



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2019/0784/F	Target Date: 20 th September 2019
Proposal: Proposed farm shed to include feeding & shelter area, storage area and underground slurry tanks - new access to be taken from Drumlamph Lane	Location: Approx 130m South East of 9 Drumlamph Lane Castledawson
Applicant Name and Address: Mr Cathal Shivers 33 Drumlamph Road Castleawson BT45 8EJ	Agent name and Address: CMI Planners Ltd 38b Airfield Road Toomebridge Magherafelt, BT41 3SG
Summary of Issues: <p>The main issue with this application was that insufficient information was submitted in order for the Council to fully consider the impacts of the proposal in line with relevant policy (ie) CTY 12 of PPS 21 – A supporting statement to demonstrate that the shed was necessary for the efficient use of the active and established agricultural holding and that there were no suitable buildings on the holding that could be utilised. A 14 day deferral was granted at February 2020 Planning Committee so that the applicant could submit all outstanding information.</p> <p>The supporting information was submitted on the 7th February 2020 which demonstrated that the shed was necessary and that there were no suitable buildings that could be utilised.</p> <p>The applicant was then advised that a bio-diversity check list was required for consultation with NIEA. This was due to the fact that the site is within 7.5km of Curran Bog ASSI/SAC, Ballynahone Bog ASSI/SAC/Ramsar, Moneystaghan Bog ASSI, Ballymacombs More ASSI, Culnfay ASSI, Lough Beg ASSI, Lough Neagh ASSI and Lough Neagh and Lough Beg SPA/Ramsar. A Preliminary Ecological Appraisal was submitted on the 12th May 2020 and forwarded to NIEA for their consideration.</p>	

NIEA also have requested the submission of Air Dispersion Modelling which the agent has refused to submit. Further clarification was sought from NIEA as to need for this Modelling and NIEA have re-iterated that it is necessary and they cannot comment further without it.

In the absence of this information the Council cannot make a confident and informed decision on the application and the impact it will have on the aforementioned designated sites.

Summary of Consultee Responses:

Response dated 7th October 2020: NIEA (Natural Heritage) have requested the submission of Air Dispersion Modelling specifically on the following activities;

Maximum number proposed facility can accommodate for the relevant period,

Grazing period of livestock

Landspreading of the slurry (if within N. Ireland). Modelling must include emissions on all designated sites within 7.5 km of identified locations including third party land (land must be suitable for fertiliser application). All landspreading grid references must be submitted.

The maximum storage capacity of the slurry tank

Indirect/direct effects of the proposal on wider farm activities i.e. the increased capacity that will be supported if planning permission is granted e.g. new slurry store facilitating an increase in herd size.

This should determine the potential impacts on all designated sites within 7.5 km of the proposal.

Air Dispersion Modelling should also be completed on all priority habitat/SLNCIs located within 2km of the facility, as identified above.*

**Air Dispersion Modelling can include Simple Calculation of Atmospheric Impact Limits (SCAIL) modelling, a free online tool; <http://www.scail.ceh.ac.uk/>. Input and output datasheets for all designated sites should be provided.*

SCAIL is a conservative modelling tool. If the Process Contribution is $\geq 1\%$, detailed Air Dispersion Modelling should be considered. The provision of detailed Air Dispersion Modelling will not guarantee recommendation for approval of this application, therefore the applicant should fully consider the additional expense to further this application.

Response dated 8th December 2020: NIEA (Natural Heritage) have stated that all plans and projects require assessment with the only exemption being a project that is necessary for the management of the site. This proposal does not fit that exemption therefore NED remain unable to undertake a full assessment of the proposal and any adverse impacts to all designated sites. NED would reiterate that their previous response remains valid.

Characteristics of the Site and Area:

The application site is a 0.53 hectare plot of agricultural land located approximately 130m SE of a dwelling located at 9 Drumlamph Lane, Castledawson. It is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015. The site is set back off Drumlamph lane, with access to the site coming via a laneway which connects the site to a dwelling at number 33 and farms buildings to the West of the site. The site is flat and has a semi mature Southern and Western Boundary. The Northern and Eastern boundaries are void of any mature vegetation.

This area is rural in character with a dispersed settlement pattern. To the SE of the site is a large detached dwelling and garage which is shown to be in the applicants control. To the West of the site are several dwellings and outbuildings. This area is recognised as being an area of archaeological importance (LDY 037:042, LDY 037:043, LDY 037:044).

Description of Proposal

Proposed farm shed to include feeding & shelter area, storage area and underground slurry tanks - new access to be taken from Drumlamph Lane

Deferred Consideration:

This application was first presented to Planning Committee in February 2020. Planning Committee were advised that despite requests on the 13th November 2019, 10th December 2019 and 13th January 2020, the applicant had failed to submit the following information so that the Council could make an informed recommendation:

- Supporting Statement showing compliance with Policy CTY 12 of PPS 21.

Refusal was recommended for the following reasons:

1. As provided for within Section 40 of the Planning Act (Northern Ireland) 2011, the applicant has failed to provide sufficient information to enable Mid Ulster District Council to determine this proposal. This is in respect of an adequate statement showing compliance with Policy CTY 12 of PPS 21.
2. The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not be demonstrated that the proposed development is:
 - necessary for the efficient use of the active and established agricultural) holding

Additionally in cases where a new building is proposed - the applicant has not provided sufficient information to confirm that there are no suitable existing buildings on the holding or enterprise that can be used

The Planning Committee agreed with the Planning Managers recommendation to defer this application for a period of 14 days from the date of Committee in order that all outstanding information to be submitted. The supporting statement was submitted on the 7th February 2020 and the addressed the initial concerns raised.

The applicant was then requested to submit a bio-diversity check list for consultation with NIEA. He was not requested to submit this at the outset as it was important to determine the acceptability of the proposal in principle. A bio-diversity checklist was requested due to the fact that the site is within 7.5km of Curran Bog ASSI/SAC, Ballynahone Bog ASSI/SAC/Ramsar, Moneystaghan Bog ASSI, Ballymacombs More ASSI, Culnfay ASSI, Lough Beg ASSI, Lough Neagh ASSI and Lough Neagh and Lough Beg SPA/Ramsar. A Preliminary Ecological Appraisal (PEA) was submitted on the 12th May 2020 and forwarded to NIEA for their consideration. NIEA responded on the 7th October 2020. They advised that they were satisfied with the findings of the PEA but they requested the submission of Air Dispersion Modelling due to the fact that the proposal has the potential to produce Nitrogen Emissions which can have a negative impact on designated sites.

The agent was emailed on the 19th October 2020 and was requested to submit this information. He replied with the following comments:

I have seen these responses and have no intention of submitting anything further. These issues were pursued by SES until a recent judicial review found them unlawful. The new consultees seem to be following on from the SES, making it impossible for a farmer to build a shed. I will have no hesitation on taking a Judicial review if a permission is not granted based on illegality, procedural unfairness, failure to consult, irrationality, material considerations and lack of adequate reasons for why guidance was changed.

Regards,

Chris

Following discussions with the Planning Manager I re-consulted NIEA and asked them for more detailed reasoning as to why they were requesting the submission of this modelling. On the 8th December 2020 NIEA (NED) responded advising that this proposal does not fit any exemptions therefore NED remain unable to undertake a full assessment of the proposal and any adverse impacts to all designated sites. NED reiterated that their previous response remains valid.

It is my opinion that in the absence of this modelling information NIEA will be unable to complete an assessment of the potential impacts of the proposal on designated site features and the Council will be unable to undertake a robust Habitats Regulations Assessment. For these reasons I have no option only to recommend the refusal of the application. The refusal reasons are listed below.

Refusal Reasons

1. The proposal is contrary to paragraph 6.192 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) as the applicant has not demonstrated that

the development proposal will not result in an unacceptable adverse impact on, or damage to known designated sites of International and National Importance

2. The proposal is contrary to Policy NH1 (European and Ramsar Sites – International) of Planning Policy Statement 2, Natural Heritage in that it has not been demonstrated that the development would not have a significant effect on Curran Bog SAC, Ballynahone Bog SAC/Ramsar, Lough Neagh and Lough Beg SPA/Ramsar
3. The proposal is contrary to Policy NH3 (Sites of Nature Conservation Importance - National) of Planning Policy Statement 2, Natural Heritage in that it has not been demonstrated that the development would not have an adverse effect on the integrity of Curran Bog ASSI, Ballynahone Bog ASSI, Moneystaghan Bog ASSI, Ballymacombs More ASSI, Culnfay ASSI, Lough Beg ASSI and Lough Neagh ASSI.
4. As provided for within Section 40 of the Planning Act (Northern Ireland) 2011, the applicant has failed to provide sufficient information to enable Mid Ulster District Council to determine this proposal. This is in respect of information for NIEA to undertake a complete assessment of the potential impacts on the designated site features and in order for Mid Ulster Council to undertake a robust Habitats Regulations Assessment.
5. The proposal is contrary to Policy CTY1 and CTY 12 (d) of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the proposal will not have an adverse impact on natural heritage.

Signature(s):

Date



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 4/2/2020	Item Number:
Application ID: LA09/2019/0784/F	Target Date: 20/9/2020
Proposal: Proposed farm shed to include feeding & shelter area, storage area and underground slurry tanks - new access to be taken from Drumlamph Lane	Location: Approx 130m South East of 9 Drumlamph Lane Castledawson
Referral Route: Refusal recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Cathal Shivers 33 Drumlamph Road Castleawson BT45 8EJ	Agent Name and Address: CMI Planners 38b Airfiled Road Toomebridge BT41 3SG
Executive Summary: Despite requests on the 13th November 2019, 10th December 2019 and the 13th January 2020, the applicant has failed to submit adequate information so that the Council can make an informed recommendation in line with Policy CTY 12 of PPS 21. Refusal is therefore recommended under Section 40 of the Planning Act (Northern Ireland) 2011 and under Policy CTY 12 of PPS 21.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DAERA - Coleraine	Advice
Statutory	Historic Environment Division (HED)	Content
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	Environmental Health Mid Ulster Council	No Objection

Representations:

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

Summary of Issues

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. All relevant neighbouring properties have been notified of the proposal. To date there has been no objections.

Characteristics of the Site and Area

The application site is a 0.53 hectare plot of agricultural land located approximately 130m SE of a dwelling located at 9 Drumlamph Lane, Castledawson. It is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015. The site

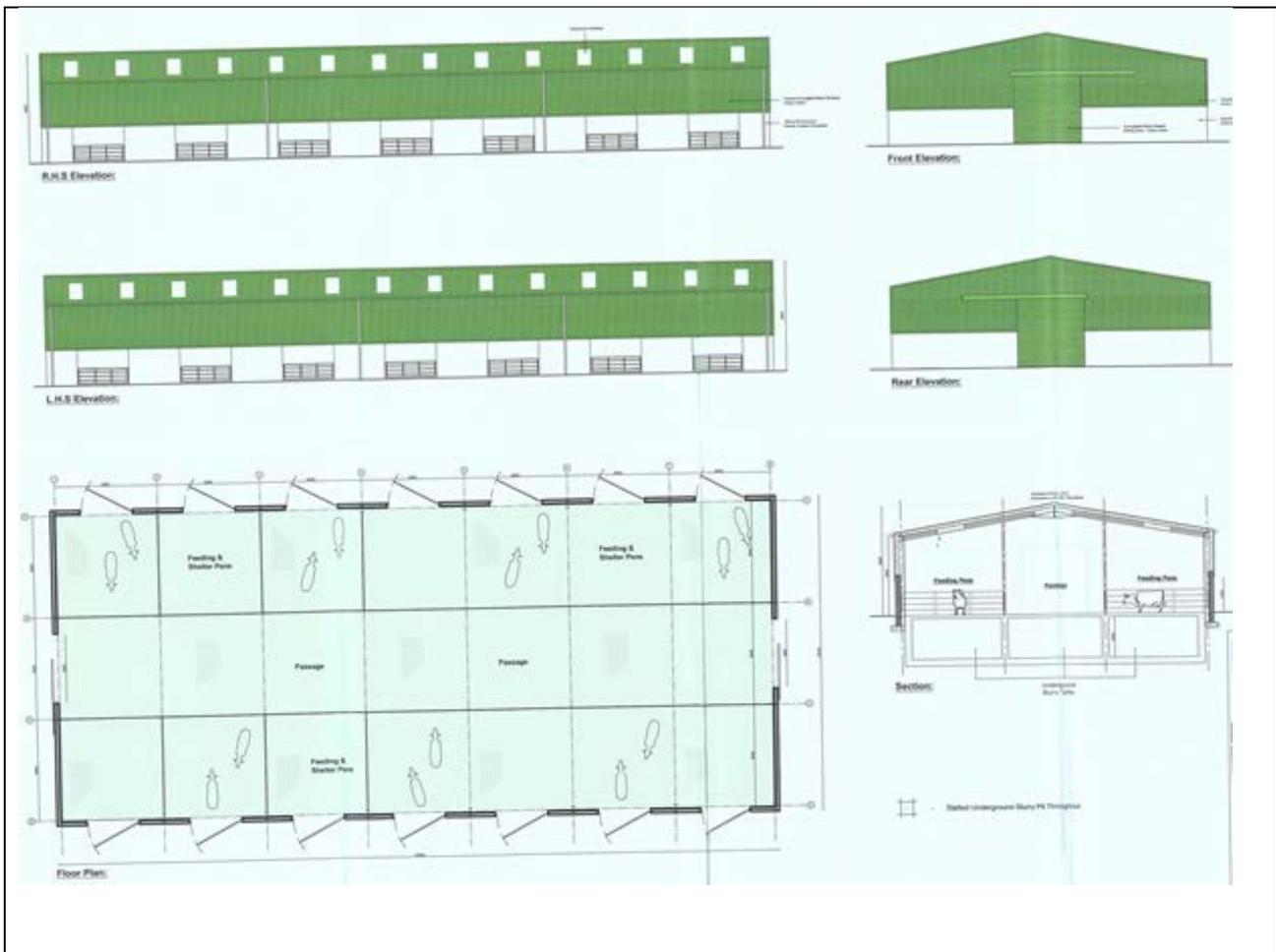
is set back off Drumlamph lane, with access to the site coming via a laneway which connects the site to a dwelling at number 33 and farms buildings to the West of the site. The site is flat and has a semi mature Southern and Western Boundary. The Northern and Eastern boundaries are void of any mature vegetation.

This area is rural in character with a dispersed settlement pattern. To the SE of the site is a large detached dwelling and garage which is shown to be in the applicants control. To the West of the site are several dwellings and outbuildings. This area is recognised as being an area of archaeological importance (LDY 037:042, LDY 037:043, LDY 037:044).

Description of Proposal

This is a full application for a proposed farm shed to include feeding & shelter area, storage area and underground slurry tanks. It also involves the creation of a new access to be taken from Drumlamph Lane. The shed measures 6.6m in height x 42.2m in length x 18.7m in width and will be finished in a mix of green corrugated metal sheeting and cement plastered unpainted walls.





Planning Assessment of Policy and Other Material Considerations

The following policies will be considered in this assessment:

- SPPS – Strategic Planning Policy Statement for Northern Ireland
- Magherafelt Area Plan 2015
- Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy
- PPS 2 – Natural Heritage
- PPS 3 – Access, Movement and Parking
- PPS 6 – Planning, Archaeology and the Built Heritage
- PPS 21 – Sustainable Development in the Countryside

SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS gives provision for Agriculture and Forestry Development subject to a number of policy provisions. It does not present any change in policy direction with regards to this type of development in the Countryside. As such, existing rural policy will be applied (ie) CTY 12 of PPS 21

Magherafelt Area Plan 2015

This site is located outside any settlement defined in the Magherafelt Area Plan 2015. It is not subject to any area plan designations or constraints. As such, existing planning policy will be applied.

Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd Feb 2019. Policy GP1 - General Principles Planning Policy and Policy AFR1 –Agriculture and Forestry Development and Development Ancillary to Commercial Fishing are applicable to this application.

Policy AFR 1 has provision for agricultural buildings on an active and established agricultural holding. These must be located next to existing farm buildings on the holding and where they do not appear incongruous to the rural setting. They can be sited away from existing buildings in exceptional circumstance. This does not present any change in policy direction from current policy. This proposal would therefore be in conflict with Policy AFR 1 due to the lack of supporting information submitted. The proposal is in compliance with all parts of Policy GP1.

It is however acknowledged that no weight can be given to this document as it is only at early public consultation stage.

PPS 2 – Natural Heritage

This site is within 7.5km of Lough Neagh/Lough Beg RAMSAR, Ballynahone Bog, Curran Bog and Moneystaghan Bog. Given the fact that the proposed development includes an underground slurry tank, it has the potential to produce ammonia emissions which may impact on these designated sites. A consultation has yet to be carried out with NIEA until the principle of this development is deemed acceptable.

PPS 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves the construction of a new access onto Drumlamph Lane. DFI Roads have been consulted have no objections to the proposal subject to standard conditions being attached to any approval.

PPS 6 – Planning, Archaeology and the Built Heritage

This site is located in an area of archaeological importance. Consultation has been carried out with HED who have advised they have no objections to the proposal from an archaeological perspective.

PPS 21 – Sustainable Development in the Countryside

Policy CTY 12 of PPS 21 states that planning permission will only be granted for development on an active and established agricultural holding subject to certain criteria. Paragraph 5.56 of the policy advises that for the purposes of CTY 12 the determining criteria for an active and established business will be that set out under policy CTY 10 (ie) is currently active and is established for a period of at least 6 years. DAERA have been consulted with the applicant's farm details. They have confirmed that the farm business ID provided has been in existence for more than 6 years and that claims have been made in the last 6 years. On the basis of this response from DAERA I would contend that the farm business is currently active and has been established for the required period of time.

CTY 12 goes on to list several other criteria that must be adhered to for this type of development. I am content that the proposal does comply with criteria (b) in that its character and scale is appropriate to the rural location (c) the development will visually integrate in the local landscape and (e) the proposal will not have a detrimental impact on residential amenity. This has been confirmed following consultation with EH. Furthermore I am satisfied that the design of the building and materials proposed are sympathetic to the locality and adjacent buildings.

The applicant has submitted a supporting statement to demonstrate compliance with policy CTY 12. It has however not been adequately demonstrated in this statement that a new shed is necessary and why existing sheds cannot be utilised. There is also clarification needed in relation to whether or not 5 Drumlamph Lane is part of this holding and whether farm buildings adjacent to number 7 Drumlamph Lane are in the applicants control. This information is necessary in order to carry out a full and proper assessment under CYY 12. It has been requested on the 13th November 2019, 10th December 2019 and the 13th January 2020 but to date has not been forthcoming.

Neighbour Notification Checked

Yes

Summary of Recommendation:

As provided for within Section 40 of the Planning Act (Northern Ireland) 2011, the applicant has failed to provide sufficient information to enable Mid Ulster District Council to determine this proposal. This is in respect of an adequate statement showing compliance with Policy CTY 12 of PPS 21.

Refusal is therefore recommended

Refusal Reasons

1.As provided for within Section 40 of the Planning Act (Northern Ireland) 2011, the applicant has failed to provide sufficient information to enable Mid Ulster District Council

to determine this proposal. This is in respect of an adequate statement showing compliance with all criteria contained within Policy CTY 12 of PPS 21.

2. The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been adequately demonstrated that the proposed development is:

- necessary for the efficient use of the active and established agricultural holding

Additionally in cases where a new building is proposed

- The proposal is contrary to policy CTY12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the applicant has not provided sufficient information to confirm that there are no suitable existing buildings on the holding or enterprise that can be used

Signature(s)

Date:

ANNEX	
Date Valid	7th June 2019
Date First Advertised	20th June 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 9 Drumlamph Lane Castledawson Londonderry	
Date of Last Neighbour Notification	18th June 2019
Date of EIA Determination	
ES Requested	n/a
Planning History	
<p>Ref ID: LA09/2019/0784/F Proposal: Proposed farm shed to include feeding & shelter area, storage area and underground slurry tanks - new access to be taken from Drumlamph Lane Address: Approx 130m South East of 9 Drumlamph Lane Castledawson, Decision: Decision Date:</p>	
<p>Ref ID: H/2005/1173/RM Proposal: Single storey dwelling with attic conversion and single garage. Address: 200m East of 15 Drumlamph Lane, Knockloughrim Decision: Decision Date: 11.05.2006</p>	
<p>Ref ID: H/2004/1212/O Proposal: Site Of Dwelling & Garage Address: 200 Metres East Of 15 Drumlamph Lane Knockloughrim Decision: Decision Date: 15.05.2005</p>	
<p>Ref ID: H/2007/0888/O Proposal: Site for dwelling and garage Address: 280m East of 10 Drumlamph Lane, Castledawson Decision:</p>	

Decision Date: 16.09.2010

Summary of Consultee Responses

EH – No objections
DFI Roads – No objections
DAERA – No Objections
HED – No objections

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	
Case Officer: Emma McCullagh	
Application ID: LA09/2019/1402/0	Target Date:
Proposal: Proposed dwelling and garage on a farm	Location: Approx. 50m NE of 45 Moneyneena Road, Draperstown
Applicant Name and Address: Michael McWilliams 28 Dunmurray Road Draperstown	Agent name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge
Summary of Issues: The application was originally recommended as refusal on the basis that it was not demonstrated that the farm business has been established for at least 6 years. Following the submission of additional information, an approval with conditions is now being recommended.	
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: The site is located approx. 50m NE of Moneyneena Road, Draperstown. The site is in the rural countryside on relatively flat land. It is the set back in the second field from the main road. There are mature trees to the west boundary and post and wire fencing on the south. On the site, in one corner, exists single storey agricultural buildings, which had been pig sheds. The site is located within a Local Landscape policy area (LLPA), Area of Outstanding Natural Beauty (AONB) and Site of Local Natural Conservation (SLNC). A design and access statement was submitted with the proposal.	

Description of Proposal

This is an outline application for a proposed dwelling and garage on a farm.

Deferred Consideration:

The application was first presented as a refusal to Planning Committee in Feb 2020 for the following reason;

'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 farm business has been established and active for at least six years.'

However it was deferred in Feb 2020 to allow 30 days for additional farm information to be submitted, in order to prove the farm business was established for the required period of time of 6 years under CTY10. It was then presented as a refusal for a second time in March 2020 for the same reason, as it was deemed the information submitted was sufficient to demonstrate an active farm business. It was subsequently deferred for an office meeting, which was held on 12th March 2020 with the Area Planning Manager. The agent was advised at the meeting he needed to demonstrate the farm business was active and established and that any leases provided were verified.

Previously the receipts and invoices that were submitted showed the farm was currently active and established, but not that a farm business had been for the required period of 6 years and so therefore had been deemed insufficient to demonstrate a farm business.

Since the second deferral, a P1c form was submitted and two lease agreements, which have been verified by a solicitor's affidavit dated 18th March 2020. The first lease, dated 29-3-20 is for 5 years and signed by Charles McShane and Brian McEldowney (tenant farmer), the second lease is for period 29-03-15 to 28-03-22 signed by the same parties. This shows continuous farming activity for the required period of 6 years and demonstrates a business on the farm land.

The P1c form has been signed by the owner of the Farmland, Charles McShane and the applicant, Michael McWilliams (his son in law), and Certificate C has been duly signed. There was a farm survey number (established in 1996) and a client ID provided but there is no Farm Business ID. The agent has advised this is because they do not receive single farm payments and they have had no animals since 2000. Previous to this they kept pigs and the pig sty's still remain on the site and are in reasonable condition. The proposed dwelling will be visually linked and clustered with these buildings, in keeping with criteria c of CTY10. DEARA were unable to provide comment as no farm business ID was able to be provided.

Policy CTY10 states in its justification and amplification, in paragraph 5.38, that new houses will not be acceptable unless the existing farm is both active and established, and that the applicant will be required to provide a farm business ID along with other evidence to prove active farming over the required period.

However in this case, as there is no farm ID and valid reasons have been given why this is, the other evidence provided must be assessed in terms of establishing if the farm business is currently active and established for at least 6 years, as outlined in the main policy consideration under criteria (a) of CTY10.

The land is kept in good agricultural condition and is well maintained and together with the submitted information there is sufficient evidence to demonstrate a farm business for the last 6 years, therefore it has been agreed that criteria c of CTY10 can now be met and approval is being recommended with the conditions stated below.

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.

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

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

5. The proposed dwelling shall have a ridge height of less than 6 .5 metres above finished floor level.

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

6. 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.

7. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.

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

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

Deferred Consideration Report

Summary	
Case Officer: Gerard Lynch	
Application ID: LA09/2019/1402/O	Target Date: 07/02/2020
Proposal: Site for a dwelling & domestic garage. Based on Policy CTY10 (dwelling on a farm)	Location: Approx 50m NE of 45 Moneyneany Road Draperstown
Applicant Name and Address: Mr Michael McWilliams 28 Dunmurray Road Draperstown BT45 7ED	Agent name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: Site for a dwelling & domestic garage. Based on Policy CTY10 (dwelling on a farm). The proposal is contrary to policies CTY1 and CTY10 of Planning Policy Statement, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business has been established for at least six years.	
Summary of Consultee Responses: There have been no objections from any third party or Consultee.	

March '20

Characteristics of the Site and Area:

The application site is located approx. 50m NE of 45 Moneyneany Road, Draperstown. The site forms a section of a field located to the rear of No 45 Moneyneany, which is the dwelling associated with the farm. This site is in the countryside off a minor road a short distance north west of Moneyneany. The site's topography is relatively flat. Boundaries comprise mature trees and low level vegetation on the west; post and wire fencing and sporadic vegetation on the south; the other to the west boundary is defined by hedgerow and wire and post fencing and farm shed. The surrounding landform is one of undulating countryside and the land falls south from the site towards Moneyneany Road. Immediately adjacent to the application site is a detached dwelling No 43 to the southwest. Views of the site from the public road network are limited to the Moneyneany Road travelling from a westerly direction. The site is just outside the settlement limits of Moneyneany as defined within the Magherafelt Area Plan 2015. The site is also located within a Local Landscape Policy Area; and Site of Local Natural Conservation of Importance and an Area of Outstanding Natural Beauty.

An Assess and Design Statement has been submitted with the application.

Description of Proposal

The applicant is seeking outline planning approval for a dwelling on a farm. The site's redline is shown on drawing no 01 bearing stamp date 25/10/2019.

All planning application forms, drawings, letters etc. relating to this planning application are available to view on www.planningni.gov.uk.

Relevant planning history

MUDC planning records indicate no planning history associated with the proposed site.

Hazards and Constraints.

DEARA were consulted and responded with advice;
NI water were consulted and responded no objections subject to standard informatives;
DFI Roads were consulted and responded with standard conditions and informatives.

PPS 3 ? Access, Movement and Parking.

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves alterations for an existing access to Moneyneany Road. DFI Roads have been consulted and have no concerns regarding road safety or traffic flow resulting from this proposal subject to provision of 2.4m x 120m splays in both directions. This will involve the removal of hedgerow.

The applicant signed Certificate C of the P1 form P2 serving notice on Mr Charles McShane to the provide third party lands visibility splays.

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 4th November 2019 (publication date 5th November 2019) Two (2) neighbouring properties were notified on 1st November 2019; 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.

Deferred Consideration:

The application was first presented as a refusal to Planning Committee on 4th February 2020 and subsequently deferred for 14 days to allow the agent to allow outstanding information to established the farm is active and established will be submitted within 14 days. No information was received and on this basis the application is referred to MUDC Planning Committee as a refusal.

1. The proposal is contrary to policies CTY1 and CTY10 of Planning Policy Statement, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business has been established for at least six years.

DAERA in their initial consultation response confirmed that the applicant does not hold a business ID number. The agent had submitted documentation that included a Licence Agreement between Mr McWilliams the (Licensee) with a neighbouring farmer Mr McShane dated 29th March 2015.

The Case Officer re-consulted DAERA on 16/01/2020 for further clarification concerning data submitted dated 12/06/2018. DAERA confirmed this related to is an old DARD print out on customer/applicant information and relates to Mr Charles McShane the (Lensor) not the applicant. Historically, DARD maintained a record of all land owners under individual applicant reference numbers. DAERA further confirmed that Mr McShane's land is recorded under Farm Survey Number 5/03/236 but does not hold a farm business ID. No grants or subsidies were claimed by the applicant.

A copy of the Conacre Agreement between Mr McShane (the Licensor) and the applicant covering the period from 29/03/2015 to 28/03/2022. Under the terms of this agreement allows Mr. Shane the use the lands to take one cut of hay / silage per year and have full responsibility for all maintenance including hedgerows.

The agent provided invoices for cutting hedgerows and general farm maintenance dated 09/07/2015, 19/07/2016, 10/08/2017, and 17/07/2018 as well as an invoice for grass topping dated 11/02/2014. He also provided invoices for cutting hedgerows dated 03/07/2014, 17/06/2016, 24/01/2017 and 02/07/2018 with further invoices for spreading slurry dated 15/07/2015, 26/07/2016, 27/08/2017 and 24/07/2018

On the basis of DAERA's response and evidence provided by the applicant and my observations noted on site I am content that the land is kept in good condition and that there is evidence of maintenance having been carried out on the land.

However, the test posed by Criterion (a) is not whether the applicant is an active farmer but whether the farm business is active and established. There is no farm business ID and therefore I

am not persuaded that the applicant's farm business has been established in line with paragraph 5.38 that the farm business has been established for at least 6 years.

The recommendation to refuse the application has not changed and the refusal reasons remain as previously.

Refusal Reasons

1. The proposal is contrary to policies CTY1 and CTY10 of Planning Policy Statement, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business has been established for at least six years.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1402/O	Target Date:
Proposal: Site for a dwelling & domestic garage. Based on Policy CTY10 (dwelling on a farm)	Location: Approx 50m NE of 45 Moneyneany Road Draperstown
Referral Route: Refusal	
Recommendation:	
Applicant Name and Address: Mr Michael McWilliams 28 Dunmurray Road Draperstown BT45 7ED	Agent Name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary: This proposal fails to comply with CTY 1 and CTY 10 of PPS 21 in that it has not been demonstrated that the farm business has been established for the required 6 year period	

Agree to the plan
[Redacted Signature]

Signature(s):

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	DAERA - Coleraine	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

There have been no objections from any third party or from any consultee.

Characteristics of the Site and Area

The application site is located approx. 50m NE of 45 Moneyneeny Road, Draperstown. The site forms a section of a field located to the rear of No 45 Moneyneenna, which is the dwelling associated with the farm. This site is in the countryside off a minor road a short distance north west of Moneyneeny. The site's topography is relatively flat. Boundaries comprise mature trees and low level vegetation on the west; post and wire fencing and sporadic vegetation on the south; the other to the west boundary is defined by hedgerow and wire and post fencing and farm shed. The surrounding landform is one of undulating countryside and the land falls south from the site towards Moneyneeny Road. Immediately adjacent to the application site is a detached dwelling No 43 to the southwest. Views of the site from the public road network are limited to the Moneyneeny Road travelling from a westerly direction.

The site is just outside the settlement limits of Moneyneany as defined within the Magherafelt Area Plan 2015. The site is also located within a Local Landscape Policy Area; and Site of Local Natural Conservation of Importance and an Area of Outstanding Natural Beauty. An Assess and Design Statement has been submitted with the application.

Description of Proposal

The applicant is seeking outline planning approval for a dwelling on a farm. The site's redline is shown on drawing no 01 bearing stamp date 25/10/2019.

All planning application forms, drawings, letters etc. relating to this planning application are available to view on www.planningni.gov.uk.

Hazards and Constraints.

DEARA were consulted and responded with advice;
NI water were consulted and responded no objections subject to standard informatives;
DFI Roads were consulted and responded with standard conditions and informatives.

PPS 3 – Access, Movement and Parking.

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves alterations of an existing access to Moneyneany Road. DFI Roads have been consulted and have no concerns regarding road safety or traffic flow resulting from this proposal subject to provision of 2.4m x 120m splays in both directions. This will involve the removal of hedgerow.

The applicant signed Certificate C of the P1 form P2 serving notice on Mr Charles McShane.

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 4th November 2019 (publication date 5th November 2019) Two (2) neighbouring properties were notified on 1st November 2019; 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.

Planning Assessment of Policy and Other Material Considerations

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The Magherafelt Area Plan 2015 operates in the area where the site lies. There are no plan policies pertinent to the application site within the MAP.

Strategic Planning Policy Statement 21 (SPPS) retains the policies of Planning Policy Statement 21 (PPS21) and consequently PPS 21 provides the relevant policy context for this application.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan.

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.

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

1. Strategic Planning Policy Statement (SPPS).
2. Magherafelt Area Plan 2015.
3. PPS 21 – Sustainable Development in the Countryside.
4. PPS 3 – Access, Movement and Parking.
5. Building on Tradition – A Sustainable Design Guide for Rural NI.

The SPPS points out that provision should be made for a dwelling house on an active and established farm business. The farm business must be currently active and have been established for a minimum of 6 years. Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The circumstances wherein planning permission will be granted for an individual dwelling house are outlined. This includes a dwelling on a farm in accordance with Policy CTY 10. This policy states that planning permission will be granted where three criteria are met.

The Magherafelt Area Plan 2015 is the statutory local development plan for the proposal. In it, the site lies in the countryside. There are no policies or proposals in the MAP of relevance to the application. In respect of the application proposal there is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) and those of PPS21. PPS21 remains the applicable policy context to consider the proposed development under.

This site is outside any settlement defined within the Magherafelt Area Plan, therefore relevant existing planning policy must be adhered to.

Policy Assessment.

PPS21 - Sustainable Development in the Countryside.

Policy CTY 10 – Dwellings on Farms of PPS 21 grants planning permission for a dwelling at an existing cluster of development subject to 6 criteria:

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

In addition to the criteria above, applications of this nature must also demonstrate that they meet the policy requirements of policies CTY 13, CTY 14 and CTY 16 of PPS 21.

Based on the details presented on the PIC form, as confirmed by DAERA's response the applicant does not hold a business ID number. The agent has submitted documentation that included a Licence Agreement between Mr McWilliams the (Licensee) with a neighbouring farmer Mr McShane dated 29th March 2015.

The agreement states that the land is let in conacre for 12 months and runs from 29.03.2015 to 28.03.2022. Under the terms of this agreement signed on dated 29.03.2015, it is agreed that the licensor farmer Mr McShane would use the land area of 5 acres for 12 months (field Nos 1 and 2) and reserves the right to take one cut of hay per year and is responsible for all maintenance of the land, including hedge cutting.

The agent provided invoices for cutting hedgerows and general farm maintenance dated 28.02.2013, 05.06.2014, 18.08.2015, 22.09.2016, 22.09.2016, 06.03.2018 and 14.02.2019, all relate to the applicant's land.

The Case Office email DAERA on 16/01/2020 for further clarification concerning data submitted by the applicant dated 12/06/2018. DAERA confirmed this related to is an old DARD print out on customer/applicant information and relates to Mr Charles McShane the (Lensor) not the applicant. Historically, DARD maintained a record of all land owners under individual applicant reference numbers. It is noted from this information that Mr McShane's land is recorded under Farm Survey Number 5/013/236.

The department no longer maintains a record of land owners. DAERA's email also confirmed that Mr McShane does not have a farm business registered with them.

DAERA does not produce farm maps for any farm business not in receipt of SFP, the applicant in this case was not able to produce a more up to date farm map.

No grants or subsidies were claimed by the applicant.

On the basis of DAERA's response and evidence provided by the applicant and my observations noted on site I am content that the land is kept in good condition and that there is evidence of maintenance having been carried out on the land.

However, the test posed by Criterion (a) is not whether the applicant is an active farmer but whether the farm business is active and established. I am therefore content the land is actively farmed. However, it has not been demonstrated that the farm business has been established in line with paragraph 5.38 that the farm business has been established for at least 6 years. With respect to (b) I am content that there has not been any development opportunities sold off the farm holding in the previous 10 years of this application. Criterion (b) has been complied with.

I note the corn-acre Agreement only commence on 29/03/2015 even if I was to regard the Agreement as demonstrated the existence of a farm business this date is short of the required 6 years.

With respect to (c) it is noted that there are two buildings on the farm one relates to a general farm shed located to the rear of the main farm dwelling No 45. I am satisfied that a new dwelling can be visually linked to an existing farm grouping subject to siting and ridge height conditions. Criterion (c) has been complied with.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is noted that this application is an outline application therefore exact siting and design have not be submitted at this stage.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Recommendation is to refuse.

Reasons for Refusal:

1. The proposal is contrary to policies CTY1 and CTY10 of Planning Policy Statement, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business has been established for at least six years.

Signature(s)



Date: 16. 01. 2020

ANNEX	
Date Valid	25th October 2019
Date First Advertised	5th November 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 43 Moneyneany Road Draperstown Londonderry The Owner/Occupier, 45 Moneyneany Road Draperstown Londonderry	
Date of Last Neighbour Notification	1st November 2019
Date of EIA Determination	
ES Requested	Yes /No
Planning History	
<p>Ref ID: LA09/2019/1402/O Proposal: Site for a dwelling & domestic garage. Based on Policy CTY10 (dwelling on a farm) Address: Approx. 50m NE of 45 Moneyneany Road, Draperstown, , Decision: Decision Date:</p>	
<p>Ref ID: H/2004/0896/O Proposal: Site of Dwelling and Garage. Address: To the Rear of 43 Moneyneany Road, Moneyneany. Decision: Decision Date: 24.11.2005</p>	
<p>Ref ID: H/1988/0425 Proposal: BUNGALOW WITH GARAGE Address: MONEYNEANY ROAD DRAPERSTOWN Decision: Decision Date:</p>	
<p>Ref ID: H/1987/0536 Proposal: SITE OF DWELLING WITH GARAGE Address: ADJ TO 45 MONEYNEANY ROAD MONEYNEANY DRAPERSTOWN Decision: Decision Date:</p>	

Summary of Consultee Responses

DFI Roads – no objection subject to conditions

DAERA – advice issued

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

Further Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/0022/O	Target Date:
Proposal: Proposed dwelling in an infill site	Location: Land adjacent to and South of 14 Drumkee Road Dungannon
Applicant Name and Address: Mr Noel Stephenson Homer House School Road Preston near Hull	Agent Name and Address: Darcon Architectural Services 23 Tobin Park Moortown BT80 0JL
Summary of Issues: No justification for a dwelling in the countryside.	
Summary of Consultee Responses: DFI Roads – access to be provided in accordance with RS1 form sight lines of 2.4m x 60.0m required	
Characteristics of the Site and Area: The site is located at lands approx. 14 Drumkee Road, Dungannon. The site is located within the countryside as designated within the Dungannon and South Tyrone Area Plan 2010. The red line of the site includes a roadside agricultural field. The site sits on an elevated position when travelling along the Drumkee Road in an easterly direction. The boundaries of the site range from post and wire fencing with some hedging in parts. The surrounding area is generally rural in nature with scattered dwellings and their associated outbuildings.	
Description of Proposal Outline planning permission is sought for a proposed dwelling in an infill site.	

Deferred Consideration:

This application was last before the Planning Committee in November 2020 where it was agreed to defer the application for a members site visit. This took place on Friday 4th December 2020 and members were able to see the existing structures on the site, the extent of and relationship between the site and the surrounding development and its proximity to the crossroads of Tartlaghan Road, Coash Road and Drumkee Road.

The members were able to see the dwelling behind the site, accessed off the existing lane, does not have a frontage with Drumkee Road and as such is not considered to meet with the exception to CTY8 for an infill opportunity. It was pointed out that a dwelling on the opposite side of the lane may well meet the policy for an infill as the lane would be the frontage.

At the site visit it was noted there had been a dwelling on this site in the past and the remains of the 3 walls were visible:

- one fronting Drumkee Road which had window cills, door jambs, an air brick and threshold,
- and at the 2 sides, along the lane to the east and in the field.

It was also noted the old floors were still in situ and the remains of another building were on the site.



Vent brick in existing front wall, middle of picture



Floors of former dwelling

Members will be aware from the previous report that it has always been accepted there was a dwelling here at some point in the past. It is clear the existing structures on the site do not constitute a replacement dwelling, as all external walls are not substantially intact. My recommendation takes into account of the Review of PPS21 that was publicised on 16 July 2013 by the then Minister, Mr Attwood. In that review a building on Monaghan Road, Armagh was deemed to meet the replacement criteria, after careful interrogation of the policy. In that case, as can be seen from the google street view image, there were 4 walls standing. This is not the case here and as such I do not consider this constitutes a replacement opportunity under CTY3.



Image of building approved as acceptable for a replacement dwelling under policy CTY3, by the Dept under file ref O/2009/0175/O.

At the site visit members were able to see the separation between the site and the crossroads, and appreciate the proposed site is well away from the crossroads and as such is not 'at a crossroads' as required by within the criteria in CTY2a.

From the roadway in front of the site members could see the proposed site with the development immediately to the north and east. It was also noted that further to the east, separated by an agricultural field, there is another string of development along the same side of the Drumkee Road. In my view that development, further east, is distinct from the proposed site and the development in its immediate vicinity.



Site and surroundings

Members may take into account that a modest dwelling located in the north east corner of the site would:

- have limited visual impact on the character of the area,
- not have any significant impact on the character of the area given the amount of development around it,
- not have any significant impact on the amenity of the existing dwelling to the north as there are no windows facing the site and it is on the other side of an existing lane.

All that said if a dwelling were built in the NE corner, members are advised that it could open up the potential for further development in the south part of the field.

Having visited the site with the members and reviewed the information I do not consider this application meets with any of the policies for a dwelling as provided in PPS21 and as such it is recommended for refusal.

Reasons for Refusal:

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

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/0022/O	Target Date:
Proposal: Proposed dwelling in an infill site	Location: Land adjacent to and South of 14 Drumkee Road Dungannon
Applicant Name and Address: Mr Noel Stephenson Homer House School Road Preston near Hull	Agent Name and Address: Darcon Architectural Services 23 Tobin Park Moortown BT80 0JL
Summary of Issues: No justification for a dwelling in the countryside.	
Summary of Consultee Responses: DFI Roads – access to be provided in accordance with RS1 form sight lines of 2.4m x 60.0m required	
Characteristics of the Site and Area: The site is located at lands approx. 14 Drumkee Road, Dungannon. The site is located within the countryside as designated within the Dungannon and South Tyrone Area Plan 2010. The red line of the site includes a roadside agricultural field. The site sits on an elevated position when travelling along the Drumkee Road in an easterly direction. The boundaries of the site range from post and wire fencing with some hedging in parts. The surrounding area is generally rural in nature with scattered dwellings and their associated outbuildings.	
Description of Proposal Outline planning permission is sought for a proposed dwelling in an infill site.	

Deferred Consideration:

This application was before the Planning Committee in August 2020 and it was agreed to defer the application for a meeting with the Planning Manager to further discuss the proposal. This meeting took place on 18 August 2020 where other possibilities in relation to clustering under CTY2a and replacement dwelling under CTY3 were discussed. It was agreed the applicant would clear away existing vegetation to allow a further assessment of the existing building on the site and what impacts this would have on the proposal.

I visited the site on 11 September and noted that vegetation had been removed from the front of the site which exposed a low wall and threshold. This was most likely from an old dwelling and the Public Records Office Maps (Appendix 1) indicate there has been a building here for some considerably time. That said the building has more or less been demolished and removed with little more than 2 low walls remaining to the front and side of what may have been a dwelling, as can be seen in the photos below. I do not consider the existing structures on the site to be the substantially intact remains of a former dwelling and would not meet the criteria for a replacement dwelling.



The site is on an elevated location when viewed from the Coash Road to the west and from Drumkee Road to the east. To the rear and north of the site is a chalet bungalow with a detached garage and to the east is a bungalow with sheds to the rear that are accessed of a private lane. Other development located to the east is set back from the roadside with roadside fields that I consider provide a visual break from the proposed site and the development to the east. I consider the site and the immediate development around it can only be assessed for the purposes of Policy CTY2a. The proposed site is therefore located with a group of 6 buildings, 2 of these are dwellings, 2 are domestic garage and 2 are agricultural buildings. I do not consider the group of buildings meets the definition of a cluster in the first criteria of CTY2a as there are really on 4 buildings that can be counted and only two of them are dwellings. This group of buildings is not associated with any focal point or at a cross roads and while the site does have development on 2 sides, due to its hilltop location I do not consider that it benefits from a suitable degree of enclosure. I do not consider the site can be assessed against the policies in CTY2a.



Site behind and to the left of the bungalow above (Drumkee Road View)



Site to the right of the chalet bungalow above (Coash Road View)

As has been explained in the above considerations the proposed site is on an elevated site in the countryside and does not have vegetation or features that would integrate a dwelling. That said, integration can be achieved using vegetation, landform and other development. I do not consider a modest sized dwelling in the NE corner of the site would be so prominent as to result in a loss of rural character and that the existing buildings

could give it a reasonable degree of integration and grouping with them. This only relates to integration and the principle of a dwelling has not been established under any of the policies.

The planning history of this site is a material consideration that members should be aware of. Outline planning permission was granted for a dwelling on this site in 1988, at that time there were buildings on the site and a condition was attached requiring the removal of those buildings. I am unable to find any Reserved Matters application and as such the permission lapsed and I do not consider the planning history can be determining in this case. Members are advised they must consider the site as it currently is and not how it may have been.

Having taken into account additional information, I do not consider this application meets with any of the policies for a dwelling as provided in PPS21 and as such it is recommended for refusal.

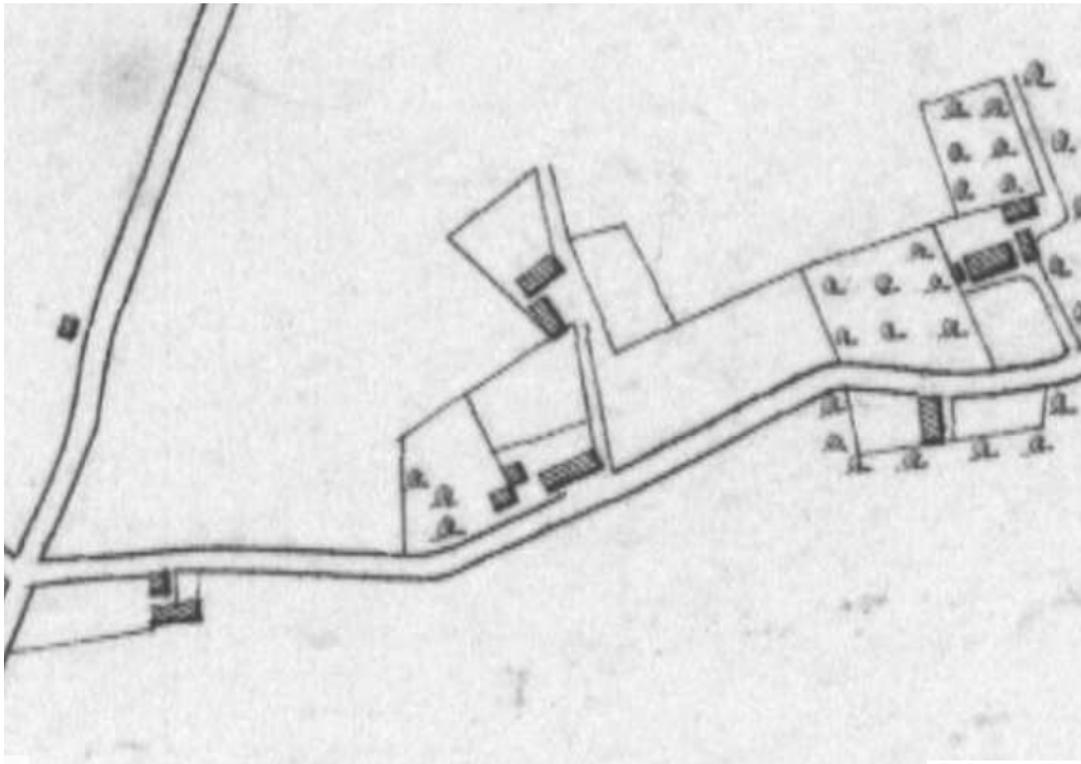
Reasons for Refusal:

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

Signature(s)

Date:

PRONI HISTORICAL MAPS
First Edition 1832 - 1846



Second Edition 1846 - 1862



Third Edition 1900 – 1907



Forth Edition 1905 -1957



Fifth Edition 1919 – 1963





Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0022/O	Target Date: 06/04/2020
Proposal: Proposed dwelling in an infill site	Location: Land adjacent to and South of 14 Drumkee Road Dungannon
Referral Route: Refusal - Contrary to PPS 21.	
Recommendation:	Refusal
Applicant Name and Address: Mr Noel Stephenson Homer House School Road Preston near Hull	Agent Name and Address: Darcon Architectural Services 23 Tobin Park Moortown BT80 0JL
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



(Area shaded red highlighted to show preferred siting)

Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	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 representations received.

Characteristics of the Site and Area

The site is located at lands approx. 14 Drumkee Road, Dungannon. The site is located within the countryside as designated within the Dungannon and South Tyrone Area Plan 2010. The red line of the site includes a roadside agricultural field. The site sits on a slightly elevated position when travelling along the Drumkee Road in an easterly direction. The boundaries of the site range from post and wire fencing with some hedging in parts. The surrounding area is generally rural in nature with scattered dwellings and their associated outbuildings.

Description of Proposal

Outline planning permission is sought for a proposed dwelling in an infill site.

Planning Assessment of Policy and Other Material Considerations

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 14 and 16 Drumkee Road. At the time of writing, no representations were received.

Planning History

There is not considered to be any relevant planning history associated with the site.

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 Area Plan identify the site as being outside any defined settlement limits, located South of Coalisland Settlement Limit. There are no other specific designations or zonings.

Mid Ulster Development Plan 2030 Draft Plan Strategy was launched on the 22nd Feb 2019. It is currently going through a further consultation period which commenced on 25th March 2020. Due to the COVID19 Pandemic there is currently no end date or timetable for public events in relation to this re-consultation. During the initial consultation period a number of objections to Policies contained in the Plan were received. In light of this the Draft Plan cannot be given any determining weight at this time.

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.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A

range of examples are set out in CTY 1 detailing different cases which would allow for planning permission in the countryside, one of these being the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with CTY 8.

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

It is considered that the proposed site does not meet the policy tests in that there is not a continuous built up frontage along this stretch of Drumkee Road. At present, there is a dwelling and garage north of the site and a dwelling and associated outbuildings to the rear east of the site. The dwelling to the east of the site has a frontage to the road but none of the outbuildings to the rear have any further frontage. The dwelling to the north of the site is accessed via a laneway which runs east of the site and therefore does not have a frontage to Drumkee Road (**Shown above in Figure 1**). The site is relying on this dwelling (No.14) which is set back from the road and it is my view that this site would extend a ribbon of development rather than round off development. On the site location plan it appears there is a building within the site itself, however from the site visit conducted it noted that this was an overgrown area with minimal parts of the walls remaining and therefore cannot be considered as a building (**Shown in Figure 2**).



Figure 1



Figure 2

The agent referred to a previous application ref: H/2010/0303/O, which he felt was similar to this case however after taking a look at the drawings from the history file I did not find there was any correlation between the application site and the history file. It should also be noted that this application was recommended for refusal from the case officer originally and was later approved after a deferral where the site specific case was put forward. Therefore from the site visit, the maps and justification provided from the agent I am not satisfied that there is a line of three or more buildings along this road frontage and therefore the proposal does not meet the policy requirements of CTY 8.

Policies CTY 13 and CTY 14 are also applicable in relation to the proposal. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted however in this instance I feel the proposal fails on criterion (d) of CTY 14 in that it would add to a ribbon of development and thus is recommended for refusal.

DfI Roads were consulted and have no objection to the proposal subject to condition.

Neighbour Notification Checked

Yes

Summary of Recommendation:

It is considered that the proposal is contrary with the relevant planning policy and thus refusal is recommended.

Conditions/Reasons for Refusal:

Refusal Reasons

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

2.The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal is not located within a small gap site within an otherwise substantial and continuously built up frontage.

3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the (building) would, if permitted add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

Signature(s)**Date:**

ANNEX	
Date Valid	24th December 2019
Date First Advertised	21st January 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 14 Drumkee Road Dungannon Tyrone The Owner/Occupier, 16 Drumkee Road Dungannon Tyrone	
Date of Last Neighbour Notification	20th January 2020
Date of EIA Determination	
ES Requested	Yes /No
Planning History	
<p>Ref ID: LA09/2020/0022/O Proposal: Proposed dwelling in an infill site Address: Land adjacent to and South of 14 Drumkee Road, Dungannon, Decision: Decision Date:</p>	
<p>Ref ID: M/1988/0299 Proposal: DWELLING Address: 140 M WEST OF 23 DRUMKEE ROAD, DRUMKEE, DUNGANNON Decision: Decision Date:</p>	
<p>Ref ID: M/2000/0382/F Proposal: Dwelling Address: Rear of 16 Drumkee Road, Coalisland. Decision: Decision Date: 26.07.2000</p>	
<p>Ref ID: M/1992/4025 Proposal: Extension to Dwelling Address: M16 DRUMKEE ROAD DRUMKEE DUNGANNON Decision:</p>	

Decision Date:
Ref ID: M/1999/0703/O
Proposal: Dwelling
Address: Rear of 16 Drumkee Road Coalisland
Decision:
Decision Date: 17.11.1999

Summary of Consultee Responses

Dfl Roads – No issue.

Drawing Numbers and Title

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

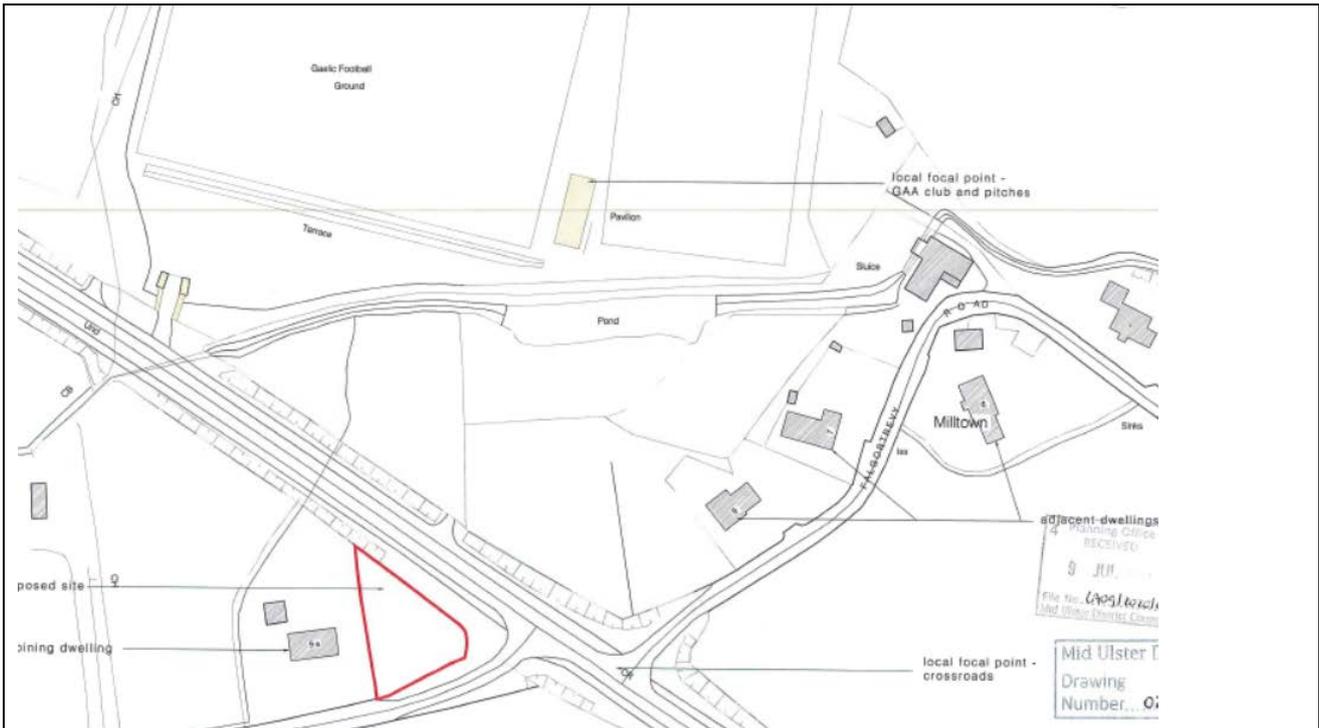
Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2020/0608/0	Target Date:
Proposal: Dwelling and Garage.	Location: Site adjacent to 9a Falgortrevy Road Maghera
Applicant Name and Address: Shaun Kelly 29 Hawthorne Road Maghera BT46 5FN	Agent name and Address: Newline Architects 48 Main Street Castledawson BT45 8AB
Summary of Issues: Following the deferral of the above application, the issues remain and refusal is recommended as for the reasons given. An objection has been received since the application was deferred.	
Summary of Consultee Responses: No objections from consultees.	
Characteristics of the Site and Area: The site is located within the open countryside. The site is a roadside plot accessed by Falgortrevy Road adjacent to the junction with A6 Glenshane Road, a protected route. The immediate area is rural in character, with agricultural fields, farm complexes and residential dwellings. On the opposite of the road on the Glenshane Road, is Maghera GAA football grounds. The site sits lower than the Glenshane Road and is triangular in shape. Mature trees and hedging surrounds the site boundaries. A recently trimmed low hedge exists to the western boundary.	



Description of Proposal

The applicant seeks outline planning approval for a dwelling and garage

Deferred Consideration:

This application was presented as a refusal to Planning Committee in September 2020 for the following reasons;

Refusal Reasons

1. The proposal is contrary to the SPPS and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to policy CTY2a of PPS21, New Dwellings in existing clusters in that;
 - the identified site is not located within an existing cluster of development consisting of four or more buildings of which at least 3 are dwellings;
 - the identified site is not located within an existing cluster which appears as a visual entity in the local landscape;
 - the identified site is not bounded on at least two sides with other development in the cluster; and
 - the development of the site cannot be absorbed into an existing cluster through rounding off and consolidation.

It was subsequently deferred for an office meeting with the Area Planning Manager and the meeting was held on 10/9/2020. It was agreed the site would be re-visited to consider it as a cluster site, in particular in relation to the GAA grounds and to assess any impact on the adjacent dwelling.

An objection was received from the adjacent dwelling No.9a Falgortrey Road on 4th Sept 2020, further to the application being presented to the Planning Committee. The objectors consider the site does not meet all of the criteria under Policy CTY2a and because of this permission should not be granted.

In terms of Policy CTY2a, permission will only be granted for a dwelling at an existing cluster of development provided all the following criteria are met;

- *the cluster of development lies outside of a farm and consists of 4 or more buildings (excluding ancillary buildings such as garages) of which at least 3 are dwellings;*

The application site sits at a road junction. To the west adjacent to the site is dwelling and garage of No.9a Falgortrey Road, however only the dwelling can be counted. The 3 dwellings (No.6, 7 & 9) on the opposite side of the Glenshane Road, cannot be viewed or visually linked with the site and could not be counted as part of a cluster. There are also GAA pitches located further up Glenshane Road which although can't be viewed when at the site, comes into view when travelling past it towards Derry. There would appear to be a cluster of development here, including the existing dwellings and pitches/club, however, the Glenshane Road provides a major visual break which prevents the site being associated with this cluster.

- *The cluster appears as a visual entity in the local landscape.*

The cluster of development at the GAA pitches would be a visual entity, the crossroads would not be included within this cluster, and as previously mentioned the site is too far removed to be included within this existing cluster.

- *The cluster is associated with a focal point such as crossroads/community building or is located at a crossroads.*

The site is located at a crossroads which would be considered as an acceptable focal points in terms of meeting this part of the criteria.

- *The identified site provides a suitable degree of enclosure and is bounded on at least 2 sides with other development in the cluster;*

The site is bound to the west by the dwelling No.9a. However is not bound by development on any other side and so does not meet this test of CTY2a.

- *Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside;*

The site itself has adequate screening and is limited from long ranging public views due its location. A low storey dwelling on the site would not significantly alter the existing character of the area or appear overly prominent or visually intrude into the landscape. However, it is not considered the site is located within any existing cluster. The dwellings relied on No.6, 7 and 9 and the GAA pitches/club do not have a strong enough visual linkage with the site to be seen as being part of a cluster of existing development, and therefore this criteria is not being met.



Site on left and GAA pitches on right in the distance

- *Development would not adversely impact on residential amenity.*

From the site inspection carried out on 16th Oct 2020, I would have concerns of the impact a dwelling on the site would have on the neighbouring dwelling No.9a. The boundary between the site and No.9a (shown below) is just a low hedge, offering little in the way of separation, on quite a tight site. A dwelling would be imposing on the existing house and impact on their enjoyment and privacy, detrimentally affecting their residential amenity.



In light of the above a refusal is therefore being recommended.

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.

Refusal Reasons ;

1. The proposal is contrary to the SPPS ad Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to policy CTY2a of PPS21, New Dwellings in existing clusters in that;
 - the identified site is not located within an existing cluster of development consisting of four or more buildings of which at least 3 are dwellings;
 - the identified site is not located within an existing cluster which appears as a visual entity in the local landscape;
 - the identified site is not bounded on at least two sides with other development in the cluster; and

- the development of the site cannot be absorbed into an existing cluster through rounding off and consolidation; and
- development would adversely impact on residential amenity of the neighbouring property.

Signature(s):

Date

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0608/O	Target Date: 11/09/20
Proposal: Proposed dwelling and garage	Location: Site adjacent to 9a Falgortrevy Road Maghera
Referral Route: Recommended refusal – contrary to PPS21 Policy CTY2a	
Recommendation:	
Applicant Name and Address: Shaun Kelly 29 Hawthorne Road Maghera BT46 5FN	Refusal Agent Name and Address: Newline Architects 48 Main Street Castledawson BT45 8AB
Executive Summary:	
Signature(s):	

For committee consideration





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

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 application site lies within the rural area outside any defined settlement limits as defined in the Magherafelt Area Plan 2015. The proposal site comprises a small roadside plot of land currently accessed via an agricultural gate on to Falgortrevy Road, adjacent to the junction with the A6 Glenshane Road, a protected route. The immediate surrounding context is rural, characterised by single detached dwellings, sprawling agricultural fields and dispersed farm complexes. Located in proximity to the application site to the north, on the opposite side of the A6 Glenshane Road, is Maghera GAA grounds. There is a gentle incline when travelling easterly on this section of Falgortrevy Road and the proposal site is located on land slightly lower than the ground level of the adjacent Glenshane Road. On the date of the site inspection, it was noted that there has been a recent clearing and levelling of the site. The southeastern boundary is currently relatively undefined and the remaining boundaries are well defined by established trees and hedging.

Description of Proposal

This is an outline planning application for a dwelling and garage adjacent to 9a Falgortrevy Road, Maghera.

The dwelling is being applied for as a dwelling in an existing cluster under Planning Policy Statement 21, Policy CTY 2a.

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

Mid Ulster Development Plan 2030 Draft Plan Strategy was launched on the 22nd February 2019. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March for 8 weeks. The re-consultation period will close on 5pm on 24th September 2020. In light of this the draft plan cannot currently be given any 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, no third party objections were received.

History on Site

No relevant planning history.

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 – 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 – PPS21 is the overarching policy for development in the countryside. Policy CTY 1 provides clarification on circumstances in which development will be permitted in the countryside.

It was unclear from Drawing No.01 date stamped 29th May 2020 which policy under PPS21 the agent was relying on for this proposal therefore justification was sought. A Supporting Statement and Concept Plan (Drawing No.02) were received on 09/07/20 which detailed the proposal was being sought as a new dwelling in an existing cluster as per Policy CTY2a of PPS21.

Policy CTY2a of PPS21 provides an opportunity for a new dwelling at an existing cluster of development provided all of the following criteria are met.

- *the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;*

The application site abuts the existing road network to the east and south. Immediately west of the application site is the detached dwelling of No.9a Falgortrevy Road. It is noted further northeast of the application site at the opposite side of the A6 Glenshane Road, there are three detached dwellings. However these are located over 100 metres away and when viewed on the ground there does not appear to be a visual linkage with these dwellings due to the separation distances, landform and siting.

- *the cluster appears as a visual entity in the local landscape;*

Given the separation distance with the properties of No.6, 7 and 9, I do not consider the proposal site is located within a cluster which appears as a visual entity.

- *the cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads,*

The application site is located adjacent to a cross-roads which is considered as an acceptable focal point for the purposes of satisfying this criterion of Policy CTY2a.

- *the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;*

The site is bound to the west by the detached dwelling, No.9a Falgortrevy Road. However, the site is not bounded by development on any other side therefore fails to meet this criterion.

- *development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and*

The proposal site has existing established screening which provides an acceptable degree of enclosure meaning public views are minimised to close range when approaching and travelling on Falgortrevy Road and Glenshane Road. Therefore, I do not consider the proposal would significantly alter the existing character or appear overly prominent or visually intrude in the landscape.

However, I do not consider the proposal is located within an existing cluster therefore the proposal would not constitute rounding of or consolidating an existing cluster. The agent has relied on the properties of no. 6, 7 and 9 Falgortrevy Road and Watty Graham GAA facilities as the cluster within the local landscape. I do not consider on the ground that the proposal site has a visual linkage with these buildings which are located a minimum of 100 - 200 metres away on the other side of the A6 Glenshane Road.

- *development would not adversely impact on residential amenity.*

Given the separation distance with neighbouring properties and existing natural screening of the site, I do not have concerns with respect adverse impact on residential amenity.

Overall, I do not consider that the proposed development meets all the criteria outlined under CTY2a to merit the granting of permission under this policy.

CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The application site is located along the roadside however given the existing, established vegetation to the southeast and western boundaries, I consider the proposal site could provide a suitable degree of enclosure for a dwelling and garage without appearing as an overly prominent feature in the landscape. It is considered a dwelling could visually integrate into the surrounding landscape, however the site would require further landscaping and vegetation to the northeast boundary but would not rely primarily on this for integration. I consider the principle of development is unacceptable as it does not meet the criteria within Policy CTY1 and CTY2a, however should planning permission be granted, the design of the proposed dwelling would be a matter for consideration at the Reserved Matters stage. I consider it would be necessary to condition a maximum ridge height of 6 metres, which would be in keeping with the existing built form to ensure integration into the setting.

In terms of policy CTY14, planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It is considered that the site and the surrounding environment is suitable for absorbing a dwelling without significantly impacting on rural character and therefore complies with Policy CTY14.

PPS 3: Access, Movement and Parking

DfI Roads have been consulted and have raised no objections to the proposal subject to conditions. Therefore, it is not consider a dwelling on the site satisfying Policy AMP2 of PPS3 and would not prejudice road safety or significantly inconvenience the flow of traffic.

Additional considerations

In addition to checks on the planning portal online, environmental map viewers have been checked and identified no natural or built heritage interests of significance on site.

Neighbour Notification Checked

Yes

Summary of Recommendation:

The proposal is recommended for refusal, as it does not comply with CTY8 and 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.

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that;
 - the identified site is not located within an existing cluster of development consisting of four or more buildings of which at least three are dwellings;
 - the identified site is not located within an existing cluster which appears as a visual entity in the local landscape;
 - the identified site is not bounded on at least two sides with other development in the cluster; and
 - the development of the site cannot be absorbed into an existing cluster through rounding off and consolidation.

Signature(s)

Date:



Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2020/0801/O	Target Date:
Proposal: Dwelling & detached domestic garage	Location: Site adj to & South of 19 Ballymaguigan Road Magherafelt
Applicant Name and Address: Niamh Young 22 Lough Road Ballymaguigan	Agent name and Address: E C Birt 72 Main Street Toomebridge BT42 3NJ
Summary of Issues: This proposal had failed to comply with CTY 1, CTY8 & 14 of PPS. Following a deferral meeting, taking the history into account, an approval with conditions has been recommended.	
Summary of Consultee Responses: No objections.	
Characteristics of the Site and Area: This site is located approximately 0.7km south east of the development limits of Gracefield, in which the site is located within the open countryside as per the Magherafelt Area Plan 2015. The site comprises a flat rectangular shaped plot which is defined by a Leylandii hedgerow 5 m in height along its western boundary, mixed bushes approximate 3m in height along southern our dry with scattered trees, eastern boundary is undefined and northern roadside boundary consists of a row of trees 5-6m in height. There is a 2m roadside verges along the site frontage	

Description of Proposal

Proposed site for an outline dwelling and garage

Deferred Consideration:

This application was presented to Planning Committee as a refusal for the following 3 reasons ;

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is no valid gap site and that the proposal would, if permitted, result in the addition of ribbon development along Ballymaguigan Road
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

The application was subsequently deferred for an office meeting which was held with the Area Planning Manager on 12th November 2020.

The previous history on the site was discussed with the Planning Manager. H/2014/0302/F & H/2010/0303/0, which were both approved under CTY8. Both have now expired and no start was made on site for either approval.

In the interests of administrative fairness an approval is recommended in this instance. This should however been seen as an exceptional case due to the past histories on the site from by the same applicant that were previously approved as a gap site.

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.

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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. 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.

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

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

4. This permission is granted solely as a substitute for the permission for a dwelling previously granted on the site under H/2010/0300/0 & H/2014/0302/F and only one dwelling shall be constructed on the site.

Reason: To ensure that only one dwelling is constructed on the site in accordance with the Department's policies for the control of residential development in the countryside.

5. A scale plan and accurate site survey at 1:500 (minimum) shall be submitted a 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.

6. 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.

Signature(s):

Date

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0801/O	Target Date:
Proposal: Dwelling & detached domestic garage	Location: Site adj to & South of 19 Ballymaguigan Road Magherafelt
Referral Route: Refusal - To Committee – Contrary to CTY 1, 8 and 14 of PPS 21.	
Recommendation:	
Applicant Name and Address: Niamh Young 22 Lough Road Ballymaguigan Magherafelt BT45 6LE	Agent Name and Address: E C Birt 72 Main Street Toomebridge BT42 3NJ
Executive Summary: Refusal	
Signature(s): Peter Henry	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

Representations:

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

Summary of Issues

Refusal - To Committee - Application has failed under CTY 1 and 8 of PPS 21.

Characteristics of the Site and Area

This site is located approximately 0.7km south east of the development limits of Gracefield, in which the site is located within the open countryside as per the Magherafelt Area Plan 2015. The site comprises a flat rectangular shaped plot which is defined by a Leylandii hedgerow 5 m in height along its western boundary, mixed bushes approximate 3m in height along southern our dry with scattered trees, eastern boundary is undefined and northern roadside boundary consists of a row of trees 5-6m in height. There is a 2m roadside verges along the site frontage

Relevant planning history

H/2014/0302/F - Erection of dwelling and detached garage in a gap site with associated access and landscaping - Land adjacent to and south east of 19 Ballymaguigan Road Magherafelt BT45 6LE - Permission Granted - 05.11.2014

H/2010/0303/O - Proposed dwelling in a gap site. - Land adjacent to and south east of 19 Ballymaguigan Road, Ballymaguigan - Permission granted - 30.12.2010

<p>Representations</p> <p>Four neighbour notifications were sent out however no representations were received.</p>
<p>Description of Proposal</p> <p>This is an outline application for a dwelling & detached domestic garage located site adj. to & South of 19 Ballymaguigan Road, Magherafelt.</p>
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.</p> <p>Magherafelt Area Plan 2015 Mid Ulster Local Development Plan 2030 - Draft Plan Strategy Strategic Planning Policy Statement (SPPS) PPS 21: Sustainable Development in the Countryside CTY 1- Development in the Countryside CTY 8 - Ribbon Development CTY 13 - Integration and Design of Buildings in the Countryside; and CTY14 - Rural Character PPS 3 - Access, Movement and Parking;</p> <p>The application is for a dwelling to be considered under CTY 8. The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.</p> <p>The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.</p> <p>CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided 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.</p> <p>I first note that there is a history on the site, with previous approvals H/2014/0302/F and H/2010/0303/O, which have been approved under CTY 8 but have both unfortunately expired and neither appear to have been started within time.</p>

With regards to the continuous and built up frontage, I note that to the west sits two detached dwellings both with associated garages. I note that to the east that the applicant is relying on what is noted No. 19b, however upon site inspection that No.19b is not constructed in that it only appears to have footings dug out. With this in mind I am of the opinion that this cannot be counted towards the built up frontage. I note that there are two other dwellings further east approximately 155m away and not read as part of the built up frontage. With this in mind, I do not hold the opinion that there is even a gap site within a built up and continuous frontage as a result and the application would fail under CTY 8 as it would extend the ribbon of development along the Ballymaguigan Road.

I note that this was relayed to the applicants agent who referred back to the history on the site, I note that this was discussed at group. It was agreed that whilst the policy itself has not changed it is the interpretation of the policy that has changed. Back in 2010, it was allowed that approved development mainly that of No.19b whether built or not to constitute as part of the built up frontage. It is felt that ample time has been passed for No. 19b to be further developed and built and for this reason does not constitute as a part of the built up frontage anymore.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore no design details have been submitted however I am of the opinion that an appropriately designed dwelling will not appear prominent in the landscape. I note that as much of the existing landscaping should be retained as possible and supplemented with additional landscaping where necessary. Therefore a landscaping scheme will be required in any 'Reserved Matters' application. Finally given the site, landform and surrounding development I feel it necessary to restrict the ridge height to be no more than 6.5m above finished floor level. From this I am content that the application is able to comply with CTY 13.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not appear prominent in the landscape. I am content that the development would not lead to a sub-urban style build-up of development when viewed with existing and approved development. I am content that the ancillary works would not damage rural character. As noted above if approved this application would result in the addition of a ribbon of development along the Ballymaguigan Road, in which this would adversely change the rural character of the area as a result. From this, it would fail under CTY 14.

Other policy and material considerations

PPS 3 - Access, Movement and Parking;
DFI Roads were consulted and in their response confirmed that they were content subject conditions and informatives.

I note that no other case have been put forward to the Council, in that the site is not a valid farm site, cluster, for social housing, no domestic and personal circumstances have

been submitted, the site isn't in a DRC, there is no valid replacement or conversion on site and it is not for a non-agricultural business enterprise.

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

I have no flooding or residential amenity concerns.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal

Reasons for Refusal:

Refusal Reasons

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is no valid gap site and that the proposal would, if permitted, result in the addition of ribbon development along Ballymaguigan Road.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

Signature(s)

Date:

ANNEX	
Date Valid	8th July 2020
Date First Advertised	21st July 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 17 Ballymaguigan Road Magherafelt Londonderry The Owner/Occupier, 18 Ballymaguigan Road Magherafelt Londonderry The Owner/Occupier, 19 Ballymaguigan Road Magherafelt Londonderry The Owner/Occupier, 19b Ballymaguigan Road Magherafelt	
Date of Last Neighbour Notification	31st July 2020
Date of EIA Determination	
ES Requested	Yes /No
Planning History	
<p>Ref ID: LA09/2020/0801/O Proposal: Dwelling & detached domestic garage Address: Site adj to & South of 19 Ballymaguigan Road, Magherafelt, Decision: Decision Date:</p> <p>Ref ID: H/1986/0243 Proposal: BUNGALOW Address: BALLYMAGUIGAN ROAD, MAGHERAFELT Decision: Decision Date:</p> <p>Ref ID: H/2003/1018/O Proposal: Site of dwelling and garage. Address: Approx 90m South East of 19 Ballymaguigan Road, Magherafelt. Decision: Decision Date: 17.06.2004</p> <p>Ref ID: H/2001/0787/Q Proposal: Site Of Dwelling Address: Adjacent To 19 Ballymaguigan Road, Magherafelt. Decision:</p>	

Decision Date:

Ref ID: H/1988/0307

Proposal: SITE OF DWELLING AND GARAGE

Address: 70M SE OF NO 17 BALLYMAGUIGAN ROAD BALLYMAGUIGAN
MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2003/0932/O

Proposal: Site of dwelling and garage.

Address: 50m South East of 19 Ballymaguigan Road, Magherafelt.

Decision:

Decision Date: 16.09.2004

Ref ID: H/2010/0303/O

Proposal: Proposed dwelling in a gap site.

Address: Land adjacent to and south east of 19 Ballymaguigan Road, Ballymaguigan

Decision:

Decision Date: 30.12.2010

Ref ID: H/1986/024301

Proposal: SITE OF BUNGALOW

Address: BALLYMAGUIGAN ROAD, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2014/0302/F

Proposal: Erection of dwelling and detached garage in a gap site with associated access and landscaping

Address: Land adjacent to and south east of 19 Ballymaguigan Road Magherafelt BT45
6LE,

Decision: PG

Decision Date: 05.11.2014

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2019/1484/O	Target Date:
Proposal: Proposed site for dwelling	Location: 50m East of 91 Aughrim Road Magherafelt
Applicant Name and Address: Keith Fulton 50 Gracefield Road Magherafelt	Agent name and Address: Newline Architects 48 Main Street Castledawson BT45 8AB
Summary of Issues: This proposal had failed to comply with CTY 1 and CTY 2a of PPS 21 in that it had not met all criteria for a new dwelling in an existing cluster. Following a deferral and re-assessment of the proposal, an approval as a farm dwelling, with conditions has been recommended.	
Summary of Consultee Responses: No objections.	
Characteristics of the Site and Area: The application site is positioned 50m East of 91 Aughrim Road, Magherafelt. The site comprises the northeast portion carved out of a large grassed field located at a crossroads. To the north are two dwellings Nos 101 and 99 Annaghmore Road further northeast is Aughrim Gospel Hall. Further east are two further dwellings Nos 91 and 91a Aughrim Road and further northeast is an Orange Hall.	

The north and west boundaries are defined by low level hedgerows with a similar roadside hedge runs along the Ballynagarve Road. The south and east boundaries are undefined. The sites topography is relatively flat and sits approximately 0.5 of a metre below road level. The surrounding area is characterised by an undulating landscape with the predominant land use agricultural with individual dwellings and associated farm outbuilding peppered throughout the area. The site is not relocated within any designated zones classified as open countryside as defined in the Magherafelt Area Plan 2015.

Description of Proposal

Proposed site for dwelling

Deferred Consideration:

This application was presented to Planning Committee as a refusal for the following reasons ;'

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure.

It was subsequently was deferred for an office meeting which was held with the Area Planning Manager 14th August on 2020. Following discussion with the agent, a farm case was submitted for the site.

The proposal will now be assessed against CTY10 – dwellings on farms,

Permission will be granted in this case where all of the following criteria have been met;

(a) The farm business if currently active and has been established for at least 6 years- DEARA have confirmed the farm business has been in existence for more than 6 years and that farm business payments have been claimed for this period. Therefore this part of the criteria has been met.

(b) 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.
Following a history search of the farm land, this part of the criteria has also been met.

(c) The new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable access should be taken from an existing laneway. 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, and where either there are;

Demonstrable health and safety reasons or Verifiable plans to expand the farm.

The farm buildings and associated yard is located to the NE of the site and there is an agricultural field adjacent to this complex, directly opposite the site on the other side of the Aughrim Road.

In this case although there are no verifiable plans to expand the farm, health and safety reasons have been put forward to support the given location. There is an existing open slurry silo adjacent to the farm house, which has been designed to discharge into the hollow of the field next to it, should there ever be an accident. There would mean no development of a dwelling could take place in this field in terms of health and safety issues for the occupants.

With this being the case, the chosen site would be next closest field to the farm buildings and a dwelling here can still be visually linked with the farm complex. The site sits lower than the road level and is tucked into the corner of the road junction. A siting condition and ridge height restriction will further reduce issues with prominence and aid in integration for a dwelling located here. It would not cause a detrimental impact to the character of the area and would be seen as suitable site in line with criteria c of CTY10.

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.

An approval is now recommended with the conditions outlined below.

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.

7. The proposed dwelling shall have a ridge height of less than 6 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.

8. 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.

9. The proposed dwelling shall be sited in the area shaded green on the approved plan 01 date stamped 8 Nov 2019.

Reason: To ensure that the development is not prominent in the landscape in accordance with the requirements of Planning Policy Statement 21.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1484/O	Target Date:
Proposal: Proposed site for dwelling	Location: 50m East of 91 Aughrim Road Magherafelt
Referral Route: Proposal fails to comply with criteria 4 contained within Policy CTY 2a of PPS 21, no third party representations received and all other material considerations have been taken into consideration.	
Recommendation:	
Applicant Name and Address: Keith Fulton 50 Gracefield Road Magherafelt	Agent Name and Address: Newline Architects 48 Main Street Castledawson BT45 8AB
Executive Summary:	
Signature(s):	

*For committee
decision*



5/13/2020

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection

Representations:

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

Summary of Issues

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

Characteristics of the Site and Area

The application site is located 50m East of 91 Aughrim Road, Magherafelt. The site comprises the northeast portion carved out of a large grassed field which is adjacent to a crossroads. To the north are two dwellings Nos 101 and 99 Annaghmore Road further northeast is Aughrim Gospel Hall. Further east are two further dwellings Nos 91 and 91a Aughrim Road and further northeast is an Orange Hall. Both the north and west boundaries are defined by low level hedgerows supported by post and wire fencing. The south and east boundaries are undefined. The site's topography is relatively flat and sits approximately 0.5 of a metre below road level.

The surrounding area is characterised by an undulating landscape with the predominant land use agricultural with individual dwellings and associated farm outbuilding peppered throughout the area. The site is not relocated within any designated zones classified as open countryside as defined in the Magherafelt Area Plan 2015.

Description of Proposal

The applicant is seeking outline planning for a dwelling and garage.

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 the creation of a new access and entrance to a public road and therefore DFI Roads were consulted in the processing of the application.

All planning application forms, drawings, letters etc. relating to this planning application are available to view on www.planningni.gov.uk.

Relevant Site History:

MUDC records indicate that there is no relevant planning history associated with this site.

I have no ecological, flooding or residential amenity concerns.

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 25th November 2019 (publication 26th November 2019). Five (5) neighbouring properties were notified on 15th November 2019; 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, there is no watercourse directly abutting this site, therefore it is unlikely that there will be any adverse effects from development works on integrity of any National or European site or any water stream by way of a hydrological link to the site.

Constraints:

DFI: Roads no objection apply standard conditions;
NIW: No objections standard Informatives

Planning Assessment of Policy and Other Material Considerations

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

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations.

Section 6 (4) states that the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The Magherafelt Area Plan 2015 does not contain any policies in regards to this site.

1. Magherafelt Area Plan 2015.
2. Draft- Mid Ulster District Council Local Development Plan 2030 ? draft plan
3. Strategic Planning Policy Statement (SPPS).
4. PPS 3 Planning Policy Statement 3 Access, Movement and Parking.
5. PPS 21 - Sustainable Development in the Countryside.
6. Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside.

The Magherafelt Area Plan 2015 (MAP) operates as the statutory local development plan for the area the site lies in. The MAP offers no other specific policy or guidance in respect of the proposed development. The MAP does not contain any specific policies relevant to the application. The principal planning policies are therefore provided by PPS 21 and the SPPS.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan.

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.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) is a retained policy document under the 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 CTY 2a development in clusters. There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 21 in respect of the proposal. The policy provisions within PPS21 (CTY2a, CTY 13 & 14) and PPS 3 remain applicable in terms of assessing the acceptability of the proposed application.

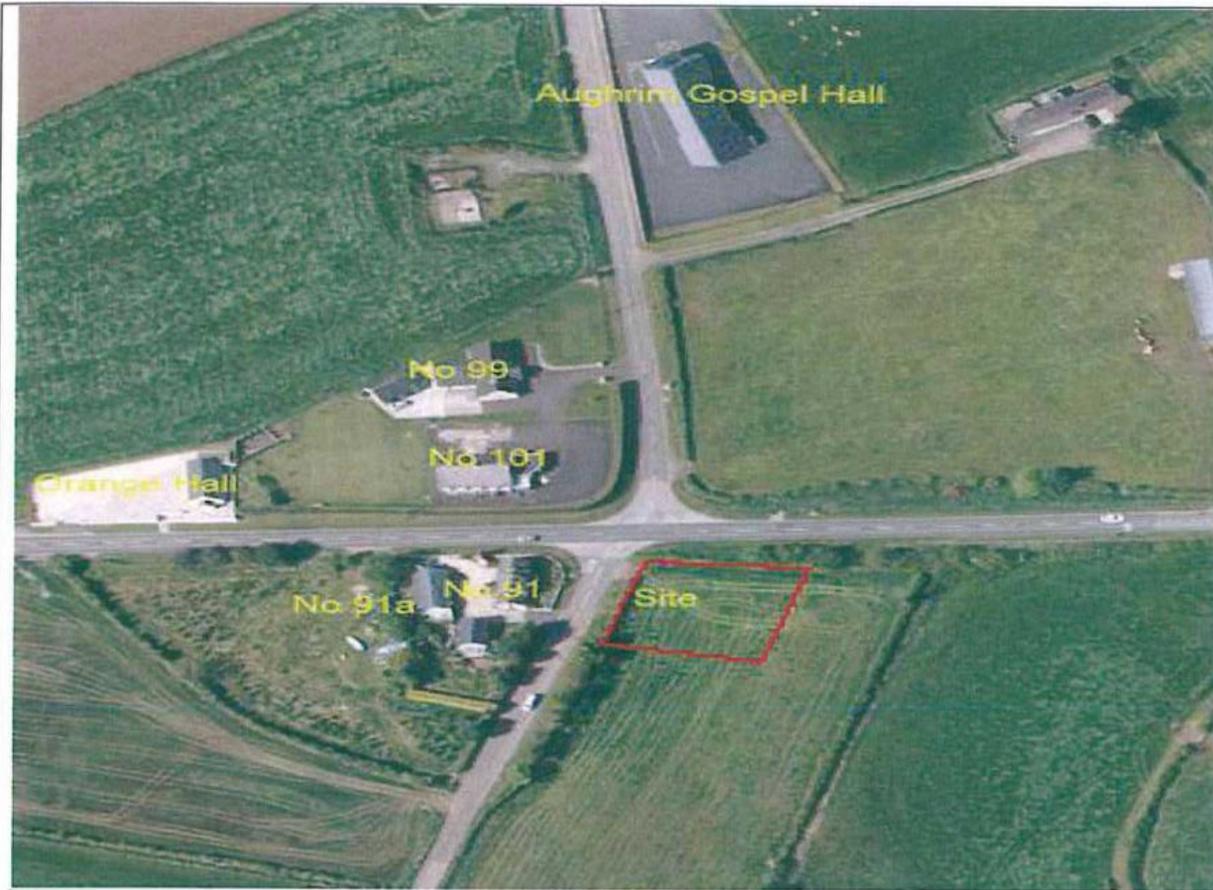


Fig 1 Spatial map

Assessment.

The agent has requested in an email to the case officer dated 24/02/2020 that he feels strongly the site is within the spirit of the policy of CTY2a and request that Council Planning Committee considers the site as an exception to policy, in that the site exhibits 5 out of the 6 criteria. The agent's comments have been taken into consideration along with other material considerations.

PPS 21, Policy CTY 1, establishes that planning permission will be granted for a dwelling house based on CTY2a development within a cluster is acceptable, subject to meeting the following policy criteria:-

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

I am satisfied that the proposed development is in compliance with criteria 1, 2, 3, 5 and criteria 6.

I have carried out an inspection of overhead historical orthographic imagery, along with street view imagery confirms the site is located within an associated cluster of development with the exception of criteria 4.

With regard to the fourth criterion I am satisfied that the application site could provide a suitable degree of enclosure for the development subject to ridge height not exceeding 6.5m above finish floor level. That said, the site is not bounded on two sides with other development criteria 4 states at least two sides bounded by existing development is the minimum acceptable degree of physical relationship between the site and adjacent existing development in the cluster. Whilst I accept that the site has two boundaries that abut the Aughrim and Ballynagarve Roads however roads and laneways do not in my opinion constitute development as set down in the 2011 Planning Act.

CTY 13

Considering the requirements of CTY 13 - Integration and Design of Buildings in the Countryside 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. A new building will be unacceptable where:

- a) It is a prominent feature in the landscape; - the proposal site is not in a prominent location.
- b) The site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; - the site has mature and established boundaries to all sides.
- c) It relies primarily on the use of new landscaping for integration - the site has mature and established boundaries on two sides
- d) Ancillary works do not integrate with their surroundings - as this is an outline application no ancillary works have been indicated, access would be directly off Ballynagarve Road should an approval be granted.
- e) The design of the building is inappropriate for the site and its locality - as this is an outline application no design has been proposed at this stage.
- f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop - the site is flat and surrounded by mature vegetation thus could comply with this criteria.
- g) In the case of a proposed dwelling based on CTY2a development in cluster will rely on additional landscaping measures for integration.

Thus having considered the points above the proposal adheres to the criteria of CTY 13.

CTY 14

In terms of Policy CTY14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It is considered that the site and its surrounding environment is suitable for absorbing a dwelling subject to a ridge height not exceeding 6.5m above finish floor level. Thus having considered the points above the proposal adheres to the criteria of CTY 14.

Having considered all of the information presented it is my professional opinion that the proposal does not adhere to the requirements of CTY 1 and CTY 2a of PPS21 and as such a refusal should be issued.

Neighbour Notification Checked	Yes
Summary of Recommendation: On the basis of the above assessment I recommend that this application be refused by the Planning Committee as it fails to comply with criteria 4 contained within CTY 2a of PPS 21.	
Reasons for Refusal: 1 The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement. 2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed dwelling is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure.	
Signature(s)	
Date:	7.3.2020

ANNEX	
Date Valid	8th November 2019
Date First Advertised	26th November 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 101 Aughrim Road Magherafelt Londonderry The Owner/Occupier, 91 Aughrim Road Magherafelt Londonderry The Owner/Occupier, 91a Aughrim Road Magherafelt The Owner/Occupier, 97 Aughrim Road Magherafelt Londonderry The Owner/Occupier, 98 Aughrim Road, Magherafelt, Londonderry, BT45 6JZ	
Date of Last Neighbour Notification	15th November 2019
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2019/1484/O Proposal: Proposed site for dwelling Address: 50m East of 91 Aughrim Road, Magherafelt, Decision: Decision Date:	
Summary of Consultee Responses DFI Roads – no objections subject to standard condition NIW no concerns raised	

Drawing Numbers and Title
Drawing No. 01 Type: Site Location Plan Status: Submitted Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted
Notification to Department (if relevant) Date of Notification to Department: N/A Response of Department: