



**Development Management Officer Report  
Committee Application**

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1208/O	<b>Target Date:</b>
<b>Proposal:</b> Erection of dwelling & domestic garage on a farm.	<b>Location:</b> Land approx. 55m South of 60 Annaghilla Road Augher Co Tyrone
<b>Referral Route:</b> Refusal – contrary to CTY 10.	
<b>Recommendation:</b>	REFUSAL
<b>Applicant Name and Address:</b> Jeff & Laura Fitzsimmons 6 Aghnagar Road Ballygawley	<b>Agent Name and Address:</b> Bernard Donnelly 30 Lismore Road Ballygawley BT70 2ND
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	DAERA - Omagh	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Rivers Agency	Substantive Response Received
Non Statutory	NIEA	Substantive Response Received

### Representations:

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

### Summary of Issues

The proposal is considered to be contrary to Policy CTY 10 of PPS 21. There were no representations received.

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

The site is located at lands approx. 55m South of 60 Annaghilla Road, Augher. The red line of the site is a rectangular cut out portion of a larger agricultural field. There is a number of fields surrounding the site which are outlined in blue, indicating ownership. There is a number of existing farm buildings located NE of the application site, however views of these from the site are not possible. The site itself is flat throughout and the boundaries appear undefined apart from the roadside boundary which has mature hedging along it. The surrounding area is rural, scattered with single dwellings and their associated outbuildings.

### **Description of Proposal**

Outline planning permission is sought for the erection of dwelling and domestic garage on a farm.

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

#### Planning History

M/2000/1168/F - 50metres south of 60 Annaghilla Road, Ballygawley - Installation of 1No. 20metres high telecommunications mast, 3 No. antennae, 4 No. microwave dishes & 1No. equipment cabin within a 1.8metres high security fenced compound - PERMISSION GRANTED

There was enforcement case relating to lands approx. 75m South Of 60 Annaghilla Road with the alleged unauthorised deposition of materials and raising of ground levels in the area. The case is now closed.

#### Representations

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

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

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

The Dungannon and South Tyrone Plan 2010 identifies the site as being in the rural countryside, NE of Augher. There are no other zonings or designations within the Plan.

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

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

Policy CTY 1 of PPS 21 establishes that planning permission will be granted for a dwelling on a farm where it is in accordance with Policy CTY 10. This establishes the principle of development, a dwelling on a farm, is acceptable, subject to meeting the policy criteria outlined in Policy CTY 10. Policy CTY 10 establishes that all of the following criteria must be met:

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

With respect to (a) the applicant has provided details surrounding their farm business ID and associated mapping. DAERA have confirmed that the business ID has been in existence for more than 6 years. DAERA have also confirmed the applicant has been claiming on the land over the last 6 years. From this information and from the site visit conducted, I am content the farm holding has been active and established for at least 6 years and that the land has been maintained in good agricultural and environmental condition.

With respect to (b) there are no records indicating that any dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of this application. Checks were carried out using the UNIFORM system and no historical applications have been found.

With respect to (c), the new dwelling is not considered to be visually linked with any existing farm buildings on the site and therefore the proposal fails the policy on this criterion. The proposed site is approx. 110m at the closest point to the red line of the site and the farm complex. The topography of the site means that views of the farm buildings are not visible from the site itself and therefore there is no visual linkage. The agent has provided supporting information, justifying their proposed siting. The agent refers to paragraph 5.41 of CTY 8 in PPS 21 states that a dwelling can be approved: *'where the existing group of buildings is well screened, or where a site adjacent to the group is well landscaped, permission can be granted for a dwelling even though the degree of visual linkage between the two is either limited, or virtually non-existent due to the amount of screening vegetation.'* When discussed at our internal group meeting, we did not feel that this extract from the justification and amplification within CTY 10 relates to this

specific site. In this case, we are of the view that screening does not mean the proposal should not be sited beside buildings as there is still appreciable distance between the proposed site and farm buildings. There does appear to be alternative sites which would meet with the policy contained within CTY 10 within blue lands. There are no verifiable plans that the farm business is to be expanded.

CTY 13 and CTY 14 deal with rural character and the integration and design of buildings in the countryside. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. However, we feel that the proposal fails on criterion (g) of CTY 13 where in the case of a proposed dwelling on a farm, it is not visually linked or sited to cluster with an established group of buildings on a farm. There is some degree of hedging along the northern and western boundary but it is low lying and therefore wouldn't provide a suitable degree of enclosure or integration for a dwelling at this site.

The applicant has noted that they intend to utilise the existing access from Annaghilla Road. DfI Roads were consulted and have noted no issues with the proposed access arrangement subject to condition.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

Refusal is recommended.

**Conditions/Reasons for Refusal:**

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked with an established group of buildings on the farm (and access to the dwelling is not obtained from an existing lane. No health and safety reasons exist to justify an alternative site not visually linked with an established group of buildings on the farm and no verifiable plans exist to expand the farm business at the existing building group(s) to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm.
2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and therefore would not visually integrate into the surrounding landscape.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	19th August 2021
<b>Date First Advertised</b>	31st August 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses)	
<b>Date of Last Neighbour Notification</b>	N/A
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>	
<p>Ref ID: LA09/2021/1208/O            Proposal: Erection of dwelling &amp; domestic garage on a farm.            Address: Land approx. 55m South of 60 Annaghilla Road,Augher,Co Tyrone,            Decision:            Decision Date:</p> <p>Ref ID: LA04/2020/1672/F            Proposal: PLEASE IGNORE THIS APPLICATION - THIS APPLICATION WILL BE DELETED - SUBMITTED BY DXC FOR TEST PURPOSES ONLY - PLEASE IGNORE THIS APPLICATION - THIS APPLICATION WILL BE DELETED - SUBMITTED BY DXC FOR TEST PURPOSES ONLY -            Address: PLEASE IGNORE THIS APPLICATION - THIS APPLICATION WILL BE DELETED - SUBMITTED BY DXC FOR TEST PURPOSES ONLY - ,            Decision:            Decision Date:</p> <p>Ref ID: M/2001/0207/F            Proposal: O/H Three Phase Line on Wood Poles            Address: Halftown Road Ballygawley (Townland of Annaghilla)            Decision:            Decision Date: 22.05.2001</p> <p>Ref ID: M/2000/0443/F</p>	

Proposal: Installation of 1 No. new 20m lattice telecommunications tower with 3 no antenna, 4 no radio communication dishes, 1 No. One2One equipment cabin within a 1.8m high palisade security fenced compound.

Address: 50 metres south of No. 60 Annaghilla Road, Ballygawley.

Decision:

Decision Date: 13.06.2000

Ref ID: M/2000/1168/F

Proposal: Installation of 1No. 20metres high telecommunications mast, 3 No. antennae, 4 No. microwave dishes & 1No. equipment cabin within a 1.8metres high security fenced compound.

Address: 50metres south of 60 Annaghilla Road, Ballygawley

Decision:

Decision Date: 26.01.2001

### **Summary of Consultee Responses**

DFI Roads – content

DAERA – confirmed active and established farm business

### **Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

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

Date of Notification to Department:

Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1659/F	<b>Target Date:</b>
<b>Proposal:</b> Part retrospective application for existing storage unit and proposed storage unit.	<b>Location:</b> 40m SW of 68 Airfield Road Toomebridge.
<b>Referral Route:</b> <ul style="list-style-type: none"> <li>• Recommended refusal</li> <li>• 1no. Objection</li> </ul>	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Spraytec 68 Airfield Road Toomebridge	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge
<b>Executive Summary:</b> Proposal considered against prevailing planning policy – considered the proposal fails to comply with Policy PED9 Criterion (d) of PPS4 and Policy FLD1 of PPS 15. One letter of representation has been received which is considered below.	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	Rivers Agency	Advice
Non Statutory	Environmental Health MUDC	Substantive Response
Statutory	Rivers Agency	Advice

### Representations:

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

### Characteristics of the Site and Area

The application site is located in the open countryside as defined by the Magherafelt Area Plan 2015. The settlement development limits of Creagh is approximately 0.5 miles north of the site. The site comprises a portion of an agricultural field, an area of hardstanding and an existing industrial shed being used for the spray paint finish of joinery products by the established business on site "Spraytec". The surrounding area is characterised by a relatively flat landscape. The site seeks to utilise the existing access to the public road which is also used by the dwelling of No.64, 66 and 68 which are sited immediately north of the application site. Given the nature of the application site which is a cut out portion of a larger agricultural field, the southern boundary of the site are currently undefined. The predominant land use is of an industrial nature to the south and east and agricultural use to the west.

### Description of Proposal

This is a full planning application seeking permission for a proposed shed, as well as retrospective planning permission for an existing storage unit located at 68 Airfield Road, Toomebridge.

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

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Magherafelt Area Plan 2015

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 4: Planning and Economic Development

Planning Policy Statement 15: Planning and Flood Risk

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

### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing 1no. Objection letters had been received. The concerns detailed in the objection letters are outlined and considered below.

- The objector states the retrospective existing storage unit will have no impact on the current situation therefore he has no issue. However, he has concerns with increased traffic passing his home from the proposed storage unit stating the small shared access lane was not designed for large amounts of traffic and is just about holding up with the current traffic volume. He advises that should an alternative access be proposed there would be no concern about the proposed new unit.

DFI Roads were consulted on this application and have raised no concerns with the proposed access arrangements via the shared access lane. It is noted that the proposed use of the sheds are for storage and the P1 Form states there will be an increase of 7 vehicles to the site as a result of this proposal. It is not considered this increase in traffic would unduly impact amenity to warrant refusal. Any forthcoming approval will be conditioned to be for storage use only to protect against an inappropriate change of use and a condition will be attached restricting commercial vehicles accessing the development site prior to 07:00 hours or post 19:00 hours as recommended by

Environmental Health which would assist in protecting residential amenity from the increased traffic to and from the site.

### **History on Site**

LA09/2020/1351/LDE - Spray paint finish of joinery products - 68 Airfield Road, Toomebridge – Permitted Development

LA09/2016/0600/F – Proposed replacement of single semi-detached dwelling to detached dwelling - Lands to rear of 62b Airfield Road, Toome – Permission Granted 23/08/16

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

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

The Strategic Planning Policy Statement for Northern Ireland – The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within retained policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. SPPS advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

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

The light industrial use on site has been established through the previous granted CLUD application LA09/2020/1351/LDE for a large industrial building for spray paint finish to joinery products. The proposal is for the extension of an established economic use in the countryside therefore PED3 of PPS4 applies.

PPS4 - Policy PED 3 Expansion of an Established Economic Development Use in the Countryside states permission will be granted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of enterprise. In exceptional circumstances a major expansion will be granted where it is demonstrated that;

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

The application seeks permission for two storage sheds with a total floor space of approx. 1215m<sup>2</sup>. Whilst this is a large increase of floorspace; the extension to the site area does not represent a major expansion. The proposal is partially retrospective and the existing shed subject to this application and the proposed shed adjoin the established

industrial unit. It is considered the siting of the new building consolidates and integrates with the existing built form on site. The shed has a proposed ridge height of approximately 6.5m and the finishes are typical of this type of development with render and black cladding walls and kingspan roof to a similar design and scale of the existing building on site. The proposal site is located in the rural countryside, however set back from the public road and in close proximity to a large established industrial area. Given the existing landscape and scale and siting of the proposal, I do not consider the proposal will harm the rural character or appearance of the local area.

As well as the policy requirements of Policy PED 3, it is also necessary for the proposed development to comply with Policy PED 9.

Policy PED9: General Criteria for all Economic Development lists 13 criteria proposals should meet;

*a) the proposal is compatible with surrounding land use;*

An industrial business is established on this site. The proposed expansion for storage use is considered acceptable and compatible for this site and locality.

*b) it does not harm the amenities of nearby residents;*

Environmental Health have not raised any objections with respect detrimental impact on nearby neighbours subject to conditions and infromatives. The proposal is for storage use only and will be conditioned as such should approval be forthcoming therefore I do not consider there will be any significant harm to residential amenity.

*c) it does not adversely affect features of the natural or built heritage;*

No features of natural or built heritage have been identified which would be adversely affected by the proposed development.

*d) it is not located in an area at flood risk and will not cause or exacerbate flooding;*

The site is partially located in an area at flood risk and it is not been adequately demonstrated the proposal will not cause of exacerbate flooding therefore the proposal fails to meet this criterion.

*e) it does not create a noise nuisance;*

As stated previously, Environmental Health have raised no concerns of potential noise nuisance to nearby residents. It is not considered that the proposal will significantly increase the existing noise within the locality and therefore will not create a noise nuisance to nearby residents.

*f) it is capable of dealing satisfactorily with any emission or effluent;*

Environmental Health have raised no concern that the proposal will not deal satisfactorily with any emission or effluent.

*g) the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified;*

*h) adequate access arrangements, parking and manoeuvring areas are provided;*

- i) a movement pattern is provided that, insofar as possible, supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way and provides adequate and convenient access to public transport;*

DfI Roads were consulted on this application and have responded with no objections. In light of their response, it is considered the proposal complies with PPS3 AMP2. The proposal seeks to use the existing access arrangements. It was noted from the site layout plan and on the date of the site inspection that there is a large area of hardstanding which could be used for the manoeuvring of vehicles and parking has been provided.

- j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;*

The site layout, building design, associated infrastructure and landscape arrangements are acceptable for this site and locality given the existing established business on site. It is considered the building design and associated infrastructure respects the existing built form.

- k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;*

The site layout plan details fencing which will provide adequate enclosure and is considered appropriate boundary treatment given the surrounding industrial landscape. No outside storage is proposed under this application.

- i) is designed to deter crime and promote personal safety; and*

It is the responsibility of the developer to ensure that the proposal is designed to deter crime and promote personal safety. Fencing is proposed to surround the site.

- m) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.*

The proposal will satisfactorily integrate into the countryside as it will read with existing buildings and is in keeping with existing built form.

Planning Policy Statement 15: Planning and Flood Risk (Revised) – Having reviewed the online Flood Maps it was identified that the proposal site appears to lie within the 1 in 100 fluvial flood plain, therefore DfI Rivers were consulted. DfI Rivers responded advising they required a drainage assessment (DA) given the scale of the proposal and any development intended within the 1 in 100 year Fluvial Flood Plain will require Planning Authority to deem the application to be an exception or overriding regional importance before they will appraise a flood risk assessment. Having considered the exceptions provided in Policy FLD1, it was considered that the proposal did not meet any of the exceptions tests and is not of overriding regional importance. This was relayed to the agent and it was advised that we would not therefore be inviting a Flood Risk Assessment (FRA). However, the agent provided DA, as well as a FRA which challenged the accuracy of the strategic flood maps. Rivers Agency were consulted and advised that they accepted the DA however advised since a preliminary drainage design was submitted, the submission of a final DA should be conditioned if planning permission is forthcoming. Rivers Agency reviewed the FRA and advised spot levels show the site to be, for the most part, above the determined 15.38mOD level however the levels

shown are all from the part of the site that has been developed pre planning approval and therefore likely experienced infilling for the concrete yard and storage shed. No levels are shown on the as yet undeveloped part of the site which, according to LiDAR levels taken in 2010, is lower than the adjacent developed land. Rivers Agency have advised this application has involved infilling of the 1 in 100 year fluvial flood plain for the retrospective part and will involve further infilling of the 1 in 100 year fluvial flood plain for the proposed development. Policy FLD 1 of PPS 15 states the following.

*'The following flood protection and management measures proposed as part of the planning application, in order to facilitate development within flood plains, will not be acceptable:*

- *land raising (infilling) to elevate a site above the flood level within the undefended fluvial flood plain.'*

The agent is aware of Rivers Agency response and has provided no further supporting information. Consequently, it is considered the proposal is contrary to Policy FLD 1 of PPS 15.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

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

**Reasons for Refusal:**

1. The proposal is contrary to Planning Policy Statement 4, Planning and Economic Development: Policy PED 9 - General Criteria for Economic Development, in that the proposal is located in an area of flood risk and insufficient information has been provided to demonstrate it will not cause or exacerbate flooding.
2. The proposal is contrary to Planning Policy Statement 15, Planning and Flood Risk: Policy FLD 1, in that the development is within the 1 in 100 year fluvial flood plain and it has not been demonstrated that the proposal constitutes an exception to the policy or is of overriding regional or sub regional economic importance and the proposal requires land raising (infilling) to elevate a site above the flood level within the undefended fluvial flood plain.

**Signature(s)**

**Date:**