Office, Woodside Avenue, Gortin Road, Lisnamallard, Omagh, BT79 7BP.

Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.

Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site: - such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.

7. Northern Ireland Water informatives:

See attached comment from Northern Ireland Water, consultation with same is recommended.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	5th July 2018
<b>Date First Advertised</b>	19th July 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Manor Park, Magherafelt, Londonderry, BT45 6QE, The Owner/Occupier, 1 Parklane Magherafelt Londonderry The Owner/Occupier, 12 Parklane Magherafelt Londonderry The Owner/Occupier, 14 Parklane Magherafelt Londonderry The Owner/Occupier, 15 Parklane Magherafelt Londonderry The Owner/Occupier, 17 Parklane, Magherafelt, Londonderry, BT45 6BF, The Owner/Occupier, 18 Parklane, Magherafelt, Londonderry, BT45 6BF, The Owner/Occupier, 2 Parklane Magherafelt Londonderry The Owner/Occupier, 25 Parkmore Heights Magherafelt Londonderry The Owner/Occupier, 27 Parkmore Close Magherafelt Londonderry The Owner/Occupier, 27 Parkmore Heights Magherafelt Londonderry The Owner/Occupier, 29 Parkmore Heights, Magherafelt, Londonderry, BT45 6PJ, L McCormack and G McCormack 29 Parkmore Heights, Magherafelt, Londonderry, Northern Ireland, BT45 6PJ P & G McCormack 29, Parkmore Heights, Magherafelt, Londonderry, Northern Ireland, BT45 6PJ The Owner/Occupier, 31 Parkmore Heights Magherafelt Londonderry Geraldine McKillen 31 Parkmore Heights, Magherafelt, Londonderry, Northern Ireland, BT45 6PJ The Owner/Occupier, 46 Parkmore Road Magherafelt Londonderry The Owner/Occupier, 49 Parkmore Road Magherafelt Londonderry The Owner/Occupier, 51 Parkmore Road Magherafelt Londonderry Alice Boyd 53 Parkmore Road Magherafelt Londonderry	

The Owner/Occupier, 6 Killyfaddy Road Magherafelt Londonderry The Owner/Occupier, Rainey Old Boys RFC, Hatrick Park, Meadowbank Road, Ballyronan Road, Magherafelt, Co Derry, BT45 6EQ Geraldine McKillen	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	24th July 2018
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/0945/F Proposal: Housing Development (111 dwellings) including 3no detached and 108 semi-detached houses Address: Land to the SE of No 1 Park Lane, Killyfaddy Road, Magherafelt, Decision: Decision Date:  Ref ID: LA09/2017/0709/PAN Proposal: Housing Development Address: Land to the South East of 1 Park Lane, Killyfaddy Road, Magherafelt, Decision: PANACC Decision Date:  Ref ID: H/2014/0331/O Proposal: Housing development Address: Land to the south east of No 1 Park Lane, Killyfaddy Road, Magherafelt, Decision: PG Decision Date: 08.09.2016	
<b>Summary of Consultee Responses</b>  See above	
<b>Drawing Numbers and Title</b>	

Drawing No.01

Type:

Status: Submitted

Drawing No. 03/6

Type:

Status: Submitted

Drawing No. 12/(Rev 1)

Type:

Status: Submitted

Drawing No. 24

Type: Detailed Drawing Plans

Status: Submitted

Drawing No. 22(Rev 1)

Type: Elevations and Floor Plans

Status: Submitted

Drawing No. 23(Rev 1)

Type: Elevations and Floor Plans

Status: Submitted

Drawing No. 18A

Type: Elevations and Floor Plans

Status: Submitted

Drawing No. 17(Rev 1)

Type: Elevations and Floor Plans

Status: Submitted

Drawing No. 16(Rev 1)

Type: Elevations and Floor Plans

Status: Submitted

Drawing No. 15(Rev 1)

Type: Elevations and Floor Plans

Status: Submitted

Drawing No. 14A

Type: Elevations and Floor Plans

Status: Submitted

Drawing No. 13(Rev 1)

Type: Elevations and Floor Plans

Status: Submitted

Drawing No. 14(Rev 1)

Type: Elevations and Floor Plans

Status: Submitted

Drawing No. 25/1

Type: Proposed Plans

Status: Submitted

Drawing No. 27/1

Type: Proposed Plans

Status: Submitted

Drawing No. 29/1

Type: Roads Details

Status: Submitted

Drawing No. 31/1

Type: Levels and Cross Sections

Status: Submitted

Drawing No. 33/1

Type: Roads Details

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department: N/A



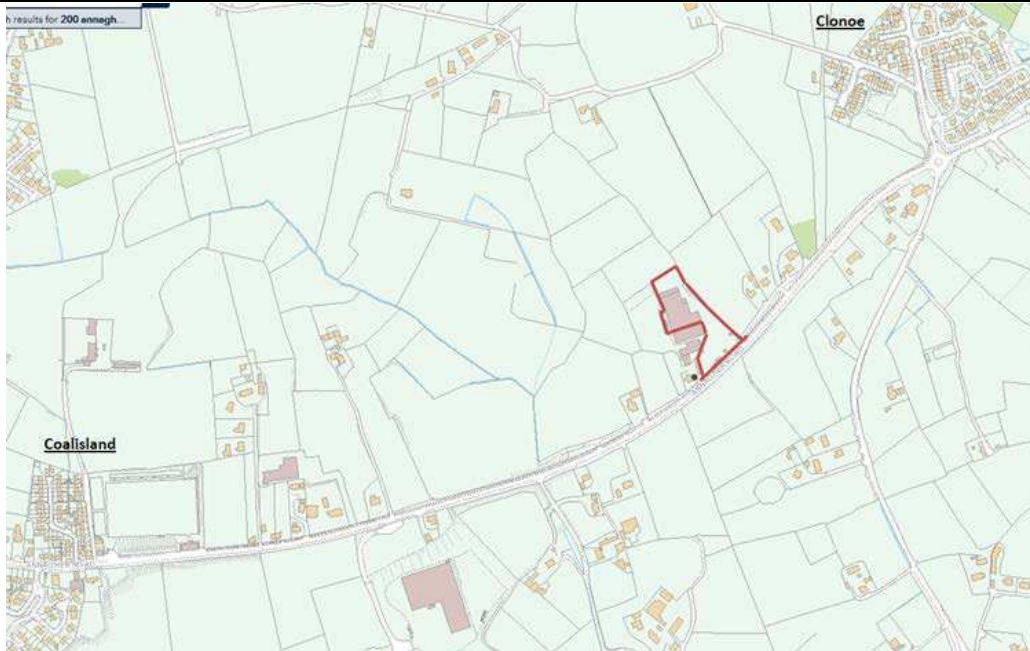
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
 District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1283/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of engineering workshops, increased curtilage and hard standing including temporary car-park, bulk LPG gas tank, toilets and changing building and loading area	<b>Location:</b> 200 Annagher Road Coalisland
<b>Referral Route:</b> Objections received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> McGrath Engineering 200 Annagher Road Coalisland BT71 5DA	<b>Agent Name and Address:</b> Teague and Sally Ltd 3a Killycolp Road Cookstown BT809AD
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

One objection has been received, the objector did not give an address other than as a concerned neighbour.

Their concerns included;

- No noise report submitted. (Later received)
- No drainage assessment
- Plans do not refer to spraying
- Contaminated land
- No bio diversity checklist (Later received)
- Sight lines

All above concerns have been considered thoroughly in the report below. (other considerations)



## Characteristics of the Site and Area

The site is located approx. 0.7km east north-east outside of Coalisland development limits as defined in the Dungannon and South Tyrone Area Plan 2010. Currently on site there are three large industrial sheds and smaller associated sheds used in connection with the production and spraying of tracked and wheeled conveyors. There is a large area of hardstand used for staff car parking, storage of plant/newly constructed machinery, and manoeuvring of HGV's and low loaders for transport of materials and machinery. There are other containers and portal cabins located throughout the site which are used for storage purposes.

Due to the roadside boundary the site is well screened from Annagher Road. There are painted black metal railings along part of the roadside boundary. The NE boundary is in part defined by mature trees and hedging, with the remainder open and not clearly defined. The NW boundary is not clearly defined and is open to a larger field. Part of the western boundaries and southern boundaries to the site are shared with the curtilage of No. 204 Annagher Road, a 2 storey dwelling with associated domestic stores that is occupied by the applicant.



There are residential properties located to the NE of the site and more to the SW, the closest being not more than 60 metres away. Land in the area is used mostly for agricultural purposes. A similar proposal, but on a larger scale (the DMAC site) has been granted planning approval to the SW along Annagher Road. The area is located within old Green Belt policy area and there are dispersed single dwellings and farm holdings located in the area, with Coalisland Town lying to the west and Clonoe to the East.

## Description of Proposal

Retention of engineering workshops, increased curtilage and hard standing including temporary car-park, toilets and changing building and loading area.

## Planning Assessment of Policy and Other Material Considerations

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

Regional Development Strategy 2030  
 Strategic Planning Policy Statement for Northern Ireland  
 Cookstown Area Plan 2010  
 Planning Policy Statement 3: Access, Movement and Parking  
 Planning Policy Statement 4- Planning and Economic Development.  
 Planning Policy Statement 21: Sustainable Development in the Countryside

## Relevant site history

LA09/2015/0168/F - Retention of engineering business including retention of engineering workshops, retention of increased curtilage and hardstand, and, retention of change of use from agricultural to engineering. - PERMISSION GRANTED - 08.06.2016

LA09/2018/0763/F - Retention of engineering workshop and increased curtilage and hard standing - WITHDRAWN.

## Relevant policy and consideration

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

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

The existing business on site was established over 15 years ago (McGrath Engineering Limited-MGE) and operated from the original agricultural buildings on site. The previous 2015 application named above established permission for the retention of engineering business, therefore by default the use has been established.



Under **PED 3 - Expansion of Established Economic Development Use in the Countryside**, expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of enterprise. In exceptional circumstances a major expansion will be granted where it is demonstrated that;

- relocation of the enterprise is not possible for particular operational or employment reasons;
- the proposal would make a significant contribution to the local economy; and
- the development would not undermine rural character.

On discussion with senior colleagues, it is agreed that this is a major expansion of an established economic development use in the countryside therefore the above 3 criteria has to be met.

It is argued that as the applicant owns the site and over the years significant investment has occurred. To relocate now would mean further significant investment as the applicant would have to find, buy and build new premises. This would translate to job losses and loss of business and revenue, a downward spiral that could potentially result in business closure in an already competitive market.

At present, the business employs over 45 staff, the majority from the local area, and contributes these wages to the local economy. It also contributes indirectly by purchasing its materials locally, employing local sub-contractors and using local services.

In terms of impact on rural character, the assessment is twofold. Consideration is given to impacts on visual and residential amenity.

It is my view that the proposal is well screened from Annagher Road due to existing mature trees along and the roadside and NE boundaries. The applicants 2 storey dwelling and associated sheds also assists with screening views of the site and the development reads as one grouping in the landscape.

While the area of hardstand has increased in size, and the new buildings to the north are slightly larger than the existing buildings, the business is well screened from Annagher Road. The building is of a size and scale similar to the existing buildings and is sited to the rear when viewed from the public road therefore softening its impact on the landscape.

The outdoor storage is also well screened due to the mature nature of vegetation in the area and was also already in existence.

Environmental Health and DFI Roads have commented on the proposal and have no objections to the proposal subject to planning conditions.

**PED 9 - General Criteria for all Economic Development** have to be met in all cases.

13 criteria is listed in policy PED9 that have to be met;

- the proposal is compatible with surrounding land uses. An engineering firm is established on this site. The proposed expansion will be similar in terms of operations carried out on site, but on a larger scale. Environmental Health are content that the proposal will not have a detrimental impact on nearby neighbours by reason of noise or odour impacts subject to conditions and informatives as detailed below later. Agricultural fields and land surrounding the site are still in use and have not been impacted by this development. The proposal is compatible for this site and locality.
- as explained above, the proposal does not harm the amenities of nearby residents.
- there are no built heritage designations in the area. There are no natural heritage designations in the area. I am content natural or built heritage features will not be harmed by this proposal.
- The site is not subject to flooding.
- Environmental Health are content that with the use of a planning condition limiting the hours of operation, that there will be no noise nuisance.
- Environmental Health raise no concern that the proposal will not deal satisfactorily with any emission or effluent.
- Transport NI are content with the road safety aspect of this proposal. Should permission be granted all TNI conditions and informatives will be attached.
- Transport NI raise no concern about access, parking and manoeuvring of vehicles subject to conditions and informatives.
- Due to its countryside location, access to this site is usually by private car or HGV. Therefore, there is little scope to provide a movement pattern of walking, cycling or convenient access to public transport. It is the responsibility of the developer to respect existing public rights of way and to provided for people whose mobility is impaired mobility.
- the site layout, building design, associated infrastructure and landscape arrangements are acceptable for this site and locality as detailed throughout this report. A landscaping scheme has been provided in drawing No 01A which was date stamp received 28th Nov 2018. Should permission be granted, a condition will be attached to carry out this landscaping as it will assist with visual amenity and screening of the business.
- Existing vegetation boundaries will be retained and are ample to screen the development from the public view.
- It is the responsibility of the developer to ensure that the proposal is designed to deter crime and promote personal safety.
- The proposal will satisfactorily integrate into the countryside as it will read with existing buildings, is set back from the public road, and future landscaping will assist with screening.

In my view policies PED3 and PED9 of PPS4 are not offended.

### **Other Considerations - Objections**

One **objection** has been received, the objector did not give an address other than as a concerned neighbour. Their concerns included;

No noise report submitted.

No drainage assessment carried out - The P1 states the site is 0.99 and measured using the Spatial NI snipping tool I would agree that the site has been drawn to fall just below the 1ha threshold for a drainage assessment.

Plans do not refer to spraying - An Aona Odour Impact Assessment has been submitted by the applicant to assess odour impact of odour emissions from paint spraying activities and nearby residential receptors and consider these against Technical Guidance note IPPC H4. Env Health have considered this assessment and have responded with no concerns subject to conditions.

Contaminated land due to site being that of old dump - Env Health have addressed this issue and responded that it was their understanding that the buildings have already been erected and we note that the former council tip is located just over 250 metres away from the proposal location.

We are therefore satisfied that no contaminated materials would have been released during the construction phase and the distance between the former tip and application site are sufficient to minimise any risks posed by contamination.

No bio diversity checklist- A bio diversity checklist has subsequently been submitted and no concerns have been raised.

Sight lines - DFI road service have requested sight lines of 2.4 x 90 metres and as they are the competent authority in this area we have no reason to question.

#### **Neighbour Notification Checked**

**Yes**

#### **Conditions**

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

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

2.Prior to commencement of the development hereby permitted, visibility splays of 2m x 90m shall be provided in accordance with the approved Drawing No.1A bearing the date stamp 28th November 2018, or as may otherwise be agreed in writing with the Council. The area within the visibility splays shall be cleared of all obstructions to a height of 250mm above the adjacent carriage and be permanently retained clear thereafter.

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

3.No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No. 01A bearing date stamp 28/11/18, to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

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

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

5. The extension to the business hereby permitted shall not operate outside the hours of 08:00 hours and 18:30 hours Monday to Friday and 08:00 hours to 13:00 hours on Saturdays, unless otherwise agreed in writing with Mid Ulster District Council.

Reason; To protect the amenity if residents

6. The main compressor unit associated with the hereby approved Blasting Unit, shall have a Lw not exceeding 74dB (A).

Reason: To protect nearby residential amenity.

7. The hereby approved Paint Booth Stack including self-contained paint booth, compressor and filtered extraction shall at a distance of 100 metres from the approved unit, not exceed the noise levels set out in Table 1:

Table 1

	63Hz	125Hz	250Hz	500Hz	1000Hz	2000Hz	4000Hz	8000Hz	Total
dB	11.0	25.0	32.0	33.0	30.0	30.0	26.0	16.0	38.0

Reason: To protect nearby residential amenity.

8. There shall be no openings to the western facade of the approved building.

Reason; To protect the amenity if residents.

9. All external activities are restricted to the eastern area of the yard shown on Drawing 1A, date stamped 28th November 2018.

Reason; To protect the amenity if residents.

10. There shall be no deliveries and/or external activity outside the hours of 08:00 hours and 18:30 hours Monday to Friday and 08:00 hours to 13:00 hours on Saturdays. There shall be no site activity on Sunday.

Reason; To protect the amenity if residents.

11. Within 4 weeks of a written request by the Council following a reasonable noise complaint from the occupant of a dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess the level of noise from the development. Details of noise monitoring survey shall be submitted to Council for written approval prior to any monitoring commencing. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring. The Council shall then be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 4 weeks from the date of

approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason; To protect the amenity if residents.

12. All hard and soft landscape works shall be carried out in accordance with the approved details on drawing No.1A dated 28th November 2018 and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any part of the dwelling.

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

### **Informatives**

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

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

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

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

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

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

**Signature(s)**

**Date:**



<b>ANNEX</b>	
<b>Date Valid</b>	1st October 2018
<b>Date First Advertised</b>	18th October 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 196 Annagher Road Coalisland Tyrone The Owner/Occupier, 208 Annagher Road Coalisland Tyrone The Owner/Occupier,	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/1283/F Proposal: Retention of engineering workshops, increased curtilage and hard standing including temporary car-park, bulk LPG gas tank, toilets and changing building and loading area Address: 200 Annagher Road, Coalisland, Decision: Decision Date:  Ref ID: LA09/2015/0168/F Proposal: Retention of engineering business including retention of engineering workshops, retention of increased curtilage and hardstand, and, retention of change of use from agricultural to engineering. Address: 200 Annagher Road, Coalisland, Decision: PG Decision Date: 08.06.2016  Ref ID: M/1994/6016 Proposal: Proposed Site Annagher Road Coalisland Address: Annagher Road Coalisland Decision: Decision Date:  Ref ID: M/1990/0160 Proposal: Dwelling	



Address: ADJACENT TO 208 ANNAGHER ROAD COALISLAND

Decision:

Decision Date:

Ref ID: M/2014/0004/F

Proposal: Proposed Dwelling and Garage

Address: Adjacent to and west of 208 Annagher Road, Coalisland,

Decision: PG

Decision Date: 13.06.2014

Ref ID: M/2013/0273/PREAPP

Proposal: Dwelling

Address: Annagher Road, Coalisland,

Decision: ELA

Decision Date:

### **Drawing Numbers and Title**

Drawing No. 02

Type: Proposed Plans

Status: Submitted

Drawing No. 01A

Type: Site Location Plan

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

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

Date of Notification to Department:

Response of Department:



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

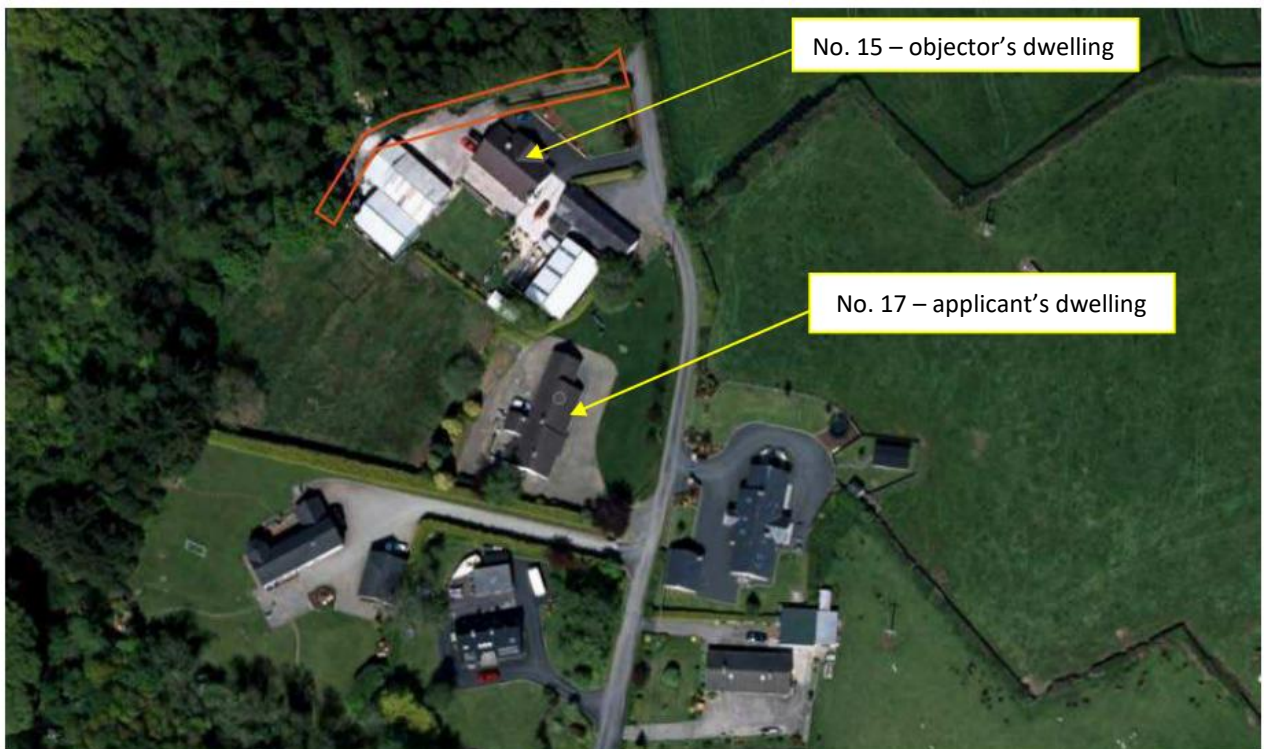
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0004/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed new vehicle entrance to existing approved site to the rear of 17 Cullenfad Road, Dungannon, BT70 1RU.	<b>Location:</b> 17 Cullenfad Road Dungannon BT70 1RU.
<b>Referral Route: Objection, Refusal</b>	
<b>Recommendation: Refuse</b>	
<b>Applicant Name and Address:</b> Libby Campbell 17 Cullenfad Road Dungannon BT70 1RU	<b>Agent Name and Address:</b> Jeffrey Morrow JEM Architectural Services Ltd 15 Finglush Road Caledon BT68 4XW
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

Letters of Support	None Received
--------------------	---------------

Letters of Objection	3
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
<b>Description of Proposal</b> This is a full planning application for a proposed new vehicular entrance to an existing approved site for a dwelling and garage located to the rear of 17 Cullenfad Road, Dungannon, BT70 1RU.	
<b>Characteristics of the Site and Area</b> The application site is located in the rural countryside, as defined by the Dungannon and South Tyrone Area Plan 2010, approx. 1.7km south west of Castlecaufield; and approx. 240m south of the Old Ballygawley Rd and forested grounds of Parkanaur House.  The site comprises an existing access and laneway off the Cullenfad Rd proposed to serve an existing approved site for a dwelling and garage located to the rear of 17 Cullenfad Road, Dungannon (the applicants dwelling, identified on site location plan, above).  No. 17 is a detached dwelling set on generous grounds with a relatively square shaped piece of land to its rear approved for a dwelling and garage. This piece of land is bound on all 4 sides by post and wire fencing and a mix of mature hedgerow and tree vegetation including mature coniferous trees (within adjacent forested area) along its western boundary. And contains the foundations of the garage approved on it.  The access and lane proposed under this application to serve the dwelling and garage approved on the lands to rear of no 17 is located immediately north of, and running along the outside of the curtilage of no.15 Cullenfad Rd, an existing bungalow to the north of no.17. No. 15 also backs onto the approved site. No.15 has a small garden to its front and concrete yard to its rear with larger garden beyond. It is set back from and accessed off the Cullenfad Rd, a narrow, minor road. No.15 and its rear yard containing 2 large buildings/sheds can be accessed via entrance pillars and a driveway to its front; and via the proposed site / access and lane to its north proposed to be utilised under the current proposal. The owner / occupier of no. 15 has made representation on this application, details of which are considered in the assessment of proposal.  The 2 buildings/sheds within no. 15's yard comprise a garage with attached workshop for the manufacture of commercial and mobility vehicle parts located to the north side of the yard adjacent the site; and a storage building/shed in association with the business located to the south side of the yard adjacent it's boundary with no.17. The garage / workshop to the north of the site has a covered external area accessible via and open onto the adjacent lane proposed to be utilised under the current proposal.  The lane to be utilised under the current proposal is bound to its north by mature coniferous trees (within adjacent forested area). And is bound in part to its south by a hedgerow defining no. 15's font garden, the remainder is undefined as it passes along the gable of no. 15's house; its rear yard; and its garage / workshop. The lane will break into the site it is proposed to serve at its very northern corner	

A small single storey roadside Orange Hall exists between no. 17 and no. 15. It has a small area of off road parking to its front immediately adjacent the southern access to no.15.

Whilst the wider vicinity of the site is largely characterised by agricultural land, interspersed with single dwellings and farm holdings the immediate vicinity has come under some development pressure in recent times. The site is located within a small compact cluster of development running along both sides of the Cullenfad Rd comprising the aforementioned Orange Hall and approx. 6 dwellings with accompanying outbuildings including nos. 15 and 17 Cullenfad Rd also referred to above. A forested area hugs and encloses this cluster of development to the west side of the Cullenfad 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 and guidance for the determination of this application:**

Dungannon and South Tyrone Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland (SPPS)

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

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

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

### **Planning History**

#### On Site

As seen below there is an extensive planning history relating to the development of lands to the rear of no. 17 Cullenfad Rd for the erection of a dwelling dating back to 1999.

- M/1999/0623/O – Proposed dwelling – rear of no. 17 Cullenfad Rd – Granted 26<sup>th</sup> October 1999
- M/2004/0548/O – Proposed Dwelling – rear of no. 17 Cullenfad Rd – Granted 14<sup>th</sup> May 2004
- M/2006/1711/F – Proposed new vehicular entrance to supersede that approved under M/2004/0548/O – Adjacent 17 Cullenfad Rd – Withdrawn 7<sup>th</sup> September 2007
- M/2007/0392/RM – Proposed 1 ½ storey dwelling with associated septic tank and landscaping – to the rear of 17 Cullenfad Rd – Granted 12<sup>th</sup> September 2007

M/2004/0548/O & M/2007/0392/RM above were approved with access via the currently proposed access and lane (2 x 60m and 2 x 45m visibility splays to the N and S, respectively). The entrance sought under M/2006/1711/F was off Cullenfad Rd through the roadside boundary and curtilage of no. 17, to the inside of its northern boundary.

- M/2007/1435/F - Proposed new vehicular entrance to supersede that approved under M/2004/0548/O - Adj. 17 Cullenfad Rd, Dungannon – Granted 12<sup>th</sup> February 2008

The vehicular entrance approved under M/2007/1435/F is the same as that withdrawn under M/2006/1711/F, detailed further above.

- M/2009/0580/F – Erection of Dwelling & Garage - Change of House Type from that approved under M/2007/0392/RM, Utilising Access Approved under M/2007/1435/F – Rear of and Adjacent to 17 Cullenfad Rd – 24<sup>th</sup> August 2009.

M/2009/0580/F included a garage the foundations of which on the date of site inspection were in place.

- LA09/2016/0282/F - Proposed new vehicular entrance to supersede that approved under M/2004/0546/O and M/2007/0392/RM - Adjacent to 17 Cullenfad Rd Dungannon - Granted 3<sup>rd</sup> May 2016

The above vehicular entrance was the same as that approved under M/2007/1435/F and M/2009/0580/F albeit the lane has slightly reshaped.

LA09/2021/0543/F – Renewal of application LA09/2016/0282/F for proposed new vehicle entrance – Adjacent to 17 Cullenfad Road Dungannon BT70 1RU – Just received 7<sup>th</sup> April 2021.

#### Adjacent Site

- M/1986/0367 – Extension to dwelling – Granted 21<sup>st</sup> October 1986
- M/1994/0330 – Proposed new garage – Granted 15<sup>th</sup> September 1994
- M/2001/1060/F – Front living room extension to dwelling – Granted 19<sup>th</sup> July 2002
- LA09/2016/0892/LDE – Shed for the manufacture of commercial and mobility vehicle parts – Certificate of Lawfulness issued 17<sup>th</sup> October 2016
- LA09/2016/1590/F – Store for existing moulds and vehicle parts – Granted 6<sup>th</sup> September 2017

The above applications relate to the adjacent property no. 15 Cullenfad Rd Dungannon. LA09/2016/0892/LDE relates to a garage/ workshop in the yard to the rear of no. 15. It sits immediately adjacent the current site / lane. LA09/2016/1590/F relates to a more recently approved store in association with the business. It sits in the yard to the rear of no. 15 adjacent its southern boundary with no. 17. It also sits immediately to the rear of a roadside Orange Hall located between nos. 15 and 17.

**Dungannon and South Tyrone Area Plan 2010** – identifies the site as being located within the rural countryside. It also identifies the site as running through as small section

of Parkanaur Forest grounds however this portion of land (an existing access lane) whilst adjacent a forest area does not appear to have been forest for many years.

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

It also outlines that until such time as a Plan Strategy for the whole of the Council Area has been adopted the Council should continue to apply existing policy and guidance contained in retained Planning Policy Statement's and other relevant documents together with the provisions of the SPPS itself.

I do not consider the SPPS has provided any change in policy direction or provided clarification in relation to any of the existing policies relevant to this proposal as detailed below.

**Planning Policy Statement (PPS) 21 Sustainable Development in the Countryside** – Within the extensive planning history for a dwelling and garage on the piece of land to the rear of No.17 Cullenfad Rd, there has been two accesses off the Cullenfad Rd deemed acceptable and approved.

The first / original being via the currently proposed access and laneway albeit with 2 x 60m and 2 x 45m visibility splays to the N and S, respectively.

The second and most recently approved under LA09/2016/0282/F being off the Cullenfad Rd through the roadside boundary and curtilage of the applicant's property no. 17, to the inside of its northern boundary.

I believe the current proposal, similar to the access and laneway originally approved albeit the current has reduced access standards, would integrate into the landscape, without significant impact to the character of the area in accordance with the provisions of CTY13 and 14 of PPS21. With the exception of its' opening onto the Cullenfad Rd, due to its location between a forested area to the north and buildings within the curtilage of no. 15 to the south, the lane will be screened from public view.

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

Policy AMP 2 Access to Public Roads states that planning permission will only be granted for development proposals involving direct access, or the intensification of the use of an existing access, onto a public road where, such access will not prejudice road safety or significantly inconvenience the flow of traffic.

DfI (Roads) were consulted at the outset of this application. Roads advised the applicant / agent has failed to demonstrate a safe access can be provided onto the Cullenfad Rd; a block plan for the access is required; and to achieve the 2.4m x 45m sight splays the applicant / agent will need to demonstrate control of splays and F.S.D within the red outline boundaries.

Further to additional information received from the agent and a number of re-consultations with DfI Roads, most recently with block plan Drawing 01(Rev.01) and accompanying Traffic Report (prepared by SW Consultancy) setting out justification for a reduction in visibility splay requirements and acceptability of current access design both

received 17 DEC 2020, Roads advice has not changed. DfI Roads advise there is still a road safety concern and require an amended drawing to show the sight lines and FSD cleared of all obstructions as previously requested. Roads noted that the submitted Report stated the access is currently used by a small business and that current proposal will increase trip rates 2 – way movements at the access by 12-16, therefore this application would result in the intensification of a substandard access. Additionally, the Traffic Report confirms that the proposed reduced visibility splays to the south direction passes through this neighbouring hedge line. Roads advised if Planning decide to refuse this application then the attached refusal reason should be applied:

- The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2.0 metres 45.0 metres cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15.

Accordingly, Planning on a without prejudice basis contacted the agent on the 11<sup>th</sup> February 2021 to advise of DfI Roads concerns and request the following information be submitted for further consideration within 14 days:

- an amended drawing to show access to required standard; and
- an updated land ownership statement (P2 Certificate). Noting it would appear Certificate C will be required to be completed notifying the relevant bodies accordingly via P2A Certificates of the proposal. Copies of the completed P2A Certificates served on the relevant bodies should also be provided. In your interests I would like to remind you / the applicant that there is a warning on the land ownership certificate that recklessly completing them is an offense.

The information requested above has not been received to date and the agent has advised via a telephone conversation on the 23<sup>rd</sup> March 2021 that no further information will be forthcoming as considers the current access design provided acceptable. Subsequently, I advised the agent that the application would have to proceed, likely with the opinion to refuse, to the next available Planning Committee Meeting on the basis of the information on file.

Accordingly, in the absence of the information requested above, as per Roads advice, the proposal in its current form is unacceptable, as it would lead to an unsafe access onto the public road, contrary to PPS3, Policy AMP 2. The application therefore is being recommended for refusal for this reason.

### **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 3 third party representations have been received from Mr Ivan McKeown, the owner / occupier of no. 15 Cullenfad Rd, the dwelling and manufacturing business neighbouring the site.

The site (access and lane) is located immediately north of, and running along the outside of the curtilage of no.15 Cullenfad Rd past the gable of Mr McKeown's house; rear yard; and a garage / workshop associated with his business. It is noted the garage / workshop



has a covered external area accessible via and open onto the adjacent lane proposed to be utilised under the current proposal.

Mr McKeown's key concerns about this application and use of the access and lane:

1. He owns the land to the right hand side exiting the driveway and does not wish to sign away any sightlines;
2. It is a shared driveway and as he has a small business here there is a fair bit of traffic on it;
3. Access arrangements approved under previous schemes are being reduced.
4. Potential for someone to get hurt as traffic will pass within inches off his work place.

Mr McKeown advised the above issues were resolved via the alternative access / drive approved through the roadside boundary and curtilage of the applicant's property no. 17 in 2006 / 2007.

The issues raised by McKeown above have been taken into consideration in the assessment of this proposal, including through consultation with DfI Roads who advised that in its current form it is contrary to PPS 3, Policy AMP 2. That it would prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2m x 45m cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15. Roads advised visibility splays to the south cannot be provided without the cutting / setting back the hedge line to the front of Mr McKeown's property. Whilst this proposal is being recommended for refusal, I would note any planning permission on lands, does not confer title, it is the responsibility of the developer to ensure he controls all lands necessary to carry out the proposed development. Consideration has been given to the impact of this proposal on Mr McKeown's private amenity and existing business including workshop adjacent the site, however given the access lane already exists to serve agricultural lands, it is not considered this proposal, should create any significantly great impact.

### **Additional 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. NED map viewer identified no natural heritage features of significance on site. And whilst HED map viewer identified the site as running through a small section of Parkanaur Forest (Historic Park) grounds I am content this portion of land (an existing access lane) whilst adjacent a forest area does not appear to have been forest for many years.

Flood Maps NI identified no flooding on site.

### **Case Officer Recommendation**

Refuse

<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation:</b>	Refuse
<b>Refusal Reasons</b>	

1. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2metres x 45metres cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15.



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0428/F	<b>Target Date:</b>
<b>Proposal:</b> 5no Detached Dwellings (Amended Plan)	<b>Location:</b> Adj 86 Coleraine Road Maghera
<b>Referral Route:</b> Recommended refusal	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Younger Homes 1 Hall Street Maghera	<b>Agent Name and Address:</b> James Hughes Architect 10B Fallylea Road Maghera BT46 5JT
<b>Executive Summary:</b> Proposal considered against prevailing planning policy. It is considered the proposal fails to comply with Policy QD1 and Policy QD2 of PPS7, Policy LC1 of APPS 7 and Policy AMP3 of PPS3. No letters of representation received.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing advice
Non Statutory	NI Water	No Objection
Statutory	DFI Roads - Enniskillen Office	Standing advice

#### Representations:

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

#### Characteristics of the Site and Area

The site is located within the settlement limits of Maghera as defined in the Magherafelt Area Plan 2015. The proposal site is within urban white land, however the land immediately west and also to the east are zoned for housing. The application site comprises the associated land/garden of No. 86 Coleraine Road. The chalet dwelling house of No.86 is currently uninhabited and rundown and is set within a mature residential curtilage. No.86 is located outside the red line, however within the applicants control as indicated in blue on Drawing 01. The site is located on elevated ground, approximately 2 to 3 metres higher than the road level. The site currently has two existing accesses onto the public road, the adjacent public road network is a protected route. The boundaries of the site are currently defined by mature vegetation and trees,

with a brown dashed retaining wall, approximately 2 metres high, also defining the roadside boundary. It is noted that an existing footpath runs along the front boundary. The immediate surrounding context is urban, characterised by residential development of varying size, scale and design. When travelling in a south-westerly direction along this stretch of the public road, it is noted the character gradually becomes more urbanised. Travelling north-easterly, away from Maghera, the development pressure decreases with the character gradually changing to a more rural context.

### **Description of Proposal**

This application seeks full planning permission for 5 no. dwelling units on lands adjacent to 86 Coleraine Road, Maghera.

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

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

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Cookstown Area Plan 2010
- PPS 7 - Quality Residential Environments
- PPS 3 - Access, Movement and Parking
- Addendum to PPS 7 - Safeguarding the Character of Established Residential Areas (APPS 7)

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

### **Representations**

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

### **History on Site**

LA09/2019/0105/F - Alterations and extension to dwelling - 86 Coleraine Road, Maghera – Permission Granted 21/03/21

H/2003/0624/O - Site of housing development - 86 Coleraine Road, Maghera – Application withdrawn 01/03/04

H/2006/0141/F - Housing Development (18no. Dwellings) to include 5no detached, 1no semi-detached, 8no townhouses & 4no apartments - Lands around 82 Coleraine Road, Maghera – Permission Granted 15/05/07

H/2007/0322/F - Proposed two storey dwelling - Site no.9, The Hawthornes, Maghera - Permission Granted 22/01/08

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

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

Magherafelt Area Plan 2015 is the statutory local development plan for the application site. The application site is located within the settlement limits of Maghera and located on white land with no specific zoning or designation. To the east and west of the application site are zoned housing committed sites. Plan Policy SETT2 of the extant Area Plan states favourable consideration will only be given to development proposals within settlement development limits provided that the proposal is sensitive to the size and character of the settlement in terms of scale, form, design and use of materials; and where applicable is in accordance with any key site requirements. The sensitivity of the proposal to the settlement will be considered in more detail below when considering the prevailing policy criteria and there are no key site requirements on the application site.

This proposal seeks full planning permission for 5 residential dwellings. Drawing 02 Rev 2 date stamped 3<sup>rd</sup> March 2021 provides details on the proposed siting, design, scale and access arrangements.

Planning Policy Statement 7: Quality Residential Environments (PPS 7) is a retained policy document under the SPPS and provides the appropriate policy context. Policy QD 1 of PPS 7 sets out the policy framework under which applications of this nature should be assessed. The proposal has been considered against all criteria outlined under Policy QD1.

- a) The proposed development is residential in nature and located in an area where residential development is prevalent. Whilst the principle of residential development on the site may be acceptable, I have concerns the proposed layout does not create a quality and sustainable residential development. The proposal is for 5 detached 2 storey dwelling units which will surround an existing detached dwelling unit, No.86. The original submitted site plan proposed 6 units comprising 4 detached dwellings and a set of semi-detached dwellings. I relayed significant concerns with the proposed site plan to the agent in two occasions including concerns with the layout and density of the proposal. Drawing 02 Rev 2 provides an amended scheme which alters the layout slightly and removes a dwelling. The amended scheme has been considered and following internal group discussions, it is considered the proposal continues to represent over-development of the site and fails to respect the surrounding context. There is inadequate separate distance between House Type 2 and 3 and the common boundary with onl 2 and

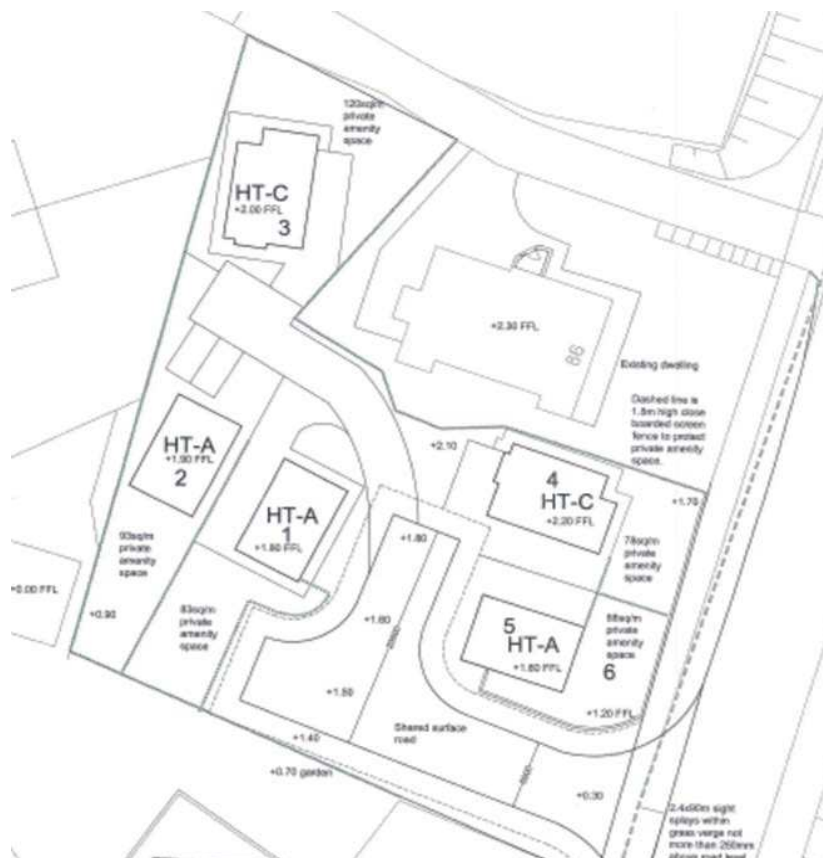
4 metres separation distance respectively. Given the topography of the site, I requested the agent provide site levels which include the FFL of proposed and existing buildings, as well as cross sections to determine the relationship with adjacent properties. To date cross sections have not been provided and the site levels provided in Drawing 02 Rev 2 do not provide adequate detail to demonstrate the proposal is appropriate to the topography of the site. It is considered given the close proximity to the boundaries and difference in site levels, the proposed dwellings would appear overly prominent as a result of the layout. There is also an inadequate separation distance of less than 5 metres between the proposed dwellings House Type 1 and 2 and House 3 and the existing No.86. It is considered dwellings positioned along the roadside plots and at the entrance of the proposed development should be specifically designed to reflect their position within the development (dual aspect). House Type 4 and 5 lack of dual frontage with their associated private amenity space backing onto the public road. It is considered a further reduction in total dwelling units proposed may provide more scope to provide an appropriate layout with adequate separation distances and more suitable siting and orientation. However it is my opinion that the scheme proposed fails to respect the character of the surrounding area.

- b) No protected archaeological or built heritage features identified have been identified within the site or in close proximity thus it is not considered that the proposal would have a significant impact on any local landscape features of built/archaeological interests.
- c) The submitted site plan Drawing 02 Rev 2 indicate a suitable provision of private amenity space in line with Creating Places with each unit in excess of 40m<sup>2</sup>. However, as stated above the positioning of private amenity space backing onto a public road is not considered appropriate in providing quality residential development. The site is elevated from the public road and currently benefits from by mature trees and hedging defining all boundaries. However, the proposal fails to provide details on retention or provision of vegetation to aid integration and no landscaping plan has been provided. Therefore, it is considered insufficient information has been provided to demonstrate adequate provision of landscaping to soften the visual impact of the proposed development.
- d) The proposal site is situated within the settlement limits of Maghera thus it is considered there is easy accessibility to local neighbourhood facilities. It is not considered the proposed development would significantly intensify or place unnecessary demands on the existing neighbourhood provisions and amenities within the area.
- e) The proposal initially sought to utilise both existing accesses onto Coleraine Road. DfI Roads were consulted and responded requiring clarification of Mid Ulster Council's interpretation of PPS3 AMP 3. It is considered all units should access of one point and the access from the adjacent minor road (Hawthorne Road) is preferable to satisfy the requirements of AMP3. Given 2 plots of land on Hawthorne Road have been outlined in blue on the site location plan, I requested the agent amend the proposal accordingly or provide a detailed explanation as to why access has been proposed from the protected route intensifying existing



accesses rather than sought from Hawthorne Road. The agent amended the site layout plan to utilise only one of the existing accesses onto the protected route and advised in a cover letter received 30<sup>th</sup> October 2020 that he had mistakenly included the land with Hawthorne Road development and this was no longer in the applicants ownership. I requested the agent amend the site location plan to correctly reflect the applicants ownership in November, however to date this has not been received. It is considered the proposal has failed to provide a movement pattern which demonstrates the safe manoeuvring of vehicles within the site and accessing onto the public road which is a protected route. It is noted the site is located within the settlement limits of Maghera where there are existing provision of footpaths and access to public transport. It is noted that the site layout plan includes the provision of a footpath within the proposed development which will support walking and cycling.

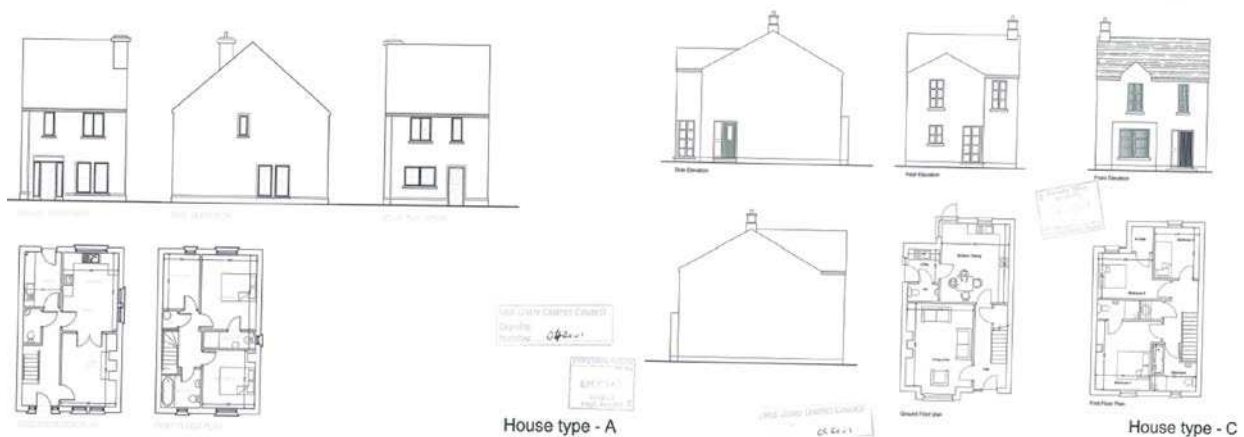
- f) The site plan provided fails to adequately show the parking and driveway arrangements for each dwelling, this was relayed to the agent in November however has not been addressed to date. It is considered in-curtilage parking at a minimum of 2 and 3 spaces per dwelling is required to comply with Parking Standards. There may be sufficient space for the required parking within the curtilage of each dwelling however this provision has not been clearly demonstrated.



- g) The proposal site is surrounded by residential development of varying design and scale therefore I do not consider there is a particular architectural style in the immediate area which the proposal needs to conform with. The housing developments located to the southwest and northeast are high density with both



semi-detached and detached dwellings finished with a mix of red brick, dark stone and dashed render. The existing dwelling No.86, immediately NE of the application site in which the proposal seeks to surround, is a rundown chalet bungalow with a mixed pitched and hipped roof, finished with dash external walls and concrete roof tiles. This application proposes two house types both of which are two storey detached dwellings with pitched roof and fenestration relatively vertical in their proportions. Whilst I have no major concerns regarding the design, both house types have a blank gable side elevation. It is considered the dwellings on corner plots and facing onto the public road should be specifically designed to reflect their position within the development and incorporate a dual aspect. Furthermore, the current layout arrangement appears to be designed to fit around the existing dwelling of No.86 and I have concerns the proposed layout is not reflective of the immediate character and built form. The density and layout proposed are not sympathetic to the setting of the existing dwelling, particularly the positioning of House 3. It is considered if the existing dwelling is not incorporated into the overall housing scheme, the layout and density requires amendment. The plans submitted fail to detail the proposed materials and finishes, therefore it cannot be determined whether these conform with the best local traditions as per the policy requirements.



- h) Following internal discussions it was the group consensus that the current layout and design is unacceptable and has the potential to create an adverse impact on residential amenity. The private amenity space for House 4 faces onto the road and the separation distance with the existing dwelling No.86 is 7 metres. It is considered this separation distance and siting is inadequate and has the potential to adversely impact on existing and proposed private amenity space. House 2 and 3 are both located less than 5 metres from the common boundary; given the separation distance and difference in ground level, it is considered this has the potential to adversely impact on the residential amenity afforded to the occupants within the adjacent Hawthorne Road in terms of loss of light and loss of privacy to their rear private amenity. It is noted that no proposed landscaping/buffer has been provided to any of the dwelling units, should planning permission be granted appropriate landscaping is require and it is considered the existing natural screening of the site should be retained to protect residential amenity.

- i) The proposal seeks permission for a small housing development proposal of 5 unit with the provision of private amenity space and off street parking. I have no significant in terms of crime or health and safety with respect the proposed design.

Policy QD 2 of PPS 7 requires a Design Concept Statement to be submitted with all applications for residential development. Paragraph 4.42 of PPS7 states the submission of Design Concept Statements is necessary to accompany both outline and full planning applications to show how the developer will deliver a quality residential environment on a particular site. To date this has not been submitted for this application.

Policy LC 1 of APPS 7 Addendum to PPS 7 Safeguarding the Character of Established Residential Areas is a material consideration. Policy LC1 states that in established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing, where all the criteria set out in Policy QD1 of PPS7 as well as the below additional criteria:

- a) The proposed density is not significantly higher than that found in the established residential areas
- b) The pattern of development is in keeping with the overall character and environmental quality of the established residential area
- c) All units should be built to a size not less than those set out in Annex A of Addendum to PPS7

The application site comprises a plot of overgrown land/garden associated with the large detached chalet bungalow, No.86. Whilst it is noted that there are high density housing developments to the SW and NE of the application site, it is considered the proposed density and pattern of development is in appropriate when considered in the context of No.86. It is considered the proposed scheme will detract from the surrounding established character as the proposal represents overdevelopment and the proposed layout could cause a visual or functional disruption to the local character. Whilst the density is considered unacceptable, it is considered the scale and size of dwellings proposed is appropriate and meets the minimum standards set out in the addendum to PPS7.

PPS 3: Access, Movement and Parking - The application site seeks to use an existing access on to Coleraine Road. As previously stated, DfI Roads were consulted and have advised the adjacent road network is a Protected Route and access should be obtained from the adjacent Hawthorne Road. The site location plan includes two parcels of land on Hawthorne Road which have the potential to provide access and are within the blue land, indicating they are under the applicant's control. This was relayed to the agent and he advised this was a mistake and the applicant no longer has ownership of the land on Hawthorne Roads. Despite requesting the site location is amended in November, the agent has failed to amend this mistake and correctly indicate the land under the applicant's control. Policy AMP 3 states

*Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access:*

*(a) where access cannot reasonably be taken from an adjacent minor road; or*

*(b) in the case of proposals involving residential development, it is demonstrated to the Department's satisfaction that the nature and level of access onto the Protected Route will significantly assist in the creation of a quality environment without compromising standards of road safety or resulting in an unacceptable proliferation of access points.*

Following internal group discussions with the Principle Planner it was agreed as the site location plan has not been amended, the applicant has failed to demonstrate access cannot be reasonably taken from an adjacent minor road. Furthermore, given it has not been determined above that the proposal fails to create a quality residential environment and refusal is recommended, further information or consultation has not been sought to determine whether the nature and level of access onto the Protected Route will compromise road safety. Should members consider the application should be approved, it will be necessary to consider PPS3 policy requirements further to ensure the access will not prejudice road safety or significantly inconvenience the flow of traffic on to the protected route.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

Having considered all relevant prevailing planning policy, the proposal is recommended for refusal for the reasons stated below.

**Reasons for Refusal:**

1. The proposal is contrary to Plan Policy SETT2 of Magherafelt Area Plan 2015, the Strategic Planning Policy Statement, Policy QD1 of Planning Policy Statement 7 Quality Residential Environments (criteria a) and Policy LC1 of the Addendum to PPS 7 Safeguarding the Character of Established Residential Areas (criteria b) in that proposed development would result in overdevelopment of the site and the proposed layout fails to respect the surrounding context, character and topography of the site or provide a quality and sustainable residential development.
2. The proposal is contrary to the Strategic Planning Policy Statement and Policy QD1 of Planning Policy Statement 7 Quality Residential Environments (criteria c, e, f, g, h) in that insufficient information has been provided to demonstrate;
  - adequate provision is made for public and private open space and landscaped areas as an integral part of the development;
  - the provision of an acceptable movement pattern and appropriate parking;
  - the design of the development draws upon the best local traditions of materials and detailing; and
  - that the layout will not have a detrimental impact on adjacent amenity in terms of overlooking, loss of light, overshadowing, over dominance and other disturbance;
3. The proposal is contrary to Policy QD2 of Planning Policy Statement 7 Quality Residential Environments in that the application is for residential development and a Design Concept Statement has not been provided.

4. The proposal is contrary to PPS3, Access, Movement, and Parking in that insufficient information has been provided to demonstrate that a safe access can be achieved onto the public road.

**Signature(s)**

**Date:**



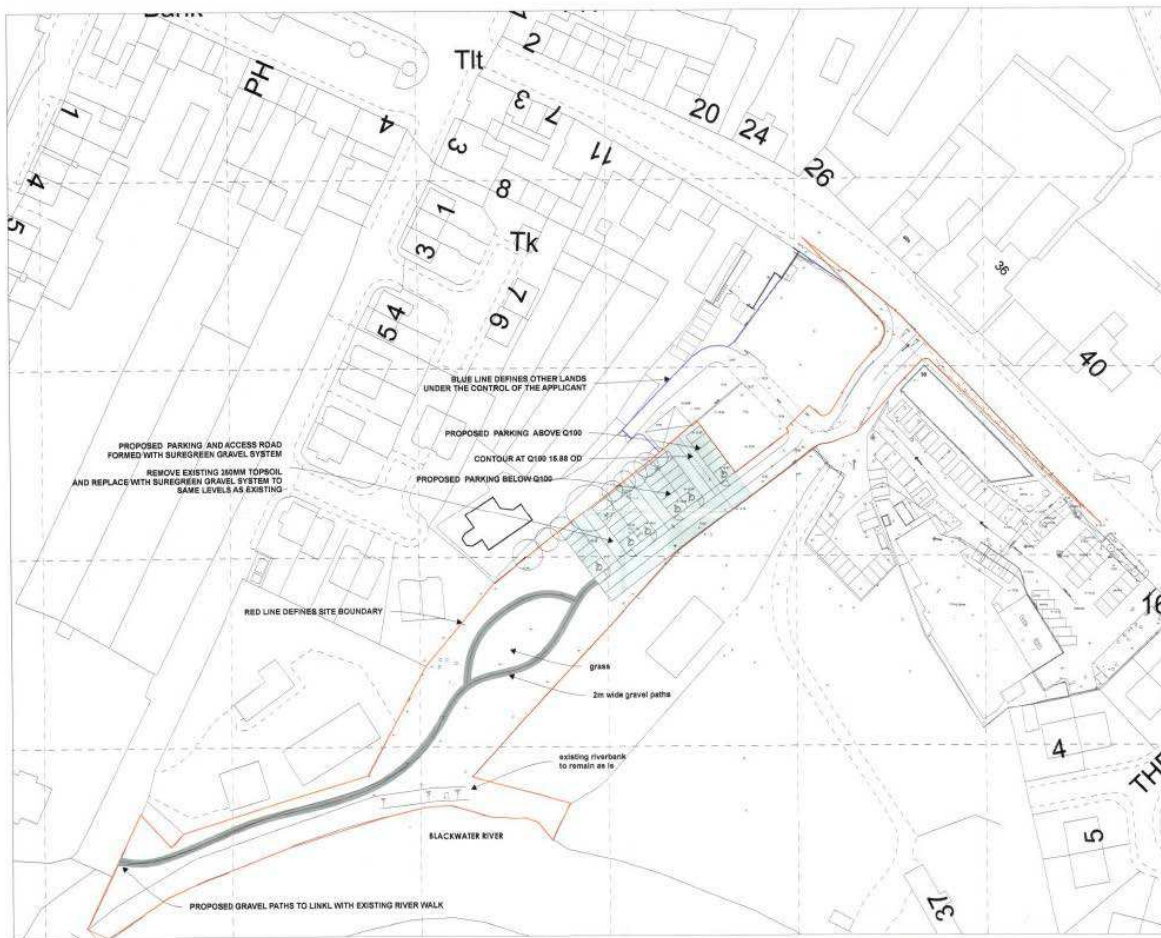
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0863/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed car parking and amenity space linking to existing river walk	<b>Location:</b> Lands approximately 100m South West of 39 Charlemont Street Moy
<b>Referral Route:</b> Approval – Objections received.	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Hemel Ltd Eurospar 45 Charlemont Street Moy	<b>Agent Name and Address:</b> Colm Donaghy Chartered Architects 43 Dungannon Street Moy BT71 7SH
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	Historic Environment Division (HED)	Content
Non Statutory	NIEA	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Rivers Agency	Substantive Response Received
Non Statutory	Rivers Agency	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	2	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b>		
<p>There were two objections by the same objector which were received in relation to the proposal, the details of these objections will be discussed in detail later in the report. The main issues raised were:</p> <ul style="list-style-type: none"><li>• Anti-social behaviour</li><li>• Environmental Concerns</li><li>• Flooding</li><li>• Noise</li><li>• Litter</li><li>• Loss of Character</li><li>• Traffic Congestion/Roads Concerns</li></ul>		
<b>Characteristics of the Site and Area</b>		
<p>The site is located at lands approx. 100m SW of 39 Charlemont Street, Moy. The lands are within the settlement of Moy and have no other zonings or designations within the Dungannon and South Tyrone Area Plan. The site sits outside of Moy Conservation Area. The site appears vacant at present and is overgrown in many parts. There is lands directly adjacent to the site which are outlined in blue indicating ownership. The surrounding area includes a mix of uses as found within Moy Settlement. Notably Eurospar is to the east of the site and there is residential and other commercial businesses are adjacent to the site also.</p>		
<b>Description of Proposal</b>		
<p>Full planning permission is sought for proposed car parking and amenity space link to existing river walk.</p>		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
<p><u>Planning History</u> LA09/2020/0486/RM - Residential development (Reserved Matters application. Outline permission LA09/2016/0697/O) for 17 apartments (amended proposal from 18 units) at Vacant site at lands between 39 - 27 Charlemont Street Moy – CONSULTATIONS ISSUED</p>		

### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. There were no neighbours notified under this application. At the time of writing, no third party representations have been received.

### Assessment of Policy/Other material considerations

- Dungannon and South Tyrone Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- Local Development Plan 2030 - Draft Plan Strategy
- PPS 15 (Revised): Planning and Flood Risk
- PPS 3: Access, Movement and Parking
- PPS 8: Open Space, Sport and Outdoor Recreation

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

The proposal is located within Moy Settlement Limits as identified in the Dungannon and South Tyrone Area Plan. The site has no other designations or zonings. A portion of the site includes an area along the banks of the River Blackwater and is within the LLPA as identified within DSTAP however it is noted that the existing Riverbank is to remain as it is. Policy SETT1 of the Plan allows development within the settlement limits provided it meet with 7 specified criteria. I am content that the proposal meets all of the criteria within SETT 1. The proposal is sensitive to the site itself and the surrounding area. I don't envisage any significant detrimental affect on amenities or conflict with conservation interests. Parking and access are addressed within the proposal and DfI Roads have been consulted in relation to the proposal.

There is proposed car parking for 36 car parking spaces including 6 disabled spaces. The access proposed is an existing access which accesses onto Charlemont Road. DfI Roads were consulted in relation to the proposal they have noted that the parking proposed is not referred to within the Parking Standards and therefore they have no further comment to make on the proposal. Further correspondence with the officer dealing with the Roads consultation was received via email where they noted that the proposal was lacking in information in relation to the amount of trips per day would be accessing the site and what type of users i.e. cars, pedestrians etc. They also referenced the existing Council promoted scheme for the walkway, but stated that as these walks are remaining private and are not being adopted by DfI Roads, they are not subject to DMRB design standards it remains Council remit to consider our comments.

DfI Rivers were consulted in relation to the flood risk assessment submitted. DfI Rivers note that they acknowledge that planning deems the proposal as an exception noting that the lands are to be used for transport infrastructure and that they will be used for amenity open space too. They note within their response that they have no reason to disagree with the conclusions held within the FRA and that it should be brought to the attention of the applicant that the onus is on the developer and their professional advisors to ensure that the proposed flood risk measures set out within the FRA are



carried out properly. A watercourse runs along the boundary of part of the site however it is stated that the proposal would not impede access for maintenance to the River Blackwater.

Environmental Health were consulted specifically in relation to concerns raised within the objections. They have noted that concerns related to anti-social behaviour is not something they can comment on at the planning stage.

NIEA were consulted as the site is located within close proximity to a listed building, however they have noted within their response that the application site is sufficiently removed in situation and scale from the listed building as to have no impact.

#### Representations

There were two objections received, both from the same objector in relation to this application. Some of the issues raised within the objections include: Anti-social behaviour, Environmental Concerns, Flooding, Noise, Litter, Loss of Character and Traffic Congestion/Roads Concerns. DfI Roads, Environmental Health and Rivers were consulted in relation to these concerns and the overall impact the proposal may have. Each of these consultees are the competent authorities in dealing with the potential issues raised in the objections. The contents of the relevant consultees' responses have already been discussed throughout the report but as a whole, it should be noted that none of the consultees raised any significant concerns in relation to the proposal. We are of the opinion that the concerns raised within the objection have all been investigated within planning and with the relevant consultees. The Moy area has suffered with some issues with anti-social behaviour in recent years, however we must assess the application at face value and in doing so, I find no reason why a relatively small carpark which would provide access to local amenities and attractions should have any negative impact on the area.

#### **Neighbour Notification Checked**

Yes

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

Approval is recommended.

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

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

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

2. No 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.

#### Informatives

1. Due to the proximity of a part of the development site to the water environment, the applicant must refer and adhere to all the relevant precepts contained in DAERA Standing Advice on Pollution Prevention Guidance paying particular regards where further information is to be found on works and maintenance in or near water. Water Management Unit recommends the applicant refer and adhere to all the relevant precepts contained in DAERA Standing Advice on Sustainable Drainage Systems (SuDS). The applicant must refer and adhere to all the relevant precepts contained in DAERA Standing Advice on Discharges to the Water Environment. The applicant should be informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment. The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	20th July 2020
<b>Date First Advertised</b>	4th August 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 14 Brick Row, Moy, Tyrone, BT71 7UL The Owner/Occupier, 29a , Charlemont Street, Moy, Tyrone, BT71 7SL The Owner/Occupier, 36 Charlemont Street, Moy, Tyrone, BT71 7SL The Owner/Occupier, 40 Charlemont Street, Moy, Tyrone, BT71 7SL The Owner/Occupier, 40a , Charlemont Street, Moy, Tyrone, BT71 7SL The Owner/Occupier, 40b , Charlemont Street, Moy, Tyrone, BT71 7SL The Owner/Occupier, 40c , Charlemont Street, Moy, Tyrone, BT71 7SL The Owner/Occupier, 4a The Square, Brick Row, Moy, Tyrone, BT71 7SL The Owner/Occupier, 4a, The Square, Moy, Tyrone, Northern Ireland, BT71 7SG The Owner/Occupier, 4a, The Square, Moy, Tyrone, Northern Ireland, BT71 7SG	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: M/2015/0096/PREAPP Proposal: Redevelopment of Lands at Charlemont Street, Moy Address: 31-45 Charlemont Street, Moy, Co Tyrone, Decision: Decision Date:  Ref ID: M/2014/0547/F Proposal: Proposed pathway along portion of river front with soft landscaping and fencing for the use of the community Address: River front at Brick Row, Moy,	

Decision: WITHDR  
Decision Date: 10.02.2015

Ref ID: M/2013/0573/O  
Proposal: Proposed housing scheme.  
Address: Lands at Brick Row, Moy BT71 7UJ,  
Decision: PG  
Decision Date: 17.07.2014

Ref ID: M/2009/0901/F  
Proposal: The construction of 21 apartments and 3No. retail units with basement parking  
Address: 29-37 Charlemont Street, Moy, Dungannon, BT71 7SF  
Decision:  
Decision Date: 13.06.2011

Ref ID: M/2008/0997/F  
Proposal: 39.5km of pipeline to transfer drinking water from Ballydougan Service Reservoir, near Bleary, Co Down to Carland Service Reservoir, near Newmills, Co Tyrone via a water pumping station at Moy.  
Address: Pipeline from Ballydougan Service Reservoir to Carland Service Reservoir via Moy PS  
Decision:  
Decision Date: 07.12.2009

Ref ID: M/2002/1285/Q  
Proposal: Proposed conversion of derelict Mill building into 4 No. retail shop units and 8 No. flats.  
Address: 39 Charlemont Street, Moy  
Decision:  
Decision Date:

Ref ID: M/1997/6002  
Proposal: Housing Development Charlemont Street Moy  
Address: Charlemont Street Moy  
Decision:  
Decision Date:

Ref ID: M/1992/0158B  
Proposal: Proposed New Dwelling  
Address: REAR OF NO 27 CHARLEMONT STREET MOY  
Decision:  
Decision Date:

Ref ID: M/1992/0158  
Proposal: Site for Dwelling  
Address: REAR OF NO 27 CHARLEMONT STREET MOY  
Decision:  
Decision Date:

Ref ID: M/1990/0662

Proposal: Redevelopment of vacant site to form new shop unit  
Address: ADJACENT TO NO 41 CHARLEMONT STREET MOY  
Decision:  
Decision Date:

Ref ID: M/1990/0085  
Proposal: Provision of Skip Site  
Address: ADJACENT TO RIVER BLACKWATER BRICK ROAD MOY  
Decision:  
Decision Date:

Ref ID: M/1983/0158  
Proposal: DWELLING  
Address: CHARLEMONT STREET, MOY  
Decision:  
Decision Date:

Ref ID: M/1982/0361  
Proposal: PROPOSED BOOSTER PUMPING STATION  
Address: MOY, CO TYRONE  
Decision:  
Decision Date:

Ref ID: M/1976/0370  
Proposal: ERECTION OF SUPERMARKET  
Address: CHARLEMONT STREET, MOY  
Decision:  
Decision Date:

Ref ID: LA09/2020/0864/F  
Proposal: Proposed car parking and block of semi detached dwellings  
Address: Lands approximately 50m West of 39 Charlemont Street, Moy,  
Decision:  
Decision Date:

Ref ID: LA09/2020/0863/F  
Proposal: Proposed car parking and amenity space linking to existing river walk  
Address: Lands approximately 100m South West of 39 Charlemont Street, Moy,  
Decision:  
Decision Date:

Ref ID: LA09/2020/0780/O  
Proposal: Proposed furniture storage/warehouse facility  
Address: Site 80m West of 37 Charlemont Street, Moy, Dungannon,  
Decision:  
Decision Date:

Ref ID: LA09/2020/0486/RM  
Proposal: Residential development for reserved Matters, outline permission  
LA09/2016/0697/O for 18 apartments

Address: Vacant site at lands between 39 - 27 Charlmont Street, Moy,  
Decision:  
Decision Date:

Ref ID: LA09/2020/0170/DC

Proposal: Discharge of Condition No5 of Planning Permission LA09/2016/0697/O.  
Address: Lands between 39-27 Charlemont Street, Moy.,  
Decision: AL  
Decision Date:

Ref ID: LA09/2018/1596/NMC

Proposal: Amendment to internal retail floor layout from previously approved  
LA09/2018/1007/F  
Address: Eurospar, 45 Charlemont Street, Moy,  
Decision: CG  
Decision Date:

Ref ID: LA09/2018/1007/F

Proposal: Single storey extension to front elevation with a 2 storey extension to one side to provide additional retail accommodation with offices above, reconfiguration of parking area and access arrangements and general site works including landscaping and pedestrian access routes and toilet block  
Address: Eurospar 45 Charlemont Street, Moy,  
Decision: PG  
Decision Date: 13.11.2018

Ref ID: LA09/2017/1530/PAD

Proposal: Enviromental works to riverside walk-village loop. Footpath beside council Corn Centre and along playing fields exiting onto Benburb Road. Lighting footpath from village to river. Resurfacing of path with stone /bark, shrub clearance and inclusion of benches  
Address: Riverside walk-village loop. Footpath beside council Corn Centre to Playing fields exiting onto Benburb Road, Moy, Dungannon,  
Decision:  
Decision Date:

Ref ID: LA09/2017/1398/LBC

Proposal: This application amends previously approved design Northern 3 bays re ordered, new lower ground floor unit formed with ground floor removed, First floor unit formed with portion of second floor removed and retained portion defined as mezzanine  
Address: 39-41 Charlemont Street, Moy,  
Decision: CG  
Decision Date: 19.02.2018

Ref ID: LA09/2016/0739/RM

Proposal: Housing development comprising of 12 semi-detached dwellings

Address: Lands immediately South of 5 and 6 Cashel Grove, Brick Row, Moy,

Decision: PG

Decision Date: 14.12.2016

Ref ID: LA09/2016/0714/F

Proposal: Stabilisation of existing building and reinstatement of roof, minor alterations to external appearance of the buildings doors and windows, provision of car parking area at rear, and partial change of use of lower ground floor (155.63sqm) to restaurant. General site works and building improvements.

Address: Former Grain Store, 39-41 Charlemont Street, Moy,

Decision: PG

Decision Date: 16.05.2017

Ref ID: LA09/2016/0699/LBC

Proposal: Stabilisation of existing building and reinstatement of roof, minor alterations to external appearance of buildings doors and windows.(application accompanies an application for full permission to change the use of ground floor to restaurant use and general site works surrounding the building to provide car parking and public access

Address: Former Grain Store 39-41 Charlemont Street Moy,

Decision: CG

Decision Date: 17.05.2017

Ref ID: LA09/2016/0697/O

Proposal: Residential Development

Address: Vacant site at lands between 39-27 Charlemont Street, Moy,

Decision: PG

Decision Date: 16.05.2017

Ref ID: LA09/2016/0654/F

Proposal: Single storey extensions to front and one side of supermarket, repositioning of petrol pumps and canopy, reconfiguration of parking areas and access arrangements and general site works including landscaping and pedestrian access routes

Address: Eurospar, 45 Charlemont Street, Moy,

Decision: PG

Decision Date: 23.05.2017

Ref ID: LA09/2016/0591/DC

Proposal: Discharge of condition Re. Archaeological Programme of works

Address: Lands at Brick Row, Moy,

Decision: AL

Decision Date:

<b>Summary of Consultee Responses</b>
<b>Drawing Numbers and Title</b>
<p>Drawing No. 02  Type: Proposed Plans  Status: Submitted</p> <p>Drawing No. 01  Type: Site Layout or Block Plan  Status: Submitted</p> <p>Drawing No. 03  Type: Proposed Plans  Status: Submitted</p>
<b>Notification to Department (if relevant)</b>
<p>Date of Notification to Department:</p> <p>Response of Department:</p>





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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0970/O	<b>Target Date:</b>
<b>Proposal:</b> Dwelling and garage	<b>Location:</b> Approx. 250m South of 25 Cloane Road Draperstown
<b>Referral Route:</b> Approval - To Committee - Exception to policy	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mark Quinn 1 The Brambles Magherafelt	<b>Agent Name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SG
<b>Executive Summary: Approve</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

Approval - To Committee - Exception to policy.

### Characteristics of the Site and Area

The site is located approximately 2km north of the development limits of Draperstown, as such, the site is located within the open countryside as per defined by the Magherafelt Area Plan 2015. I note that the site sits adjacent to the road and is accessed via an existing private laneway. I note that to the east of the site is characterised by a heavily treed area. The site itself is relatively flat in nature and appeared to be recently cleared of trees. The surrounding lands are characterised by undulating agricultural lands, with the predominant land use of an agricultural nature, interspersed with single dwellings and farm complexes.

**Representations**

No representations were received in connection with this application.

**Description of Proposal**

This is an outline application for a proposed dwelling and garage, in which the site is located Approx. 250m South of 25 Cloane Road Draperstown.

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

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

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

Mid Ulster Local Development Plan 2030 - Draft Strategy

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 10 - Dwellings on Farms

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

CTY14 - Rural Character

PPS 3 - Access, Movement and Parking;

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

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

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

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

With respect to (a), a consultation was sent to DAERA with regards to the Farm Business, in their response stated that the business has been allocated in 2011. However, in their response

went on to state that no claims have been made in the previous six years. In addition, stated that this is only a category 2 farm business number, in which the Category 2 business id identified on P1C does not relate to a farm business. This business number was allocated to enable the business to apply for funding from the Rural Development Programme (RDP). This posed doubts whether or not there is an established farm business therefore additional information was requested to demonstrate how there is an active farm business. However I state that the policy does not state to what category of farm business is provided rather that there is just a business number provided and as confirmed by DAERA it has been in existence for an excess of six years. Given this, additional information was requested to help determine that the farm business is currently active, I note that the agent submitted a range of invoices to show this inclusive of tree planting. Upon review of these invoices, I note this provides a minimal level of activity on the farm business where I note that the land appeared to be in good agricultural condition. Again, the level of activity is not stated in the policy rather it states an active farm business, from such on balance I am content that as a result I have no option but to distinguish this as an active and established farm business.

With respect to (b), upon review of the farm business and after reasonable checks were done I am content that the farm business has not attained any approvals for farm cases in the previous ten years. In that time I am content that no other development opportunities have been sold off either during this time.

With respect to (c), I note that the registered farm address sits within the development limits of Magherafelt, in which the farm holding appears to be just this one field which is planted by mature trees. I note that there are no buildings on this portion of land, where I hold the view an appropriately designed would blend into the site given the level of tree cover. With this in mind, I note that there is a gap in policy which does not refer to the occasion in which the farm business has no buildings rather refers to an alternative position is acceptable in terms of health and safety or where there are verifiable plans to expand the farm business. This was subsequently discussed with the Planning Manager, that given this gap in policy coupled with the proposed integration benefits of the site that this can be accepted as an exception to policy and successfully comply with policy on balance. I note that policy states where possible that the site utilises an existing laneway where practicable, I note that the site lies along the roadside therefore a direct access onto the road is acceptable as it is logical.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore there are no exact design have been provided, however, given that the site sits along the roadside that a low ridge would be required in line with the surrounding development to ensure it is not visually prominent. I note that as much of the existing landscaping should be retained where possible, with a new boundaries planted out, therefore a landscaping scheme should be submitted as part of any reserved matters application. Taken into consideration the landform, surrounding development and I feel it necessary to restrict the ridge height to be no more than 6m from finish floor level. From which, I am content that the application is able to comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As stated that an appropriately designed dwelling would not appear as visually prominent. I am of the opinion that the proposed dwelling would not result in a suburban style build-up of development when viewed with existing and approved buildings. I note that proposed site is able to respect dispersed pattern of development in the area, and it is unlikely to lead to additional dwellings through infilling. Finally, I am content that any ancillary works are unlikely to have an adverse impact on rural character.

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

Other policy and material considerations

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and responded to state that they have no objections subject to conditions and informatives.

Finally, a consultation was sent to NIEA, in their response Water Management Unit refer the Planning Authority to DAERA Standing Advice - Single Dwellings available at: <https://www.daera-ni.gov.uk/publications/standing-advice/development-may-have-effect-water-environment-including-groundwater-and-fisheries> which contains conditions and informatives relevant to this proposal. Alongside this, Natural Environment Division has considered the reason for consultation and notes that there is no accompanying ecological information. Please refer to DAERA's Environmental Advice for Planning web pages to assist in the identification and/or assessment of the potential adverse effects to designated sites/other natural heritage interests. As such I am content to include this information as an informative to ensure there is no conflict with ecological concerns.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approve

Conditions:

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

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

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

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

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

3. The proposed dwelling shall have a ridge height of less than 6 metres above the finished floor level of the site and a low angle of roof pitch not exceeding 40 degrees.

Reason: To ensure that the development is not prominent and satisfactorily integrated into the landscape.

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

Reason: In the interest of visual amenity.

5. 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.

Reason: To ensure the dwelling integrates into the landform.

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

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

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

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

8. If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same place and that/those tree(s) shall be of such size and species and shall be planted at such time as may be specified by the Council.

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

9. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.

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

#### Informatives

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

2. This permission authorises only private domestic use of the proposed garage and does not confer approval on the carrying out of trade or business there from.

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

4. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.

5.The applicant's attention is drawn to form RS1 and the statement regarding an accurate, maximum 1:500 scale survey which must be submitted as part of the Reserved Matters application.

6. Please find attached information note from NIEA.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	11th August 2020
<b>Date First Advertised</b>	25th August 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier,	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/0970/O Proposal: Dwelling and garage Address: Approx. 250m South of 25 Cloane Road, Draperstown, Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	



Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1157/O	<b>Target Date:</b> 06/01/21
<b>Proposal:</b> Proposed site for 2 storey dwelling and domestic garage	<b>Location:</b> 90m South East of 46 Airfield Road Toomebridge
<b>Referral Route:</b>  Recommended refusal – contrary to PPS15 Policy FLD1	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Centrum NI Farms Ltd 80 Hospital Road Magherafelt	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge
<b>Executive Summary:</b> The proposal has been considered against prevailing policy and all material considerations below. No letters of representation have been received. It is considered the proposal is contrary to Policy FLD1 of PPS15 as it is not considered an exception or of overriding regional or sub-regional economic importance.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	Rivers Agency	Advice
Statutory	DAERA	Advice

### Representations:

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

### Characteristics of the Site and Area

The proposal is located in the open countryside, outside any settlement limits as defined in the Magherafelt Area Plan 2015. The application site comprises a portion of a large agricultural field on the minor Airfield Road, leading from the Aughrim Road in a southerly direction along the line of the Moyola River and joining onto the Creagh Road to the east. The immediate surrounding landscape is rural, characterised by agricultural fields interspersed with detached dwellings and farm holdings. The settlement limit of Ballymaguigan is located approximately 0.6km southwest of the proposal site, as the crow flies. The site is currently accessed via an existing agricultural gate. The topography of the site is relatively flat. It was noted on the date of the site inspection that

post and wire fencing and new trees/hedging appears to have been planted along the boundaries of the proposal site. Moyola River is located in close proximity to the west of the site with a presence of dispersed trees along the riverbank.

### **Description of Proposal**

This is an outline application for a 2-storey dwelling and domestic garage located 90m South East of 46 Airfield Road, Toomebridge.

The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 10 Dwelling on a Farm.

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

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

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

Regional Development Strategy 2030  
Strategic Planning Policy Statement for Northern Ireland  
Magherafelt Area Plan 2015  
Planning Policy Statement 3: Access, Movement and Parking  
Planning Policy Statement 15: Planning and Flood Risk (Revised)  
Planning Policy Statement 21: Sustainable Development in the Countryside

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

### **Representations**

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

### **History on Site**

LA09/2017/1241/O – Proposed site for 2 storey dwelling and domestic garage (Based on Policy CTY2- new dwelling in existing clusters) - 30m North of 38 Airfield Road, Toomebridge – Permission Refused 08/01/19

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

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

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining all planning applications. 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. There is no conflict between the SPPS and the relevant planning policy to consider this planning application.

Policy CTY 1 of PPS 21 establishes that planning permission will be granted for a dwelling on a farm where it is in accordance with Policy CTY 10. Policy CTY 10 Dwelling on a Farm states that planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

- a) the farm business is currently active and has been established for at least 6 years
- b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008
- c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. 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 groups(s)

With respect to (a) the applicant has provided details surrounding their farm business ID and an associated farm map. DAERA have confirmed the business ID has been in existence for more than 6 years and prior to 2020 the proposal site was associated with another farm business. The agent has provided further information including evidence of an Environmental Farming Scheme application dated September 2020 and Single Farm Payment application dated May 2020. As well as this, the agent has provided a list of farm activities carried out between 2019 and 2020 and notification of cattle movement herd forms from September 2020. On the basis of the information provided, I am content the farm holding has been established for at least 6 years and is currently active.

With respect to (b) I have carried out a check of the land associated with the farm maps provided, as well as a search of the Farm Business ID provided and there are no records indicating that any dwellings or development opportunities out with the settlement limits have been sold off from the farm holding within 10 years of the date of this application.

With respect to (c) there are no established buildings on the site for the proposed dwelling to cluster with or to provide visual linkage as required under CTY10. I have reviewed the farm map provided and the field subject to this application is the only field associated with the farm business, therefore there are no farm buildings on the farm holding. The proposal site is a cut out of a larger field and is open to public views. However, the proposed dwelling will be sited in the north-western corner with established trees west along the river bank which will provide some form of backdrop and assist with integration. It is established practice by Mid Ulster District Council Planning Committee to permit a new building on an active and established farm business if there are no established group of buildings anywhere on the farm. On this basis, it is considered the application complies with CTY 10 (C).

Policy CTY 13 Integration and Design of Buildings in the Countryside and Policy CTY 14 Rural Character of PPS 21 are also relevant to this proposal. These policies require development to be appropriately designed, visually integrate into the surrounding landscape and not harm the rural character of the area. Whilst it was noted on the date of the site inspection that some planting and fencing had been carried out along the boundaries, I had some initial concerns that the proposal site lacked established natural boundaries to ensure suitable integration. Particularly given there will be public views of the site when travelling in both directions along the Airfield Road. However, it is noted the topography of the site is relatively flat and the proposed development would be set back approximately 100 metres from the public road. Having considered this application at an internal meeting, group consensus was that the site and its surrounding environment is suitable for absorbing a dwelling without suburban build up or detrimental impact to rural character. The established trees to the west provide a suitable backdrop to ensure the dwelling will not appear overly prominent. It is considered a suitably designed dwelling in accordance with the requirements of Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside Guidance should integrate on to this site in accordance with Policy CTY13 whilst not detrimentally impacting on the rural character of the area in accordance with CTY14

Planning Policy Statement 3: Access, Movement and Parking - DfI Roads have been consulted and have no objections subject to conditions attached to any forthcoming approval. Therefore it is considered the proposal complies with PPS 3 in that will not prejudice road safety or significantly inconvenience the flow of traffic.

Planning Policy Statement 15: Planning and Flood Risk (Revised) – It was identified that the proposal site appears to lie within the 1% AEP fluvial flood plain. DfI Rivers were consulted and have advised any development intended within the 1% AEP Flood Plain will require Planning Authority to deem the application to be an exception or overriding regional importance before they will appraise a flood risk assessment.

Following this response, the agent submitted additional information to argue the proposal site is not within the 1% AEP flood plain including site levels provided on Drawing 02 Rev 1. DfI Rivers were consulted on this additional information submitted and subsequently advised that whilst the Drawings indicate that the indicative siting of the dwelling is located on elevated ground out of the floodplain, the red line boundary of the site, including the access lane is still located in the floodplain. In accordance with the Revised PPS 15 - FLD 1, any development intended within the 1% AEP flood plain will require Planning Authority to deem the application to be an exception or overriding regional importance, before DfI Rivers will appraise a Flood Risk Assessment (FRA). Having considered the exceptions provided in Policy FLD1, it was agreed with the Principal Planner that the proposal did not meet any of the exceptions tests, including “minor development”, and is not of overriding regional importance. This was relayed to the agent on 04/02/21 and the agent discussed this with the Principle Planner on 09/02/21. The agent argued that there is an existing laneway access to the site, however this is at odds with what was observed on the date of the site inspection. Whilst I noted new planting and post and wire fencing along the site boundaries, no existing formalised laneway was observed on the date of the site visit. It was relayed that the proposal was not considered an exception as per FLD1 therefore we would not be inviting a FRA any Rivers Agency may not consider any submitted FRA, however the agent advised on this

phone call that he would be submitting a FRA. To date no further information or FRA has been submitted to address Policy FLD1. Whilst the applicant has demonstrated the indicated siting of the proposed dwelling indicated on Drawing 01 lies outside the floodplain, the application has failed to demonstrate the remainder of the site, including the access, is outside the 1% AEP flood plain. It is not considered the proposal meets an exception tests or is of overriding regional importance, therefore it fails Policy FLD1.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

The proposal is recommended for refusal as it has not been demonstrated that the entirety of the site lies outside the 1% AEP flood plain and as it is not considered to meet the exception tests or of overriding regional importance, it is contrary to Policy FLD 1.

**Reasons for Refusal:**

1. This proposal is contrary to Policy FLD 1 of Planning Policy Statement 15, Planning and Flood Risk, in that the site lies within the 1% AEP flood plain and is not considered an exception to this policy nor has it been demonstrated that the proposal is of overriding regional importance.

**Signature(s)**

**Date:**



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1171/O	<b>Target Date:</b>
<b>Proposal:</b> Site of 2 Storey dwelling house with ridge height of 8.8m and a domestic garage.	<b>Location:</b> 40m NW of 19 Tullyheran Road Maghera BT46 5JQ.
<b>Referral Route:</b>  Committee – Approval – Complexity of the application.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Diarmaid Donnelly 9 Rowan Glynn Maghera BT46 5FQ	<b>Agent Name and Address:</b> Architectural Services 5 Drumderg Road Draperstown BT45 7EU
<b>Executive Summary: Approval</b>	
<b>Signature(s): Peter Henry</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

To Committee – Approval – Due to the complexities of the application.

### Characteristics of the Site and Area

The site is located approximately 0.2km north of the development limits of Glen, as such the site is located within the open countryside as per defined by the Magherafelt Area Plan 2015. I note that the red line covers a portion of a much larger agricultural field, which is bounded by mature trees on all boundaries. I note that site is currently accessed via an existing access onto the public road. I note that the immediate and surrounding area is characterised by agricultural land uses with a scattering of dwellings.

**Representations**

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

**Description of Proposal**

This is an outline application for a Site of 2 Storey dwelling house with ridge height of 8.8m and a domestic garage, the site is located 40m NW of 19 Tullyheran Road Maghera.

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

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

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

Mid Ulster Local Development Plan 2030 - Draft Strategy

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 10 - Dwellings on Farms

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

CTY14 - Rural Character

PPS 3 - Access, Movement and Parking;

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

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

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

- (a) the farm business is currently active and has been established for at least 6 years;
- (b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and
- (c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane.

Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group.

With respect to (a) I note that when the application was submitted there was no farm business number, in which this was only applied for and obtained during this application. From such a consultation was sent to DAERA, who in their response stated that the farm business had only been established in 2021 and that it had made no claims within the previous six years. I referred the agent to this, to try and demonstrate how their has been an active and established farm business for the previous six years. I note that the applicant's agent provided a series of documents inclusive invoices of expense and letters from neighbouring farmers who confirmed that they had taken the lands in conacre at different times over the 6 years. I first confirm that the lands have been in full ownership for an excess of six years of the owner of the identified farm business, I note that the applicant is a relation to the owner of the farm business where both parties have signed P1C. Upon review of this submitted information and the fact the lands have been owned for an excess of six years, I am of the opinion that on the level of probability that this is able to constitute as an active and established farm business on balance. But given the level of complexity in reaching this determination I feel it necessary for the Planning Committee to have an opportunity to review the application and see if they share my opinion.

With respect to (b), upon review of the farm business and after reasonable checks were done I am content that the farm business has not attained any approvals for farm cases nor sold off any other development opportunities in the previous ten years.

With respect to (c), I note that the registered address of the farm business sits along the southern boundary with small shed beside this, I note that these appear to be the only buildings on the farm. From such I am content that these are able to constitute as an existing group of buildings on the farm. As such I am content that a dwelling located within the red line is able to cluster and visually link with these buildings. I note that the policy states where possible to use an existing access, I note that this the intention is to alter and upgrade an existing agricultural access, which is deemed as acceptable.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore there are no exact design or siting details provided however I am content that an appropriately designed dwelling would not appear as a prominent feature in the landscape. I note that as much of the existing landscaping should be retained where possible, with new boundaries being planted out, therefore a landscaping scheme should be submitted as part of any reserved matters application. Taken into consideration the landform, surrounding development and noting the description requesting a ridge height of 8.8m I note that the site is well screened with little to no public views, therefore I am content that this is acceptable. From which, I am content that the application is able to comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural

character of an area. As stated that an appropriately designed dwelling would not appear as visually prominent. I am of the opinion that the proposed dwelling would not result in a suburban style build-up of development when viewed with existing and approved buildings. I am content that this application is unlikely to lead to further development than that already exists. From all of this it has been agreed that the application is able to comply with CTY 14 on balance.

I note that no other policy cases have been applied for; I note that the site is not located within a cluster with an associated focal point nor is it within a dispersed rural community. I note that there is no buildings on the site, so no valid replacement or conversion opportunity available. The site is not for social housing, nor has there been a non-agricultural business case provided. I note that the site does not warrant under a gap site. Therefore the application has failed under CTY 1.

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

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and responded to state that they have no objections subject to conditions and informatives.

Given the watercourse that runs along the western boundary, a consultation was sent to Rivers Agency, in their response confirmed that the site does not lie within a 1 in 100 year fluvial or 1 in 200 coastal flood plain. Although, went on to confirm that an undesignated watercourse flows adjacent to the site access road. Under 6.32 of the policy a 5m maintenance strip is required unless the watercourse can be maintained from the opposite bank by agreement with the landowner. It should be marked up on a drawing and be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development by way of a planning condition. Clear access and egress should be provided at all times. In addition, The Flood Hazard Map (NI) indicates that a portion of the development is located within a predicted flooded area as indicated on the Surface Water Flood Map. A Drainage Assessment is not required by the policy but the developer should still be advised to carry out their own assessment of flood risk and construct in the appropriate manner that minimises flood risk to the proposed development and elsewhere. I note that an amended location plan was submitted to address the above, therefore on balance I am content that this has mitigated any flooding concerns.

I have no ecological or residential amenity concerns. I recommend refusal given the failure of policy CTY 10.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approval
<p>Conditions:</p> <p>1. As required by Section 62 of the Planning Act (Northern Ireland) 2011, application for approval of the reserve 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 later of the following dates:-</p> <p>i. the expiration of 5 years from the date of this permission; or</p> <p>ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.</p> <p>Reason. Time Limit.</p> <p>2. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called “the reserved matters”), shall be obtained from the Council, in writing, before any development is commenced.</p> <p>Reason. To enable the Council to consider in detail the proposed development of the site.</p> <p>3. The proposed dwelling shall have a ridge height of less than 8.8 metres above the finished floor level of the site and a low angle of roof pitch not exceeding 40 degrees.</p> <p>Reason: To ensure that the development is not prominent and satisfactorily integrated into the landscape.</p> <p>4. The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.3 metres at any point.</p> <p>Reason: In the interest of visual amenity.</p> <p>5. 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.</p> <p>Reason: To ensure the dwelling integrates into the landform.</p> <p>6. During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of those trees to be retained and measures for their protection during the course of development and details of a native species hedge to be planted to the rear of the of the visibility splays. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub</p>

or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

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

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

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

8. If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same place and that/those tree(s) shall be of such size and species and shall be planted at such time as may be specified by the Council.

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

9. Under 6.32 of the policy FLD 2 of PPS 15: Planning and Flood Risk, a 5m maintenance strip shall put in place as marked in yellow hatched area in accordance with Drawing No. 01/1 bearing the date stamp 2<sup>1st</sup> April 2021, and shall be protected from impediments (including tree planting), land raising or future unapproved development thereafter.

Reason: In the interest of Protection of Flood Defence and Drainage Infrastructure.

10. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.

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

Informatives.

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

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

3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.

4. The applicant's attention is drawn to form RS1 and the statement regarding an accurate, maximum 1:500 scale survey which must be submitted as part of the Reserved Matters application.

5. This permission authorises only private domestic use of the proposed garage and does not confer approval on the carrying out of trade or business there from.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	24th September 2020
<b>Date First Advertised</b>	6th October 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b> The Owner/Occupier, 10 St. Lurachs Terrace, Maghera, Londonderry, BT46 5JH The Owner/Occupier, 11 St. Lurachs Gardens, Maghera, Londonderry, BT46 5JJ The Owner/Occupier, 12 St. Lurachs Terrace, Maghera, Londonderry, BT46 5JH The Owner/Occupier, 13 St. Lurachs Gardens, Maghera, Londonderry, BT46 5JJ The Owner/Occupier, 15 St. Lurachs Gardens, Maghera, Londonderry, BT46 5JJ The Owner/Occupier, 17 St. Lurachs Gardens, Maghera, Londonderry, BT46 5JJ The Owner/Occupier, 19 St. Lurachs Gardens, Maghera, Londonderry, BT46 5JJ The Owner/Occupier, 19 Tullyheran Road, Maghera, Londonderry, BT46 5JQ The Owner/Occupier, 19, Tullyheran Road, Tullyheran, Maghera, Londonderry BT45 5JQ The Owner/Occupier, 2 St. Lurachs Terrace, Maghera, Londonderry, BT46 5JH The Owner/Occupier, 4 St. Lurachs Terrace, Maghera, Londonderry, BT46 5JH The Owner/Occupier, 6 St. Lurachs Terrace, Maghera, Londonderry, BT46 5JH The Owner/Occupier, 8 St. Lurachs Terrace, Maghera, Londonderry, BT46 5JH The Owner/Occupier, 9 St. Lurachs Gardens, Maghera, Londonderry, BT46 5JJ	
<b>Date of Last Neighbour Notification</b>	14th October 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No



**Planning History**

Ref ID: LA09/2020/1171/O

Proposal: Site of 2 Storey dwelling house with ridge height of 8.8m and a domestic garage.

Address: 40m NW of 19 Tullyheran Road, Maghera, BT46 5JQ.,

Decision:

Decision Date:

Ref ID: H/1999/0749/F

Proposal: Alterations and improvements to dwelling

Address: 19 Tullyheron Road, Maghera

Decision:

Decision Date: 29.01.2000

Ref ID: H/1977/0450

Proposal: ALTERATIONS AND ADDITIONS TO HOUSE

Address: 19 TULLYHERAN ROAD, MAGHERA

Decision:

Decision Date:

Ref ID: H/1988/0349

Proposal: RETIREMENT FARM DWELLING

Address: BALLYKNOCK ROAD MAGHERA

Decision:

Decision Date:

Ref ID: H/2002/0199/F

Proposal: Multi-Element Improvements to 12 No. Dwellings

Address: St Lurachs Crescent/Gardens, Maghera

Decision:

Decision Date: 24.04.2002

Ref ID: H/2003/0233/F

Proposal: Two storey extension with ramps front and rear.

Address: 10 St. Lurachs Terrace, Maghera

Decision:

Decision Date: 05.06.2003

**Summary of Consultee Responses****Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



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

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1214/F	<b>Target Date:</b>
<b>Proposal:</b> 2 storey extension to side of dwelling	<b>Location:</b> 1 Cordarragh Heights Draperstown
<b>Referral Route:</b>  An objection has been received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Mr Sean Kennedy 1 Cordarragh Heights Draperstown BT45 7FE	<b>Agent Name and Address:</b> Don Sonner 26a St Jeans Cottages Cookstown BT80 8DG
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

One letter of objection has been received in relation to this application. The following issues have been addressed within the body of this report as part of the full planning assessment:

- Incorrect description and advertisement. (This has since been corrected and amended)
- Proposal is contrary to PPS7- objector claims the proposal does not respect the appearance and character of the surrounding area.
- The objector raised concerns that the proposal would reduce the in-curtilage parking.
- Concerns over the dominance of the proposal on neighbouring properties.

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

The site is located within the settlement limits of Draperstown as per the Magherafelt Area Plan 2010. The site is identified as 1 Cordarragh Heights and is located within an existing housing development. The dwelling on site is a two storey semi-detached building with garden space to the front and side of the dwelling. A fence separates the site from the property to the east and runs inside the curtilage of the property to enclose the back garden. The rear of the property is enclosed by a wooden fence and has natural screening to the north of the site.

### **Description of Proposal**

This is a full planning application for a proposed two storey extension to the side of the dwelling at 1 Corgarragh Heights, Draperstown.

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

Magherafelt Area Plan 2015  
Mid Ulster Local Development Plan 2030- Draft Plan Strategy  
Strategic Planning Policy Statement (SPPS)  
Addendum to PPS 7- Residential Extensions and Alterations

The SPPS provides a regional framework of planning policy that will be taken into account of in 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. Paragraph 6.137 of the SPPS advises that residential extensions should be well designed.

Planning Policy EXT 1 details that planning permission will be granted for a proposal to extend or alter a residential property where all of the following criteria are met:

- (a)The scale, massing, design and external material of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area;
- (b)The proposal does not unduly affect the privacy or amenity of neighbouring residents;
- (c)The proposal will not cause the unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality; and
- (d)Sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.

I am content with the scale and massing of the proposal, the two storey aspect of the proposal is in keeping with the existing building and the scale of the proposal is modest when viewed with the existing property and the size of the curtilage. However, concerns have been raised regarding the design of the proposal and how it affects the appearance and character of the surrounding area. Paragraph A8 of the addendum to PPS 7 states "concern may arise where a side extension to a semi-detached dwelling is proposed at the same height and follows the same building line as the block comprising an original pair of dwellings." In this case, the proposal will follow the same building line and

extends the house to the side. Although the guidance in the policy states that to overcome this issue buildings should be set back and set down from the ridge line.

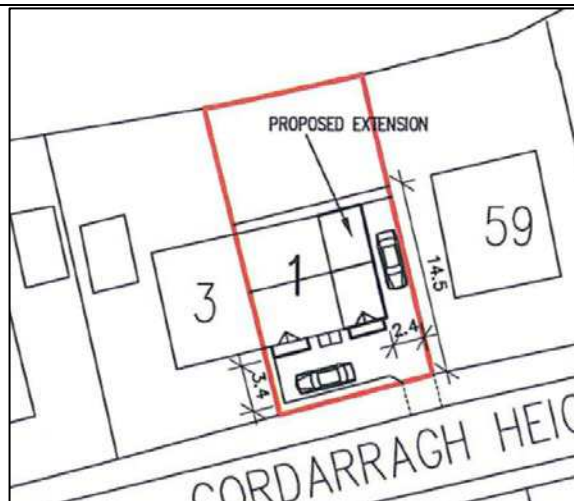


Following a group discussion, it was agreed that in this case, as this dwelling is the last in the block of houses designed the same and the dwelling immediately to the east is a different design, the proposed extension would not negatively affect the character of the area given the scale of what is proposed. Therefore, on balance I am content the proposal satisfies criteria a.

With regards criteria b, it is noted that the extension will mean the building will move 3m closer to the dwelling to the east however; I am content sufficient distance will be maintained between the two dwellings. The proposed extension will not create any concerns regarding overlooking or loss of light. There is a proposed first floor window however this will be an obscured bathroom window. I am content the proposal meets criteria b.

The proposal will not cause the unacceptable loss of, or damage to, trees or other landscape features, which contribute significantly to local environmental quality.

The objector raised concerns regarding the potential loss of space within the curtilage for parking and as a result, DfI Roads were consulted who had no objection subject to conditions.



It should be noted that there is an error in the DfI Response who confirmed via email that the Reserved Matters condition should be omitted from their response and confirmed that there is parking in-curtilage for 2 vehicles available on the house frontage should building control consider the parking at the side of the house too restrictive for escape purposes. From this, I am content that there is sufficient space within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.

I am content that the proposal accords with the policy criteria EXT 1 of the addendum to PPS 7.

#### **Other policy and material considerations**

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

#### **Neighbour Notification Checked**

**Yes/No**

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

Approval

#### **Conditions**

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.  
  
Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.
2. Provide in-curtilage parking for 2 vehicles to the standards outlined in the Creating Places document Section 20 paragraph 23 – 27.

Reason: To ensure the provision of adequate parking facilities to meet the needs of the development and in the interests of road safety and the convenience of road users.

3. The vehicular access including visibility splays 2.0 x 33 metres and any forward sight distance, shall be provided in accordance with Drawing No 01 Rev 01 bearing the date stamp 02 Feb 2021 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

4. Notwithstanding the provisions of the Planning (General Development) (Northern Ireland) Order 1993, no buildings, walls or fences shall be erected, nor hedges, nor formal rows of trees grown in service strips determined for adoption.

Reason: To ensure adequate visibility in the interests of road safety and the convenience of road users and to prevent damage or obstruction to services.

#### Informative

1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the DfI Roads consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Loughrey Campus, 49 Tullywiggan Road, Cookstown, BT80 8SG. A monetary deposit will be required to cover works on the public road.
4. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site. This planning approval does not give authority to discharge any drainage into a DfI Roads drainage system.
5. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud,



refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

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

**Signature(s)**

**Date:**

### ANNEX

<b>Date Valid</b>	5th October 2020
<b>Date First Advertised</b>	20th October 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 2 Cordarragh Heights Draperstown Londonderry C Woods 2, Cordarragh Heights, Draperstown, Londonderry, Northern Ireland, BT45 7FA The Owner/Occupier, 3 Cordarragh Heights Draperstown Londonderry The Owner/Occupier, 4 Cordarragh Heights Draperstown Londonderry The Owner/Occupier, 59 Cordarragh Draperstown Londonderry	
<b>Date of Last Neighbour Notification</b>	22nd March 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No

### Planning History

Ref ID: LA09/2020/1214/F  
 Proposal: 2 storey extension to side of dwelling  
 Address: 1 Cordarragh Heights, Draperstown,  
 Decision:  
 Decision Date:

Ref ID: H/2006/0853/F  
 Proposal: Proposed housing development for 25 no. units.  
 Address: Lands to the rear of no's 30-40 Cordarragh Road, Draperstown  
 Decision:

Decision Date: 18.08.2011

Ref ID: H/1994/6031

Proposal: HOUSING DEVELOPMENT TOBERMORE ROAD DRAPERSTOWN

Address: TOBERMORE ROAD

Decision:

Decision Date:

Ref ID: H/1977/0012

Proposal: SITE OF HOUSING DEVELOPMENT

Address: TOBERMORE ROAD, DRAPERSTOWN

Decision:

Decision Date:

Ref ID: H/1999/0179

Proposal: HOUSING DEVELOPMENT (34 DWELLINGS)

Address: CORDARRAGH TOBERMORE ROAD DRAPERSTOWN

Decision:

Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 01 REV 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Existing Elevations

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

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

Date of Notification to Department:

Response of Department:



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1308/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed 2No. detached dwellings under PPS21 CTY8	<b>Location:</b> Lands between 8 and 12 Findrum Road Ballygawley
<b>Referral Route:</b>  2 letters of objection received. Contrary to CTY 1, CTY 8 and CTY 14 of PPS 21	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Jonathan Kirkland 9a Findrum Road Ballygawley	<b>Agent Name and Address:</b> ACA Architecture Ltd Cottage Studios Gortrush Great Northern Road Omagh BT78 5EJ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

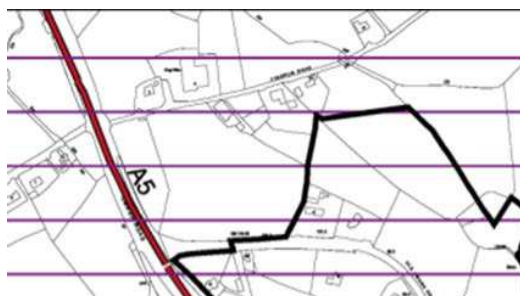
### Representations:

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

### Summary of Issues

#### Characteristics of the Site and Area

This application site is located on land between No 8 and 11 Findrum Road. It sits approximately 80 metres from the most northern western part of the development limit of Ballygawley village, but is in the rural countryside as defined in the Dungannon and South Tyrone Area Plan 2010 (DSTAP). The proximity to the settlement limits is not very apparent on the ground as this site is accessed off the A5 Protected Route, however its immediate environs appear quite developed.



The site is a rectangular plot which occupies a roadside portion of a triangular shaped field. It is relatively flat with the land outside of the application site falling in a northerly direction. The southern boundary which runs alongside the Findrum Road comprises hedgerow for a small part, 2 ivy covered trees with the majority of this boundary being open, comprising post and wire fencing. A telegraph pole sits close to the north eastern corner of the site as the power lines traverse the site to a pole located on the roadside verge beside the visibility splays. The eastern boundary is hedgerow and marks the curtilage of a large storey and a half dwelling at No 12 Findrum Road. The northern boundary of the site is undefined and the western boundary is hedgerow with some trees.

### Planning History

In April 2004, planning application M/2003/1469/O for a dwelling and garage on this site was withdrawn. It was initially recommended for refusal and taken to Council where it was then deferred and again refusal was recommended, before the application was withdrawn.

### **Description of Proposal**

This application seeks planning permission for 2 detached dwellings under PPS21 CTY8 on lands between 8 and 12 Findrum Road, Ballygawley.

Each dwelling is two storey with a single storey conservatory on the western gable. They each have a footprint of 122 metres squared and a ridge height of 8.4 metres FGL. The finishes are flat black roof tiles, grey rendered walls with a cream coloured window frames. A paired access in the centre of the site allows access to each dwelling.

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

#### Representations and Consultations

DfI Roads were consulted and have no objection to this application subject to the provision of visibility splays of 2.4 metres by 60 metres in both directions and Forward Sight Distance. This would require the hedge/fence line to be removed back as the splays are not currently available.

In line with the Council's statutory duty, 4 neighbouring residents were notified about this application and it was advertised in the local press.

There were 2 objections submitted from neighbouring properties identifying a number of concerns about this proposal.

- Their septic tank soakway is on the application site
- Much backfilling of land will be required due to the existing topography
- Would create a built-up town appearance in the countryside
- Two additional accesses added onto this country road when considered with the existing accesses in close proximity to the site would jeopardise the safety of road users.
- Previously a single dwelling was being refused on this site, so how can two dwellings now be acceptable.

All of the issues raised have been taken into 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 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 much impact on this proposal, as PPS 21 is retained and it is this policy which this application will be assessed under. Section 6.73 of the SPPS relates to development which is considered acceptable in the countryside and that includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Policy CTY1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A range of examples are set out in CTY 1 detailing different cases which would allow for planning permission in the countryside, one of these being the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with CTY 8.

CTY1 ? Development in the Countryside in PPS 21 states planning permission will be granted for an individual dwelling house in the countryside if it meets all the criteria set out with policy CTY3, for a replacement dwelling in addition to policies CTY13 and CTY14.

Policy CTY 8 - Ribbon Development states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided it respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

The applicant has submitted this application as an infill site for 2 dwellings therefore it will be assessed against policy CTY 8. It is considered this proposed site does not meet the policy tests in CTY 8 as it is my opinion the gap site which includes this application site and that adjacent parcel of land to the west could accommodate more than 2 dwellings and it is not a substantial and continuous built up frontage.

When turning onto the Findrum Road from the A3 Protected Route to Omagh, the land rises with the road. A 2 storey dwelling is located on the left at No 4 Findrum Road, this faces onto the A3 while its accesses off the Findrum Road. Running along the rear of this dwelling is a concreted laneway which allows access to the RobLew Silos site. The main buildings on this site face the A3 with their gables closest to the Findrum Road, where a large silo is located. There is a parcel of land which sits east of the RobLew site and west of the application site. This plot of land has a frontage of approximately 27 metres and the roadside boundary is a treed hedgerow with it undefined and open close to where it meets the application site.

This plot is separated from the main RobLew Silos site by a treed hedgerow. On this plot a mud track adjacent to the western boundary of this application site appears to allow access to a storage yard area some 65 metres back from and north of the road. This storage area is

currently utilised for storing the large of silos and its main access is from the main entrance to RobLew.

This intervening land is also currently utilised for the storage of round bales and a poly tunnel type structure is located parallel to the western boundary. This structure is approximately 29 metres in length and 8 metres wide, sited some 13 metres from the roadside. The applicant has informed me this particular poly tunnel is utilised for tug-of-war training. When passing this site recently sometime after my site visit, it was noted there has been more temporary structures placed on this parcel of land between the application site and RobLews. A small greenhouse type structure now sits close to the side of the existing tunnel and what appears to be some kind of metal storage unit to the front of the poly tunnel.

This application site is next with a frontage of 72 metres and No 12 a storey and a half dwelling sits to the east.



The poly tunnel structure is temporary as are the other 2 recent additions to this plot, they can be easily removed and transferred to a different location as they do not have any concrete foundations. Orthophotographical pictures only show the appearance of this tunnel in the October 2019 and do not think this should be considered as a 'building' to create an infill site. In my opinion development on this application site would result in an urban character and would create a ribbon of development, as well as an infill opportunity on the plot between this site and that of RobLew Silos. I am not convinced there is a continuous built up frontage along this stretch of the Findrum Road which could create an infill opportunity. The intervening plot combined with the application site covers a frontage of over 100 metres and could be capable of accommodating more than 2 dwellings and thus fails to meet criteria of CTY 8.

The proposal is also contrary to Policy CTY 14, Rural Character of PPS 21. The addition of two additional dwellings, located on this particular application site in my view will have a detrimental impact on the rural character as it would create a ribbon of development on land which I consider to represent a significant visual break in the landscape. In my view CTY 14 of PPS21 is not met. 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.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation:</b>  On the basis of this assessment, the proposal does not comply with the policy requirements of the SPPS and fails to meet the criterion set out in CTY 1 in PPS21 and therefore it is recommended that permission is refused. It fails CTY 14 and it is evident that the gap which includes this application site and another plot of land could accommodate more than 2 dwellings, thereby failing the requirements of Policy CTY8.	
<b>Reasons for Refusal:</b>  1.The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.  2.The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case and if permitted, would result in the creation of ribbon development. 3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would create a ribbon of development, therefore resulting in a detrimental change to the rural character of the countryside.	
<b>Signature(s)</b>  <b>Date:</b>	



<b>ANNEX</b>	
<b>Date Valid</b>	21st October 2020
<b>Date First Advertised</b>	3rd November 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) Alan & Pamela Clements 11 Findrum Road, Ballygawley, Co Tyrone, BT70 2JL The Owner/Occupier, 11 Findrum Road, Ballygawley, Tyrone, BT70 2JL2 Eric Campbell 12 FINDRUM RD BALLYGAWLEY The Owner/Occupier, 12 Findrum Road, Ballygawley The Owner/Occupier, 8 Findrum Road, Ballygawley The Owner/Occupier, 9 Findrum Road, Ballygawley	
<b>Date of Last Neighbour Notification</b>	20th November 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2020/1308/F Proposal: Proposed 2No. detached dwellings under PPS21 CTY8 Address: Lands between 8 and 12 Findrum Road, Ballygawley, Decision: Decision Date:  Ref ID: M/1994/0618 Proposal: Erection of Materials Store Address: ADJACENT TO 6 FINDRUM ROAD BALLYGAWLEY Decision: Decision Date:  Ref ID: M/2003/1469/O Proposal: Erection of dwelling and garage Address: Lands 30m North West of 11 Findrum Road Ballygawley Decision: Decision Date: 07.04.2004	

Ref ID: M/1999/0485  
 Proposal: Site for chalet bungalow  
 Address: SITE OPPOSITE 11 FINDRUM ROAD BALLYGAWLEY  
 Decision:  
 Decision Date:

Ref ID: M/2004/0337/F  
 Proposal: proposed dwelling and domestic garage  
 Address: site opposite 11 Findrum Road, Ballygawley  
 Decision:  
 Decision Date: 03.06.2004

Ref ID: M/2002/0532/O  
 Proposal: Renewal of application M/1999/0485: Site for chalet bungalow.  
 Address: Site opposite 11 Findrum Road, Ballygawley  
 Decision:  
 Decision Date: 01.08.2002

### **Summary of Consultee Responses**

DfI Roads have no objection to this application subject to the provision of visibility splays of 2.4 metres by 60 metres in both directions and Forward Sight Distance.

### **Drawing Numbers and Title**

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

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

Drawing No. 03  
 Type: Elevations and Floor Plans  
 Status: Submitted

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

Date of Notification to Department:  
 Response of Department:



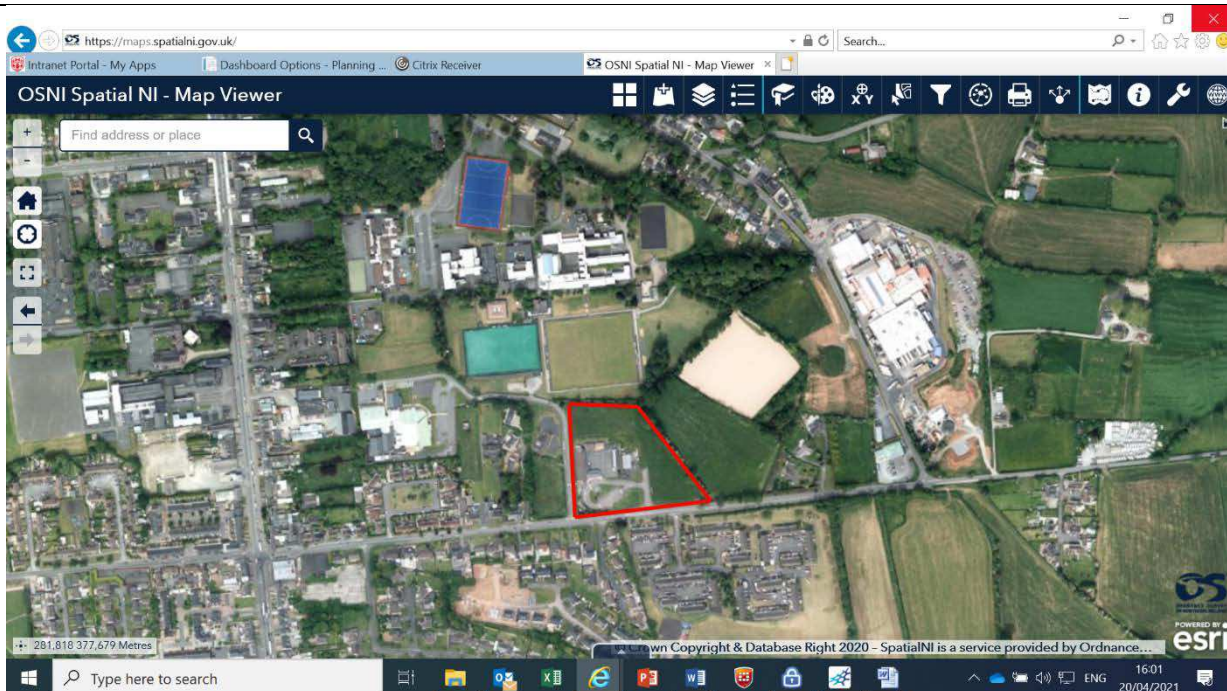
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1325/F	<b>Target Date:</b> 22/4/21
<b>Proposal:</b> Redevelopment of Phoenix Integrated Primary School and nursery unit to include the replacement of existing temporary school accommodation with 7 classroom Primary school and nursery unit , associated hard and soft play areas to include sports pitch and vegetable garden, landscaping , ground mounted solar panels, retaining walls structures and new underground drainage system. Existing access point off Fountain Road, to be retained with reconfiguration of internal vehicular and pedestrian network including car parking , car drop off areas and zebra crossing points. other work to include the phased demolition of existing school accommodation temporary construction compound areas and ancillary site works. Construction vehicles to access site from the existing Fountain Road entrance.	<b>Location:</b> Phoenix Integrated Primary School 80 Fountain Road Cookstown
<b>Referral Route:</b>  Major application	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Trustees of Phoenix Integrated P.S. Phoenix Integrated P.S. 80 Fountain Road Cookstown	<b>Agent Name and Address:</b> Resolve Planning And Development Innovation Factory Forthriver Business Park 385 Springfield Road Belfast BT12 7DG
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	NI Water - Strategic Applications	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	NIEA	Advice
Advice and Guidance	Shared Environmental Services	Substantive Response Received
Statutory	Historic Environment Division (HED)	Content
Statutory	NIEA	Content
Non Statutory	Rivers Agency	Substantive Response Received

### Representations:

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

**Details of the Proposal:**

Redevelopment of Phoenix Integrated Primary School and nursery unit to include the replacement of existing temporary school accommodation with 7 classroom Primary school and nursery unit , associated hard and soft play areas to include sports pitch and vegetable garden, landscaping , ground mounted solar panels, retaining walls structures and new underground drainage system. Existing access point off Fountain Road, to be retained with reconfiguration of internal vehicular and pedestrian network including car parking , car drop off areas and zebra crossing points. other work to include the phased demolition of existing school accommodation temporary construction compound areas and ancillary site works. Construction vehicles to access site from the existing Fountain Road entrance. This site is currently occupied as Phoenix Integrated Primary School, 80 Fountain Road, Cookstown.

**Characteristics of the Site and Area**

This 2.04 hectare site is located adjacent to the entrance roadway to Cookstown Leisure Centre with the playing fields of Cookstown High School further north. Fountain Road provides access to the site as well as defining the southern boundary. Paladin type fencing to all school boundaries. Part of the access from the fountain Road does not lie within the fence-protected area.

Fields surround the school complex and complete the remainder of the housing zoning, within which this site lies. The zoning is subdivided by a well treed hedge line and the northern zoning boundary is also well treed and defines the boundary with the adjoining school complex, including playing fields as well as Local Landscape Policy Area 4.

**Relevant Site Histories:**

I/2007/0266/F approval 14/6/07 (2 year approval)

Proposal; Temporary School Accommodation comprising 4no. class rooms and associated facilities. New access road into site (including right and turning lane). Car parking and Play areas

I/2008/0363/F approval 12/11/08

Proposal; Temporary additional classroom and associated facilities, extended dining room. Extended Site and hard play area (removed by 14th June 2009).

I/2012/0279/F approval 14/9/12.

Proposal; Proposed siting of a 6.096m x 2.4384m Storage Accommodation and Associated Site Works.

I/2014/0054/F approval 24/4/14.

Proposal; New standalone modular double classroom and stores buildings, new modular administration block extension, new plant room, paths , fences and gates, extension to playground and landscape works.

I/2015/0038/F approval 20/5/15

Proposal; Proposed provision of an educational modular single unit nursery on lands adjacent to existing Phoenix Integrated Primary School

LA09/2018/0075/PAD

Replacement of temporary school accommodation with new 7-classroom primary school, with associated play areas, car parking and ancillary site works.

### **Representations:**

No representations received from press notice or neighbourhood notification. Consultation with Department for Infrastructure - Roads, Department for Infrastructure - Rivers, Environmental Health Department, Department for Agriculture Environment and Rural Affairs, Department for Communities – Historic Environment Division, Northern Ireland Water and Shared Environmental Services has raised no concerns subject to conditions and informatives.

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

The site lies within the Limit of Development for Cookstown as defined by the Cookstown Area Plan 2010 and is designated as an area zoned for housing (H10). This zoning is a material consideration in the assessment of the planning application for the new school. Additionally I would advise that the area plan also included Plan Policy COM 1, which provided for community uses within the settlement limits.

Previous approvals on site allow development of the site for educational purposes with extensions approved to the facilities. The use of the site as an educational facility is established.

Within the Area Plan key site requirements were identified for the housing zoning which included a right turning lane required onto Fountain Road, this has been provided as part of the current proposal.

The design and external materials proposed for the scheme are acceptable in this urban location and the layout proposed allows for further development of the remainder of the housing zoning.

### **Other Policy and Material Considerations:**

Parking Standards in relation to Class D1: Community and Cultural Uses as well as Nursery schools Day nurseries Pre school play groups have been complied with. In addition Facilities are required for buses and cars to pick up and set down using either

coach space, manoeuvring space or a turning area, all without engaging reverse gear, this has been provided

The site lies within a consultation zone for the Department for Communities - Historic Environment Division. Consultation has been carried with same in relation to Planning Policy Statement 6: Planning, Archaeology and The Built Heritage. Conditional approval has been recommended.

This application being categorised as major has complied with the requirements of the Planning (Development Management) Regulations (Northern Ireland) 2015

The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site.

#### Neighbour Notification Checked

**Yes**

#### Recommendation:

I recommend that planning permission is granted subject to conditions.

#### Conditions

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

Reason: Time Limit.

2. In the event that previously unknown contamination is discovered, falling outside the scope of previous assessment and remediation scheme, development on the Site shall cease, pending submission of a written report. The report shall appropriately investigate the nature and extent of that contamination and present the findings and conclusions of the same additionally providing details of the appropriate measures to be taken as a result of the contamination, for the prior written approval of Planning Department (in consultation with the Environmental Health Department).

Reason: To ensure that any site contamination is appropriately investigated and controlled.

3. The drainage network shall be constructed as Proposed Drainage layout Overview, Drawing no. MIPS-MCA-ST1-00DR-C-2000 Rev P4, detailed in Appendix G.

Reason: To ensure a satisfactory form of drainage for the site.

4. 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.

5. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 4 above.

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

6. 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 4 above. 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.

7. The visibility splays of 4.5 x 70 metres shall be provided prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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



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

9. Once a contractor has been appointed, a full Final Construction Environmental Management Plan (CEMP) shall be submitted to NIEA Water Management Unit, at least 8 weeks prior to the commencement of construction to ensure effective avoidance and mitigation methodologies have been planned for the protection of the water environment.

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment.

#### Informatives

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

2. Environmental Health Department comments:

1. Building control approval is required to confirm, that given the ground conditions, they are satisfied that all necessary precautions have been taken to protect the occupants and properties from contamination risks.

2. Care should be exercised in the removal of contaminated sources from the site, during site development, to ensure that any existing contamination load within soil and ground water is not increased. All hazardous waste removed from the site should be removed to a waste facility licensed to receive hazardous waste

3. Whilst the District Council Environmental Health Department has assessed the information provided in the current state of knowledge it ultimately is the responsibility of the developer, to ensure the development is safe and suitable for the purpose for which it is intended and that any unacceptable risks from contamination will be successfully addressed through remediation. He/she should recognise the importance of ensuring thorough and competent professional assistance supported by professional indemnity insurance.

4. Noise from construction activities should

(a) not exceed 75 dB LAeq, 1hr between 07.00 hours and 19.00 hours on Monday to Fridays, or 75 dB LAeq, 1hr between 08.00 hours and 13.00 on Saturdays, when measured at any point 1 metre from any facade of any residential accommodation, and

(b) not exceed 65 dB LAeq, 1hr between 19.00 hours and 22.00 hours on Monday to Fridays, or 13.00 hours to 22.00 hours on Saturdays when measured at any point 1 metre from any facade of any residential accommodation, and

(c) not be audible between 22.00 hours and 07.00 hours on Monday to Fridays, before 08.00 hours or after 22.00 hours on Saturdays, or at any time on Sundays, at the boundary of any residential accommodation. (As a guide the total level (ambient plus construction) shall not exceed the pre-construction ambient level by more than 1 dB(A). This will not allow substantial noise producing construction activities but other quiet activities may be possible). Routine

construction and demolition work which is likely to produce noise sufficient to cause annoyance will not normally be permitted between 22.00 hours and 07.00 hours.

3. Department for Infrastructure - Rivers comments:

With reference to your consultation dated 25th February 2021. From a drainage and flood risk aspect my comments are as follows:-

FLD2 Protection of Flood Defence and Drainage Infrastructure . Not applicable based on the information provided.

This site may be affected by underground watercourses of which we have no record, in the event of an undesignated watercourse being discovered, Policy FLD2 will apply.

FLD3 - Development and Surface Water - DfI Rivers has reviewed the Drainage Assessment by McAdam Design, date stamped 16 February 2021, and comments as follows:-

DfI Rivers, while not being responsible for the preparation of the Drainage Assessment accepts its logic and has no reason to disagree with its conclusions.

It is brought to the attention of the applicant that the responsibility for justifying the Drainage Assessment and implementation of the proposed flood risk measures (as laid out in the assessment) rests with the developer and his/her professional advisors (refer to section 5.1 of Revised Planning Policy Statement 15).

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

Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.

Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site: - such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.

4. Department for Communities comments:

Archaeology and Built Heritage. HED (Historic Buildings) has considered the impacts of the proposal on the buildings and on the basis of the information provided, advises that the proposals are sufficiently removed in situation and scale of development from both listed building as to have no impact.

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

#### Explanatory Note

This application site is located within the historic town of Cookstown, which originally dated from the early 17th century although the broad street was laid out in the 18th century. There are also a number of much earlier sites and monuments nearby including the site of a prehistoric standing stone in Clare townland to the north-east of the application site and a medieval rath located to the west at Gortalowry. Sites such as these indicate that this area was populated from prehistoric times.

HED (Historic Monuments) has reviewed the Archaeological Impact Assessment (AIA) submitted with this application and agree that there is potential for buried archaeological remains to be uncovered during site works within the green areas around the existing school. A series of monitored test trenches across these parts of the site will determine the extent of archaeological material here.

#### Informatives

Please refer to the HED guidance document Development and Archaeology:

Guidance on Archaeological Works in the Planning Process which contains advice on how to fulfil the requirements of the archaeological conditions attached to your planning approval.

Please allow sufficient time in advance of the commencement of site works for the agreement of the programme of archaeological work document with the planning authority and for your archaeological consultant to obtain an archaeological excavation licence. For guidance on the preparation of the programme of archaeological work please contact:

Historic Environment Division - Heritage Development & Change Branch  
Ground Floor  
9 Lanyon Place  
Belfast  
BT1 3LP  
Tel: 02890 823100  
Email: [HEDPlanning.General@communities-ni.gov.uk](mailto:HEDPlanning.General@communities-ni.gov.uk)  
Quote reference: SM11/1 TYR 29: 67 and LA09/2020/1325/F

#### Explanatory note

This application has been assessed under Paragraph 6.12 (setting) of Strategic Policy Planning Statement for Northern Ireland and Policy BH11 (Development affecting the Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.

Additional information/advice (e.g. on legislation, guidance, contacts, etc.) for planning officer and applicant's awareness:

#### Legislation & policy

1. The Planning Act (NI) 2011
2. Planning Policy Statement 6 ? Planning, Archaeology and the Built Heritage.
3. Strategic Planning Policy Statement for Northern Ireland (SPPS NI) - Planning for Sustainable Development.

#### Guidance

4. Development Practice Note 5 ? Historic Environment , September 2017 - <https://www.planningni.gov.uk/index/advice/practice-notes/dmpn05-historicenvironment.pdf>
5. Guidance on making changes to Listed Buildings: Making a better application for listed building consent - <https://www.communities-ni.gov.uk/publications/guideconsulting-hed-development-management-applications-and-guidance-listed-buildingconsent>
6. Consultation Guide - <https://www.communitiesni.gov.uk/sites/default/files/publications/communities/consulting-hed-developmentmanagement-applications-consultation-guide.pdf>
7. Please also see HED guidance <https://www.communities-ni.gov.uk/sites/default/files/publications/communities/ourplanning-services-and-standards-framework.pdf>
8. HED Setting Guidance, Feb 2018 <https://www.communitiesni.gov.uk/publications/guidance-setting-and-historic-environment>

5. Department for Infrastructure- Roads comments:

#### Safer Routes To School

The applicant is encouraged to provide Safer Routes to Schools signage and associated road markings along Fountain Road on the approaches to the school as additional safety enhancing Works in proximity to schools. The applicant may wish to contact DfI Roads for information in relation to the software packages and recommended signage and timed flashing LED signs at the school approaches.

DfI Roads however will not consider nor will it at any time in the future consider providing such Safer Routes to School safety enhancing works upon request by the school.

Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the DfI Roads consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Loughrey Campus, 49 Tullywiggan Road, Cookstown, BT80 8SG. A monetary deposit will be required to cover works on the public road. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and

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

6. Department of Agriculture, Environment and Rural Affairs comments:

Water Management Unit is content, subject to: The applicant referring and adhering to standing advice, Any required statutory permissions being obtained, Conditions.

All standing advice referred to in this response unless otherwise stated can be found at the following link [www.daera-ni.gov.uk/water-environment-standingadvice](http://www.daera-ni.gov.uk/water-environment-standingadvice)

In addition the recommended conditions and informatives as set out in DAERA Standing Advice Commercial and Industrial Developments are appropriate for this development.

Explanatory Note:

Water Management Units response is on the basis that no culverting of watercourses is to take place. Should the applicant plan to complete any culverting, Water Management Unit will need to be re-consulted.

The application proposes to dispose of foul sewage to a Northern Ireland Water Limited (NIW) sewer. If NIW advise the NI Planning Case Officer that they are content that both the receiving Waste Water Treatment Works (WWTW) and the associated sewer network for this development can take the additional load, with no adverse effect on the WWTW or sewer network's ability to comply with their Water Order Consents, then Water Management Unit has no objection to this aspect of the proposal.

The applicant must refer and adhere to all the relevant precepts contained in DAERA Commercial or Industrial Developments.

The applicant must ensure that any commercial kitchen associated with this development has suitable properly maintained grease traps on the effluent pipes.

Water Management Unit notes the updated OCEMP document uploaded to the planning portal on 16th February 2021. Whilst updated to reflect WMU comments in our previous response, there still remain outdated Pollution Prevention Guidance documents on page 26.

Please ensure the Final CEMP document is fully updated to reflect any legislative updates and the appropriate guidance documents.

Water Management Unit's Pollution Prevention Team will be happy to advise on the CEMP or to provide any other pollution prevention advice the applicant requires. The appointed contractor can liaise with Water Management Unit Pollution Prevention Team at [nieapollutionprevention@daera-ni.gov.uk](mailto:nieapollutionprevention@daera-ni.gov.uk).

The applicant must refer and adhere to all the relevant precepts contained in DAERA Standing Advice Pollution Prevention Guidance.

The applicant should note discharge consent, issued under the Water (Northern Ireland) Order 1999, is required for any discharges to the aquatic environment and may be required for the site drainage during the construction phase of the development. Any proposed discharges not directly related to the construction of the development, such as from septic tanks or wash facilities, will also require separate discharge consent applications. The applicant must refer and adhere to relevant precepts contained in DAERA Standing Advice

Discharges to the Water Environment.

Informatives:

The informatives contained in DAERA Standing Advice Commercial or Industrial Developments.

In addition the applicant must refer and adhere to the precepts contained in DAERA Standing Advice

Pollution Prevention Guidance

Discharges to the Water Environment

The applicant must ensure that any commercial kitchen associated with this development has suitable properly maintained grease traps on the effluent pipes.

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

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

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

7. Northern Ireland Water comments:

See attached NI Water Sheet dated returned 19/4/21.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	22nd October 2020
<b>Date First Advertised</b>	10th November 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Coolnafranky .Park,Cookstown,Tyrone,BT80 8PN The Owner/Occupier, 1 Fountain Court Fountain Road Cookstown Tyrone BT80 8QF The Owner/Occupier, 2 Coolnafranky Park Cookstown Tyrone The Owner/Occupier, 3 Coolnafranky Park Cookstown Tyrone The Owner/Occupier, 35 Fountain Road Cookstown Tyrone BT80 8QF The Owner/Occupier, 4 Coolnafranky Park Cookstown Tyrone The Owner/Occupier, 5 Coolnafranky Park Cookstown Tyrone The Owner/Occupier, 6 Coolnafranky Park Cookstown Tyrone The Owner/Occupier, 7 Coolnafranky Park Cookstown Tyrone The Owner/Occupier, 74 Fountain .Road,Cookstown,Tyrone,BT80 8QF The Owner/Occupier, 8 Coolnafranky Park Cookstown Tyrone	
<b>Date of Last Neighbour Notification</b>	26th November 2020
<b>Date of EIA Determination</b>	<b>N/A</b>
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2019/1332/PAD Proposal: Replacement of existing school accommodation with a new 7 class primary school and single nursery; with associated hard and soft play areas, car parking and ancillary works Address: Phoenix Integrated Primary School, 80 Fountain Road, Cookstown, Decision: Decision Date:	

Ref ID: LA09/2020/0806/PAN

Proposal: Replacement of temporary school accommodation with new 7 classroom primary school, with associated play areas, car parking and ancillary site works on existing extended site at Phoenix Integrated Primary School, 80 Fountain Road, Cookstown, BT80 8QF

Address: Phoenix Integrated Primary School, 80 Fountain Road, Cookstown, BT80 8QF,  
Decision: PANACC

Decision Date:

### **Summary of Consultee Responses**

See above

### **Drawing Numbers and Title**



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

Drawing No. 03  
Type: Site & Detailed Drawings  
Status: Approved

Drawing No. 05  
Type: Proposed Plans  
Status: Approved

Drawing No. 06  
Type: Proposed Plans  
Status: Approved

Drawing No. 07  
Type: Proposed Plans  
Status: Approved

Drawing No. 08  
Type: Proposed Plans  
Status: Approved

Drawing No. 09  
Type: Site Levels  
Status: Approved

Drawing No. 10  
Type: Site Levels  
Status: Approved

Drawing No. 11  
Type: Proposed Plans  
Status: Approved

Drawing No. 12  
Type: Proposed Plans  
Status: Approved

Drawing No. 13  
Type: Proposed Elevations  
Status: Approved

Drawing No. 14  
Type: Proposed Elevations  
Status: Approved

Drawing No. 15

Type: Proposed Plans  
Status: Approved

Drawing No. 22  
Type: Proposed Plans  
Status: Approved

Drawing No. 23  
Type: Proposed Plans  
Status: Approved

Drawing No. 24  
Type: Proposed Plans  
Status: Approved

Drawing No. 25  
Type: Proposed Plans  
Status: Approved

Drawing No. 26  
Type: Proposed Plans  
Status: Approved

Drawing No. 28  
Type: Detailed Drawing Plans  
Status: Approved

Drawing No. 29  
Type: Detailed Drawing Plans  
Status: Approved

Drawing No. 30  
Type: Detailed Drawing Plans  
Status: Approved

Drawing No. 32  
Type: Proposed Plans  
Status: Approved

Drawing No. 34  
Type: Proposed Plans  
Status: Approved

Drawing No. 35  
Type: Proposed Plans  
Status: Approved

Drawing No. 36  
Type: Proposed Plans  
Status: Approved

Drawing No. 37  
Type: Landscaping Plan  
Status: Approved

Drawing No. 38  
Type: Detailed Drawing Plans  
Status: Approved

Drawing No. 39  
Type: Detailed Drawing Plans  
Status: Approved

Drawing No. 40  
Type: Detailed Drawing Plans  
Status: Approved

Drawing No. 41  
Type: Detailed Drawing Plans  
Status: Approved

Drawing No. 42  
Type: Detailed Drawing Plans  
Status: Approved

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department: N/a

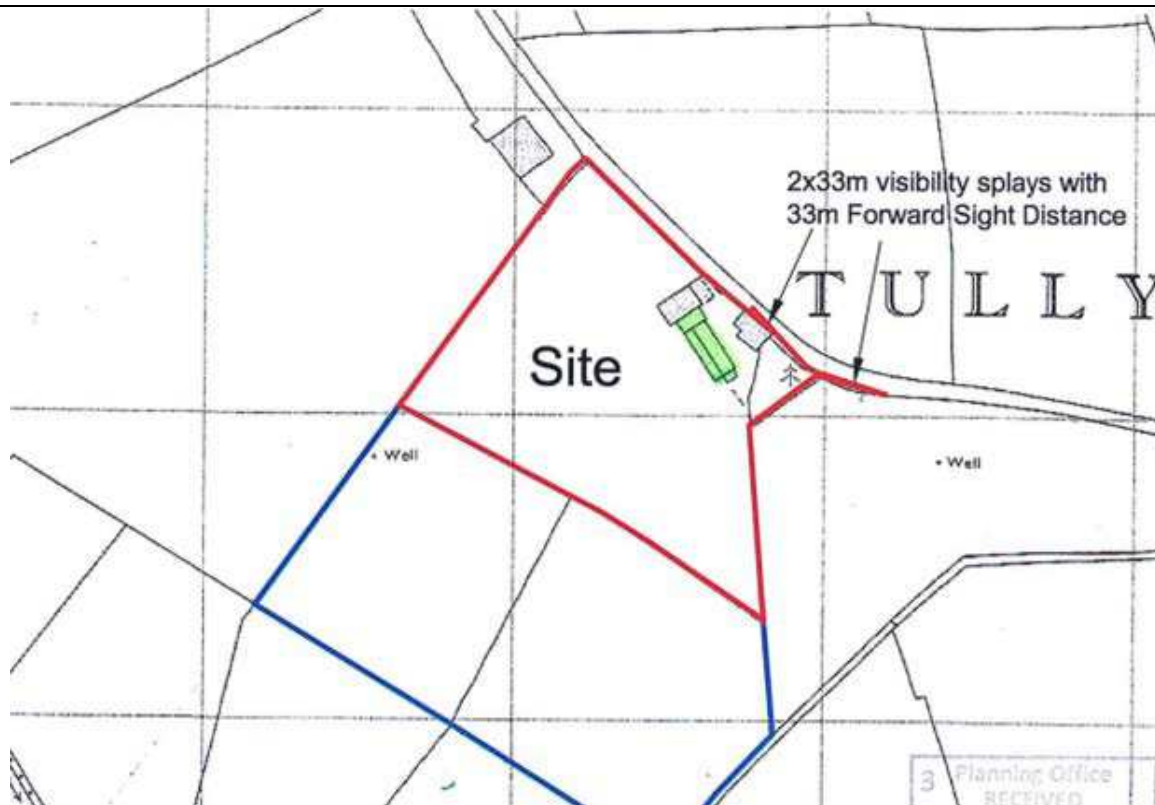


**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1473/F	<b>Target Date:</b>
<b>Proposal:</b> Renewal of planning permission LA09/2015/0177/F	<b>Location:</b> Approximately 100m North West of 25 Tullyleek Road Dungannon
<b>Referral Route:</b> Approval.	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Mr Michael O'Neill 47 Gortnagola Road Donaghmore	<b>Agent Name and Address:</b> Hamill Architects Ltd Unit T2 Dungannon Enterprise Centre 2 Coalisland Road Dungannon BT71 6JT
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	

### Summary of Issues

No issues. No representations received.

### Characteristics of the Site and Area

The site is located at lands approx. 100m NW of 25 Tullyleek Road, Dungannon and consists an irregular shaped agricultural field. Within the red line there are a number of existing structures indicated within the site, however from the site visit it was evident that the building which was shaded green to be replaced in the previous application had already been demolished. There was still some of the other existing structures evident on site. On site at present is existing rubble and is overgrown in places with vegetation. The site lies outside the settlement limit in a very isolated rural area with only a scattering of single dwellings and farm holdings located along the roadside.

**Description of Proposal**

This application seeks permission for the renewal of the existing planning approval LA09/2015/0177/F that was approved under the replacement policy, CTY 3.

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

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. There were no neighbours notified under this applications. At the time of writing, no third party representations have been received.

Planning History

LA09/2015/0177/F - Approximately 100m North West of 25 Tullyleek Road, Tullyleek, Dungannon - Replacement cottage at Tullyleek, Donaghmore for Mr Michael O'Neill – PERMISSION GRANTED

Planning Assessment of Policy and Other Material Considerations

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

The Dungannon and South Tyrone Area Plan 2010 identify the site as being located outside any defined settlement limits, located West of Donaghmore. The site does not have any other zonings or designations.

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 haven been subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

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

The proposal is for the renewal of planning permission I/2015/0177/F which was granted 04/12/2015. This current application was received and made valid 23/11/2020 and therefore was still live when received which allows for this application to be made under Article 3 (5) of the Planning (General Development Procedure) Order (NI) 2015 to renew

planning permission where existing approval has not yet expired [Schedule 1, Part 1 General Provisions, Paragraph 3].

As this is a renewal of a previous planning permission for replacement dwelling the main concern is whether the main considerations that allowed for the approval in I/2015/0177/F still apply. From the site visit, it was evident that the building which was previously approved to be replaced had actually already been demolished. There was evidence of the rubble on the site and this was later confirmed by the agent, who explained the personal circumstances of the applicant and how COVID 19 had also impacted on the works being unable to be continued on this site. The removal of the building does not constitute as a lawful start made on the site in order to keep the permission live. When discussed at group, we felt that given the personal circumstances of the applicant who had taken ill after removing the building and the unprecedented challenges in relation to COVID 19 and getting works started on time, we felt that it would be harsh to refuse the renewal application in this instance. We also feel that in its current state, the site is an eyesore and that the approval of this renewal would significantly enhance the appearance of this site and the surrounding area, rather than what currently exists.

There were no changes to design or layout noted in this application. There were also no changes to the proposed access which was accepted in the original application. The same conditions and informatives which were provided for the previous application will still apply.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

Approval is recommended.

**Conditions/Reasons for Refusal:**

**Conditions**

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.

2. All planting comprised in the approved plans shall be carried out in the first planting season following the commencement of the building and any trees or shrubs which, within a period of 5 years from the occupation of the building, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity.

3. The existing mature trees and vegetation along the entire site boundaries shall be retained except where it is required to provide sight lines. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual amenity.

4. The vehicular access, including visibility splays of (2.0m \* 33.0m), and (33.0m) forward sight distance shall be provided in accordance with Drawing No. 02 bearing the date stamp 23<sup>rd</sup> November 2020, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

#### Informatives

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

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

3. A Consent to Discharge Sewage Effluent must be obtained from Water Management Unit, Northern Ireland Environment Agency, as required by the Water (Northern Ireland) Order 1999 (Tel: 028 90254792).

Any new or existing septic tank unit be a minimum of 15 metres from the proposed development or any other habitable dwelling/building such as an office or a dwelling/building in the course of construction of the subject of planning approval.

A legal agreement must be obtained in relation to lands used in connection with any septic tank/drainage arrangement where such lands are outside the ownership of the applicant or outside the area marked in red which is the subject of this application. This agreement must ensure that the lands in question will always be available for the intended purpose and also that any occupier/owner of the proposed development will have access to these lands for maintenance/improvement works as required. Such legal agreement should be included in any planning approval as a planning condition.

The applicant must ensure that the proposal does not compromise any existing drainage arrangements serving existing neighbouring premises or developments not completed/commenced which are the subject of planning approval.

All waste generated by this development, e.g. demolition waste (as applicable) must be handled/disposed of so as to ensure compliance with the Waste and Contaminated Land (NI) Order 1997 and subordinate Regulations. (Special requirements would apply in respect of, for example, asbestos or other hazardous waste). Further information



regarding handling and disposal of such waste can be obtained from the Land and Resource Management Unit, Department of the Environment, Northern Ireland Environment Agency (NIEA) on 02890569358.

Mid Ulster Council receiving confirmation from NIW that a mains water supply is available and that it is feasible for the proposed development to be connected to same. Where mains water supply is not available the applicant is strongly advised to contact this department before any detailed plans are prepared.

Finally the developer should be aware that if it is their intention to bring any fill material to the site they will require a waste licensing exemption under the Waste Management Licensing Regulation NI 2003.

Prior to the granting of an exemption under the above regulations the developer will be required to demonstrate to NIEA the planning approval has been granted for infilling/importing inert material to the associated land.

#### 4. TransportNI

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

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

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

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

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

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

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	23rd November 2020
<b>Date First Advertised</b>	8th December 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) N/A	
<b>Date of Last Neighbour Notification</b>	N/A
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2020/1473/F Proposal: Renewal of planning permission LA09/2015/0177/F Address: Approximately 100m North West of 25 Tullyleek Road, Dungannon, Decision: Decision Date:  Ref ID: LA09/2015/0177/F Proposal: Replacement cottage at Tullyleek, Donaghmore for Mr Michael O'Neill Address: Approximately 100m North West of 25 Tullyleek Road, Tullyleek, Dungannon, Decision: PG Decision Date: 08.12.2015  Ref ID: M/1976/0627 Proposal: 11KV O/H LINE, MV O/H & U/G SERVICES Address: TULLYLEEK, DUNGANNON Decision: Decision Date:  Ref ID: M/2009/0453/F Proposal: Replacement cottage at Tullyleek, Donaghmore for Mr Michael O'Neill Address: Approximately 100m north west of 25 Tullyleek Road, Tullyleek, Dungannon Decision: Decision Date: 21.08.2009	
<b>Summary of Consultee Responses</b>  N/A	

<b>Drawing Numbers and Title</b>
Drawing No. 02 Type: Proposed Plans Status: Submitted  Drawing No. 01 Type: Site Location Plan Status: Submitted
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:



**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1615/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling with integrated annex and garages	<b>Location:</b> Site adjacent to 18 Lowertown Road Dungannon
<b>Referral Route:</b> Refusal – fails to comply with CTY 13 and CTY 14 of PPS 21. Objections received also.	
<b>Recommendation:</b>	REFUSAL
<b>Applicant Name and Address:</b> Brian Wilson 17 Bush Road Dungannon	<b>Agent Name and Address:</b> CQ Architects 23 Dunamore Road Cookstown BT80 9NR
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

There were two objections received – the content of these objections will be discussed in detail later in the report but some of the main issues raised were:

- the design of the dwelling
- the impact on the character of the area
- loss of privacy
- noise disturbance

Group discussion – we also felt that the proposal was contrary to CTY 13 and CTY 14 of PPS 21.

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

The site is located adjacent to 18 Lowertown Road, Dungannon between two existing properties. The site sits outside any defined settlement limits as identified within the Dungannon and South Tyrone Area Plan 2010. The site incorporates a roadside plot of land which sits of a slightly elevated setting when travelling along Lowertown Road in an easterly direction, especially in comparison to no 16 Lowertown Road. The site as existing post and wire fencing along the roadside boundary and there is existing hedging providing the boundary between the application site and the two adjoining neighbouring properties. The surrounding area is rural in nature, largely made up with agricultural fields scattered with single dwellings and their associated outbuildings.

## **Description of Proposal**

Full planning permission is sought for a proposed dwelling with integrated annex and garages on an infill site.

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

### Planning History

LA09/2018/1583/O - Site adjacent to 18 Lowertown Road, Gortshalgan, Dungannon - Infill dwelling with detached double garage – PERMISSION GRANTED

### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. There were two neighbours notified under this application, 16 and 18 Lowertown Road. At the time of writing, there were two objections received.

### Assessment of Policy/Other material considerations

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

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

The proposal is located outside any defined Settlement Limits as identified in the Dungannon and South Tyrone Area Plan, located south of The Bush. The site has no other designations or zonings.

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. It notes the importance of sustainable development in the countryside which promotes high standards in the design, siting and landscaping.

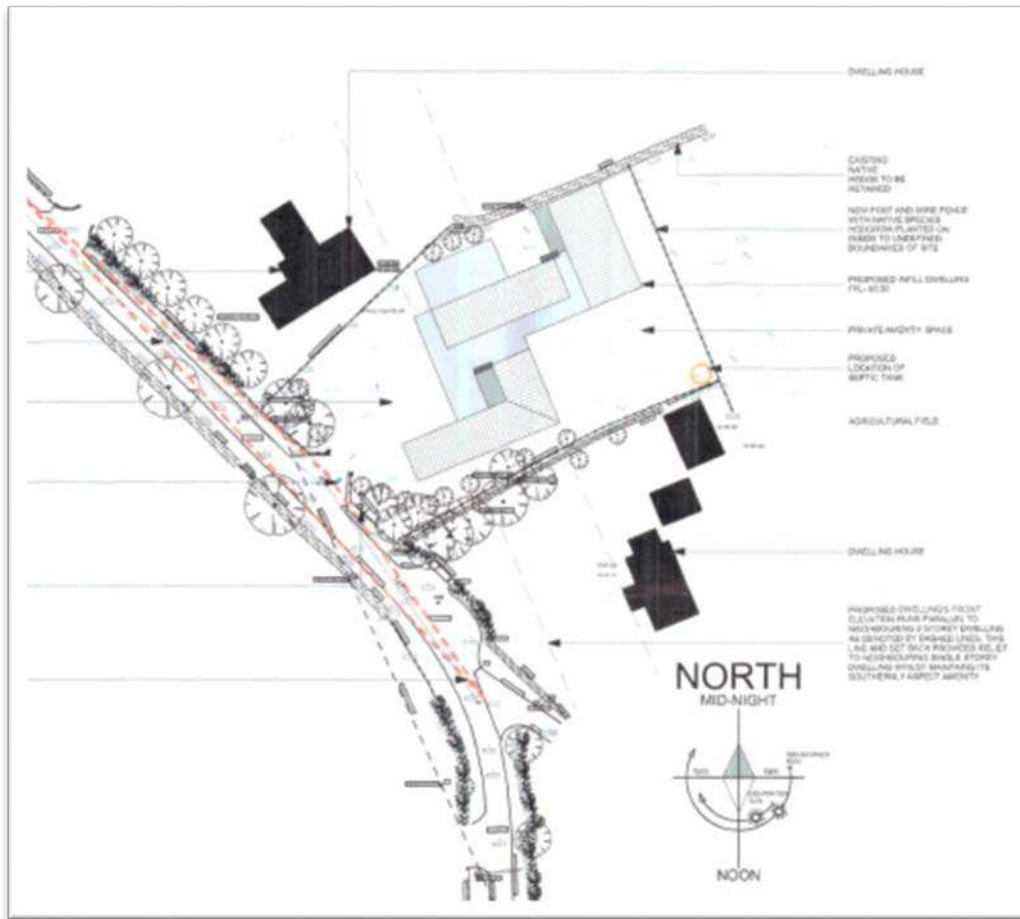
Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A range of examples are set out in CTY 1 detailing different cases which would allow for planning permission in the countryside, one of these being the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with CTY 8.

CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of the policy, the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

It is considered that the proposed site meets the policy test in that there is a continuous built up frontage along this road frontage. This is reinforced by the planning history associated with the site that has already approved the principle of an infill site at this location. At present, there is a detached dwelling to the north and the south of the site. Both of these have buildings to the side that also have an obvious frontage with Lowertown Road. Therefore, taking into consideration what is on the ground at present, I am satisfied that there is a line of three or more buildings along this road frontage and therefore the proposal meets this policy requirement. I consider that the gap between existing dwellings and buildings would be sufficient to accommodate no more than two dwellings when taking into account the existing plot sizes and their frontages of the building this site is proposing to infill.

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.

The proposal is for a dwelling that has a design, which we feel, is inappropriate for this rural setting. The design has a modern appearance to it and is not something we would typically accept in the countryside. The footprint of the dwelling is significantly large on the proposed site and has an irregular shape, almost two "L" Shaped floor plans linked. Figure 1 below shows how the proposed floor plan and the overall size and scale of it is inappropriate for this setting, especially in relation to the scaling of the two dwellings at either side.



**Figure 1**

The views of the proposed front elevation are shown below in figure 2. This is the elevation that would have most impact from public viewpoints travelling along Lowertown Road. The front elevation included a significant amount of glazing and a single pitched roof along with two integral garages included in the design. It is considered that the front elevation is excessive and inappropriate for the siting with a design which may be much more suited to an urban setting. The rear elevation includes a balcony area to the first floor of the property and also has significant amounts of glazing across both the ground and first floor of the proposal.



**Figure 2**



The agent was asked to submit a complete redesign following group discussion about the design of the proposal, however instead they provided a supporting statement for the current design. I am not content that the supporting statement justifies the house type proposed and would still be of the opinion that it would appear unduly prominent and out of keeping with the surrounding area. There are concerns in relation to the design of the proposed dwelling and its overall prominence at this site. Overall, it is considered that the design, scale, size and massing of the dwelling proposed is unacceptable and inappropriate for the site and its locality and it does not respect the traditional pattern of settlement exhibited in this area, and as a result is contrary to the criterion held within CTY 13 and CTY 14 of PPS 21.

#### Representations

There were two objections received in relation to the proposal. One of these objections was received from the occupier of No 16 Lowertown Road and the other 44 Lowertown Road. The main issues raised include the design of the dwelling, the impact on the character of the area, loss of privacy and noise disturbance. In terms of the design and appearance of the dwelling, it has been outlined above how we feel the design proposed is not appropriate for the site or the surrounding area. I consider the proposal to be overly prominent for this site and agree that it would be dominant, especially in comparison to No.16 Lowertown Road, as their objection states. The overall ridge height of the proposal is not the concern, rather the overall massing and scale of the dwelling proposed. I also agree that the proposal would be out of keeping for the area and that the design would potentially be more suited to an urban setting. In terms of privacy concerns, given the siting of the dwelling and noting that most of the dwelling would actually be set behind No.16, we don't have major concern with overlooking or privacy issues. There also is much less glazing on the side elevations of the proposed dwelling. In terms of noise disturbance, we have no reason to believe that the noise which would be made as a result of this dwelling would be any greater than the normal day to day level of noise from any dwelling. The objector noted the link between the main body of the dwelling and the granny annex, however if a dwelling and granny annex were designed in a way at this site which was appropriate in terms of planning, noise disturbance shouldn't be a concern.

#### **Neighbour Notification Checked**

Yes

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

Refusal is recommended.

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

1. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling would be a prominent feature in the landscape and the design of the proposed dwelling is inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape.

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

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	16th December 2020
<b>Date First Advertised</b>	29th December 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) Lavinia McIvor 16 Lowertown Road, Dungannon, BT71 6QJ The Owner/Occupier, 16 Lowertown Road,Dungannon,Tyrone,BT71 6QJ The Owner/Occupier, 18 Lowertown Road,Dungannon,Tyrone,BT71 6QJ Harold McIvor 44 Lowertown Road, Dungannon, BT71 6QJ	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2018/1583/O Proposal: Infill dwelling with detached double garage Address: Site adjacent to 18 Lowertown Road, Gortshalgan, Dungannon, Decision: PG Decision Date: 19.02.2019  Ref ID: LA09/2020/1615/F Proposal: Proposed dwelling with integrated annex and garages Address: Site adjacent to 18 Lowertown Road, Dungannon, Decision: Decision Date:  Ref ID: M/1986/0164 Proposal: PRIVATE DWELLING Address: LOWERTOWN ROAD, DUNGANNON Decision: Decision Date:  Ref ID: M/1990/0240	

Proposal: Chalet Bungalow  
Address: ADJACENT TO NO 16 LOWERTOWN ROAD DUNGANNON  
Decision:  
Decision Date:

Ref ID: M/2007/1511/O  
Proposal: New dwelling and detached garage.  
Address: Site adjacent to 18 Lowertown Road, Gortshalgan, Dungannon  
Decision:  
Decision Date: 10.04.2009

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 04  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 05  
Type: Proposed Floor Plans  
Status: Submitted

Drawing No. 03  
Type: Proposed Elevations  
Status: Submitted

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

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

Drawing No. 06  
Type: Proposed Floor Plans  
Status: Submitted

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

Date of Notification to Department:  
Response of Department:





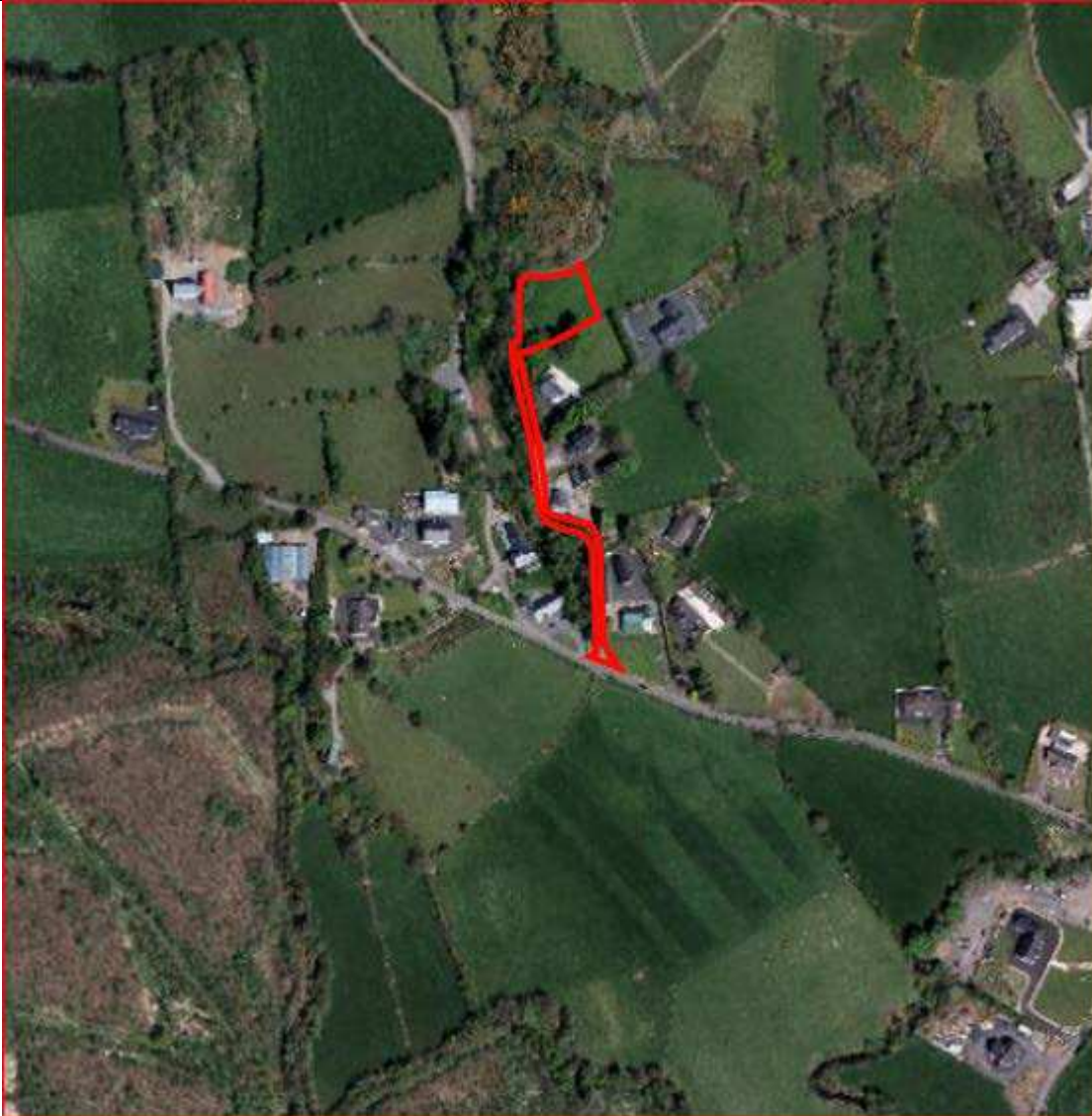
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
 District Council

## Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1626/O	Target Date:
Proposal: Proposed Site for Dwelling & Garage	Location: Approx 30m North of No.31 Gortinure Road Maghera BT46 5PA
Referral Route:  This application is being presented to Committee as it is being recommended for refusal.	
Recommendation:	REFUSAL
Applicant Name and Address: Mr S McEldowney 23a Gortinure Road Maghera BT46 5RB	Agent Name and Address: D.M.Kearney Design 2a Coleraine Road Maghera BT46 5BN
Executive Summary:	
Signature(s):	

## Case Officer Report

## Site Location Plan



## Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	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 proposed development.

### Characteristics of the Site and Area

The site is located in the rural area and within Carntogher Dispersed Rural Community as designated within the Magherafelt Area Plan 2015. It is accessed via an existing laneway located between existing road frontage buildings.

The site is located to the western end of a small agricultural field which is accessed via a shared laneway service six other dwellings. The laneway extends along both the northern and western boundaries defined by mature trees with post and wire fencing on a stone embankment, whilst the southern boundary, which is shared with No.31 is defined by mature trees, with the eastern boundary being undefined. The site falls gently away from laneway towards the north. A separate and associated planning application (LA09/2019/1226/O) is sited on a small outcrop of gorse immediately to the north.

The mature trees to the south and west ensure that there are limited views of the site from the public road in addition to the distance the site is set back and the intervening built form and vegetation along the laneways. A single wind turbine operates on a site around 600m to the North of the Site and which can be accessed from the existing farm lane which bounds the site.

### Description of Proposal

The proposal is for a site for a dwelling and garage.

### Planning Assessment of Policy and Other Material Considerations

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 main planning policies in the assessment of this application are:-

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

CTY 1 - Development in the Countryside

CTY 2 - Development in Dispersed Rural Communities

CTY 2A - New Dwellings in Existing Clusters

CTY 10 - Dwelling on farms

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

CTY 14 - Rural Character

PPS 3 - Access, Movement and Parking;

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

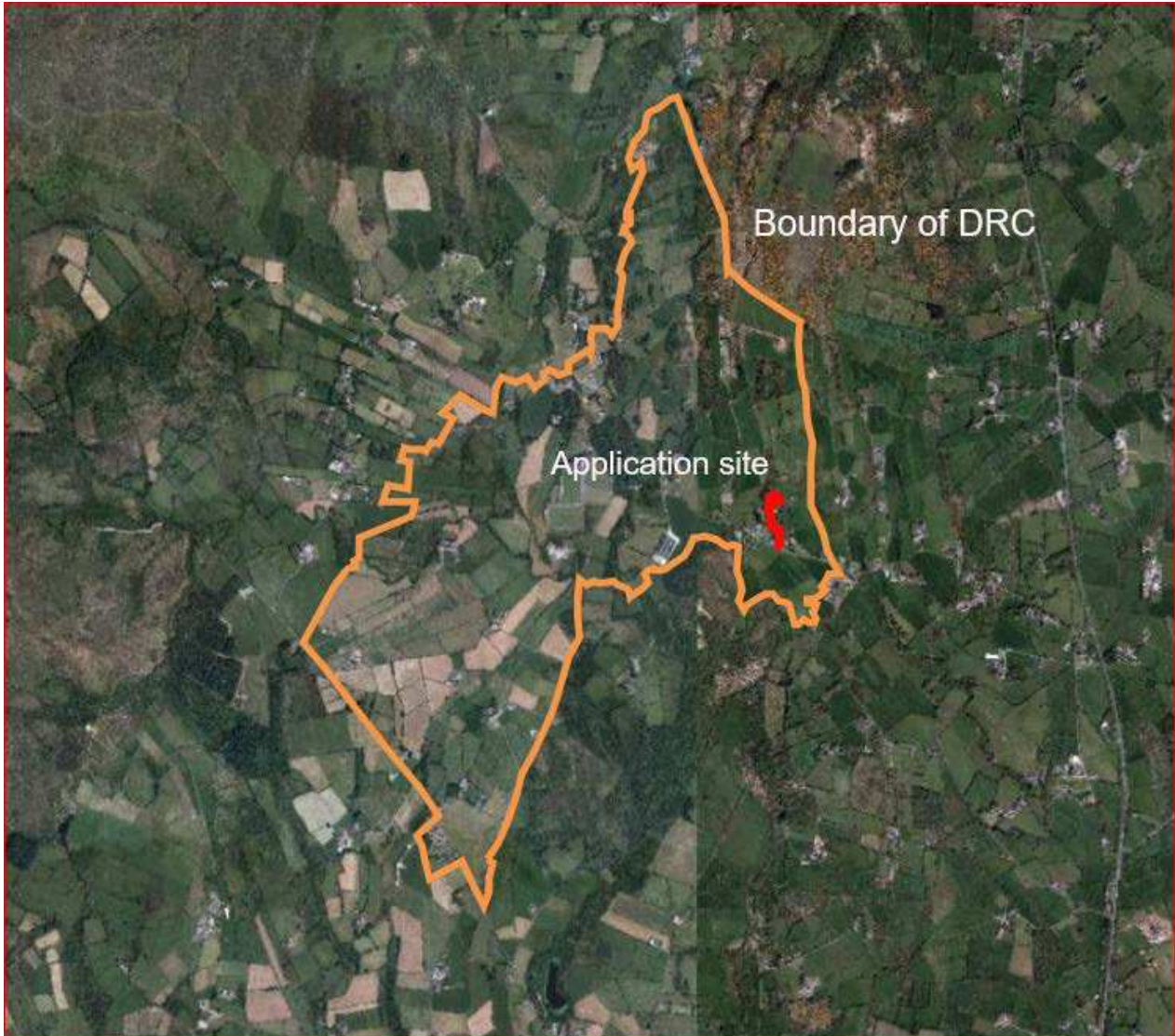
The proposal accords with the Magherafelt Area Plan 2010 insofar as it is for a single dwelling in an area designated as a dispersed rural community.

PPS 21 Policy CTY 1 advises that 'there are a range of types of development which in principle are considered to be acceptable in the countryside' including a small group of houses in a Dispersed Rural



Community in accordance with Policy CTY 2A. Proposals for such development will continue to be considered in accordance with existing published planning policies.

The applicant has not submitted any supporting statement to justify the proposed development or to demonstrate how it should be considered acceptable under policy CTY 2 - Development in Dispersed Rural Communities.

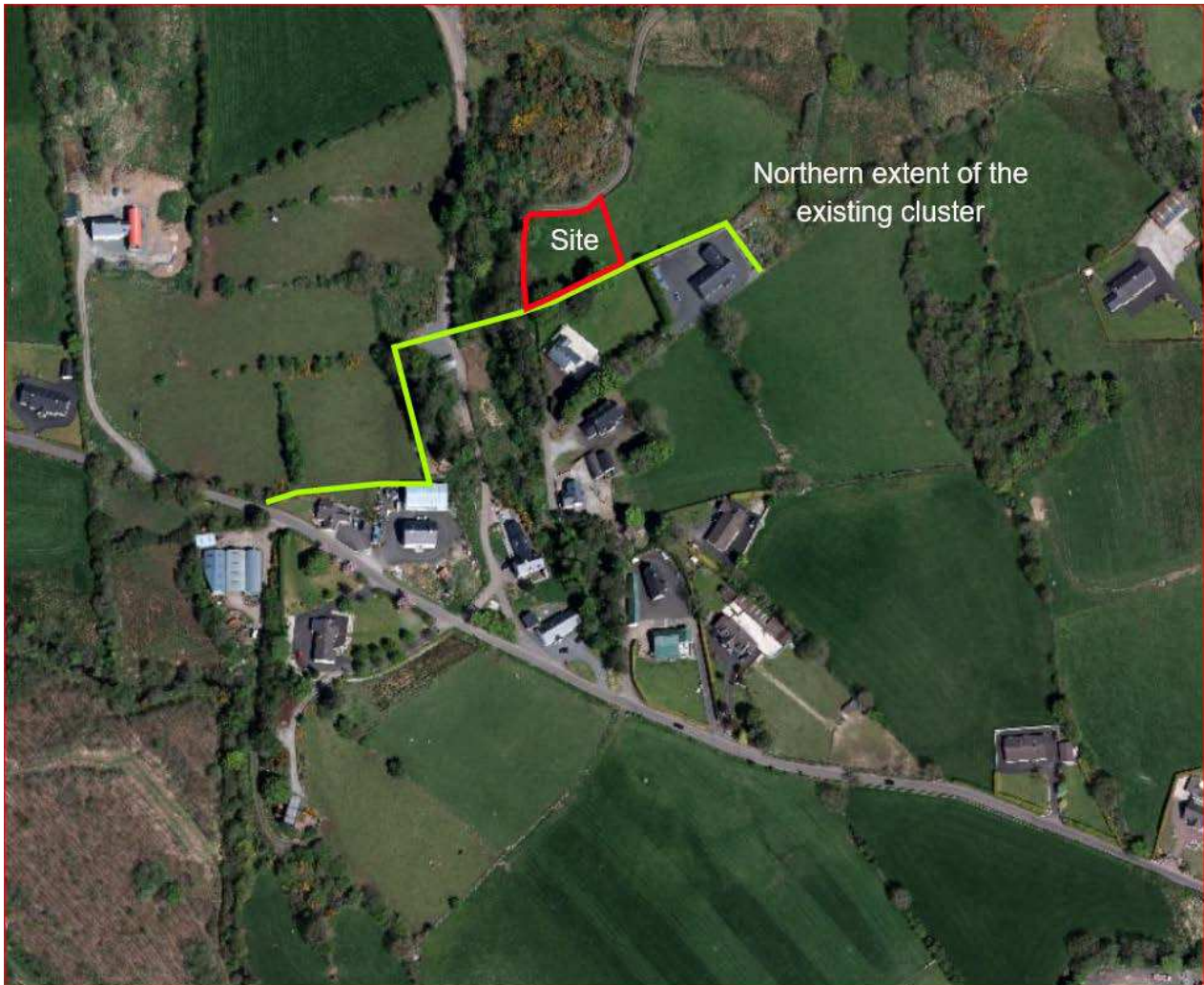


The proposed site in relation to the boundary of Carntogher DRC

Policy CTY 2 provides for developments of small cluster or 'clachan' style developments of up to 6 houses at an identified focal point, within a dispersed rural community designated in a development plan, with permission generally being limited to one cluster per focal point. The proposed site is within Carntogher Dispersed Rural Community as defined in the Magherafelt Area Plan 2015. Whilst it is accepted that there is a cluster of development around the point where the laneway meets the Gortinure Road and which extends partially up along the existing laneway, there is no focal point associated with this cluster. Although no supporting statement has been submitted with this application, the applicant suggested under the associated planning application (LA09/2019/1226/O) that 'the community is the focal point'.. however, as the community is not a fixed visual entity, it is cannot be accepted as being a focal point in that sense and therefore the proposal does not meet the policy test.

The policy goes on to state that 'Proposal for individual dwellings.... in DRCs will be assessed against the other policy provisions of this PPS'. Therefore the proposal must also be assessed against the other policies as listed above.

Para. 5.13 states 'The determining factors, on any proposal in a DRC, will be the scale of development proposed, visual impact, and its association or integration with the existing pattern of settlement'. The proposed site sits at the end of the existing cluster of development and extends that cluster further northwards. Consequently, it is my opinion that the site would not consolidate the cluster, but instead, it would only serve to expand and elongate the cluster away from the existing built form. The site clearly fails to satisfy the criteria of this policy and is therefore unacceptable.



The proposed site in relation to the boundary of the existing cluster

#### CTY 2A - New Dwellings in Existing Clusters

As the proposed site fails to meet the policy tests of Policy CTY 2, it was also assessed against the criteria of CTY 2A, however, it fails to meet the policy tests as follows:-

- The cluster of development lies outside of a farm and consists of four or more buildings, of which at least three are dwellings;
- The cluster does appear as a visual entity in the local landscape;
- The cluster is not associated with any focal point such as social/community building/facility, nor is it located at a cross-roads;



- Although the site does have a suitable degree of enclosure it is not bounded on two sides with other development in the cluster. The proposed site only has a single dwelling to the south with no development on the three other sides;

- As discussed above, due to the location of the proposed site in relation to the existing built development, it only serves to extend the built form away from the cluster. This is neither rounding off nor consolidation and if approved, would significantly alter the existing character and visually intrude into the open countryside.

Therefore the proposal is clearly contrary to Policy CTY 2A.

Policy CTY 8 – Ribbon Development states that permission will be refused for a building which creates or adds to a ribbon of development. The proposed site is located at the end of a laneway which serves around six other dwellings in addition to two approved sites. Therefore there is a public interest on this laneway and the proposed dwelling would only serve to extend the line of dwellings further in a northerly direction. This extension of ribbon development is contrary to this policy.

CTY 10 - Dwellings on farms provides the opportunity for sites to be approved where they are linked to an active and established farm business. In this case, while it would appear the applicant owns additional farmland, no supporting evidence has been submitted to support the application under this policy. In any event, if the necessary information was submitted, the site would still be unacceptable as it is not visually linked nor sited to cluster with existing buildings on the farm. At present the only buildings which would appear to be on the applicant's farm holding are their dwelling and detached garage. Consequently the proposed site is contrary to Policy CTY 10.

Policy CTY 13 - Integration and Design of Buildings in the Countryside is also relevant as the proposal is for a new dwelling in the countryside. Due to the location of the site and the extent of the existing vegetation both within and surrounding the site, a dwelling with a low ridge height of 5.5m maximum above finished floor level could achieve an acceptable degree of integration.

Policy CTY 14 - advises that the proposal will be granted approval provided it does not cause a detrimental change to or further erode rural character. The proposed dwelling will not be prominent due to being sited well back of the public road. However, any dwelling on this proposed site will be read with the existing dwellings to the south and will therefore result in a suburban style build-up of development when read with the existing buildings.

As the proposed site is located on a laneway serving six existing dwellings in addition to two extant approved sites, there is a public interest from the laneway. The proposed site is located at the very northern end of the existing built development and will extend the ribbon of development in that direction. The proposal is therefore contrary to this policy as it extends an existing ribbon of development.

PPS 3 - Access, Movement and Parking - DfI Roads advised that in terms of the proposed access the proposal is acceptable subject to the relevant condition.

#### Recommendation

Given the above assessment I am firmly of the opinion that the proposed development is contrary to Policies CTY 1 and CTY 2, CTY 2A, CTY 8, CTY10 and CTY 14.

Neighbour Notification Checked

Yes

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 CTY2 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal is for a single dwelling which is located within a Dispersed Rural Community (DRC) designated in a development plan but is not located at an identified focal point.
3. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:  
the cluster is not associated with a focal point nor is it located at a cross-roads;  
the proposed site is not bounded on at least two sides with other development in the cluster; and  
the proposed dwelling would if permitted significantly alter the existing character of the cluster and visually intrude into the open countryside.
4. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the extension of ribbon development along this private lane.
5. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:  
a farm business is currently active or has been established for at least six years;  
the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm.
6. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would, if permitted add to a ribbon of development and would therefore result in a detrimental change to further erode the rural character of the countryside.

Signature(s)

Date:

ANNEX	
Date Valid	17th December 2020
Date First Advertised	12th January 2021
Date Last Advertised	
<p>Details of Neighbour Notification (all addresses)</p> <p>The Owner/Occupier, 23b Gortinure Road Maghera</p> <p>The Owner/Occupier, 25 Gortinure Road Maghera Londonderry</p> <p>The Owner/Occupier, 25a Gortinure Road Maghera</p> <p>The Owner/Occupier, 27 Gortinure Road Maghera Londonderry</p> <p>The Owner/Occupier, 29 Gortinure Road Maghera Londonderry</p> <p>The Owner/Occupier, 31 Gortinure Road Maghera Londonderry</p> <p>The Owner/Occupier, 31a Gortinure Road Maghera</p> <p>The Owner/Occupier, 33 Gortinure Road Maghera Londonderry</p>	
Date of Last Neighbour Notification	15th January 2021
Date of EIA Determination	N/A
ES Requested	No
<p>Planning History</p> <p>Ref ID: LA09/2020/1626/O          Proposal: Proposed Site for Dwelling &amp; Garage          Address: Approx 30m North of No.31 Gortinure Road, Maghera, BT46 5PA,          Decision:          Decision Date:</p> <p>Ref ID: H/2012/0021/F          Proposal: Replacement dwelling          Address: No. 31 Gortinure Road, Maghera,          Decision:          Decision Date: 16.04.2012</p> <p>Ref ID: H/1981/0080          Proposal: EXTENSIONS TO BUNGALOW          Address: 31 GORTINURE ROAD, MAGHERA</p>	

Decision: Decision Date:
Summary of Consultee Responses  All consultees responded positively.
Drawing Numbers and Title
Drawing No. 01 Type: Site Location Plan Status: Submitted
Notification to Department (if relevant)  Date of Notification to Department: Response of Department:



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

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1634/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for a dwelling and domestic garage; Based on Policy CTY10 (dwelling on a farm).	<b>Location:</b> Adjacent to No 47 Mullaghnamoyagh Road Portglenone BT44 8NP.
<b>Referral Route:</b>  Objection received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Mr Sean Convery 4 Cherry Hill Maghera BT46 5LS	<b>Agent Name and Address:</b> CMI Planners 38 Airfield Road The Creagh Tommebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

One objection has been received in relation to this planning application

### Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan. The red line of the application site is surrounding an existing agricultural field, which is bounded on all sides with strong existing hedgerows on all sides. There is a strong tree line to the southern boundary which is defined by a dense number of trees. There is a dwelling immediately adjacent to the north-western boundary. The surrounding area is agricultural in nature with a number of dwellings located to the North West along the Mullaghnaymoyagh Road, with farm buildings located sporadically throughout the surrounding area.



**Description of Proposal**

This is an outline planning application for a proposed site for a dwelling and domestic garage based on Policy CTY10 (dwelling on a farm) adjacent to No.47 Mullaghnamoyagh Road, Portglenone.

**Relevant Site History**

LA09/2016/1203/O- Erection of dwelling and garage, adjacent to 47 Mullaghnamoyagh Road, Portglenone. Decision: Refused

Permission was refused for a dwelling on this site as the proposal was considered contrary to policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Mullaghnamoyagh Road and represent the loss of an important gap site. It was also determined that if a dwelling was approved here, it would create a ribbon of development and would further erode the rural character of this area of countryside.

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

Magherafelt Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS3: Access, Movement and Parking

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

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

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

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

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

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group.

A consultation was issued to DAERA who have confirmed the farm business has been in existence for more than six years, being allocated in March 1992. However, DAERA also confirmed that single farm payment has not been claimed on any of the last six years. Following a discussion at a group meeting and having reviewed the additional information it was agreed sufficient information has been provided to ascertain the farm business is active and established and has been for six or more years.

Following a search on the planning portal I am content that no dwellings or development opportunities have been sold off from the farm holding within 10 years of the date of the application.

With regards to criteria C, I note that from the farm map provided that there are no established group of buildings on the farm, nor is there a single building on the farm which the new building is visually linked with or can cluster with. As is common practice in Mid Ulster District Council, the best site has been chosen and as this is the only field associated with the farm holding, this is the best alternative location. I note the address of the registered farm is located further down the Mullaghnayamoyagh Road and there does not appear to be opportunity for a dwelling to be sited to cluster with the farmers registered address.

I am content that the proposal complies with the policy criteria set out in Policy CTY10 of PPS21.

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 an outline application in which the exact design and siting details have not been submitted. I am content that an appropriately designed dwelling would not be a prominent feature in the landscape and to ensure this a condition restricting the ridge height to 6m should be applied. The site has strong boundaries on all sides, but additional landscaping will be required to define the curtilage of the site. The strong tree line on the southern boundary provides a natural backdrop to enable a dwelling to blend.

Policy CTY 14 states planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. Given the level of development in this rural area I do not believe a dwelling at this location would cause a detrimental to change to the character of the area.

### **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. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

I have no flooding, ecological or residential amenity concerns.

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

An objection was received by a the neighbouring property to the west who stated they objected to the fact the red line of the application site runs in front of their property. The agent was contacted regarding this objection and have confirmed that the correct certificate has been completed and third party lands are not required for visibility splays.

DFI Roads were consulted and, in their response, stated that they had no objections subject to conditions.	
<b>Neighbour Notification Checked</b>	<b>Yes/No</b>
<b>Summary of Recommendation:</b>	
Approval	
<b>Conditions</b>	
<p>1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-</p> <ul style="list-style-type: none"> <li>i. the expiration of 5 years from the date of this permission; or</li> <li>ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.</li> </ul> <p>Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.</p> <p>2. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.</p> <p>Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.</p> <p>3. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.</p> <p>Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.</p> <p>4. A landscaping scheme shall be submitted simultaneously with the detailed drawings for the development, hereby approved, at the Reserved Matters stage. Any trees or shrubs which may be damaged or die within a period of 5 years from the date of planting shall be replaced by plants of similar species and size at the time of their removal. All landscaping shall take place within the first available planting season after the commencement of the development.</p> <p>Reason: In the interests of visual amenity.</p> <p>5. The dwelling hereby permitted shall have a ridge height not exceeding 6 metres above existing ground level and be designed in accordance with the design guide 'Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside'</p> <p>Reason: To ensure that the proposal is in keeping with the character of the area.</p>	
<b>Informatives</b>	
<p>1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.</p> <p>2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.</p>	

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

ANNEX	
<b>Date Valid</b>	17th December 2020
<b>Date First Advertised</b>	12th January 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 47 Mullaghnamoyagh Road Portglenone Londonderry The Owner/Occupier, 48 Mullaghnamoyagh Road Portglenone Londonderry The Owner/Occupier, Email Address	
<b>Date of Last Neighbour Notification</b>	13 <sup>th</sup> January 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2016/1203/O Proposal: Erection of dwelling and garage Address: Adjacent to 47 Mullaghnamoyagh Road, Portglenone, Decision: Refused Decision Date: 10.01.2017  Ref ID: LA09/2020/1634/O Proposal: Proposed site for a dwelling and domestic garage; Based on Policy CTY10 (dwelling on a farm). Address: Adjacent to No 47 Mullaghnamoyagh Road, Portglenone BT44 8NP., Decision: Decision Date:  Ref ID: H/2004/0329/F Proposal: Proposed extension. Address: 47 Mullaghnamoyagh Road, Portglenone. Decision: Decision Date: 20.05.2004  Ref ID: H/1997/0057 Proposal: REPLACEMENT DWELLING Address: 47 MULLAGHNAMOYAGH ROAD PORTGLENONE Decision: Decision Date:	

Ref ID: H/2002/0656/F  
 Proposal: Dwelling  
 Address: 48 Mullaghnamoyagh Road, Lowrystown, Portglenone  
 Decision:  
 Decision Date: 14.11.2002

Ref ID: H/2005/0432/O  
 Proposal: Two storey dwelling and domestic garage  
 Address: Adjacent to 47 Mullaghnamoyagh Road, Portglenone  
 Decision:  
 Decision Date: 19.09.2006

Ref ID: H/2014/0318/LDP  
 Proposal: Erection of a single storey lean-to extension to rear elevation of existing bungalow  
 Address: 47 Mullaghnamoyagh Road, Portglenone, BT44 8NP,  
 Decision: PG  
 Decision Date:

Ref ID: H/2013/0129/F  
 Proposal: 11kv overhead line  
 Address: 280m North of 50 Mullaghnamoyagh Road, Portglenone,  
 Decision: PG  
 Decision Date: 07.06.2013

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

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

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

Date of Notification to Department:  
 Response of Department:



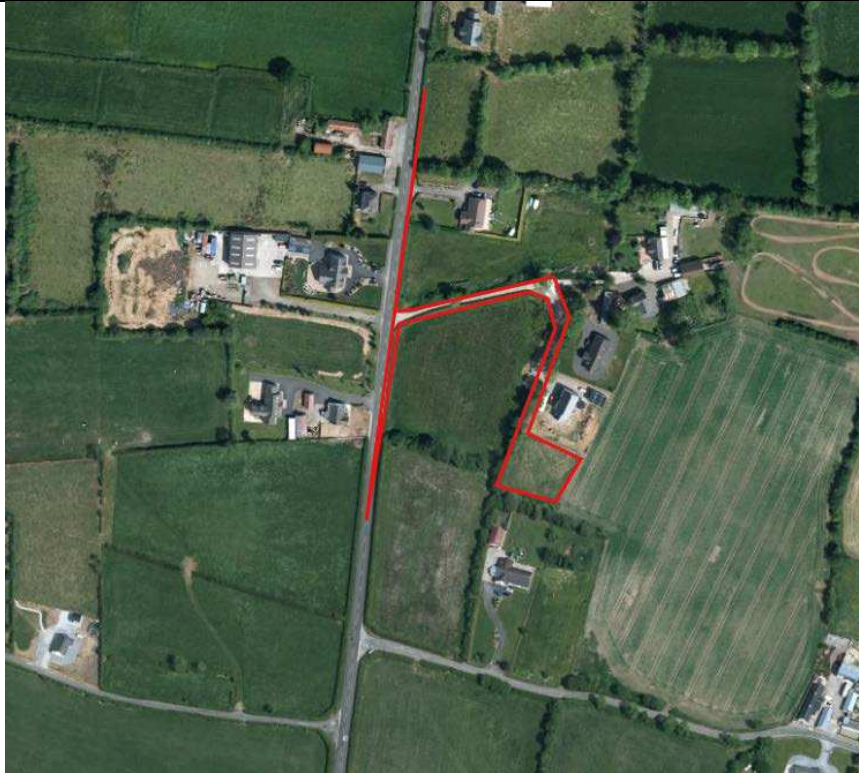
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1663/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed infill site for dwelling and garage	<b>Location:</b> Adjacent to 215A Mountjoy Road Killycolpy Dungannon
<b>Referral Route:</b> Refusal and 1 objection received.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Marie Quinn Elliott 23 Moor Park Coalisland	<b>Agent Name and Address:</b> Seamus Donnelly 80A Mountjoy Road Aughrimderg Coalisland BT71 5EF
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

There was one objection received in relation to the proposal. The issues raised in this objection will be discussed in detail later in the report, however the main issues raised include:

- Ridge height of proposed dwelling
- Overlooking

### Characteristics of the Site and Area

The site is located adjacent to 215A Mountjoy Road and is defined to be in the open countryside as per the Cookstown Area Plan 2010. The red line of the site incorporates an existing agricultural field and existing laneway. The site currently benefits from existing vegetation and hedging and its boundaries and is flat throughout. The



immediate area surrounding the site includes a number of residential properties but beyond that, the lands are mostly rural in nature, scattered with single dwellings and their associated outbuildings.

### **Description of Proposal**

Outline planning permission is sought for a proposed infill site for dwelling and garage.

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

#### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. There were a number of neighbours notified under this application including: 127 Back Lower Road, 214, 215, 215A, 220 and 224 Mountjoy Road. At the time of writing, one third party representation has been received and one letter was returned for 224 Mountjoy Road, noting there was "no such address".

#### Planning History

There is not considered to be any relevant planning history associated with the site, there was a recent outline and reserved matters approval for the adjacent site (directly north of this application site) which allowed a 7.5m Ridge height for the dwelling.

LA09/2018/0417/RM - Adjacent to 215 Mountjoy Road, Stewartstown - Proposed dwelling and garage – PERMISSION GRANTED

I/2015/0084/O - Adjacent to 215 Mountjoy Road, Stewartstown - Proposed Site for Two Storey Dwelling and Garage – PERMISSION GRANTED

There was a further historical application for a temporary mobile home, however there was no evidence of this structure whilst on site.

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

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

The Cookstown Area Plan 2010 identifies the site as being in the rural countryside. There are no other zonings or designations within the Plan.

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received have

been subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. It notes the importance of sustainable development in the countryside which promotes high standards in the design, siting and landscaping.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A range of examples are set out in CTY 1 detailing different cases which would allow for planning permission in the countryside, one of these being the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with CTY 8.

CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of the policy, the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

It is considered that the proposed site does not strictly meet the policy test in that although there is a continuous built up frontage along this road frontage to the north, the house to the south fronts onto Back Lower Road and therefore they do not share the same road frontage. At present, there is at least two dwellings north of the site, with a further two dwellings and associated outbuildings beyond this although they don't necessarily have a frontage with the laneway. To the south of the site is a further dwelling which fronts onto Back Lower Road and although does not have a frontage with Mountjoy Road, the Committee may wish to consider that the proposal would create the infilling of a lane and approve as an exception to policy. I consider that the gap between existing dwellings and buildings would be sufficient to accommodate no more than two dwellings, noting the existing plot sizes along this laneway and wider area.

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. I find no reason why a dwelling could not be designed and sited to integrate successfully into this site. The dwellings and buildings at either side of the site which this application proposes to infill include a single storey and a two storey.

DfI Roads were consulted in relation to the proposal. They noted that additional land may be required in order to accommodate a 4.1m wide access for the first 10m, but otherwise are content with the proposal subject to condition. The proposal intends to use the existing access onto Mountjoy Road.

#### Representation

There was one objection received in relation to the proposal (127 Back Lower Road). The objection noted that any forthcoming approval at this site should not exceed 4.5m ridge height, noting privacy concerns in relation to their rear amenity space and given the history relating to their own property where they were restricted in ridge heights. The existing properties along this laneway were also referred to noting that there is a number of existing bungalows along this laneway but also referencing the existing two storey which is directly north of the application site (shown below in figure 1 and 2).



**Figure 1 – Two storey dwelling beside site**



**Figure 2 – Two storey dwelling beside site**

<p>Following the site visit and group discussions, we feel a 4.5m ridge height would be unnecessary and very restrictive in terms of allowing a modest sized dwelling within this site especially given the dwelling directly north of the site is two storey. We feel that a suitably sized dwelling could also be designed at this site, whilst taking into account the objectors concerns and issues relating to overlooking could be lessened at the design stage for any forthcoming approval. Examples of this could include restrict first floor windows which would face onto the objectors property or ensuring that these windows are frosted glass i.e. serving bathrooms etc, however this could all be assessed following a reserved matters or full application being received if approval was forthcoming. Additional planting could also mitigate some of the concerns of overlooking by creating further landscaping along the boundary between the application site and objectors property.</p>	
<b>Neighbour Notification Checked</b>	Yes
<p><b>Summary of Recommendation:</b></p> <p>Refusal is recommended.</p>	
<p><b>Reasons for Refusal:</b></p> <p>1. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not a continuous frontage along Mountjoy Road to allow for the infilling of the site.</p>	
<p><b>Signature(s)</b></p> <p><b>Date:</b></p>	

ANNEX	
<b>Date Valid</b>	22nd December 2020
<b>Date First Advertised</b>	12th January 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) John Henry 127 Back Lower Road, Dungannon, BT71 5ER The Owner/Occupier, 127 Back Lower Road, Killycolpy, Dungannon BT71 5ER The Owner/Occupier, 214 Mountjoy Road, Mountjoy, Tyrone, BT71 5ES The Owner/Occupier, 215 Mountjoy Road, Mountjoy, Tyrone, BT71 5ES The Owner/Occupier, 215 Mountjoy Road, Mountjoy, Tyrone, BT71 5ES The Owner/Occupier, 215A Mountjoy Road, Mountjoy, Tyrone, BT71 5ES The Owner/Occupier, 220 Mountjoy Road, Mountjoy, Tyrone, BT71 5ES The Owner/Occupier, 221 Mountjoy Road, Mountjoy, Tyrone, BT71 5ES The Owner/Occupier, 224 Mountjoy Road, Mountjoy, Tyrone, BT71 5ES	
<b>Date of Last Neighbour Notification</b>	15th January 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/1663/O Proposal: Proposed infill site for dwelling and garage Address: Adjacent to 215A Mountjoy Road, Killycolpy, Dungannon, Decision: Decision Date:  Ref ID: LA09/2018/0417/RM Proposal: Proposed dwelling and garage Address: Adjacent to 215 Mountjoy Road, Stewartstown, Decision: PG Decision Date: 12.06.2018	

Ref ID: LA09/2018/0933/F

Proposal: Temporary retention of mobile for construction of new dwelling approved under LA09/2018/0417/RM

Address: Adjacent to 215 Mountjoy Road, Stewartstown,

Decision: PG

Decision Date: 22.08.2018

Ref ID: I/1991/6031

Proposal: Dwelling Mountjoy Road Cookstown

Address: Mountjoy Road Cookstown

Decision:

Decision Date:

Ref ID: I/1998/0384

Proposal: Site for Dwelling

Address: 50M SW OF 219 MOUNTJOY ROAD ARDBOE

Decision:

Decision Date:

Ref ID: I/2006/0805/F

Proposal: Single storey extension at working kitchen, remove existing slates from main roof, treat roof timbers, felt and lath and replace bangor blue slates, porch-increase to two storey, new septic tank

Address: 219 Mountjoy Road, Dungannon

Decision:

Decision Date: 18.12.2006

Ref ID: I/1999/0203

Proposal: Proposed Extension to Dwelling

Address: 217 MOUNTJOY ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1990/0109B

Proposal: Bungalow

Address: 50M EAST OF JUNCTION OF BACKLOWER ROAD AND MOUNTJOY ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1992/0124

Proposal: Domestic Garage/Store

Address: 127 BACKLOWER ROAD STEWARTSTOWN

Decision:

Decision Date:

Ref ID: I/1990/0109

Proposal: Dwelling

Address: 50 METRES EAST OF JUNCTION OF BACKLOWER RD AND MOUNTJOY ROAD COOKSTOWN

Decision:  
Decision Date:

Ref ID: I/1994/0496  
Proposal: Site for dwelling  
Address: ADJACENT TO 127 BACKLOWER ROAD STEWARTSTOWN  
Decision:  
Decision Date:

Ref ID: I/2004/0673/O  
Proposal: Proposed single storey dwelling & garage  
Address: Adjacent to 127 Backlower Road, Stewartstown  
Decision:  
Decision Date: 27.09.2004

Ref ID: I/2001/0841/O  
Proposal: Dwelling House (Renewal of Outline Permission)  
Address: 50m S W of 219 Mountjoy Road, Ardboe  
Decision:  
Decision Date: 13.02.2002

Ref ID: I/1991/6035  
Proposal: Site for Dwelling Backlower Road Cookstown  
Address: Backlower Road Cookstown  
Decision:  
Decision Date:

Ref ID: I/1993/0085  
Proposal: Dwelling  
Address: OPPOSITE 214 MOUNTJOY ROAD COALISLAND  
Decision:  
Decision Date:

Ref ID: I/2003/0332/RM  
Proposal: Proposed bungalow  
Address: 50m S.W of 219 Mountjoy Road, Ardboe  
Decision:  
Decision Date: 15.08.2003

Ref ID: I/1991/0276  
Proposal: Bungalow  
Address: 100M WEST OF 219 MOUNTJOY ROAD STEWARTSTOWN  
Decision:  
Decision Date:

Ref ID: I/1991/0396  
Proposal: Dwelling and Garage  
Address: OPPOSITE 224 MOUNTJOY ROAD STEWARTSTOWN  
Decision:  
Decision Date:

Ref ID: I/2015/0084/O

Proposal: Proposed Site for Two Storey Dwelling and Garage

Address: Adjacent to 215 Mountjoy Road, Stewartstown,

Decision: PG

Decision Date: 22.06.2015

### **Summary of Consultee Responses**

Roads – content subject to condition.

### **Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

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

Date of Notification to Department:

Response of Department:



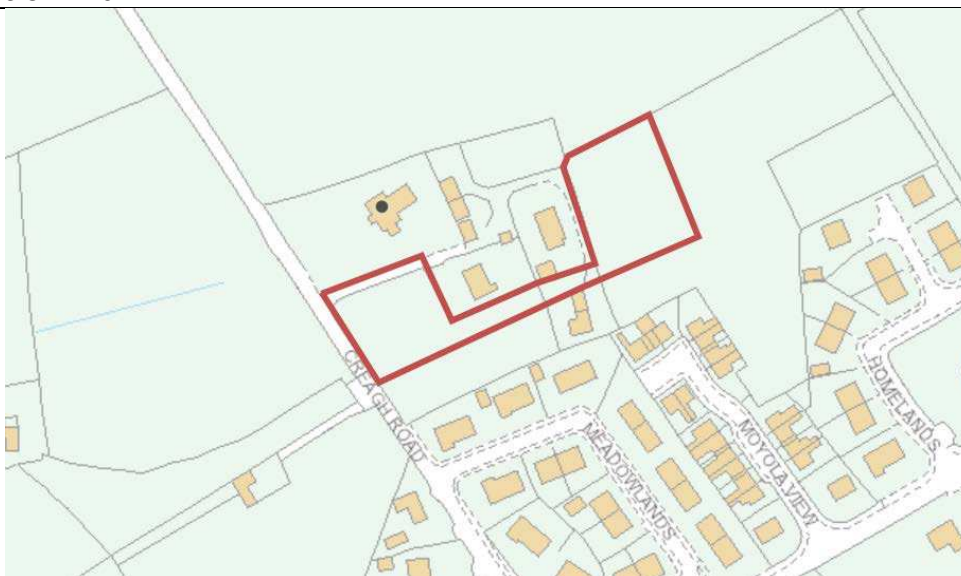


Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

Development Management Officer Report  
Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0116/O	Target Date:
Proposal: Outline planning permission for a dwelling & garage.	Location: Lands East of 91 Creagh Road Castledawson BT45 8EY.
Referral Route: The applicant is a Planning Officer for Mid Ulster District Council.	
Recommendation:	Approve
Applicant Name and Address: Ciaran Devlin 93 Creagh Road Castledawson BT45 8EY	Agent Name and Address:
Executive Summary:	
Signature(s):	

## Case Officer Report

**Site Location Plan**

**Representations:** None Received

**Description of proposal**

Outline planning application for a dwelling and garage. The applicant has provided information in support for a dwelling on a farm and this information will be considered later in my report.

**Characteristics of Site and Area**

An irregular shaped site consisting of two rectangular plots connected by a narrow strip of land between properties 87 and 89 Creagh Road. The western rectangular plot is located adjacent to Creagh Road and is located between No. 93 Creagh Road and the residential development of Meadowlands to the south. This land is relatively flat and is in agricultural use. To the east, indicated as the preferred site on drawing No. 01, the site is located within the western corner of a larger agricultural field. Along the NW boundary is a post and wire fence and sparse hedgerow. There is a fence defining the SW boundary with the remaining boundaries not defined.

Between the eastern plot of the site and the public road there are 4 dwellings with associated ancillary buildings, outhouses and sheds. The small settlement of Creagh lies to the south and west of the site (approx. 50m) with the site located on unzoned land in the countryside. Land in the area is relatively flat with land outside Creagh being defined mostly by detached single dwellings, farm holdings and agricultural land. There is also industrial development in the area including Creagh Concrete. The Moyola River is located approx. 500m west.

**Planning Assessment of Policy and Other Material Considerations****Planning Act 2011**

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

determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

### **Development Plan**

Magherafelt Area Plan 2015- land located in the Countryside just outside and north of the small settlement of Creagh, with Magherafelt located approx. 5 mile west. Land is not zoned. The policy provisions of SPPS and PPS21 apply.

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

### **Planning History**

Adjacent and west of the site;

LA09/2021/0075/F Proposed change of house type from previously approved planning application LA09/2015/0173/F for Ciaran and Roisin Higgins (under consideration)

LA09/2015/0173/F- Proposed change of house type from previously approved planning application ref: H/2008/0592/F, 95 Creagh Road, Castledawson, Magherafelt for Ciaran Higgins and Roisin Devlin (permission granted 12.08.2015). (Roisin is the applicant's sister).

H/2008/0592/F- Proposed off-site replacement dwelling, for Liam & Geraldine Devlin, permission granted 11.12.2008 (Liam is the applicant's father).

Representations

No 3rd Party Planning Objections have been received.

### **Key Planning Policy**

SPPS- Strategic Planning Policy Statement for NI

PPS21- Sustainable Development in the Countryside

PPS3- Access, Movement and Parking

Design Guidance- Building on Tradition, a Sustainable Design Guide for the Northern Ireland Countryside.

### **Consideration**

The applicant, Ciaran Devlin, is a Planning Officer for Mid Ulster District Council Planning Department, therefore the proposal is being presented to Members as per MUDC Scheme of Delegation on Planning Matters policy.

The proposal is for a dwelling on a farm in the countryside. Planning Policy Statement 21 is the overarching document for assessing development proposals in the countryside. Policy CTY1 of PPS 21 lists development proposals that are considered to be acceptable forms of development in the countryside, including dwellings on farms, subject to policy criteria within CTY10 being met.

3 key policy tests have to be met for a dwelling on a farm to be considered acceptable.

The first part of the policy that has to be met is that the farm business is currently active and has been established for at least 6 years. The applicant has provided a farm business ID number which belongs to his father (Liam Devlin) who lives at No. 93 Creagh Road. DEARA has confirmed that the business ID is currently active and has been in place for over 6 years. The applicant or the business ID holder does not currently farm the land or claim single farm payment therefore there are no farm maps associated with the farm business ID number. This has also been confirmed by DAERA in an e-mail. In support, the applicant has provided an A4 map showing the farm land owned by his father in blue, along with a signed conacre agreement of the person who leases the farm land from 2015 to present. It was evident from my site visit that the fields in question are kept in good agricultural quality. I am therefore satisfied that the information before me is sufficient to show that the business is currently active and has been established for at least 6 years.

The second part of this policy that has to be met is that 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 transferred off the farm to another family member. The obvious development opportunity is that listed in the history check above (H/2008/0592/F, LA09/2015/0173/F and LA09/2021/0075/F- these histories all relate to the same site). Again, it is reasonable to assume that this site belongs to the farm owners overall holding. The 2008 permission was granted in Liam Devlin's name (the farm owner and applicant's father). The 2015 application was granted in Roisin Devlin's name (the applicant's sister and farm owners daughter). To ensure that a development opportunity has not been sold off the holding or transferred off the farm I carried out a Land Registry check on this potential development opportunity. This site in question is in Liam Delvin's name, and was first registered to him on 21/09/1995. I am satisfied that no development opportunities have been sold or transferred from the farm within the previous 10 years.

Part c of CTY10 requires the new dwelling to visually link or be sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. The applicant has indicated the preferred site on drawing No. 01, which is the parcel of land to the east. While I am satisfied that this preferred site will visually link to the established group of buildings on the farm, and will integrate into this particular landscape setting, my issue with it is that it will extend into the Countryside and will mar the distinction between village and countryside, which is contrary to Policy CTY 15 The Setting of Settlements. So while taking all policy considerations into account, I find the roadside parcel of land to be the most acceptable for this proposal as it will visually link with the group of buildings on the farm, will consolidate existing development, will integrate into the landscape, will not extend into the open Countryside, and will read as part of the settlement of Creagh. Taking all these points into consideration I have identified the Council's preferred site shown as hatched in drawing No. 01 for your information. The applicant has also indicated that he will use the existing access point to access the site.

I am satisfied that the proposal will integrate into the landscape as it will group with existing development. While CTY13 is the policy context, this site reads as being associated with Creagh, as surrounding development which is adjacent to Creagh also reads with existing development within the settlement. To me, a dwelling on this site will not have a detrimental impact on rural character as it has development on 3 sides. I find that a 7.5m ridge dwelling will satisfactorily integrate onto this site. There is also a 2 storey dwelling to the east of the site.

There are already a number of dwellings and buildings surrounding the site, some in the countryside, some within the village. In my view the proposal will not detract from the rural character of this area through build up of development, as it will consolidate development and will not extend further into the countryside. The proposal will not offend policy CTY14 of PPS21.

There is ample space within this site to provide septic tank provision. The onus is on the landowner/developer to ensure there are appropriate consents in place for any private septic tank provision. No objections have been raised by Environmental Health re septic tank provision or potential impacts on neighbouring properties. In my view the proposal does not offend policy CTY16 of PPS21.

### **PPS3 Access, Movement and Parking**

DfI roads have provided comment on the proposed access to the site and raise no objections on road safety grounds subject to the access being in accordance with the RS1 form which require visibility splays of 2.4m by 45m in both directions and a forward sight distance of 45m. The proposal does not offend any policies contained within PPS3.

### **Other considerations**

From the strategic flood maps NI the site is not affected by pluvial or surface water flooding. There is a flood plain on the opposite side of Creagh Road to the Moyola River but the site is not impacted by this.

As this proposal is outline, impacts on neighbouring amenity can be addressed at Reserved Matters stage to ensure there will be no detrimental impacts of overlooking or overshadowing of neighbouring property, as can the design of the dwelling. I am satisfied that a dwelling can be sited on this site with an acceptable design that will not have a detrimental impact on surrounding residential amenity.

There are no nearby streams or ditches to connect the development to any nearby protected sites. No contamination, human health or ecology issues have been indicated or raised. The site is on flat, stable agricultural land of low biodiversity value. In my view the proposal is of sufficient distance and is of a size, scale and nature that it will not have any conceivable impacts on protected sites including Moyola River or Lough Neagh.

There are no identified historic monuments or buildings nearby.

NIE was identified as a constraint on the Hazard and Constraints section of the planning computer system (Uniform). I consulted NIE for comment and they responded with no objection to the proposal.

<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation:</b> That planning permission can be granted subject to the following conditions.	
<b>Conditions</b>  1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:- i. the expiration of 5 years from the date of this permission; or ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.  Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.  2. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.  Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.  3. The curtilage of the proposed dwelling shall be limited to the hatched area indicated on the approved plan No. 01 which was date stamped received 28th January 2021, including the proposed vehicular access, siting of dwelling and formal garden area.  Reason: To ensure that the development integrates into the landscape.  4. The dwelling hereby permitted shall have a ridge height not more than 7.5m from finished floor level.  Reason: To safeguard existing and proposed residential amenity.  5. The under build of the proposed dwelling shall not exceed 0.45m at any point within its proposed footprint.  Reason: So that the building integrates into the surrounding countryside.  6. 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.	

7. 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 also be identified by new planting, and shall include a mix of hedge and tree planting, to be indicated on the 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.

8. 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.

9. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1 including sight lines of 2.4m by 45m in both directions and a forward sight distance of 45m. 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.

Signature(s)

Date:

ANNEX	
Date Valid	28th January 2021
Date First Advertised	9th February 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 2 Meadowlands,Castledawson,Londonderry,BT45 8EW The Owner/Occupier, 87 Creagh Road,Castledawson,Londonderry,BT45 8EY The Owner/Occupier, 89 Creagh Road,Castledawson,Londonderry,BT45 8EY The Owner/Occupier, 90 Creagh Road,Castledawson,Londonderry,BT45 8EY The Owner/Occupier, 91 Creagh Road Castledawson Londonderry The Owner/Occupier, 93 Creagh Road,Castledawson,Londonderry,BT45 8EY The Owner/Occupier, 95 Creagh Road,Castledawson,Londonderry,BT45 8EY	
Date of Last Neighbour Notification	19th February 2021
Date of EIA Determination	NA





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

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0129/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for dwelling house & double domestic garage.	<b>Location:</b> 40m (approx.) NE of 2 Ballynagilly Road Cookstown Co Tyrone BT80 9SX.
<b>Referral Route:</b>  Contrary to policy and objections received	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr James Harkness Crieve House 91 Loughfea Road Cookstown BT80 9SR	<b>Agent Name and Address:</b> R G Leonard 33 Sessiagh Road Tullyhogue Cookstown BT80 8SN
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

Two objections have been received

The proposal is contrary to the SSPS and policies CTY 1, CTY 2a, CTY 8 and CTY 14 of PPS 21.

### Characteristics of the Site and Area

The site is located within the open countryside, outside any settlement limits as defined by the Cookstown Area Plan. The red line of the application site is located in the north western corner of a larger piece of land which is densely planted with trees. The site sits at a level slightly lower than the road and is a flat piece of land. The site has strong boundaries on all sides given the densely planted woodland on site. The surrounding area is mainly agricultural, with a number of single dwellings located to the west of the site travelling along the ballynagilly road. There is a dwelling located immediately south west of the application and another located to the west.

## Description of Proposal

This is an outline planning application for a proposed site for a dwelling house and double domestic garage 40m NE of 2 Ballynagilly Road, Cookstown.

## Planning Assessment of Policy and Other Material Considerations

The Cookstown Area Plan identifies the site as being outside any defined settlement limits. There are no other specific designations or zonings.

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

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A number of examples are provided in CTY 1 detailing the different cases that would allow for planning permission for a single dwelling in the countryside. However, the proposal does not meet any of the policies listed within CTY 1.

At application stage the agent did not provide any additional information or details as to what policy criteria they want the application to be assessed under however, the proposal does not meet any of the policies listed.

Policy CTY2a relates to planning permission within an existing cluster of development provided it meets all the criteria listed including that the cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads which is not the case. The policy also states that the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster. The site is only bounded on one side. As a result, the proposal fails to meet policy CTY 2a.

Policy CTY 6 states that permission will be granted for a dwelling in the countryside for the long-term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances. No compelling evidence has been provided to be assessed under this policy.

Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a

small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided it respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

In terms of a continuous and built up frontage I am content whilst travelling west of the Ballynagilly Road, No2a, 2, 4 & 6 Ballynagilly Road represents an continuous and built up frontage. However, as there is no development to the east of the site, there is no gap, which can be filled. As a result, the policy fails to meet the exception to Policy CTY8.

No farm information has been provided to allow the application to be assessed under CTY 10.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore, no design details has been submitted however I am of the opinion that an appropriately designed dwelling will not appear prominent in the landscape. Given the strong level of planting existing on site, I am content a dwelling located here would not require additional planting to integrate and a dwelling would blend with the existing landform of strong planting.

Policy CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of the area. I am content that a dwelling in this location would not be a prominent feature in the landscape and a well-designed dwelling would respect the pattern of development. As previously noted the proposal fails under policy CTY 8 in that I do not consider this a gap site between a substantial and continuously built up frontage and as a result it not only would lead to forming ribbon but also result in a change to the rural character. A dwelling at this location would result in a suburban style of build-up of development when viewed with the existing dwellings to the west of the site. I believe the site, which is defined by its strong mature woodlands, represents an important visual break in relation to the other houses along the Ballynagilly Road.

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

DfI Roads were consulted on the planning application and provided conditions to be applied to any approval and that as part of any reserved matters application should show access constructed in accordance with the form RS1.

The main points raised in the objection letters received are that a dwelling located at this application site would impact upon neighbouring amenity in terms of overlooking and overshadowing. However, as this is an outline application these concerns could not be fully assessed, but I do not believe this would be an issue. The objector also raised concerns that a dwelling here would impact on the rural character of the area and this has been addressed within the body of the report above. The objection also raised concerns with road safety however, DfI Roads were consulted and had no objection and I do not believe a single dwelling here would lead to any road safety concerns listed by the objector. Furthermore, the objector states the site is located within an Area of Outstanding Natural Beauty but this is not the case. However the objector raised concerns regarding the loss of habitats for animals in the area including some protected species. I do consider these valid concerns, however as the application is recommended for refusal it was deemed unnecessary to request further information from the applicant and subsequently consult NIEA at this time.

#### **Other Material Considerations**

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

been extended and closed at 5pm on 24th September 2020. In light of this, the draft plan cannot currently be given any determining weight.	
<b>Neighbour Notification Checked</b>	<b>Yes/No</b>
<b>Summary of Recommendation:</b>	
Refusal	
<b>Reasons for Refusal</b>	
<p>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.</p> <p>The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted would add to a ribbon of development resulting in a suburban style build-up and, as such would cause a detrimental change to the rural character of the countryside.</p>	
<b>Signature(s)</b>	
<b>Date:</b>	

ANNEX	
<b>Date Valid</b>	1st February 2021
<b>Date First Advertised</b>	16th February 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 2 Ballynagilly Road Cookstown Tyrone James McCusker 2 Ballynagilly Road, Cookstown, Co Tyrone, BT80 9SX The Owner/Occupier, 2a ,Ballynagilly Road,Cookstown,Tyrone,BT80 9SX The Owner/Occupier, 4 Ballynagilly Road Cookstown Tyrone James McCusker	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2021/0129/O Proposal: Proposed site for dwelling house & double domestic garage. Address: 40m (approx.) NE of 2 Ballynagilly Road, Cookstown, Co Tyrone BT80 9SX., Decision: Decision Date:  Ref ID: I/1993/0376 Proposal: Dwelling Address: 150M WEST OF JUNCTION OF LOUGH FEA ROAD AND BALLYNAGILLY ROAD COOKSTOWN Decision: Decision Date:  Ref ID: I/1989/0179 Proposal: Dwelling Address: 150M WEST OF JUNCTION OF LOUGH FEA ROAD AND BALLYNAGILLY ROAD COOKSTOWN Decision: Decision Date:  Ref ID: I/1989/0416 Proposal: 11 KV Rural Spur Address: BALLYNAGILLY ROAD CREEVE COOKSTOWN Decision: Decision Date:	

Ref ID: I/1994/0396  
 Proposal: Dwelling  
 Address: 150M W OF JUNCTION OF LOUGH FEA ROAD & BALLYNAGILLY ROAD  
 COOKSTOWN  
 Decision:  
 Decision Date:

Ref ID: I/2003/0097/O  
 Proposal: Dwelling and garage (domestic)  
 Address: Site adjacent and to the east of 4 Ballynagilly Road, Cookstown  
 Decision:  
 Decision Date: 23.06.2003

Ref ID: I/2004/0657/O  
 Proposal: Dwelling & Garage  
 Address: 80m (Approximately) South East of 4 Ballynagilly Rd, Cookstown  
 Decision:  
 Decision Date: 08.12.2005

Ref ID: I/2007/0325/RM  
 Proposal: Proposed dwelling and domestic garage  
 Address: Approx 80m south east of 4 Ballynagilly road, Cookstown  
 Decision:  
 Decision Date: 21.08.2007

Ref ID: I/2004/0260/F  
 Proposal: One and a half storey dwelling and garage.  
 Address: East of 4 Ballynagilly Road, Cookstown.  
 Decision:  
 Decision Date: 17.05.2004

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

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

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

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

Date of Notification to Department:  
 Response of Department:



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0191/F	<b>Target Date:</b>
<b>Proposal:</b> Renewal of Planning Permission for provision of 17 town houses, 25 apartments with associated car parking and landscape enhancements	<b>Location:</b> 8 Killyneill Road Dungannon
<b>Referral Route: Approval with Objections</b>	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Mr and Mrs John Quinn 211 Coalisland Road Dungannon	<b>Agent Name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b> This is an in-time renewal application for housing within Dungannon.	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



### Representations:

Letters of Support	None Received
Letters of Objection	8
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### Summary of Issues

-Concern over existing Fir Trees- Retention of tall fir tree boundary causes nuisance to amenity through loss of light, loss of satellite tv reception, nuisance to existing amenity. Concern that the trees will not be managed properly by potential new householders as existing landowner does not maintain them at a manageable height. Concern over trees falling and causing damage to property, roots damage gardens of adjacent properties;

-Issues of overlooking, loss of light, blocking TV reception, loss of privacy and amenity to adjacent properties (especially with HT C dwellings);

-out of character with area;

-distance between existing and proposed development well below standards set in creating places;

-housing density too high for this area at development edge;

-detrimental impacts on existing private amenity;

-concern over existing road network not being able to cope with additional traffic from development, and would pose a road safety risk.

These issues will be considered later in my report.

### Description of proposal

Renewal of Planning Permission for provision of 17 town houses, 25 apartments with associated car parking and landscape enhancements. This proposal is for an in time

renewal of LA09/2015/0918/F which was granted on 14.04.2016. There has been no introduction of any new planning policy from this date.

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

The NW boundary of the site along Laurel View is defined by 8-10m high coniferous hedge line.

The SW boundary of the site is on a moderately sloping site with a mix of non native and native species trees 10 - 12m in height.

The NE boundary is also defined by non native species trees approx 10m in height.

The road side boundary of the site is defined by 5ft high wooden fencing and steep bank sloping downwards towards SE.

The area itself is predominantly residential on the SE side of Dungannon town and on the edge of the settlement limit itself.

The area has detached plots on spacious grounds and newer developed plots with a high to medium density scattered throughout.

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

#### **Planning Act 2011**

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

#### **Area Plan**

The 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. The Council are now preparing to submit 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.

Dungannon and South Tyrone Area Plan 2010 (DSTAP)- this is the extant area plan for the area. This proposal is located within the settlement limit of Dungannon where there is a general presumption in favour of development. The site has no particular land use designation in the Area Plan.

Policy Set1 of the DSTAP states that favourable consideration will be given to development proposals within settlement limits including zoned sites provided certain criteria are met including the following;

- the proposal is sensitive to the size, character and function of the settlement in terms of scale, form, design and use of materials;
- the proposal respects the opportunities and constraints of the specific site and its surroundings and, where appropriate, considers the potential for the creation of a new sense of place through sensitive design;
- there is no significant detrimental affect on amenities;
- there is no significant conflict with recognised conservation interests;

- there are satisfactory arrangements for access, parking and sewage disposal;
- where appropriate, any additional infrastructure necessary to accommodate the proposal is provided by the developer; and
- the proposal is in accordance with prevailing regional planning policy and the policies, requirements and guidance contained in Part 3 of the Plan.

#### Key Planning Policy

SPPS- Strategic Planning Policy Statement for NI

PPS 7 Quality residential environments

PPS 12 - Housing in settlements.

PPS15 revised- planning an flood risk

#### Relevant Planning History

M/2007/1093/F - Approved 29.10.2010 - Provision of 17 No.townhouses, 25

No.apartments with associated car parking and landscape enhancements. Permission granted 11.11.2010

LA09/2015/0918/F- Renewal of Planning Permission (M/2007/1093/F) for provision of 17 Town houses, 25 Apartments with associated car parking and landscape enhancements, permission granted 05.04.2016.

#### Third Party Representations

A number of objections have been received on this application. The issues are summarised as follows;

- Concern over existing Fir Trees- Retention of tall fir tree boundary causes nuisance to amenity through loss of light, loss of satellite tv reception, nuisance to existing amenity. Concern that the trees will not be managed properly by potential new householders as existing landowner does not maintain them at a manageable height. Concern over trees falling and causing damage to property, roots damage gardens of adjacent properties;
- Issues of overlooking, loss of light, blocking TV reception, loss of privacy and amenity to adjacent properties (especially with HT C dwellings);
- out of character with area;
- distance between existing and proposed development well below standards set in creating places;
- housing density too high for this area at development edge;
- detrimental impacts on existing private amenity;
- concern over existing road network not being able to cope with additional traffic from development, and would pose a road safety risk.

These will be considered later in my report.

#### Consideration

This proposal is to renew the 2015 application, which was a renewal of M/2007/1093/F. The 2015 permission considered the introduction of the SPPS, and concluded that PPS 7 remains the applicable policy provision for this type of application in the urban setting and the introduction of SPPS did not change this policy context. This situation remains the same.

Under the 2015 application the following assessment was made;

## PPS 7 - Quality Residential Environments.

PPS 7 is the relevant material planning policy for this type of development in the urban setting. All proposals for residential development will be expected to conform to a number of criteria laid out in the plan. I will deal with these as they appear in the plan.

The first is that 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;

There are a mix of house types throughout the Killyneill Road and Laurel View area. The proposal includes town houses, semi detached and blocks of flats.

The proposal is appropriate to the character and topography of the site in term of layout, scale, proportions and the massing and appearance of the buildings. There are town houses and semi detached dwellings to the immediate north and south of the proposed site.

Features of the archaeological and built heritage, and landscape features should be identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development. I am satisfied that there are no such designations to protect in the immediate vicinity of either site applied for.

No features of archaeological or built heritage importance are shown as being located in the immediate area.

PPS 7 QD1 also requires that adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;

I have measured the private open space provision for the units, this provision albeit at a lower density than that approved is still well within the ambit of the requirements of PPS 7. The public open space provision remains satisfactory for the proposal, in compliance with the standards as set out in 'Creating Places'.

Adequate provision shall be made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development; footpath provision has been supplied, linking the development to the town centre footpath network.

QD1 also requires 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;

Transport Ni have been consulted for opinion and as per the 2007 approval have no objection subject to condition. The proposal is on a main traffic route to town centre a short distance away, where footpath provision is provided to town centre.

The design of the development must draw upon the best local traditions of form, materials and detailing, in this instance, I consider that the proposal does reflect the surrounding design context for this urban area.

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 - it is critical that these are conditioned to be retained however and protected during construction; and

The design will not create conflict with adjacent land uses which are all residential. Separation distances are considered adequate, these have been also assessed in the 2007 approval.

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

The development is considered to be designed to deter crime and promote personal safety.

PPS 12 - Housing in Settlements.

PCP 1 - Increased Housing Density without Town Cramming

PCP 1 advocates an increase in the density of housing development should be promoted in town and city centres and other locations which benefit from high accessibility to public transport facilities.

When considering an increase in housing density in established residential areas, great care should be taken to ensure that local character, environmental quality and amenity are not significantly eroded and that the proposed density, together with the form, scale, massing and layout of the new development will respect that of adjacent housing and safeguard the privacy of existing residents.

As stated above, I do not consider the local character of Killyneill Road will be affected nor the environmental quality and amenity would be significantly eroded. The adjacent housing context will be respected and adequate boundaries are in place to ensure the privacy of existing residents is safeguarded.

In residential areas of distinctive townscape character an increase in density should only be allowed in exceptional circumstances.

The design is same as before , set in same policy context and therefore acceptable.

The Strategic Planning Policy Statement for NI

The new SPPS points largely towards Regional strategic objectives of the Regional Development Strategy 2035 of trying to achieve sustainable patterns of residential development, supporting urban and rural renaissance and strengthening community cohesion. The SPPS advises in preparation of Area Plans housing policy approach should deliver increased housing density without town cramming; reduce use of greenfield sites for housing, good design should be promoted and also promoting variety

of house types and sizes (balanced communities). I consider that the proposal does comply with all of the above and is within the spirit of the new policies of the SPPS.

### **Other Considerations**

NIW were consulted on this application and raise no objection for the connection of this development to the existing WWTW at Dungannon.

In relation to the objections received, issues of impacts on existing and proposed residential amenity, overlooking, overshadowing, over dominance, character, density and road safety have all been considered under the processing of the previous application and were found to be acceptable. As these policy considerations were taken into account, and regional policy remains the same, I find that these objections are not determining to the outcome of this proposal in this case.

In relation to the high fir trees, this is a third party dispute between the objectors and the land owner. There is legislation that covers this, the High Hedges Act (Northern Ireland) 2011, which is enforced by the Council Authority and is a separate issue from the planning function. Landscaping was considered under the previous applications and was found to be acceptable. I find no reason to revise this landscaping scheme which in my view should be granted as before.

No land contamination has been identified on this site.

### **Neighbour Notification Checked**

**Yes/No**

### **Summary of Recommendation:**

In my view, this proposal should be granted permission as before with the same conditions as attached to LA09/2021/0191/F, which are listed below;

### **Conditions**

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

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

2. Prior to the occupation of 50% of the dwelling units/apartments hereby approved, the developer shall construct, layout and plant all landscaped and open space areas (including all peripheral planting) as indicated on the approved plans, Drawing No. 06 (REV 2) (Landscape Proposal) date received 29th June 2010 and Drawing No. 31 (Management Company Areas) date received 29th June 2010. The trees indicated within individual plots shall be planted during the first available planting season after the occupation of any dwelling on the plot. These trees shall be retained and maintained by the owner of the plot and the condition referring to such retention and maintenance shall be placed as a condition of the sale of the plot.

All hard and soft landscaping works shown on the approved plans shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape to aid the integration of the development into the local landscape in a timely manner and to assist in the provision of a quality residential environment in accordance with PPS7 Quality Residential Development and PPS8 Open Space, Sport and Outdoor Recreation.

3.No dwelling unit/apartment hereby approved shall be occupied until Mid Ulster Council agrees in writing that an acceptable Management and Maintenance Agreement has been signed and put in place with an appropriate management company for all areas of public open space and landscaping as identified in condition No.02 (see informative no.01).

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

4.Areas of designated open space as referred to in Condition No.03 shall be continue to be managed and maintained in accordance with the provisions of the 'Landscape Management & Maintenance Plan' (stamped as drawing No.05) date stamped received 16th February 2010 unless otherwise agreed in writing with the Council.

Reason: To ensure that open space provided, is managed and maintained in accordance with Planning Policy Statement 7 (PPS 7) Quality Residential Environments and Planning Policy Statement 8 (PPS 8) Open Space, Sport and Outdoor Recreation.

5.Prior to the occupation of each individual dwelling hereby approved, the boundary treatments defining each curtilage shall be constructed as detailed on Drawing No's. 06 (REV 2) (Landscape Proposal) date received 29th June 2010 and 13 (REV 3) (Proposed Details) date received 17th May 2010.

Reason: To ensure that boundary treatments are provided in a timely manner to assist in the provision of a quality residential environment in accordance with PPS7 (Quality Residential Environments).

6.If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge as shown on Drawing No. 06 (REV 2) (Landscape Proposal) date received 29th June 2010 is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.

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

7.The existing mature trees and vegetation as identified on Drawing No. 04 (REV-2) received on 29th June 2010 shall be retained. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary

to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual amenity.

8. Prior to the commencement of any other site works all existing trees to be retained shall be fenced off, as detailed on drawing No.04 (REV-2) received 29th June 2010. These works shall be undertaken before any equipment, machinery or materials are brought on to the site for the purposes of the development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within these areas shall not be altered, nor shall any excavation be made or any other works carried out, or fires lit without the prior written consent of the Council.

Reason: To ensure the protection of trees and other vegetation to be retained and to ensure the continuity of amenity afforded by existing trees.

9. The visibility splays of 2.4 metres by 51 metres east and 2.4 metres by 62 metres west at the junction of the proposed housing access road with the public road, shall be provided in accordance with the approved plans, prior to the commencement of any works or other development.

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

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

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

11. The gradient of the private accesses 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.

### **Private Street Conditions**

PSC01. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

No part of the development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing No 28 (REV-2) bearing the date stamp 16th November 2009. The Department hereby attaches to the determination a requirement



under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

PSC02.                    The Private Streets (Northern Ireland) Order 1980

The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 28 (REV-2) bearing the date stamp 16th November 2009.

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

#### Informatives

1.This permission is a renewal of LA09/2015/0918/F which was granted 06/04/2016. LA09/2015/0918/F is a renewal of M/2007/1093/F which was granted 11/11/2010. Stamp approved drawings and documents relating to these earlier permission are relevant to this permission.

2.In order to comply with condition 3, the arrangements for the future management and maintenance in perpetuity of areas of public open space acceptable to Mid Ulster Council include:

a)a legal agreement transferring ownership of and responsibility for the open space to the local district council; or

b)a legal agreement transferring ownership and responsibility for the open space to a charitable trust registered by the Charity Commission or a management company supported by such a trust; or

c)a legal agreement transferring ownership of and responsibility for the open space to a properly constituted residents' association with associated management arrangements. Evidence should be submitted to MUC to include:

Articles of Association Memorandum of understanding, and  
Evidence of registration of the company

If an alternative approach to those outlined above is to be followed, it should be demonstrated how the approach can meet the policy requirement for open space to be managed and maintained in perpetuity.

In all cases, the developers will be responsible for the laying out and landscaping of public open space required.

3. NIEA has no objections as long as Northern Ireland Water Limited (NIW) is content that the additional load will not compromise its compliance with the Urban Wastewater Directive Standards and the EHS Registered Standard.

WMU recommends the following measures be incorporated:

In order to decrease the risk of the incorrect diversion of 'foul' sewage to drains carrying rain/surface water each building shall be provided with such sanitary pipework, foul drainage and rain-water drainage as may be necessary for the hygienic and adequate disposal of foul water and rain-water separately from that building. The drainage system should also be designed to minimize the risk of wrongly connecting the 'foul' sewage system to the rain-water drainage system, once the buildings are occupied.

The buildings associated with this planning application should not be occupied unless the necessary sewage infrastructure is in place to transfer foul sewage to a Northern Ireland Water (NIW) sewer in an acceptable manner or a private wastewater treatment facility consented by NIEA. It should be noted that NIEA does not favour existing sewerage infrastructure being utilized in such a way as to act as a temporary 'cesspit'. Where a temporary 'cesspit' is to be utilised, it should be designed in accordance with current 'best practice' and any transfer or movement of sewage, by tanker or other means, shall be carried out in accordance with The Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002.

The storm drainage of the site should be designed to the principles of Sustainable Drainage Systems (SuDS) in order to minimise the polluting effects of storm water on waterways.

Construction of SuDS should comply with the design and construction standards as set out in the CIRIA manual C697.

Any oil tanks serving the houses and apartments should be bunded. Pollution Prevention Guideline (PPG2).

The applicant complies with the attached Pollution Prevention Guidelines (PPG5 and 6) in order to minimise the impact of the construction phase of the project on the environment. It should be noted that several SuDS features may be useful pollution prevention measures during the construction phase.

The attached copy of PPG2, 5 and 6 is forwarded to be read in conjunction with the above comments.

Should a sewage pumping station be required for this development then the applicant must apply to NIEA WMU for a Water Order (1999) consent for an 'emergency overflow'.

The applicant should be connected to the main sewerage system.

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

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

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	10th February 2021
<b>Date First Advertised</b>	23rd February 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Coolhill Mews,Dungannon,Tyrone,BT71 6UG The Owner/Occupier, 11 Killyneill Road,Dungannon,Tyrone,BT71 6LL The Owner/Occupier, 11 Laurel View,Dungannon,Tyrone,BT71 6UA The Owner/Occupier, 12 Killyneill Road,Dungannon,Tyrone,BT71 6LL The Owner/Occupier, 21 Laurel View,Dungannon,Tyrone,BT71 6UA Paul Fenton 23 Laurel View,Dungannon,Tyrone,BT71 6UA Jonathan Birnie 25 Laurel View,Dungannon,Tyrone,BT71 6UA Deborah Buckley 27 Laurel View, Dungannon, Tyrone, Northern Ireland, BT71 6UA The Owner/Occupier, 27 Laurel View,Dungannon,Tyrone,BT71 6UA The Owner/Occupier, 29 Laurel View,Dungannon,Tyrone,BT71 6UA The Owner/Occupier, 7 Killyneill Road,Dungannon,Tyrone,BT71 6LL Ivan Boyd 7 Laurel View,Dungannon,Tyrone,BT71 6UA The Owner/Occupier, 7 Laurel View,Dungannon,Tyrone,BT71 6UA	

The Owner/Occupier, 8 Killyneill Road,Dungannon,Tyrone,BT71 6LL Mark Gilpin 9 Laurel View,Dungannon,Tyrone,BT71 6UA Jonathan Birnie Email Address Paul Fenton Email Address Mark Gilpin Email Address	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No



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

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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 04/05/2021	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0196/O	<b>Target Date:</b>
<b>Proposal:</b> Erection of dwelling (6.5m Max. Ridge Height) and domestic garage in a gap site under CTY 8 of PPS 21.	<b>Location:</b> Land between No's 1 & 3 Dunamoney Road Dungannon Co Tyrone.
<b>Referral Route:</b> The proposal is contrary to policy CTY 8 – Ribbon Development in PPS 21 – Sustainable Development in the Countryside in that there is not three or more buildings with a frontage to the road on either side of the application site. However I consider the proposal should be considered as an exception to policy.	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Sean Mallon 3 Dunamoney Road Dungannon BT70 1PA	<b>Agent Name and Address:</b> Bernard J Donnelly 30 Lismore Road Ballygawley BT70 2ND
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Characteristics of the Site and Area

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is semi-rural in character and is characterised by agricultural fields, scattered farm holdings and dwellings on single plots. Along adjoining roads there are a number of dwellings with a roadside frontage or set back along a lane. The site is 110m south east of the T-junction between Legilly Road and Dunamoney Road. Along this stretch of Dunamoney Road on the same side of the road as the site there are at least seven other dwellings.

The application site is a cut-out of an existing agricultural field and is 0.2 hectares in size. The plot has a long rectangular shape and the topography rises up steeply from the meeting with the road to the back of the site. Along the west boundary with No. 1 there is a mix of post and wire fence, trees and low hedging. Along the east boundary with No. 3

there is a post and wire fence and a lane that runs to the agricultural field to the south. Along the roadside boundary there is a wooden close boarded fence.

### **Description of Proposal**

This is an outline application for the erection of a dwelling and domestic garage in a gap site under CTY 8 in PPS 21 at lands between 1 and 3 Dunamoney Road Dungannon.

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

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

### **Representations**

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

### **Planning History**

No recent planning histories at the application site.

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

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

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

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

### **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.

The proposal does not meet the criteria in CTY 2a as the site is not located at a crossroads or a focal point.

There is no dwelling on the application site that could be replaced so the proposal does not meet CTY 3.

The applicant has asked specifically in the description that the proposal is considered under CTY 8 so the remainder of the assessment will be against this policy.

At the T-junction there is a lane for a dwelling at No. 1a but this dwelling and its curtilage is set back from the road by 102m. No. 1a does not have a frontage as it is a field that fronts onto the road. To the east of the access lane to No. 1a is also a field. Abutting the curtilage of the application site is the curtilage of No. 1 which has a single storey dwelling fronting on the road. I am content the garden fronts onto the road and can be considered a frontage.

Abutting the east boundary of the site is the curtilage of No. 3 which is also a single storey dwelling. I am content No. 3 has a garden which fronts onto the Dunamoney Road.

Abutting the boundary of No. 3 is another field and behind the field is the curtilage of No. 7 which is a single storey dwelling. I consider No. 7's garden does not have a frontage onto the road and there is only the access lane. On the east side of the access lane is a portion of land which does front onto the road. The land comprises a building and is being used as an allotment. A check on planning histories show this portion of land did not form part of the original curtilage of No. 7 and it is not known if this portion of land is associated with No. 7.

No. 9, to the east of the garden of No. 7, comprises a single storey dwelling with a garden which has a frontage to the Dunamoney Road. To the south east of No. 9 is a field and abutting the boundary is a single storey dwelling with another frontage to the road.

On balance, the application site is located within a row of dwellings but is not within a continuous frontage of a line of three or more buildings with a frontage to the road. In summary, No. 1 and No. 3 have dwellings which have a frontage to the road but No. 7 does not have a garden frontage to the road. There is a small area to the southeast of No. 7's lane which is used for growing horticulture. To the east of No. 7 are dwellings No. 9 and No. 13 which have a frontage to the road. Along this side of Dunamoney Road there are three or more buildings with a frontage to the road and I am content there is substantial and built-up frontage along this road. However, the frontages are not continuous and there are gaps such as the field in front of No. 7. Paragraph 5.33 in the amplification of CTY 8 does state a ribbon does not necessarily have to have a uniform or continuous building line and gaps between can represent a common frontage if they are visually linked.

No. 1 has a frontage width of 32m and No. 3 has a frontage of 62m, while the application site has a frontage of 20m at the roadside but widens as you travel to the rear boundary. No. 7 does not have a frontage to the road. The building and gardening plot to the south of No. 7 has a frontage of 21m and No. 9 has a frontage of 27m. No. 13 at the end of this row of dwellings has a frontage of 48m.

This proposed site has a slightly smaller roadside frontage than what is existing for other dwellings along this side of the road so would not meet the criteria in CTY 8 in that the proposal must respect the existing development pattern in terms of plot size. However, I consider the members should take into account that there are other modest single storey dwellings along this roadside frontage so a modest dwelling in this plot would be in situ with the surrounding area. The applicant has shown an indicative location for the proposed dwelling as shown on Drawing 02 date stamped 12 APR 2021.





Figure 1 – photograph of the application site and the dwelling is proposed behind the gable wall of the dwelling at No. 1 as shown above.

### PPS 3 Access, Movement and Parking

DFI Roads were consulted as a new access is proposed at the site and they responded with no objections subject to conditions that a 1:500 block plan is submitted at Reserved Matters Stage.

I have no ecological, built heritage, flooding or residential amenity concerns.

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

### Summary of Recommendation:

The proposal is recommended for approval as it complies with CTY 8 in PPS 21.

### Conditions:

1. The development to which this approval related must be begun by whichever is the later of the following dates: -
  - i. The expiration of a period of 5 years from the grant of outline planning permission;
  - or
  - ii. The expiration of a period of 2 years from the date hereof.

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

2. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 45m in both directions shall be provided in

accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

3. 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.

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

Reason: To ensure the dwelling integrates into the landform and to ensure resident's privacy is not adversely affected.

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

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

### **Informatives**

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

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

3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or any other statutory authority.

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

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

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

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

It is the responsibility of the developer to ensure that

- Surface water does not flow from the site onto the public road
- The existing roadside drainage is accommodated and no water flows from the public road onto the site
- Surface water from the roof of the development hereby approved does not flow onto the public road, including the footway
- The developer should note that this planning approval does not give consent to discharge water into a Transportni drainage system.

**Signature(s)**

**Date:**



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0202/O	<b>Target Date:</b>
<b>Proposal:</b> Site for dwelling & garage.	<b>Location:</b> Lands adjacent & 30m North of No.10 Tullydowey Road Moyard Dungannon Tyrone BT71 7QB.
<b>Referral Route:</b> Objection received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Daniel Donnelly 26 Milltown Road Benburb Tyrone BT71 7NJ	<b>Agent Name and Address:</b> Stephen Hughes NI Planning Consultants 45b Magheraville Road Armagh BT60 3PP
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

One objection has been received in relation to this application from the owner of number 10 Tullydowey road.

They raised a number of concerns;

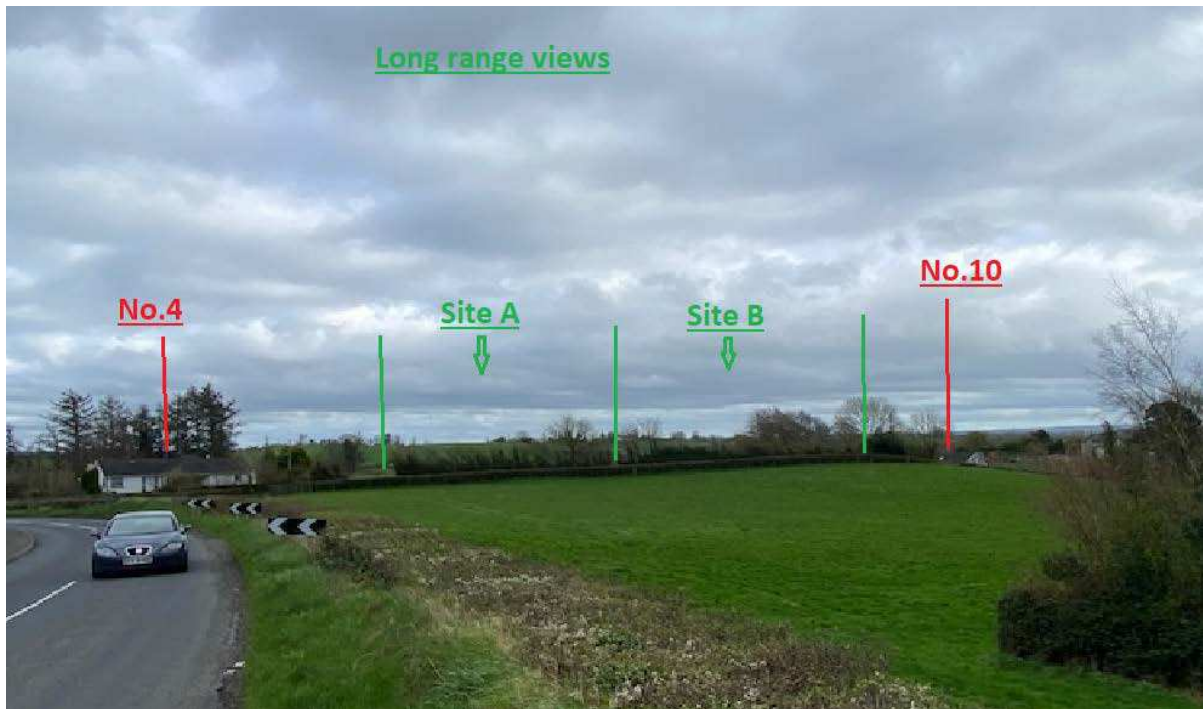
- Overlooking and loss of privacy;
- Increased traffic and insufficient road infrastructure;
- Out of character of the area;



## Characteristics of the Site and Area

The site lies in the open countryside just a short distance to the East of the settlement limits of Benburb and outside all other areas of constraint as depicted by the DSTAP 2010.

The site includes the South Western corner of a larger agricultural field located just to the north of number 10 Tullydowey road, Benburb. The site is bounded on the south (boundary with no.10) and west (roadside) by a row of mature trees and the remaining boundaries are undefined on the ground. The site is relatively flat with a gentle rise from the roadside to the rear east. There is an agricultural gate to access the field in the North corner.



The Tullydowey road changes direction from heading south to heading east just past the site, this means that the dwelling at number 10s rear elevation faces the site.



## Description of Proposal

The proposal seeks outline planning permission for an infill site as part of a double application.

## Planning Assessment of Policy and Other Material Considerations

Regional Development Strategy  
Dungannon and South Tyrone Area Plan (DSTAP) 2010  
PPS3  
PPS21

- Policy CTY 1 - Development in the Countryside
- Policy CTY 8 - Ribbon development
- Policy CTY 13 - Integration and Design
- Policy CTY 14 - Rural character

Strategic Planning Policy Statement (SPPS)

The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within retained policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. The SPPS retains PPS21: Sustainable Development in the Countryside and PPS 3: Access, Movement and Parking which are relevant policies under which the proposal should be considered

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

### Objections / comment received from 3rd Parties;

One objection has been received in relation to this application from the owner of number 10 Tullydowey road.

They raised a number of concerns;

Overlooking and loss of privacy;

Increased traffic and insufficient road infrastructure;

Out of character of the area;

### Consideration of objections;

The site does sit on a more elevated position than the dwelling at number 10, however, there is a decent boundary vegetation between the two plots, In my opinion a decent landscaping plan, a ridge height restriction of 5.5 metres and a siting condition to ensure at least a 10 metre buffer between any approved dwelling and No.10 would eliminate these concerns.

With regards to the traffic and road infrastructure issues, whilst the road is a narrow country lane it is not uncommon to the majority of country lanes found all over the district, in addition DFI Roads have been consulted and have responded with no objection subject to conditions.

In response to the points raised about the impact on the character of the area due to an increased number of dwellings in recent times along the Tullydowey Road, this site complies to

planning policy cty8 in the fact that it is considered a gap site, it is my opinion that it will not create or add to an existing ribbon of development and will have very little impact on the character of the area.



Policy CTY8 is to prevent ribbon development although it does allow development within gap sites. To the North of number 10 Tullydowey road, there is a gap of approx. 110 metres building to building or 100 metres plot frontage. The red line of the site for this application includes the southern half of the gap. The site lies in the middle of a dwelling and outbuilding to the North, and three dwellings and an outbuilding to the south. In my opinion this row constitutes the definition of a substantially built up frontage. The gap between the frontages of development is approx. 105 metres and is therefore sufficient to accommodate no more than 2 dwellings when taking into account existing plots sizes of between 43m and 75m and the roadside frontage size of surrounding dwellings. I consider the proposal complies with the exception in policy CTY8 of PPS21.





Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I consider that a dwelling could blend in successfully with its immediate and wider surroundings if it were of a size and scale that is comparable to the dwellings and other buildings in the vicinity. Furthermore as this site has existing buildings on one side and decent boundary vegetation along the front and side, it is considered that the site has the capacity to absorb a dwelling of a suitable size and scale. I have no concerns regarding integration albeit imposing a ridge height restriction of 5.5 metres and landscaping to the North and east boundaries and a siting condition to ensure a decent separation distance of at least 15 metres building to building, see area shaded yellow below.



In terms of policy CTY14 planning permission will only be granted for a building in the countryside where it is not a prominent feature, does not cause a detrimental change to, or further erode the rural character of an area. It is considered that the site and its surrounding environs are suitable for absorbing a dwelling of a suitable size and scale. I would recommend imposing a height of 5.5 metres and landscaping to the rear and side of the application site.

Accordingly, this application accords with the provisions of current Planning Policy and can therefore it is my recommendation to present to the planning committee as Approval.

**Neighbour Notification Checked**

**Yes**

### Conditions

1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-  
i. the expiration of 5 years from the date of this permission; or

ii.the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

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

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

3. Prior to commencement of any development hereby approved, the vehicular access as detailed in the attached form RS1, including visibility splays of 2.4mx 35.0m in both directions and forward sight distance of 35.0m, shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter

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

4.The proposed dwelling shall have a ridge height of less than 5.5 metres above finished floor level.

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21.

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

Reason: In the interest of visual amenity.

6.The proposed dwelling shall be sited in the area shaded yellow on the approved plan date stamped 08 FEB 2021.

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21 and to preserve the amenity and privacy of the adjoining dwelling.

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

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

**Informatives**

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

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

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

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

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

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	12th February 2021
<b>Date First Advertised</b>	23rd February 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 10 Tullydowey Road Dungannon Tyrone Keith Lavery 10, Tullydowey Road, Dungannon, Tyrone, Northern Ireland, BT71 7QB The Owner/Occupier, 12 Tullydowey Road Dungannon Tyrone The Owner/Occupier, 14 Tullydowey Road Dungannon Tyrone The Owner/Occupier, 4 Tullydowey Road Dungannon Tyrone	
<b>Date of Last Neighbour Notification</b>	26th February 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2021/0202/O Proposal: Site for dwelling & garage. Address: Lands adjacent & 30m North of No.10 Tullydowey Road, Moyard, Dungannon, Tyrone BT71 7QB., Decision: Decision Date:  Ref ID: LA09/2021/0203/O Proposal: Site for dwelling & garage. Address: Lands adjacent & 30m South of No 4 Tullydowey Road, Moyard, Dungannon Co Tyrone BT71 7QB., Decision: Decision Date:  Ref ID: M/1993/0398 Proposal: Proposed Domestic Garage Address: 10 TULLYDOWEY ROAD BENBURB Decision:	

Decision Date:

Ref ID: M/1986/0671

Proposal: REPLACEMENT BUNGALOW

Address: NO 10 TULLYDOWEY ROAD, MOYARD, BENBURB, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1993/6071

Proposal: Erection of 2 No. Dwellings Adjacent to 4 Tullydowney Road Benburb

Address: Adjacent to 4 Tullydowney Road Benburb

Decision:

Decision Date:

Ref ID: M/1994/0126B

Proposal: Erection of Dwelling

Address: 30M EAST OF NO. 10 TULLYDOWEY BENBURB

Decision:

Decision Date:

Ref ID: M/1994/0126

Proposal: Proposed Bungalow

Address: 30M EAST OF NO. 10 TULLYDOWEY ROAD BENBURB (REVISED SCHEME)

Decision:

Decision Date:

Ref ID: M/1981/0325

Proposal: ERECTION OF 2 NO DWELLINGS

Address: MOYARD, BENBURB

Decision:

Decision Date:

### **Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



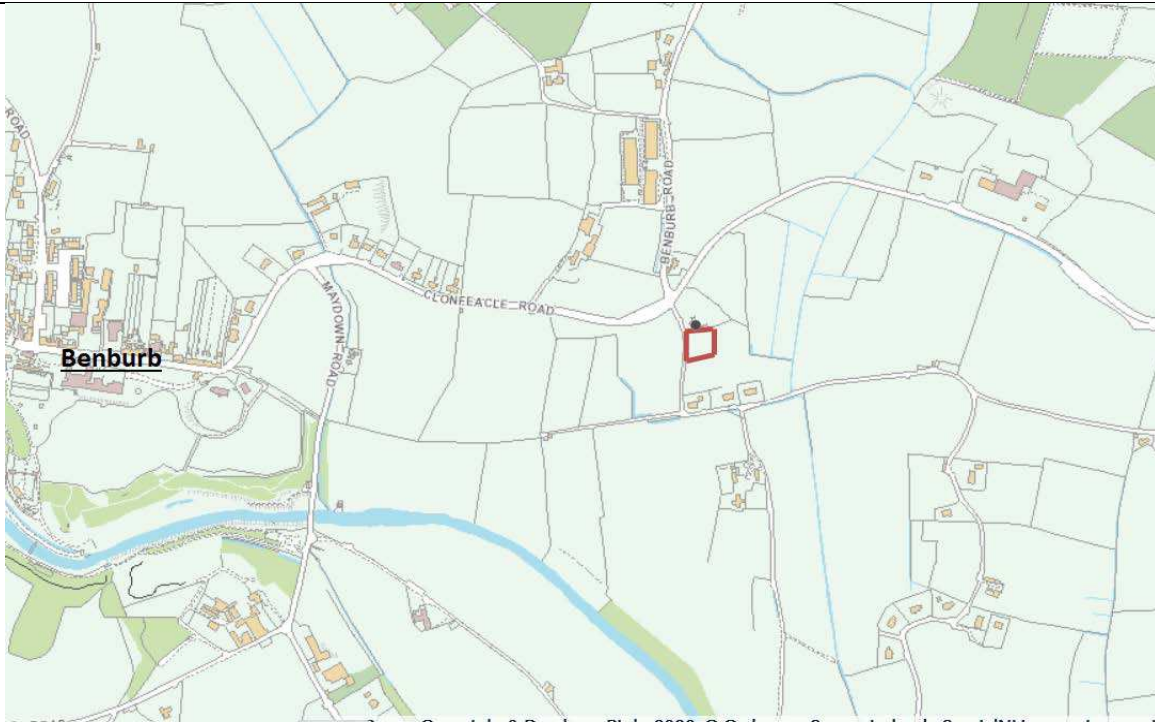
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0203/O	<b>Target Date:</b>
<b>Proposal:</b> Site for dwelling & garage.	<b>Location:</b> Lands adjacent & 30m South of No 4 Tullydowey Road Moyard Dungannon Co Tyrone BT71 7QB.
<b>Referral Route:</b> Objection received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Daniel Donnelly 26 Milltown Road Benburb tyrone BT71 7NJ	<b>Agent Name and Address:</b> Stephen Hughes NI Planning Consultants 45b Magheraville Road Armagh BT60 3PP
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

One objection has been received in relation to this application from the owner of number 10 Tullydowey road.

They raised a number of concerns;

- Overlooking and loss of privacy;
- Increased traffic and insufficient road infrastructure;
- Out of character of the area;

### Characteristics of the Site and Area

The site lies in the open countryside just a short distance to the East of the settlement limits of Benburb and outside all other areas of constraint as depicted by the DSTAP 2010.



The site includes the North Western corner of a larger agricultural field located just to the north of number 10 Tullydowey road, Benburb. The site is bounded on the North (boundary with no.4) and west (roadside) by a row of mature trees and the remaining boundaries are undefined on the ground. The site is relatively flat with a gentle rise from the roadside to the rear east. There is an agricultural gate to access the field in the North corner.



### Description of Proposal

The proposal seeks outline planning permission for an infill site as part of a double application.

### Planning Assessment of Policy and Other Material Considerations

Regional Development Strategy  
 Dungannon and South Tyrone Area Plan (DSTAP) 2010  
 PPS3  
 PPS21

- Policy CTY 1 - Development in the Countryside
- Policy CTY 8 - Ribbon development
- Policy CTY 13 - Integration and Design
- Policy CTY 14 - Rural character

Strategic Planning Policy Statement (SPPS)

The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within retained policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. The SPPS retains PPS21: Sustainable Development in the Countryside and PPS 3: Access, Movement and Parking which are relevant policies under which the proposal should be considered

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

Objections / comment received from 3rd Parties;

One objection has been received in relation to this application from the owner of number 10 Tullydowey road.

They raised a number of concerns;

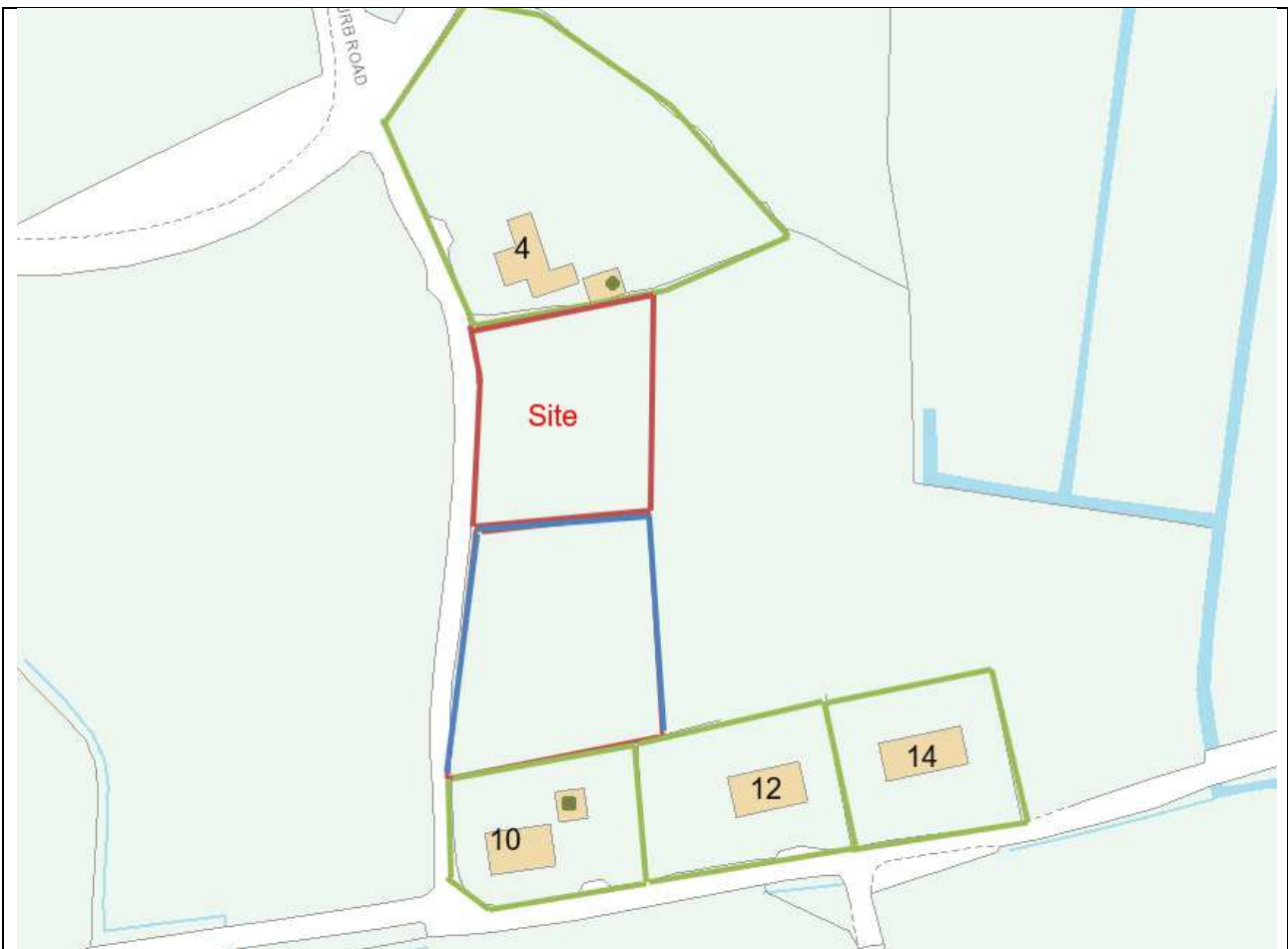
- Overlooking and loss of privacy;
- Increased traffic and insufficient road infrastructure;
- Out of character of the area;

Consideration of objections:

The site does sit on a more elevated position than the dwelling at number 10, however, there is a decent boundary vegetation between the two plots, This particular site is not the main concern for the objector, however, In my opinion a decent landscaping plan, a ridge height restriction of 5.5 metres and a siting condition to ensure at least a 10 metre buffer between any approved dwelling on the adjacent site and No.10 would eliminate these concerns.

With regards to the traffic and road infrastructure issues, whilst the road is a narrow country lane it is not uncommon to the majority of country lanes found all over the district, in addition DFI Roads have been consulted and have responded with no objection subject to conditions.

In response to the points raised about the impact on the character of the area due to an increased number of dwellings in recent times along the Tullydowey Road, this site complies to planning policy cty8 in the fact that it is considered a gap site, it is my opinion that it will not create or add to an existing ribbon of development and will have very little impact on the character of the area.



Policy CTY8 is to prevent ribbon development although it does allow development within gap sites. To the South of number 4 Tullydowey road, there is a gap of approx. 110 metres building to building or 100 metres plot frontage. The red line of the site for this application includes the Northern half of the gap. The site lies in the middle of a dwelling and outbuilding to the North, and three dwellings and an outbuilding to the south. In my opinion this row constitutes the definition of a substantially built up frontage. The gap between the frontages of development is approx. 105 metres and is therefore sufficient to accommodate no more than 2 dwellings when taking into account existing plots sizes of between 43m and 75m and the roadside frontage size of surrounding dwellings. I consider the proposal complies with the exception in policy CTY8 of PPS21.



Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I consider that a dwelling could blend in successfully with its immediate and wider surroundings if it were of a size and scale that is comparable to the dwellings and other buildings in the vicinity. Furthermore as this site has existing buildings on one side and decent boundary vegetation along the front and side, it is considered that the site has the capacity to absorb a dwelling of a suitable size and scale. I have no concerns regarding integration albeit imposing a ridge height restriction of 5.5 metres and landscaping to the South and east boundaries and a siting condition.

In terms of policy CTY14 planning permission will only be granted for a building in the countryside where it is not a prominent feature, does not cause a detrimental change to, or further erode the rural character of an area. It is considered that the site and its surrounding environs are suitable for absorbing a dwelling of a suitable size and scale. I would recommend imposing a height of 5.5 metres and landscaping to the rear and side of the application site.

Accordingly, this application accords with the provisions of current Planning Policy and can therefore be determined under the Councils present scheme of delegation.

**Neighbour Notification Checked**

**Yes**



## Conditions

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

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

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

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

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

3.A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.

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

4.The proposed dwelling shall have a ridge height of less than 5.5 metres above finished floor level.

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21.

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

Reason: In the interest of visual amenity.

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

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

## Informatives

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

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

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

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

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

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	12th February 2021
<b>Date First Advertised</b>	23rd February 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 10 Tullydowey Road Dungannon Tyrone The Owner/Occupier, 12 Tullydowey Road Dungannon Tyrone The Owner/Occupier, 14 Tullydowey Road Dungannon Tyrone The Owner/Occupier, 4 Tullydowey Road Dungannon Tyrone	
<b>Date of Last Neighbour Notification</b>	26th February 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2021/0203/O Proposal: Site for dwelling & garage. Address: Lands adjacent & 30m South of No 4 Tullydowey Road, Moyard, Dungannon Co Tyrone BT71 7QB., Decision: Decision Date:  Ref ID: M/1993/6071 Proposal: Erection of 2 No. Delling's Adjacent to 4 Tullydowney Road Benburb Address: Adjacent to 4 Tullydowney Road Benburb Decision: Decision Date:  Ref ID: M/1994/0126 Proposal: Proposed Bungalow Address: 30M EAST OF NO. 10 TULLYDOWEY ROAD BENBURB (REVISED SCHEME) Decision: Decision Date:  Ref ID: LA09/2021/0202/O Proposal: Site for dwelling & garage.	

Address: Lands adjacent & 30m North of No.10 Tullydowey Road, Moyard, Dungannon,  
Tyrone BT71 7QB.,  
Decision:  
Decision Date:

Ref ID: M/1981/0325  
Proposal: ERECTION OF 2 NO DWELLINGS  
Address: MOYARD, BENBURB  
Decision:  
Decision Date:

Ref ID: M/1978/0653  
Proposal: EXTENSION TO EXISTING DWELLING  
Address: TULLYDOWEY, BENBURB  
Decision:  
Decision Date:

**Drawing Numbers and Title**

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

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:





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

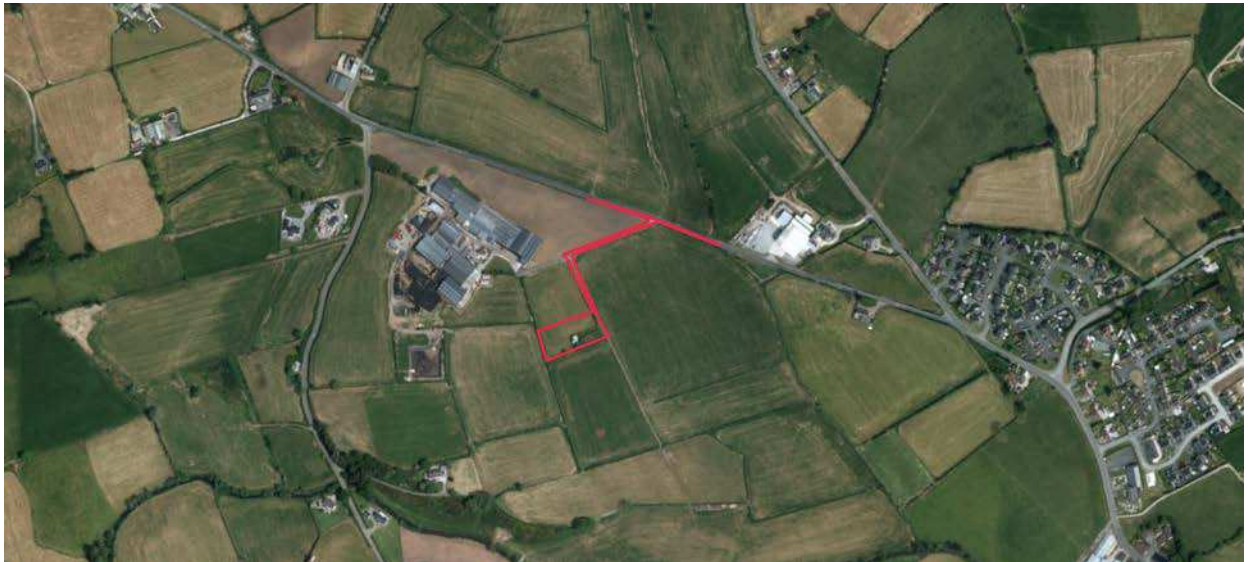
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0228/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed Replacement Dwelling	<b>Location:</b> 12 Agharan Road Newmills Dungannon
<b>Referral Route: Contrary to previous Department of the Environment decision</b>	
<b>Recommendation: Approve</b>	
<b>Applicant Name and Address:</b> Brian and Pamela Brodison 31 Mineveigh Road Newmills Dungannon	<b>Agent Name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Non Statutory	DETI - Geological Survey (NI)	No Objection

<b>Representations:</b>	
Letters of Support	None Received
Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### **Description of Proposal**

This is a full planning application for a replacement dwelling in substitution for a replacement dwelling previously approved under LA09/2016/0024/F.

LA09/2016/0024/F on the 1<sup>st</sup> June 2016 granted full permission for a replacement dwelling with attached garage. The dwelling to be replaced was no. 12 Agharan Rd. This dwelling still exists on site.

LA09/2016/0024/F granted a 1 ½ storey dormer dwelling. The dwelling had a simple rectangular floor plan and pitched roof construction (7.1m ridge height above FFL) with 3 dormers in its front elevation (out of wall plate) facing east towards the Agharan Rd; a small pitched roof front porch; and rear return offset to its north gable with attached double garage to its north side. Whilst this dwelling was larger than the dwelling it was to replace, with the exception of its rear return and garage, it was situated on its' footprint.



**Fig 1: Floor plans and elevations of dwelling approved under LA09/2016/0024/F**

Changes proposed to previous scheme LA09/2016/0024/F under this application include:

- Reposition of the dwelling within the site – set back to the rear of the existing dwelling.
- Removal of garage
- 1m increase in ridge height to accommodate full 2 storey to the main house (8.1m ridge height above FFL).
- Reduction in rear return size
- Removal of pitched roof front porch
- Reduction in gable depth



*Fig 2: Floor plans and elevations of dwelling proposed under current application*

Access to the dwelling is to remain as previously approved via an existing unaltered access unto the public Agharan Rd.

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

The site is located approx. 0.8km to the NW of the Village of Newmill's as defined in Dungannon and South Tyrone Area Plan 2010.

The site is set back approx. 170m from; and accessed off the public Agharan Road, located to its east, via an existing laneway. The site comprises an existing single storey unoccupied dwelling and its associated curtilage, plus part of an agricultural field to the north and west.



The dwelling is fully intact but in a rundown / dilapidated state. Mature hedgerows define the boundaries of this site with the exception of the NW boundary, which is undefined.

An existing farm grouping accessed via the same laneway exists on elevated lands to the NW of the application site. The area is rural in character and defined primarily by undulating agricultural land, detached residential properties and farm holdings. The village of Newmills is located and visible to the SE.

### **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 (RDS)  
Dungannon and South Tyrone Area Plan 2010 (DSTAP)  
Strategic Planning Policy Statement for Northern Ireland (SPPS)  
Planning Policy Statement 3 (PPS3) - Access, Movement and Parking  
Planning Policy Statement 21 (PPS21) - 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. All valid representations received have been subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

### **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/2004/1761/O – Proposed replacement of an existing dwelling to provide for a new domestic dwelling – Granted 12<sup>th</sup> March 2005 subject to 6m ridge height condition.
- M/2008/0045/O – Site for dwelling (under article 28 of Planning NI Order 1991) without compliance with condition 6 ridge height raised to 8m of previous approval M/2004/1761 – Refused 24<sup>th</sup> October 2011 as contrary to Policy CTY13 of PPS 21 and the accompanying Ministerial Statement in that the condition is necessary to allow for satisfactory integration.
- LA09/2016/0024/F - Replacement dwelling – Granted 1<sup>st</sup> June 2016 with 7.1m ridge height.

### **Consultees**

1. DETI Geological Survey of Northern Ireland (GSNI) were consulted as the site is located within an area of constraint on abandoned mines – GSNI responded that having assessed the above planning proposal in view of stability issues relating to abandoned mine workings. A search of their “Shafts and Adits Database” indicates that the proposed site is not within the vicinity of any known abandoned mine workings.
2. DFI Roads consultation not considered necessary under this application as they were consulted under previous application on site LA09/2016/0024/F and advised the existing vehicular access is sub-standard. That said, as access to the replacement dwelling is to be via an existing unaltered access onto the Agharan Road and this proposal will not result in intensification of the access as defined in DCAN 15, I do not consider I can seek improvements. An informative will be attached to any subsequent decision notice making the applicant aware the access is substandard and that it may be in their interests and that of other road users to take measures to provide acceptable visibility splays of 2.4m x 90m in both directions.
3. Environmental Health not considered necessary under this application. They were consulted under previous application on site LA09/2016/0024/F and had no objections to the proposal, a replacement dwelling, subject to standard informatives. These informatives, which highlight the likely noise and odour impact at this location owing to its proximity to a large farm, were attached to the previous application and I consider appropriate to re-attach to any subsequent decision.

### **Consideration**

Dungannon and South Tyrone Area Plan – The site is located on white land approx. 0.8km NW of Newmills Village. Part of the access runs through old green belt policy area. Green Belt policy has been superseded by the policy provisions of Planning Policy Statement 21 Sustainable Development in the Countryside; and The Strategic Planning Policy Statement for Northern Ireland.

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. 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.

The principle of the proposed development has already been established on this site under the previous applications (see ‘Planning History’ further above) and most recently

under full planning application LA09/2016/0024/F. This approval granted permission for a replacement dwelling and garage under the provisions of Policy CTY 3 of PPS 21 – Replacement Dwellings. The replacement of the old dwelling (12 Agharan Rd) on site.

I am content that the aforementioned replacement opportunity still exists. The dwelling on site still has all four walls intact, chimneystacks and roof in place. The building exhibits the essential characteristics of a dwelling and qualifies for replacement. The dwelling on site is vernacular, but not clearly visible from the public Agharan Road (only roof visible), therefore in my view not an important element in the landscape worthy of retention.

Policy CTY 3 sets out a number of criteria all replacement cases must meet. I am content this scheme, like the previous, complies with these criteria for the following reasons:

- The replacement dwelling is to be sited just outside the established curtilage of the existing dwelling. I consider the existing curtilage so restrictive in this instance that there is justification to allow this, in order to provide modern day living accommodation. I believe the replacement dwelling sited back of the existing dwelling, further from the Agharan Rd, will aid its integration by reducing the impact of the additional 1 metre the applicant seeks to raise the ridge from that of the previous scheme, LA09/2016/0024/F. The new curtilage to the proposed dwelling, which takes in land to the west and north of the site, remains as previously approved under LA09/2016/0024/F.
- Critical views of this site are when travelling along the Agharan Rd just before and passing its access on both the east and west approach; and from the Newmill's Rd (located to the north of the site) largely through roadside vegetation when travelling south towards Newmills.

At present, the existing dwelling on site is barely visible, with only its roof showing from the surrounding vantage points. The existing dwelling on site is approx. 4m in height. As the proposed dwelling has a ridge height of 8.1m from finished floor level, part of its upper floor and roof will be visible from critical vantage points. That said in my opinion, it should not have any significantly greater visual impact than the existing dwelling or previous scheme

This replacement dwelling has a more simplistic design to the previous scheme and although 1 metre higher its' location set back further on site should reduce any significant resultant visual impact. The replacement dwelling will benefit from its' location setback from the public road in a natural hollow in the surrounding landscape. The surrounding landscape; and the existing and proposed vegetation on site, and within the wider area, will help enclose the site and provide it with a backdrop, when viewed from critical vantage points.

- The design of the replacement dwelling is of a high quality and appropriate to the site and its rural setting in accordance with design guidance contained within Building on Tradition.

- All necessary services are available.
- Access to the site and new dwelling is to be via an existing unaltered access onto the Agharan Road.

I believe the dwelling proposed is consistent with simple rural form and of an appropriate size, scale and design that it 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. I have no concerns regarding the proposed dwelling impacting the amenity of neighbouring properties to any unreasonable degree in terms of overlooking or overshadowing as there are no existing or proposed properties located in close proximity to the site.

**Other Policy/Considerations.**

Historic Environment Division and Natural Environment Division map viewers available online have been checked and identified no built heritage assets or natural heritage interests of significance on site.

Flood Maps NI indicate no flooding on site

No contamination or ecology issues to consider.

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

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

Approve

**Conditions**

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

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

2. The dwelling hereby permitted shall not be occupied until the existing building, coloured green on approved Drawing No. 01 bearing the date stamp received 19 APR 2021 is 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 to prevent an accumulation of dwellings on the site.

3. The existing trees and hedges, as indicated in drawing No. 01 date received 19 APR 2021, shall be permanently retained unless otherwise agreed by Mid Ulster Council in writing.



Reason: To ensure the development integrates into the countryside and in the interest of visual amenity.

4. During the first available planting season after the commencement of development on site, all trees and hedges indicated in drawing No. 01 date received 19 APR 2021, shall be planted as shown and be permanently retained thereafter.

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

5. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of Mid Ulster Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless Mid Ulster Council gives its written consent to any variation.

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

6. This permission is granted solely as a substitute for the permission for a dwelling previously granted on the site under Ref: LA09/2016/0024/F on the 1 JUN 2016 and only one dwelling shall be constructed on the site.

Reason: To ensure that only one dwelling is constructed on site.

#### Informatives

1. Subject to the above conditions the development shall be carried out in accordance with stamped approved plans Nos. 01 and 02, which were date stamp received 19 APR 2021, so as to ensure a satisfactory form of development.
2. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.
3. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
4. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
5. Transport NI has pointed out that the existing vehicular access to the dwelling is sub-standard and that, in your interests and that of other road users, measures should be taken to provide acceptable visibility splays of 2.4m by 90m in both directions.
6. Environmental Health advise the following;

A Consent to Discharge Sewage Effluent being obtained from Water Management unit, The Northern Ireland Environment Agency, as required by the Water (Northern Ireland) Order 1999.

Any new or existing septic tank unit being a minimum of 15 metres from the proposed development or any other habitable dwelling/building such as an office or such dwelling/building in the course of construction or the subject of a planning approval.

A legal agreement being obtained in relation to lands used in connection with any septic tank/drainage arrangement where such lands are outside the ownership of the applicant or outside the area marked in red which is the subject of this application. This agreement must ensure that the lands in question will always be available for the intended purpose and also that any occupier/owner of the proposed development will have access to these lands for maintenance/improvement works as required. Such legal agreement should be included in any planning approval as a planning condition.

The applicant ensuring that the proposal does not compromise any existing drainage arrangements serving existing neighbouring premises or developments not completed/commenced which are the subject of a planning approval.

Planning authority receiving confirmation from Northern Ireland Water that a mains water supply is available and that it is feasible for the proposed development to be connected to same. Where mains water supply is not available, the applicant/agent is strongly advised to contact this department before any detailed plans are prepared. (The District Council cannot approve plans for housing development unless a satisfactory water supply is available).

The applicant is advised that the development is situated in the vicinity of one or more wind turbines. Future occupants of the development may suffer intermittent disturbance and loss of amenity as a result of noise emitted from the wind turbine.

7. Please see DETI Geological Survey of Northern Ireland (GSNI) consultation response received and scanned to the Planning Portal 3<sup>rd</sup> March 2021.
8. NIEA HED advise the following;  
The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:
  - a. Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;
  - b. Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
  - c. Deliberately to disturb such an animal in such a way as to be likely to;
    - i. affect the local distribution or abundance of the species to which it belongs;
    - ii. Impair its ability to survive, breed or reproduce, or rear or care for its young; or

- iii. Impair its ability to hibernate or migrate;
- d. Deliberately to obstruct access to a breeding site or resting place of such an animal; or
- e. To damage or destroy a breeding site or resting place of such an animal. If there is evidence of bat activity / roosts on the site, all works must cease immediately and further advice must be sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT72JA. Tel. 028 905 69605

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

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

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

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

**Signature(s)**

**Date:**