



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0179/F	Target Date:
Proposal: To continue use of the land and factory without complying with condition 12 of planning approval (M/2011/0126/F) - seeking variation of opening hours condition Monday - Friday from 6am - 8pm	Location: Lands 70m South of 177 Annagher Road Coalisland.
Referral Route: Recommendation to refuse, objections.	
Recommendation:	Refuse
Applicant Name and Address: DMAC Engineering 177 Annagher Road Coalisland	Agent Name and Address: CMI Planners Ltd 38 Airfiled Road Toomebridge
Executive Summary: It has not been demonstrated by the applicant/agent that this proposal will not result in detrimental impacts to residential amenity, especially in the morning time between the hours of 6am and 7am Monday to Friday.	
Signature(s):	

Case Officer Report

Site Location Plan: 01



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

A number of objections have been received and issues raised include;

- the extension of opening hours would have an adverse affect on health and well being;
- noise that is currently experienced all day long would be extended in the morning time and would have a detrimental impact on peace and private amenity;
- currently already in breach of opening hours (enforcement are aware);
- extended opening hours would result in more noise and fumes from the factory;
- the reason for the condition being added was to protect private amenity, however as applicant has not stuck to this condition and as a result private amenity is currently being adversely impacted.

Description of proposal

This is an application for non-compliance of condition 12 of planning approval M/2011/0126/F - seeking variation of opening hours condition Monday - Friday from 6am - 8pm.

Condition 12 of M/2011/0126/F reads;

The development hereby permitted shall not remain open for business prior to 07:00 hrs nor after 20:00hrs Monday to Friday, 08:00 hrs to 14:00hrs on Saturdays nor at any time on a Sunday.

Reason: In the interests of residential amenity.

Characteristics of site and area

This site is that which relates to the permission M/2011/0126/F, and incorporates the DMAC Factory building, associated circulation, parking and hardstand areas, finished product storage areas and an area to the south of the site (beyond the large earth bund) which is used to control and regulate site drainage.

The sizable earth bund, approx 5-7m high, to the south of the site acts as a sound buffer to protect residential amenity further to the south. Beyond the earth bund to the south is the area of drainage which is relatively flat and defined by bare earth/soil.

There is also earth banking and mature landscaping along the NE boundary of the site.

Topography within the factory site is relatively flat, however Annagher Road to the north is elevated well above the site, leaving little views of the large factory from the public road.

In the locality there are detached single dwellings to the south, east and north of the site. Land to the east and NE is agricultural in nature. Annagher Road is located to the north, with Coalisland Town located further to the west.

Planning Assessment of Policy and Other Material Considerations

Planning Act 2011

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

Area Plan

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

Dungannon South Tyrone Area Plan 2010- The site is located just outside the development limits of Coalisland, in the countryside. The policy provisions of SPPS and PPS21 apply.

Relevant Planning Policy

SPPS- Strategic Planning Policy Statement

PPS21- Sustainable Development in the Countryside

PPS4- Planning and Economic Development

Relevant Planning History

M/2011/0126/F- permission granted for a small rural industrial enterprise on land situated adjacent to existing settlement limit of Coalisland, for DMAC on 13.04.2015.

Condition 12 of this permission reads;

The development hereby permitted shall not remain open for business prior to 07:00 hrs nor after 20:00hrs Monday to Friday, 08:00 hrs to 14:00hrs on Saturdays nor at any time on a Sunday.

Reason: In the interests of residential amenity.

M/2006/2126/F- Retention of Replacement shed for the purpose of paint spraying machine components, permission was refused on 22.06.2017.

An enforcement notice was served on this site for unauthorised breached in planning control and the offender fined 15,000. These buildings have now been removed and this part of land now lies bare with exposed soil. This site also contains drainage for the adjacent DMAC Factory site, and is the subject to two current application where decisions are pending (see below);

-LA09/2019/0838/F- Hobby/Storage shed, porta cabin to be used as a canteen and recreation room, raised flower beds, poly tunnels and car parking associated with Coalisland mens shed club, permission granted 09.03.2021.

-LA09/2018/0943/F- Extension to existing factory premises to provide staff car parking (under consideration- deferred for further consideration).

There is also some current enforcement action on the DMAC site relating to hours of operation and unauthorised chimney flues with associated odour.

3rd Party Objections

A number of objections have been received and issues raised include;

- the extension of opening hours would have an adverse affect on health and well being;
- noise that is currently experienced all day long would be extended in the morning time and would have a detrimental impact on peace and private amenity;
- currently already in breach of opening hours (enforcement are aware);
- extended opening hours would result in more noise and fumes from the factory;
- the reason for the condition being added was to protect private amenity, however as applicant has not stuck to this condition and as a result private amenity is currently being adversely impacted.

Consideration

The applicant wants to amend condition 12 of planning ref M/2011/0126/F, to extend hours of operation from 7am-8pm Mon-Fri to 6am-8pm Mon-Fri. It has been raised by objectors that DMAC may already be in breach of this condition, and this is being investigated by the Planning Enforcement Team.

The reason for the condition is to protect existing residential amenity. Objectors currently complain about noise levels, especially early in the morning. To consider the impacts of noise, nuisance and general disturbance I consulted Environmental Health. On 21st June 19 Environmental Health provided comment stating that commencement of operations would impinge on what is generally regarded as quiet sleeping hours (11pm-7am) where a higher level of protection is afforded to residential amenity to facilitate sleep between these hours. Environmental Health go on to say that two objectors have stated that current noise levels are impacting their amenity and extension of operating hours to 6am would further impact them and for this reason the applicant is required to provide a noise impact assessment and/or mitigation measures to control noise emissions from the premises.

Following on from this the agent then provided a Noise Impact Assessment and on 10.08.2021 Environmental Health provided a response. Environmental Health conclude that the Noise Impact Assessment shows that the impact of amending opening hours to 6am would have an excess of rating noise level over background noise level of +7 dB. BS 4142 states that a difference of +5 dB is likely to be an indication of adverse impact, depending on context, whilst a difference of +10 dB or more is likely to be an indication of significant adverse impact.

Environmental Health conclude that this difference of + 7 dB indicates that variation of the opening hours is likely to impact neighbouring residential amenity.

In response to Environmental Health comments the agent has provided an e-mail to put forward his interpretation of how he envisages this change in opening hours will impact on nearby residents. This e-mail is only his view, and in my opinion should not override the concerns of Council's Environmental Health Department.

In my view, I would have significant concern about allowing the factory to open at 6am. This would mean machines, extractor fans, vehicles, welding, metal work, spraying etc. starting before 7am. Plus employees would be arriving to the site by car before 6am, and would involve the starting and stopping of engines, and the opening and slamming of doors. It is difficult to see how noise, nuisance or general disturbance could be mitigated against so as not to cause detriment to residential amenity, given that current noise levels are found by objectors to be having detriment to their existing residential amenity.

The agent states that only 5 people would be arriving at 6am to turn on machines etc. I am not sure that Council could appropriately control this. A variance of condition can only consider the condition itself, and I am not sure if it would be lawful to control numbers of people attending the site or noise levels, as it is only hours of operation that are being considered.

I find it important to note that there is a pending application for the extension of a staff carpark to the south of the existing DMAC factory. This proposal will involve the cutting through of an existing earth bund that currently acts as a noise buffer to properties to the

south. Should both proposals be granted then this will mean factory noise escaping through a hole in an earth bund, and cars parking closer to where current objectors live. In my view both proposals need to be looked at carefully to consider both scenarios, given the sensitivities currently experienced at the site.

The applicant/agent has been provided with ample opportunity to demonstrate that earlier opening hours would not have a detrimental impact on existing residential amenity and this has not been demonstrated.

I recommend to Members that this application is refused as it will result in detrimental impacts to nearby residential amenity.

Under paragraph 3.8 of SPPS the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. I contend that, on current information before me, that it has not been clearly demonstrated that harm to interests of acknowledged importance (i.e. residential amenity) will not occur. The applicant/agent has been given a fair chance to demonstrate otherwise, and has failed to do so. I advise Members to refuse this proposal. At this time and in absence of any additional information I find the objectors concerns to be determining.

PPS21 Sustainable Development in the Countryside states that there are a range of types of development which in principle considered to be acceptable in the countryside, one is industry and business uses in accordance with PPS4.

Policy PED 9- General Criteria for Economic Development of PPS4 has a number of criteria that have to be met including criteria;

(b) does not harm the amenities of nearby residents;

(e) does not create a noise nuisance.

In my view the applicant/agent has failed to demonstrate these points, and that the condition as stands meets the lawful tests of a condition and is necessary to control the impacts of current operations on this site on nearby residential amenity.

The proposal is contrary to SPPS paragraph 3.8, PPS21 policy CTY1 and PPS4 policy PED9 in that it has not been demonstrated that the proposed hours of operation will not have a detrimental impact to existing residential amenity.

Neighbour Notification Checked	Yes
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Summary of Recommendation:	
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That planning permission is refused for the following reasons;

Reasons for Refusal:	
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1. The proposal is contrary to policy CTY1 of PPS21 Sustainable Development in the Countryside and Policy PED9 of Planning Policy Statement 4: Planning and Economic Development in that it has not been demonstrated that the proposal;

- will not harm the amenities of nearby residents;
- will not create a noise nuisance.

2. The proposal is contrary to paragraph 3.8 of SPPS in that it has not been demonstrated that proposal will not cause harm to interests of acknowledged importance, namely rural character and residential amenity. The proposal will, if granted permission, result in a detrimental impact to existing residential amenity through impacts noise, nuisance and general disturbance.

ANNEX

Date Valid	8th February 2019
Date First Advertised	21st February 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 161 Annagher Road, Coalisland, Tyrone, BT71 4NF The Owner/Occupier, 172 Annagher Road, Coalisland, Tyrone, BT71 4NF The Owner/Occupier, 174 Annagher Road, Coalisland, Tyrone, BT71 5DA The Owner/Occupier, 175 Annagher Road, Coalisland, Tyrone, BT71 5DA The Owner/Occupier, 175a ,Annagher Road, Coalisland, Tyrone, BT71 5DA The Owner/Occupier, 177 Annagher Road, Coalisland, Tyrone, BT71 5DA Martin Dooey 181 Annagher Road, Coalisland, BT71 5DA The Owner/Occupier, 181 Annagher Road, Coalisland, Tyrone, BT71 5DA The Owner/Occupier, 32 Washingbay Road, Coalisland, Tyrone, BT71 4PU The Owner/Occupier, 36 Washingbay Road Coalisland Tyrone James Hughes	
Date of Last Neighbour Notification	
Date of EIA Determination	N/A
ES Requested	No

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Management Officer Report
Committee Application

Summary	
Committee Meeting Date: Sept 2021	Item Number:
Application ID: LA09/2019/0822/F	Target Date:
Proposal: Erection of a shed over existing storage tank for the storage of farm feeds (amended description)	Location: Lands 48m SE of 130 Coolreaghs Road Cookstown.
Referral Route: Opinion is to refuse Contrary to Policy CTY12.	
Recommendation: Refusal	
Applicant Name and Address: Mr Ronnie Smith 155 Coolreaghs Road Cookstown	Agent Name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge
Signature(s): M.Bowman	

Case Officer Report

Site Location Plan



Consultations:		
Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Content
Statutory	DAERA - Omagh	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	No Objection
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	
Summary of Issues Policy CTY12 is not satisfactorily met / proposal has given rise to objection.		
Characteristics of the Site and Area Rural farming area located just NW of the Cookstown development limits. Primarily agricultural activity is dominant use in the locality. The site is located in Field No 1 of the applicants farm lands and positioned tightly against a neighbouring farm complex associated with No 130 Coolreaghs Road. Nearest residential property is No 130 itself which is located just north of the adjoining farm complex of buildings. What is stated to be a 'storage tank' is located on what will be the footprint of the proposed shed which itself measures 5.7m x 4.0m with a 3m roof height which slopes down to 2.1m. The site overlaps the location of an Outline permission for a dwelling on a farm approved for Mr Smith (same applicant) under LA09/2017/0867/O. Whilst a Reserved Matters application has been received and remains undetermined, there is a dispute between the applicant and an adjacent landowner in relation to the approval of the Outline permission. Members have been previously briefed on this matter.		
Description of Proposal Erection of a shed over existing storage tank for storage of farm feeds.		



Planning Assessment of Policy and Other Material Considerations

Primary Policy considerations are the Local Cookstown Area Plan, Draft Plan Strategy, PPS21, CTY12, SPPS.

The primary policy provision for this proposal in this area of open countryside is CTY12 of PPS21.

Policy CTY 12 – Agricultural and Forestry Development

Planning permission will be granted for development on an active and established agricultural or forestry holding where it is demonstrated that:

- (a) it is necessary for the efficient use of the agricultural holding or forestry enterprise;
- (b) in terms of character and scale it is appropriate to its location;
- (c) it visually integrates into the local landscape and additional landscaping is provided as necessary;
- (d) it will not have an adverse impact on the natural or built heritage; and
- (e) it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution.

In cases where a new building is proposed applicants will also need to provide sufficient information to confirm all of the following:

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

Exceptionally, consideration may be given to an alternative site away from existing farm or forestry buildings, provided there are no other sites available at another group of buildings on the holding, and where:

- it is essential for the efficient functioning of the business; or
- there are demonstrable health and safety reasons.

This proposal for an isolated farm shed away from any group of farm buildings engages the 'exceptional' test of the above policy.

The agent was asked to provide a supporting case to justify the essential need for the building at this location. The application when submitted was described as being for the shelter of animals and storage of farm feeds. That supporting statement is summarised as below:

- The applicant has let / split his lands out in conacre to 2 different farmers. Fields 1 and 2 (8.5 acres) here are farmed by Mr Crawford whos farm holding is located a relatively short distance away At No 53 Dunabraggy Road, Cookstown. The remaining 7 fields (12 acres) only a few hundred metres away around Mr Smyths own dwelling (No 155) are taken by Mr Ivor Smyth of No 214 Orritor Road. The provided conacre agreement provided covers a period from Mar 2017 to Mar 22.
- In terms of why the shed is essential – whilst the applicants farm holding is active and established for the required 6 year period, Mr Smyth seeks permission for a shed for Mr Crawford to use. The site is chosen because of the storage tank, its proximity to neighbouring farm sheds. The use of existing buildings located at the main farm belonging to Mr Smyth are discounted as these are fully utilised by the other conacre farmer and under DEARA rules no 2 farmers can use the same farm buildings due to cross-contamination risks.
- The need for the shed is expressed as being to allow Mr Crawford to winter house his animals.

The shed itself in terms of its visual impact on the landscape does not provide a concern for me. The backdrop of substantial farm sheds associated with No. 130 Coolreaghs road will enclose the shed provide an acceptable degree of integration.

However, given the entirety of the case made here is for Mr Crawfords farming needs it is worth examining the farm business and lands which he has. It appears that that his holding at No 53 Dunabraggy Road is only a relatively short distance away and I therefore question why the proposed shed is essential at this location serving only the 2 fields on Coolreaghs Road. There appears to be a complex of farm buildings associated with No 53 also. It is reasonable to assume that the 2 fields taken by Mr Crawford would not necessarily require a new farm shed given that it would be relatively easy to have moved livestock a short distance between the site and No 53 Dunabraggy Road.

An objection received (before the agents supporting statement) from Ross Planning who represents the owner of the adjoining farm group (No 130) makes the following points:

- This application has been made in the context of ongoing considerations regarding a farm dwelling proposed on the site and objections which have been made to it.
- CTY12 is not met – a need or farming reason is not made.
- This is a tactic to gain permission for a shed and then a dwelling under Policy CTY10.

An additional objection was received on 16 April 2020 from Ross Planning making the following points:

- That the applicant has made a convoluted case for a shed.
- That there is insufficient details surrounding the third party tenants in relation to active farming.
- There is no information about the applicants current sheds
- There is no information about the applicants need / his animals needs
- No information provided about any other farm sheds.

In reply to this, CMI Planning provided a further supporting statement dated 15 June 2020:

- That a conacre agreement is in place running until 2025
- The above proves agricultural activity by the tenant farmers.
- Screenshots from the agent claim to show that Mr Smith has 70 beef cattle and Mr Crawford has 131 animals.
- That the conacre agreement contains an agreement also to rent all the sheds on the applicants holding.
- The tenant farmer, having 131 animals, needs proper handling facilities.
- That it is not practicable to expect sick animals to be moved 3 miles away to the tenant farmers sheds. In addition this shed will provide secure storage for medicines.

A consultation with SES / NIEA on the proposal as originally submitted (to include animals) resulted in the need for an ammonia air dispersion assessment due to the proximity of 1 SAC and 3 ASSIs within 7.5km of the site. SES required the following:

In response to this the agent decided to amend the proposal and remove any reference to livestock from it. On the 18th June 2021 the agent formally amended the P1 form and submitted a

revised statement of need. It should be noted however that submitted plans in March 2021 still show a small animal isolation area, which has not yet been removed.

It states that the shed will now only be used for storage of animal feeds. It is claimed that Mr Crawford (who leases the lands) under a lease agreement in place until 2025 has 131 cows and has no storage buildings at this location.

The statement does on to state the following points in support:

1. The application site is in a sustainable location beside an existing farm yard.
2. The benefits of the shed include the delivery of a building appropriate to the location
3. A facility which is subsidiary to and will help to maintain the farming operations of Mr Crawford.
4. Will provide secure storage at this remote location.
5. Enhances productivity with feed and medicines on site
6. Reuses a previously developed tank which will be 'filled in'.
7. Establishes a new building which maintains and improves the appearance of the locality
8. No significant and demonstrable impacts exist to outweigh the benefits of the proposal.

Upon re-notifying of the amended description a further objection has been received by Ross Planning setting out the following additional objections:

1. That the nature of the application has been substantially changed.
2. Inexplicably there is no longer a need for animal housing at this location.
3. No specific details are given to explain why animal feeds must be stored here instead of the lessee's own holding.
4. No indication is given relating to the type or quantity of feed.
5. It is more common for a farmer to operate outlying fields without the need for a shed to house feed / this usually delivered daily.
6. The policy says that this type of proposal is only acceptable in exceptional circumstances.
7. The proposal does not make sense in policy / practical terms and this late change is further evidence that there is no need for a farm building at this location.

In response, whilst the description of the proposal has been amended, its acceptability in policy terms still rests with the Policy tests of CTY12 referenced above. The latest objection recognises that the 'exceptional test' of Policy CTY12 remains central to the determination of this proposal and the relevant shortcomings in the additional need for this shed.

In summary, I do not consider that the removal of livestock when coupled with the relatively close proximity of the tenant farmers own farm and buildings that the exceptions test set out for a remote shed, even just for storage, is met.

Neighbour Notification Checked

Yes/No

Summary of Recommendation: Refusal as it not been adequately demonstrated why the proposal essential for the efficient functioning of the farm.

Reason for Refusal:

1. The proposal is contrary to Policies CY1 and 12 of PPS21 in that it has not been demonstrated that the proposal is necessary for the efficient use of the agricultural holding.

Signature(s) M.Bowman

Date: 12th Aug 2021

ANNEX	
Date Valid	13th June 2019
Date First Advertised	27th June 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 130 Coolreaghs Road Cookstown Tyrone Les Ross Ross Planning, Head Office, 9a Clare Lane, Cookstown, BT80 8RJ	
Date of Last Neighbour Notification	6th January 2020
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2018/0130/RM Proposal: Dwelling and Garage Address: 65m South of 130 Coolreaghs Road, Cookstown, Decision: Decision Date: Ref ID: LA09/2017/0867/O Proposal: Proposed dwelling and garage Address: 65m South of 130 Coolreaghs Road Cookstown,	

Decision: PG

Decision Date: 24.08.2017

Ref ID: LA09/2019/0822/F

Proposal: Erection of a shed over existing storage tank for shelter of animals and storage of farm sheds.

Address: Lands 48m SE of 130 Coolreaghs Road, Cookstown.,

Decision:

Decision Date:

Ref ID: I/1993/6028

Proposal: Site for Single Storey Dwelling Coolreaghs Road Cookstown

Address: Coolreaghs Road Cookstown

Decision:

Decision Date:

Ref ID: I/2007/0358/F

Proposal: Proposed replacement dwelling and garage

Address: 130 Coolreaghs Road, Cookstown, Co.Tyrone

Decision:

Decision Date: 13.02.2008

Ref ID: I/2008/0339/F

Proposal: Change of garage from original approved under I/2007/0358/RM (to accommodate additional domestic storage

Address: 130 Coolreaghs Road, Cookstown, Co Tyrone BT80 9QD

Decision:

Decision Date: 21.07.2008

Ref ID: I/1976/0434

Proposal: IMPROVEMENTS TO EXISTING DWELLING

Address: 130 COOLREAGHS ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1995/0089

Proposal: Site for Dwelling

Address: 50M SOUTH OF 130 COOLREAGHS ROAD COOKSTOWN

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

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Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant) Date of Notification to Department: Response of Department:

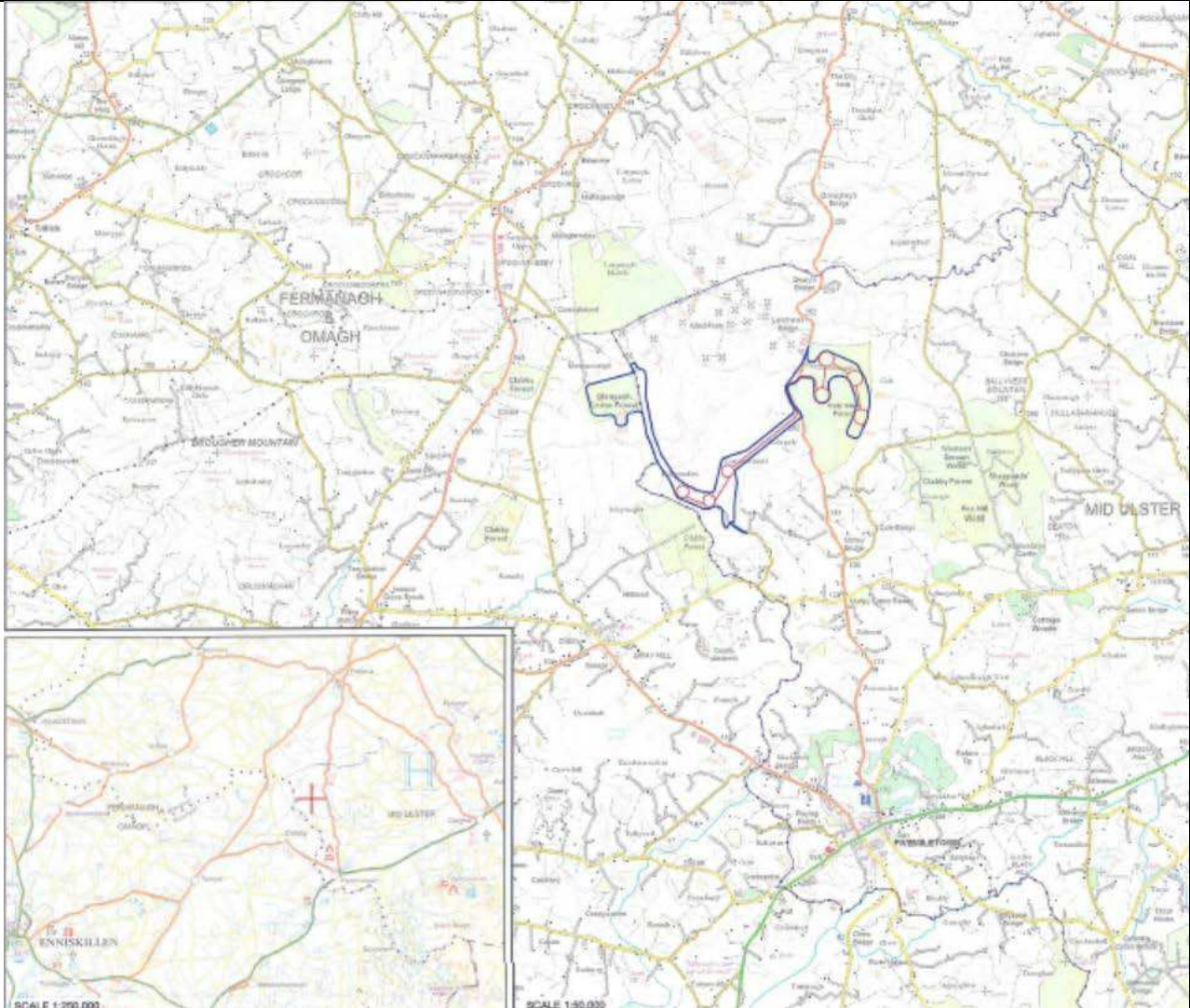


Development Management Officer Report
Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1300/F	Target Date:
Proposal: An amendment to the overall tip height of the consented Murley Wind Farm from 126.5m to 149.9m (consented under LA09/2015/0460/F and K/2015/0066/F). Turbine geometry to be considered includes blade lengths of between 50m and 63m and hub heights of between 86.9m and 99.9m. The proposal also includes an application to vary planning condition 25 years to 35 years from the date on which the wind farm is connected to the electricity grid	Location: The site is located in the townlands of Killygordan, Tattanafinnell, Edgegole and Cole Glen Forest near Fivemiletown.
Referral Route: This is a Major planning application.	
Recommendation:	APPROVE
Applicant Name and Address: Renewable Energy System Limited Willowbank Business Park, Willowbank Road, Millbrook, Larne, BT40 2SF,	Agent Name and Address:
Executive Summary: This is an application to amend the overall size of the approved windfarm and to extend the approved period from 25 years to 35 years. There are no concerns raised by any consultees and no objections have been received.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	Rivers Agency	Substantive Response Received
Non Statutory	Arqiva Services Limited	No Objection
Non Statutory	Cable And Wireless Worldwide PLC	
Non Statutory	Everything Everywhere Limited	Considered - No Comment Necessary
Non Statutory	N.I Water - Windfarms	Substantive Response Received

Non Statutory	Ofcom Northern Ireland	Substantive Response Received
Non Statutory	P.S.N.I. Information And Communications Services	Substantive Response Received
Non Statutory	The Joint Radio Company	Add Info Requested
Non Statutory	Belfast International Airport	No Objection
Non Statutory	CAA - Directorate of Airspace Policy	Considered - No Comment Necessary
Non Statutory	City of Derry Airport	Substantive Response Received
Non Statutory	National Air Traffic Services	No Objection
Non Statutory	Royal Society for the Protection of Birds - Headquarters	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	DAERA - Countryside Management Branch	
Non Statutory	DAERA - Forestry Division	Substantive Response Received
Non Statutory	DAERA - Fisheries Division	No Objection
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	Environ Health Fermanagh And Omagh	Substantive Response Received
Non Statutory	Council For Nature Conservation And The Countryside	
Non Statutory	DETI - Geological Survey (NI)	No Objection
Non Statutory	DfE Energy Division	No Objection
Non Statutory	DoF - CPD - Windfarm Geotechnical & Advisory	
Non Statutory	DRD - Economics Branch	
Non Statutory	NIEA	Substantive Response Received

Non Statutory	Shared Environmental Services	Substantive Response Received
Non Statutory	Northern Ireland Tourist Board	Substantive Response Received
Non Statutory	UK Crown Bodies - D.I.O. LMS	Considered - No Comment Necessary
Non Statutory	UK Crown Bodies - D.I.O. Safeguarding	
Non Statutory	NIE - Windfarm Developments	No Objection
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	No objection
Statutory	NIEA	Advice
Statutory	NIEA	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**Characteristics of the Site and Area**

Murley Wind Farm is located on privately owned lands, which comprise of agricultural lands and privately owned commercial forest. The site is located within the vicinity of Glengesh Lower Forest, Moysnaght, Killygordon, Tattanafeinnell, Edergole and Cole Glen Forest, near Fivemiletown, Co. Tyrone. The wind farm is located within 3 distinct areas; these are Glengesh Lower Forest, Killygordon and Cole Glen Forest.

The Development is located on an existing upland site, partially occupied by commercial forestry, which spans either side of the B122 road corridor linking Fivemiletown and Fintona. The development itself comprises 9 wind turbines with a maximum blade tip height of 149.9 m located between approximately 220 m and 250 m AOD. Two turbines are in the Fermanagh and Omagh Council Area and seven turbines are in the Mid Ulster District Council Area.

Description of Proposal

An amendment to the overall tip height of the consented Murley Wind Farm from 126.5m to 149.9m (consented under LA09/2015/0460/F and K/2015/0066/F). Turbine geometry to be considered includes blade lengths of between 50m and 63m and hub heights of between 86.9m and 99.9m. The proposal also includes an application to vary planning condition 25 years to 35 years from the date on which the wind farm is connected to the electricity grid.

Planning Assessment of Policy and Other Material Considerations

The Regional Development Strategy 2035

Strategic Planning Policy Statement

Dungannon and South Tyrone Area Plan 2010

MUDC Local Development Plan 2030 - Draft Plan Strategy

Planning Policy Statement 2 - Natural Heritage

Planning Policy Statement 3 - Access, Movement and Parking

Planning Policy Statement 6 - Planning, Archaeology and the Built Heritage

Planning Policy Statement 18 - Renewable Energy

Planning Policy Statement 21 - Sustainable Development in the Countryside

MUDC received a planning application for this development on 3 October 2019. The application was advertised in the local press, neighbours were notified and a series of consultations were issued.

There is planning history to this site which follows in this report. The applications to highlight for members are the following:

K/2015/0066/F - A proposal for a wind farm comprising of nine turbines (each with an overall maximum height of up to 126.5m above ground level) and associated infrastructure including upgraded site entrances, new and upgraded on-site access tracks, an on-site substation and control building, underground cables, overhead grid line, two temporary monitoring masts, temporary construction compounds, enabling works compounds, permanent crane hardstandings and road widening and improvement works on sections of the transport route (road improvement works). Two turbines are located within the Mid Ulster Area. Planning permission is requested with the condition that the proposed wind farm development to which it would relate must be begun within a year period from the date of Planning consent, as permitted under Article 34 of the Planning (NI) Order 1991, as amended at Murley wind farm in the townlands of Glengesh Lower Forest, Moysnaght, Killygordon, Tattanafinnell, Edergole and Cole Glen Forest, near Fivemiletown, Co. Tyrone.,

LA09/2015/0460/F - A proposal for a wind farm comprising of nine turbines (each with an overall maximum height of up to 126.5m above ground level) and associated infrastructure including upgraded site entrances, new and upgraded onsite access tracks, an onsite substation and control building, underground cables, overhead grid line, two temporary monitoring masts, temporary construction compounds, enabling works compounds, permanent crane hardstandings and road widening and improvement works on sections of the transport route (road improvement works). Two turbines are located

with the Fermanagh Omagh Council area and seven are located within the Mid Ulster Council Area at Murley Wind Farm in Townlands of Glengesh Lower Forest, Moysnaght, Killygordon, Tattanafinnell, Edergole and ColeGlen Forest, near Fivemiletown, Co Tyrone,

This current application is for an amendment to the overall tip height of the consented Murley Wind Farm from 126.5m to 149.9m with blade lengths of between 50m and 63m and hub heights of between 86.9m and 99.9m. The proposal also includes an application to vary planning condition 25 years to 35 years from the date on which the wind farm is connected to the electricity grid.

This is a Major planning application as prescribed in the Development Management Regulations. Consequently, Section 27 of the 2011 Act places a statutory duty on applicants for planning permission to consult the community in advance of submitting an application.

Section 27 also requires that a prospective applicant, prior to submitting a major application must give notice, known as a 'proposal of application notice' (PAN), to the council, that an application for planning permission for the development is to be submitted. There must be at least 12 weeks between the applicant giving the notice and submitting any such application. The applicant has complied with the legislative requirements in this regard.

Assessment of proposal within the planning policy and guidance context:

Regional Development Strategy:

The RDS 2035, whilst is not an operational policy, it does provide the overarching framework for NI, from which planning policies are derived. The vision of the RDS is supported by eight aims:

- Support strong, sustainable growth for the benefit of all parts of NI;
- Strengthen Belfast as the regional economic driver and Londonderry as the principal city of the North West;
- Support NI's towns, villages and rural communities to maximise their potential;
- Promote development which improves the health and well-being of communities;
- Improve connectivity to enhance the movement of people, goods, energy and information between places;
- Protect and enhance the environment for its own sake;
- Take actions to reduce Northern Ireland's carbon footprint and facilitate adaptation to climate change; and
- Strengthen links between north and south, east and west, with Europe and the rest of the world.

The plan aims to deal with climate change as a key environmental and economic driver and complements the Sustainable Development Strategy. Policies include:

- RG5: Deliver a sustainable energy supply. To facilitate access to a range of opportunities for recreational and cultural activities – Increase the contribution that renewable energy can have to the overall energy mix.

- RG9: Reduce our carbon footprint and facilitate mitigation and adaption to climate change whilst improving air quality – Increase the use of renewable energies.

Strategic Planning Policy Statement

The SPPS is a statement of the Department's policy on important planning matters that should be addressed across Northern Ireland. The provisions of the SPPS are material to all decisions on individual planning applications and appeals. The SPPS states that objective of the planning system is to secure the orderly and consistent development of land whilst furthering sustainable development and improving well-being. The SPPS goes on to state the planning system should positively and proactively facilitate development that contributes to a more socially economically and environmentally sustainable Northern Ireland.

Para 3.7 of the SPPS states furthering sustainable development also means ensuring the planning system plays its part in supporting the Executive and wider government policy and strategies in efforts to address any existing or potential barriers to sustainable development.

It is recognised in the SPPS that Northern Ireland has significant renewable energy resources and a vibrant renewable energy industry that makes an important contribution towards achieving sustainable development, and is a significant provider of jobs and investment across the region.

The aim of the SPPS in relation to renewable energy is to facilitate the siting of renewable energy generating facilities in appropriate locations within the built and natural environment in order to achieve Northern Ireland's renewable energy targets and to realise the benefits of renewable energy without compromising other environmental assets of acknowledged importance.

Para 6.219 of the SPPS states that the aim for plan for sustainable development to plan for sustainable development is based on three overarching principles:

- Meeting the needs and aspirations of our society including supporting rural regeneration and progressing policies, plans and proposals that can improve the health and well-being of local communities;
- Economic sustainability including the promotion of recovery and balancing growth;
- Environmental sustainability including the protection and enhancement of heritage assets landscape and seascape character, ensuring that the planning system contributes to a reduction in energy usage and greenhouse gas emissions by continuing to support growth in renewable energy sources and promoting high quality development and good design.

Dungannon and South Tyrone Area Plan 2010

This is the current statutory area plan for the former Council District of Dungannon. The site is located on and close to the boundary of Mid Ulster and Fermanagh and Omagh

Council areas, north of Fivemiletown, east of Clabby and south of Fintona. The area lies outside of any areas of designation in the Area Plan.

MUDC Local Development Plan 2030 - Draft Plan Strategy:

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

Planning Policy Statement 18 - Renewable Energy

Policy RE1 of PPS 8 states that development that generates energy from renewable resources will be permitted provided the proposal, and any associated buildings and infrastructure, will not result in an unacceptable adverse impact on:

- (a) public safety, human health, or residential amenity; iii, v, vi, iv
- (b) visual amenity and landscape character; i, ii, vii,
- (c) biodiversity, nature conservation or built heritage interests; iii, iv,
- (d) local natural resources, such as air quality or water quality; and
- (e) public access to the countryside.

Policy RE1 also goes on to address applications for wind energy development which are also required demonstrate all of the following which can be addressed under (a) to (e) above:

(a) public safety, human health or residential amenity;

(iii) that the development will not create a significant risk of landslide or bog burst;

The agent states it is likely that the greater part of the site was covered in the past by peat and associated ericoid and moss-dominated communities, but peat cutting, drainage and land reclamation has resulted in highly modified habitats of lower conservation interest and value. The study area is now dominated by highly modified habitats that comprise mainly wet/dry modified grassland. Most of the peatland units have been extensively drained, to lower the water-table and provide suitable conditions for livestock grazing, turbary extraction and the establishment of coniferous plantations.

NED notes that the revised Peat Slide Risk Assessment was undertaken in accordance with the Peat Landslide Hazard and Risk Assessments: Best Practice Guide for Proposed Electricity Generation Development, second edition. 854 peat probes were carried out across the site, with 413 within the infrastructure layout. Each Turbine foundation has three probes placed around its circumference, crane pads have 5 probes equally spaced, with extras covering

turning areas. Each temporary construction compound is probed in a 25m grid. Track probes were spaced at 50m intervals with 10m off-set to either side.

T1 has moderate risk of peat slide risk, and T2, T6, T7, T8, T9 and the north-east Construction Compound had low risk. However, with various mitigations, peat slide risk can be reduced further:

1. Turbine 1 will be micro-sited 15m northeast away from the nearby watercourse and the extent of the associated infrastructure will be reduced so that all infrastructure will be sited out with the 150m buffer from the drainage channel. The new micro-siting position is shown on Figure 2.1 Rev B Infrastructure Layout.
2. Stabilisation will be installed down-slope of Turbine 1 if detailed design and slope modelling determines it is necessary
3. Minimising forestry removal around Turbine 8
4. Construction of the Northeast Temporary Construction Compound (NW TCC) on a reinforced floating platform to minimise excavation of peat material
5. Best practice construction techniques will be used at all turbine infrastructure, as detailed in the oCEMP
6. No materials will be stockpiled in medium or high peat slide risk areas
7. A monitoring regime will be in place during construction to alert, prevent and control downslope impacts.

NED notes that the risk of peat slide at Turbine 6 could be further lowered by micro-siting 30m north to a flatter area: NED would recommend that this implemented. Sections of track on deep peat will be floated: these include from the site entrance at Hunter's Hill Wind Farm to the junction of T2 and T1 including the NW temporary construction compound, and from the site entrance on Murley Road to the existing access track in Cole Glen Forest including the NE temporary construction compound. Other sections will also be floated if found to be needed. This will reduce the amount of excavated peat. These sections of track are shown on Figure 2.1 Rev B Infrastructure Layout. NED notes that the two site calibration masts at Turbine 2 and to the south of this turbine have been removed from the development, as shown on Figure 2.1 Rev B Infrastructure Layout.

(iv) that no part of the development will give rise to unacceptable electromagnetic interference to communications installations; radar or air traffic control systems; emergency services communications; or other telecommunication systems;

The proposed development has been assessed from a technical safeguarding aspect in respect of any potential impact on the NIE Emergency Services Radio Communications and Public Safety Telecommunications Infrastructure. This assessment is based on safeguarding criteria and in accordance with the information contained in the planning application. Accordingly Westica Communications has no technical safeguarding objections to this proposal.

MBNL/EE have no microwave link within 100 metres and no mast within 250 metres of the proposed wind turbines and therefore have no objections to the proposal.

(v) that no part of the development will have an unacceptable impact on roads, rail or aviation safety;

Planning Policy Statement 3 - Access, Movement and Parking:

Dfi Roads notes that this application is for an increase in overall tip height from previously approved under planning applications LA09/2015/0460/F & K/2015/0066/F.

Review of the fore-mentioned history applications would indicate that there was outstanding road issues relating to access requirements which does seem to be closed out through the planning process associated with these applications however Council Planning issued an approval and Dfi did not provide conditions.

As these applications were approved without roads related conditions Council Planning should review Dfi Roads comments dated 14/12/2017 for application LA09/2015/0460/F and e-mail dated 27 April 2017 for application K/2015/0066/F relating to road requirements and apply suitably worded conditions to reflect these comments to ensure safe access arrangements to support this current application.

The main traffic impacts are associated with the increase in vehicle movements along the Killygordon, Aghintain and B122 Murley Roads during the construction stage of the project. These roads have relatively low levels of existing traffic and a small number of receptors will be affected. The agent has stated that, at worst, the frequency of vehicle movements is expected to be one vehicle every five minutes, on seven days in the third month of construction.

The agent has considered the effect of increase HGV traffic flow on severance, driver delay, pedestrian delay, pedestrian amenity, fear and intimidation, accidents and safety and cumulative impacts. The agent will develop a Traffic Management Plan once the construction schedule, plant requirements and turbine model have been defined. This will ensure impacts to the delivery route are minimised where possible and will be submitted to Dfi for the approval prior to construction. It is not considered there will be a significant impact on road safety.

Under certain climatic conditions ice can build up on turbine blades which may be thrown from the blades during blade rotation or fall when blades are stationary. The agent has stated in the ES the International Energy Association have recommended an empirical formula to calculate the maximum distance that ice may be thrown from an operating turbine based on turbine geometry. For the proposed turbine envelope this ice throw risk distance has been calculated and used in the wind farm design to located turbines away from public roads and therefore the potential for ice throw to affect members of the public is considered to be low.

The proposed development has been examined from an aerodrome safeguarding aspect from the details provided in the Planning Portal and it does not conflict with Belfast International Airports safeguarding criteria. Accordingly there are no safeguarding objections to this proposal, however in the interests of aviation

safety, Belfast International Airport would recommend that the developer installs a Low/Medium (Low if its less than 45m above ground level or Medium if it is more than 45m above ground level) Intensity, Omni-directional, Night Vision Compatible, Steady Red Obstacle light at the highest point of the hub. The light should be lit 24 hours a day, seven days a week and it is to warn low flying aircraft that there is an obstacle at this location.

The Civil Aviation Authority state that like any wind turbine development the proposed wind farm has the potential to impact upon aviation-related operations. Any structure of 150 metres or more must be lit in accordance with the Air Navigation Order and should be appropriately marked. In addition, for obstacles under 150m, there might be a need to install aviation obstruction lighting to some or all of the associated wind turbines in response to aviation stakeholders' comments.

City of Derry Airport has no objection to this planning application.

In the case of this proposed wind energy development, JRC does not foresee any potential problems based on known interference scenarios and the data you have provided.

The proposed development is not within the vicinity of a railway line at this location.

(vi) that the development will not cause significant harm to the safety or amenity of any sensitive receptors (including future occupants of committed developments) arising from noise; shadow flicker; ice throw; and reflected light;

Environmental Health have been consulted on the planning application and subject to a number of conditions do not consider the proposed increase in size of the approved wind turbines will present any significant harm on residential amenity by way of noise.

According to the Best Practice Guide (BPG) to PPS 18 shadow flicker generally only occurs in relative proximity to sites and has only been recorded occasionally at one site in the UK. Shadow flicker is caused by the moving shadow of the turbine rotor being cast over a narrow opening such as a window or open door. The likelihood of disturbance from shadow flicker is dependent on the distance from turbines, turbine orientation, the time and day of the year and the weather conditions. The BPG states at distances greater than 10 rotor diameters from a turbine, the potential for shadow flicker is very low.

The agent has identified there are 26 inhabited houses within 10 rotor diameters and of those, 7 are expected to experience some shadow flicker with H175 expected to be affected by 9.4 hours of shadow flicker annually and H65 is expected to be affected the most at 37.8 hours of shadow flicker annually. The agent has stated mitigation measures can be incorporated into the operation of the wind farm to reduce the instance of shadow flicker. Mitigation measures range from planting tree belts between the affected dwelling and the responsible turbine(s), or installing blinds at the affected dwellings. If there is extreme

nuisance, mitigation could be to the extreme of shutting down individual turbines during periods when shadow flicker could theoretically occur.

(b) visual amenity and landscape character;

(i) that the development will not have an unacceptable impact on visual amenity or landscape character through: the number, scale, size and siting of turbines;

The proposal comprises 9 turbines in the same location as the approved Murley Wind Farm. The applicant is seeking permission to amend the overall tip height of the turbines 149.9m with two possible turbine dimension scenarios within this overall height and also to vary the consent to run for 35 years rather than the consented 25 years.

A Landscape and Visual Impact Assessment (LVIA) has been carried out to establish the full extent of likely landscape and visual effects arising from the proposed wind farms within a study area that extends into a 30km radius from the site.

A visual assessment is concerned with assessing if there are any significant visual effects from the proposal on the landscape and from surrounding properties. By virtue of their size and scale and exposed locations wind turbines will have a visual impact. The degree of the impact will depend on a number of factors. PPS 18 refers to supplementary planning guidance "Wind Energy Development in NI's Landscapes" and this should be taken into account when assessing all wind turbine proposals.

The proposed wind farm falls within LCA 16 - Brougher Mountain and in terms of sensitivity to wind energy the LCA is deemed to have a high to medium rating due to the presence of complex and distinctive landform features, though it is recognised there may be less sensitive areas where there are large forestry plantations.

The development will have direct physical effects on the landscape character of a small part of the Brougher Mountain LCA though its location in close proximity to an existing cluster of wind farms within the same part of the LCA means that it should not significantly alter the existing baseline character. The agent states that summit of Brougher Mountain serves to screen views of the development from the western end of the LCA and other summits have a similar effect on views to the east where visibility of the development from within the LCA would also be patchy.

The LVIA for the consented scheme included twenty shortlisted viewpoints. Ten of these have been retained for detailed assessment of the development and a further viewpoint located on Murley Road in close proximity to the development has been added. A desktop review of viewpoints used in the consented scheme which are located beyond c.10 km from the development were deemed unlikely to experience any significantly different visual effects arising from the proposed tip height increase and have not been included for more detailed analysis. Viewpoint 9 from the previous LVIA was visited as part of the site assessment for this

development but views were found to be limited by maturing forestry in the foreground of this location. This forestry is likely to mature further in coming years to entirely screen views from this location and, therefore, is not considered in the LVIA.

Clogher Valley, although locally recognised as having high scenic quality, is not subject to any official designation and does not enjoy the protection that an AONB have. The consented case officer report considered the likely views from 5-15 kms as being critical for the consideration of the proposal with a summary of those in the district within 2-5kms also.

VP 7 is 4.7 km to the south, 7 turbines are visible but seen with the urban clutter of the settlement of Fivemiltown. The turbines are still visible with other approved turbines in the landscape. The views are not considered to be prominent and to no greater extent than the consented scheme. The visual effects are judged to be not significant.

VP 8 is 7.2km to the south, 7 turbines are visible and seen with existing turbines. The cluster is extended to the west but no further than already consented. The foreground is pastoral fields, mature hedgerows, trees and small areas of woodland. There are no significant changes to the nature of this view since the original LVIA. The visual effects are judged to be not significant.

VP 10 is 10.4km to the south east, 7 turbines are visible and seen with existing turbines. The cluster is extended to the west but no further than already consented. There are clear views across the Clogher Valley in the middle distance to the broad horizon formed by the Brougher Mountain uplands. The existing Lendrum's wind farm forms a visible feature together with a number of single turbines. The foreground is a mix of forestry, pastoral fields and rough grazing land with hedgerows and stands of trees. A substantial area of forestry in the immediate foreground has been felled since the consented development and it is acknowledged the view from this location is now wider in extent and encompasses a greater proportion of open ground in the middle distance as well as a more extensive view along the Brougher Mountain uplands in the distance. Half of the turbines would be seen as an integral part of Lendrum's whilst the other 3 would be visible to the western side of the cluster. However, the proposed turbines would be located at a lower contour level than the existing turbines. It is considered the amendment would not introduce a completely new element into the existing view where a large cluster of wind turbines are already a key feature on the horizon. The visual effects are judged to be not significant.

VP 11 is 4.9kms to the east with 4 turbines and 2 tips visible. The foreground comprises a pastoral upland landscape common in the valleys. The majority of the proposed turbines would be located on land on which is screened by higher foreground. There have been no significant changes to the nature of this view since the original LVIA. The visual effects are judged to be not significant.

I do not consider there will be significant views of the proposed development that will have a significant impact on the character of the area over that which has been consented to date.

(ii) that the development has taken into consideration the cumulative impact of existing wind turbines, those which have permissions and those that are currently the subject of valid but undetermined applications;

Chapter 4 of the ES addresses the cumulative baseline and analysis of effects. The cumulative baseline refers to all existing, consented and developments within the 30km study area. There are a total of 35 wind farms and commercial single turbines considered to form the cumulative baseline for this Landscape and Visual Impact Assessment (LVIA), of which 29 are existing, 4 are consented and 2 are proposed. Exact data for a further 3 turbine proposed windfarm called Cloghfin Road is unknown and therefore it has not been considered. The cumulative baseline also includes single turbines where they are existing elements within the final viewpoints.

The development is located as part of the Lendrum's cluster of existing and wind farms and would replace the consented Murley windfarm (LA09/2015/0460/F) which would already add to this cluster. It's cumulative effects in relation to these wind farms have previously been considered since most of the cumulative elements of this cluster are existing elements and because the proposal will replace the consented Murley wind farm.

The original LVIA concluded that the overall magnitude of effect on landscape character resulting from the consented Murley windfarm would be low. Taking this into consideration the incremental cumulative landscape effects of the development are considered negligible. The presence of other clusters of existing and consented wind farms throughout the study area was a key consideration in the assessment of cumulative landscape and visual effects.

(vii) that above-ground redundant plant (including turbines), buildings and associated infrastructure shall be removed and the site restored to an agreed standard appropriate to its location.

A condition should be included that within 12 months of the cessation of electricity generation at the site, or upon the expiration of this permission, whichever is the sooner, all structure and access tracks shall be removed and all land affected by the development restored in accordance with a decommissioning scheme submitted to and approved by the Council prior to the commencement of any works, or in accordance with any variation to the scheme to which the Council subsequently agrees in writing.

(c) Biodiversity, nature conservation or built heritage interests;

Planning Policy Statement 2 - Natural Heritage:

PPS 2 - Planning and Nature Conservation sets out the planning policy for nature conservation for the whole of Northern Ireland. It describes the statutory framework that helps to protect designated areas. It also outlines the criteria the

Local Planning Authority will employ when processing planning applications that might affect nature conservation interests.

NED has considered the documents and drawings to date. The western section of the site is hydrologically connected to Upper Lough Erne SAC/SPA through the Colebrooke River and one of its tributaries, and is approximately 36km downstream of the proposal. A large part of the development lies within the River Blackwater catchment and flows into Lough Neagh, approximately 80km downstream of the proposal. The mouth of the Tempo River is approximately 25km downstream of the proposal. Although the development site is located at large distances from these sites, potential pollution incidents may have a cumulative impact on the features of these sites, especially salmon which are present in the Colebrooke River system and the Tempo River ASSI.

An oCEMP has been submitted which details a number of mitigation methods for the protection of watercourses on site including the implementation of a pollution prevention plan, no access watercourse buffer zones, SUDS drainage mechanisms, foul effluent removal by tanker, measures to avoid chemical and fuel spills, regular machinery inspections, emergency response plans and contractor briefings.

Water quality monitoring will be implemented throughout the project to enable early detection of any pollution incidents by comparing readings against baseline data. Emergency procedures will be implemented if a pollution incident is detected.

The Peat Management Plan details measures of the safe temporary storage of excavated peat, including storage on shallow peat with slopes angles less than 5 degrees, not to be with 50m of a watercourse and no peat to be stored deeper than 1m depth. These measures are likely to reduce the likelihood of any suspended solids originating from the stockpiles entering watercourses via surface water.

NED are content that there will be no significant impacts to any designated sites, provided that a Final CEMP is produced that includes (but not limited to) all relevant PPGs and the mitigation for protection of watercourses detailed in the oCEMP, Emergency Procedure in the event of a contaminant spillage, Safety and Environmental Requirements for contractors on all activities and Peat Management Plan documents.

Shared Environmental Services have carried out an appropriate assessment in accordance with the Regulations and having considered the nature, scale, timing, duration and location of the project, SES advises the project would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects. In reaching this conclusion, SES has assessed the manner in which the project is to be carried out including any mitigation being conditioned.

Planning Policy Statement 6 - Planning, Archaeology and the Built Heritage

This is an amendment to the tip height of a consented wind farm. A desktop survey, conducted by Gahan and Long on behalf of RES UK and Ireland Ltd, indicated that the proposed development site lies within an area of some archaeological interest, with a total of 63 recorded archaeological sites located within the 5km study area. Of these, 20 were identified as scheduled monuments of regional importance. There are, however, no known sites of archaeological interest located within the proposed development site. To summarise, within 5kms of the site there are :

- 63 recorded archaeological sites of which 36 have upstanding remains. None of the archaeological sites of regional importance will be directly physically impacted upon by the proposed wind farm development;
- 7 listed buildings which will not be directly impacted upon by the proposed wind farm;
- 2 historic gardens and neither will be directly physically impacted upon by the proposed wind farm.

Having considered the report by Gahan and Long it is possible that previously undiscovered surviving archaeological material may exist sub-surface within the development area, which may be negatively impacted upon by the proposed development. Therefore, during the construction phase of the development archaeological mitigation may be required.

(d) local natural resources, such as air quality or water quality;

Regulation Unit (Land and Groundwater Team) has considered the impacts of the proposal on the environment and on the basis of the information provided refers to standing advice. The foundations for the wind turbine could potentially impact on groundwater flow paths, groundwater receptors (aquifers) or secondary receptors. Hence it is recommended that the applicant considers the potential risks to potential receptors identified initially through a desktop study only. If the desktop study identifies any potential impacts then a more detailed risk assessment may be required. The Planning Authority should satisfy themselves that the desktop study did not identify any water features that could be affected by the foundations of the single wind turbine.

Having considered the information in Chapter 9 "Geology and Water Environment" in the submitted ES it is clear that without mitigation the proposed development has the potential to cause adverse changes of moderate significance, primarily relating to potential for contamination of downstream watercourses by silt and suspended soils. Mitigation provided includes, but is not limited to:

- Avoidance based on constraints identified by the baseline assessment;
- Design of site elements to minimise impact on the water environment;
- Implementation of a surface water management plan comprising the use of SuDS (drainage) and silt management, including temporary blocking of forestry drainage;
- Construction phase pollution prevention procedures;

- Maintenance and monitoring during construction and operational phases.

Implementation of the mitigation proposed would result in no significant residual effects to the receiving hydrological environment as a result of the proposed development, and there is no likelihood of significant cumulative impacts over and above any pre-existing effect caused by existing wind development.

The outcomes of this assessment into potential impacts on geology, hydrology and hydrogeology associate with the Murley Wind Farm, taking into account the proposed amendment to increase the overall turbine blade tip heights from 126.5m to 149.9m, remain unchanged relative to the original development proposals consented in 2015.

(e) public access to the countryside

The proposed site is located within a grazing farmland and commercial forestry which was planted in coniferous forest. The site for the proposed wind farm is currently not used for public recreation given the current use for forestry and will not be used for public recreation during construction phase.

Neighbour Notification Checked	Yes
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Summary of Recommendation:

Approve subject to the conditions listed below.

Conditions:

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

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

2. The permission shall be for a limited period of 35 years from the date on which the wind farm is first connected to the grid. Within 12 months of the cessation of electricity generation at the site, or upon the expiration of this permission, whichever is the sooner, all structure and access tracks shall be removed and all land affected by the development restored in accordance with a decommissioning scheme submitted to and approved by the Council prior to the commencement of any works, or in accordance with any variation to the scheme to which the Council subsequently agrees in writing.

Reason: To ensure the landscape is restored once the wind farm ceases to operate.

3. Roads reason to be finalised

4. A detailed programme of works and any required/associated traffic management proposals and the final haulage route for delivery of the turbines shall be submitted to and agreed by the Council prior to the commencement of any element of road works or delivery of turbines or component to the site.

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

5. The level of noise immissions from the combined effects of the permitted wind turbines (including the application of any Tonal Penalty when calculated in accordance with the procedures described on pages 104 - 109 of ETSU-R-97 and any Amplitude Modulation penalty when calculated in accordance with the procedures described in condition 8) shall not exceed values set out in Table 1. Noise limits for any dwellings which lawfully exist or have planning permission for construction at the date of this consent but are not listed in Table 1 shall be represented by the physically closest location listed in Table 1 unless otherwise agreed by Mid Ulster District Council.

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

Table 1:

Property	Standardised wind speed at 10m height (m/s) within the site averaged over 10-minute periods								
	4	5	6	7	8	9	10	11	12
H1	27.7	31.2	30.6	27.5	28.0	35.7	35.7	35.7	35.7
H3	26.7	30.2	33.2	34.2	34.7	34.7	34.7	34.7	34.7
H9	26.7	30.2	33.2	34.2	34.7	34.7	34.7	34.7	34.7
H16	38.8	32.3	35.2	34.8	35.1	36.8	36.8	36.8	36.8
H21	27.0	30.5	33.5	34.5	35.0	35.0	35.0	35.0	35.0
H22	27.5	31.0	34.0	35.0	35.5	35.5	35.5	35.5	35.5
H29	28.8	32.3	35.3	36.3	36.8	36.8	36.8	36.8	36.8
H31	28.4	31.9	34.9	35.9	36.4	36.4	36.4	36.4	36.4
H32	28.3	31.8	34.8	35.8	36.3	36.3	36.3	36.3	36.3
H36	28.1	31.6	34.6	35.6	36.0	36.0	36.1	36.1	36.1
H55	25.9	29.4	32.4	33.4	33.0	33.9	33.9	33.9	33.9
H56	25.8	29.3	32.3	33.3	33.8	33.8	33.8	33.8	33.8

H59	27.7	31.2	34.21	35.2	35.7	35.7	35.7	35.7	35.7
H64	30.0	33.5	36.5	37.0	38.0	38.0	38.0	38.0	38.0
H65	30.3	33.8	36.6	37.0	38.3	38.3	38.3	38.3	38.3
H72	29.0	32.5	35.5	34.7	31.8	37.0	37.0	37.0	37.0
H73	27.5	31.0	34.0	35.0	35.5	35.0	35.5	35.5	35.5
H74	36.4	39.9	32.9	33.9	28.0	34.4	34.4	34.4	34.4
H78	29.1	32.6	35.6	36.6	37.1	37.1	37.1	37.1	37.1
H79	29.3	32.8	35.8	36.8	37.3	37.3	37.3	37.3	37.3
H83	29.5	33.0	34.4	34.6	37.5	37.5	37.5	37.5	37.5
H85	25.7	29.2	32.2	33.2	33.7	33.7	33.7	33.7	33.7
H87	27.4	30.9	33.9	34.5	35.4	35.4	35.4	35.4	35.4
H88	25.8	29.3	32.3	33.3	33.8	33.8	33.8	33.8	33.8
H89	25.2	28.7	31.7	32.7	33.2	33.2	33.2	33.2	33.2
H90	24.7	28.2	31.2	32.2	32.7	32.7	32.7	32.7	32.7
H94	27.2	30.7	33.7	33.7	34.1	35.2	35.2	35.2	35.2
H95	27.2	30.7	33.7	34.7	34.1	35.2	35.2	35.2	35.2
H96	26.0	29.5	32.5	33.5	34.0	34.0	34.0	34.0	34.0
H97	25.6	29.1	32.1	33.1	33.6	33.6	33.6	33.6	33.6
H98	25.1	28.6	31.6	32.6	33.1	33.1	33.1	33.1	33.1
H99	24.7	28.2	31.2	32.2	32.7	32.7	32.7	32.7	32.7
H100	25.1	28.6	31.6	32.6	33.1	33.1	33.1	33.1	33.1
H101	25.8	29.3	32.3	33.3	33.8	33.8	33.8	33.8	33.8

6. Within 6 months of the development first becoming fully operational (unless otherwise extended with Mid Ulster District Council) the wind farm operator shall at his/her expense employ a suitably qualified and competent person to undertake a noise survey to assess the level of noise immissions from the wind farm. The duration of such monitoring shall be sufficient to provide comprehensive

information on noise levels with all turbines operating across the range of wind speeds referred to in Condition 3 and covering a range of wind directions. Details of the noise monitoring survey shall be submitted to Mid Ulster District Council for written approval prior to any monitoring commencing. Mid Ulster District Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise survey.

Reason: To protect the amenity of the adjoining residential properties.

7. Within 4 weeks of a written request by Mid Ulster District Council, following a noise complaint from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind farm operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of noise immissions from the combined effects of the permitted wind turbines, at the complainant's property, following the procedures described in Pages 102-109 of ETSU-R-97 and if necessary, those described in condition 1. Details of the noise monitoring survey shall be submitted to Mid Ulster District Council for written approval prior to any monitoring commencing. Mid Ulster District Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring.

Reason: To protect the amenity of the adjoining residential properties.

8. The wind farm operator shall provide to Mid Ulster District Council the results, assessment and conclusions regarding the noise monitoring required by Conditions 6 and 7, including all calculations, audio recordings and the raw data upon which that assessment and conclusions are based. Such information shall be provided within 3 months of the date of a written request of Mid Ulster District Council unless otherwise extended in writing by Mid Ulster District Council.

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

9. Wind speed, wind direction and power generation data shall be continuously logged throughout the period of operation of the wind farm. This data shall be retained for a period of not less than 12 months. The recorded wind data, standardised to 10m height above ground level and relating to any periods during which noise monitoring took place or any periods when there was a specific noise complaint, shall be provided within 3 months of the date of a written request of Mid Ulster District Council unless otherwise extended in writing by Mid Ulster District Council.

Reason: To allow Council to investigate any complaints.

10. Within 4 weeks from receipt of a written request from Mid Ulster District Council, following an amplitude modulation (AM) complaint to it from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind farm operator shall submit a scheme for the assessment and regulation of AM to Mid Ulster District Council for its written approval. The scheme shall be in general accordance with:

- Any guidance endorsed in National or Northern Ireland Planning Policy or Guidance at that time, or in the absence of endorsed guidance,
- Suitable published methodology endorsed as good practice by the Institute of Acoustics; or in the absence of such published methodology,
- The methodology published by Renewable UK on the 16th December 2013; and implemented within 3 months of the written request of Mid Ulster District Council unless otherwise extended in writing by Mid Ulster District Council.

Reason: To allow Council to investigate any complaints.

11. Construction work, which is audible at any noise sensitive property outside the site, shall only take place between the hours of 07.00 - 19.00 hours on Monday to Friday, 07.00 - 13.00 hours on Saturday with no such working on Sunday. Outwith these hours, work at the site shall be limited to turbine erection, testing/commissioning works, emergency works, or construction work that is not audible at any noise sensitive property.

Reason: To protect the amenity of the adjoining residential properties.

12. No development activity, including ground preparation or vegetation clearance, shall take place until a final Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Planning Authority. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise approved in writing by the Planning Authority. The CEMP shall include the following:
- a) Construction methodology and timings of works;
 - b) Pollution Prevention Plan; including details of the establishment of buffer zones to watercourses (e.g. 50m to streams and 20m to minor drains) and details of watercourse crossings;
 - c) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;
 - d) Peat Spoil Management Plan; including identification of peat/spoil storage areas, management and handling of peat/spoil and details of the reinstatement of excavated peat/spoil;
 - e) Mitigation measures for construction in peatland habitats;
 - f) Water Quality Monitoring Plan;
 - g) Environmental Emergency Plan;
 - h) Details of the appointment of an Ecological Clerk of Works (ECoW) and their roles and responsibilities;
 - i) Draft Decommissioning Plan detailing the removal of infrastructure, protection of habitats, pollution prevention measures and the restoration of habitats and natural hydrological processes on the site.

Reason: To protect Northern Ireland priority habitats and species, to ensure implementation of mitigation measures identified within the Environmental Statement and to prevent likely significant effects on designated sites.

13. No development activity, including ground preparation or vegetation clearance, shall take place until a final Habitat Management Plan (HMP) has been submitted

to and approved in writing by the Planning Authority. The approved HMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved HMP, unless otherwise approved in writing by the Planning Authority. The HMP shall include the following:

- a) Clear aims and objectives for the proposed habitat management/restoration areas and bat buffer zones (where re-colonisation should be allowed to proceed naturally);
- b) Description of pre-construction, baseline habitat conditions;
- c) Appropriate maps, clearly identifying habitat management areas;
- d) Detailed methodology and prescriptions of habitat management and restoration measures, including timescales, and with defined criteria for the success of the measures;
- e) Details of the prohibition of habitat damaging activities, including agricultural activities;
- f) Confirmation of landowner agreement with all proposed habitat management measures for the lifetime of the wind farm;
- g) Details of the regular monitoring of the effectiveness of habitat management and restoration measures using appropriate methodology (e.g. visual inspections, vegetation quadrats, fixed point photography) in years 1, 3, 5, 10, 15, 20, 25 and 30 after construction;
- h) Details of the production of regular monitoring reports which shall be submitted to the Planning Authority within 6 months of the end of each monitoring year and which shall include details of contingency measures should monitoring reveal unfavourable results.

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

14. No development activity, including ground preparation or vegetation clearance, shall take place on site between 1 March and 31 August in any year until an Ornithological Mitigation Strategy (OMS) has been prepared by a suitably experienced and competent ornithologist and approved in writing by the Planning Authority. The approved OMS shall be implemented in accordance with the approved details and all works must conform to the approved OMS, unless otherwise approved in writing by the Planning Authority. The OMS shall include:
 - a) Details of the appointment of a suitably experienced and competent ornithologist, with the power to halt works, to supervise works during the bird breeding season;
 - b) Details of pre-construction bird surveys, including the location of any recorded active nests or breeding activity;
 - c) Details of appropriate mitigation measures to be implemented prior to any works commencing, including the establishment of species specific buffer zones to active nests or breeding territories (to be agreed with NIEA) and the phasing of works to avoid any development activity within these breeding bird buffer zones;
 - d) Details of the timing of ground preparation and vegetation clearance to avoid disturbance to breeding birds;
 - e) Details of appropriately timed bird surveys to be conducted during the construction phase;
 - f) Details of appropriate mitigation measures to be implemented during the construction phase, including, temporarily halting works and the establishment of

species specific buffer zones to active nests or breeding territories (to be agreed with NIEA);

- g) Provisions for the reporting of the implementation of the OMS to the Planning Authority after construction has commenced and at the end of each bird breeding season during which works take place.

Reason: To protect breeding birds during the construction phase.

15. No development activity, including ground preparation or vegetation clearance, shall take place until an Ornithological Management & Monitoring Plan (OMMP) has been prepared by a suitably experienced and competent ornithologist and approved in writing by the Planning Authority. The approved OMMP shall be implemented in accordance with the approved details and all works must conform to the approved OMMP, unless otherwise approved in writing by the Planning Authority. The OMMP shall include:
 - a) Details of a programme of ornithological mitigation measures, including wader habitat management measures within the Curlew compensation areas which must be completed prior to the first breeding season post-construction, and a predator control programme using legal methods;
 - b) Details of a programme of post-construction monitoring of breeding waders within the site and 800m buffer zone, using the methods of Brown and Shepherd (1993)³, with a minimum of four visits made between April and June, in the first survey period after construction is completed (year 1) and in years 2, 3, 5, 10 and 15 thereafter;
 - c) Details of a programme of regular turbine carcass searches around turbines and within 50m of linking overhead power cables in years 2 (first operational year), 3 and 5 using methods recommended by Scottish Natural Heritage (SNH 2009: Sections 48-56)⁴, to produce mortality data for birds, including estimation of the rate of carcass removal by scavengers, estimation of observer efficiency of carcass detection, and the reporting of mortality incidents to NIEA;
 - d) Provisions for the implementation of contingency mitigation measures should monitoring reveal significant impacts on birds;
 - e) Details of the production of monitoring reports which shall be submitted to the Planning Authority within 6 months of the end of each monitoring year.

Reason: To ensure implementation of the long term ornithological mitigation measures as described in the Environmental Statement and to monitor the impact of the proposal on sensitive bird species.

16. Prior to the erection of internal overhead power cables which will link the three turbine clusters and the on-site electricity sub-station, high-visibility bird deflectors shall be attached along the cables at regular intervals and these shall be maintained for the lifetime of the structure.

Reason: To reduce the risk of collision for bird species.

17. No turbine shall become operational until a Bat Monitoring Programme (BMP) has been submitted to and approved in writing by the Planning Authority. The approved BMP shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority. The BMP shall include the following:

1. Details of the proposed monitoring of bat activity across the site post construction using appropriate methodology for a period of time to be agreed with the planning authority;
2. Details of bat carcass searches at selected turbines using appropriate carcass search methodology and frequency, for a period of time to be agreed with the planning authority;
3. Details of the production of yearly monitoring reports to be submitted to the planning authority within 6 months of the end of each monitoring year;
4. Provision for review of the monitoring programme, including timescales;
5. Specific thresholds for triggering further remedial or mitigation measures, such as curtailment of turbines where more than one bat is killed per turbine per year;
6. Provision for contingency measures which may be deemed necessary depending on the results of the monitoring and which shall be implemented if instructed by the Planning Authority.

Reason: To monitor the impact of the proposal on bats

18. No development activity, including ground preparation or vegetation clearance, shall take place until a Protected Species Management Plan (PSMP) has been submitted to and approved in writing by the Planning Authority. The approved PSMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved PSMP, unless otherwise agreed in writing by the Planning Authority. The PSMP shall include the following:
 - a) Details of the appointment of a competent ecologist as an Ecological Clerk of Works (ECoW), with the power to halt works, including their roles, responsibilities and timings of visits with regard to management of protected species;
 - b) Details of updated surveys for protected species prior to works commencing using appropriate methodology;
 - c) Details of appropriate mitigation for protected species to be implemented during the site preparation, construction and operational phases, including timing of works, wildlife corridors, buffer zones and/or fencing;
 - d) Details of appropriate monitoring of impacts to protected species during construction works;
 - e) Details of appropriate procedures/measures to be followed should monitoring indicate potential impacts to protected species and/or potential breaches of wildlife legislation.

Reason: To mitigate for impacts on protected species, particularly Pine Marten and Common Lizard, using the site.

19. The appointed contractor must submit a Final Construction Environmental Management Plan (CEMP) for approval by Mid Ulster District Council Planning before commencement of any works on site. This plan should contain all the appropriate environmental mitigation as detailed in the Outline CEMP by RES and as advised by NIEA WMU and NED in their responses to the consultation dated 19/07/2021.

Reason: To ensure that the appointed contractor is aware of and implements the appropriate environmental mitigation during construction/decommissioning phases that protects the features of the connected European Sites in Upper Lough Erne.

20. The developer shall notify Mid Ulster District Council in writing of the date of commencement of works on site and of the date when the turbines have become fully operational.

Reason: To ensure compliance with the appropriate conditions.

Signature(s)

Date:

ANNEX	
Date Valid	3rd October 2019
Date First Advertised	15th October 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses)	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No Voluntary statement received.
Planning History <p>Ref ID: LA09/2019/0951/PAN Proposal: Amendment to the overall tip height of the consented Murley Wind Farm from 126.5m to 149.9m including blade lengths of between 50m and 63m and hub heights of between 86.9m and 99.9m and vary planning condition 25 years to 35 years from the date on which the wind farm is connected to the electricity grid and a relocation of the substation Address: The site is located in the townlands of Killygordan, Tattanafeinnell, Edgegole and Cole Glen Forest near Fivemiletown, Decision: Decision Date:</p> <p>Ref ID: M/2014/0526/PREAPP Proposal: Intention to submit an Environmental Statement for a proposed wind energy project comprising 9 turbines with an overall height of 126.5m and ancillary development. Address: Murley, in the vicinity of Glengesh Lower Forest, Moysnaght, Killygordon, Tattanafeinnell, Edergole and Cole Glen Forest, near Fivemiletown, Co Tyrone, Decision: Decision Date:</p> <p>Ref ID: K/2005/0387/F Proposal: Amendment to proposed wind farm comprising amended layout including reduction from 10 to 8 wind turbines (each with a maximum overall height of no greater than 101m), associated transformers, a permanent anemometer mast, two temporary</p>	

anemometer masts, some upgrading of existing access tracks and extending to new turbine locations, gates, a site control room and substation, electrical cabling, a temporary site compound and all ancillary works

Address: Hunter's Hill, (In the townlands of Tattymoyle Lower, Edergole, Killygordon and Tattanafeinnell), Co Tyrone

Decision:

Decision Date: 14.01.2008

Ref ID: L/2004/0535

Proposal: Proposed Windfarm

Address: Tattanafeinnell

Decision:

Decision Date:

Ref ID: LA09/2019/1096/DETEI

Proposal: Intention to submit an ES for Proposed Tip Height Increase for Murley Wind Farm

Address: The site is located in the townlands of Killygordon, Tattanafeinnell, Edgegole and Cole Glen Forest near Fivemiletown,

Decision:

Decision Date:

Ref ID: LA09/2019/1300/F

Proposal: An amendment to the overall tip height of the consented Murley Wind Farm from 126.5m to 149.9m (consented under LA09/2015/0460/F and K/2015/0066/F).

Turbine geometry to be considered includes blade lengths of between 50m and 63m and hub heights of between 86.9m and 99.9m. The proposal also includes an application to vary planning condition 25 years to 35 years from the date on which the wind farm is connected to the electricity grid

Address: The site is located in the townlands of Killygordon, Tattanafeinnell, Edgegole and Cole Glen Forest near Fivemiletown,

Decision:

Decision Date:

Ref ID: M/2014/0312/PREAPP

Proposal: Request for scoping opinion in relation to the landscape and visual impact assessment of a proposed windfarm at Murley Mountain, Co Tyrone

Address: Murley Mountain, Co Tyrone,

Decision:

Decision Date:

Ref ID: LA09/2015/0460/F

Proposal: A proposal for a wind farm comprising of nine turbines (each with an overall maximum height of up to 126.5m above ground level) and associated infrastructure including upgraded site entrances, new and upgraded onsite access tracks, an onsite

substation and control building, underground cables, overhead grid line, two temporary monitoring masts, temporary construction compounds, enabling works compounds, permanent crane hardstandings and road widening and improvement works on sections of the transport route (road improvement works). Two turbines are located with the Fermanagh Omagh Council area and seven are located within the Mid Ulster Council Area

Planning Permission is requested with the condition that the proposed wind farm development to which it would relate must be begun within a 10 year period from the date of planning consent

Address: Murley Wind Farm in Townlands of Glengesh Lower Forest, Moysnaght, Killygordon, Tattanafeinnell, Edergole and Cole Glen Forest, near Fivemiletown, Co Tyrone,

Decision: PG

Decision Date: 10.05.2018

Ref ID: LA09/2015/0362/F

Proposal: Proposed erection of an 80m Meteorological Mast for 5 years in order to measure wind speed and direction

Address: Site is approx. 2250m NW of Murley Crossroads in the Townlands of Killygordon and Tattanafeinnell, near Fivemiletown,

Decision: PG

Decision Date: 06.10.2015

Ref ID: K/2015/0066/F

Proposal: A proposal for a wind farm comprising of nine turbines (each with an overall maximum height of up to 126.5m above ground level) and associated infrastructure including upgraded site entrances, new and upgraded on-site access tracks, an on-site substation and control building, underground cables, overhead grid line, two temporary monitoring masts, temporary construction compounds, enabling works compounds, permanent crane hardstandings and road widening and improvement works on sections of the transport route (road improvement works). Two turbines are located within the Mid Ulster Area. Planning permission is requested with the condition that the proposed wind farm development to which it would relate must be begun within a year period from the date of Planning consent, as permitted under Article 34 of the Planning (NI) Order 1991, as amended

Address: Murley wind farm in the townlands of Glengesh Lower Forest, Moysnaght, Killygordon, Tattanafeinnell, Edergole and Cole Glen Forest, near Fivemiletown, Co. Tyrone.,

Decision: PG

Decision Date:

Summary of Consultee Responses

See main body of report

Drawing Numbers and Title

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

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

Drawing No. 03
Type: Proposed Elevations
Status: Submitted

Drawing No. 04
Type: Proposed Elevations
Status: Submitted

Drawing No. 05
Type: Floor Plans
Status: Submitted

Drawing No. 06
Type: Proposed Elevations
Status: Submitted

Drawing No. 07
Type: Proposed Elevations
Status: Submitted

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

Drawing No. 09
Type: Proposed Plans
Status: Submitted

Drawing No. 10
Type: Site Layout or Block Plan
Status: Submitted

Drawing No. 11
Type: Site Layout or Block Plan
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1548/O	Target Date:
Proposal: 4 Detached dwellings and garages accessed through Riverside Gardens, Castledawson	Location: Lands approx. 80m South of Hughes Furniture Bellshill Road Castledawson
Referral Route: This application is being presented to Committee as it is being recommended for refusal.	
Recommendation:	REFUSE
Applicant Name and Address: Hughes Furniture 14 Bellshill Road Castledawson	Agent Name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SG
Executive Summary:	
Signature(s):	

Case Officer Report


Site Location Plan



Consultations:

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

Representations:

Letters of Support	None Received
Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
Summary of Issues	
No representations have been received in relation to this planning application.	
Characteristics of the site and area	
<p>The site is currently accessed through the Hughes Furniture site on the Bellshill Road Castledawson. The site is located around 80m east of Hughes Furniture and is located on the eastern side of the large commercial building, which was the former Nestle Chocolate Factory. The site lies within an area zoned as Industrial land (CN 06). This is bounded to the north by the historical railway line with a small area of open space and residential dwellings located to the northern side of the historical railway line, to the south by open agricultural land and to the east by the Moyola River which flows through the Brough Road Local Landscape Policy Area (CN 09).</p>	
Description of Proposal	
<p>This is an outline application for a site for four detached dwellings and garages, of a single house type, with the access being taken through Riverside Gardens, Castledawson. An indicative block plan indicates that three of the dwellings will be sited backing onto the Moyola River with the fourth dwelling facing northwards and backing onto the adjoining agricultural lands to the south. The dwellings are served via a single access road from Riverside Gardens with the access being taken through the historic railway line and culminating at a turning head to the south west of the dwellings.</p>	
 <p>The indicative site layout showing access taken off Riverside Gardens and through the historic railway line.</p>	

As this is an outline application, details of the design of the house types etc. have not been provided, nor considered at this stage.

Planning Assessment of Policy and Other Material Considerations

The relevant policies for consideration of this application are:

Magherafelt Area Plan 2015

Strategic Planning Policy Statement

Planning Policy Statement 3 - Access, Movement and Parking.

Planning Policy Statement 4 - Planning and Economic Development use

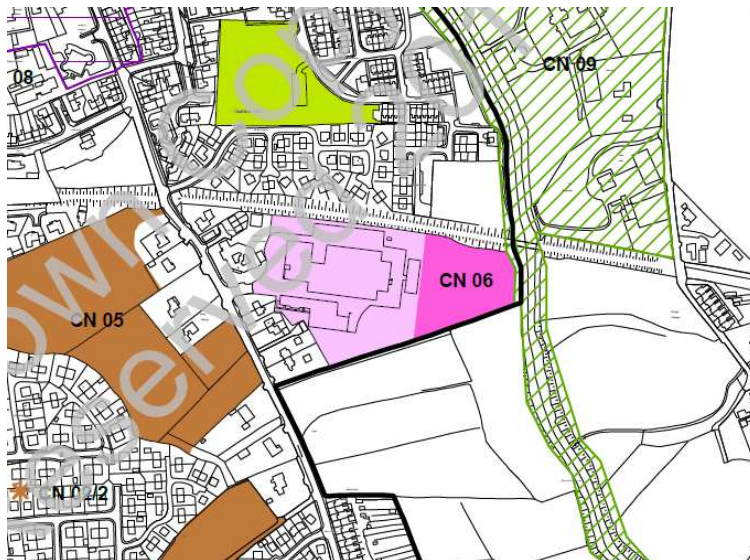
Planning Policy Statement 7 - Quality Residential Environments.

Planning Policy Statement 12 - Housing in Settlements

Planning Policy Statement 13 - Transportation and Land Use

Creating Places

As the site is located within an area zoned for Industrial Use within the Magherafelt Area Plan 2015, the critical planning policy is therefore PPS 4.



Map No.8 Castledawson showing the existing industrial zoning with the area zoned as CN 06 for Light Industry

The lands in question are sited within an area extending to 0.84ha, zoned as Industrial land – CN 06. This area of zoned land is the only area within Castledawson which has been zoned for future industrial use. All other areas of industrial land are existing industrial areas.

The key site requirements of the CN 06 are :-

- The site is to be used for light industrial use as defined in Class B2 of the Planning (Use Classes) Order 2004 and for no other type of industrial use.
- The site shall be accessed via the existing industrial access on Bells Hill Road.
- Contemporaneous with the new development, the eastern boundary of the site adjacent to the Moyola River is to be planted with a 5-8 metre belt of trees of native species to provide screening for the development and to afford protection for the visual amenity and character of the river corridor (refer to Designation CN 09).

It should be noted that a Planning Appeal decision against the refusal notice on a previous application ref: H/2006/0713/O, Appeal ref: 2007/A0574 dated 3rd November 2009 (see Appendix 1), which included the entire CN 06 zoning in addition to the adjacent existing zoned

industrial land was dismissed. The Commissioner stated in their report that *'I am not persuaded that the appeal site is a vital local industrial land resource which must be retained'* and therefore the refusal reason based on Paragraph 35 of PPS 4 and relating to the retention of industrial land and buildings was not sustained.

The Commissioner also referred to insufficient information about the condition of the land and the extent of any contamination that was there or the remediation that might be required. The Department sustained the second reason for refusal as the Commissioner stated that *'The grant of an outline permission would establish the principle of development on the site and it would not be appropriate to allow this where there are unallayed concerns about the extent of contamination, its environmental implications and the adequacy of remediation works'*.

However, that appeal was held prior to both the publication of Planning Policy Statement 4 – Planning and Economic Development (November 2010) and the adoption of the Magherafelt Area Plan 2015 (December 2011).

The implications of PPS 4 on this application is that the proposal must be assessed against Policy PED 7 - Retention of Zoned Land and Economic Development Uses, which is clear and unambiguous in stating that 'Development that would result in the loss of land or buildings zoned for economic development use in a development plan (either existing areas or new allocations) to other uses will not be permitted, unless the zoned land has been substantially developed for alternative uses'.

PED 7 goes on to state 'An exception will be permitted for the development of a sui generis employment use within an existing or proposed industrial/employment area where it can be demonstrated that: the proposal is compatible with the predominant industrial use; it is of a scale, nature and form appropriate to the location; and provided approval will not lead to a significant diminution of the industrial/employment land resource in the locality and the plan area generally'.

As the application is on zoned land which has not been developed for any alternative use and the proposed development is not considered to be an exception as it is not for a sui generis employment use, the proposal is therefore clearly contrary to Policy PED 7. This is further supported by the Planning Advice Note – Implementation of Planning Policy for the Retention of Zoned Land and Economic Development Uses introduced in November 2015 which states at Para's.14-15;

'Only in exceptional circumstances will the loss of land zoned for economic development use in a local development plan to other uses be considered. Planning permission should therefore not normally be granted for proposals that would result in the loss of such land and buildings to other uses'.

'The retention of economic development land can not only make a substantial contribution to the renewal and revitalisation of towns and beyond but it can also provide employment opportunities accessible to large sections of the urban population and the rural hinterland. The existence of redundant business premises and derelict industrial land can be an important resource for the creation of new job opportunities in areas of high unemployment and social deprivation'.

With regards to the Magherafelt Area Plan 2015, the proposal is also contrary to the zoning CN 06. Although the Department withdrew its refusal reason in respect of prematurity, at the aforementioned appeal, the Zoning was confirmed through the adoption of the Area Plan. The proposal is therefore contrary to the Magherafelt Area Plan 2015 in that it would result in the loss of land zoned for economic development use.

Further to DAERA's Regulation Unit Land and Groundwater Team requesting the submission of a Preliminary Contaminated and Risk Assessment (PRA) for the application site, a Phase 1 PRA

was submitted. The Phase 1 PRA was submitted and concluded that there are potential risks to human health and/or environmental receptors and as such an intrusive investigation is required.

The PRA was also considered by Environmental Health who advised that;
 'The risk assessment included a conceptual site model which identified potential pollutant linkages due to the former railway line that ran to the north of the site and some in-fill which could pose a risk to future site users. They have qualified the risk as 'Low-Moderate' and have recommended further Phase 2 site investigation to quantify these risks. A Generic Quantitative Risk Assessment which involved the drilling of 4 no. boreholes to obtain soil and water samples and facilitate ground gas monitoring was completed and the samples were sent for analysis. The results were duly considered by Environmental Health who advised of the following:- 'There were no exceedances of SGV or S4UL values were observed. Ground gas monitoring did not identify any excess ground gas issues and therefore no additional ground gas protection measures are required. A condition was therefore suggested to ensure if any unknown contamination is discovered during construction, then it would be dealt with in an acceptable manner.

Environmental Health also advised that;
 'The applicant should be aware that the proposed development is located in close proximity to an existing bedding warehouse. Such an activity may give rise to offensive conditions and a resulting impact upon the amenity enjoyed by the proposed development due to noise from deliveries etc.'.
 Therefore the proposed development also has the potential to have an adverse impact on residential amenity by way of noise.

A block plan has been provided for the proposed development and although this is an outline application, it is treated as a conceptual layout of how the site could be developed. The proposed layout has a density 10.0 units per hectare on a site of 0.4ha.

PPS 7 Quality Residential Environments – Policy QD 1 Quality in new Residential Environments requires new residential developments to create a quality residential environment which should be based on a concept plan which drawn on the positive aspects of the surrounding area. Proposals must conform to nine criteria listed in the policy in order to protect residential amenity, residential character, environmental quality and movement. Any proposals which fails to satisfy the criteria, even if the site is designated for residential use, will not be acceptable. As this is an outline application the proposed block plan is being treated as a conceptual plan and is therefore being assessed against these criteria as follows:-

- (a) The proposal fails to meet the first of these criteria in that it does not respect the surrounding context insofar as the proposal is for a housing development within an industrial site. In terms of layout, the density at 10 dwellings per hectare is much lower than the surrounding areas which range from 25.0 dwellings per hectare in Ashbourne to 37.0 dwellings per hectare in Riverside North/South.
- (b) The proposed development is in close proximity to a former railway bridge which spans over the River Moyola. The bridge is a Grade B2 structure which is of special architectural and historic interest and which is protected by Section 80 of the Planning Act (NI) 2011. Historic Environment Division considered the impact of the proposed development on the listed structure and on the basis of the information provided, advised that it is acceptable subject to the suggested conditions.
- (c) As the proposed development is for four dwellings, there is no requirement to provide public open space. All dwellings have more than the minimum of 40m² private open space.
- (d) As the site is within walking distance of the centre of Castledawson, the provision of neighbourhood facilities are not deemed necessary within the site;
- (e) Due to the site being located to the rear of an existing commercial business and without taking the access through the commercial premises, the access has been taken through Parkview, Riverside South and Riverside Gardens. This has resulted in the site being in the region of 900m from Castledawson town centre which will provide an acceptable movement

pattern, including walking and cycling and will enable occupants to access public transport routes and the public network system;

(f) Adequate provision can be made for all sites to have in-curtilage parking.

(g) As this is an outline application, the design of the development in terms of form, materials and detailing has not been considered in detail. However, this can be conditioned and considered at Reserved Matters stage.

(h) Environmental Health advised that the proposed development is located in close proximity to an existing bedding warehouse. Such an activity may give rise to offensive conditions and a resulting impact upon the amenity enjoyed by the proposed development due to noise from deliveries etc. Therefore the proposal has the potential to create a conflict with existing adjacent land use.

(i) Generally the layout can be designed to deter crime and to ensure there are no areas which are unsupervised or not overlooked.

Consultee responses

Transport NI advised that as whilst the proposal is contrary to the key site requirements of zoned land, the proposed development could be acceptable subject to the suggested conditions.

Environmental Health suggested a condition to deal with the potential for site contamination. EHD also advised of the potential to create a conflict with the adjacent commercial land use, as discussed above.

Historic Environment Division: HED (Historic Buildings) has considered the impacts of the proposal on the listed structure and advised that it is acceptable subject to the suggested conditions.

NI Water advised that there was capacity at the WWTW.

DAERA: Regulation Unit advised that due to the proximity to Railway land, a preliminary contaminated land risk assessment is required as a minimum. Following the submission of the GQRA, suggested conditions were provided to ensure the site is suitable for the intended use.

Recommendation

On consideration of the above, it is my opinion that planning permission should be refused for the reasons stated below:-

Neighbour Notification Checked	Yes
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Summary of Recommendation:

Refuse for the reasons stated below:-

Reasons for Refusal:

1. The proposed housing development is contrary to the Magherafelt Area Plan 2015 and Designation CN 06 in that the site is zoned as an Industrial (Land Use) Policy Area to be used for light industrial use as defined in Class B2 of the Planning (Use Classes) Order 2004 and for no other type of industrial use.
2. The proposed development is contrary to Planning Policy Statement 4 – Policy PED 7

Retention of Zoned Land and Economic Development Uses in that the development would, if permitted, result in the loss of land zoned for economic development within the Magherafelt Area Plan 2015 and the proposal is not considered to be an exception or a sui-generis employment use.

3. The proposed development is contrary to Policies QD1 and QD2 of Planning Policy Statement 7 Quality Residential Environments and Development Control Advice Note 8 Housing in Existing Urban Areas in that the development as proposed fails to provide a quality residential environment as the applicant has failed to demonstrate through the submission of a Design Concept Statement, how the scheme has emerged from an analysis of the sites location, surrounding context and the specific characteristics of the site and results in piecemeal development.
4. As provided for within Section 40 of the Planning Act (Northern Ireland) 2011, the applicant has failed to provide sufficient information to enable Mid Ulster District Council to determine that the proposed layout will not create a conflict with the existing commercial business by way noise from deliveries etc.

Signature(s)

Date:

ANNEX	
Date Valid	26th November 2019
Date First Advertised	10th December 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 25 Riverside Gardens Castledawson Londonderry	
Date of Last Neighbour Notification	
Date of EIA Determination	N/A
ES Requested	No
Planning History Ref ID: LA09/2017/0672/PAD Proposal: Proposed mix use scheme comprising light industrial (class B2) and residential development Address: Lands at Bellshill Road, Castledawson, Decision: Decision Date: Ref ID: LA09/2019/1548/O Proposal: 4 Detached dwellings and garages accessed through Riverside Gardens, Castledawson Address: Lands approx. 80m South of Hughes Furniture, Bellshill Road, Castledawson, Decision: Decision Date: Ref ID: H/1989/0327 Proposal: HOUSING DEVELOPMENT Address: RIVERSIDE GARDENS CASTLEDAWSON Decision: Decision Date: Ref ID: H/2006/0114/F Proposal: Improvements to 68 No Existing NIHE Dwellings & Environmental Improvements to overall Estate (inc New Road Layouts & General Landscaping) Address: Riverside Estate, Castledawson (Parkview, Riverside North, Riverside South & Riverside Gardens Decision:	

Decision Date: 30.10.2006

Ref ID: H/2006/0713/O

Proposal: Proposed mixed developement of light industrial units and residential development to include a mix of dwelling types, associated car parking and public open space

Address: Lands at 14 Bellshill Road, Castledawson

Decision:

Decision Date:

Ref ID: H/1989/0297

Proposal: STORE EXTENSION

Address: 14 BELLS HILL CASTLEDAWSON

Decision:

Decision Date:

Ref ID: H/1991/6117

Proposal: FUTURE LAND USE TAMNIARAN & TAMNADEESE CASTLEDAWSON

Address: TAMNIARAN & TAMNADEESE

Decision:

Decision Date:

Summary of Consultee Responses

Consultees responded as detailed above in the case officers report.

Drawing Numbers and Title

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:

Appendix 1

Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2538
E: info@pacni.gov.uk

Appeal Reference:	2007/A0574
Appeal by:	O'Kane and Devine Ltd against the refusal of outline planning permission.
Development:	Mixed development comprising light industrial units, residential development to include a mix of dwellings, associated car parking and public open space.
Location:	14 Bellshill Road, Castledawson.
Application Reference:	H/2006/0713/O
Procedure:	Informal Hearing 20th October 2009.
Decision by:	Commissioner Helen Fitzsimons, dated 3 rd November 2009.

Decision

1. The appeal is dismissed and outline planning permission is refused.

Reasons for the decision

2. The main issues in this appeal are
 - would the proposed development result in a loss of land which is a vital industrial land resource;
 - whether the development would result in an unacceptable loss of residential amenity; and
 - whether it has been established that any contamination that may exist on the site is capable of being appropriated remediated.
3. Currently there is some 3.09 ha of existing industrial land within the appeal site of which 2.25 ha are built upon. Three buildings occupy the appeal site and are partially in use by two businesses. An additional area of 0.84ha is proposed in the draft Magherafelt Area Plan (dMAP) draft zoning CNO6 and this lies within the appeal site. As no objections were received in respect of this draft zoning there is a strong possibility that it will be confirmed upon adoption of the draft plan. The Department accepted that the issue of prematurity does not arise and withdrew its first reason for refusal.
4. Paragraph 35 of Planning Policy Statement 4 'Industrial Development' (PPS 4) makes provision for the retention of Industrial Land and Buildings. It sets out 5 examples of circumstances in which permission may be granted for the change of use or redevelopment of industrial sites. These examples are not exhaustive and the fundamental test is whether or not the land is a vital industrial land resource that must be retained.

5. In making my assessment against the fundamental test I consider the following factors to be relevant:-
- Whilst Invest NI indicated that it has 84 client companies in Castledawson and the surrounding five wards of which over 80% have three year growth plans there is no evidence before me that it supports the retention of the appeal site for industrial purposes or intends to acquire it for that purpose.
 - There is 22.7ha of industrial land currently available across the Magherafelt District and aside from the appeal site 1.015ha of this is located in Castledawson.
 - The Department accepted that the buildings are dilapidated and unsuitable for modern use. There are health and safety issues pertaining to damp and the condition of the roof. The Appellant's low occupation level at the appeal site (45 staff) bears testimony to the condition of the buildings and the constraints imposed by their condition.
 - Redevelopment of the appeal site in the manner proposed is to enable new light industrial accommodation for the two existing enterprises and an additional four new units. It would not be financially possible to construct the purpose built modern units without the proposed residential element of the scheme. The current industrial land at the appeal site is 3.75ha and 1.67ha would remain in light industrial use. This loss is not significant.
 - There would be no loss of jobs for existing staff and up to 35 new jobs would be created.
 - The benefit of the appeal proposal would be better use of this industrial land.
6. Taking account of all of the above factors I am not persuaded that the appeal site is a vital local industrial land resource which must be retained. The Department has not sustained its first reason for refusal based on Paragraph 35 of PPS 4.
7. The appeal site is flanked on the north, west and south west by residential properties. The Objector was concerned that the siting of three of the proposed units on the northern boundary of the appeal site would give rise to loss of her amenity and privacy and would result in noise. However, I note that the amended concept plan proposes to retain the railway embankment separating the appeal site from the Objector's property and that the positioning of the units are in keeping with those approved under unimplemented planning permission H/2002/0643/F. Conditions requiring the use of the units for light industrial purposes, restricting fenestration on the rear elevations and mitigating measures for noise would safeguard the amenities of the Objector. There is no intent to remove the western boundary of the Objector's property. The Objector's concerns on these matters do not warrant withholding planning permission.

8. Magherafelt District Council expressed concern that the Preliminary Risk Assessment Report (PRAR) tabled at the hearing did not provide sufficient information about the condition of the land and the extent of any contamination that was there or the remediation that might be required. The Council did not say whether its concerns related only to the residential use proposed. The PRAR was a desktop and a site walkover exercise. It identified a number of potential pollutants associated with the existing use of the appeal site for furniture and mattress assembly; the former use of the appeal site as a chocolate factory; the adjacent electricity sub station and the adjacent railway line. It concluded that there was moderate risk of contamination and recommended a further Generic Quantitative Risk Assessment be carried out by a soil and groundwater analysis. The Council also raised concerns regarding a filled area of land within the appeal site and it said further investigation of this would be required.
9. Both the Department and the Appellant drew attention to the Department for Communities and Local Government Planning Policy Statement 23 'Development on Land affected by Contamination' contains a number of paragraphs that support the implementation of model conditions in granting planning permission on potentially contaminated land. However, this document applies to England where statutory requirements for contaminated land have been put in place under Part IIA of the Environmental Protection Act 1990. No such legislation is in force in Northern Ireland as Part III of the Waste and Contaminated Land (NI) Order 1997 has not been enacted. Nonetheless PPS 23 provides broad principles which could be helpful in considering the appeal proposal. It advises that outline planning permissions should not be granted until the Local Authority is satisfied that it understands the contaminated nature of the site and that the proposed development is appropriate as a means of remediating it.
10. The information submitted in the PRAR is inadequate and requires further substantive investigation to determine whether an appropriate remediation strategy could allow part of the appeal site to be used for residential purposes. These concerns could not be overcome by use of negative condition. The grant of an outline planning permission would establish the principle of development on the site and it would not be appropriate to allow this where there are unallayed concerns about the extent of contamination, its environmental implications and the adequacy of remediation works. The Department has sustained its second reason for refusal and the appeal must fail.

This decision relates to the 1:2500 scale site location plan submitted with the application and the revised concept plan submitted with the appeal.

COMMISSIONER HELEN FITZSIMONS



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1667/O	Target Date:
Proposal: Proposed site of 2no infill dwellings and garages with new access (revised plans)	Location: Land adjacent to 95 Mullaghmore Road Dungannon Tyrone BT70 1RB.
Referral Route: Approval, objections	
Recommendation:	Approve
Applicant Name and Address: Ms C Cuskeran 58 Moneymore Road Magherafelt BT45 6HG	Agent Name and Address: Vision Design 31 Rainey Street Magherafelt BT45 5DA
Executive Summary: Considered to meet infill policy CTY 8, Objections have been received from the adjacent residential property who also owns the adjacent factory. The objector is concerned about drainage issues and potential impacts on his future business operations should there be complaints over noise/dust.	
Signature(s):	

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

A number of objections have been received from the adjacent neighbour to this site, who is both a resident and the owner of the adjacent operational business. The nature of the objections relate to drainage issues and concern that business operations may be prejudiced should new residents complain about noise, nuisance or general disturbance from existing factory operations.

The objections are summarised as follows;

-The objector has a long established manufacturing business adjacent / north of the application site. If planning permission is to be considered as an approval the objector would like it brought to the attention of the applicant/future residents that they may be subject to some noise / dust disturbance from time to time due to the day to day activities at the factory.

-The application site falls from the SE to NE and that there is no existing outfall drainage. The objector is concerned that if the site levels are raised then the natural fall, for site drainage will be into his property.

-The objector states that there is no public foul sewer available for the application site and no existing outfall drainage. Again he would have concerns that the development of this site would cause drainage problems for his property.

-The outline application does not confirm the final location of the proposed houses. If planning see fit to approve same the objector suggests that the houses be located near the rear boundary.

-the site for the 2 houses are directly below a 33k main power line which is running across objectors land.

Description of proposal

This is an outline planning application for 2 no. infill dwellings and garages with new accesses.

Characteristics of site and area

Located not far outside the limits of development of Dungannon along the Mullaghmore Road towards Donaghmore, this is a rectangular shaped roadside frontage plot. The site is slightly lower than road level with a mature hawthorn hedge and 2m wide footpath defining the roadside boundary. There is mature tree lined hedgerows along the eastern and southern boundaries. The site is relatively flat and rises gently to the east.

To the south is a derelict single storey dwelling set back from roadside. To the north is a 2 storey dwelling on a generous site with front lawn, and further north is an existing business that refurbishes airplane steps for commercial aircraft. Opposite the site is agricultural land.

Travelling towards Dungannon to the south development becomes more concentrated.

Planning Assessment of Policy and Other Material Considerations

Planning Act 2011

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

Area Plan

The site is located in the open countryside as defined in the Dungannon and South Tyrone Area 2010 where SPPS and PPS21 are applicable. There are no specific area plan policies relevant to this proposal.

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

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

Representations

A number of objections have been received from the adjacent neighbour to this site, who is both a resident and the owner of the adjacent operational business. The nature of the objections relate to drainage issues and concern that business operations may be prejudiced should new residents complain about noise, nuisance or general disturbance from existing factory operations.

The objections are summarised as follows;

- The objector has a long established manufacturing business adjacent / north of the application site. If planning permission is to be considered as an approval the objector would like it brought to the attention of the applicant/future residents that they may be subject to some noise / dust disturbance from time to time due to the day to day activities at the factory.
- The application site falls from the SE to NE and that there is no existing outfall drainage. The objector is concerned that if the site levels are raised then the natural fall, for site drainage will be into his property.
- The objector states that there is no public foul sewer available for the application site and no existing outfall drainage. Again he would have concerns that the development of this site would cause drainage problems for his property.
- The outline application does not confirm the final location of the proposed houses. If planning see fit to approve same the objector suggests that the houses be located near the rear boundary.
- the site for the 2 houses are directly below a 33k main power line which is running across objectors land.

Relevant planning history

No relevant history.

Key Planning Policy and consideration

Strategic Planning Policy Statement- The policy provision of SPPS do not impact on the policy provisions of PPS21 Sustainable Development in the Countryside in relation to the assessment of this proposal.

The overarching policy for development in the countryside is PPS21. There are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in CTY1 Development in the Countryside. The applicant has provided a case that the site represents a gap site within an existing built up frontage therefore will be assessed against policy CTY 8 Ribbon Development.

In considering Policy CTY8- Ribbon Development it states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 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 criteria. For the purposes 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.

To the north of this roadside site is a 2 storey dwelling with front garden and curtilage continuing to the road, and a red brick roadside frontage boundary wall set behind a 2m wide footpath. This road frontage wall and manicured front lawn assists with the impression of road frontage development. Further north is an existing business with a number of large buildings, and both the 2 storey dwelling and sheds are visible from the application site and share a common road frontage (Mullaghmore Road).

To the south of the site there is a dwelling set back from the roadside by approx. 60m. Boundaries of this site, including the roadside boundary, are defined by natural vegetation and hedgerows. It is not clear as to the exact extent of the curtilage boundary of this dwelling, as land between the dwelling and roadside is somewhat overgrown with no clearly defined lawn area, and it could be disputed that the land between the house and roadside is established curtilage. Recently an application for a replacement dwelling was granted permission on this site under LA09/2019/0761/O and it was accepted that the curtilage shown on the drawing No. 01 date received 5th June 2019 is the established curtilage of the site, which extends to the roadside.

On certain critical view points driving in both directions along Mullaghmore road you are aware of a line of 3 buildings which share a common frontage with a gap between them. When taking the plot sizes of the dwellings immediately north and south of the site it is my view that this gap is sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage.

There is a good sense of enclosure to this site, with mature hedgerows to both the eastern and southern boundaries, and some mature trees along the frontage of No. 101 to the north.

In my view, 2 dwellings on this site, with plot sizes and siting similar to that shown on drawing No. 01 will infill development on either side and will consolidate development and will not have a detrimental impact on the rural character of this area of countryside.

The proposal meets the exception to policy CTY8 and will not create ribbon development. It will also integrate into the landscape and will not have a detrimental impact on rural character and does not offend policies CTY13 or 14.

This is an outline proposal and due to the 2 storey dwelling and large buildings to the north I think a ridge restriction of 7.5m in height is reasonable and will allow 2 storey dwellings. Retention of existing natural boundaries, where possible, will also assist with integration. Some of the roadside hedge may have to be removed to provide adequate sight lines.

Other Policy and Material Considerations

DfI Roads have no objections to this proposal subject to conditions requiring 2.4m by 110m splays onto the public road and a forward sight distance of 110m. Where roadside hedging is removed, new hedgerow will be conditioned for re-planting.

There are no land contamination issues to consider.

The objector has raised concern that drainage from the site may run into his property. On looking at the Strategic Flood Maps for NI there seems to be a small fraction of the site, to the SW corner, where ponding occurs. No part of the site is within the Q100 Flood Plain. Given that some of site is affected by ponding I find it reasonable to invite a Drainage Assessment (DA) for further consideration. The agent provided a DA and further amendments.

On 28.01.2021 Rivers Agency commented on the the Drainage Assessment and stated that, while not being responsible for the preparation of the DA 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. To ensure that there is discharge consent I can attach a planning condition to ensure that there is discharge consent prior to the commencement of any development hereby approved, and that the storm water attenuation system detailed in the DA is safely disposed of at greenfield rate of 4.4 l/s.

On 14.06.2021 Rivers Agency provided their final comments to this proposal and recommend that they have no further concerns or objections with this proposal subject to a condition to ensure that a suitable working strip is shown on site layout Drawing Number ?02Rev1? and that this should be protected from impediments including tree planting, hedges, permanent fencing, sheds, land raising, permitted development rights or future unapproved development by way of a planning condition. Clear access and egress should be provided at all times. This can be added to any permission.

Rivers Agency also advise that a planning informative be attached to an planning permission to ensure that perspective purchasers whose property backs onto this watercourse should be made aware of their obligations to maintain the watercourse under Schedule 5 of the Drainage Order Northern Ireland 1973.

In my view, given the limited amount of the site will be impacted by surface ponding, at the far end of the site away from the objector it is likely this will not impact on this property and I find it unreasonable to seek a Drainage Assessment in this case. Policy FLD3 of PPS15 Planning and Flood Risk states that where a Drainage Assessment is not required then it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site. In my view, in this case, it is the responsibility of the developer to ensure water from this site will not flow into neighbouring residential land.

The objector raises the fact that he operates a business close to the site and that from time to time impacts on amenity through noise/dust/odour may be experienced at these proposed properties. I consulted Environmental Health on this proposal and a Noise Impact Assessment was requested from the applicant/agent. It was challenging to get true reading from existing operations as modelling took place around the time of Covid 19 lockdown and the business was not operating at full capacity, and background noise levels were not a true reflection as traffic on the public road was greatly reduced. However, a Noise Impact assessment was completed, along with additional amends, and on 21.07.2021 Environmental Health provided a response which accepted the results of the NIA and recommended that the proposal could proceed on the basis of mitigating conditions. The conditions include an acoustic fence between the site and

objectors property, and how the proposed dwellings be constructed to ensure greater noise attenuation from the nearby factory operation. I find these conditions to be reasonable. I also find it reasonable to attach an informative to ensure that future residents are aware of the adjacent factory and may experience detrimental impacts to amenity from time to time.

Concern is raised by the objector that there is no public foul sewer available for the application site and no existing outfall drainage. Again, the responsibility will fall to the developer to ensure there is satisfactory means of dealing with sewage from the site, likely through a septic tank. The onus will fall on the developer to ensure the appropriate consents/permissions are in place for the operation of the septic tank. Environmental Health can be consulted at Reserved Matters or full stage to ensure there is an appropriate distance between the locations of the septic tanks and the adjacent residential development, and there seems to be sufficient space for acceptable separation distances.

It is raised by the objector that the site for the 2 houses is directly below a 33k main power line which is running across our land. It is the onus of the developer to contact NIE over these overhead cables to ensure proper site construction practices take place. Should these poles be required to be removed, this will be agreed between NIE and the land owner.

I agree with the objector in terms of positioning the dwellings to the east of the site, as there is potential for overlooking of proposed private amenity space from the objectors front facing windows. The positioning of the dwellings on drawing No. 01 date received 20 DEC 2019 are acceptable in my view. This can be controlled through planning condition.

Design can be considered at Reserved Matters stage, with consideration given to traditional rural design principles and any impacts the proposal may have on the residential amenity of adjacent properties. In my view there is ample space to site dwellings that will not have a detrimental impact on private residential amenity.

This site is located in an area of abandoned mines. I consulted GSNi for comment and they raise no objection to this proposal.

I contend that the objectors concerns have been fully considered and are not determining in my recommendation to approve this proposal, subject to conditions and informatives.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That permission is granted subject to the following conditions;

Conditions

1. As required by Section 62 of the Planning Act (Northern Ireland) 2011, application for approval of the reserved matters shall be made

to the Mid Ulster 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: Time Limit.

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

Reason: To enable Mid Ulster Council to consider in detail the proposed development of the site.

3. The dwellings hereby permitted shall have a ridge height not more than 7.5m from finished floor level, unless otherwise agreed in writing.

Reason: So that the building integrates into the surrounding countryside and respects the character of development in the area.

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

Reason: So that the building integrates into the surrounding countryside and respects the character of development in the area.

5. Details of existing and proposed levels within the site, levels along the roadside, and the finished floor level of the proposed dwellings shall be submitted for approval at Reserved Matters stage. The dwellings shall be built in accordance with levels agreed at Reserved Matters stage.

Reason: To ensure that the dwelling integrates into the surrounding countryside and to protect amenity.

6. Prior to the commencement of development on site a Schedule 6 drainage consent for the development hereby approved shall be in place, details of which shall be provided to Council.

Reason: To ensure there is satisfactory discharge consent in place, to reduce the risk of flooding and to ensure appropriate drainage.

7. All drainage mitigation measures and maintenance proposals shall be as that indicated in Doc1: Drainage Assessment date stamp received 23.12.2020, unless otherwise agreed by Council.

Reason: To ensure that the site will not flood and to prevent flooding elsewhere.

8. The maintenance strip, indicated hatched yellow on drawing No. 02 rev1 date stamp received 21.05.2021, shall be protected from impediments including tree planting, hedges, permanent fencing, sheds, land raising, permitted development rights and any future development.

Reason: To ensure access can be maintained at all times for essential maintenance purposes.

9. Prior to occupation of any dwelling hereby approved, the 1.8m high, close boarded timber fence, with a mass of at least 10kg/m², as shown on drawing No. 03 dated received 01.04.2021, shall be put in place and permanently retained and maintained thereafter, unless otherwise agreed in writing by Council.

Reason: To safeguard residential amenity.

10. Prior to occupation of any dwelling hereby permitted, glazing capable of providing a sound reduction index of at least 31dB Rw shall be installed in all window openings, unless otherwise agreed in writing.

Reason: To safeguard residential amenity.

11. Prior to occupation of any dwelling hereby permitted, external doors capable of providing a sound reduction index of at least 31dB Rw shall be installed in all external door openings, unless otherwise agreed in writing.

Reason: To safeguard residential amenity.

12. Prior to occupation of any dwelling hereby approved, any passive or mechanical ventilation installed in addition to that provided by open windows, shall have a sound reduction of at least 31dB Rw when in the open position. Mechanical ventilators shall not have an inherent sound pressure level (measured at 1 metre) in excess of 30 dB(A), and shall provide a flow rate of at least 13 litres per second and be in accordance with "The Building Control Technical Booklet K - Ventilation 2012".

Reason: To safeguard residential amenity.

13. All trees and hedges, indicated in yellow on drawing No. 01 date stamp received 20 DEC 2019 shall be permanently retained at their existing height unless otherwise agreed in writing at Reserved Matters stage.

Reason: To ensure the development integrates into the landscape and in the interests of visual amenity and biodiversity.

14. During the first available planting season following the commencement of any 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 and hedges 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. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

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

15. 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 110m in both directions onto the public road;
- a forward sight distance of 110m

The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

Informatives

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

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

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

4. DfI Rivers Agency advise;
Perspective purchasers whose property backs onto this watercourse should be made aware of their obligations to maintain the watercourse under Schedule 5 of the Drainage Order Northern Ireland 1973.

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

5.Perspective purchasers or occupiers are advised that there is an existing operational factory adjacent to these properties and should expect impacts of noise, nuisance and general disturbance from time to time.

Signature(s) Date:

ANNEX	
Date Valid	20th December 2019
Date First Advertised	14th January 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 101 Mullaghmore Road, Dungannon, Tyrone, BT70 1RB Emma Faloon 20 Northland Row, Dungannon, Tyrone, Northern Ireland, BT71 6BL The Owner/Occupier, 88 Mullaghmore Road, Dungannon, Tyrone, BT70 1RB Ellen Hartles- Email Address George McIvor- Email McIvor Aviation, 101 Mullaghmore Road, Dungannon, Tyrone, Northern Ireland, BT70 1RD Ellen Hartles Solicitor Simmons Meglaughlin & Orr, 20 Northland Row, Dungannon, Co Tyrone, BT71 6BL	
Date of Last Neighbour Notification	11.06.2021
Date of EIA Determination	Not schedule 1 or 2 development, does not meet the threshold for screening.
ES Requested	No



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

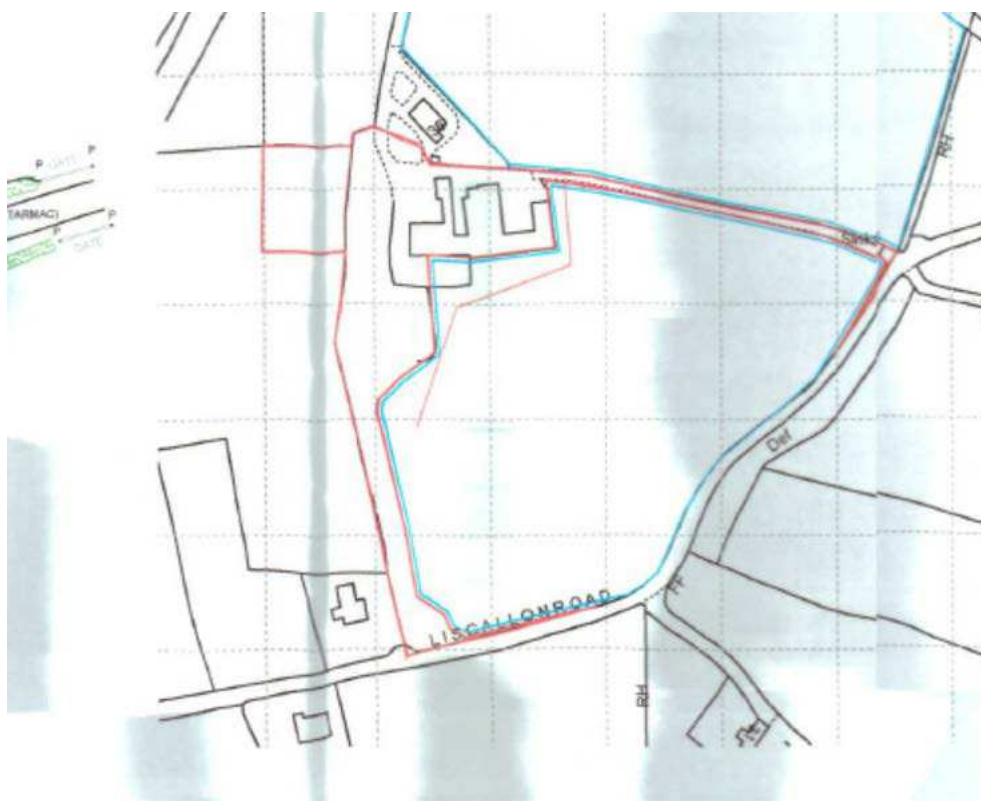
Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 07/09/2021	Item Number:
Application ID: LA09/2020/0516/F	Target Date:
Proposal: Amendment of house location as previously approved in M/2008/0722/RM and proposed new access	Location: 36 Lisgallon Road Dungannon BT70 1SW
Referral Route: 1. Contrary to CTY 1 of PPS 21 in that no need for this dwelling has been demonstrated. There is no legitimate fall-back position in that the no evidence has been provided to show the dwelling approved has begun in accordance with the requirements of Section 63 (2) of the Planning Act (NI) 2011.	
Recommendation:	Refusal
Applicant Name and Address: Farasha Properties Ltd 34 Culrevog Road Dungannon BT71 7PY	Agent Name and Address: J. Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
Executive Summary: There is no evidence to demonstrate that permission granted was commenced in time and there is no fallback position. As this is a replacement dwelling the demolition of the building is not enough to demonstrate commencement. There are minor changes to the front elevation of the dwelling and its position is changed, the form, ridge height and materials remains the same. A new access will run along an existing boundary and access off Lisgallon Road. Other policies in PPS 21 have been assessed notably CTY 10 – Dwelling on a farm as there are farm buildings to the rear of the site. Information has been requested relating to all the land the applicant owns to ascertain has any sites been sold off but at the time of writing this information has never been received. The dwelling that was previously at the site has been demolished so there is no building to be replaced which could be considered under CTY 3.	

Signature(s):

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice

Representations:

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

Characteristics of the Site and Area

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character with agricultural fields, detached dwellings on single plots and farm complexes. There is six other dwellings with a roadside frontage along this immediate area.

The application site is a long rectangular shaped plot that comprises a single storey dwelling and a number of outbuildings. There is an existing laneway to No. 36 accessed from Cullenramer Road and there is an agricultural access to the north east along Lisgallon Road. The site is a cut-out of an existing agricultural field immediately south of the farm holding. The topography of the site rises up steeply from the public road with a level of 82 at the road and 97 at the location of the proposed dwelling. Immediately west of the proposed access is at two-storey dwelling at No. 32. Along the western boundary with No.32 is a post and wire fence and a row of established trees further north towards the farm holding.

Description of Proposal

This is a full application for an amendment of house location as previously approved in M/2008/0722/RM and proposed new access.

Planning Assessment of Policy and Other Material Considerations

Planning History

M/2005/0609/O – Proposed replacement of dwelling structure - 36 Lisgallon Road, Dungannon – Permission Granted 16th June 2005

M/2008/0722/RM - Proposed replacement of dwelling structure + detached domestic garage - 36 Lisgallon Road, Dungannon – Permission Granted 20th August 2008

Representations

The application was advertised in the local press and neighbour notified and at the time of writing no representations have been received.

Planning Policy Consideration

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

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

Dungannon and South Tyrone Area Plan 2010

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

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

Planning Policy Statement 21 - Sustainable Development in the Countryside

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.

The principle of development has already been established through planning approvals M/2005/0609/O and M/2008/0722/RM. The outline was granted approval on 16th June 2005 and the reserved matters was granted approval on 20th August 2008. Therefore, to have a live permission the foundations had to be in place 20th August 2010 which is 2 years from the reserved matters and is the later date for the purposes of the time commencement condition.

A check on Spatial NI orthophotography shows there were foundations in place on the 6th June 2013, I am unable to find any other aerial photos to show if the foundations were in place earlier than this date. The applicant has been asked for additional information but has not been able to provide further evidence of when the works were commenced. Building control have confirmed the foundations were inspected on the 2nd December 2010 and when I completed my site inspection, the foundations are still in place.

I cannot be sure the foundations were in place by 20th August 2010 and I cannot advise the members that the development was commenced in time and there is a live permission on the site. That said, it is clear the foundations were in situ approximately 3 months later and are still in place, the approved development required the demolition of an existing dwelling on the site, which was accepted as a replacement opportunity. In Planning Appeal Ref 2016/A0045 the Commissioner states 'The Planning (Amendment) (Northern Ireland Order 2003 brought 'demolition' into the meaning of development. A number of Directions were issued by the Department under Article 11(2)(f) which narrowed the circumstances under which demolition could be considered as development. The Planning (Demolition – Description of Buildings) Direction 2009 which came in effect on 2 April 2009 was restrictive in terms of the scope of demolition activities that could be considered as development. It would not have included the demolition of the building to be replaced. The Planning (Demolition- Description of Buildings) Direction 2012, which came into effect on 19 September 2012, significantly expanded the range of demolition works that would constitute development. In principle the demolition of the building would have fallen within the definition of development. However, also, on the 19 September 2012 The Planning (General Development) (Amendment) Order (Northern Ireland) 2012 brought, with exceptions, any building operation consisting of demolition of building into the definition of permitted development. Therefore, if the building on the site was demolished prior to the

19 September 2012 the demolition of the dwelling would not have constituted development and then after this date it would have been considered as permitted development. I consider this appeal is relevant in this application.

The Planning Permission that was granted on this site related to the replacement of a dwelling structure which, by definition, infers there is an element of demolition to be carried on. The Planning Act is silent where the development granted relates to works of demolition or what constitutes commencement of development where that is part of the permission. Section 63 (2) Of the Act states

(2) For the purposes of sections 61 and 62, development shall be taken to be begun on the earliest date on which any of the following operations comprised in the development begins to be carried out—

(a) where the development consists of or includes the erection of a building, any work of construction in the course of the erection of the building;

(b) where the development consists of or includes alterations to a building, any work involved in the alterations;

(c) where the development consists of or includes a change of use of any building or other land, that change of use;

(d) where the development consists of or includes mining operations, any of those operations.

In this case it is quite clear the applicant has carried out works to demolish the old building, in accordance with this planning permission, had this been left standing it is most likely that it would be acceptable under the current policy in CTY3 for a replacement dwelling, though I cannot be absolutely sure in that regard. As the replacement dwelling was using an existing access there were no conditions requiring the improvement of the access. I am being asked to consider if it is acceptable to substitute the approved development for this re-sited dwelling and new access.

CTY 13 – Integration and Design of Buildings in the Countryside

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

The topography of the site rises up from Lisgallon Road where there is a level of 82 to a level of 98 at the location of the proposed dwelling. The site itself is a portion of an existing agricultural land immediately south of a group of outbuildings and dwelling at No. 36. The proposal does not include the design of the dwelling and it is conditioned in outline approval M/2005/0609/O that the proposed dwelling shall not have a ridge height greater than 5.5m above finished floor level. Travelling from a northeast direction to the site there are no critical views due to a bend in the road and existing vegetation along the roadside, which is within the applicant's control. Further north at the agricultural laneway there will be critical views of the proposed dwelling but as the proposed dwelling will be situated further west of the outbuildings where the land slopes downwards west by 2m I have no concerns. When at the site the dwelling will have the backdrop of the outbuildings as shown in figure 1 below. In a southwest direction, there are minimal critical views of the proposed dwelling. In addition, as the proposed dwelling is not excessive in its scale or massing compared to other dwellings in the surrounding area, I am content it will not appear overly prominent in this local landscape.



Figure 1 – Photograph of the application site from the road

There are established trees along the western boundary but they are not within the applicant's control but as shown on Drawing 01 Rev 1 date stamped 14 SEP 2020 a new hedgerow is proposed along the west boundary. In addition, a new hedgerow is proposed along the east boundary as this is a cut-out of a field which will aid integration. I am content the proposed dwelling and garage will not rely on new planting for integration.

The proposed dwelling will cut into the hill at the site and a retaining wall of 2m will be located to the rear of the dwelling. The wall will have external finishes of grey interlocking dry built blocks. I am content the scale and design of the retaining wall will integrate at the site. There are minor changes to the design of the proposed dwelling from the planning approval M/2008/0722/RM due to internal changes in the layout. The living room is now to the front and there is a bigger front projection from this room. The front projection is finished in natural stone as opposed to previously roughcast plaster. In addition, there are 2 new bedroom windows on the front elevation but due to separation distances from neighbours, I have no concerns this will create an unacceptable loss of privacy. The proposed re-siting of the dwelling will not create unacceptable overshadowing or loss of light, as there are no other properties abutting the boundary of the dwelling.

The proposal will create a new access directly from Lisgallon Road and DFI Roads were consulted and had no concerns subject to conditions about visibility splays and informatives.

The proposed dwelling and garage has the backdrop of the farm buildings at No. 36 when viewed from the public road, which will provide a backdrop.

I consider the proposal does not offend Policy CTY13 of PPS 21.

CTY 14 Rural Character

As stated earlier in the assessment I am content the proposal will not be a prominent feature in the landscape. It will not result in a suburban style build-up of development when viewed with existing and approved buildings. I consider the design of the proposed dwelling is a simple rural form and respects the pattern of settlement. It will not add or create ribbon development.

Neighbour Amenity

The proposed dwelling is sited on higher ground than a neighbouring dwelling at No. 32. I am content the dwelling will not create unacceptable overlooking or loss of privacy to No. 32 due to the separation distance of 108m from the dwelling to the rear wall of No. 32. In addition, proposed trees and hedging will block any direct views as shown in figure 2 below.



Figure 2 – Photograph of the site from the northern boundary at the farm buildings

Neighbour Notification Checked	Yes
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Summary of Recommendation:

The proposal is recommended for refusal as the foundations were not in place within the required time limit.

Reasons for Refusal

1. Contrary to CTY 1 of PPS 21 in that no need for this dwelling has been demonstrated. There is no legitimate fall-back position in that the no evidence has been provided to show the dwelling approved has begun in accordance with the requirements of Section 63 (2) of the Planning Act (NI) 2011.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0537/F	Target Date:
Proposal: Housing development comprising of 14 no. semi detached dwellings, 7 no. block of 3 dwellings, 1 no. block of 4 dwellings, and 1 detached bungalow (40 no. units total) with associated carparking and landscaping	Location: Killymeal House and Adjacent lands Killymeal Road Dungannon
Referral Route: Approval, contrary to Historic Environment Division (HED) recommendation	
Recommendation:	Approve
Applicant Name and Address: J & V Construction 30 Creemagh Road Dungannon	Agent Name and Address: Clarman & co Unit 1 33 Dungannon Road Coalisland BT71 4HP
Executive Summary: HED advise that the proposal (namely a single storey dwelling) will have a detrimental impact on the setting of Killymeal House.	
Signature(s):	

Case Officer Report

Site Location Plan



Representations: None Received

Description of proposal

This is a full planning application for a housing development comprising of 14 no. semi detached dwellings, 7 no. 3 block dwellings, 1 no. 4 block dwellings and 1 no. detached bungalow (40 no. residential properties total) with associated carparking and landscaping, at the site of Killymeal House in Dungannon.

Characteristics of site and area

The application site is an elevated site to the east of Killymeal House, with a line of mature trees located along the western boundary which are the subject of a Tree Preservation Order. This site is the final phase of development that was granted under an outline application for housing on the wider site under LA09/2018/1234/F. As the overall development is slightly different to what was granted at outline, the developer has submitted a full planning application rather than a Reserved Matters. Other phases of the wider development are built and occupied to the north west, west and south of the site.

Most of the site has been cleared for development purposes, with some land shaping and rough outline of access roads created. There are some spoil heaps from

surrounding development located on the site, along with a construction compound, machinery and building materials.

The site is north of Dungannon Court House, west of St Patricks Academy, and rises from the back of the telephone exchange building along the NW boundary. Part of the north east boundary has some trees between the site and St Patricks Academy. Access to the site is from a new development road that serves new housing to the north west, south and south west of the site, which also serves the rear access to Dungannon Courthouse.

Killymeal House and grounds was a former MOD site and it was listed in 1991. Following a fire in the main house, it is in a poor state of repair. However as part of the development of the wider site, and including this proposal, Killymeal House is being brought back to its former glory and used for housing units.

The site is just to the east of Dungannon Town Centre, as defined in the Dungannon & South Tyrone Area Plan 2010, it is in an area that has a mix of uses with St Patricks Academy and St Patricks College on extensive grounds to the east, Dungannon Leisure Centre, Mid Ulster District Council Offices and South West College Campus to the North West, Dungannon Court to the south and residential development also close by.

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.

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. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

The Dungannon & South Tyrone Area Plan does not zone this site for any particular purpose, it is part of a large swath of land that is white land within the settlement limits of Dungannon. Policy SETT1 allows for favourably consideration of development provided it meets a number of criteria.

Relevant Planning Policy

SPPS	Strategic Planning Policy Statement
PPS7	Quality Residential Environments
PPS8	Open Space, Sport and Outdoor Recreation
PPS6	Planning, Archaeology and the Built Heritage
PPS3	Access, Movement and Parking

PPS2 Natural Heritage
PPS15 Planning and Flood Risk (revised)

Planning History

LA09/2018/1234/O- Outline application for proposed extension of existing residential development (Sycamore Drive, Killymeal Road, Dungannon) to provide for 2 storey dwellings, granted 11/04/2019.

LA09/2018/1231/F- Proposed development comprising of 8 semi detached dwellings 2No. 4 block dwellings. 1 detached dwelling, a residential apartment block with 2 units and a second apartment block with 4 units (total 23 residential properties) with associated car parking and landscaping, granted 29.03.2019.

LA09/2017/1239/F- Erection of 3 dwellings and conversion of existing building to 2 dwellings. Granted 27.07.2020

LA09/2018/1463/F- Alterations, extension, repair and reinstatement to existing residential outbuildings associated with listed building, Killymeal House, HB Ref HB13/20/023 to form 11 No. 1 bedroom residential units, granted 08.12.2020.

LA09/2015/0241/F- 20 no dwellings, 2 storey in height, with associated carparking and landscaping. Granted, 09.01.2017.

Representations

No 3rd party objections or letters of support have been received on this application. Cllr Francie Molloy attended an online Teams Meeting along with the agent in support of this application.

Recommendation

The Strategic Planning Policy Statement provides no change in direction or clarification in relation to policies relevant to this application, which I have listed.

In principle, the development of the site for residential purposes is in accordance with the Area Plan. The density is reflective of what has been granted on other phases within this site, as are the design details of the dwellings including height, scale, massing, plot sizes, garden sizes and finishes of the buildings and ancillary works. There is sufficient parking, private amenity space, means of access, landscaping and infrastructure to deal with waste water and storm water and no consultees have raised objections on these issues. Proposed levels within the site are acceptable and there will be no issues of overlooking, overshadowing or over dominance of neighbouring property. It has been demonstrated that the Tree Preservation Order within the site can be safeguarded, and that the setting of the listed building can be safeguarded. I will go into these issues in more detail throughout the remainder of my report.

In support of the application the agent has provided a Design and Access Statement, Transport Assessment Form, Drainage Assessment and revisions, Land Contamination Report, Preliminary Ecological Appraisal, Arboricultural Report, and information to address NIW concerns over sewage provision for the site.

I carried out various consultation with statutory and non-statutory consultees to ensure that impacts on the natural and built environment could be properly considered.

The design and access statement identifies the assets and constraints of the site, including the listed building, topography of the site and the Tree Preservation Order on the site. The larger Killymeal House Site has a tree preservation order in force and this development has the potential to impact on this. This part of the site is the de

Under a previous outline Masterplan for the wider site, LA09/2018/1234/O, the various phases of the site have been indicated along with a central area of open space provision, which includes the site of the Tree Preservation Order (TPO). Some of this central area of open space shown under the masterplan has been encroached upon by a single storey dwelling in this proposal. However, given that there is still well over 10% communal open space provision I am satisfied that there is sufficient communal open space of a development of this size and is in line with policy OS 2 of PPS8. It has also been demonstrated by the agent that the large leafy mature trees within this area of proposed open space can be protected and integrated into the wider development.

Historic Environment Division were consulted on this proposal and indicated that 2 bungalows in the original submission had the potential to cause detriment to the trees (No.s 108 and 109), and potentially have a detrimental impact to the setting of Killymeal House. The agent has provided an Arboricultural Report which demonstrates that the TPO can be safeguarded and protected. The agent also dropped one of these bungalows from the scheme which further safeguards this TPO and the setting of the listed building. Council's in house conservation and tree expert also advises that the TPO can be safeguarded with conditions. As the bungalow is behind the swathe of trees, to the rear of Killymeal House, I am not convinced that one bungalow, which is screened by existing mature trees, will have a detrimental impact on the setting of the listed building. The agent and a local Councillor attended a Teams Meeting and state that there is a family in mind for this bespoke bungalow which will cater for special needs requirements. I am satisfied that there is sufficient evidence to demonstrate that the setting of the listed building will not be impacted, and that the TPO can be protected and safeguarded through planning conditions. I therefore advise Members to set aside HED concerns in this instance. Council does not have to notify HED on this recommendation in this instance.

The developer has undertaken to carry out the works to the listed building in a phased manner and has specified certain works to the listed building to be carried out on completion of each phase of the development. This will result in the building being fully re-instated. The Members of the Planning Committee have agreed in the past that conditions, rather than a planning agreement, as being a suitable method of securing the reinstatement of the listed building. This is reflected in application LA09/2017/1238/F. I consider it is reasonable to attach a condition requiring the completion of works to Killymeal House through this final phase of development on this site, as per details contained within the Development Appraisal for Reconstruction of Killymeal House Phasing Plan.

DfI Roads have agreed a Private Street Plan for the site. The development road provides a footpath link into the public network, it is also worth noting the close proximity of the site to the local schools, leisure centre and other public buildings all of which are within

easy walking distance of the site. There is also a wide footpath along the Killymeal Road which provides a link through to the Oaks Centre, the peripheral cycle route and national cycle network. I consider this provides alternative modes of transport to serve the site. DfI Roads do not raise any road safety issues, or issues surrounding parking provision or access through the site, subject to the inclusion of planning conditions.

Rivers Agency have been consulted in relation to the drainage of the site and raise no objections to the proposal subject to the inclusion of a condition to ensure that prior to the commencement of any of the approved development on site, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 being submitted to the Planning Authority for its consideration and approval.

Historic Environment Division - Historic Monuments Branch (HMB) have requested archaeological surveillance of the site and have requested conditions are attached to any planning permission requiring an archaeological evaluation and surveillance should the development be granted planning permission. I consider this is a reasonable request and recommend these monitoring conditions are attached to any planning permission.

Due to the historic use of this site as an MOD base there is potential land contamination of the site, a report has been submitted that illustrates there is limited potential for land contamination on this part of the site. EHO and NIEA have assessed the report and are content provided conditions in relation to unknown contamination are attached.

NI Water have stated that Dungannon WWTW currently has no capacity for the sewage from this site to be treated at their facility. However in their response dated 22 FEB 2021 under SITE SPECIFIC COMMENTS, NIW state; However, this proposed development site has a Predevelopment Enquiry (PDE) reference: C000747 dated 15/08/2017 for 125 dwellings, which states that the receiving works in Dungannon (WwTW) is available to serve the proposal. NI Water in this case, is prepared to permit approval for connection.

In light of the above considerations, I am content that this proposal meets with the planning policies and I recommend it is approved.

Neighbour Notification Checked	Yes
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Summary of Recommendation:

That planning permission is granted subject to the following conditions.

Conditions

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

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

2. All hard and soft landscape works shall be carried out in accordance with drawing No. 03 rev5 bearing the stamp dated 30th June 2021 and to the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any of the dwellings hereby approved. 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.

3. Prior to the occupation of each individual dwelling hereby approved, the boundary treatments defining each curtilage shall be constructed, completed and permanently retained, as detailed on drawings No. 03 rev5 date stamp received 30th June 2021, unless otherwise agreed by Council.

Reason: To assist in the provision of a quality residential environment and to safeguard existing and proposed residential amenity.

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

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

5. No dwelling hereby approved shall be occupied until the proposed public open space has been provided in accordance with details indicated on drawing No. 03 rev5 date stamp received 30th June 2021, and shall be maintained in accordance with condition 4 unless otherwise agreed.

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

6. No dwelling 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 a suitable Landscape Management Company. The Landscape Management Company shall be responsible for the management and maintenance of all areas of communal open space, for the lifetime of the agreed landscape management plan. Should the agreed Landscape Management Company be changed or for any reason or cease to exist, then a new Landscape Management Company shall be agreed in writing with Mid Ulster Council within 3 months from that date.

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

7. All tree protection fencing for existing protected trees, TPO.2017.0027, shall be erected prior to the commencement of any site works, as per Plan 32 date stamped 16 FEB 2021 and shall remain in place during the construction phase, all tree works will

accord to BS5837:2012 Trees in relation to design, demolition and construction Recommendations.

Reason: To protect and conserve existing visual amenity values of trees protected by TPO.2017.0027.

8. All proposed tree works will accord with Doc1: Arboriculturalist Impact Assessment by Paul Hawksford date received 16 FEB 2021. There shall be no storage of building materials and no fires within the RPA of protected tree(s) and clear signage shall be erected on protective fencing to state same. All tree works will accord with BS3998:2010 Tree Works Recommendations.

Reason: To protect and conserve existing visual amenity values of trees protected by TPO.2017.0027.

9. Prior to the commencement of any works, a Tree Works Maintenance and Monitoring Plan, minimum of 5 years, shall be submitted to Council for approval, and the approved plan shall be implemented following the completion of Phase 6 and in accordance with BS3998:2010 Tree Work Recommendations.

Reason: To protect, conserve and enhance the visual amenity values of existing protected trees, new trees and all soft landscaping.

10. Prior to the occupation of all the dwellings hereby approved the works to Killymeal House as set out in Phase 6 and Phase 7 on page 10 of Doc 2: Development Appraisal for Reconstruction of Killymeal House Phasing Plan date stamp received 10th AUG 2021, shall be carried out and completed as stated.

Reason : To ensure the orderly reinstatement of Killymeal House in the interests of public safety and built heritage interests.

11. No vegetation clearance shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds.

12. No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree to be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Planning Authority. Any arboricultural work or tree surgery approved shall be carried out in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction ? Recommendations.

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

13. If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance. In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Planning Authority in writing, and subsequently implemented and verified to its satisfaction.

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

14. After completing the remediation works under Condition 12, and prior to occupation of any dwelling hereby approved being occupied, a verification report needs to be submitted in writing and agreed with Planning Authority. This report shall be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance. The verification report shall present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

15. A written remediation scheme for the site shall be provided to Mid Ulster Planning Department (in consultation with the Environmental Health Department of Mid Ulster District Council) prior to the occupation of any dwelling hereby approved.

Reason: To ensure that the site is suitable for its intended development end-use.

16. There shall be no deviation/amendments to the design of the remediation scheme without the prior written approval of Planning Department (in consultation with the Environmental Health Department of Mid Ulster District Council). Written details of any proposed amendments shall be forwarded to Planning Department prior to works being commenced on the Site.

Reason: To ensure that the site is suitable for its intended development end-use.

17. Prior to the commencement of any of the approved development on site, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 shall be submitted to the Planning Authority for its consideration and approval (through consultation with DfI Rivers Agency).

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

18. There shall be no direct discharge of untreated surface water run-off during the construction phase into the Killymeal Drain.

Reason: To minimise the impact of the development on the biodiversity value of the aquatic environment.

19. Storm drainage of the site, during construction and operational phases, must be designed to the principles of the Sustainable Drainage Systems (SuDS) in order to prevent the polluting effects of storm water on aquatic environments. Construction of

SuDS shall comply with the design and construction standards as set out in The SuDS Manual - Construction Industry Research and Information Association (CIRIA) Report C697.

Reason: To minimise the impact of the development on the biodiversity value of the aquatic environment.

20. 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.

21. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under Condition 19.

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

22. 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 19. 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.

DfI Roads Private Street Conditions

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

The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 04 Rev 4 bearing the date stamp 30 June 2021.

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

PS02. No dwelling(s) shall be occupied until that part of the service road which provides access to it has been constructed to base course, the final wearing course shall be applied on the completion of each phase.

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

Informatives

1. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

Signature(s)

Date:

ANNEX

Date Valid	5th May 2020
Date First Advertised	26th May 2020
Date Last Advertised	2nd February 2021

Details of Neighbour Notification (all addresses)

The Owner/Occupier,
1 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
The Owner/Occupier,
11 Sycamore Drive, Killymeal Road, Dungannon, BT71 6FU
The Owner/Occupier,
11 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
The Owner/Occupier,
15 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
The Owner/Occupier,
17 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
The Owner/Occupier,
19 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
The Owner/Occupier,
20 Sycamore Drive, Killymeal Road, Dungannon, BT71 6FU
The Owner/Occupier,

21 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 23 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 25 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 26 Killymeal Road Dungannon Tyrone
 The Owner/Occupier,
 27 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 29 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 3 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 31 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 33 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 35-37 St Patrick'S Academy, Killymeal Road, Dungannon, Tyrone, BT71 6DS
 The Owner/Occupier,
 5 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 7 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 9 Sycamore Hill, Killymeal Road, Dungannon, BT71 6YT
 The Owner/Occupier,
 Council Offices 15 Circular Road Dungannon
 The Owner/Occupier,
 Courthouse 46 Killyman Road Dungannon
 The Owner/Occupier,
 Dungannon Leisure Centre 5 Circular Road Dungannon
 The Owner/Occupier,
 SELB Bus Depot, Killymeal Road, Dungannon, BT71 6LJ
 The Owner/Occupier,
 Telephone Exchange Killymeal Road Dungannon

Date of Last Neighbour Notification	22nd January 2021
Date of EIA Determination	
ES Requested	No



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0759/F	Target Date:
Proposal: Proposed housing development consisting of 8 dwellings (4 Semi detached and 4 detached) with associated access, roads, landscaping and provision of temporary treatment plant (Amended Plan)	Location: Lands adjacent to 121 Ruskey Road, The Loup
Referral Route: 1no. Objection received	
Recommendation:	Approval
Applicant Name and Address: Mr . McVey 121 Ruskey Road The Loup Moneymore	Agent Name and Address: Newline Architects 48 Main Street Castledawson BT45 7AB
Executive Summary: Proposal complies with relevant prevailing planning policy. 1No. objection letter received and considered below.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Characteristics of the Site and Area

The proposal site is located within the settlement limits of The Loup as defined in the Cookstown Area Plan 2010. The site is located between St Patricks Primary School, Loup and a large detached dwelling, 121 Ruskey Road. The site comprises a roadside,

agricultural field which is 0.61 hectares in size. The site is currently accessed via an existing agricultural gate, there is a laneway immediately adjacent, which runs along the NW boundary and appears to provide access to fields to the rear of the site. There is a gentle incline from the public road easterly, with the ground level gradually rising to the rear of the site. The roadside boundary is defined by mature trees and vegetation. The north and east boundary are defined by existing, mature vegetation and the southern boundary is currently defined by palisade fencing. The character of the surrounding area is reflective of a small rural village. St. Patrick's Primary School is located immediately to the south and Saltersland Presbyterian Church is located in proximity to the north with a further mix of land uses further west. There is a mix of small scale housing development within the area and detached dwellings on large plots.

Description of Proposal

This application seeks full planning permission for 8no. Dwelling units comprising 4no. Semi-detached and 4no. Detached on lands adjacent to 121 Ruskey Road, the Loup, Magherafelt.

Planning Assessment of Policy and Other Material Considerations

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

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Cookstown Area Plan 2010
- PPS 7 - Quality Residential Environments
- PPS 3 - Access, Movement and Parking
- Planning Policy Statement 15 - Planning and Flood Risk
- Creating Places

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

History on Site

LA09/2015/1161/F – Proposed modular building to accommodate teaching and office facilities with associative siteworks - 119 Ruskey Road, Moneymore, Magherafelt - Permission Granted 14/03/16

I/2008/0520/F - Construction of vehicle lay-by and access road/footpath to the school provision of 31 car parking spaces 1 disabled car parking space + 4 occasional car parking spaces -119 Ruskey Road- Permission Granted 11/06/2009

I/2011/0428/F – Proposed new dwelling and garage - Land 60 metres South East of St Patricks P.S Loup, Permission Granted 08/02/12

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, 1 objection letter was received on 10th September 2020 from Mr Pat McVey the summary of which is provided and considered below:

- Objects to the proposal stating the required sightlines infringe on 2.5m of a laneway under his ownership and he does not give permission for the land to be used to facilitate this development.

It is the responsibility of the applicant to ensure that they control all the lands necessary or have the necessary permissions to carry out the proposed development. Any planning permission granted does not confer title and land ownership is outside the remit of planning and a civil matter between the applicant and the objectors. Nevertheless, following receipt of the above referenced objection letter I sought clarification as to land ownership. The agent was advised that Certificate C Q.27 of P1 form should be accurately completed and notice should be served on any relevant land owner if land within the red line is not owned by the applicant. The applicant has confirmed that the land is within his ownership and provided land registry documents that confirm that the verge of the road/strip of land in question is under the control and ownership of the Road Service and therefore not owned by the objector as claimed.

Key Policy Considerations/Assessment

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

Paragraph 4.11 of the SPPS states that there are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by planning authorities when proposing policies or managing development. For example, the planning system has a role to play in minimising potential adverse impacts, such as noise or light pollution on sensitive receptors by means of its influence on the location, layout and design of new development. Following the submission of amended plans I am satisfied that this proposal, including layout and house designs will not have an adverse impact on residential amenity and represents a quality residential development. This will be discussed in detail further in this report.

Paragraph 4.12 of the SPPS states other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing. Adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. However, the above mentioned considerations are not exhaustive and planning authorities will be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas. Design and layout considerations will be considered further in this report. Consultation with NIW confirmed that there are no Waste Water Treatment Facilities at The Loup WWTW currently available to serve this proposal. The applicant has advised that he has been in talks with NI Water and the issue with the WWTW is not capacity rather a filtration issue which is planned to be upgraded. However should connection not be possible in the future, the applicant has provided a Temporary Treatment Plant to facilitate this development. NI Water and EHD have been consulted on the proposed siting and specifications of the Temporary Treatment Plant and have not raised any objections.

The applicant submitted a Drainage Assessment and following consultation with Rivers Agency, no concern were raised however Section 6 consent for discharge was required, which the agent subsequently provided. Rivers Agency have also requested given that the Drainage Assessment states the proposed drainage is indicative, a condition is attached to any forthcoming approval stating "Prior to the commencement of any of the approved development on site a final detailed drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 must be submitted to the Planning Authority for their consideration and approval". I am content to deal with this by way of applying this condition to any forthcoming decision to safeguard against any potential flood risk. The SPPS gives specific provision for Housing in Settlements subject to a number policy provisions. It does not present any change in policy direction with regards to residential development in settlements than that provided under PPS7.

Cookstown Area Plan 2010 is the statutory local development plan for the application site. The application site is located within the defined settlement limits of The Loup, located on white land with no specific zoning or designation. Cookstown Area Plan 2010 states comprehensive development within the settlement limits of the Loup will normally be permitted provided the scale, layout and detailed design of the development are compatible with the scale and character of the settlement. Accordingly, residential developments in excess of ten units will not normally be permitted. The extant Area Plan states that if the proposal meets all relevant, prevailing planning policy; it will meet the policy tests of Cookstown Area Plan Policy SETT 1 - Settlement Limits.

This proposal seeks full planning permission for 8 residential dwelling units. Drawing 03 Rev 3 date stamped 15th December 2020 provides details on the proposed siting, design, scale and access arrangements. Planning Policy Statement 7: Quality Residential Environments (PPS 7) is a retained policy document under the SPPS and provides the appropriate policy context. Policy QD 1 of PPS 7 sets out the policy framework under which applications of this nature should be assessed. The proposal has been considered against all criteria outlined under Policy QD1.

- a) The proposal is located on urban Whiteland with no specific zoning or designation within the settlement limits of the Loup. The proposed development is residential in nature, there are varying land uses in the surrounding context including a school immediately south and a detached residential unit immediately north and in proximity to the west and southwest. Residential development in the locality varies in densities, scale and design with low to medium density development within Kilreish and along Loup Road and slightly higher density within Birchwood Park. The proposal comprises 8 dwelling units in the form of 4 detached and 4 semi-detached properties. Given the proposed density and varying residential development in the area, I consider the development will respect the surrounding character. There is a slight slope within the site rising gently in an easterly direction towards the rear of the site with a maximum difference in ground level of approximately 2 metres from the road to the rear of the site. There are mature trees and vegetation to the north and rear boundary of the site which are indicated for retention in the landscaping plan. It is considered public views are reduced given this existing and proposed planting particularly travelling along Ballyneill Road and the existing trees to the rear will assist with integration of the units within the development. The layout has been amended during the processing of the application which has resulted in the reduction of the number of units by one. The scale, proportion and massing of each dwelling is considered acceptable and not over dominant and there is adequate separation distances between proposed and existing built form. The development is not dominated by hard surfacing with all dwellings having in-curtilage parking and adequate private amenity space.
- 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) Each dwelling has adequate private amenity space in excess of the 40m² recommended in Creating Places. A detailed Landscape Plan has also been submitted which shows how the development will be landscaped in order to soften its visual impact. The proposed retention of existing vegetation and additional planting is considered acceptable to allow the development to successfully integrate.
- d) The proposal site is situated within the settlement limits of the Loup thus existing neighbourhood facilities are available in the locality. It is not considered the proposed development would significantly intensify or place unnecessary demands on the existing neighbourhood provisions and amenities within the area and the scale of development does not merit the provision of its own standalone facilities.
- e) 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, and provides adequate and convenient access to public transport. As the site is within an urban settlement there is an existing movement pattern (e.g.) foot paths and bus routes. The proposal includes the provision of a 2m footpath along the entire front of the site which will adjoin an existing footpath directly south of the

application site. DfI Roads have been consulted and have no objection to the proposal subject to conditions. Having considered the proposed access arrangements and given DfI Roads have offered no road safety objections, it is considered the proposal also complies with Policy AMP2

- f) I considered that adequate provision has been made for the provision of parking on the site. Drawing 03 Rev 3 indicates each dwelling has in-curtilage parking spaces for 2 vehicles. This is in line with Parking Standards Guidance.
- g) The design of the proposed dwellings are considered acceptable and reflect some rural character which is considered appropriate given this is a rural type village. It is considered the proposal includes an appropriate variety of house design and it is noted the front dwellings positioned at the entrance include a dual frontage.
- h) This proposal is residential in nature, there is a mix of land uses in the surrounding area and I do not consider the proposal will conflict with adjacent land uses. Environmental Health were consulted and have raised no concerns subject to conditions to ensure no detrimental impact from the proposed temporary treatment plant. Generally, residential developments by their nature do not generate an unacceptable level of noise, odours or emissions which would impact on residential amenity. There is a detached residential dwelling with large curtilage immediately north of the application site which is the applicants address. St. Patrick's Primary School is located directly south of the site. Dwellings 3-8 are located approx. 7metres from the common boundary with the primary school. The existing boundary treatment between the site and the school is palisade fencing with some dispersed vegetation. The proposal includes the addition of native hedgerow and an additional fence to ensure the proposal will not result in unacceptable overlooking. In terms of overlooking, loss of light and overshadowing, it is considered there is adequate separation distance from neighbouring properties and I do not foresee any unacceptable adverse impact on neighbouring amenity as a result of this proposal.
- i) The proposal seeks permission for a small housing development proposal of 8 units, each with off street parking and private amenity space. I have no significant in terms of crime or health and safety with respect the proposed design.

I conclude that the proposal accords with the extant Area Plan and all prevailing planning policy provisions highlighted above therefore I recommend approval.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approval subject to the below conditions is recommended.

Conditions

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

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

2. The existing mature trees and vegetation along the south and west boundaries 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: In the interests of visual amenity.

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

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

4. All planting and boundary treatment comprised on drawing number 03 Rev 5 bearing date stamp 15th June 2021 shall be carried out prior to the occupation of any of the dwellings hereby approved and any trees or shrubs which, within a period of 5 years from the occupation of the dwellings, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

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

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

6. The development shall be served by a private sewage treatment plant until such times as the necessary upgrade of the Waste Water Treatment Works has been completed. On completion of the necessary improvements to the Waste Water Treatment Works the development hereby approved shall be connected to the public sewerage system (subject to all necessary agreements being put in place) and the private sewage treatment plant shall be decommissioned and removed from the site within 3 months of successful connection to the public sewerage system.

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

7. No development should take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW). Should adoption of the proposed temporary treatment plant not be feasible by Northern Ireland Water (NI Water), then an adequate and effective maintenance programme shall be put in place for a period not less than 20 years. The programme should be submitted

and agreed for approval by Mid Ulster District Council prior to the construction of any of the dwellings hereby approved.

Reason: To safeguard residential amenity and public health.

8. The sewerage treatment plant shall be located as per Drawing No. 03 Rev 5 bearing date stamp 15th June 2021 and shall be installed and fully operational prior to the occupation of any dwellings hereby approved. The plant shall be maintained by the developer until such times as it is adopted by NI Water or is no longer necessary to serve the development.

Reason: To protect nearby residential amenity from noise and odour

9. An adequate maintenance programme for the temporary package sewage treatment plant, along with signed contract of those that will be responsible for its maintenance, shall be agreed in writing with Mid Ulster District Council prior to the occupation of any dwelling hereby approved. The agreed maintenance programme shall be carried out for the lifetime of the package sewage treatment plant until such times as the necessary upgrade of the Waste Water Treatment Works has been completed, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect nearby residential amenity from noise and odour

10. The odour concentration associated with the package sewage treatment plant shall not exceed 5 ouE/m³ directly above the unit and not more than 3 ouE/m³ at 5 metres from the unit.

Reason: To protect nearby residential amenity from odour

11. The noise level associated with the package sewage treatment plant shall not exceed 5dB (A) below any background level measured at the nearest sensitive dwelling.

Reason: To protect nearby residential amenity from noise

12. Within 4 weeks of a written request by Mid Ulster District Council, following odour or noise complaint from the occupant of a dwelling, which lawfully exists or has planning permission at the date of this consent, the operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of emissions from the sewerage treatment plant. Any works required to resolve noise or odour issues shall be carried out by an approved operator of the package sewage treatment plant and shall comply with the requirements of condition 4 and/or 5. The works shall be completed within a reasonable timeframe to the agreement of Mid Ulster District Council on identification of a nuisance. On completion of the works, the operator shall provide details of a monitoring survey to Mid Ulster District Council for written approval.

Reason: To protect nearby residential amenity from noise and odour

13. The visibility splays of 4.5 metres by 103 metres at the junction of the proposed (access/access road) with the public road, shall be provided in accordance with Drawing No. 08 Rev 3 bearing the date stamp 3 August 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.

14. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.
The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 08 Rev 3 bearing the date stamp 03 August 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.

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

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

16. 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 have been completed in accordance with the details outlined blue on Drawing Number 08 Rev 3 bearing the date stamp 03 August 2021. 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.

17. 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

Informatives

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.
4. The applicant's attention is drawn to NI Water Consultation Response dated 19th May 2021.
5. 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 Department 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.
6. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.
7. 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 Roads Service 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.
8. Separate approval must be received from Dfi Roads in respect of detailed standards required for the construction of streets in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001.
9. Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road,

verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Loughrey Campus, 49 Tullywigan Road , Cookstown, BT980 8SG. A monetary deposit will be required to cover works on the public road.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0832/F	Target Date:
Proposal: An application under Section 54 of the Planning Act (Northern Ireland) 2011 to vary Condition No 16 of planning permission H/2010/0009/F to change the operational lifetime of the wind farm from 25 years to 30 years	Location: Crocandun approximately 450m west south west of junction of Cullion Road and Drumard Road Draperstown Magherafelt
Referral Route: This application is to extend the lifetime of the windfarm. The original application for the windfarm was a major application which was determined by The Department of the Environment.	
Recommendation:	APPROVE
Applicant Name and Address: Brookfield Renewable Floor 5 City Quarter Lapps Quay CORK ROI	Agent Name and Address: Clyde Shanks 2nd Floor 7 Exchange Place Belfast BT1 2NA
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

Representations:

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

Summary of Issues including representations

No representation were received in respect of this application.

Characteristics of the Site and Area

The site is located in the Magherafelt District Council area in the area around Crockandun and Straw Mountain and approximately 4km south of Draperstown. The lands are sited within the Sperrins Area of Outstanding Natural Beauty (AONB) and located to the west of Slieve Gallion and accessed off the Cullion Road. It comprises upland mosaic habitats including bog, flushes etc. and rough grazing. A number of streams are also within the site. The site also contains part of the Sruhanleanantawey ASSI designated for its geological importance. The six turbines have been erected for a short time and are now operational. There is extensive sand and gravel extraction in the wider locality as well as single turbines visible to the west.

Description of Proposal

An application under Section 54 of the Planning Act (Northern Ireland) 2011 to vary Condition No 16 of planning permission H/2010/0009/F to change the operational lifetime of the wind farm from 25 years to 30 years.

Planning Assessment of Policy and Other Material Considerations

Include Development Plan and planning history

H/2010/0009/F - Amendment to proposed windfarm including reduction from 11 to 6 wind turbines (hub height 80m, blade diameter 90m) with an overall height from ground to blade tip of 125m, 2 borrow pits, 110kv substation and compound, construction of internal site tracks and associated works - Approved 28.11.2012.

As this is an application to extend the lifetime of the windfarm from 25 years to 30 years, the issues to be considered are;

What is the reason for the proposed time extension;

Will the proposed extension in the lifetime of the windfarm have any impact on the ecology and hydrology of the site beyond the lifetime of the windfarm;

does the proposal have any greater impact on residential amenity. In that respect, Environmental Health were consulted and advised that :-

The applicant advised that

'para 1.3.88 of PPS 18 Best Practice Guidance (BPG) states the following:

"1.3.88 It is likely that the duration of the planning permission will be linked to the expected operational life of the turbines. However, during this period, proposals may be forthcoming to extend the life of the project by re-equipping or to replace the original turbines with new ones. While there are obvious advantages in utilising established sites, such cases will have to be determined on their individual merit and in the light of the then prevailing policy and other relevant considerations."

It follows that duration of the lifespan of the wind farm relates to the operational life of the turbines and its technology. Given the advances in technology and continued improvements to turbine performance and design, the life expectancy of turbines has increased.

Notwithstanding, Condition 16 of permission H/2010/0009/F states:

"All above ground structures shall be dismantled and removed from the site 25 years from the date when the wind farm is commissioned to the electricity grid or shall be removed if electricity generation has ceased on site for a period of 6 months (unless further consent has been granted). The land shall be restored in accordance with an agreed scheme to be submitted to the Department at least one year prior to the commencement of any decommission works. This scheme shall include details of all works and measures to restore the site, the timeframe within which the works shall be carried out along with proposals for aftercare for a period of 3 years after completion of the restoration works."

Reason: To ensure the development is decommissioned in a manner that protects the ecology and hydrology of the site beyond the lifespan of the windfarm.

The reason for the condition relates to the latter part of condition in regards to the decommissioning of the wind farm and the restoration of the land and not the operational lifespan of the wind farm. The NIEA consultation response dated 16 March 2012 confirms this to be the case in so far as the following condition was proposed:

“No later than 1 year prior to the expiry of the approval a restoration scheme shall be submitted for the approval of the Department and shall be implemented (unless a further consent is granted) in accordance with the approval granted. This scheme shall include details of all works and measures to restore the site in accordance with a site restoration plan agreed with the Department. The site restoration plan shall include details of timescale within which the restoration works shall be carried out along with proposals for aftercare for a period of up to 3 years from completion of restoration works.

Reason: to ensure the development is decommissioned in a manner that protects the ecology and hydrology of the site beyond the life span of the windfarm”

This application merely seeks to extend the operation lifetime of the wind farm by five years. Therefore the applicant will seek to comply with the condition insofar as a restoration scheme will be submitted to the Council at least one year prior to the commencement of decommissioning works detailing the works relating to the protection of ecology and hydrology in accordance with Condition 16.

In my opinion it is accepted that the windfarm can be decommissioned in such a manner that protects the ecology and hydrology of the site and that to permit the windfarm to remain in place for an additional five years beyond the original approved 25 year time limit, will not cause any damage to the ecology and hydrology of the site.

Environmental Health advised;

'The amendment of the lifetime of the wind farm is not considered to have any impact on noise levels. We therefore have no objection to the lifetime of the wind farm being extended to 30 years.'

Given that the proposed extension in the lifetime of the windfarm will not have a detrimental impact on residential amenity, it is considered to be acceptable and should be approved subject to the condition listed below:-

Recommendation

On consideration of the above, it is my opinion that planning permission should be granted for the proposed development subject to the following conditions:-

All above ground structures shall be dismantled and removed from the site 30 years from the date when the wind farm is commissioned to the electricity grid or shall be removed if electricity generation has ceased on site for a period of 6 months (unless further consent has been granted). The land shall be restored in accordance with an agreed scheme to be submitted to the Department at least one year prior to the commencement of any

decommissioning works. This scheme shall include details of all works and measures to restore the site, the timeframe within which the works shall be carried out along with proposals for aftercare for a period of 3 years after completion of the restoration works.

Reason: To ensure the development is decommissioned in a manner that protects the ecology and hydrology of the site beyond the life span of the windfarm.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approve subject to the condition listed below:-

Conditions:

1. All above ground structures shall be dismantled and removed from the site 30 years from the date when the wind farm is commissioned to the electricity grid or shall be removed if electricity generation has ceased on site for a period of 6 months (unless further consent has been granted). The land shall be restored in accordance with an agreed scheme to be submitted to the Department at least one year prior to the commencement of any decommissioning works. This scheme shall include details of all works and measures to restore the site, the timeframe within which the works shall be carried out along with proposals for aftercare for a period of 3 years after completion of the restoration works.

Reason: To ensure the development is decommissioned in a manner that protects the ecology and hydrology of the site beyond the life span of the windfarm.

Informatives

1. This approval notice relates to Drawing No. 01 which was received on 9th July 2020.

Signature(s)

Date:

ANNEX	
Date Valid	9th July 2020
Date First Advertised	28th July 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 62 Corrick Road Draperstown Londonderry	
Date of Last Neighbour Notification	13th August 2020
Date of EIA Determination	7th April 2021
ES Requested	Yes /No
Planning History The most relevant planning history on this site is the extant planning approval:- H/2010/0009/F - Amendment to proposed windfarm including reduction from 11 to 6 wind turbines (hub height 80m, blade diameter 90m) with an overall height from ground to blade tip of 125m, 2 borrow pits, 110kv substation and compound, construction of internal site tracks and associated works - Approved 28.11.2012	
Summary of Consultee Responses Environmental Health advised that the proposed extension of time is not considered to have any impact on noise levels and therefore EHD have no objection to the proposal.	
Drawing Numbers and Title	
Drawing No. 01 Type: Site Location Plan Status: Approved	
Notification to Department (if relevant) Date of Notification to Department: Response of Department:	



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 07/09/2021	Item Number:
Application ID: LA09/2020/0949/F	Target Date:
Proposal: Proposed extension of existing confectionery warehouse, additional car-parking and external hardstanding / loading / unloading area (Additional Noise and Lighting Information Submitted)	Location: 58 Old Eglish Road Dungannon
Referral Route: 1. The proposal does not fit neatly into any policy in PPS 4 – Planning and Economic Development as the existing portion of the site is half within the settlement limit of Dungannon and the remaining half where the new shed is located is in the countryside.	
Recommendation:	Approval
Applicant Name and Address: Northern Confectioners Ltd 58 Old Eglish Road Dungannon BT71 7PA	Agent Name and Address: McKeown and Shields Associates Ltd 1 Annagher Road Coalisland BT714NE
Executive Summary: The proposal does not fit neatly into any policy in PPS 4 – Planning and Economic Development as the existing portion of the site is half within the settlement limit of Dungannon and the remaining half where the new shed is located is in the countryside. However members should consider the fact that the Dungannon and South Tyrone Area Plan 2010 is now over ten years since its expiry date and that it will be at least two years before a local policy plan comes forward. In addition the Mid Ulster Draft Plan strategy recognises a shortage of industrial and that there is a lack of available sites at Granville and the land approved at the brick works is still to come on stream. This is also an existing factory and therefore there is a degree of geographic inertia which makes relocation difficult.	

Signature(s):

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	Rivers Agency	Advice
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
<p>Characteristics of the Site and Area</p> <p>The existing warehouse is within the settlement limit of Dungannon as defined in the Dungannon and South Tyrone Area Plan 2010. While the remainder of the application site is in the countryside and outside any settlement limits. To the north is within Dungannon limits and is mainly residential with detached dwellings on large plots. The majority of these dwellings have a roadside frontage onto the Old Eglish Road. To the south of the site is mainly housing developments with a mix of detached and semi-detached dwellings. 110m west of the site is Black Lough and agricultural fields as this is outside the Dungannon limits. Directly across the road from the site are single storey orlits which face onto Old Eglish Road.</p> <p>The application site comprises two large storage sheds which are used for the storage business Northern Confectioners. The front of the site has a roadside frontage onto Old Eglish road and there is a tarmacked area to the front which serves as a yard. The front boundary treatment is 2m high metal fencing. To the south and within the curtilage is a gravelled area which is currently used for staff car parking. Along the side and southern boundary is a yard which provides access to the rear of the sheds. The rear boundary treatment is a 2m high blockwork wall with metal fencing on top of the wall.</p> <p>To the rear of the sheds and outside the curtilage of the existing business are agricultural fields. From the rear boundary the land slopes downwards sharply and there are small groupings of established trees within the field.</p>	
<p>Description of Proposal</p> <p>This is a full application for a proposed extension of existing confectionery warehouse, additional car-parking and external hardstanding / loading / unloading area at 58 Old Eglish Road, Dungannon.</p>	
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.</p> <p>Planning History</p> <p>No recent planning histories at the application site.</p> <p>Representations</p> <p>The application was advertised in the local press and neighbour notified and at the time of writing no representations have been received.</p> <p>Local Development Plan 2030 - Draft Plan Strategy</p> <p>The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in</p>	

assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

SPPS - Strategic Planning Policy Statement for Northern Ireland

The Strategic Planning Policy Statement for Northern Ireland (SPPS) is the most recent expression of Policy by the Department and unless it has changed policy or provided clarification of the existing policies, the existing policies remain to be considered until such times as the Council publishes its own Local Development Framework. I do not consider the SPPS has changed the policies in Planning Policy Statement 1, 3, 4 or 15, which I consider are the relevant policy for consideration. The SPPS does give specific provision for Economic Development, Industry and Commerce subject to a number policy provisions. It does not present any change in policy direction with regards to industrial development in settlements. As such, existing policy will be applied (ie) PPS 4.

Dungannon and South Tyrone Area Plan 2010

The portion of the existing site where the new shed is located is on the boundary and outside the settlement limit so SETT 1 does not apply. However the Dungannon and South Tyrone Area Plan 2010 is now over ten years since its expiry date and that it will be at least two years before a local policy plan comes forward. In addition the Mid Ulster Draft Plan Strategy recognises a shortage of industrial and that there is a lack of available sites at Granville and the land approved at the brick works is still to come on stream. This is also an existing factory and therefore there is a degree of geographic inertia which makes relocation difficult. Therefore even-though the site of the warehouse is in the countryside and outside the Dungannon settlement limit there are the above mentioned issues with zoning of industrial land and the settlement boundary that need to be taken into consideration in this assessment.

PPS 4 - Planning and Economic Development

PED 3

The existing storage and distribution business at Northern Confectioners is within the settlement limit of Dungannon and there are no changes to this area as shown in red in figure 1 below. The proposal is for an extension to the existing warehouse on land to the east of the sheds but this land is in the countryside and on the edge of Dungannon Limits. Though members should be aware this application is not for the expansion of an established economic development situated in the countryside so does not sit neatly within PED 3.

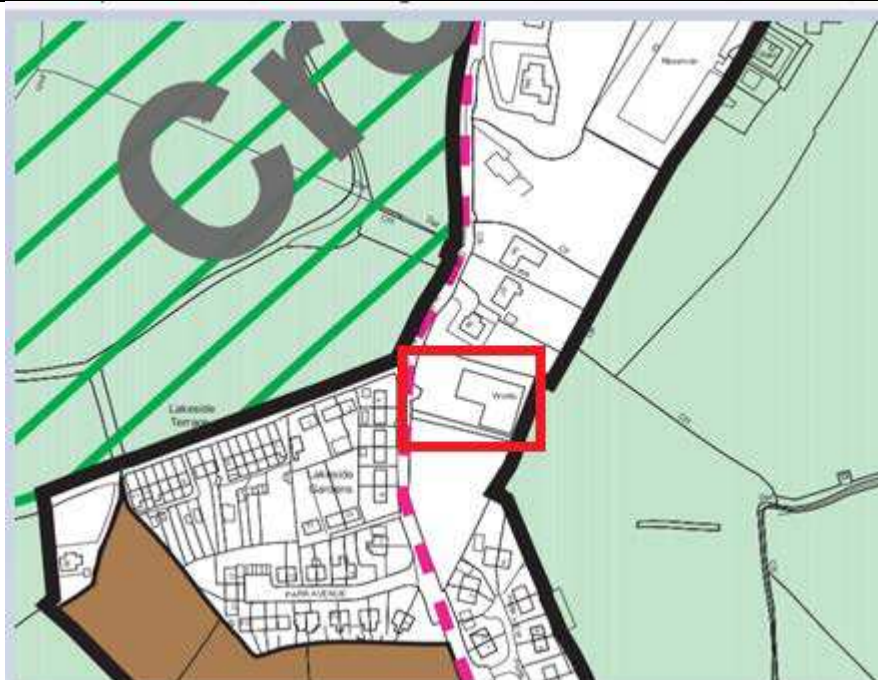


Figure 1 – Snapshot from Dungannon and South Tyrone Area Plan showing the red line as the existing sheds and the proposed siting of new shed in countryside to the east.

The proposed extended shed is 42m in length extending from the rear wall of the existing sheds, 33.5m in width and 11m in height to finished floor level. The shed has a rectangular form and has a finished floor level at the same height as the existing sheds which is 86.6. The proposed external materials are grey cladding panels on the roof and silver grey cladding panels on the walls. I am content the external materials of the proposed shed is acceptable as it will match the existing sheds which are a mix of blockwork walls and grey cladding panels on the roof and upper sections of the sheds.

The proposed location to the rear is in the countryside and is currently a field. As shown in figures 2 and 3 below the land slopes downwards steeply. The front elevation of the shed is 3no. large roller shutter doors which are 4.5m in width and 6m in height. Along the rear elevation of the shed facing onto the private lane there are also 2no. roller doors 4.2m in width and 6m in height. The agent has submitted sections to show how the proposed shed will sit in the sloping landscape. The level at the existing shed is 88m and the existing levels to the rear wall of the proposed shed is 73m, thus there will be a change in levels of 15m.



Figure 2 – View of private lane off Old Eglish Road



Figure 3 – Zoomed in photograph to show the sloping land to the rear of the sheds.

To the south of the proposed shed is a gravelled area which will be used as an access to the new yard area. To the south of the existing shed is currently a sloping field and will be a new turning circle for lorries with a 13m radius. In addition, there is a yard area and 4 no. spaces for HGV parking. This yard area and parking will have the same change in levels and finished floor level as the proposed shed.

As there is a substantial amount of infilling at the site of the proposed shed the applicant has proposed a gabion wall structure to support the shed. This structure has a compacted stone foundation, steel mesh facing and vegetation on the upper layer.

Even-though there is substantial infilling of land to the rear of the site to create a large shed and there is an expansion to the lorry turning area I am content the proposal will not have an unacceptable impact on the character of the site or the surrounding area. There are no critical views of the proposed shed from the main Old Eglish Road. There will be long distance views off a private lane off Old Eglish Road but this is a lightly trafficked lane and is a considerable distance from the main Old Eglish Road.

In a supporting statement submitted on the 23rd March 2021 the applicant has stated the business has operated from the site for over 50 years and there is no space to the south of the site to accommodate an expansion to the existing shed in this direction. The applicant has stated in numerous emails to myself the size of the extension is needed to accommodate an increase in business and they mainly provide products for hospitals and schools. The business has recently launched a new online ordering site which has increased demand so the applicant has stated there is a need for the proposed extension. I am content the proposed shed will integrate at the shed as there are minimal critical views from the public road.

I am content the scale and massing of the proposed shed respects the character of the original shed at the site.

I consider the proposal is for a major expansion of the existing site and as the new shed and lorry area is in the countryside this section of PED 3 is relevant. The agent has stated in a supporting statement dated 10th February 2021 they have operated from the site for over 50 years and a relocation is not possible. As shown earlier in the assessment the business has increasing demand and needs to expand. It is stated the extension to the warehouse area will make the business more efficient in terms of deliveries and increase employment by 4 staff. To relocate or have alternative premises elsewhere would have an economic impact on the business. Northern Confectioners is considered an essential service delivering supplies to hospitals, nursing homes, special needs schools across numerous Council areas. Therefore I consider the extension is essential to the needs of the existing business for operational and employment reasons and makes a significant contribution to the local economy. I am content the proposal will not undermine rural character as there will only be long distance views along a lightly trafficked lane that is only served by the occupants along the lane. The applicant has proposed landscaping on the gabion wall structure and rows of mature trees along the east boundary which has views from the private lane.

Also, as stated earlier in the assessment there has not been a review of the settlement limit of Dungannon for a number of years and work is still progressing on the new Plan Strategy. Work undertaken as part of this Draft Strategy demonstrated there is a lack of industrial land within Dungannon which would hinder relocation of a business of this nature to other premises. Therefore taking all the issues into consideration I would recommend approval.

Policy PED 9: General Criteria for Economic Development

It is my opinion that in principle that the business use has been established at this location and this expansion with a larger shed in principle is acceptable on based on the following premise:

The use is compatible with surrounding land uses.

It is unlikely to harm the amenities of nearby residents.

It is unlikely to adversely affect natural or built heritage.

Rivers agency have been consulted and have stated the proposal is unlikely to cause or exacerbate flooding.

It is unlikely to cause a noise nuisance.

There is no emissions or effluent as the proposed shed is for storage and distribution.

DFI Roads have no concerns about the intensification of the access subject to visibility splays and parking arrangements.

Movement patterns: an application is the appropriate method to demonstrate if and insofar as possible, the needs of walking and cycling needs are met, the needs of people whose mobility is impaired are met, public rights of way are respected. Public Transport connection to this type of economic use are not essential but are a material consideration. This building will not be visible from the roadside.

The proposed shed is to the rear of the site and the proposed landscaping will aid integration.

The determining of crime and promotion of personal safety would require additional information as part of an application in order to fully assess and determine.

Proposals for satisfactorily integrating into the countryside can only be assessed formally through the planning process. In principle there would appear to be no integration problems.

PPS 3 Access, Movement and Parking

DFI Roads were consulted as the proposal will involve a substantial intensification of the parking and lorry turning area at the site. The proposal will create a 13m lorry turning circle to the south adjacent to the new shed, yard area and 4no. loading bays for lorries. DFI Roads are content with the proposal subject to visibility splays of 2.4m x 60m in both directions and conditions relating to gates and hard surfaced areas. The existing site is not accessed off a protected route therefore I am content all the criteria in AMP2- Access to Public Roads have been met.

The proposed warehouse is 1428m² and according to Mid Ulster Parking Standards for a storage warehouse there should be 1 lorry space per 250m². Therefore the new warehouse would need 7 lorry space. On drawing 02 Rev3 date stamped 02 AUG 2021 7 lorry spaces are shown with a further 4 spaces for loading to the south. I am content sufficient lorry spaces have been provided at the site for the size of the development.

PPS 15 – Planning and Flood Risk

FLD 3 – Development and surface water flood risk outside flood plains

There is a proposed new warehouse is 1428m² and a new hard surfaces area to the south to accommodate a 13m lorry turning circle and 4no. lorry loading bays. Consequently as there will be over 1000sqm of new building/hard surfacing a Drainage Assessment was requested by Rivers Agency. Rivers Agency were content with the findings of the Drainage Assessment but state that in the DA it is reported

‘During detailed design, the exact parameters of the attenuation features will be confirmed’. Therefore Rivers Agency have requested a condition that Prior to the commencement of any of the approved development on site, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 must be submitted to the Council for its consideration and approval. Therefore the applicant must submit a final drainage assessment prior to commencing any works.

Neighbour Amenity – Consultee Environmental Health

Environmental health were consulted as the proposal is for a large scale expansion of an existing warehouse which will double in size the floorspace. In addition, there is an expansion of the lorry parking and loading area. Environmental health initially responded with concerns about the impact on neighbour amenity on dwellings to the south and

requested a light impact assessment and noise impact assessment. It was also requested the applicant consider changing the location of the turning circle and loading bays. The applicant responded stating this involves more structural works into the slope of the field and is not a feasible option. Consequently the applicant has shown more landscaping along the southern boundary to act as a buffer and EH are now content.

PPS 21 – Sustainable Development in the Countryside

CTY 15 – The Setting of Settlements

As the siting of the proposed shed is outside and on the boundary of the settlement limit of Dungannon CTY 15 is the relevant policy which applies. This proposal will mar the distinction between Dungannon settlement limit and the remaining countryside. However there are limited critical views from Old Eglish Road and the only views are long distance views along a private lane. I do not consider the proposed shed and lorry area will have an unacceptable impact on the character of Dungannon and the applicant has proposed additional landscaping to mitigate any impact.

Neighbour Notification Checked Yes

Summary of Recommendation:

The proposal is recommended for approval.

Conditions

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

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

2. The limitations on the exterior lighting detailed in the table below shall apply at :

- 58 Old Eglish Road (North of the site)
- New Property, old Eglish Road (South of the site)

Environmental Zone	Light Intrusion (into Windows) Ev [lux]	
	Pre-curfew	Post-curfew
E2	5	1

3. The time of the curfew shall be 10pm.

Reason: To protect the amenity of nearby residential properties.

4. The warehouse hereby approved shall be restricted to daytime only during the hours:

- Monday- Friday 08:00 hrs – 18:00 hrs
- Saturday 08:00 hrs – 13:00 hrs
- No activity on Sunday

Reason: To protect the amenity of nearby residential properties.

5. All external doors to the proposed warehouse shall be kept closed at all times, except for the purposes of loading and unloading.

Reason: To protect the amenity of nearby residential properties.

6. Prior to the commencement of operations within the warehouse building hereby approved the walls and roof panels shall be constructed and permanently retained with no gaps to provide a sound reduction Rw of at least 27dB as outlined in the noise assessment by CD Consulting dated 15/03/2021.

Reason: To protect the amenity of nearby residential properties.

7. Prior to the commencement of operations within the warehouse building hereby approved the doors shall be constructed and maintained to provide a sound reduction Rw of at least 26dB as outlined in the noise assessment by CD Consulting dated 15/03/2021.

Reason: To protect the amenity of nearby residential properties.

8. Prior to the commencement of operations within the warehouse, a 4m high closed board timber and/or 2m high bund with a minimum self-weight of 25 Kg/m² shall be erected between along the southern boundary of the site as detailed on Drawing No. J1606/104/A1 and Drawing Number 6, date stamped 21/05/21 shall be permanently retained and maintained.

Reason: To protect the amenity of residents.

9. Within 4 weeks of a written request by the Planning Department, following a reasonable noise complaint the site operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of noise immissions from the site at the complainant's property following the procedures described in: BS 4142:2014 Methods for rating and assessing industrial and commercial sound. Details of the noise monitoring survey shall be submitted to the Planning Department for written approval prior to any monitoring commencing.

Reason: To protect the amenity of residents.

10. Prior to the commencement of any of the approved development on site, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 must be submitted to Mid Ulster District Council for its consideration and approval.

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

11. The vehicular access, including visibility splays of 2.4 metres by 60.0 metres in both directions at the access on to the public Road and forward sight distances of 60.0 metres, shall be provided in accordance with Drawing No 02 Rev 3 date stamped 02 AUG 2021 prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

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

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

14. No operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 02 Rev 3 date stamped 02 AUG 2021 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.

Informatives

1. The applicant must apply to the Dfi Roads for a licence indemnifying the Department against any claims arising from the implementation of the proposal.

2. Separate approval must be received from Dfi 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.

3. 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.

4. Notwithstanding the terms and conditions of the Department of Environment'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 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 Section Engineer whose address is Section Office, Moygashel, Dungannon. A monetary deposit will be required to cover works on the public road.

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

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

7. Notwithstanding the terms and conditions of the Department's approval set out above, you are required under the Street Works (Northern Ireland) Order 1995 to be in possession of a Street Works Licence before any work is commenced which involves making any opening or placing of any apparatus in a street. The Street Works Licence is available on personal application to the Department for Infrastructure Section Engineer whose address is Section Office, Moygashal Road, Dungannon.

Signature(s)

Date:



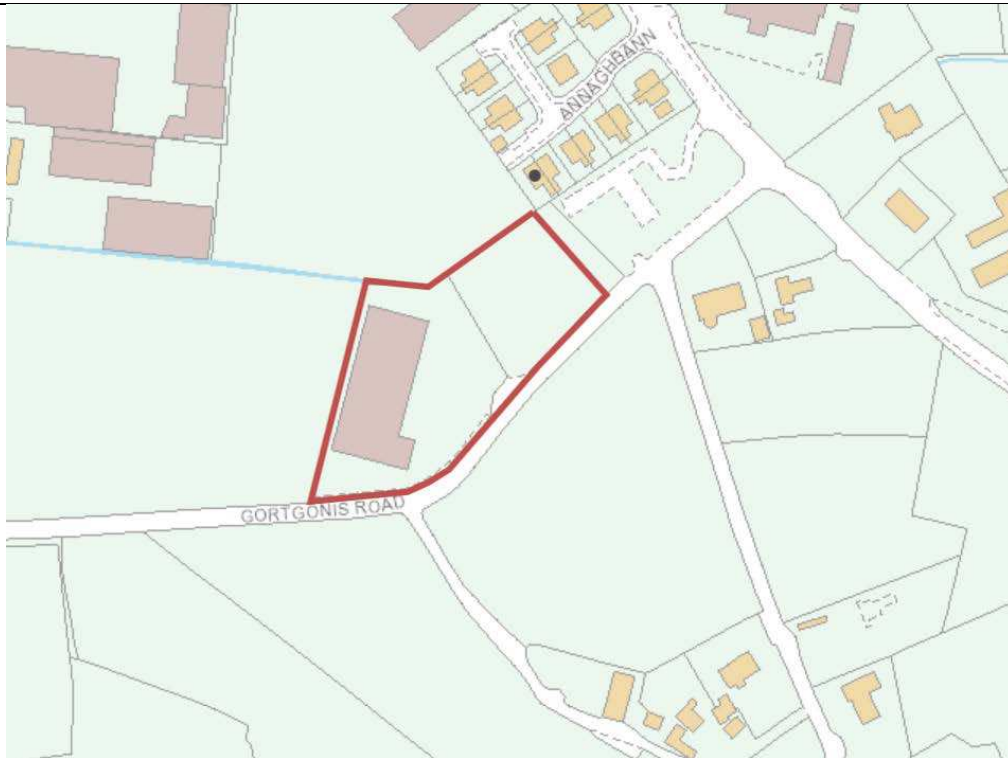
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0077/F	Target Date:
Proposal: Proposed alternative Acoustic noise barrier to that previously approved under LA09/2016/0543/F	Location: 100 Gortgonis Road Coalisland
Referral Route: Approval with objections.	
Recommendation:	Approve
Applicant Name and Address: Toubcal Limited Unit 12 Torrent Valley Business Donaghmore Dungannon	Agent Name and Address: Mc Keown and Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
Executive Summary: Neighbours have complained about noise, the agent is proposing revised acoustic barriers and Environmental Health have agreed the proposed new boundary fencing.	
Signature(s):	

Case Officer Report

Site Location Plan: 01



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	1 Petition Received- 12 signatures

Summary of Issues

- Noise from factory
- visual impact of proposed fence
- issues over address
- other issues not related to planning

Description of proposal

This is a full planning application for a proposed alternative acoustic noise barrier to that previously approved under LA09/2016/0543/F.

Characteristics of site and area

The application site is located at 100 Gortgonis Road, Annaghmore and is currently occupied by an existing manufacturing business, Toubkal Limited/Blackrock Engineering. The site is just inside the settlement limit of Annaghmore as defined in the Dungannon and South Tyrone Area Plan 2010 (DSTAP). In the Western portion of the site is a large two storey workshop and office building. The remainder of the site is used for outside storage, parking and circulation of vehicles throughout the site. The site boundaries are as follows; the roadside boundary is part defined by wire and post fencing and part defined by closed board wooden fencing. The Northern and North Western boundaries are defined by a mix of security fencing, single sheet 3.3m high wooden fencing, and 3.3m high single sheet tin fencing. The Western boundary is defined by closed board wooden fencing and the NE boundary is defined by a 1.8m high earth bund.

This area is characterised by a mix of uses. There is a residential development to the immediate North of the site. To the NW and SW of the site are engineering works and to the SE of the site is a cluster of detached dwellings and agricultural buildings.

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. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

Dungannon and South Tyrone Area Plan 2010 (DSTAP)- just inside the settlement limit of Annaghmore, white land.

Relevant Planning Policy

SPPS Strategic Planning Policy Statement
PPS 4 - Planning and Economic Development

Relevant Planning History

LA09/2016/0543/F- Proposed retention of existing hard standing Industrial Storage area, granted 09.02.2016

LA09/2015/0960/F - Proposed gas tank enclosure also retention of plasma recirculation exhaust annex (no fumes or dust omissions) including provision of small material storage area to side and rear approved on 3rd February 2016.

M/2014/0134/F - Proposed extension to existing factory approved on the 3rd June 2015

M/2013/0318/F - Proposed security fence around existing site - Retrospective application approved 20th December 2013

M/2008/0350/F - Retention of the change of use from existing store for electrical goods and offices to light/ general engineering (manufacture of quarry machinery materials) approved on the 9th June 2009

There have been several enforcement cases open on this site, with all but one closed with further action being suspended for now pending on the outcome of this current application.

Third Party Representations

A letter of objection was received from No. 12 Annaghban Park, which is located approximately 2-3 meters from the boundary of the Factory yard, seeking further clarification on the potential visual impacts of the proposed boundaries, and providing other information about the site. I spoke to the objector over the phone and explained the plans and likely visual impacts, no further objections were received.

A petition was received, signed mostly by residents of Annaghban, one from Gortgonis Road, complaining about unacceptable noise from the factory.

Recommendation

This proposal is only to consider alternative acoustic boundary treatments to those that were granted under LA09/2016/0543/F. In support of the planning application the agent has provided drawing 01 which shows the proposed boundary treatments, along with a Supporting Statement from Lester Acoustics to demonstrate the effectiveness of the proposed acoustic solution.

The main difference in this proposal from what was approved is as follows;
Under LA09/2016/0543/F boundaries A to B to C were defined as a 1.5m high earth bund with 1.8m high fence on top. Boundary C to D. along the NE boundary of the site, was a 1.8m high acoustic timber fence.

This proposal is for;

Along boundaries A to B 3.3m high pallet racking with single skin cladding to rear with surface mass of 1.3kg/m and gravel board to be fitted between ground and the bottom of the fence with a minimum surface mass of 6kg/m.

Boundary b to C 3.3m high close boarded timber fence with gravel board to bottom.

Boundary C to D 1.5m high earth bund with 1.8m high close boarded timber fence with gravel board to bottom. Minimum surface mass of 6kg/m.

Boundaries A to B to C measured 3.3m in height from ground level at that point to the top of the boundary. Boundary C to D has went from a 1.8m high boundary to a proposed 3.3m high boundary. An assessment on visual and residential impacts on the

height of this boundary, as well as the overall acoustic effectiveness of the proposed boundary will be considered.

Environmental Health were consulted on this proposal, and requested to consider Lester Acoustics report and the objection and petition. They have responded and recommend that they have no objections to this proposal subject to the inclusion of planning conditions.

No. 12 Annaghban raised concern over the proximity of the height of the 3.3m high boundary to their rear boundary. Under LA09/2016/0543/F granted permission for a 3.3m high boundary along B to C. Given that this proximity was assessed as being acceptable, I find that the boundary C to D which will now also be 3.3m high, to be acceptable. The boundary C to D runs away from the rear boundary of No. 12, and while it will be visible from this back yard, it is my view that this fence will not be over dominant or cause unacceptable loss of light to the rear garden of No. 12. There is an existing 3.3m high fence in position along boundary B to C which is a good visual guide of the overall visual impact of the fence which will be provided along C to D. This was explained to the objector and they did not put any further objections in writing to Council over potential detrimental impacts on residential amenity. Landscaping to the top of the earth bund will also soften the impact of the boundary in the landscape. To ensure that landscaping will not block sunlight to the rear of No. 12 in the future, I will add a condition to ensure it is topped at a height not more than ? m above the top of the fence line between points C and D.

I am satisfied that the policies within PPS4 have been met in this respect, particularly those in PED 9 which relate to impacts of noise and impacts on neighbouring amenity.

Approve subject to conditions.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That planning permission is granted subject to the following conditions;

Conditions

1. Within 8 weeks from the date of this approval a 3300mm high pallet racking with single skin cladding to the rear shall be put in place between points A to B shown on drawing No. 01 date stamp received 19th January 2021. The pallet racking and single skin cladding shall have a minimum surface mass of 1.3kg/m, and shall be erected with no gaps between the bottom of the cladding and the ground, and shall be permanently retained and maintained thereafter at a height not less than 3300mm above ground level at that point and a surface mass of not less than 1.3kg/m.

Reason: To safeguard residential amenity.

2. Within 8 weeks from the date of this permission a gravel board shall be provided to fill the gap between the bottom of the pallet racking and single skin cladding and the ground level at that point, between points A to B as indicated on drawing No. 01 date stamp received 19 January 2021. The gravel board shall have a minimum surface mass of 6kg/m and shall be permanently retained thereafter.

Reason: To safeguard residential amenity.

3. Within 8 weeks from the date of this permission a 3300mm high close-boarded timber fence shall be erected along the boundary B to C, in accordance with details shown on drawing No. 01 date stamp received 19th January 2021, and shall be permanently retained and maintained thereafter at a height not less than 3300mm above ground level at that point.

Reason: To safeguard residential amenity.

4. Within 8 weeks from the date of this permission a gravel board shall be provided to fill the gap between the bottom of the 3300mm high close-boarded timber fence, between points B to C as indicated on drawing No. 01 date stamp received 19 January 2021. The gravel board shall have a minimum surface mass of 6kg/m and shall be permanently retained thereafter.

Reason: To safeguard residential amenity.

5. The earth bund, shown between points C to D on drawing No. 01 date stamp received 19 January 2021, shall be permanently retained at a height of 1.5m high from ground level at that point.

Reason: To safeguard residential amenity.

6. Within 8 weeks from the date of this approval a 1800mm high close boarded timber fence shall be erected on top of the earth bund, between points C and D as indicated on drawing No. 01 date stamp received 19 January 2021, and shall be permanently retained thereafter.

Reason: To safeguard residential amenity.

7. Within 8 weeks from the date of this permission, a gravel board shall be installed at the bottom of the 1800mm fence and the top of the earth bund, between points C to D as shown on drawing No. 01 date stamp received 19 January 2021, to ensure there are no gaps. The gravel board shall have a minimum surface mass of 6kg/m and shall be permanently retained thereafter.

Reason: To safeguard residential amenity.

8. Within 4 weeks of a written request by the Planning Department following a reasonable noise complaint, the site operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of noise immissions from the site at the complainant's property following the procedures described in: BS 4142:2014

Methods for rating and assessing industrial and commercial sound. Details of the noise monitoring survey shall be submitted to the Planning Department for consideration.

Reason: To safeguard residential amenity.

9. Within the first available planting season from the date of this permission, all landscaping indicated on drawing No. 01 date received 19 January 2021 shall be carried out in accordance with that plan.

Reason: In the interest of visual amenity and biodiversity.

10. No landscaping along the boundary C to D shown on drawing No. 01 date stamp received 19th January 2021 shall be allowed to grow to greater than 200mm above the highest part of that boundary fencing.

Reason: To safeguard residential amenity.

Signature(s)

Date:

ANNEX	
Date Valid	19th January 2021
Date First Advertised	2nd February 2021
Date Last Advertised	18th May 2021
Details of Neighbour Notification (all addresses) The Owner/Occupier, 100 Gortgonis RdDungannon BT71 4RY 100 Gortgonis Rd,Coalisland,BT71 4RY Maura McGuckin 12 Annaghbann,Coalisland, BT71 4RY Maura McGuckin 12 Annaghbann,Coalisland,BT71 4RY	
Date of Last Neighbour Notification	7th May 2021
Date of EIA Determination	EIA screening not required for this type of development.
ES Requested	No
Notification to Department (if relevant) Date of Notification to Department: Response of Department:	



Comhairle Ceantair
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Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0226/F	Target Date:
Proposal: Proposed extension and alterations to existing rugby club clubhouse to include additional changing facilities, additional bar/function area , kitchen, toilets, storage and viewing gallery	Location: 7 Meadowbank Road, Magherafelt
Referral Route: 1no. Objection received	
Recommendation:	Approval
Applicant Name and Address: Rainey Old Boys RFC 7 Meadowbank Road Magherafelt	Agent Name and Address: Kee Architecture Ltd 9a Clare Lane Cookstown BT80 8RJ
Executive Summary: Proposal complies with relevant prevailing planning policy. 1No. objection letter received and considered below.	
Signature(s): <div style="height: 40px; border: 1px solid black;"></div>	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen	Content
Non Statutory	Environmental Health	Substantive Response
Statutory	DFI Roads - Enniskillen	Standing Advice

Representations:

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

Characteristics of the Site and Area

The application site comprises Magherafelt Rainey Old Boys Rugby Club located at 7 Meadowbank Road, Magherafelt within the defined settlement limits of Magherafelt Town. The site is an existing sport facility defined as a major area of existing open space by the Magherafelt Area Plan 2015. There is an existing clubhouse with associated parking within the site and 2no. Existing rugby pitches immediately to the east. The proposal is sited on a relatively flat area of land at the fringe of the settlement limit with open countryside to the south. The surrounding context to the north is urban in character with predominantly residential land uses to the northwest and open space and recreation land uses to the northeast. The southern and southwest boundary of the site is defined by mature trees, whilst the roadside boundary is defined by green palisade fencing.

Description of Proposal

This planning application seeks full planning permission for the extension and alterations to the existing rugby club clubhouse to include additional changing facilities, additional bar/function area, kitchen, toilets, storage and viewing gallery at 7 Meadowbank Road, Magherafelt.

Planning Assessment of Policy and Other Material Considerations

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

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Magherafelt Area Plan 2015
- PPS 3 - Access, Movement and Parking
- PPS8 - 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. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, 1 objection letter was received. The concerns outlined in this letter are summarised and considered below:

- Existing car parking is inadequate to accommodate game days and needs to be improved. No allowance for parking and an expansion will worsen this. Cars currently park along the Meadowbank Road and on the junction with Parkmore Road on game days which is disruptive to residents and the flow of traffic.

DFI Roads had initially provided consultation response advising they had no concerns. However following the receipt of the above letter of objection, further comment was sought from DFI Roads with regards to parking. DFI Roads advised they were not aware of any significant problems as a result of overflow parking on game days (Saturdays), however advised that the P1 Form expects an increase of 10 vehicles which has the potential for a shortfall of 37 vehicles dispersed elsewhere with the current parking provision of 77 spaces available on site. Clarification was sought from the agent on the parking issue and a supporting statement was subsequently submitted. The Supporting Statement advised a maximum of only two teams can play at any given time as there are only 2 pitches and on Saturday's youth teams play in the morning and senior teams in

the afternoon. The agent advised that the majority of vehicles associated with the youth teams are drop offs and do not park, however accepts that on a small number of occasions the senior 1st team matches in the afternoon may attract a bigger crowd with some overflow on to the Meadowbank Road. The agent argues that the number of matches will not change as a result of this proposal which relates to the clubhouse only, therefore he does not anticipate an intensification or increase of visitors during the Saturday peak time which would increase pressure on current parking arrangements. The Supporting Statement advises that the expected 10 vehicles increase is based on additional vehicles attending the facility socially on a Saturday evening and this increase can be fully accommodated with the existing in-curtilage parking provision. It is argued that there is no capacity to increase the number of teams attending given there are only 2 pitches and no prospect for future expansion as there is no surrounding available land. Having considered the Supporting Statement submitted at internal group, it is considered that the proposal is unlikely to impact on existing parking pressure during game times as the proposed extension to clubhouse relates to changing and viewing facilities for existing visitors during the day time and bar/function and kitchen area to facilitate social events in the evening.

History on Site

H/2009/0613/F- Provision of floodlighting to 2no existing playing pitches - Hatrick Park, 7 Meadowbank Road, Magherafelt - Permission Granted 20/01/10

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. The SPPS states that planning considerations for ancillary development to existing sport and outdoor recreation facilities will require consideration of location, design, hours of operation, noise, impact upon visual and residential amenity, access and links to public transport, floodlighting, landscaping, public safety, nature conservation, biodiversity, archaeology or built heritage.

Magherafelt Area Plan 2015 - The site is located within the development limits of Magherafelt, on land defined as a major area of existing open space. The Plan states within these areas planning applications will be determined in accordance with the provisions of prevailing regional planning policy. It is noted that the proposal is to extend existing club rooms, therefore no open space will be lost as a result of the proposal.

Plan Policy COY 1 Community Uses states planning permission will be granted for community uses within settlement development limits provided all the following criteria are met:

- there is no significant detrimental effect on amenity;

I am content the proposed extension to existing clubrooms will not have an unacceptable impact on neighbouring amenity. The proposal will extend the eastern elevation to

provide a first floor viewing gallery, where currently there is a small first floor terrace. To the western elevation the proposal extends to the rear to provide additional changing space to the ground floor and a bigger function area, kitchen and toilets. Environmental Health have been consulted and whilst identifying odour may be produced from the kitchen, no significant concerns or objections were raised. The proposed extension will have a separation distance of approx. 64m with the closest residential property. I do not consider the proposal will have a significant detrimental effect on amenity to warrant refusal.

- the proposal does not prejudice the comprehensive development of surrounding lands, particularly on zoned sites;

It is not considered that the minor extension of an existing clubhouse within an established Rugby sports ground would prejudice development of surrounding lands.

- the proposals are in keeping with the size and character of the settlement and its surroundings;

The proposed two storey extension is considered large and will extend the floor space of the existing building by approx. 560m² however remains subordinate. The design and finishes are in keeping with the existing built form of the existing clubhouse on site. Given the size and nature of the site, I am content the scale and design of the proposal is in keeping with the character of the surrounding area.

- where necessary, additional infrastructure is provided by the developer; and It is not necessary for additional infrastructure to be provided.

- there are satisfactory access, parking and sewage disposal arrangements.

There is no change to existing access arrangements and sewage disposal arrangements are already in place on site. As previously stated above, it is accepted that the parking provision on site will accommodate the expected increase to the site which will facilitate social events/evening entertainment on site. It is considered the proposal complies with the relevant planning policy with PPS3.

The site is located within the settlement limit of Magherafelt therefore Plan Policy SETT 2 applies. The proposal is located on a large area of existing open space. The use is established on the site and I am content the proposed extension to clubhouse is sensitive to the character of Magherafelt and will not have an unacceptable impact on neighbour amenity. As previously stated, Environmental Health have been consulted and have provided no objections noting the proposal should not give rise to increase noise impacts but odours may be present from the proposed kitchen area. I consider the proposal meets all the criteria in SETT 1 in terms of conservation interests, access, additional infrastructure and the SPPS.

PPS8 - Open Space, Sport and Outdoor Recreation is a retained policy under SPPS. PPS8 sets out planning policies for the protection of open space, the provision of new areas of open space in association with residential development and the use of land for sport and outdoor recreation. This proposal is for an extension to an existing building to facilitate the continuing functioning an existing area of open space. The facility will provide additional changing areas and will be used to provide social events/functions for the rugby club. The proposed extension is approx. 560m². It is not considered the adjacent properties will be impacted by overlooking or overshadowing and no significant

noise impacts have been identified than what already existing. The design of the proposal is acceptable for the site and locality. The proposal will not have a detrimental impact on nature conservation, biodiversity, archaeology or built heritage.

Overall, it is considered the proposal would not conflict with any prevailing planning policy. The use is established on the site and the proposal relates to a subordinate extension of existing facilities, the design is considered acceptable and it is not considered the proposal would not have a detrimental impact on the surrounding area.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Having considered the prevailing planning policy and all material considerations outlined above, I am of the opinion that this application accords with the relevant policy tests and therefore is recommended for approval subject to the following conditions.

Conditions

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

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

Informatives

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

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report
 Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0387/F	Target Date:
Proposal: Renewal of change of house type from 3 detached dwellings (approved under I/2014/0081/F) to 6 semi detached dwellings	Location: 15 15A and 16 St Jeans Cottages Cookstown
Referral Route: This application is being referred to Committee as it has attracted one letter of objection.	
Recommendation:	APPROVE
Applicant Name and Address: Hoover Investments Ltd 57 Drum Road Cookstown	Agent Name and Address: Manor Architects Stable Buildings 30a High Street Moneymore BT45 7PD
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
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Representations:

Letters of Support	None Received
Letters of Objection	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 respect of this application and relates to the following issues:-

Safe access or pedestrians;

The capacity of the existing road to accommodate traffic.

It should be noted that the one objection was received from St. Jean's Residents but was not signed and no name/names were attached.

It should be noted that Transportni were consulted on the extant approved proposal and advised that they had no objections subject to the suggested informatives. As this is an in-time renewal of the extant approved scheme LA09/2016/0323/F no consultation were considered necessary and the same advice is therefore still applicable.

Characteristics of Site and Area

The proposed site is located within Cookstown Settlement Limit. The site forms part of a previous planning permission I/2014/0081/F which granted permission for 4 no. 2 storey detached dwelling. The area to which this subject site relates was granted permission for 3 no. 2 storey dwellings under I/2014/0081/F. The site at present is cleared for development with some hardcore and rubble still remaining on the site. The site is accessed via St Jeans, but an alternate access within the applicants ownership also extends from Westland Rd towards the rear of No. 15a also exists. Views of the site exist from St Jeans.

The proposed site is located within the settlement limits of Cookstown. The site is accessed off St Jeans, an area defined by residential development on sizable plots. A particular character is obvious, pairs of two-storey semi's, some with larger detached properties in what once was their long rear gardens.

Cookstown Council Offices and yard are located to the north of the site, no access is available to the Council Yard from the site or St. Jeans.

Description of Proposal

This is a full planning application for 6 No dwellings (3 x sets of semi detached dwellings).

Planning Assessment of Policy and Other Material Considerations Regional Development Strategy

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

Area Plan

Cookstown Area Plan 2010: Cookstown Settlement Limit, unzoned white land.

Relevant Planning History

I/2014/0081/F - full permission granted for 4 no. 2 storey detached dwellings, granted 24th June 2014.

LA09/2016/0323/F – 6 No dwellings (3 x sets of semi detached dwellings) Approved 21st April 2016

Key planning Policy

The proposal is for housing development within an existing urban area. The Single Planning Policy Statement advises that the policy provisions of PPS7 still stand until such times as an up-to-date Area Plan is in place. Under Policy QD1 of PPS 7- Planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas.

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

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

The proposal is for the renewal of an extant approval for 6 no. dwellings (3 sets of semis). The proposal is reflective of housing layout and design of existing development in the area. The proposed house type is a two-storey dwelling (8m in height) with smooth render plaster finish and external red brick chimney finish. The proposed design has ground floor projecting bay windows. The house type is acceptable.

In terms of the surrounding context of the area, two-storey properties are evident, mainly pairs of semi-detached. In terms of density, the proposal is reflective of existing density in the area. The building line has largely been retained. Each plot size generously affords the proposed design, with ample amenity space afforded, average 110sqm per plot. There is a mix of housing in the surrounding residential area, with larger back land plots, consisting of detached properties on similar size plots to the proposed 6 No. dwellings. Each property is in keeping with surrounding properties. It is considered criteria (a) of QD1 is met.

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

No archaeological or built heritage features identified on GIS search. Some existing planting exists along the northern boundaries of the site which could be retained, subject to condition. The proposal includes supplementary planting which will soften the impact of the proposed development.

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

No open space is included within the proposed design. However, each site has a generous amount of private amenity space, with an average of 110sq.m. Supplementary planting is proposed along site boundaries to soften visual impact.

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

The proposal is for 6 No. dwellings that will integrate into the local neighbourhood. No additional facilities are proposed than what exists, but each property will be afforded generous living space and is close to Cookstown Town Centre and other local neighbourhood facilities.

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

Transport NI have been consulted and have no objections subject to standard informatives. The proposed site is located within the settlement limits of Cookstown. There appears to be no infringement on rights of way. Access is afforded through St. Jeans, as with previous development to be replaced.

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

Transport NI have no objections subject to standard informatives.

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

A mix of housing and finishes exists in the surrounding residential area. The proposed design of 6 No. properties of same house type, boundary railings and supplementary planting will result in a more attractive development than what currently exists. The proposed development is located within the settlement limits of Cookstown, but the variety and quality of the design will result in a more attractive form of development than what currently exists.

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

As the building line is respected on each plot, overlooking and loss of light is not an issue.

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

The properties will look forward onto properties on the opposite side of St. Jeans. Street lights are in existence. The proposal has good surveillance of surrounding land and is designed with safety and overlooking of public space in mind, while retaining privacy to the rear.

In terms of PPS 7 (Addendum) - Safeguarding the Character of Established Residential Area, the proposed housing density would result in an acceptable density when read with surrounding development. Whilst the house types, design and layout have changed, it is considered the proposed scheme is not contrary to QD1 of PPS7 or PPS 7 Addendum.

Other considerations

Transport NI have no objections.

NI Water have no objections, but have raised information in their response for the developer to be made aware off, which can be done by informative.

Environmental Health have no objections subject to informatives.

No planning objections have been received.

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

Consideration

This proposal is for the in time renewal of planning approval LA09/2016/0323/O. The Strategic Planning Policy Statement for Northern Ireland 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.

There is no conflict between the planning policy applied in the approval of above and the SPPS. Therefore, in my view, this renewal must be approved. This proposal was considered acceptable under the provisions of policy QD1 of PPS7, in that there would be no issues of overlooking and overshadowing, no negative impacts on existing or proposed amenity, no detrimental impacts on neighbouring land-use, acceptable parking, manoeuvring of vehicles and safe access, and, acceptable density.

I recommend that permission be granted as before with the same planning conditions.

Neighbour Notification Checked

Yes

Summary of Recommendation:

As this is an in-time renewal of an extant planning approval, no consultations were necessary. All advice/comments from consultees on the extant approval should be repeated.

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 landscaping comprised in the approved details of landscaping shown in drawing No 02 date stamp received 8th March 2021 shall be carried out in the first planting season following the commencement of the construction of the development 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: In the interests of visual amenity.

3. All boundary treatments as identified on drawing No 02 date stamp received 8th March 2021 shall be constructed and completed as shown prior to the occupation of any dwelling hereby approved, and permanently retained thereafter, unless otherwise agreed in writing by Mid Ulster Council.

Reason: To assist in the provision of a quality residential environment and to safeguard private residential amenity.

4. The finished floor level of the dwellings and levels within the site shall not exceed the levels shown on the approved plan No 02 date stamp received 8th March 2021, unless otherwise agreed by Mid Ulster Council in writing.

Reason: To safeguard visual and residential.

Signature(s)

Date:

ANNEX	
Date Valid	8th March 2021
Date First Advertised	23rd March 2021
Date Last Advertised	
<p>Details of Neighbour Notification (all addresses)</p> <p>The Owner/Occupier, 17 St. Jeans Cottages, Cookstown, Tyrone, BT80 8DQ</p> <p>The Owner/Occupier, 23 St. Jeans Cottages, Cookstown, Tyrone, BT80 8DQ</p> <p>The Owner/Occupier, 24 St. Jeans Cottages, Cookstown, Tyrone, BT80 8DQ</p> <p>The Owner/Occupier, 25 St. Jeans Cottages, Cookstown, Tyrone, BT80 8DQ</p> <p>The Owner/Occupier, Cookstown Day Centre, 2 Westland Road, Cookstown, Tyrone, BT80 8BX</p> <p>The Owner/Occupier, Mid Ulster Council, Burn Road, Cookstown, Tyrone, BT80 8DT</p> <p>The Owner/Occupier,</p>	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
<p>Planning History</p> <p>Ref ID: LA09/2018/0294/F Proposal: Renewal of application reference I/2013/0073/F (Change of house type to that approved under I/2007/0634/F - storey and a half dwelling and carport). Address: Land adjacent to and the rear of 24 St Jeans, Tullagh, Cookstown, Decision: PG Decision Date: 30.08.2018</p> <p>Ref ID: LA09/2021/0387/F Proposal: Change of house type from 3 detached dwellings (approved under I/2014/0081/F) to 6 semi detached dwellings Address: 15,15A and 16 St Jeans Cottages, Cookstown, Decision: Decision Date:</p>	

Ref ID: I/1993/0189

Proposal: Dwelling and Garage

Address: REAR OF 25 ST JEANS COTTAGES COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1993/0347

Proposal: Garage

Address: 25 ST JEANS AVENUE COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1991/0369

Proposal: Site of Dwelling

Address: TO REAR OF 24 ST. JEANS COTTAGES FAIRHILL ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1993/0058

Proposal: Site of Dwelling

Address: TO REAR OF 25 ST JEAN'S COTTAGES COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1997/0205

Proposal: Extension to dwelling

Address: 24 ST JEANS AVENUE COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2007/0634/F

Proposal: Proposed alteration to existing access and erection of single storey dwelling with integral garage.

Address: Land adjacent to and to the rear of 24 St Jeans, Tullagh, Cookstown

Decision:

Decision Date: 21.05.2008

Ref ID: I/2013/0073/F

Proposal: Change of house type to that approved under I/2007/0634/F - storey and a half dwelling and carport

Address: Land adjacent to and to rear of 24 St Jeans, Tullagh, Cookstown,

Decision: PG

Decision Date: 18.06.2013

Ref ID: I/2009/0104/LDP

Proposal: 2 no portacabins

Address: 4 Metres South of Council Offices, Burn Road, Cookstown, Co tyrone

Decision:

Decision Date:

Ref ID: I/1999/0161

Proposal: Proposed store to house council owned vehicles
(refuse collection lorries)

Address: BURN ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1983/0299

Proposal: EXTENSION TO COUNCIL OFFICES

Address: BURN ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2012/0256/F

Proposal: Proposed 4 bay vehicle store

Address: Cookstown District Council Depot, Burn Road, Cookstown,

Decision: PG

Decision Date: 19.09.2012

Ref ID: I/1984/0377

Proposal: MAINTENANCE AND GROUNDS MAINTENANCE DEPOT FOR NIHE

Address: ORRITOR ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1992/0374

Proposal: Extension to dwelling

Address: 15 ST JEAN'S COTTAGES COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1980/0397

Proposal: EXTENSION TO DWELLING AND ALTERATION TO EXISTING OUT
BUILDINGS

Address: 15A SAINT JEAN'S COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2014/0081/F

Proposal: Replacement of 4 no existing dwellings with 4 no detached, two storey dwellings (Amended Plans to include House Types and Additional Boundary Treatment)

Address: 15, 15a, 16 and 18 St Jean's Cottages, Cookstown, Co Tyrone,

Decision: PG

Decision Date: 27.06.2014

Ref ID: I/2001/0431/O

Proposal: 2 no replacement dwellings and domestic garages

Address: 15 - 16 St Jean's Cottages Cookstown

Decision:

Decision Date: 05.09.2001

Ref ID: I/2004/1320/O

Proposal: 2 nos. dwellings & domestic garages

Address: 15-16 St Jeans Cottages, Cookstown

Decision:

Decision Date: 24.05.2005

Ref ID: I/2015/0105/F

Proposal: Erection of 16 no semi detached dwellings

Address: Opposite and 15m East of 19 Westland Road, Cookstown,

Decision: PG

Decision Date: 02.05.2017

Ref ID: LA09/2016/0323/F

Proposal: 6 No dwellings (3 x sets of semi detached dwellings)

Address: 15, 15A and 16 St Jeans Cottages, Cookstown,

Decision: PG

Decision Date: 26.04.2016

Summary of Consultee Responses

As this is an in-time renewal applicaiton, consultations were not considered necessary. All advice given by consultees on the extant approved scheme should therefore be repeated.

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



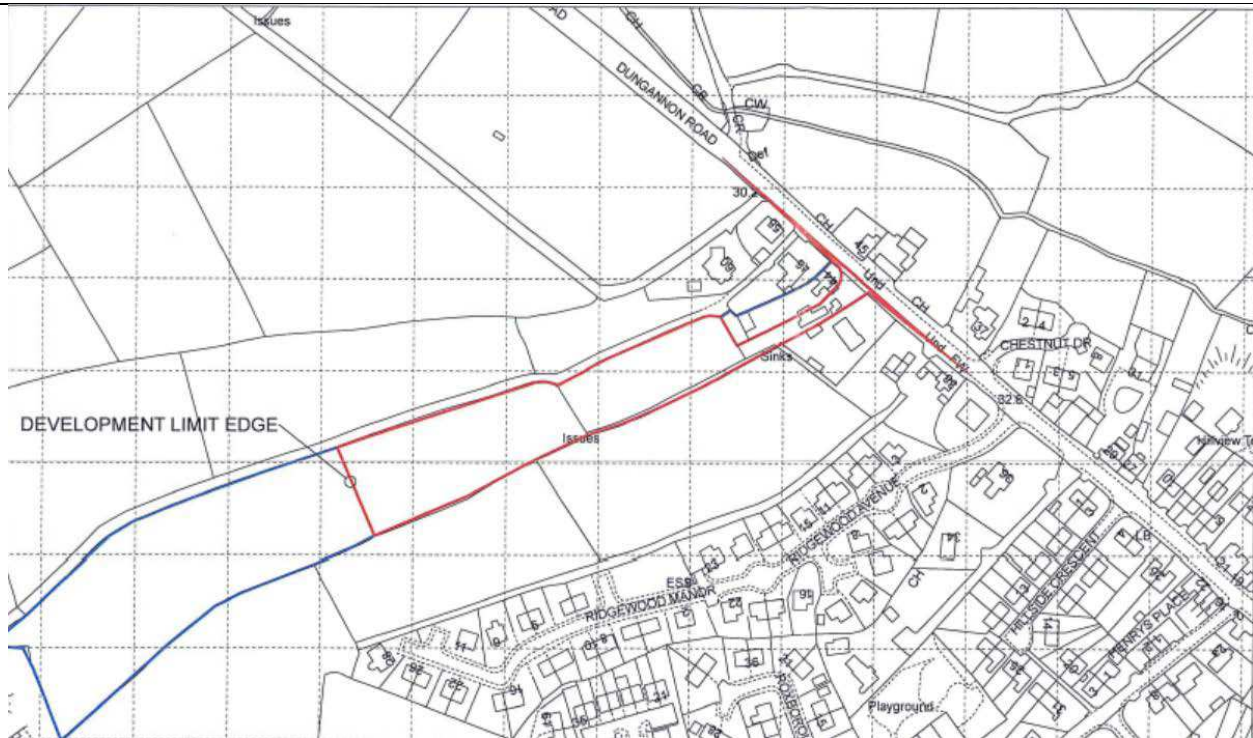
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0462/F	Target Date:
Proposal: Proposed housing development and associated works (revised plans)	Location: Lands immediately South West of 44 Dungannon Road Moy
Referral Route: Approve with Objections	
Recommendation:	Approve
Applicant Name and Address: P D Construction Ltd 30 Dungannon Road Moy	Agent Name and Address: Colm Donaghy Chartered Architects 43 Dungannon Street Moy BT71 7SH
Executive Summary: That the proposal is in accordance with PPS7, objectors concerns do not hold determining weight.	
Signature(s):	

Case Officer Report

Site Location Plan



Representations:

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

Summary of Issues

These are covered in more detail in the main body of my report below, however some of the issues include traffic, drainage, flooding, impacts on residential amenity and sewage provision.

Description of proposal

This is a full planning application for a proposed housing development and associated works. It is proposed to site 8 detached hipped roofed dwellings, each with their own garage and individual septic tank, in a linear row within an existing elongated agricultural field.

Outline planning permission was granted on this site under LA09/2017/1579/O on 18.12.2020 for housing, condition 4 of which stated that the reserved matters should be in general conformity with drawing No. 02 rev1 date received 02/04/2019.

Characteristics of site and area

The site is located within and on the edge of the development limits of Moy, as defined by the Dungannon and South Tyrone Area Plan 2010. It sits to the west side of the

village set back approx. 70m from and accessed off the Dungannon Rd, the main road linking Moy to Dungannon.

The site is a long rectangular shaped plot (approx. 1h) comprising the eastern half of a large agricultural field running to the rear / south west of no. 44 Dungannon Rd, a two storey roadside dwelling and its curtilage. It measures approx. 220m in length x 30m in depth.

Access to the site is to be taken off the Dungannon Rd, via a new access and laneway approx. 80m in length, along the south side and through the curtilage of no. 44 Dungannon Rd, adjacent its partly within the boundary with no.42 Dungannon Rd. No. 42 is a roadside bungalow with garage to its rear offset to its north side adjacent the proposed lane.

The proposed lane will require the removal of two existing outbuildings on a concrete yard to the rear / south side of no. 44 which currently sit adjacent the party boundary.

The south side of the proposed lane is bound by the aforementioned party boundary between nos. 44 and 42, which comprises a mix of approx. 1.6m high close boarded fencing and a mature hedgerow. The north side opens onto the rear yard/garden of no. 44 .

The north western boundary of the site is defined by a mix of approx. 1.2m high post and wire fencing and mature trees / hedgerow. The eastern boundary is defined by an approx. 1.2m high post and wire fence. The south eastern boundary is defined by a mix of mature hedgerow and trees ranging from approx.3-5m with an open field ditch. The western boundary of the site is undefined on the ground and opens onto the larger field from which the site is cut.

A lane accessed off the Dungannon Rd between nos. 46 and 58 Dungannon Rd runs along the outside of the northern boundary of the site.

A footpath runs along both sides of the Dungannon Rd to the east of the site leading into the village centre.

Critical views of this site, if any, will be extremely limited from the Dunannon Rd. This is due to its location set back from the road to the rear of existing roadside development which, alongside existing vegetation bounding the site and within the wider vicinity, will enclose and screen it.

The immediate area surrounding the site is characterised by a mix of housing styles and densities within the development limits of the Moy. To the east exists primarily detached and semi-detached single and 2 storey roadside dwellings along the Dungannon Rd; to the south primarily high density semi-detached 2 storey housing set back from the Dungannon Rd; to the west and north agricultural lands.

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. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

Dungannon and South Tyrone Area Plan 2010- white land within the to the western portion of the development limits of Moy, with access onto a protected route within the limits of Moy the A29 Dungannon Road. Plan Policy SETT 1 of the Plan states that favourable consideration will be given to development proposals within settlement limits provided certain criteria are met. Given that the principle of housing was granted on this site under LA09/2017/1579/O and the layout is reflective of what was considered acceptable at the outline stage, it is my view that the principle of development for housing on this site is considered to be acceptable.

Relevant Planning Policy

Strategic Planning Policy Statement for Northern Ireland
 Planning Policy Statement 7: Quality Residential Environments
 Planning Policy Statement 7 (Addendum): Safe Guarding the Character of Established Residential Areas
 Planning Policy Statement 3: Access, Movement and Parking
 Planning Policy Statement 2: Natural Heritage

Design Guidance

Creating Places

Relevant Planning History

LA09/2017/1579/O- Proposed housing development with sewage treatment plant and associated works, granted 3 December 2020.

3rd party representations

2 letters of objection have been received on this application and raise the following objections as summarised, one from No. 45 Dungannon Road, one from No. 46 Dungannon Road.

No. 46 Dungannon Road is located approximately 35m east of the NE boundary of the site, and approx.. 10m north of the proposed vehicular access. The main objections raised by this property are;

-Increased traffic on the A29 which is already dangerous. More noise pollution and impacts on road surface with increased traffic.

- Cramming, the elevated site will overlook property. Little space allowed for landscaping. Lead to loss of valuable green space.
- Drains, the existing drains have been over-run/blocked many times overflowing causing the road surface to lift etc. The proposal will lead to increased problems.
- Sewage problems, already experiencing strong unpleasant smells at property, and have been told this is because overloading at the existing WWTW.
- Existing infrastructure not capable of taking more traffic, sewage or runoff/storm.

No. 45 Dungannon Road is located approx.. 80m NE of the NE boundary of the site, and is located on the opposite side of Dungannon Road, and raise the following issues;

- The developer has not gained discharge consent from the owner of the pipe that this development will drain into;
- The existing private pipe is not sufficient for the drainage of this development;
- there has been surface water flooding in the past that has not been mentioned in the Drainage Assessment. As the adjacent landowner they have noticed increased run off and water onto their property in the past number of years, which is concerning given the proposed number of houses;
- The development does not enjoy the ability to obtain a valid consent to discharge without their permission;
- the objector raises issues over who is responsible for the maintenance of the drainage pipe over their land if the pipe is not maintained, and if this pipe is not maintained who is liable for the damage or flood risk to their lands or property? The objector requests that DfI Rivers or NIW are consulted on these issues;
- The objector notices that there DfI Rivers states that it consents to the volume of water, but not it's quality. The objector notes a pumping station to serve the development and that the pumping station will filter (treated effluent) into the drainage system that crosses the road. The objector wants to know which landowner will be responsible for the water quality and any potential pollution, requesting for Rivers, NIW and DfI Roads to be consulted to respond directly;
- the objector is aware that the pipe enters their land, but that it could be removed in its entirety, bunged at the connection as the watercourse is undesignated, and that the resulting drainage issues will be a matter for Rivers, NIW or DfI Roads to address;
- The letter of objection will be relied upon in relation to any proceedings for loss, damage, or environmental detriment to their lands should a breach of discharge arise in this area via the properties referred to herein;
- That No. 45 were not included within the NN section of the P1 Form.

These issues will be considered later in my report.

Representations

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

One objector raises concern that they were not included on the P1 form for neighbour notification. While this may be the case, I am satisfied that they, and all other notifiable neighbours, have been identified and neighbour notified in line with Council's statutory obligations.

Key Policy Consideration and Assessment

Strategic Planning Policy Statement (SPPS) for Northern Ireland does not effect existing retained policy which this proposal will be assessed against, namely PPS 7 and the Addendum to PPS 7.

Planning Policy Statement (PPS) 3 Access, Movement and Parking puts a strong emphasis on accessibility and road safety. DFI Roads have been consulted in relation to the access, movement and parking arrangements and have no objections subject to conditions.

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

a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas; This layout reflects the layout that was agreed at outline stage. I find the development to be respectful to the layout and density of the area. These dwellings will have little or no impact on the existing character of Moy as they are tucked behind existing housing, and will be on a quiet cul-de-sac.

b) features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;
No archaeological or built heritage features were identified on or in close proximity to the site. Mature trees and hedgerows along the northern and southern boundaries of the site will be retained and integrated into the development. NIEA were consulted on this proposal and they are now content with the proposal subject to conditions.

c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;
Public open space is not a requirement for this type of proposal. The block plan submitted shows garden/private amenity area in excess of the 70m² average promoted in Creating Places to be provided to the rear of all the properties. Existing vegetation bounding the site will be conditioned to be retained in order to soften the visual impact of the development and assist in its integration with the surrounding area. Part of the site to the west is at the edge of the settlement limits of Moy which usually requires around 8-10m in depth buffer planting. However, given the set back from the public road, intervening vegetation and existing mature vegetation, it is my view this buffer planting is not required in this instance. Critical views of this site, if any, will be extremely limited from the Dunannon Rd on the approach to the Moy due to its location set back from the road to the rear of existing roadside development, which alongside existing vegetation bounding the site and within the wider vicinity, enclose and screen it.

d) adequate provision is made for necessary local neighbour neighbourhood facilities, to be provided by the developer as an integral part of the development;
Considering the size of the proposal, new neighbourhood facilities are not considered necessary.

e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides

adequate and convenient access to public transport and incorporates traffic calming measures;

Based on the block plan submitted the provision of a footpath along the estate road serving the dwellings will lead to the front of the site connecting to the Dungannon Rd, bound on both sides by a footpath leading into the village centre. The provision of this footpath will support walking and enhance the safety of pedestrians. DfI Roads were consulted and are satisfied with the proposal subject to conditions. The roadway will support cycling.

f) adequate and appropriate provision is made for parking;

Based on the block plan submitted adequate parking for 2 vehicles per dwelling can be accommodated within the site. Additionally DfI Roads were consulted on this proposal and they raised no concerns in respect of parking.

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

I am content with the design and material used. The dwellings will be finished to a high standard and the materials are reflective of those used in the locality.

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

Based on the block plan submitted I am content this proposal should not have any unacceptable adverse effect on any existing or proposed properties in terms of overlooking, loss of light, or overshadowing. The proposed scheme, comprising a linear line of 8 dwellings, backs onto a lane and agricultural lands in the rural countryside to its north and fronts onto the estate road each dwelling is to be accessed off, to its south.

There should be no significant noise or other foreseen disturbance caused by this development. There is sufficient separation between proposed properties, and existing and proposed properties for there to be any impacts of over dominance or over shadowing. Increase traffic will pass between two existing dwellings and this relationship was considered acceptable at the outline stage. The objectors concern in relation to overlooking are not determining in this instance.

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

I am satisfied that the dwellings are to be located within the settlement limits of Moy and there are enough dwellings close by to deter crime to some degree. Adequate rear boundary treatment will secure properties.

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

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

I am satisfied that this proposal complies with Policy LC 1 of the Addendum to PPS 7, Protecting Local Character, Environmental Quality and Residential Amenity, in that the proposal will not have a residential density higher than that found in the area; and the pattern of development is in keeping with the overall character and environmental quality of the established residential area. Unit sizes are well in excess to the minimum standards set in Annex A.

Other policy and material considerations

Objections have been raised in relation to drainage from the site. The agent has provided a Drainage Assessment and letters from Rivers Agency to show schedule 6 discharge consent. In relation to the objectors concern over who will be responsible or liable in the event of a flood, or if an existing drainage pipe is bunged or removed from private property, this is not a planning matter and will be between the interested parties should such an event occur. It is clear that the site is not located within a flood plain, and the initial Drainage Assessment shows that the existing green field rate of run off can be achieved when the dwellings are completed. Rivers Agency are content that it has been demonstrated that satisfactory drainage can be achieved at this site, and DfI Rivers have not raised any objections to this proposal. In response to the letters of objection DfI Rivers make the following comments;

1. Discharge consent lies within the remit of DfI Rivers Armagh area office. Discharge has been consented for an attenuated Greenfield runoff rate that replicates the current drainage regime. The drainage assessment accompanying the application has provided details of a suitable attenuation system that ensures the discharge from the site does not exceed that which has been consented.

2. The maintenance of the existing pipe is the responsibility of the riparian landowner. It is the riparian landowner's responsibility to ensure that the pipe does not result in any obstruction to flow arising from a blockage, structural failure, poor workmanship or any other reasons.

3. DfI Rivers are only concerned about the quantity of water as opposed to the quality. This may be an issue for NIEA.

4. It is the riparian landowner's responsibility to ensure that the pipe does not result in any obstruction to flow arising from a blockage, structural failure, poor workmanship or any other reasons. Similarly, it is the riparian landowner's responsibility to make provision for existing drainage. Moreover, if in the future another landowner wishes to drain land adjoining this site and within the same catchment, he should not be prevented from doing so.

Rivers Agency also require a full Drainage Assessment to be provided for agreement prior to the commencement of any development on site. This can be added as a planning condition.

In relation to the objectors concerns in relation to sewage provision. NIW do indicate that that there is insufficient capacity at Moy WWTW for the development to connect to mains sewage. The agent has shown that they aim to provide each dwelling with its own septic tank provision. A consent to discharge Sewage Effluent must be obtained from Water Management Unit of The Northern Ireland Environment Agency, as required by the Water (Northern Ireland) Order 1999. This consent falls outside the remit of planning legislation and there is a legal requirement for the developer/owner to ensure they have the appropriate consents in place. Environmental Health raise no objections over potential impacts of noise or odour nuisance from the proposed locations of the septic tanks. I am satisfied that the developer has indicated that the proposal can be served by an appropriate means of sewage disposal. It is the developers responsibility to ensure

that the appropriate consents are in place prior to development and an informative can be attached to ensure there is a satisfactory means of sewage disposal prior to the occupation of any dwelling hereby approved.

An objection was raised over the impacts of additional traffic on the road network and road surface. Dfl Roads were consulted on this proposal and they do not raise any issues in respect to road safety concerns, or potential impacts on road surface due to increased vehicles. Dfl Roads recommend approval subject to conditions, including Private Streets conditions.

One objector requested that Rivers Agency, NIW and Environmental Health be consulted specifically on their letter of objection to comment on who would be liable in the event of flooding or a pollution incident. While Rivers Agency did provide comment, the other two consultees provided general comments and did not raise any specific objections to the proposal. In my view, the issues raised by the objector in relation to drainage and water quality will either be a third party issue or will lie with a different statutory body, so it is outside the remit of this planning assessment to determine liability, as this could be a matter for the Courts. Other consents for the development are required in their own right and are separate and outside the remit of planning consent. That said, I am content that through consultee responses that a satisfactory form of development can be achieved that will not cause detriment to the environment, subject to all appropriate statutory consents being in place, and can be attached as a planning informative.

No land contamination has been identified.

NIEA WMU and NED are content with the proposal subject to conditions.

Neighbour Notification Checked	Yes
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Summary of Recommendation:

That planning permission is granted subject to the following conditions;

Conditions

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

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

2. Prior to the occupation of each individual dwelling hereby approved, the boundary treatments defining each curtilage shall be constructed, completed and permanently retained, as detailed on drawing No. 08 date stamp received 09/08/2021, unless otherwise agreed by Council.

Reason: To assist in the provision of a quality residential environment and to safeguard existing and proposed residential amenity.

3. The development shall be carried out in accordance with levels indicated on drawing No. 08 date stamp received 09/08/2021, unless otherwise agreed in writing with Mid Ulster Council.

Reason: In the interest of residential and visual amenity.

4. During the first available planting season after the commencement of development on site, all trees and hedges indicated in drawing No 08 date stamp received 09/08/2021 shall be planted as shown and be permanently retained thereafter.

Reason: In the interest of visual amenity.

5. The existing natural screenings of this site, as indicated on drawing No 08 date stamp received 09/08/2021, shall be permanently retained unless otherwise agreed by Mid Ulster Council in writing. No tree shall be lopped or topped or removed without prior written consent from Council.

Reason: In the interest of visual amenity.

6. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the 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 maintenance strip indicated hatched orange on drawing No. 06 date stamp received 22/03/2021 shall be kept free from all development and impediments (including tree planting, hedges, permanent fencing and sheds), unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To allow access to the watercourse.

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

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

9. No works shall be carried out on the building to be removed until a NIEA Wildlife Licence has been obtained and evidence of this has been provided to the Planning Authority in writing.

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

10. External lighting at the boundaries must not exceed 1lux as per the submitted Lighting Plan drawing No. 07 date stamp received 22/03/2021.

Reason: To ensure protection to bats and their roosts.

11. No vegetation clearance/removal of hedgerows, trees or shrubs/demolition of buildings or structures shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance/demolition and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds.

12. During construction phase a suitable buffer of at least 10 metres must be maintained between the locations of all refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and the watercourse adjacent to the proposal.

Reason: To ensure the project will not have an adverse effect on the integrity of any European site.

14. The visibility splays of 2.4 metres by 96.7 metres to the north west and 2.4metres by 81.4 metres to the south east at the junction of the proposed access road with the public road, shall be provided in accordance with Drawing No. 04 Rev 2 bearing the date stamp 9 August 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.

Private Street Conditions

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

The Department for infrastructure hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 04 Rev 2 bearing the date stamp 09 August 2021

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

PS02. No dwelling hereby approved shall be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of the development.

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

PS03. 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 have been completed in accordance with the details outlined blue on Drawing Number 04 Rev 2 bearing the date stamp 09 August 2021. The Department for Infrastructure hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

PS04. 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.

Informatives

1. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
4. Prior to the commencement of any dwelling hereby approved, you are advised to have all consents in place, statutory and otherwise, including a satisfactory means of sewage disposal, in the interest of public health and protection of amenity and to ensure the project will not have an adverse effect on the integrity of any European site.

Signature(s)

Date:

ANNEX	
Date Valid	22nd March 2021
Date First Advertised	6th April 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Chestnut Drive,Moy,Tyrone,BT71 7TB The Owner/Occupier, 37 Dungannon Road,Moy,Tyrone,BT71 7SP The Owner/Occupier, 38 Dungannon Road,Moy,Tyrone,BT71 7SP The Owner/Occupier, 42 Dungannon Road,Moy,Tyrone,BT71 7SP The Owner/Occupier, 44 Dungannon Road,Moy,Tyrone,BT71 7SP The Owner/Occupier, 45 Dungannon Road,Moy,Tyrone,BT71 7SP T McKearney 45, Dungannon Road, Moy, Tyrone, Northern Ireland, BT71 7SP S McCullough 46 Dungannon Road, Moy, Co Tyrone, BT71 7SP The Owner/Occupier, 46 Dungannon Road,Moy,Tyrone,BT71 7SP The Owner/Occupier, 58 Dungannon Road,Moy,Tyrone,BT71 7SP The Owner/Occupier, 60 Dungannon Road,Moy,Tyrone,BT71 7SP The Owner/Occupier, Flat 1,Ridgewood House,1 Ridgewood Avenue,Moy,Tyrone,BT71 7TE The Owner/Occupier, Flat 2,Ridgewood House,1 Ridgewood Avenue,Moy,Tyrone,BT71 7TE The Owner/Occupier, Flat 3,Ridgewood House,1 Ridgewood Avenue,Moy,Tyrone,BT71 7TE The Owner/Occupier, Flat 4,Ridgewood House,1 Ridgewood Avenue,Moy,Tyrone,BT71 7TE	
Date of Last Neighbour Notification	17th August 2021
Date of EIA Determination	
ES Requested	No



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0478/F	Target Date:
Proposal: Proposed dwelling (amended plans)	Location: 20m South East of 30 Moneyneany Road Moneyneany
Referral Route: 4no. Objections received	
Recommendation:	Approval
Applicant Name and Address: Mr F Mc Closkey 2 Fortview Moneyneana Road Moneyneana	Agent Name and Address: Diamond Architecture 77 Main Street Maghera BT46 5AB
Executive Summary: Proposal complies with relevant prevailing planning policy. 1No. objection letter received and considered below.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	Historic Environment Division	Content
Non Statutory	NI Water	No objection

Representations:

Letters of Support	None Received
Letters of Objection	4
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 Moneyneany as defined within the Magherafelt Area Plan 2015. The site is located within a designated site of Local Nature Conservation Importance within the extant area. The proposal site is located 20m south east of No 30 Moneyneany Road and consists of a triangular shape portion of a disused farmyard. The site fronts onto the public road with the residential development of Fort View located to the rear. The rear boundary (S) between the site and the residential properties to the rear of the site is currently defined by a line of mature trees. The front boundary is defined by metal security fencing and the northwest boundary is defined by

wooden fencing. The topography of the site is relatively flat. The surrounding area is characterised as a small rural village made up predominately of residential properties, with a shop, church and bar located a short distance northwest of the site.

Description of Proposal

This is a full application for a dwelling located on lands approximately 20m South East of 30 Moneyneany Road, Moneyneany.

Planning Assessment of Policy and Other Material Considerations

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

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Magherafelt Area Plan 2015
- PPS 7 - Quality Residential Environments
- PPS 2 – Natural Heritage
- PPS 3 - Access, Movement and Parking
- Addendum to PPS 7 - Safeguarding the Character of Established Residential Areas (APPS 7)
- DCAN 8 - Housing in Existing Urban Areas

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

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing 4no. Objection letters had been received. The letters of objection received repeat the same points and are from the properties of No.5 Fort View and No.7 Fort View. The concerns detailed in the objection letters are outlined and considered below.

1. Overlooking/loss of privacy
2. Visual Amenity
3. Loss of Light

The initial plans submitted proposed a two storey dwelling with 8.5m ridge height and a maximum 2m separation with the common boundary between the application site and No.5 and No.7 Fort View. It is noted that the previous outline planning approval on site included a condition restricting the ridge height to 6.5m to ensure no detrimental impact to the adjacent properties of No. 5 & 7. Whilst this is a full planning application, therefore the proposal is not required to full comply with all outline conditions, it was considered necessary to insist a maximum ridge height of 6.5m in this instance with no first floor windows facing on to neighbouring properties to the rear to ensure no unacceptable impact to residential amenity in terms of visual impact or loss of privacy or light. The agent has provided an amended design which has a greater separation distance, reduced ridge height and Velux windows only to the first floor rear elevation. It is noted that neighbour notification was carried out following the receipt of amended plans, including with the properties of the objectors, and no further letters of representation have been received.

History on Site

LA09/2016/1507/O – Proposed site for dwelling for residential purposes - 20m South East of 30 Moneyneany Road, Moneyneany – Permission Granted 08/02/17

Key Policy Considerations/Assessment

Magherafelt Area Plan 2015 is the statutory local development plan for the application site. It is considered that if the proposal meets all relevant, prevailing planning policy; it will meet the policy tests of Area Plan Policy SETT 2 – Development within Settlement Limits. It is noted that the application site is located within a designated site of Local Nature Conservation Importance (SLINCI). Policy CON 3 Sites of Local Nature Conservation Importance states within designated Sites of Local Nature Conservation Importance planning permission will not be granted to development proposals that would be liable to have a significantly adverse effect on the nature conservation interests of these sites. This is in accordance with PPS2 Policy NH 4. It is noted outline planning permission was previously granted for a dwelling on the site under Planning Approval LA09/2016/1507/O. Under the previous approval the impact of the proposal was considered against the nature conservation interests of the site and the case officer was satisfied that the proposal will have no significant adverse impact. It is considered the proposed dwelling on site complies with Policy CON 3 and Policy NH4.

The Strategic Planning Policy Statement for Northern Ireland 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. There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 7 in respect of the proposal. The policy provisions within PPS 7 Policy QD 1 remain applicable in terms of assessing the acceptability of the proposed dwelling.

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.

It is noted that planning permission LA09/2016/1507/O granted outline planning approval (on the 8th February 2021) for a dwelling on the application site. As stated previously Condition 3 of the outline planning approval restricted the ridge height to a maximum of 6.5 metres. The plans initially submitted proposed a dwelling with 8.5m ridge height, however during the processing of the planning application the plans have been revised and Drawing 03 Rev1 now proposes a 6.5m ridge height. The principle of development for one residential unit has been established on the site under the outline permission and the relevant prevailing planning policy criteria remains unchanged.

Policy QD1 of PPS7 states that planning permission will be granted for new residential development only where it is demonstrated that it will create a quality and sustainable residential environment. It indicates that housing will not be permitted in established residential areas where it would result in unacceptable damage to local character, environmental quality or residential amenity of these areas.

The surrounding context is predominantly residential in character with two storey detached and terrace properties along the roadside in the immediate vicinity and single storey and storey and a half dwellings present to the southeast and southwest of the site. The proposed storey and a half dwelling has a north-eastern orientation and is of a similar size and scale to that existing in the locality. It is noted that the plot size of the site is restricted, however it is considered that the proposed design and layout is acceptable and will not detract or impact upon the existing built form. Given the proposed siting, scale and existing landscaping, I do not consider the proposal will result in significant detrimental impact on neighbouring amenity. The separation distance from any neighbouring properties to the rear is approx. 16-19m and as previously stated having considered the specifics of the site and the proposed design and scale I have significant concerns with respect overlooking, loss of light and overshadowing. I consider the proposed design to be acceptable and reflective of built form in the locality and the location within a rural small settlement. The proposal includes fencing to all boundaries of the site for enclosure, however as was also previously conditioned under the outline planning application, it is considered the mature boundary along the south western boundary should be retained to help minimise any potential for overlooking. There is adequate private open space within the site with a garden area located to the rear of the proposed dwelling in excess of the 40m² recommended in Creating Places. It was noted there was an archaeological monument/site in proximity of the site, as well as St Eugene's Church which is a listed building, therefore HED were consulted. HED have provided consultation response and have not raised any objections. Thus it is not considered that the proposal would have a significant impact on any local landscape features of built/archaeological interests. As the proposal is for a single detached dwelling, it is considered to be inappropriate to ask the developer to provide additional neighbourhood facilities. The proposal would not significantly intensify or place unnecessary demands on the existing neighbourhood provisions and amenities within the area. The proposal seeks to access onto Moneyneany Road, DfI Roads have been consulted and have no objection to the proposal subject to conditions. DfI Roads have advised that the recommended sightlines in accordance with DCAN 15 are 2.4 x 60 metres with a relaxation permitted to 2.4 x 33 metre and the applicant is proposing 2.4 x

45 metres. The proposed sightlines provided and detailed on site layout plan have been discussed with the Senior Planner and are considered acceptable in this instance. An existing walkway runs along Moneyneany Road where local amenities and public transport facilities are available. I find that the proposed access to the site is adequate and provides a suitable motor/pedestrian link with local facilities and amenities. The proposal incorporates sufficient space around the curtilage of the dwelling for in-curtilage parking and turning of cars. The proposal seeks permission for a dwelling sited within the settlement limits with the predominant surrounding land use being residential. I consider that there will be no determining issues in relation to crime or health and safety at this location.

Further to that above Policy LC 1 of APPS 7 is a material consideration. It is considered the proposal complies with all the additional criteria set out within Policy LC 1 as the proposed plot and dwelling size and scale will be proportionate to that in the surrounding context and the proposal will not significantly alter the existing pattern of development or have a negative impact on the character and environmental quality of the established residential area.

Development Control Advice Note 8 (DCAN 8) establishes that new development in existing residential areas should respect the architectural, streetscape and landscape character of the area. It is considered the scale of the dwelling will not detract from the surrounding established character. The articulation of the roof, detailing and finishes, landscape and boundary treatment proposal will integrate effectively in order to maintain the established character of the area.

Neighbour Notification Checked

Yes

Summary of Recommendation:

I conclude that the proposal accords with the extant Area Plan and all prevailing planning policy provisions highlighted above therefore I recommend approval subject to the conditions outlined below.

Conditions:

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

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

2. The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 02 bearing the date stamp 24 March 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.

3. The existing natural screening along the south-western boundary of the site shall be permanently retained at not less than 2 metres and trees allowed to grow on, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing.

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity.

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 the contents of NI Water Consultation Response dated 15th April 2021.

Signature(s)

Date:



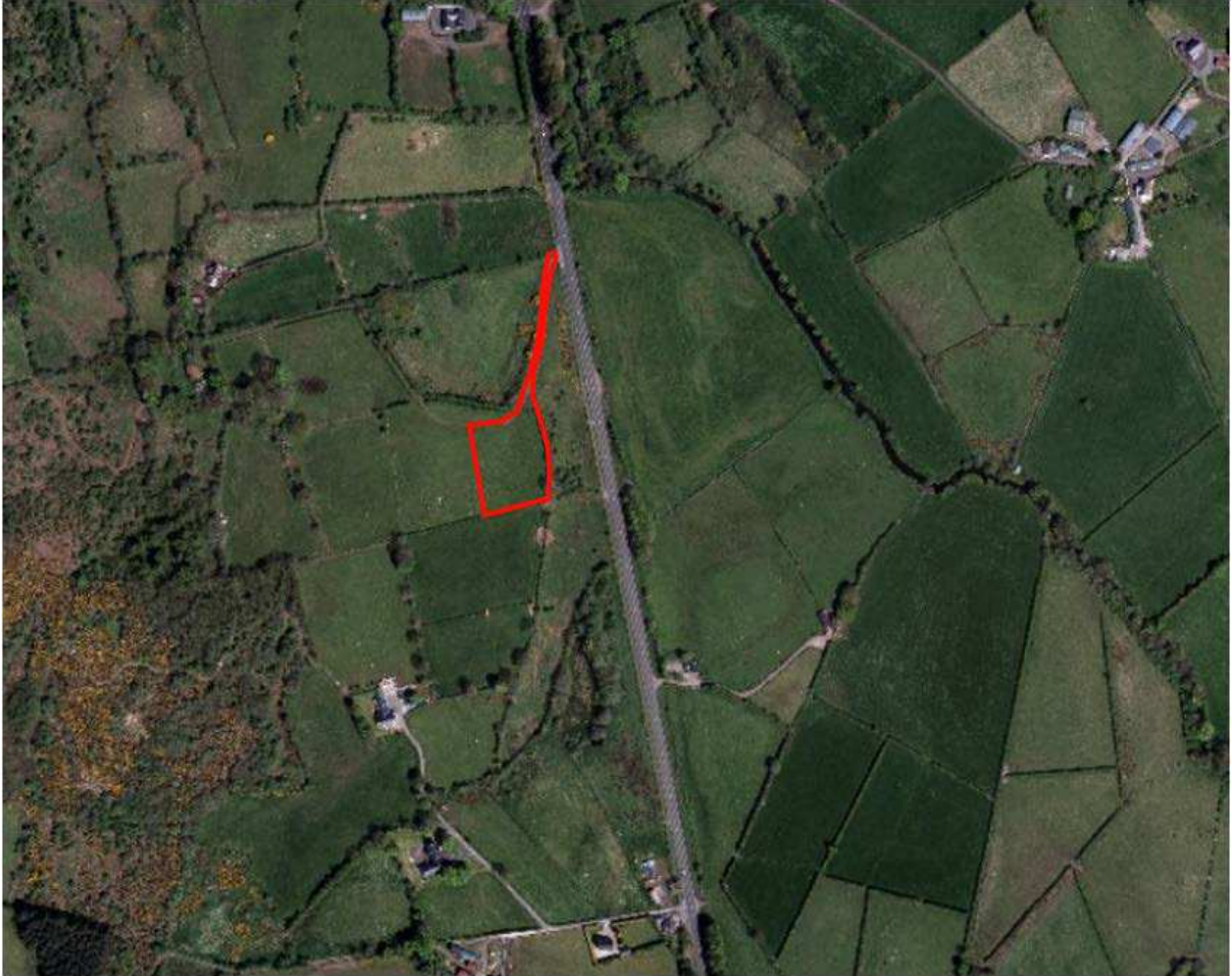
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report
Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0539/O	Target Date:
Proposal: Proposed site for dwelling & garage.	Location: 180m NE of 83 Moneysharvan Road Maghera BT46 5PT.
Referral Route: This application is being presented to Committee as it is being recommended for refusal.	
Recommendation:	Refuse
Applicant Name and Address: Mrs Bridget Church 38 Hillside Road Maghera BT46 5PU	Agent Name and Address: Terry Murphy 4 Mid Ulster Business Park Sandholes Road Cookstown BT80 9LU
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	DAERA - Coleraine	Substantive Response Received
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	Historic Environment Division (HED)	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
<p>Summary of Issues including representations</p> <p>No objections have been received in respect of this application.</p>	
<p>Characteristics of the Site and Area</p> <p>The site is located along the Moneysharvan Road approximately 5.5Km north of Maghera and 1.5Km south of Swatragh. The access is taken directly off the A29 Moneysharvan Road which is a Protected Route. The access to the site extends along a farm track leading through agricultural fields to the site of a dilapidated dwelling further west. The access laneway rises up steeply from the road towards the site which occupies a prominent position on the landscape and has panoramic views over the surrounding area.</p> <p>The site boundaries are defined as follows:- Northern - 3-4m high thorn hedgerow Southern - 1m high thorn hedgerow Eastern - mature hedgerow Western - undefined</p> <p>There are no other buildings either on the site or close to the site.</p>	
<p>Description of Proposal</p> <p>This is an outline application for dwelling and garage under PPS21 - CTY10 and associated with a farm holding.</p>	
<p>Planning Assessment of Policy and other Material Considerations</p> <p>Under the provision of Section 6 (4) of the Planning Act (NI) 2011 the determination must be made in accordance with the Plan unless material considerations indicate otherwise.</p> <p>The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DfI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.</p> <p>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</p>	

transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS.

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

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

CTY 10 - Dwellings on Farms

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

- DAERA's consultation response confirmed that the business has been in existence for more than 6 years and that the business has claimed single farm payment or agri environment payments within the last 6 years.

- A planning history check of the farm shows that no dwellings or development opportunities in the countryside have been sold off from the farm holding since 25th November 2008. Although two approvals have been granted on the farm holding, however, these were for the replacement of the dilapidated dwelling to the west of the site and therefore are not counted as development opportunities under this policy.

- Policy CTY 10 also requires any such new building to be visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access should be obtained from an existing lane.

There are no buildings located the proposed site, however the site is located around 1.1km from the applicants address at which there are a number of outbuildings.

Therefore the site is not visually linked nor is it sited to cluster with buildings on the farm.

The policy does however, allow for consideration to be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

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

No such health and safety reasons have been provided for the site to be located away from the main farm grouping, nor has any verifiable plans to expand the farm business at the existing farm grouping been provided. It is noted that there are a number of fields adjoin the applicant's existing dwelling and surrounding the farmyard which could potentially accommodate a site for a dwelling.



The aerial map above shows the proximity of the proposed site to the applicants dwelling and adjoining outbuildings.

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

CTY 13 - Integration and Design of Buildings in the Countryside provide for buildings to be approved in the countryside where they can be visually integrated into the surrounding landscape and are if an appropriate design.

The proposed site occupies a prominent location in the local landscape with critical views of the site on approach from both the north and south. When viewed on approach from the south, even a low set dwelling with a 6.0m ridge height above existing ground level would appear to be sited on the crest of the hill and although there is a mature hedgerow along the eastern boundary, any dwelling would appear to be prominent in the landscape.



The photo shows the proposed access laneway rising from the existing farm gate to the site at the top of the hill.

A dwelling on this site would suffer from the lack of long established boundaries which are sufficient to provide an acceptable degree of screening and as such would result in a distinct lack of integration. Any dwelling would also suffer from the same issue on approach from the north, albeit to a slightly lesser degree.

Any dwelling on this site will rely heavily on substantial landscaping and planting to achieve an acceptable degree of integration due to the lack of existing mature boundaries and the elevated position in the local landscape.

As the access is to be taken off the Moneysharvan Road at the point of the existing farm access, which has the benefit of a wide grass verge and footpath, there would be little in the way of ancillary works around the access which would present an issue with integration.

As this is an outline application, details of the design have not been considered.

Given its prominent location, a dwelling on this site would fail to blend with the landform, existing trees, slope or other natural features which could provide an acceptable backdrop.

Furthermore, as a dwelling on the proposed site is neither visually linked nor sited to cluster with an established group of buildings on the farm, it would fail to integrate into the surrounding landscape and is therefore considered to be contrary to this policy.

Alternative sites are available to the applicant around the existing dwelling and associated outbuildings as this is on land within their ownership, access can be gained using the existing farm lane which is accessed from the minor Hillside Road and such

sites would both visually link and be sited to cluster with a group of established buildings on the farm.

CTY 14 - Rural Character

This is an application for a site for a dwelling on a farm holding that is sited away from the existing farm buildings. The site as discussed above, occupies a prominent location and will appear unduly prominent in the landscape. A dwelling on this site would not respect the traditional pattern of development in the area as existing dwellings on elevated sites are either set well back of the public road with little visual impact or are located low down in the landscape and at road level.

Due to the critical views of the proposal, any dwelling on this site will result in a detrimental change to rural character. The proposal is therefore contrary to this policy.

PPS 3 - Access, Movement and Parking

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

The proposal is to develop a dwelling on a site which accesses directly onto the A29 Protected Route. The applicant however, has alternative sites available which can be accessed from the minor Hillside Road.

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

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

Recommendation

On consideration of the above, it is my opinion that the proposal fails to meet the requirements of Policies CTY 1, 10, 13 and 14 for the reasons as stated below:-

Neighbour Notification Checked	Yes
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Summary of Recommendation:

Refuse for the reasons stated below:-

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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 Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:

the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm;

health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm;

verifiable plans exist to expand the farm business at the existing building group to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.

3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:

a dwelling on the proposed site would be a prominent feature in the landscape;

the proposed site is unable to provide a suitable degree of enclosure for a dwelling to integrate into the landscape;

the proposed dwelling relies primarily on the use of new landscaping for integration;

the proposed dwelling fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop;

the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm,

and therefore would not visually integrate into the surrounding landscape.

4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

the dwelling would, if permitted, be unduly prominent in the landscape;

it does not respect the traditional pattern of settlement in the area;

and would therefore result in a detrimental change to erode the rural character of the countryside.

5. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 3, in that it would, if permitted, result in the intensification of use of an existing access unto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

Signature(s)

Date:

ANNEX	
Date Valid	7th April 2021
Date First Advertised	20th April 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier,	
Date of Last Neighbour Notification	N/A
Date of EIA Determination	N/A
ES Requested	No
Planning History Ref ID: LA09/2021/0539/O Proposal: Proposed site for dwelling & garage. Address: 180m NE of 83 Moneysharvan Road, Maghera BT46 5PT., Decision: Decision Date:	
Ref ID: H/2006/0226/F Proposal: Proposed replacement dwelling and garage Address: 71 Moneysharvan Road, Granaghan, Maghera Decision: Decision Date: 22.02.2007	
Ref ID: H/2000/0408/O Proposal: Site Of Replacement Dwelling Address: 71 Moneysharvin Road, Maghera Decision: Decision Date: 17.10.2000	
Ref ID: H/1999/0633/PA Proposal: Telecommunications installation Address: Greenfield Site 164m South Of 69 Moneysharvin Road, Swatragh Decision: Decision Date: 12.11.1999	

<p>Summary of Consultee Responses</p> <p>DfI Roads advised that the proposed site is contrary to PPS 3 as the site accesses directly onto a Protected Route and should therefore be refused.</p> <p>All other consultees responded positively.</p>
<p>Drawing Numbers and Title</p>
<p>Drawing No. 01 Type: Site Location Plan Status: Submitted</p>
<p>Notification to Department (if relevant)</p> <p>Date of Notification to Department: Response of Department:</p>



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

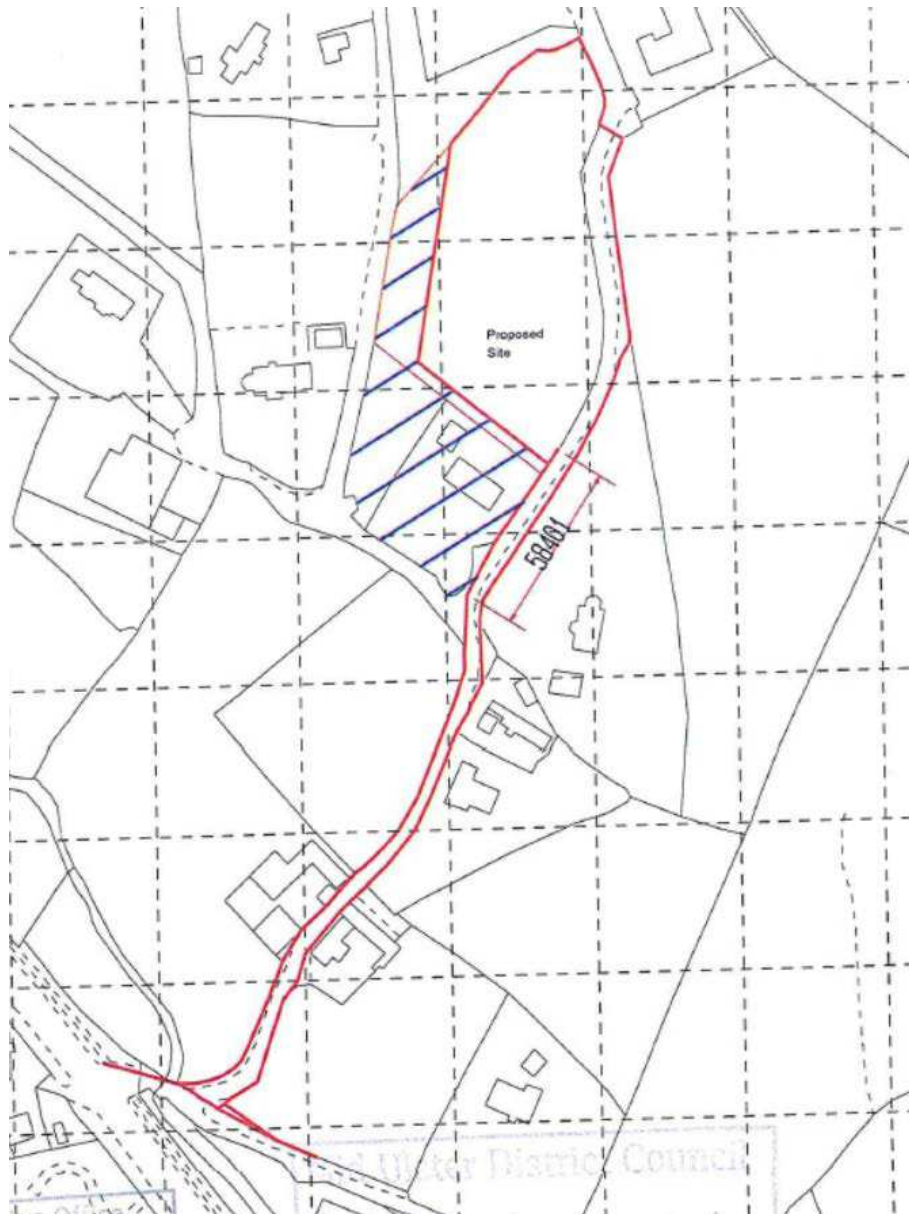
Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 07/09/2021	Item Number:
Application ID: LA09/2021/0635/O	Target Date:
Proposal: Dwelling & domestic garage in a gap site under CTY8 of PPS 21	Location: Land immediately North of No 43 Tullyglush Road & between No's 43 & 51a Tullyglush Road Ballygawley
Referral Route: <ol style="list-style-type: none">1. The proposal is contrary to CTY 1 of Planning Policy Statement 21 in that there is no overriding reason why the development cannot be located within a settlement.2. The proposal is contrary to CTY 8 – Ribbon Development of Planning Policy Statement 21 in that the development would create ribbon development.3. The proposal is contrary to CTY 13 – Integration and Design of Buildings of Planning Policy Statement 21 in that the development does not provide a suitable degree of enclosure to integrate into the landscape.4. The proposal is contrary to CTY 14 – Rural Character of Planning Policy Statement 21 in that the development would be detrimental to rural character.	
Recommendation:	Refusal
Applicant Name and Address: Gerard Quinn 43 Tullyglush Road Ballygawley	Agent Name and Address: Bernard J Donnelly 30 Lismore Road Ballygawley BT70 2ND
Executive Summary: The proposal is for a dwelling and garage in an infill site. I consider the application site does not meet the criteria for an infill as the gap is too large and could accommodate more than two dwellings which is contrary to policy in CTY 8. Also, the proposal does not respect the existing development pattern in terms of plot size.	

Signature(s):

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

Letters of Support	None Received
Letters of Objection	None Received

Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
<p>Characteristics of the Site and Area</p> <p>The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area 2010. The surrounding area is semi-rural in character and is predominantly agricultural fields, single rural dwellings and groups of farm buildings. There is moderate development pressure in the immediate area from the construction of single dwellings along this private lane and Tullyglush Road.</p> <p>This private lane is accessed off Tullyglush Road and there are 7no.other dwellings along this lane on both sides of the road. The topography of the lane rises up steeply from the junction with the main Tullyglush Road to the top of the lane where the land levels off.</p> <p>The application site is an agricultural field with a single storey dwelling along the southern boundary at No. 43 and another single storey dwelling to the north of the site at No. 51A. The topography at the site itself is undulating and slopes downwards from the east boundary at the roadside to the west boundary. There is higher ground to the north of the site and slopes to the south beside No. 43 where the land is flatter. Along the roadside boundary there is a post and wire fence and established hedging along the remaining boundaries.</p>	
<p>Description of Proposal</p> <p>This is an outline application for a proposed dwelling & domestic garage in a gap site under CTY8 of PPS 21 at lands immediately North of No 43 Tullyglush Road & between No's 43 & 51a Tullyglush Road, Ballygawley.</p>	
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.</p> <p>Representations</p> <p>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.</p> <p>Planning History</p> <p>No planning histories at the application site.</p> <p>Mid Ulster Development Plan 2030 – Draft Plan Strategy</p> <p>The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to</p>	

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

Dungannon and South Tyrone Area Plan 2010

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

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

Planning Policy Statement 21

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for one infill dwelling CTY 8 is the relevant policy in the assessment.

The proposal would not meet the criteria in CTY 2a for a new dwelling in an existing cluster.

The proposal would not meet the criteria in CTY3 for a replacement dwelling as there is no dwelling at the site to be replaced.

The agent has indicated there is no farming case at the site and there are no farm buildings within the site. In light of recent planning guidance there is only the dwelling and garage to the south of the site at No. 43.

CTY 8 – Ribbon Development

The application site is a portion of an agricultural field onto a lane at Tullyglush Road. To the south of the site is a dwelling and garage at No. 43. There is a garden area to the front of No. 43 and I am content the dwelling has a frontage onto Tullyglush Road. There is a garage at No. 43 but recent Planning Guidance states that for garages and outbuildings to be considered as buildings for infill they have to be substantial. Paragraph 22 states that a 'domestic garage' is not a substantial building for infill policy. The garage at No. 43 a small single storey building which is set back behind the dwelling so I do not consider the garage at No. 43 can be considered a building for infill policy in this case.

To the north of the site is a dwelling at No. 51A with a garden area to the roadside. I am content the dwelling at No. 51A has a frontage to the lane. Again there is a garage but I do not consider the garage is substantial in light of recent Planning Guidance on infill policy.

160m south of the application site is a farm shed with a concrete yard which has a frontage onto the lane as shown in figure 1a and 1b below. I am content this shed is a substantial building and can be considered as a building along a frontage. However I completed a check on the planning portal and there is no planning approval for the shed. A check on orthophotography shows the shed in place on 6th June 2013 which is over 5 years so would be immune from enforcement.



Figure 1a – Photograph of the shed at the entrance to the lane



Figure 1b – Ortho image of a building with a frontage along the lane on the same side of the road as the site.

Overall, I am content there are three buildings along this stretch of road with a frontage which are the dwelling at No. 43, the dwelling at No. 51A and the farm shed opposite No. 37 as shown in figure 1b above.

The application site has a frontage of 150m while No.43 has a frontage of 58m. No. 51A has a frontage of 42m and the shed opposite No. 37 has a frontage of 38m. There are varying frontages along this stretch of lane but I consider you could get more than 2 dwellings in this application site which is contrary to the policy in CTY8 which states the site should be a small gap site which can only accommodate a maximum of 2 dwellings. The applicant has stated the proposal is for a dwelling and domestic garage and I consider if 1no. dwelling was on the site it was definitely not respect the existing development pattern in terms of plot size. In addition, as this is an outline application there are no details about the scale and massing of the dwelling.



On balance, I do not consider the application site meets the criteria in CTY 8 for an infill site.

CTY 13 – Integration and Design of Buildings in the Countryside

Even-though the proposal is for an infill dwelling in light of recent planning guidance integration and rural character should be considered in all development within PPS 21. Therefore this assessment will consider if the proposed dwelling will integrate and the impact on rural character.

The application site is set back from the main Tullyglush Road by 258m and the topography of the road rises up steeply from the meeting point with the road. I am content the proposal will not be a prominent feature when viewed from both the Omagh Road and main Tullyglush Road as there will be no critical views.

Along the boundary with lane there is a post and wire fence and a hedgerow along the boundary with No. 43. The site will use a portion of the existing field and is not abutting the west boundary of the field, so this boundary is undefined. Along the boundary with No. 51a there is a post and wire fence. I am of the opinion the site is open and lacks natural boundaries to provide a suitable degree of enclosure to allow the proposed dwelling to integrate into the landscape.

As this is an outline application the design of the dwelling and garage is considered at the Reserved Matters Stage.

CTY 14 – Rural Character

I am of the opinion depending on where a proposed dwelling is sited on the application site there is the potential for it to be prominent. I consider the proposal will create a ribbon of

development and thus would have an unacceptable impact on rural character. Therefore, this proposal does not meet all the criteria in CTY 14 and fails this test.

PPS 3 – Access, Movement and Parking

I consulted DFI Roads as new accesses are proposed. In their consultation response, they stated they had no objections subject to conditions and informatives. However, Roads did state that there may be more than 5 houses along this lane and this may require a Private Streets Determination.

Other Considerations

I am satisfied there are no other ecological, historical or flooding issues at the site.

Neighbour Notification Checked Yes

Summary of Recommendation:

The proposal is recommended for refusal as it is contrary to CTY 8, CTY 13 and CTY 14 in PPS 21 – Sustainable Development in the Countryside.

Reasons for Refusal:

1. The proposal is contrary to CTY 1 of Planning Policy Statement 21 in that there is no overriding reason why the development cannot be located within a settlement.
2. The proposal is contrary to CTY 8 – Ribbon Development of Planning Policy Statement 21 in that the development would create ribbon development.
3. The proposal is contrary to CTY 13 – Integration and Design of Buildings of Planning Policy Statement 21 in that the development does not provide a suitable degree of enclosure to integrate into the landscape.
4. The proposal is contrary to CTY 14 – Rural Character of Planning Policy Statement 21 in that the development would be detrimental to rural character.

Signature(s)

Date:



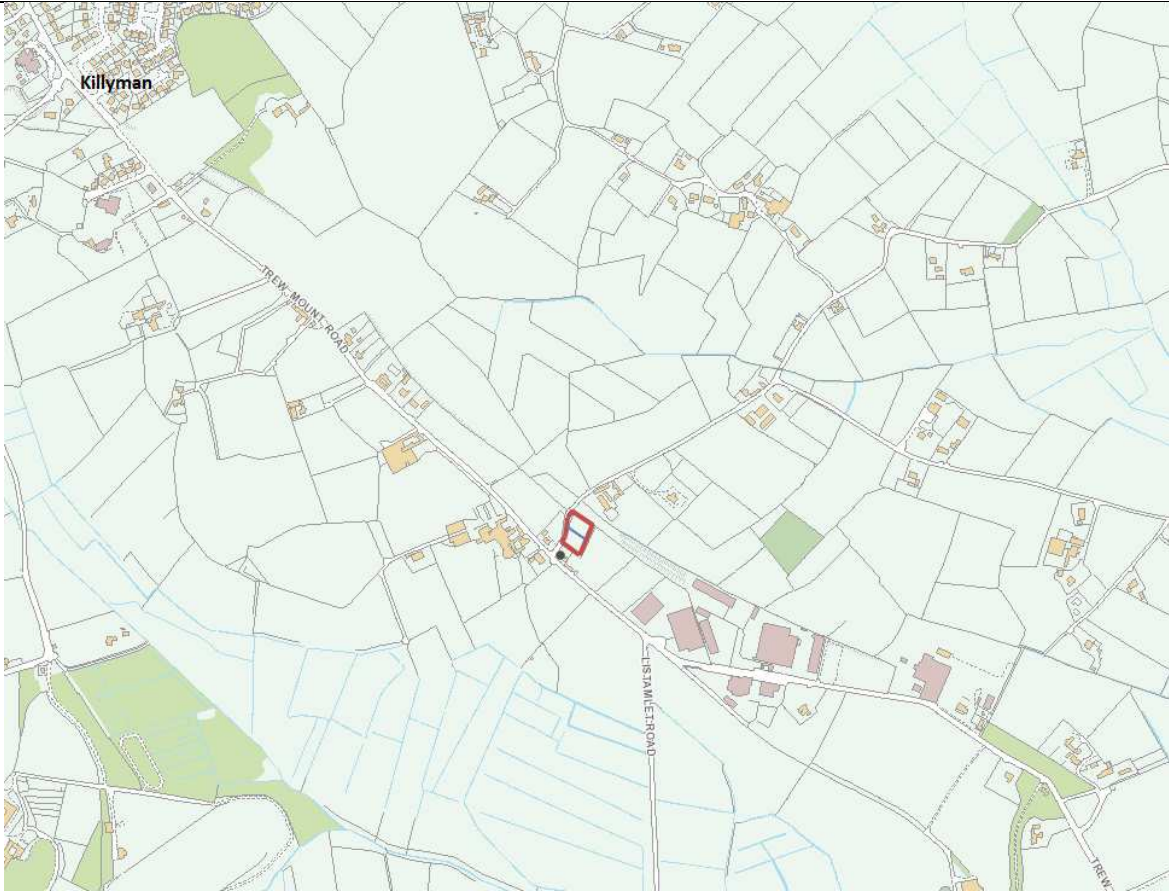
Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0690/O	Target Date:
Proposal: 2 dwellings in an infill site	Location: Adjoining and North East of 100 Trewmount Road Killyman
Referral Route: Objections received	
Recommendation:	Refusal
Applicant Name and Address: Briege O'Donnell 184 Ardboe Road Moortown	Agent Name and Address: Darcon Architectural Services 6 Ardean Close Moortown BT80 0JN
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

There have been two objections / comments received in relation to this proposal. They have been received from the owners of numbers 95 and 99 Trewmount road.

The main issues raised were:

- Gap size too large

- Elevated site, dwelling would be intrusive
- Out of character
- No visual link
- Increased traffic
- Setting precedent
- Impact on wildlife

Characteristics of the Site and Area

The site lies in the open countryside just a short distance to the South East of the settlement limits of Killyman and outside all other areas of constraint as depicted by the DSTAP 2010.

The site is located just off the main Trewmount road to the North of number 100, at the beginning of the smaller Drumardcross road. The area is predominantly rural in nature, however there are four dwellings located at the road junction just south west, with a large farm holding also close by. To the direct north east of the site there is the old railway line which is now overgrown in vegetation.

The red line of the site consists of a small agricultural field with a 60 metre road frontage of mature hedging, with mature native species hedgerow on all remain sides. The land begins level with the roadside and then falls to the rear east. Number 100 Trewmount is a two storey dwelling to the south of the site and to the north of the site and the break for the railway line there is a small farm holding including a dwelling and a number of sheds.



Description of Proposal

The proposal seeks outline planning permission for a double infill site.

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;

There have been two objections / comments received in relation to this proposal. They have been received from the owners of numbers 95 and 99 Trewmount road. The mains issues raised were:

- Gap size too large
- Elevated site, dwelling would be intrusive
- Out of character
- No visual link
- Increased traffic
- Setting precedent
- Impact on wildlife

Consideration of objections.

The site does represent a 60 metre road frontage, however, in terms of the existing frontages of the dwellings in the surrounding areas, a 30 metre site would not be considered large.

The site is somewhat elevated when comparing to the Trewmount road, however, the siting is not overly elevated and the land does rise further as you travel past the site to the North.

The character of the area is predominantly rural agricultural land with a scattering of single dwellings or small farm holdings scattered along the roadside. A double infill at this position may cause a ribbon of development at the beginning of the Drumardcross road.

The objector also raises the issue of the visual break between the two buildings on each side of the site. It is my opinion that the objector is correct in this argument in that due to the existing vegetation, bend in the road and topography of the land, the site does represent a significant break and there is minimal if any visual link between the buildings to the north and south of the site.

The site if approved would mean more traffic to the site however it would not be anything uncommon or over the top, DFI Roads were consulted and had no issues.

It is my opinion that if approved the proposal could possibly set a precedent in allowing infill opportunities where there is minimal visual linkage.

Finally, on the issues of impact on wildlife. On site visit I did not witness any bats, badgers or other endangered species.

To the North of number 100, at the beginning of the Drumardcross road, there is a gap of approx. 115 metres building to building or 100 metres plot frontage. The red line of the site for this application includes the southernmost 60 metre portion of the gap. To the direct north of the site there is then a further break for the old railway line making up the rest of the gap. North of the railway line is an old dwelling at no.45 Drumardcross road and a number of farm buildings.

The site lies in the middle of a dwelling and farm holding to the NE, and a dwelling to the SW. In terms of the numbers of buildings the application may meet the required criteria for an infill site, however in my opinion this row does not constitute the definition of a substantially built up frontage as the old railway line represents a substantial break in the visual linkage between the two existing dwellings.

The site frontage may be 60 metres, however, when adding the extra distance of the railway line and the next field to the north the gap between developments is in my opinion a considerable visual break. It is also my opinion that the gap in this instance provides a relief and a visual break in the developed appearance of the locality that helps maintain the rural character. Building on tradition – as sustainable guide for the northern Ireland countryside also makes reference to the importance of visual breaks which would further add credence to the opinion that this gap provides relief and is important in maintaining the local character.

It is therefore my opinion that the proposal is contrary to PPS 21 - CTY 8.



Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is considered that two dwellings could blend in successfully with its immediate and wider surroundings if it were of a size and scale that is comparable to the dwellings in the vicinity. Furthermore as the site has existing buildings to the south and decent boundary vegetation it is considered that the site may have the capacity to absorb dwellings of a suitable size and scale.

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 a double infill at this particular site may cause a detrimental change to the character of the area causing a build-up of development at this rural area at the beginning of the Drumardcross road.

Recommendation Refusal.

Neighbour Notification Checked

Yes

Refusal Reasons

1. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along the Drumard Cross Road.
2. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwellings would, if permitted create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.
3. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

Signature(s)**Date:**

ANNEX	
Date Valid	5th May 2021
Date First Advertised	18th May 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 100 Trewmount Road, Moy, Tyrone, BT71 6RN The Owner/Occupier, 95 Trewmount Road Moy Tyrone Catherine F McIlroy MBE 95 Trewmount Road, Moy, Co Tyrone, BT71 6RN The Owner/Occupier, 96 Trewmount Road Moy Tyrone The Owner/Occupier, 99 Trewmount Road Moy Tyrone Wm McIlroy 99 Trewmount Road, Moy, Co Tyrone, BT71 6RN	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2021/0689/O Proposal: Replacement dwelling Address: 100 Trewmount Road, Killyman, Decision: Decision Date: Ref ID: LA09/2021/0690/O Proposal: 2 dwellings in an infill site in accordance with CTY8 PPS21 Address: Adjoining and North East of 100 Trewmount Road, Killyman, Decision: Decision Date:	

Drawing Numbers and Title
Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted Drawing No. 01 Type: Site Location Plan Status: Submitted
Notification to Department (if relevant) Date of Notification to Department: Response of Department:



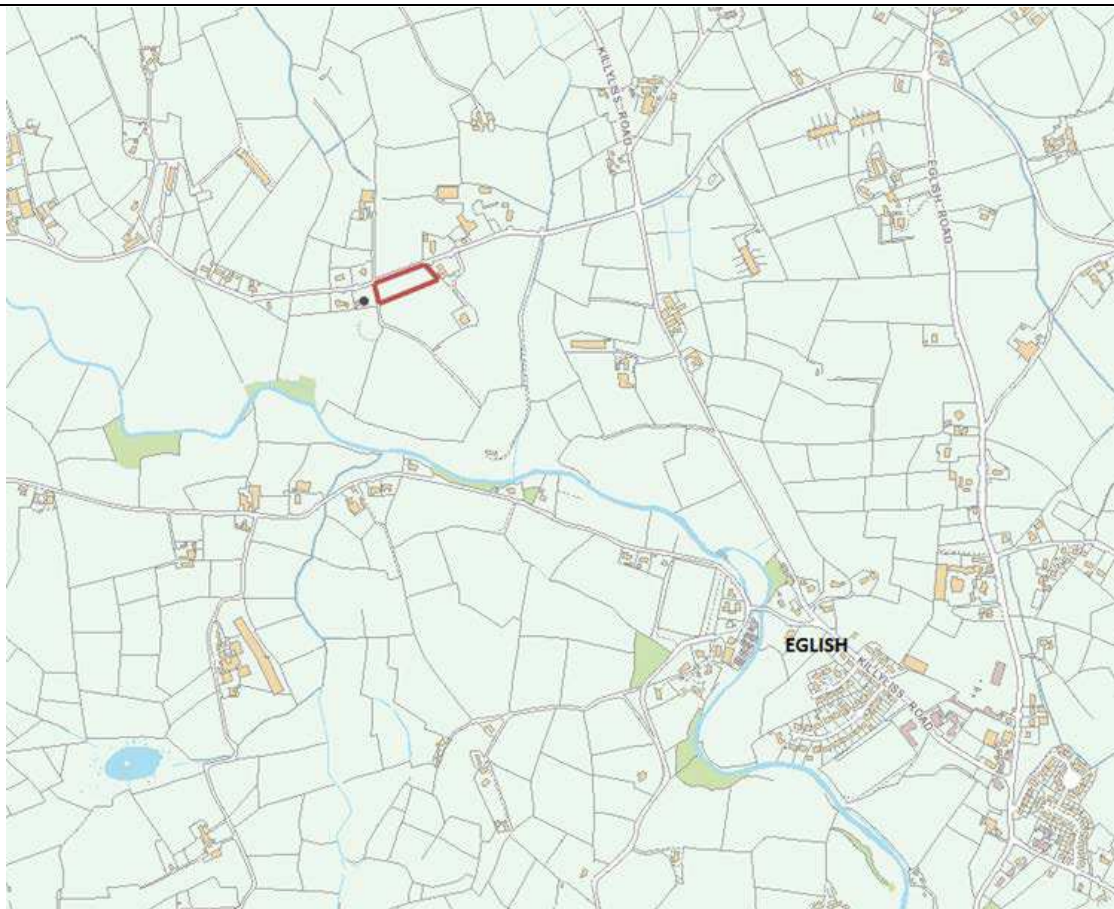
Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0734/RM	Target Date:
Proposal: Proposed 2 dwellings and garages	Location: Lands between 61 and 65 Kilnacart Road Dungannon
Referral Route: Objection received	
Recommendation:	Approval
Applicant Name and Address: Mr Thomas Cassidy 102 Killyliss Road Eglis Dungannon	Agent Name and Address: Building Design Solutions 76 Main Street Pomeroy BT70 2QP
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

One third party objection has been received from the neighbouring dwelling at no.65 Kilnacart Road.

The objector raised a number of concerns namely; absence of soakaways, storm water and sewerage from the site plans.

The agent was made aware of the concerns raised in the objection and has dealt with the issues via an amended block plan indicating a number of measures to deal with the surface run off, drainage and sewerage etc. The block plan identifies gulleys piped to soakaways, sub surface

irrigation drains, and a pair of treatment plants including adequate areas of soakaways to deal with the raw sewerage from each dwelling.

Characteristics of the Site and Area

The application site is located on Kilnacart Road, Dungannon, Co. Tyrone. The site is located within the countryside as designated within the Dungannon and South Tyrone Area Plan 2010. The application site is located on land between 61 and 65 Kilnacart Road, Dungannon, Co. Tyrone.

This site is currently in use as agricultural pasture which fronts onto the Kilnacart Road. The site is bound on its eastern side by an approx. 1.5m high wall which makes up its boundary with the laneway which separates the site from the dwelling at No.65. On the western side of the site the boundary is made up of a hedgerow, which includes some mature vegetation in places. Again, the western boundary is located next to a laneway which separates the site from the dwelling at No. 61. The northern boundary of the site includes a mature hedgerow where the site bounds the Kilnacart Road and the southern boundary is much less defined and includes a small 1m high hedgerow.



No. 61 Kilnacart Road to the west is a bungalow type dwelling and is located to the immediate south of No. 59 which is also a bungalow. Both dwellings front directly onto Kilnacart Road and both include detached garages to the side. No. 65, to the east of the site, also fronts onto Kilnacart Road albeit at an angle.

In terms of elevation the site is higher on its western side and the overall topography of the site gradually decreases in elevation towards the east. The wider area surrounding the site exhibits an undulating character.

Description of Proposal

The proposal seeks reserved matters permission for a double infill.

Planning Assessment of Policy and Other Material Considerations

Planning History

M/2013/0002/F - Proposed infill development of 2 no. dwellings, Site 80m SW of 65 Kilnacart Road Dungannon - Permission Refused 11.06.2013.

LA09/2018/0317/O Proposed infill development of 2 no. dwellings, Lands between 61 and 65 Kilnacart Road Dungannon - Permission Granted 05.07.2018.

Consultees

DFI Roads were consulted and responded with no objections subject to conditions.

Representations

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

One third party objection has been received from the neighbouring dwelling at no.65 Kilnacart Road.

Consideration of the objections.

The objector raised a number of concerns namely; absence of soakaways, storm water and sewerage from the site plans.

The agent was made aware of the concerns raised in the objection and has dealt with the issues via an amended block plan indicating a number of measures to deal with the surface run off, drainage and sewerage etc. The block plan identifies gulleys piped to soakaways, sub surface irrigation drains, and a pair of treatment plants including adequate areas of soakaways to deal with the raw sewerage from each dwelling.

Planning Policy Consideration

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

Mid Ulster Development Plan 2030 - Draft Plan Strategy

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 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 an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

Dungannon and South Tyrone Area Plan 2010

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

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

adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety.

Planning Policy Statement 21 - Sustainable Development in the Countryside

Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. As this is an application for a pair of dwellings on an infill site CTY8 - Ribbon Development is the relevant policy, which will apply.

The principal of an infill site has already been approved through planning reference LA09/2018/0317/O. This proposal satisfies all the conditions attached to the previous Outline approval.

Overall I am content the proposed site is an infill site and meets the criteria in CTY 8 in PPS 21.

CTY 13 - Integration and Design of Buildings in the Countryside

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

The application site sits along the Kilnacart road, Dungannon. As the site is located along the roadside it can be viewed in either directions along the public road. There are however, dwellings directly next to the site to the east and to the west, giving the site a sense of enclosure. There is also a native species hawthorn hedgerow along the roadside boundary of this field and a fence and laneway at the boundary with No. 61 and hedgerows along all the remaining boundaries, as shown in the site photographs. On balance, I consider the proposal will not be a prominent feature in the landscape.



The proposal consists of the whole field which is fully enclosed on all side as well as this landscaping is proposed to aid integration. I am content new planting will not be primarily relied on for the purposes of integration.

The design of the proposed dwellings were identical, however upon request the agent has changed the design of the windows on the front elevation to separate. They are of a simple nature, the finishes include dash and a natural stone sunroom and front porch. The single storey bodies is sited sensitively on the site and I do not feel it will be intrusive to the area. I am content the dwelling will integrate satisfactorily.



I am content the proposal will blend with the existing vegetation along the boundaries. There are no other buildings at this site but as there are other dwellings along this stretch of the Kilnacart, I am content the proposal will blend with the other development in the surrounding area.

I am content that the proposal is capable of complying with CTY 13.

CTY 14 - Rural Character

CTY 14 states that planning permission will be granted for a building where it does not cause a detrimental change to, or further erode the rural character of the area. As mentioned, the site benefits from existing vegetation on all boundaries and further landscaping is needed. The proposed dwelling is sited in a gap site in an otherwise substantially built up frontage I am content that this dwelling will not be a prominent feature in the landscape.

It has been already accepted this proposed development is within an area that has a substantial amount of development and it constitutes an infill opportunity site. As it is within the gap, it will not result in the creation of or extension to ribbon development. I do not consider this dwelling here will detract from the character of this area which already has a significant amount of development.

The creation of two new access at this site will not damage the rural character as there is proposed hedging to mitigate the impact of a new entrance onto a public road.

Planning Policy Statement 3 - Access, Movement and Parking

DFI Roads were consulted as there is a new access from the Kilnacart Road and responded with no objections subject to conditions.

Recommendation Approval

Neighbour Notification Checked	Y
Conditions	
<p>1.The development to which this approval relates must be begun by whichever is the later of the following dates:-</p>	
<p>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.</p>	
<p>Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.</p>	
<p>2. Prior to commencement of any development hereby approved, the vehicular access as detailed in the attached form RS1, including visibility splays of 2.4mx 70.0m 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</p>	
<p>Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.</p>	
<p>3.The gradients 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.</p>	
<p>REASON: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road user</p>	
<p>4.All hard and soft landscape works shall be carried out in accordance with the approved details on drawing No.02/1 dated 8th June 2021 and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out prior to the occupation of any part of the dwelling.</p>	
<p>REASON: To ensure the provision, establishment and maintenance of a high standard of landscape.</p>	
Informatives	
<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>	
<p>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.</p>	
<p>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</p>	

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:

ANNEX	
Date Valid	12th May 2021
Date First Advertised	25th May 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 60 Kilnacart Road Dungannon Tyrone The Owner/Occupier, 60a Kilnacart Road Dungannon The Owner/Occupier, 60b Kilnacart Road Dungannon The Owner/Occupier, 61 Kilnacart Road Dungannon Tyrone The Owner/Occupier, 62 Kilnacart Road Dungannon Tyrone The Owner/Occupier, 62a Kilnacart Road Dungannon The Owner/Occupier, 63 Kilnacart Road Dungannon Tyrone The Owner/Occupier, 65 Kilnacart Road Dungannon Tyrone Noel McCann 65 Kilnacart Road, Dungannon, BT70 1PD	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2021/0734/RM Proposal: Proposed 2 dwellings and garages Address: Lands between 61 and 65 Kilnacart Road, Dungannon, Decision: Decision Date: Ref ID: LA09/2018/0317/O Proposal: Proposed 2 dwellings in accordance with PPS21 policy CTY8 Address: Lands between 61 and 65 Kilnacart Road, Dungannon, Decision: PG Decision Date: 05.07.2018	

Ref ID: M/2004/1365/O

Proposal: Proposed dwelling house

Address: Between 66 & 60 Kilnacart Road, Dungannon

Decision:

Decision Date: 22.12.2004

Ref ID: M/2003/1516/O

Proposal: Proposed dwelling

Address: Adjacent to 61 Kilnacart Road Kilnacart Dungannon

Decision:

Decision Date: 13.02.2004

Ref ID: M/2001/0180/O

Proposal: Site for dwelling.

Address: Land approx. 100m west of 65 Kilnacart Road, Dungannon.

Decision:

Decision Date: 06.07.2001

Ref ID: M/2013/0002/F

Proposal: Proposed infill development of 2 no. dwellings

Address: Site 80m SW of 65 Kilnacart Road, Dungannon,

Decision: PR

Decision Date: 11.06.2013

Ref ID: M/2004/0611/Q

Proposal: proposed dwelling house

Address: Kilnacart Road, Dungannon

Decision:

Decision Date:

Ref ID: M/1994/0630

Proposal: Site for Dwelling

Address: APPROX 40M WEST OF 65 KILNACART ROAD KILNACART DUNGANNON

Decision:

Decision Date:

Ref ID: M/1990/0247

Proposal: Dwelling

Address: ADJACENT TO NO 66 KILNACART ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/1997/0626

Proposal: Site for dwelling

Address: ADJACENT TO 65 KILNACART ROAD EGLISH DUNGANNON

Decision:

Decision Date:

Drawing Numbers and Title

Drawing No. 04
Type: Garage Plans
Status: Submitted

Drawing No. 03
Type: Proposed Plans
Status: Submitted

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

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

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 07/09/2021	Item Number:
Application ID: LA09/2021/0739/F	Target Date:
Proposal: Proposed dwelling & Garage/Store	Location: 150m NE of 230 Coalisland Road Gortin Dungannon BT71 6EP
Referral Route: 1. The proposal is contrary to Policy CTY 15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined settlement limit of Edendork and the surrounding countryside. 2. The proposal is contrary to CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted be detrimental to rural character and would add to urban sprawl.	
Recommendation:	Refusal
Applicant Name and Address: Mr Cathal Keogh 232 Coalisland Road Dungannon BT71 6EP	Agent Name and Address: CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
Executive Summary: The application site is in the countryside and on the boundary of the settlement limit of Edendork as defined in the Dungannon and South Tyrone Area Plan 2010. Condition 4 of planning approval LA09/2019/0767/O is a siting condition where the curtilage of the site should be within a hatched area nearest the existing dwellings within the settlement. This siting condition was to prevent urban sprawl and round off the existing development. In this application the applicant has shown the curtilage outside the hatched area and further north within the red line. It is stated this is because there are overhead electricity power lines	

passing over the hatched area but I do not consider this is a reason to move the curtilage outside the hatched area.

Signature(s):

Case Officer Report

Site Location Plan



Consultations: None Required

Consultation Type	Consultee	Response
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Representations:

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

Characteristics of the Site and Area

The site abuts the northern boundary of the settlement limit of Edendork as defined in the Dungannon and South Tyrone Area Plan 2010. To the north west of the site is a factory and large yard area, while to the northeast are sprawling agricultural fields and single detached dwellings. Adjoining the remaining boundaries of the site is predominantly residential with single detached dwellings and there is a new housing development to the southwest with six dwellings. To the south and abutting the access lane is a Listed Building at 230 Coalisland Road.

The application site is a rectangular shaped plot with a topography that rises slightly from south to north. The site is set back from the public road by approximately 92m and is accessed via an existing lane that runs alongside the listed building at No.230. There are established trees along all boundaries of the site.

Description of Proposal

This is a full application for a proposed dwelling & Garage/Store at 150m NE of 230 Coalisland Road, Gortin, Dungannon.

Planning Assessment of Policy and Other Material Considerations

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

Representations

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

Planning History

LA09/2019/0767/O - Proposed dwelling and garage (Amended Access Position) - Approx 150m NE of 230 Coalisland Road, Gortin, Dungannon – Permission Granted 10th July 2020

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

Dungannon and South Tyrone Area Plan 2010

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

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

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.

LA09/2019/0767/O granted outline approval at the application site on 10th July 2020. As this is a full application and has been submitted within 5 years from the date of the outline I am content there is a live approval at the site.

Policy CTY 2a – New Dwellings in Existing Clusters

As stated in the Preamble in PPS 21 the countryside is defined as land lying outside of settlements as defined in development plans. The application site is located on the northern boundary of the settlement limit of Edendork and as such, any development to the south of the site inside Edendork cannot be considered in the assessment of CTY 2a.

Policy CTY 15 – Setting of Settlements

The application site is abutting the northern boundary of the settlement limit of Edendork. There is a housing development of 6 houses and several detached dwellings immediately south of the site within the settlement limit. The site is an agricultural field and fields abut all other boundaries of the site.

LA09/2019/0767/O granted approval at the application site under the principle that the development would round off existing development to the south. Condition 4 of planning approval LA09/2019/0767/O stated the dwelling and its curtilage should be sited within the blue hatched area as shown in figure 1 below. In the drawings submitted with this application the applicant has sited the dwelling and garage further north towards the red line and outside the hatched area. The application site is on the boundary of the settlement limit and the hatched area was conditioned as it was felt that this area would round off the existing dwellings. I consider the siting on the drawings submitted is unacceptable as it is outside the conditioned hatched area. The proposed siting further north within the red line will not round off the existing development within the Edendork settlement limit and lead to further development on the settlement boundary. Therefore I would recommend refusal of this proposal as it would add to urban sprawl.

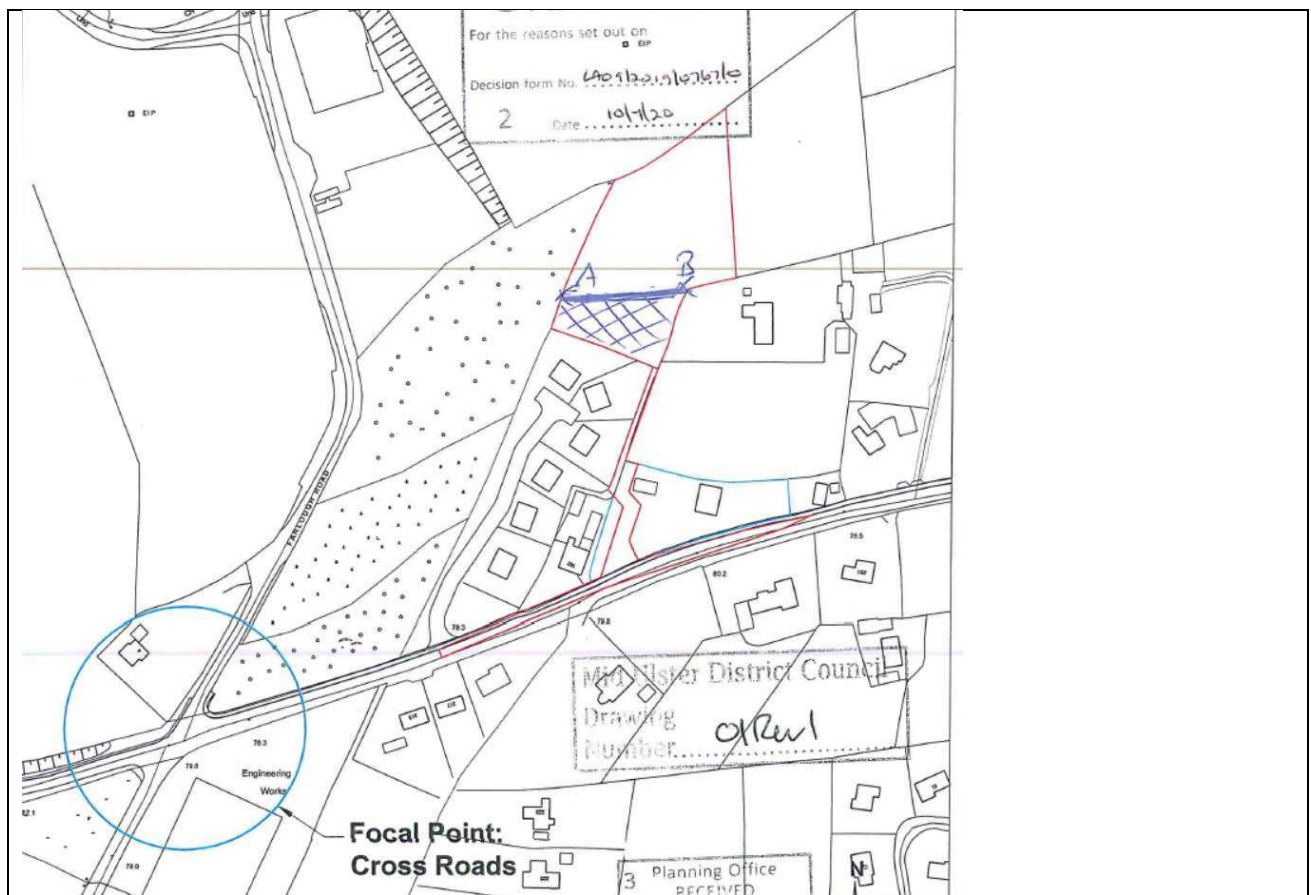


Figure 1 – Screenshot of the stamped approved site location plan from LA09/2019/0767/O

CTY 13 – Integration and Design of Buildings

I am content the dwelling will not be a prominent feature in the landscape. The site is set back from the public road by approximately 100m and is accessed via an existing laneway. There are no critical views in either direction from the public road due to established trees and hedgerow along the roadside frontage.

There are established trees and hedgerow along all boundaries of the site so I am content the proposal will integrate into the landscape. I am content new planting will not be primarily relied on for the purposes of integration.

The proposed dwelling is 6.8m to finished floor level and one and half storey. The dwelling has a long rectangular form and built in dormers on the front elevation. The windows have a vertical emphasis and the chimneys project from the ridge line of the dwelling. There is a small porch on the front elevation of the dwelling. I am content the scale and massing of the dwelling is acceptable and the design is in keeping with a rural dwelling.



Figure 2 – Screenshot of the proposed dwelling

The proposed garage is sited in the northern corner of the application site and as stated earlier in the assessment this is outside the conditioned hatched area in the outline planning approval. The garage has a rectangular form and a ridge height of 6m to finished floor level. The garage has external finishes of dark brown roof panels, grey blockwork walls and dark brown roller shutter doors. The garage has the appearance of an agricultural building but as the proposal is outside the settlement limit I have no concerns and the building is set back from the main road.

As shown on the block plan the applicant has proposed new landscaping and the retention of existing trees, therefore I have no concerns and I consider there is a suitable degree of enclosure to integrate into the landscape.

The proposal will use an existing laneway and the new access will extend along the east boundary. As the access will run for a short distance I am content the access will not have an unacceptable impact on the character of the site.

I am content the design of the proposed garage and dwelling is acceptable.

CTY 14 – Rural Character

I am content the proposal will not be unduly prominent in the landscape. I am of the opinion the revised siting further north will not round off the existing development and exacerbate urban sprawl. Therefore the proposal will be detrimental to the rural character of the surrounding area.

Neighbour Notification Checked	Yes
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Summary of Recommendation:

The proposal is recommended for refusal as it will create urban sprawl.

Reasons for Refusal:

1. The proposal is contrary to Policy CTY 15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined settlement limit of Edendork and the surrounding countryside.

2. The proposal is contrary to CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted be detrimental to rural character and would add to urban sprawl.

Signature(s)

Date:



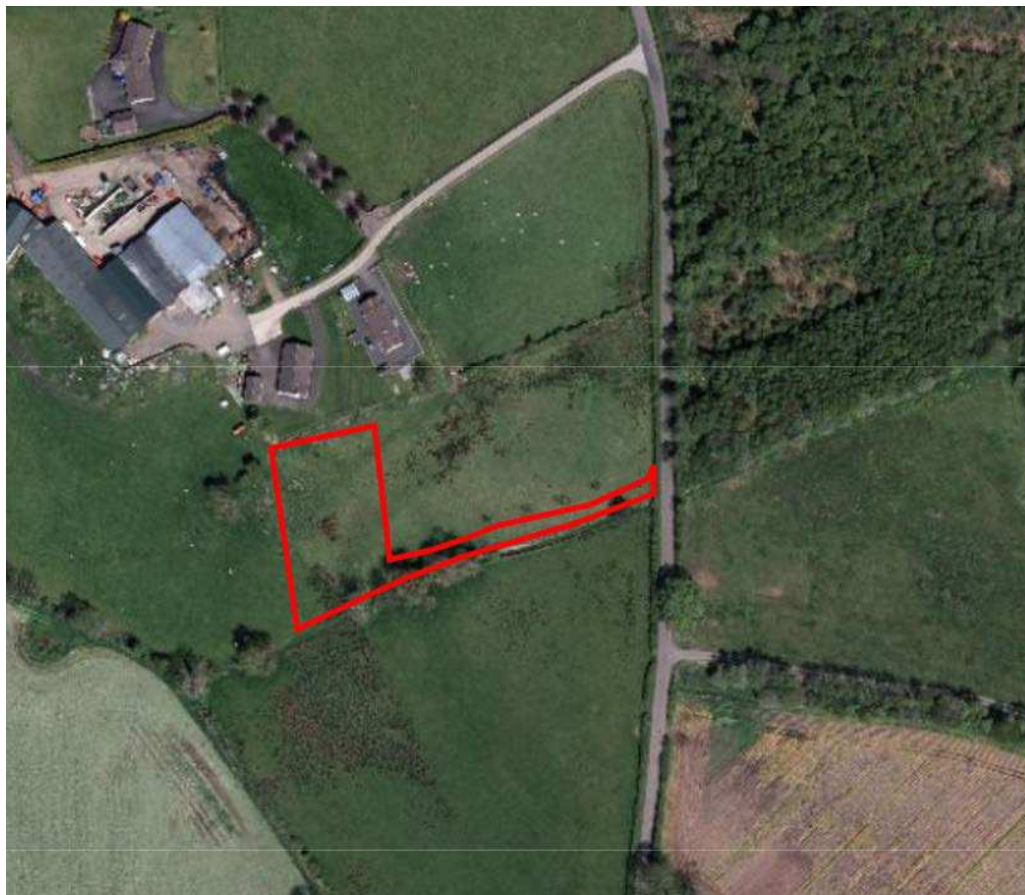
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0822/O	Target Date:
Proposal: Infill site of dwelling & domestic garage	Location: 60m South of 88 Gulladuff Hill Magherafelt
Referral Route: Contrary to policy	
Recommendation:	Refusal
Applicant Name and Address: Mr Dan McCrystal 51 Hawthorne Road Maghera BT46 5FN	Agent Name and Address:
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

Contrary to PPS 21.

Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits or within any designated sites, as per the Magherafelt Area Plan. The red line of the application comprises of part of a larger agricultural field. The boundaries of the site are limited with the southern boundary the only one currently defined. The northern boundary is undefined but is in close

proximity to the existing boundary of the dwelling at No.88 Gulladuff hill. The surrounding area is mainly agricultural in nature, with two dwellings close to the northern boundary with associated outbuildings beyond this. There are no dwellings in close proximity to the southern boundary.

Representations

No third party representations have been received.

Description of Proposal

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

Planning Assessment of Policy and Other Material Considerations

Magherafelt Area Plan 2015
Strategic Planning Policy Statement (SPPS)
PPS 3- Movement, Access and Parking
PPS 15 (Revised)- Planning and Flood Risk
PPS 21- Development in the Countryside

The application is for a dwelling to be considered under CTY 8. The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. The provisions of the SPPS and PPS 21 - Sustainable Development in the countryside, control development.

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

Policy 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. 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 first step in determining whether an infill opportunity exists is to identify whether there is an otherwise substantial and continuously built up frontage present. I note that Nos 90, 88a and 92 Gulladuff Hill are all located to the North of the site and form a substantial and continuously built up frontage. It is noted that all these dwellings are set back from the road but have a general uniform building line, all with agricultural fields in front of them. However, to the south of the application site, there are no other dwellings or outbuildings that represent a continuous or built up frontage. As a result, the application site does not represent a small gap site, within an otherwise substantial and continuously built up frontage.

However, the application site is a sufficient size in that it could only accommodate one dwelling and it respects the existing development pattern to the north in terms of siting and scale of the plot.

The proposed application site would add to the ribbon of development along the Gulladuff Hill, and as such, fails to comply with Policy CTY 8.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I 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. The red line of the application site has limited established boundaries with the southern boundary defined by an existing hedgerow and part of the northern boundary defined a hedge. The roadside hedgerow and the fact the site sits at a level lower than the road would reduce any visual impact and allow for a building to integrate.

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. However, as previously mentioned a dwelling in this location would result in ribbon development. Therefore, failing to meet the policy criteria set out in Policy CTY 14.

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.

PPS 15 (Revised)- Planning and flood risk

DfI Rivers were consulted as the site is located adjacent to an undesignated watercourse. DfI Rivers confirmed 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 protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development by the way of a planning condition.

Other Material Considerations

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

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refusal

Reasons for Refusal:

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

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a gap site within a substantial and continuously built up frontage and would if permitted, create a ribbon of development.

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 create a ribbon of development.

Signature(s)

Date:

ANNEX	
Date Valid	25th May 2021
Date First Advertised	8th June 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 88 Gulladuff Hill Gulladuff Londonderry The Owner/Occupier, 90 Gulladuff Hill Gulladuff Londonderry	
Date of Last Neighbour Notification	22nd June 2021
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2021/0822/O Proposal: Infill site of dwelling & domestic garage Address: 60m South of 88 Gulladuff Hill, Magherafelt, Decision: Decision Date: Ref ID: H/1994/0152 Proposal: 33 KV O/H LINE Address: MAGHERA NORTH S/S TO BELLAGHY S/S Decision: Decision Date: Ref ID: H/1990/0226 Proposal: SITE OF REPLACEMENT BUNGALOW AND GARAGE Address: 88 GULLADUFF HILL, GULLADUFF. Decision: Decision Date: Ref ID: H/1987/0521 Proposal: SITE OF REPLACEMENT DWELLING AND GARAGE Address: GULLADUFF HILL MAGHERAFELT Decision: Decision Date: Ref ID: H/1990/0477 Proposal: BUNGALOW AND GARAGE Address: GULLADUFF HILL GULLADUFF Decision: Decision Date:	

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