



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2017/0489/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed farm shed for the housing of animals and storage of farm machinery	<b>Location:</b> 210m East of 91 Ballynakilly Road Coalisland BT71 6JJ
<b>Applicant Name and Address:</b> Mr Gavin Quinn 9 Woodhouse Road Killycolpy Stewartstown	<b>Agent name and Address:</b> CMI Planners 38 Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b> Size of the building, its need for the efficient function of the farm, impacts on ammonia and whether or not the farm business is established.	
<b>Summary of Consultee Responses:</b> DFI Rivers – Outside flood plain, Drainage Assessment needed if new hard surfaces over 1000sqm DFI Roads – safe access with sight splays of 2.4m x 120.0m to be conditioned DEARA – Category 3 business, not in place for over 6 years, SFP last claimed on this field under different business number in 2013 SES – unlikely to have any adverse impacts on European sites NIEA – content provided guidance is followed EHO – no objections in principle	
<b>Characteristics of the Site and Area:</b>  The application site is located 210m East of 91 Ballynakilly Road, COALISLAND within the townland of GREENAGH. The site is outside the settlement limits of COALISLAND as defined in the Dungannon and South Tyrone Area Plan 2010 and north-west of the settlement limit for Ballynakilly.	

The topography of the land is relatively flat. The common land use around the wider site area includes agricultural, industrial/commercial with some dispersed dwellings and farm holdings. The site is in close proximity to The McAvoy Group Ltd, that is to the West of the site outlined in red. The impact of the proposal on the amenity and landscape plus character of the area is a key consideration in this area.

### **Description of Proposal**

Proposed farm shed for the housing of animals/ sheep storage of farm machinery and animal fodder. Access to the building is via a new lane which follows the north west boundary of the site.

The proposed farm shed has a footprint of 14750mm by 9000mm and a maximum ridge height of 5700mm, this was reduced. The roof will be insulated roof panels in the colour green with ridge and flashing trims also green as are cladding panel sliding doors with the walls fair facing block grey.

### **Deferred Consideration:**

This application was deferred at Planning Committee on 5<sup>th</sup> February 2019 to allow the Planning Manager to meet with the applicant to explore further the farming case. A meeting was held on 14 February 2019 and it was established that Mr Quinn is a sheep farmer, he was allocated a Class 3 business ID by DEARA on 15 November 2015 and this is the first building on his holding. It is apparent that Mr Quinn cannot demonstrate he has been active for the requisite 6 years as stipulated in the criteria for an active and established farm in Policy CTY10. This is the definition that Policy CTY12 directs the decision maker to take into account when assessing this type of development. This Council is aware of a policy gap for new farmers and there is a desire, in Policy AFR1 in the Draft Plan Strategy, to accommodate new farming enterprises that are of an appropriate scale.

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22<sup>nd</sup> 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 24<sup>th</sup> September 2020. All valid representations received have been subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan. Members are therefore advised that Policy AFR1 in the Draft Plan Strategy may not be used to approve development at this time.

In view of the above, Members are advised that Mr Quinn has not been able to demonstrate that he has been active and established for the requisite 6 years and as such planning permission could be refused. Mr Quinn could apply for planning permission after 15 November 2021, when he will be able to demonstrate that he does meet the policy.

Mr Quinn is however concerned about loss of livestock and indeed he indicates that out of his small flock he has lost lambs and ewes over the winter months, for the past couple of years. Mr Quinn has indicated this is due to not having a building in which to lamb and house his sheep, this is not sustainable for a small operation such as this. Members are asked to note that Mr Quinn lives approximately 13kms from his farm and lives in a row of houses. (Fig 1) As can be seen in the aerial photograph, Mr Quinn does not have the capacity to bring his sheep from the farm to his home during lambing season. I consider this meets with the exception contained within CTY12 for a new building away from

existing forestry or farm building and is necessary for the efficient functioning of the business.

Fig 1. Mr Quinns home in red



Members will be aware that this application was considered to meet all other parts of Policies CTY12, 13 and 14 of PPS21, as well as the Policies in PPS3 – Access, Parking and Movement and PPS15 – Planning and Flood Risk as set out in the previous report. I would also remind members that if an application does not fully meet with the Policy it could be refused and where other material factors dictate, the members can make an exception to policy. The only issues still open for debate in this application are that Mr Quinn has not been able to demonstrate that he has been farming for the requisite 6 years and as the policy does allow and that the building will not cluster with an established group of farm buildings on the holding. The Departments Business ID is helpful to provide evidence of when the business was started, however it is quite clear that having a business id is not the only way to establish agricultural activity. Mr Quinn has advised that since 2013, when the Department have last records of SFP being claimed on the land, he has been farming he land. Evidence was submitted that Mr Quinn took the land from 15th May 2013 and there is a stipulation in the terms of the contract that it is for agricultural purposes. This does not however demonstrate that Mr Quinn did use it for agricultural activities. The applicant has been afforded a number of opportunities to provide further supporting evidence to show he has been farming for the requisite period and this has not been forthcoming. Given the length of time this application has been in the system and the information that has already been presented about Mr Quinn’s farming activities, I consider it would be unduly harsh to refuse planning permission now, as in November

2021 the 6 year period will be achieved. If the members were to refuse this application any planning appeal would unlikely be heard or decided until after that date, by this time Mr Quinn will be into another winter without shelter for his flock.

In view of these circumstances, I would recommend that an exception to the requirement to demonstrate the business has been established for 6 years is allowed and that planning permission is granted for this development with the conditions proposed.

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

**Conditions:**

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

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

2. Prior to the commencement of the development hereby approved the vehicular access, including 12.0m radii, access width of 6m for the first 20m back from the edge of the public road, visibility splays of 2.4m x 120.0m), and any forward sight distance shall be provided in accordance with Drawing No 2B bearing the date stamp 29 APR 2020. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. The existing hedgerows and vegetation along the northeast and southwest boundaries of the field, as identified in yellow on drawing no 01 bearing the stamp dated 10 OCT 2018 shall be retained unless otherwise agreed in writing with the Council.

Reason: To ensure the maintenance of screening to the site.

4. The proposed landscaping, as shown on drawing no 2B bearing the stamp dated 19 APR 2020 shall be provided in accordance with the approved details within 6 months of the date of the commencement of the development. The trees and hedges shall be native species and any tree or shrub dying within 5 years of planting shall be replaced in a similar position with a similar size and species.

Reason: In the interests of visual amenity.

5. The building hereby approved shall be used for agricultural purposes only.

REASON: To prohibit a change to an unacceptable use within the countryside

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



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2017/0489/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed farm shed for the housing of animals and storage of farm machinery	<b>Location:</b> 210m East of 91 Ballynakilly Road Coalisland BT71 6JJ
<b>Referral Route: Contrary to policy</b>	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Gavin Quinn 9 Woodhouse Road Killycolpy Stewartstown	<b>Agent Name and Address:</b> CMI Planners 38 Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Rivers Agency	Substantive Response Received
Statutory	DAERA - Omagh	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	No Response
Statutory	DAERA - Omagh	Advice

Statutory	DAERA - Omagh	Advice
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<p><b>Characteristics of the Site and Area</b></p> <p>The application site is located 210m East of 91 Ballynakilly Road, COALISLAND within the townland of GREENAGH. The site is outside the settlement limits of COALISLAND as defined in the Dungannon and South Tyrone Area Plan 2010 and north-west of the settlement limit for Ballynakilly.</p> <p>The topography of the land is relatively flat. The common land use around the wider site area includes agricultural, industrial/commercial with some dispersed dwellings and farm holdings. The site is in close proximity to The McAvoy Group Ltd., that is to the West of the site outlined in red.</p> <p>The impact of the proposal [LA09/2017/0489/F] on the amenity and landscape plus character of the area is a key consideration in this area.</p>		
<p><b>Description of Proposal</b></p> <p>Proposed farm shed for the housing of animals/ sheep storage of farm machinery and animal fodder.</p> <p>The proposed farm shed has a footprint of 18450mm by 9000mm and a maximum ridge height of 5700mm. The roof will be insulated roof panels in the colour green with ridge and flashing trims also green as are cladding panel sliding doors with the walls fair facing block grey [Drawing 03 Received 4th April 2017].</p>		
<p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p>The following policy documents provide the primary policy context for the determination of this application;</p> <ol style="list-style-type: none"> <li>1. Strategic Planning Policy Statement (SPPS).</li> <li>2. Dungannon &amp; South Tyrone Area Plan 2010.</li> <li>3. Planning Policy Statement (PPS) 3 – Access, Movement and Parking.</li> <li>4. PPS 6 - Planning, Archaeology and the Built Heritage.</li> <li>5. PPS 15 - Planning and Flood Risk.</li> <li>6. PPS 21 - Sustainable Development in the Countryside.</li> </ol>		



#### Consultees:

Transportni were asked to comment and responded with no objections subject to conditions.

Environmental Health were asked to comment and responded with no objections.

DAERA were asked to comment and responded stating that the farm business is established and has been inactive since 2009. It is a category 3 business there not able to claim single farm payments. They were re consulted a second and third time with a different business id number and Dard responded stating the business has not been active for 6 years, and does not claim SFP.

#### Representations

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

The Strategic Planning Policy Statement (SPPS) for Northern Ireland – Planning for Sustainable Development, is a material consideration. The SPPS supersedes the policy provision within Planning Policy Statement (PPS) 1, 5 and 9. The policy provision within PPS 21, PPS 15 and PPS 3 have been retained under transitional arrangements. Until a Plan Strategy for the whole of the Council Area has been adopted planning applications will be assessed against existing policy.

PPS 21 sets out planning policies for development in the countryside whilst the policy provision within PPS 15 and PPS 3 deals with flood risk and access provision, respectively.

Policy CTY 1 within PPS 21 highlights that there are a number of developments which may be acceptable in the countryside. One of these is agricultural and forestry developments in accordance with Policy CTY 12.

#### CTY 12

Policy CTY 12 stipulates that planning permission will be granted for development on an active and established agricultural or forestry holding and within the amplification text it clarifies that for the purposes of this policy the determining criteria for an active and established business will be that set out under Policy CTY 10. Policy CTY 10 stipulates that the farm business should be both active and established for a period of at least 6 years.

The applicant, within the supporting information submitted with the application, has conceded that the proposal is for a hobby farm and that the requisite DAERA farm business ID No. have become inactive as they are unable to claim single farm payments. The supporting information outlines that the applicant has currently 6 sheep, with varying numbers from 6 to 14 at any point but is unable to expand the flock due to lack of housing. They have also submitted a record of sheep movements and a DARD letter confirming veterinarian inspections.

Whilst visiting the site I observed the grass had been harvested on the application lands and noted that the lands were in good agricultural condition.

On this basis on that above I can conclude that whilst the farm/field appears active the applicant has not been established for a period of at least 6 years. With this in mind I am not content that the agricultural holding is both active and established.

In support of adopting this approach to determining that the farm is both active and established, I would remind members of the approach taken by the PAC in two recent planning appeal decisions under 2016/A0007 and 2015/A0136. In both referenced appeals, the respective commissioners determined that although there was evidence that the appellant was actively engaged in farming activities they could not prove that they had been established for a period of at least 6 years and therefore they failed to meet the requirements of the policy.

CTY 12 includes five further criteria (a-e):

a) The proposal would provide a farm building on this farm holding for existing livestock and this would help the applicant provide facilities for livestock over the winter months. It would also provide facilities for sick and/or injured livestock. I consider that the applicant has provided sufficient evidence to confirm that the proposed farm shed (and associated facilities) would be necessary for the efficient use of the agricultural holding.

b) The proposal presents an agricultural building which is not considered uncommon within the context of this rural landscape. The materials used are similar to other types of agricultural development within this area.

The level of vegetation surrounding the site coupled with the existing pattern and type of buildings in the area are that of industrial sheds and large buildings therefore the level of impact associated with the proposal will be minimal and on that basis I consider that the proposal will not have a significant detrimental impact on the rural character of the area.

c) The proposed agricultural shed would benefit from the existence of natural vegetation and screening especially to the rear which surround the site area. As documented above, the location of other large buildings to the North West, help the proposal to fit into the wider. The proposal would not present a prominent feature in the context of this rural landscape setting and I consider it to be successfully integrated.

d) There are no sensitive natural heritage features of note within the site or the surrounding area. Therefore I consider that the proposal will not have a negative impact on any natural/historic features or monuments.

e) It is noted that the proposal is sited some 160m away from the closest unconnected residential dwelling at No. 96 Ballynakilly Road. The Council's Environmental Health Department (EHD) were consulted and returned comment on this application highlighting that they had no concerns. It is my opinion that there are no immediate neighbours that could be potentially affected by this proposal.

#### CTY 12 – Additional Requirements

In addition to that above and 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.

The applicant has provided a supporting statement which identifies that there are no other buildings on the holding and that the proposal relates to the provision of a farm

building to allow for a small farm business to be able to expand. It is therefore considered that there are no other buildings on the holding or enterprise which could be used. It must be noted that there is no specific planning policy for first farm sheds for start-up farmers.

#### CTY 13 & 14

An assessment of the proposed siting of the development along with its visual and physical impact has been documented within parts b and c, above. In terms of visual integration and impact on rural character members are advised that the proposal is deemed to satisfactorily integrate into the surrounding rural landscape setting. I consider the proposal to be compliant with the policy provision contained within Policies CTY 13 and 14 of PPS 21.

#### PPS 15

Department for Infrastructure Rivers Agency were consulted and returned comment on this application. Rivers Agency have assessed the application in relation to flood risk and have outlined that the proposal is in compliance with the policy provisions contained within PPS 15 – Planning and Flood Risk.

#### PPS 3

Department for Infrastructure Roads (DFI Roads) were consulted on this application and have returned comment highlighting that they are content with the proposed access to the site and as such I consider the proposal to comply with the policy requirements contained with PPS 3 – Access, Movement and Parking.

#### Conclusion

Members are advised that the applicant has failed to demonstrate that the proposal has been established for at least 6 years and the applicant has not demonstrated why this application should be considered an exception.

#### Recommendation Refusal

#### Neighbour Notification Checked

**Yes**

#### Refusal Reasons

1. The proposal is contrary to Policy CTY 12 of Planning Policy Statement 21, sustainable development in the countryside in that it has not been demonstrated that the farm business has been established for a period of at least 6 years.

#### Signature(s)

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	4th April 2017
<b>Date First Advertised</b>	20th April 2017
<b>Date Last Advertised</b>	18th May 2017
<b>Details of Neighbour Notification (all addresses)</b> The Owner/Occupier, 81 Ballynakilly Road, Creenagh, Coalisland, Tyrone, BT71 6HD, The Owner/Occupier, 89 Ballynakilly Road, Creenagh, Coalisland, Tyrone, BT71 6HD, The Owner/Occupier, 91 Ballynakilly Road, Creenagh, Coalisland, Tyrone, BT71 6HD, The Owner/Occupier, 96 Ballynakilly Road, Ballynakilly, Coalisland, Tyrone, BT71 6HD,	
<b>Date of Last Neighbour Notification</b>	3rd May 2017
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2017/0489/F Proposal: Proposed farm shed for the housing of animals/ sheep storage of farm machinery and animal fodder Address: 210m East of 9 Ballynakilly Road, Coalisland, Decision: Decision Date:  Ref ID: M/1995/6162 Proposal: Industrial Development Land at Ballynakilly Road Address: Land at Ballynakilly Road Decision: Decision Date:	
<b>Drawing Numbers and Title</b>	

Drawing No. 03

Type: Proposed Floor 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:



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2019/0944/F	<b>Target Date:</b>
<b>Proposal:</b> Infill dwelling and garage between 90 and 92 Iniscarn Road, Desertmartin (retrospective) New access laneway 130m West from the Junction of Iniscarn Road/Gortahurk Road, existing access onto Iniscarn Road to be permanently closed.	<b>Location:</b> Between 90 and 92 Iniscarn Road Desertmartin
<b>Applicant Name and Address:</b> Mr Paul Bradley 90A Inniscarn Road Desertmartin	<b>Agent name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge
<b>Summary of Consultee Responses:</b>  DFI Rivers have responded with issues relating to FL1, FL3 and FL4.  DFI Roads are satisfied their conditions are acceptable in relation to the proposed access.	
<b>Characteristics of the Site and Area:</b>  The site is located at no. 90a Iniscarn Road, Desertmartin and is located within the open countryside and there are no further designations on the site as designated by the Magherafelt Area Plan 2015. The site is located between no. 90 and no. 92 Iniscarn Road and located on the site is a large 2 storey dwelling with a smooth render finish, detached garage and a dolls house / storage building, both with smooth render finish. The southern boundary of the property is currently defined by laurel hedging and wire and post fencing, the northern boundary is defined by mature trees and some laurel hedging, the western boundary is defined by white wooden fencing and the eastern boundary remains	

undefined with a number of pillars having been constructed along the boundary. Access is currently served at the front of the property onto the main Iniscarn Road. The immediate surrounding area is predominantly characterised by single dwellings and some agricultural uses.

### Description of Proposal

Infill dwelling and garage between 90 and 92 Iniscarn Road, Desertmartin (retrospective)  
New access laneway 130m West from the Junction of Iniscarn Road/Gortahurk Road, existing access onto Iniscarn Road to be permanently closed.



### Deferred Consideration:

Following the April planning committee meeting, the applicant was given 4 weeks to submit additional information which ended on 12<sup>th</sup> May. No information was received by this date, however the Flood Risk consultation for the applicant advised on 13<sup>th</sup> May work was urgently being carried out to provide a flood risk assessment to address the issues. Nothing has been received at the time of writing this report.

Rivers Agency were re-consulted on the information submitted by the applicant in order to get the application deferred at April Committee. They replied on 23<sup>rd</sup> May 2021. In terms of FLD1, a pre-development model of the watercourse would need to be provided. In terms of FLD3, additional measures would need to be carried out for analysis. The applicant put forward health and safety concerns in terms of FLD4 and a reason to pipe

the open watercourse. Paragraph 6.53 of PPS15 states when H & S concerns arising from open access to watercourse alternatives should be considered. Further clarification is required in relation to the documents submitted by the applicant and DFI Rivers can't further comment on FLD4 until some information has been received.

Refusal is recommended as previously as the issues have not been overcome.

### **Refusal Reasons**

1. The proposal does not comply with SPPS and Policy FLD 1 - Development in Fluvial (Rivers) and Coastal Flood Plains, of PPS15 - Planning and Flood Risk in that it has not been adequately demonstrated there is no risk of fluvial flooding.
2. The proposal does not comply with SPPS and Policy FLD 3 - Development and surface water (pluvial) flood risk outside flood plains, of PPS15 - Planning and Flood Risk in that it has not been demonstrated that the existing drainage network effectively mitigates flood risk or potential for surface water flooding.
3. The proposal does not comply with SPPS and Policy FLD 4 - Artificial Modification of Watercourses of PPS15 - Planning and Flood Risk in that it has not been demonstrated that a specific length of the watercourse needs to be culverted for engineering reasons and no exceptional circumstances have been demonstrated.

**Signature(s):**

**Date**





## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2019/0944/F	<b>Target Date:</b>
<b>Proposal:</b> Infill dwelling and garage between 90 and 92 Iniscarn Road, Desertmartin (retrospective) New access laneway 130m West from the Junction of Iniscarn Road/Gortahurk Road, existing access onto Iniscarn Road to be permanently closed.	<b>Location:</b> Between 90 and 92 Iniscarn Road Desertmartin
<b>Applicant Name and Address:</b> Mr Paul Bradley 90A Inniscarn Road Desertmartin	<b>Agent name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge
<b>Summary of Consultee Responses:</b>  DFI Rivers have given a final response on March 2021 with issues relating to FL1, FL3 and FL4.  DFI Roads are satisfied their conditions are acceptable in relation to the proposed access.	
<b>Characteristics of the Site and Area:</b>  The site is located at no. 90a Iniscarn Road, Desertmartin and is located within the open countryside and there are no further designations on the site as designated by the Magherafelt Area Plan 2015. The site is located between no. 90 and no. 92 Iniscarn Road and located on the site is a large 2 storey dwelling with a smooth render finish, detached garage and a dolls house / storage building, both with smooth render finish. The southern boundary of the property is currently defined by laurel hedging and wire and post fencing, the northern boundary is defined by mature trees and some laurel hedging, the western boundary is defined by white wooden fencing and the eastern boundary remains	

undefined with a number of pillars having been constructed along the boundary. Access is currently served at the front of the property onto the main Iniscarn Road. The immediate surrounding area is predominantly characterised by single dwellings and some agricultural uses.

### Description of Proposal

Infill dwelling and garage between 90 and 92 Iniscarn Road, Desertmartin (retrospective)  
New access laneway 130m West from the Junction of Iniscarn Road/Gortahurk Road, existing access onto Iniscarn Road to be permanently closed.



### Deferred Consideration:

This application was presented to Committee in Feb 2020 for the following refusal reason;

*The proposal does not comply with SPPS and Policy FLD 4 - Artificial Modification of Watercourses of PPS15 - Planning and Flood Risk in that it has not been demonstrated that a specific length of the watercourse needs to be culverted for engineering reasons.*

It was subsequently deferred as additional information was submitted prior to the Committee meeting and it was agreed by Committee that this information should be considered by DFI Rivers. Rivers were re-consulted and replied that there were outstanding issues relating to PPS15.

In an attempt to resolve the flooding matter, the applicant was then offered the opportunity by the Council to remove the existing pipe and restore the open drain at the previous levels. The applicant has advised they do not wish to remove the pipe but rather 'work with DfI Rivers on site to carry out flood risk measures to prevent future flooding' and they state it is impossible to determine previous watercourse levels.

The main issues raised by neighbouring properties, is regarding flooding to their property and on the Iniscarn Road due to pipework and culverting carried out at this site. Objector comments raise the point that previous levels were given in a 2007 application, which would indicate how ground levels have changed and has in turn increased surface water runoff. The Objector mentions that the work carried out is unauthorised, there is a current enforcement case on the site which is pending the outcome of this application before any action will be taken. No.92 also mentions an issue relating to access to manhole covers, however this would not be considered a planning matter and should be dealt with between the two parties.

DFI Rivers have provided comment in relation to PPS15 – 'Planning and Flood Risk' and have had sight of all relevant objector and applicant correspondence, which has all been taken into account in their detailed responses. Following a number of reports, assessments and correspondence from both parties the latest response from Rivers dated 10 March 2021 (Appendix A) and concludes the following in summary;

*FLD1- Development in Fluvial (Rivers) and Coastal Flood Plains-* The Hydraulic model used to assess fluvial flood risk in the original FRA, dated 31<sup>st</sup> October 2019, has been independently examined. The independent assessment has led to the conclusion there is a low level of confidence in the model outputs. Consequently fluvial flood risk remains an unresolved issue.

*FLD2 – Protection of flood defences and drainage infrastructure -* Rivers have advised this issue could be dealt with by an informative and it would be unreasonable to condition it for a single dwelling.

*FLD3 – Development and surface water (pluvial) flood risk outside flood plains,* Plans were submitted by the applicant in an attempt to overcome this. However the drainage network assessed in the DA is not representative of the existing drainage network. If the drainage network is to be retained it should be discharged via the network as shown on submitted plans. If however the existing drainage is to be retained then additional analysis would be required to demonstrate management of flooding and overflow and to demonstrate proposed mitigation measures.

*FLD4 – Artificial Modification of Watercourses-* the applicant has identified Health and safety concerns as the reason to pipe the open watercourse, however these are included as invalid reasons under FLD4 of PPS15 to pipe a watercourse. Paragraph 6.53 of PPS15 states that when there are health and safety concerns arising from open access to a watercourse alternatives to piping should be considered.

*FLD5 – Developments in proximity to reservoirs -* Development in proximity to reservoirs, is not relevant.

Basis on the information currently submitted refusal is recommend for the following in relation to PPS15 for the reasons stated below.

- 1. The proposal does not comply with SPPS and Policy FLD 1 - Development in Fluvial (Rivers) and Coastal Flood Plains, of PPS15 - Planning and Flood Risk in that it has not been adequately demonstrated there is no risk of fluvial flooding.*
- 2. The proposal does not comply with SPPS and Policy FLD 3 - Development and surface water (pluvial) flood risk outside flood plains, of PPS15 - Planning and Flood Risk in that it has not been demonstrated that the existing drainage network effectively mitigates flood risk or potential for surface water flooding.*
- 3. The proposal does not comply with SPPS and Policy FLD 4 - Artificial Modification of Watercourses of PPS15 - Planning and Flood Risk in that it has not been demonstrated that a specific length of the watercourse needs to be culverted for engineering reasons and no exceptional circumstances have been demonstrated.*

Apart from the flooding concerns, objectors also raised issues relating to other planning matters, these have been received from No.92 and No. 90.

#### Overlooking/ privacy issues

In relation to No.90, there is sufficient separation distance between the two houses and a strong laurel hedge exists as a common boundary, the window referred to is a first floor bedroom window on the gable, and would be classed as a low occupancy room, although it has been argued by the objector that during recent Covid circumstances bedroom are being used more often for home schooling/offices etc. However, this is in the short term and not permanent, and would not change overall how these rooms would be considered. I do not consider there are overlooking or privacy issues which are significantly detrimental to the enjoyment of the neighbour's amenity space.



*Common boundary with No 90*

No.92 raise concerns about windows on the side gable overlooking their private garden area, which were not shown on the original plans. Although the windows weren't shown on original plans they will be assessed as part of this retrospective application. Part of the common boundary is a strong laurel hedge and close boarded wooden fence and further along the boundary are mature trees which would limit any impact of these windows and there is also adequate separation distance. The dwelling is set back from No.92 and its associated buildings and garden, with strong vegetation between them so there is no detrimental impact from overlooking. ( see common boundary with No.92 in image below)





An objection was received concerned about road safety due to the number of accesses on this part of Iniscarn Road, as they state there are already lorries and tankers brake testing here. The occupant of No.90 countered this objection by saying they have never been aware of this taking place. DFI Roads were consulted for their comments and have stated any issues of road safety as a result of reckless driving is a matter for PSNI. They are satisfied their recommended conditions are acceptable in relation to the proposed access.

One of the objections received was in terms of the planning assessment and questioned if the site complies with CTY8, in that it is not a small gap site in a continuous and substantially built up frontage, and in relation to the visual impact and rural character of the dwelling and proposed access. These issues were fully considered in the original case officer report under PPS21 and I would still agree with this assessment. An appeal decision 2016/A0160 was forwarded by the objector, however each case is assessed on its own merits and this appeal case is not directly comparable. I am satisfied this site and access meets the policies CTY1, CTY8, CTY13 and CTY14 and are acceptable in principle.

In conclusion, when taking into account all the information provided by the applicant and objectors and DFI Rivers final response of 10<sup>th</sup> March 2021 (attached as appendix A), the proposal must be recommended for refusal for the three reasons stated.

### **Refusal Reasons**

1. The proposal does not comply with SPPS and Policy FLD 1 - Development in Fluvial (Rivers) and Coastal Flood Plains, of PPS15 - Planning and Flood Risk in that it has not been adequately demonstrated there is no risk of fluvial flooding.

2. The proposal does not comply with SPPS and Policy FLD 3 - Development and surface water (pluvial) flood risk outside flood plains, of PPS15 - Planning and Flood Risk in that it has not been demonstrated that the existing drainage network effectively mitigates flood risk or potential for surface water flooding.

3. The proposal does not comply with SPPS and Policy FLD 4 - Artificial Modification of Watercourses of PPS15 - Planning and Flood Risk in that it has not been demonstrated that a specific length of the watercourse needs to be culverted for engineering reasons and no exceptional circumstances have been demonstrated.

**Signature(s):**

**Date**

**Appendix A – DFI Rivers response dated 10<sup>th</sup> March 2021**



Department for  
**Infrastructure**  
An Roinn  
**Bonneagair**  
[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

**DfI Rivers Planning, Advisory & Modelling Unit**

Ms. Emma McCullagh  
Mid Ulster  
Local Planning Office  
Mid Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

44 Seagoe Industrial Estate  
CRAIGAVON  
Co. Armagh  
BT63 5QE  
Tel: 028 3839 9118

Your Ref: LA09/2019/0944/F  
Our Ref: IN1-19-11202

10<sup>th</sup> March 2021

Dear Madam

**Re: Infill dwelling and garage between 90 and 92 Iniscarn Road, Desertmartin (retrospective).**

In response to your consultation dated 23<sup>rd</sup> February 2021 requesting comments on the most recent uploaded information (including emails) in relation to how it addresses FLD3 and to confirm if it addresses the issues with FLD1 and FLD4 or if they remain unresolved. DfI Rivers comments in accordance with PPS 15 are as follows.

Policy FLD 1

The hydraulic model used to assess fluvial flood risk in the original FRA, dated 31<sup>st</sup> October 2019, has been independently examined in order to confirm or allay DfI Rivers concerns about the model construction. The independent assessment has identified aspects of the model construction that have led to the conclusion that there is a low level of confidence in the model outputs. Consequently fluvial flood risk remains an unresolved issue.

The effects of piping the watercourse on downstream water levels and velocities have not been addressed. For an accurate assessment of potential downstream worsening with, respect to flooding and erosion, a pre-development model of the watercourse would be required for comparison. This is not possible.

Policy FLD 2

An undesignated piped watercourse flows along the south eastern boundary of the site. Under 6.32 of the policy a 5m maintenance strip is required. It is the legal responsibility of the land owner to maintain this watercourse.





### Policy FLD 3

Drawing No. C101 entitled '*Proposed Surface Water Attenuation System Using Storage Pipes And Hydrobrake For a 100 Year Return Period Event*' shows a proposal to construct a drainage network, with attenuation being provided by two 62.5m long lines of 750mm diameter pipes. It has been demonstrated that this drainage network would have the necessary capacity to be a viable solution. All surface runoff from the site should be collected, stored and discharged via this proposed drainage network. The drainage network assessed in the DA is not representative of the existing drainage network.

It is DfI Rivers understanding that the planning application for the dwelling is retrospective and therefore may include the existing drainage network as part of the application. If the existing drainage network is to be retained then it should be discharged via the proposed network as detailed on Drg. No. C101.

If the existing drainage network is to be retained, as the only drainage option, then the hydraulic capacity of the already constructed drainage network will have to be calculated. An analysis of the storm network, using FEH rainfall runoff methodology, will have to be provided to determine, in terms of return period, what the capacity of the network is. Other analysis to demonstrate the management of out of sewer flooding and overland flow, and to demonstrate the provision of necessary mitigating measures and safe storage areas will need to be carried out for a 1 in 100 year rainfall event.

### Policy FLD 4

An email, dated 23<sup>rd</sup> February 2021, from the applicant identifies health and safety concerns as the reason to pipe the open watercourse. Health and safety concerns are not included as valid reasons under Policy FLD4 of PPS 15 to pipe a watercourse. Paragraph 6.53 of PPS 15 states that when there are health and safety concerns arising from open access to a watercourse alternatives to piping should be considered.

### Policy FLD 5

Policy FLD 5 does not apply to this application.

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I trust you find the foregoing to be helpful but should you require any further information or clarification please contact me at the above address.

Yours faithfully

**Neil Jenkinson**  
Planning, Advisory & Modelling Unit



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

Mid-Ulster

Local Planning Office

Mid-Ulster Council Offices

50 Ballyronan Road

Magherafelt

BT45 6EN

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0944/F	<b>Target Date:</b>
<b>Proposal:</b> Infill dwelling and garage between 90 and 92 Iniscarn Road, Desertmartin (retrospective) New access laneway 130m West from the Junction of Iniscarn Road/Gortahurk Road, existing access onto Iniscarn Road to be permanently closed.	<b>Location:</b> Between 90 and 92 Iniscarn Road Desertmartin
<b>Referral Route:</b> Proposal is contrary to SPPS and Policy FLD 4 of PPS15.	
<b>Recommendation:</b>	<b>REFUSAL</b>
<b>Applicant Name and Address:</b> Mr Paul Bradley 90A Inniscarn Road Desertmartin	<b>Agent Name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge
<b>Executive Summary:</b>	

For committee decision

10 / 02 / 2020



## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

Letters of Support	None Received
Letters of Objection	9
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 issues were raised and they are discussed in this report.

### Characteristics of the Site and Area

The site is located at no. 90a Iniscarn Road, Desertmartin and is located within the open countryside and there are no further designations on the site as designated by the Magherafelt Area Plan 2015. The site is located between no. 90 and no. 92 Iniscarn Road and located on the site is a large 2 ? storey dwelling with a smooth render finish, detached garage and a doll?s house / storage building, both with smooth render finish. The southern boundary of the property is currently defined by laurel hedging and wire

and post fencing, the northern boundary is defined by mature trees and some laurel hedging, the western boundary is defined by white wooden fencing and the eastern boundary remains undefined with a number of pillars having been constructed along the boundary. Access is currently served at the front of the property onto the main Iniscarn Road.

The immediate surrounding area is predominantly characterised by single dwellings and some agricultural uses.

### **Description of Proposal**

The applicant seeks full planning permission for an Infill dwelling and garage between 90 & 92 Iniscarn Road, Desertmartin (Retrospective). New access laneway 130m west from the junction of Iniscarn / Gortahurk Road. Existing access onto Iniscarn Road to be permanently closed.

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

#### **Planning History**

LA09/2019/0005/CA - Alleged piping of a watercourse and Extension to Curtilage. Enforcement Case Closed 28.02.2019.

LA09/2019/0868/F - New laneway 130m West from the junction of Iniscarn Road/Gortahurk road to the dwelling between 90 & 92 Iniscarn Road - Withdrawn.

LA09/2018/0054/CA - Unauthorised Dwelling, unauthorised access, unauthorised piping of a watercourse, extension of curtilage area Enforcement Action Being Pursued - this application is relevant to this enforcement action.

H/2007/0691/RM - Proposed new 2 storey dwelling house and associated landscaping - Permission Granted 23.05.2008

H/2005/0636/O - Site of dwelling - Permission Granted 19.10.2005

#### **Neighbour Notification**

2 neighbours were notified of this planning application including nos. 90 & 92 Iniscarn Road, Desertmartin.

9 letters of objection and 1 non-committal letter was received at time of writing this report.

6 letters of objection were received from the occupier of no. 90 Iniscarn Road who raised concerns as follows:

1) Principle of development - the objector has concerns that the dwelling does not comply with Policy CTY1, CTY8, CTY13 and CTY14 of PPS21 - Sustainable Development in the Countryside, claiming that the dwelling does not meet the criteria to be an infill dwelling and does not comply with policies CTY13 or CTY14.

2) Unauthorised culverting of a watercourse and surface water flooding - the objector has raised concerns about the unauthorised pipework which has been installed around the dwelling. The objector has stated that this pipework has caused serious flooding at their property as well as at no.92 and along the Iniscarn Road. The objector has also stated that site levels have been raised during the development of the site which has increased surface water run off.



3) Overlooking and Loss of Privacy - concerns were raised about the bedroom window on the southern side elevation of the dwelling which looks out onto no.90's rear garden.

4) Increased extension to curtilage - the objector raised concerns about the increased curtilage of the site which could lead to further development around the dwelling.

5) Package Treatment Plant - the objector stated that in the past, the PTP had failed which led to a foul smelling odour in the past.

6) Lack of Landscaping - the objector raised concerns that submitted plans did not show much in way of landscaping.

7) Flood Risk Assessment - the objector raised a number of concerns regarding the Flood Risk Assessment, which was received on 11/11/2019. The concerns included objecting to the assessments reasoning for a flood occurrence happening at the objector and applicant's sites and states that not all gullies have been shown and assessed in this Flood Risk Assessment.

3 letters of representation were received from the owner of no. 92 Iniscarn Road. These objections raised concerns with the second floor window on the right hand side elevation of the dwelling (northern elevation). The objector also raised concerns that the dwelling does not comply with policy CTY14 of PPS21. This objector also raises the previous flooding event which also effected their property stating that it caused the downstairs had been flooded due to the culverting of the opening pipe.

One miscellaneous letter was received from the applicant at 90a Iniscarn Road. This letter rebutted initial comments made by the objector at 90 Iniscarn Road, suggesting that a lack of gullies at no. 90 Iniscarn Road contributed to the impact of the flooding event that occurred in the past.

### **Development Plan and Key Policy Consideration**

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

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

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this, the Draft Plan cannot be given any determining weight at this time.

PPS3: Access, Movement and Parking (Revised 2005) and PPS3 (Clarification 2006): sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking.



PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. Policies CTY1, CTY8, CTY13 and CTY14 are applicable.

Revised PPS15: Planning and Flood Risk: sets out planning policies to minimise and manage flood risk to people, property and the environment. Policy FLD4 is applicable to this application.

Planning Policy CTY1 of PPS21 states that planning permission will be granted for the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8.

Policy CTY8 states that planning permission will be refused for a building which creates or adds to a ribbon development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise and substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the 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.

I am content that this proposal complies with policy CTY8 in principle as nos. 86a, 88, 90 & 92 create a substantially built up frontage along the main Iniscarn Road.

I am content that the site is a small gap site. Therefore, I am content that this proposal complies with Policy CTY8 of PPS21.

### **Integration**

Policy CTY13 of PPS21 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 has been noted that this is a large 2 storey dwelling. The ridge height is 8.1m high at its highest point and the left hand side portion of the dwelling has a ridge height of 7.2m. Although no. 90 Iniscarn Road is a single storey dwelling, no. 92 is a two storey dwelling to the north and the Iniscarn Road is characterised by a mix of single and two storey dwellings.

I am content that the laurel hedging which has been planted along the southern boundary has addressed issues of overlooking as it has grown quite considerably in a short space of time. The window which has been raised by the objector at no. 90, is a bedroom window which I consider to be a low occupancy room and is located approx. 7m from the boundary of no. 90 Iniscarn Road. Therefore this, coupled with the mature laurel hedging addresses the issue of overlooking.

The window which has been raised by the owner of no. 92 Iniscarn Road on the northern boundary of the property is again a bedroom window which is considered a low occupancy room. There is a considerable amount of mature trees and hedging along the northern boundary of the property and the window is set far enough back from the private amenity space of no. 92 Iniscarn Road. Therefore, I am content that this window does not propose any demonstrable harm on the amenity of no. 92 Iniscarn Road.



The new access proposed 130m west from the junction of Iniscarn / Gortahurk Road will run along the southern boundary of the property therefore complies with CTY13. On a whole, I am content that the dwelling complies with Policy CTY13 of PPS21.

### **Rural Character**

Policy CTY14 of PPS21 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.

It has been noted that this is a substantially large 2 storey dwelling however as mentioned above under CTY13 there is a mix of single storey and two storey dwellings along the Iniscarn Road therefore I am content that this proposal is in keeping with CTY14.

I am content on balance that this proposed application will not unduly change the character of the area. On a whole I am content that the proposed development complies with CTY 14.

### **PPS15: Planning and Flood Risk - Policy FLD4**

Policy FLD4 states that the planning authority will only permit the artificial modification of a watercourse, including culverting or canalisation operations in either of the following exceptional circumstances:

- Where the culverting of a short length of a watercourse is necessary to provide access to development site or part thereof;
- Where it can be demonstrated that a specific length of watercourse needs to be culverted for engineering reasons and that there is no reasonable or practicable alternative courses of action.

Justification for the culverted watercourse was requested from the agent on 16/01/2020 and no reason was received at time of writing this report.

An email was received from the engineer who wrote the Flood Risk Assessment stating that the presence of the culvert significantly reduces flood risk at the site and that the flood event which occurred in the past happened when the culvert was only half installed and was a one-off occurrence. Although this may be the case, no exceptional circumstance or engineering reason has been provided to justify the culverting of the undesignated watercourse which flows along the southern boundary of the site. For this reason, this proposal does not comply with Policy FLD 4 of PPS15.

### **Other Material Considerations**

DfI Roads were consulted on this application and are content, subject to condition. DfI Rivers were consulted on this application and initially asked for a Flood Risk Assessment. The Flood Risk Assessment received was based on the culverted watercourse therefore DfI Rivers will not comment until the planning authority make a decision based on FLD4 of PPS15. As the planning authority is of the opinion that the proposal does not comply with FLD4 of PPS15, there was no need to re-consult.

### **Neighbour Notification Checked**

Yes

### **Summary of Recommendation:**

Refusal.



ANNEX	
<b>Date Valid</b>	8th July 2019
<b>Date First Advertised</b>	25th July 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) E Flanagan 12 Moybeg Road, Tobermore, Londonderry, Northern Ireland, BT45 5QH E Flanagan 12 Moybeg Road, Tobermore, Londonderry, Northern Ireland, BT45 5QH E Flanagan 12, Moybeg Road, Tobermore, Londonderry, Northern Ireland, BT45 5QH D Murray 90 Iniscarn Road, Desertmartin, Londonderry, Northern Ireland, BT45 5NH Damian Murray 90 Iniscarn Road, Desertmartin, Londonderry, Northern Ireland, BT45 5NH The Owner/Occupier, 90 Iniscarn Road, Desertmartin,BT45 5NH Mr D Murray 90 Iniscarn Road, Desertmartin,BT45 5NH Paul Bradley 90A Inniscarn Road,Desertmartin The Owner/Occupier, 92 Iniscarn Road, Desertmartin,BT45 5NH The Owner/Occupier, 92 Iniscarn Road, Desertmartin,BT45 5NH Mr D Murray Email Damien Murray Email Address D Murray Email Address	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No

**Planning History**

Ref ID: LA09/2019/0868/F

Proposal: New laneway 130m West from the junction of Iniscarn Road/Gortahurk road to service the dwelling between 90 & 92 Iniscarn Road. Existing access onto the Iniscarn road to be permanently closed.

Address: New laneway 130m West from the junction of Iniscarn Road/Gortahurk road to the dwelling between 90 & 92 Iniscarn Road.,

Decision:

Decision Date:

Ref ID: LA09/2019/0944/F

Proposal: Infill dwelling and garage between 90 and 92 Inishcarn Road, Desertmartin (retrospective) New access laneway 130m West from the Junction of Inishcarn Road/Gortahurk Road, existing access onto Inishcarn Road to be permanently closed

Address: Between 90 and 92 Inishcarn Road, Desertmartin,

Decision:

Decision Date:

Ref ID: H/2005/0636/O

Proposal: Site of dwelling

Address: Between 90 - 92 Iniscarn Road, Desertmartin

Decision:

Decision Date: 19.10.2005

Ref ID: H/2007/0691/RM

Proposal: Proposed new 2 storey dwelling house and associated landscaping.

Address: Lands situated between 90-92 Iniscarn Road, Moneymore, Magherafelt

Decision:

Decision Date: 23.05.2008

Ref ID: H/2002/0012/O

Proposal: Site of Dwelling

Address: Between 90 &amp; 92 Iniscarn Road, Desertmartin

Decision:

Decision Date: 02.07.2002

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

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
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Status: Submitted

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Drawing No.  
Type:  
Status: Submitted

Drawing No. 04  
Type: Proposed Floor Plans  
Status: Submitted

Drawing No. 03  
Type: Proposed Floor Plans  
Status: Submitted

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

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

Drawing No. 05  
Type: Proposed Elevations  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2020/0234/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage on a farm	<b>Location:</b> 100m West of 63 Iniscarn Road Desertmartin
<b>Applicant Name and Address:</b> Connor Monaghan 63 Iniscarn Road Desertmartin	<b>Agent name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge Magherafelt BT41 3SG
<b>Summary of Consultee Responses:</b>  No objections	
<b>Characteristics of the Site and Area:</b>  The application site is identified as lands approximately 100m west of No 63 Iniscarn Road Desertmartin, which is situated in the open countryside in accordance with the Magherafelt Area Plan 2015. There is a Local Landscape Policy Area: Designation LD02 in proximity to the site. The site forms part of a large grass field as per the red line measuring approx. 0.52 of a hectare and is being proposed new access running parallel with an existing field boundary where it connects to the existing farm lane, which service the main dwelling house No 63 Iniscarn Road. The topography within the site is relatively flat with the exception that are slight variations throughout the field. Although the site and surrounding area is relatively open. There is a mature tree line on the southern boundary which defines the site boundary with another farm lane not in the control of the applicant. Both the eastern and western boundaries are undefined; the northern boundary is defined by hedgerow which runs parallel with the lane that leads to No 63; and southern boundary is defined by a line of mature trees.	

The surrounding area are predominately agricultural land uses with a scattering of residential dwellings.

### Description of Proposal

The applicant is seeking outline planning permission for a dwelling and garage based on a farm approximately 100m south of No 63 Iniscarn Road Desertmartin.



### Deferred Consideration:

The application was presented to Planning Committee in April 2021 for the following reasons;

1. The proposal is contrary to the SPPS and Policy CTY 1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it does not merit being considered an exceptional case in that insufficient information has been provided to demonstrate that no dwellings or development opportunities have been sold off from the farm holding within 10years of the date of the application.
2. The proposal is contrary to Policy CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that insufficient information has been provided to demonstrate the site is visually linked or sited to cluster with an established group of building on the farm.

Subsequently the application was deferred for a virtual office meeting with the Area Planning Manager which was held on 22 April 2021.

Farm maps have now been submitted and a detailed history check shows nothing has been sold off, therefore it now meets this part of the criteria of CTY10, overcoming refusal reason one.

A site visit was carried out to assess the visual linkage of the site with the existing farm house and garage at No. 63 Iniscarn Road. It has been confirmed there are no other farm buildings on the land and this grouping is accepted as an established 'group of buildings'. The farm house and garage located at No.63 can be visually linked with the site from the main road and at the access, and in my opinion a dwelling with a 7m ridge would be acceptable here.

The site itself is tucked into the corner of a larger roadside agricultural field. There is strong vegetation of mature trees along the southern boundary and the eastern boundary is defined by hedgerows with a few trees located further along it. The northern and western boundaries are currently undefined. In terms of CTY13 I am content a 7m dwelling would integrate well and in terms of CTY14 there are no issues with build-up or that any detrimental change of character to this rural area would occur.

Approval with conditions is recommended including a detailed landscaping scheme.

The Mid Ulster District Council Local Development Plan 2030. Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020. In light of this the draft plan cannot currently be given any determining weight.

### **Conditions;**

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

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

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

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



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

3. Full particulars, detailed plans and sections of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to the Council and shall be carried out as approved.

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

4. A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the attached form RS1.

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

5. A landscaping scheme shall be submitted simultaneously with the detailed drawings for the development, hereby approved, at the Reserved Matters stage. Any trees or shrubs which may be damaged or die within a period of 5 years from the date of planting shall be replaced by plants of similar species and size at the time of their removal. All landscaping shall take place within the first available planting season after the Commencement of the development.

Reason: In the interests of visual amenity.

6. The proposed dwelling shall have a ridge height of less than 7 metres above finished floor level.

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21.

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

Reason: In the interest of visual amenity.

**Signature(s):**

**Date**



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

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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0234/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage on a farm	<b>Location:</b> 100m West of 63 Iniscarn Road Desertmartin
<b>Referral Route:</b>  Proposal fails to comply with criteria c contained within policy CTY 10, CTY13 and CTY 14 of PPS 21. No third party representation received and all other considerations have been taken into consideration.	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Connor Monaghan 63 Iniscarn Road Desertmartin	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge Magherafelt BT41 3SG
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

For April comm

22 / 2 / 21

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	DAERA - Coleraine	Substantive Response Received
Statutory	Historic Environment Division (HED)	Content

### Representations:

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

### Summary of Issues

No third party representations received and all other material considerations have been taken into consideration.



### Characteristics of the Site and Area

The application site is identified as lands approximately 100m west of No 63 Iniscarn Road Desertmartin, which is situated in the open countryside in accordance with the Magherafelt Area Plan 2015. There is a Local Landscape Policy Area: Designation LD02 in proximity to the site. The site forms part of a large grass field as per the red line measuring approx. 0.52 of a hectare and is being proposed new access running parallel with an existing field boundary where it connects to the existing farm lane, which service the main dwelling house No 63 Iniscarn Road. The topography within the site is relatively flat with the exception that are slight variations throughout the field. Although the site and surrounding area is relatively open. There is a mature tree line on the southern boundary which defines the site boundary with another farm lane not in the control of the applicant.

Both the eastern and western boundaries are undefined; The northern boundary is defined by hedgerow which runs parallel with the existing lane that leads to No 63; southern boundary is defined by a line of mature trees.

The surrounding area are predominately agricultural land uses with a scattering of residential dwellings.

### Description of Proposal

The applicant is seeking outline planning permission for a dwelling and garage based on a farm approximately 100m south of No 63 Iniscarn Road Desertmartin.

No details surrounding design or landscaping associated with the proposal have been submitted with this application which relates to outline planning consent only. The proposal involves alterations to an existing lane that accesses.

All planning application forms, drawings, letters etc. relating to this planning application are available to view on [www.planningni.gov.uk](http://www.planningni.gov.uk)

### Relevant planning history

Planning Ref:	Site Address	Proposal	Decision	Decision Date
H/2002/0906/O	Dwelling and Garage	140m South of 63 Iniscarn Road, Desertmartin	PG	16.02.2020
H/2005/0922/O	Dwelling and Garage	140m South of 63 Iniscarn Road, Desertmartin	PG	28.02.2020
H/2007/1005/RM	Proposed 2 storey dwelling and detached double garage	140m South of 63 Iniscarn Road, Desertmartin	PG	16..02.2020

### Representations.

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. At the time of writing no objections or representations were received. This



application was initially advertised in the local press on w/c 2 March 2020 (publication date 3rd March 2020). Four (4) neighbouring properties were notified on 24th February 2020; all processes were in accordance with the Development Management Practice Note 14 (April 2015).

**EIA Determination.** The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015; the proposal has been considered and does not fit within any categories or threshold identified in Schedule 2 of Environment Impact Assessment.

**HRA Determination** – (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2015, under the Habitats Regulations is not required for this proposal. There are no waterways directly abutting this site and there are no trees or landscape features which will be impacted by this proposal. Therefore, it is unlikely that this proposal will adversely affect a priority species or their habitat which is afforded protection.

**The Mid Ulster District Council Local Development Plan 2030.** Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020. In light of this the draft plan cannot currently be given any determining weight.

### **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 21: Sustainable Development in the Countryside

PPS 3: Access, Movement and Parking

Supplementary Planning Guidance: Building on Tradition: A Rural Design Guide for N Ireland.

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

Magherafelt Area Plan 2015 the site is located in the rural countryside outside any designated settlement. The site lies close to a Local Landscape Policy Area.

The Strategic Planning Policy Statement for Northern Ireland advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained. The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside is the overarching policy for development in the countryside. PPS 21 outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside



subject to certain criteria. These are listed in Policy CTY1 of PPS21. It is my assessment the current proposal falls under one of these instances, the development of a dwelling on a farm in accordance with Policy CTY10 Dwellings on Farms.

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

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

With respect to (a) the applicant has provided a farm business ID owned by Mr Kevin Monaghan. DAERA have in their initial response confirmed the business ID has been in existence for more than 6 years, however advised that the farm business is associated with another farm business. The agent has submitted additional information to accompany the application which include invoices for hedge trimming, silage and bailing on the site from the period of June 2014 to November 2019.

With respect to (b) the agent has advised that the applicant has been unable to obtain farm maps from DAERA however submitted 2 field survey maps. I contacted the agent by email requesting the relevant farm maps however to date I have received no response. The agent submitted farm maps which show the applicant's farm holding from the maps I was able to identify field no 9-1 is the location of the site. The Maps also indicate the applicant has other farmland. I have asked the agent to provide me with further information relating to these lands. With respect to (c), the proposal is not located in proximity to established farm buildings. That said, the proposed site is located adjacent to the existing dwelling of No.63 and garage, which is the only buildings on this holding.

As stated previously, I have contacted the agent to obtain further information as to other lands under his ownership, which to date have not been received. In the absence of the relevant farm maps or clarification from the agent that there are no other farm buildings on the farm holding, it cannot be demonstrated the proposal meets the requirements of this criterion of policy. 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 or that no dwellings or development opportunities out with the settlement limits have been sold off from the farm holding within 10 years of the date of this application.

With regards to criterion c, the proposed development is not sited to be visually linked or to cluster with an established group of farm buildings. The application site is located approximately 100m west of No 63 Iniscarn Road, which appears to be the only building on the applicant's land. No 63 is the main farm dwelling which is accessed by a lane onto the Iniscarn road. The area surrounding the application site is generally flat in nature with very little in terms of discernible difference in elevation.

The agent has been requested to provide justification regarding the proposed site and why no other fields within the applicant's holding (as shown in Figure 1 below) could be considered. To date no response has been received from the agent despite further reminders.





**Figure 1.**

Health and safety reasons were also raised about siting another dwelling close to the main farm dwelling. Following group discussions, it was determined insufficient reasoning was provided to support the application site and the agent was asked if they could provide further information. Following a further group discussion it was determined that although the applicant has stated he plan to expand, there was not enough evidence to support this. For this reason, the applicant fails to meet criteria c of policy CTY10.

Policy CTY 13 stipulates that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been provided however the proposed site is bounded to the south by a mature tree line and low level vegetation on the north east; post and wire fencing and sporadic vegetation on the east boundary; and existing hedgerow, which provides natural screening from the public road running parallel with the Iniscarn Road. If a valid application was to be granted, I am content that a modest dwelling with a ridge height of 7m could be accommodated which will not be a prominent feature in the landscape given the site's setback from the public road and topography of the surrounding area. The views from the public road or any other neighbouring properties would not be adversely impacted upon. I am content the proposal complies with the Policy Criteria of CTY 13.

In terms of CTY 14, which stipulates that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content the proposal would not be a prominent feature in the landscape, it would not result in a sub-urban style build-up of development and it would not create or add to a ribbon of development.

Access. Planning Policy Statement 3 (PPS 3 Revised Feb 2005) Access, Movement and Parking  
The application proposes to make alterations to an existent access to a public road. The location plan no 01 stamp date 1802/2020 proposes a new access from the site connecting to the existent lane. DFI Roads were consulted and responded on this application and have confirmed that they have no objection to the proposal put forward. With this in mind I consider the proposed access arrangements to be acceptable and in accordance with the provisions of PPS.

There are no flooding or residential amenity concerns.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

The proposal is recommended for refusal, as it does not comply with CTY10 of Planning Policy Statement 21.

**Reasons for Refusal:**

1. The proposal is contrary to the Strategic Planning Policy Statement and 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 insufficient information has been provided to demonstrate that no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.
2. The proposal is contrary to the Strategic Planning Policy Statement and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it insufficient information has been provided to demonstrate visually linked or sited to cluster with an established group of buildings on the farm.

**Signature(s)**

**Date:**



<b>ANNEX</b>	
<b>Date Valid</b>	18th February 2020
<b>Date First Advertised</b>	3rd March 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 61 Iniscarn Road Desertmartin Londonderry The Owner/Occupier, 61b Iniscarn Road Desertmartin The Owner/Occupier, 65 Iniscarn Road, Desertmartin, Londonderry, BT45 5NG The Owner/Occupier, 66 Iniscarn Road Desertmartin Londonderry	
<b>Date of Last Neighbour Notification</b>	24th February 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: H/2008/0630/F Proposal: Retrospective change of access position to previously approved dwelling under H/2007/1005/RM (to avoid removal of existing mature trees) Address: Site 140m South of No. 63 Iniscarn Road, Desertmartin, Magherafelt Decision: Decision Date: 15.12.2008  Ref ID: LA09/2020/0234/O Proposal: Proposed dwelling and garage on a farm Address: 100m West of 63 Iniscarn Road, Desertmartin, Decision: Decision Date:  Ref ID: H/2007/1005/RM Proposal: Proposed 2 storey dwelling and detached double garage Address: 140m South of 63 Iniscarn Road, Desertmartin, Magherafelt Decision: Decision Date: 20.02.2008  Ref ID: H/2004/0095/O	

Proposal: Site of dwelling and garage.  
 Address: Opposite 66 Inniscarn Road, Desertmartin.  
 Decision:  
 Decision Date:

Ref ID: H/1991/6115  
 Proposal: SITE OF BUNGALOW INISCARN ROAD/LONGFIELD ROAD  
 MAGHERAFELT  
 Address: INISCARN ROAD/LONGFIELD ROAD  
 Decision:  
 Decision Date:

Ref ID: H/2009/0049/RM  
 Proposal: Proposed dwelling and garage.  
 Address: Opposite 66 Iniscarn Road, Desertmartin.  
 Decision:  
 Decision Date: 29.05.2009

Ref ID: H/1999/0152  
 Proposal: PROPOSED RENOVATIONS AND EXTENSION TO DWELLING  
 Address: 63 INNISCARN ROAD MONEYMORE  
 Decision:  
 Decision Date:

Ref ID: H/2005/0922/O  
 Proposal: Site of Dwelling (2 storey) and Domestic Garage (Renewal of Outline Planning Application H/2002/0906  
 Address: 140m S of 63 Iniscarn Road, Desertmartin, Magherafelt  
 Decision:  
 Decision Date: 10.03.2006

Ref ID: H/2002/0906/O  
 Proposal: Site of Dwelling & Garage  
 Address: 140m South of 63 Iniscarn Road, Desertmartin  
 Decision:  
 Decision Date: 19.11.2002

### **Summary of Consultee Responses**

Content

### **Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

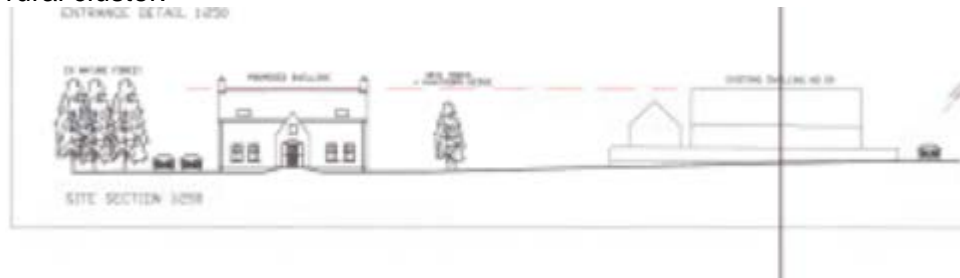
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2020/1548/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed dwelling & garage.	<b>Location:</b> 40m NE of 59 Ferry Road Coalisland BT71 4QU.
<b>Applicant Name and Address:</b> Mr Patrick McNiece 59 Ferry Road Coalisland BT71 4QU	<b>Agent name and Address:</b>
<b>Summary of Issues:</b> Outline planning permission was granted with conditions, the proposed application does not meet all the conditions. A revised scheme has been received to closer align with the previous approval.	
<b>Summary of Consultee Responses:</b> DFI Roads were consulted and have not raised any concerns with the proposal, suggesting conditions that the access must be provided before works commence.	
<b>Characteristics of the Site and Area:</b> The site is located in the rural countryside and is 4.98km east of the settlement limit of Annaghmore as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding context appears rural, characterised predominantly by sprawling agricultural fields, farm complexes and dispersed single dwellings.  The application site is located along a laneway with a number of detached dwellings on either side of the public road. The site has a roadside frontage along the public road and will access from the existing laneway. The site is a square shaped agricultural field with a flat topography. There are established trees along the eastern boundary and a small gorse hedgerow along the boundary with the public road. Along the western boundary with the laneway is a post and wire fence.	

### Description of Proposal

The application is for a site for the erection of a chalet style dwelling and detached garage, within a rural cluster.



### Deferred Consideration:

Members are advised this application was deferred at the Planning Committee in March 2021 and a virtual meeting was held with the Planning Manager on 11 March 2021 to discuss the design and siting of the dwelling and garage as it was indicated the siting of the proposal did not meet the conditions of the outline approval on the site and as such did not meet the approval as agreed under LA09/2019/0633/O. That permission was granted without development meeting all the criteria in CTY2A but keeping it closely aligned with the existing development the north and west.

Members are advised that outline planning permission exists on this site and the applicant could be requested to meet all the conditions that were previously attached. At the office meeting it was explained there were issues with obtaining finance for a dwelling close to the existing agricultural building beside the applicant's mothers house and the laneway to the north is not adopted by DFI Roads. The MLA for the area advised there had been efforts to upgrade the lane to get it adopted but that it was proving much too costly for the occupants along the lane and that no houses off the lane were able to be financed. This is not a planning matter, though it does explain why the access is proposed off the Ferry Road and not off the lane. Policy CTY2a Dwellings in clusters does not make any reference to accesses or where they should be located, it is more concerned with buildings and ensuring they appear as distinct groups. Following the meeting the applicant provided amended plans with the garage located to the rear of the dwelling, the dwelling moved further back on the site, access off a lane along the southwest boundary of the site and the field to the front to be retained as agricultural use. The images below show the original scheme on the left and the revised proposal on the right.





These amended plans now show the development much more contained and more closely aligned with the existing group of buildings around it. I consider the proposal now is more respective of the original approval and I recommend it is approved with conditions to ensure that access is provided, landscaping is carried out and that it is understood this is in substitution for the original approval on the site and is not for an additional dwelling.

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22<sup>nd</sup> 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 24<sup>th</sup> September 2020. All valid representations received have been subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

#### **Conditions:**

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.  
Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.
2. The vehicular access, including visibility splays of 2.4m x 70.0m and any forward sight distance, shall be provided in accordance with Drawing No. 02B bearing the date stamp 12 APR 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.

3. 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.
4. All hard and soft landscape works shall be carried out in accordance with the details as approved on drawing No 02B bearing the stamp dated 12 APR 2021 and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any part of the dwelling. Any tree or shrub that dies within 5 years of planting shall be replaced with a tree or shrub of a similar size and species.  
REASON: In the interests of visual amenity and to ensure the development integrates into the surroundings.
5. One dwelling only shall be constructed within the area of the site outlined in red on the approved drawing no 01 received 18 October 2012.  
Reason: To control the number of dwelling on the site as this permission is in substitution for planning approval LA09/2019/0633/O and is not for an additional dwelling on the site.
6. The curtilage of the dwelling hereby approved shall not extend beyond the area identified in yellow on drawing no 02B bearing the stamp dated 12-APR-2021.  
Reason: In the interests of visual amenity.

**Signature(s):**

**Date**



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1548/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling & garage.	<b>Location:</b> 40m NE of 59 Ferry Road Coalisland BT71 4QU.
<b>Referral Route:</b> Contrary to policy	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Patrick McNeice 59 Ferry Road Coalisland Dungannon BT71 4QU	<b>Agent Name and Address:</b>
<b>Executive Summary:</b>	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

None

### Characteristics of the Site and Area

The site is located in the open countryside just a short distance to the south west of Lough Neagh, and to the North of the settlement of Maghera. The M1 motorway junction at Tamnamore is approx. 2 km to the South West. The site lies out all other areas of constraint as depicted by the Dungannon and south Tyrone area plan 2010.



The surrounding context appears rural, characterised predominantly by sprawling agricultural fields, farm complexes and dispersed single dwellings.

The application site is located along a laneway with a number of detached dwellings on either side of the public road. The site has a roadside frontage along the public road and will not access from the existing laneway. The site is a rectangular shaped agricultural field with a flat topography. There are established trees along the eastern boundary and a small gorse hedgerow along the boundary with the public road. Along the western boundary with the laneway is a post and wire fence.

### Description of Proposal

This is a full application for a proposed dwelling and garage based on policy CTY 2a ? dwellings in a cluster.

### Planning Assessment of Policy and Other Material Considerations

#### Planning History

There is a current outline approval for a dwelling on this site. Through planning application LA09/2019/0663/O, approval was gained for a dwelling at a cluster. However, a number of conditions were imposed, including, 5metre ridge height, a siting condition shaded blue (below), and with the use of the existing access.



### Consultees

DFI Roads were consulted and responded with no objections subject to conditions.

Northern Ireland Water were consulted as this proposal is for a new dwelling. NI Water replied with no objections.

### Representations

At the time of writing no representations have been received.

### Mid Ulster Development Plan 2030 ? Draft Plan Strategy

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this, the Draft Plan cannot be given any determining weight at this time.

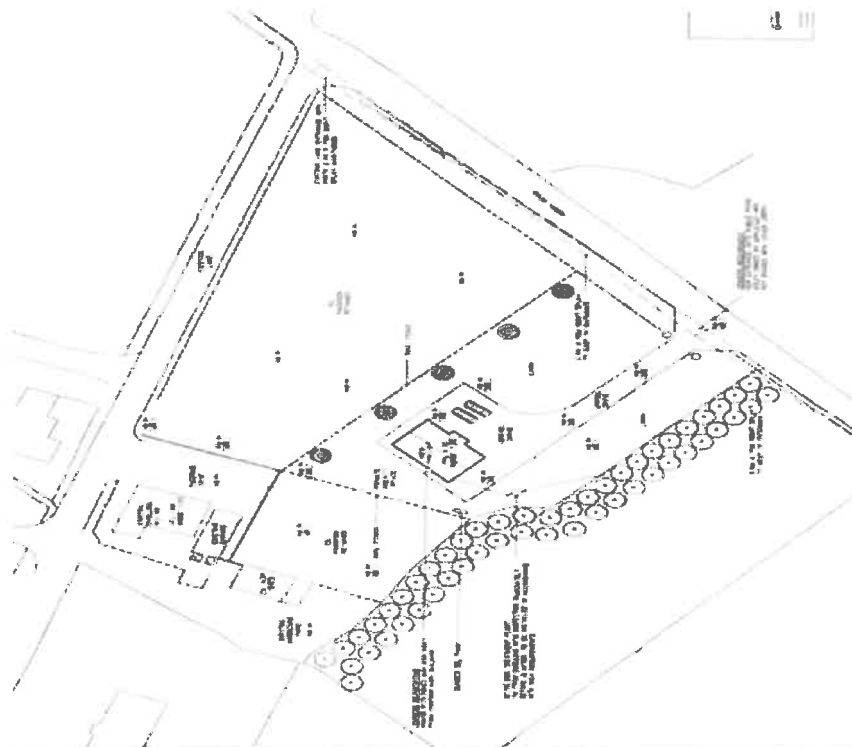
### Dungannon and South Tyrone Area Plan 2010:

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 Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

### Planning Policy Statement 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 this instance, the application is for a new dwelling in an existing cluster and as a result, the development must be considered under CTY 2a of PPS 21.



**Policy CTY 2a - New Dwellings in Existing Clusters**

I am content the proposal (as it is the same red line as LA09/2019/0633/O) sits within a cluster of development outside of a farm and consists of four or more buildings of which at least three are dwellings. There are dwellings at No. 57, No.59, No. 61 and No. 61a. I consider the cluster appears as a visual entity in the landscape. The dwellings are all located in close proximity to each other and when travelling either direction along Ferry Road, visually read as a cluster of development. It was also accepted that there is no focal point here, however, the previous approval was granted as an exception to policy in that it this was the only criteria it failed on and it met all the other points

However, in the existing approval the siting restriction was placed in order for a proposed dwelling to fulfil the criteria of policy CTY2A, in that in this position it would have development on 2 sides. Therefore, the current proposal now fails this policy CTY2a on two criteria, as it doesn't have development on both side and there is no focal point.

Other elements which remain to be considered are the siting and design of the proposal.

I do not consider the proposal, with the dwelling positioned at this area within the site can easily be absorbed into the existing cluster. This was also the opinion at outline stage, and resulted in a siting condition to the rear of the site alongside the existing buildings, in order to minimise the impact of the dwelling on the existing character of the cluster and the surrounding area. It is my opinion that the siting condition alongside the existing dwelling was justified. The current proposal seeks to move the proposed dwelling and curtilage approx. 35 metres further forward outside of the siting condition and closer to the road. I do consider the proposed dwelling at this position will significantly alter the existing character of the cluster and visually intrude into the open countryside.

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

The proposed development must also comply with policies CTY 13 and 14, in that CTY 13 states that the proposed development is able to visually integrate into the surrounding landscape and be of appropriate design.



The outline approval on the site conditioned the dwelling to be 5 metre maximum, the proposal is for a 7 metre ridge height and it is my opinion that a dwelling of this size in the proposed position away from the cluster and closer to the roadside will be a prominent feature in the landscape. There are critical views in the northwest direction as the site is open here due to a lack of vegetation.

With the previous positioning the dwelling and buildings at No. 59 would have provided a backdrop for the proposal and a degree of enclosure, whereas the new positioning will struggle to integrate and would rely primarily on the use of new landscaping for integration.

The current proposal also fails to use the existing access along the laneway at the junction with Ferry Road but rather proposes to create a new access in the west corner of the site. This will involve the creation of sight splays and therefore the removal of roadside boundary and will further decrease the level of integration with the site and surrounding area.

The proposal is contrary to PPS 21 - Policy 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 positioning of the proposed dwelling within the site will in my opinion be a prominent feature in the landscape. In addition I am of the opinion that the site cannot accommodate a dwelling with a 7 metre ridge height which would not respect the scale and form of other dwellings within the local area, especially seeing as the development in the surrounding area is single storey.

Finally, it is my opinion that the creation of a new access will damage the rural character of the immediate area.

The proposal is contrary to PPS 21 - Policy CTY 14 in that the proposal will be out of character with the area.

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

Planning Policy Statement 3 Access, Movement and Parking

- Policy AMP 2 Access to Public Roads

Department for Infrastructure Roads (DFI Roads) were consulted and had no objections subject to conditions.

I have no ecological, built heritage, flooding or residential amenity concerns.

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

The proposal is recommended for refusal, as it does not meet the policy in CTY2a and Policy 13 or CTY14 in Planning Policy Statement 21 - Sustainable Development in the Countryside.

**Neighbour Notification Checked**

**Yes**

#### **Refusal Reasons**

1 – ctY 2a

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the dwelling would if permitted, significantly alter the existing character of the cluster and visually intrude into the open countryside.

2 – ctY13



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

3 – ctY14

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the (building) would, if permitted, be unduly prominent in the landscape and would therefore result in a detrimental change to (further erode) the rural character of the countryside.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	4th December 2020
<b>Date First Advertised</b>	15th December 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b> The Owner/Occupier, 57 Ferry Road, Coalisland, Tyrone, BT71 4QU The Owner/Occupier, 57a ,Ferry Road, Coalisland, Tyrone, BT71 4QU The Owner/Occupier, 59 Ferry Road, Coalisland, Tyrone, BT71 4QU The Owner/Occupier, 60 Ferry Road Coalisland Tyrone The Owner/Occupier, 61 Ferry Road Coalisland Tyrone The Owner/Occupier, 61 Ferry Road, Coalisland, Tyrone, BT71 4QU The Owner/Occupier, 61a ,Ferry Road, Coalisland, Tyrone, BT71 4QU The Owner/Occupier, 62 Ferry Road, Coalisland, Tyrone, BT71 4QU The Owner/Occupier, 63 Ferry Road Coalisland Tyrone	
<b>Date of Last Neighbour Notification</b>	14th January 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2019/1175/PAD Proposal: Temporary peat extraction and bog restoration works. Address: Lands to the NE and SW of Ferry Road (loughshore area), Coalisland, BT71 4QU., Decision: Decision Date:  Ref ID: LA09/2020/1548/F Proposal: Proposed dwelling & garage. Address: 40m NE of 59 Ferry Road, Coalisland, BT71 4QU., Decision: Decision Date:	

Ref ID: LA09/2018/0275/F

Proposal: Change of house type to previously approved M/2010/0756/F

Address: Lands adjacent to 62 Ferry Road, Coalisland,

Decision: PG

Decision Date: 22.06.2018

Ref ID: LA09/2019/0633/O

Proposal: Proposed site for a dwelling and garage. Based on Policy CTY 2a (cluster). (amended access)

Address: 25m North-East of No 59 Ferry Road, Coalisland BT71 4QU.,

Decision: PG

Decision Date: 22.09.2020

Ref ID: M/2008/0780/RM

Proposal: Proposed dwelling & domestic garage

Address: Lands adjacent to 62 Ferry Road, Coalisland

Decision:

Decision Date: 17.10.2008

Ref ID: M/2010/0756/F

Proposal: Proposed amendment to previously approved plans M/2008/0780/RM to provide a change of House Type and Garage to that previously approved

Address: Lands Adjacent to 62 Ferry Road, Coalisland

Decision:

Decision Date: 19.11.2010

Ref ID: M/2005/0521/O

Proposal: dwelling and domestic garage

Address: Lands Adj to 62 Ferry Road

Decision:

Decision Date: 21.06.2005

Ref ID: M/2008/0110/F

Proposal: Site for dwelling and domestic garage without compliance of 6.5m ridge height condition on planning approval M/2005/0521/O to allow for a ridge height of 7.5m.

Address: Lands adjacent to 62 Ferry Road, Coalisland

Decision:

Decision Date: 13.06.2008

Ref ID: M/2006/0937

Proposal: Site for dwelling

Address: 65m North East of 59 Ferry Road, Coalisland, Dungannon

Decision:

Decision Date: 26.04.2006

Ref ID: M/1985/0332

Proposal: BUNGALOW

Address: FERRY ROAD, DERRYWHILLEN, DERRYLAUGHAN, COALISLAND

Decision:

Decision Date:

Ref ID: M/2002/0392/RM

Proposal: Erection of dwelling.

Address: Land 120m north of 65 Ferry Road, Derrylaughan, Coalisland.

Decision:

Decision Date: 11.06.2002

Ref ID: M/2000/0620/O

Proposal: Site for dwelling

Address: 120m north of 65 Ferry Road Derrylaughan Coalisland

Decision:

Decision Date: 26.10.2000

Ref ID: M/2002/1143/F

Proposal: Revised house type to previously approved plans, M/2002/0392/RM

Address: 120 Metres North of 65 Ferry Road, Coalisland

Decision:

Decision Date: 30.12.2002

Ref ID: M/1997/0327

Proposal: Proposed dwelling

Address: 30M TO THE REAR OF 61 FERRY ROAD DERRYLAUGHAN COALISLAND

Decision:

Decision Date:

Ref ID: M/1997/0327B

Proposal: Erection of dwelling

Address: APPROX 30M TO THE REAR OF NO 61 FERRY ROAD DERRYLAUGHAN COALISLAND CO TYRONE

Decision:

Decision Date:

Ref ID: M/1980/0318

Proposal: IMPROVEMENTS TO DWELLING

Address: 73 FERRY ROAD, DERRYLAUGHAN, COALISLAND

Decision:

Decision Date:

Ref ID: M/1975/0494

Proposal: 11KV AND MV O/H LINES AND MV SURFCE WIRING

Address: DERRYLOUGHAN, DUNGANNON

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

Drawing No. 03  
Type: Proposed Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:







## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2021/0006/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed roadside hot food sales and ancillary development (farm diversification Scheme)	<b>Location:</b> 100m S.S.E. of Knockaconny House 37 Sandholes Road Cookstown
<b>Applicant Name and Address:</b> IT and RS Mayne 15 Gorticar Road Sandholes	<b>Agent name and Address:</b> Les Ross Planning 9a Clare Lane Cookstown BT80 8RJ
<b><u>Characteristics of the Site and Area:</u></b> <p>The site is located in the rural countryside outside any settlement limits as depicted within the Cookstown Area Plan 2010. The site is located approx. 1km southwest of the settlement limits of Cookstown. Ballyreigh Business Park and Lafarge Cement are located in close proximity to the north. The site comprises a roadside rectangular field which appears to be currently used for agricultural purposes. Located to the northwest of the application site is a large farm holding comprising a number of farm sheds as well as 2no. existing, detached dwellings. The land inclines gently from east to west from the public road.</p> <p>The proposed development comprises a portion of the southeast corner of the field with a hardcore laneway proposed to run across the field. The application seeks to utilise two existing accesses in what appears to be a one way system, an existing agricultural laneway to the south to gain access only to the proposed development and the existing access to the farm holding and No. 37 which will provide an exit. There is a large grass verge and the roadside boundary is currently a mix of ranch fencing and established hedging. The northern boundary is defined by white fencing and the eastern and southern boundaries of the field are currently defined by established vegetation. The surrounding area is rural in nature with the predominant land use in the immediate locality being</p>	

agricultural fields and dispersed dwellings, with industrial uses also in the proximity to the north.

**Proposal:**

Proposed roadside hot food sales and ancillary development (farm diversification Scheme)

**Deferred Consideration:**

This application was presented as a refusal to Planning Committee in April 2021 as being contrary to policy CTY11, CTY13, CTY14 of PPS21, and subsequently was deferred for a virtual office meeting with the Area Planning Manager held on 22 April 2021.

In terms of CTY11, permission will be granted for a farm diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm.

The agent forwarded a supporting statement on 5 May 2021. The applicant currently operates a roadside hot food premises on Annagh Road and has been there for significant period of time. There is a current enforcement case on it at this location. Two years ago the applicant purchased the business from the previous owner, with the intention of using more local produce in connection with the established farm business run from 37 Sandholes Road, Cookstown. The current proposal is to create a roadside facility at the end of the farm lane with produce from the farm being used to make takeaway food that can be eaten in the customers own vehicle.

The applicant is a full time farmer and this hot food business will be an extension of his farm business and the food for the hot food unit will be sourced and collected from the applicant's farm and other local farms and producers.

The proposed siting allows the unit to be physically linked with the existing farm grouping. The unit is modest in size and the proposed landscaping along with retaining the existing vegetation, will help aid integration on the roadside field and it will not significantly impact on the existing rural character.

Although the nature and design of the proposed unit would not typically be something found in this type of area, the fact it will be temporary in nature will allow its visual impact to be controlled and it will not be a permanent fixture at this location in terms of respecting the rural character.

Permission would be granted for a 3 year period initially, the temporary nature of the proposal would ensure the protection of the amenity of the surrounding countryside and keep and the control and monitor the situation.

The COVID19 pandemic has meant there is a need for open-air facilities without customers having to come into a typical restaurant environment. This means in most lock down scenarios it can remain open where other facilities may be forced to close. It would be a useful resource for nearby keyworkers such as delivery drivers and farmers and staff

from nearby industrial complex. The proposal provides a convenient and valuable resource and COVID situation amplifies the need to provide such a service where choice is needed for all customers.

I acknowledge the case being made although the COVID, although argument in itself is not sufficient in terms of permitting this type of development. No consultations have any issues and no local objections have been received. This would be granted for a temporary period as an exception to planning policy.

On balance, taking into account the prevailing policy and the current exceptional circumstances, an approval with conditions is recommended.

### **Conditions**

1. The permission hereby granted shall be for a limited period of 3 year(s) only from the date of this permission.

Reason: To enable The Council to consider the development in the light of circumstances then prevailing.

2. A plan showing restoration of the site should be submitted 6 months prior to the expiry of the permission.

Reason: To ensure the site is restored in the interests of visual amenity and protection of rural countryside.

3. Existing hedgerow and trees should be retained as indicated on stamped approved plan 01 dated 4 Jan 2021. New planting should be carried out at the next available planting season to augment this eastern roadside boundary.

Reason: To ensure sufficient integration and protect the visual amenity of this rural location.

4. The vehicular access including visibility splays of 4.5 x 120 metres shall be provided in accordance with Drawing No 02 bearing the date stamp 4 January 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.

5. No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 02 bearing date stamp 4 January 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.

**Signature(s):**

**Date**



**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0006/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed roadside hot food sales and ancillary development (farm diversification Scheme)	<b>Location:</b> 100m S.S.E. of Knockaconny House 37 Sandholes Road Cookstown
<b>Referral Route:</b>  Recommended refusal	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> IT and RS Mayne 15 Gorticar Road Sandholes	<b>Agent Name and Address:</b> Les Ross Planning 9a Clare Lane Cookstown BT80 8RJ
<b>Executive Summary:</b> Proposal considered against prevailing planning policy – considered the proposal fails to comply Policy CTY 11, Policy CTY 13 and Policy CTY 14 of PPS21. No letters of representation received.	
<b>Signature(s):</b>	



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

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Characteristics of the Site and Area

The site is located in the rural countryside outside any settlement limits as depicted within the Cookstown Area Plan 2010. The site is located approx. 1km southwest of the settlement limits of Cookstown. Ballyreigh Business Park and Lafarge Cement are located in close proximity to the north. The site comprises a roadside rectangular field which appears to be currently used for agricultural purposes. Located to the northwest of the application site is a large farm holding comprising a number of farm sheds as well as 2no. existing, detached dwellings. The land inclines gently from east to west from the public road. The proposed development comprises a portion of the southeast corner of the field with a hardcore laneway proposed to run across the field. The application seeks to utilise two existing accesses in what appears to be a one way system, an existing agricultural laneway to the south to gain access only to the proposed development and the existing access to the farm holding and No. 37 which will provide an exit. There is a large grass verge and the roadside boundary is currently a mix of ranch fencing and established hedging. The northern boundary is defined by white fencing and the eastern and southern boundaries of the field are currently defined by established vegetation. The



surrounding area is rural in nature with the predominant land use in the immediate locality being agricultural fields and dispersed dwellings, with industrial uses also in the proximity to the north.

### **Description of Proposal**

This application seeks full planning permission for a roadside hot food sales located 100m S.S.E. of Knockaconny House, 37 Sandholes Road, Cookstown.

The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 11 Farm Diversification.

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

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

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

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

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

### **Representations**

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

### **Relevant Planning History**

LA09/2020/0063/CA - Alleged unauthorised siting of a metal container used in association with unauthorised catering business, unauthorised portaloo and unauthorised creation of hardstanding - Land/Premises Located Approximately 120m North Of 2 Annagh Road, Cookstown – Ongoing Enforcement

LA09/2018/0227/F – New underground gas transmission pipeline (intermediate pressure) approximately 3.5 Km in length both in road and in verge with associated temporary site works, including open cut excavation and horizontal directional drilling for pipe installation - Land along Annagh Road from the junction with Dungannon Road to the junction with Sandholes Road and Sandholes Road from the junction with Annagh Road to its junctions with the Strifehill Road, Cookstown – Application Withdrawn 03/07/18



**Key Policy Considerations/Assessment**

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

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained. The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. The general planning principles with respect to this proposal have been complied with.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. Policy CTY 11 of PPS21 provides an opportunity for farm diversification projects subject to criteria. Policy CTY 11 states “Planning permission will be granted for a farm or forestry diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm. The following criteria will apply:

- a) the farm or forestry business is currently active and established;
- b) in terms of character and scale it is appropriate to its location;
- c) it will not have an adverse impact on the natural or built heritage; and
- d) it will not result in detrimental impact on the amenity of nearby residential dwellings including potential problems arising from noise, smell and pollution.

The planning application was accompanied by a Supporting Statement detailing justification for the proposal and arguing the proposal complies with Policy CTY11 Farm Diversification. The proposed development comprises a modified shipping container which is currently operating at a nearby location without the benefit of planning permission. This unit is currently the subject to enforcement action and this planning application seeks to move the existing unit to the application site. The supporting statement states the hot food facility will be a subsidiary of the main farm business, selling hot food from products from the farm and taking advantage of the proximity to industrial complex to the north. The agent has argued the applicant, Samuel Mayne, is a full-time farmer and the hot food business is a natural extension of this farm business and food for the hot food unit will be sourced and collected from the applicants farm and other local farms and producers. The agent also argues the modest scale and existing and proposed landscaping will restrict public views and will not impact rural character.

Whilst it is accepted the hot food takeaway unit may avail of some produce from the farm holding, the proposal is not a farm shop and following internal group discussions with the Principal Planner the group consensus was that a hot food fast food takeaway style unit is not considered an appropriate natural extension of this farm business and that insufficient information had been provided which demonstrates that the proposal will be run in conjunction with the agricultural operations of the farm. The proposed siting is at the furthest point of the agricultural field from the farm holding with little visual linkage and the unit is currently in operation at a different location, not at this farm holding with the proposed relocation being a result of a current enforcement investigation.

The amplification of Policy CTY11 states:



'This policy aims to promote forms of diversification that are sustainable in the countryside, including suitable tourism or agri-tourism schemes. It is important that the countryside is not spoilt by the unfettered development of urban uses. Diversification proposals, therefore, should be of a scale and nature appropriate for the location and be capable of satisfactory integration into the rural landscape'.

I regard the nature of the proposal as not being in accordance with this aim.

DAERA were consulted and have responded confirming the farm business has been in existence for more than 6 years and payments are currently being claimed on the land subject to this application. Therefore, it is accepted the farm business is currently active and established. The proposed building is a modified shipping container finished with dark blue corrugated metal cladding, single storey with a flat roof and a floor area of approximately 33.6 m. The unit is sited approximately 27 metres from the public road. The proposal utilises an existing agricultural laneway for access to the site, with the proposed construction of a 5 metre wide hard-core laneway which extends across the field connecting to the existing farm laneway to form an exit from the proposal site. Paragraph 5.47 states It is important that the countryside is not spoilt by the unfettered development of urban uses. Following group discussions it was considered that the nature and design of the proposal would be more appropriate to an urban context and the proposal is inappropriate to its location in terms of character and scale. Natural Environment and Historical Environment online maps have been reviewed and no natural or built heritage of significance has been identified on or in close proximity to the site in which the proposal would adversely impact. The closest residential unit is No.37 which is located over 100metres northwest of the proposed unit and belongs to a member of the applicant's family. Environmental Health were consulted and have offered no objections or concerns. Therefore, it is considered adequate separation distance exists between the proposed units and residential dwellings to give rise to detrimental impacts on residential amenity.

CTY 11 goes on to state that proposals will only be acceptable where they involve the re-use or adaption of existing farm buildings. Exceptionally, a new building may be permitted where there is no existing building available to accommodate the proposed use, either because they are essential for the maintenance of the existing farm enterprise, are clearly unsuitable for adaption and reuse. The proposal seeks to erect a new building on the proposal site, approximately 85 metres from the nearest farm building. It is noted that there are a number of existing buildings located on the farm complex. It is considered the application fails to meet the requirements of Policy CTY11 as it does not involve the re-use of an established farm building and it has not been demonstrated to meet the exceptions for a new building. The agents supporting letter states all existing sheds are being used for various agricultural activities and it is necessary to position the unit on the roadside to ensure it is convenient to patrons. It is not accepted that the position is necessary for convenience of patrons, there is an established access in place to the existing applicant's farm buildings and the majority of customers would arrive via car given the busy adjacent road network. Following internal group decisions it has been considered adequate information has not been provided to demonstrate a need for the new building and that none of the existing buildings on the farm holding could be re-used or adapted.



Policy CTY 13 - Integration and Design of Buildings in the Countryside states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. It is noted that the proposal site is sited at the lowest level of the field with land rising to the rear which provides a backdrop which will assist with integration. However, as noted previously the proposed development comprises a cut out portion of an existing larger field approximately 85 metres from existing farm buildings. The design of the building is considered inappropriate to the rural context and it is considered the ancillary works to provide the hard-core laneway will not integrate into the surrounding landscape. The proposed unit is located 27 metres from the adjacent public road and therefore the site will be susceptible to public views with some degree of existing hedgerow in place to the roadside boundary. The submitted drawings do not include landscaping details of any proposed additional planting to assist in integrating the proposed building and hard-core laneway across the field. Should Planning Committee consider planning permission should be granted, it is considered necessary to condition the retention of the existing natural vegetation, as well as the planting of natural hedging to define the boundaries surrounding the proposed development. Overall it is considered the proposed development will fail to visually integrate into the surrounding landscape and it is of an inappropriate design, contrary to Policy CTY 13.

Policy CTY 14 – Rural Character 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. It is considered the nature and design of the proposed development is inappropriate to the surrounding landscape and the introduction of a shipping container style hot food unit in cut out portion of this roadside agricultural field will detrimentally impact rural character. It is considered the proposed works do not respect the traditional development pattern in the area and the proposal is contrary to Policy CTY 14.

Planning Policy Statement 3 (PPS 3 Revised Feb 2005) Access, Movement and Parking advises that planning permission will only be granted for a development proposal involving direct access onto a public road where such access will not prejudice road safety or significantly inconvenience the flow of traffic; and the proposal does not conflict with Policy AMP 3 Access to Protected Routes. The application seeks to utilise two existing accesses in what appears to be a one way system, an existing agricultural laneway to the south to gain access only to the proposed development and the existing access to the farm holding and No. 37 which will provide an exit on to Sandholes Road. DfI Roads have been consulted and have no objection subject to standard conditions which should be attached to any forthcoming approval should Planning Committee consider the application to be acceptable and permission should be granted. I am content the proposal meets DfI Roads requirements and therefore does not offend PPS3 Policy AMP2.

#### **Additional considerations**

In addition to checks on the planning portal, the Historic Environment map viewer available online have been checked and identified no built heritage assets interests of significance on site. It was identified the proposal site is located in proximity to Lafarge Cement IPRI Site, therefore NIEA were consulted. NIEA have considered the application and offered no objection however advised that applicant should be aware that they may be subject to occasion loss of amenity due to either dust and odour emissions due to the



close proximity to the regulated facility. Should Planning Committee consider planning approval should be granted, this advise could be attached to any forthcoming approval as an informative. It was noted on the date of the site inspection the presence of a watercourse in proximity to the existing access. SES were informally consulted and have advised that there is no viable hydrological connection to downstream European sites therefore no conceivable impact to any European sites and formal consultation was not required in this instance.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

The proposal is recommended for refusal as it does not comply with CTY11, CTY 13 or CTY 14 of Planning Policy Statement 21.

**Reasons for Refusal:**

1. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to 6.73 of the Strategic Planning Policy Statement for Northern Ireland and CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been sufficiently demonstrated that the proposed development is to be run in conjunction with the agricultural operations on the farm; the character and scale of the development is not appropriate to its location; and it does not involve the re-use or adaptation of existing farm buildings and it has not been demonstrated that there are no other buildings available to accommodate the proposal.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed development would, if permitted, cause a detrimental change to the rural character of the area and fails to respect the traditional pattern of development exhibited in the local area.

**Signature(s)**

**Date:**