



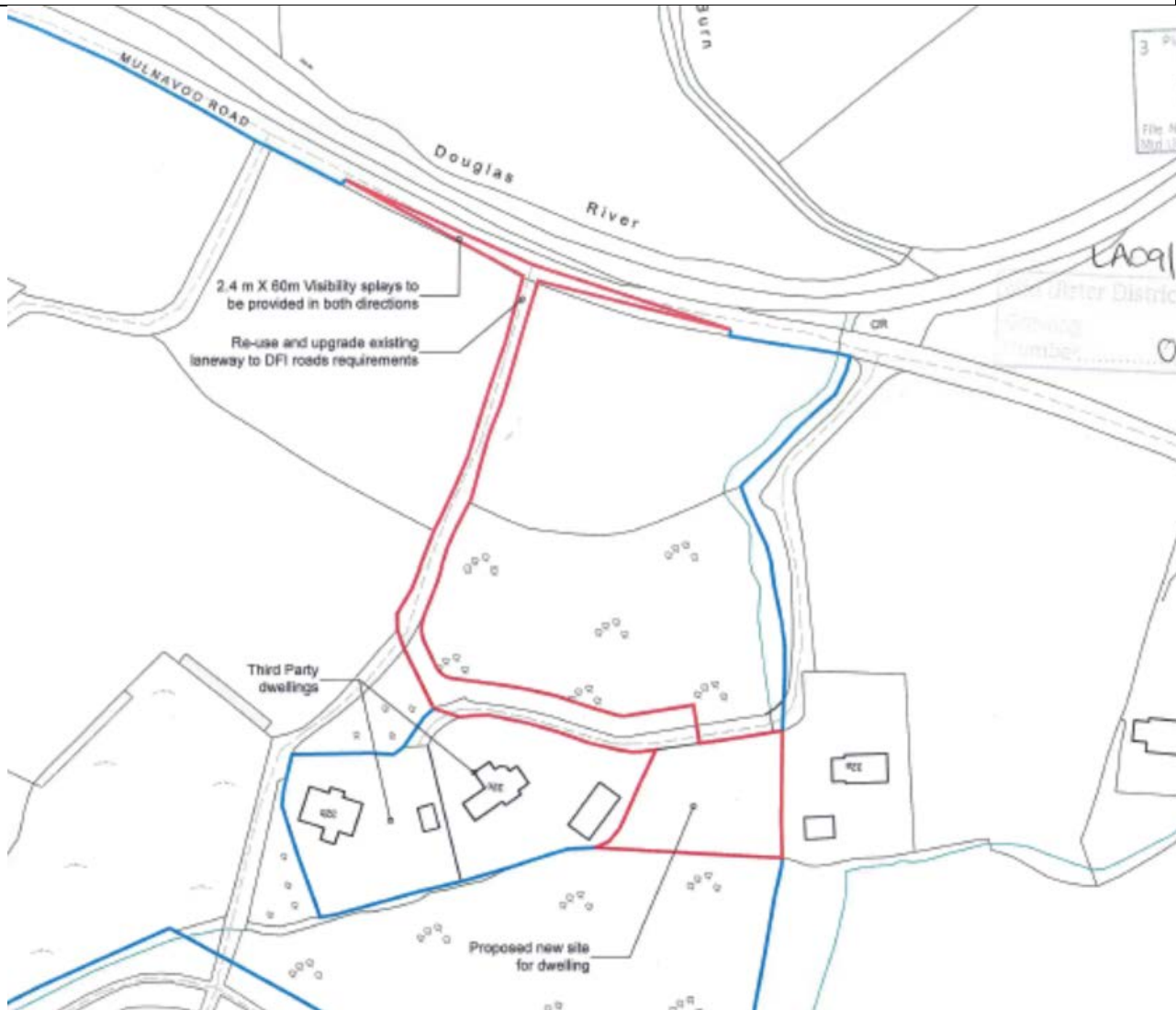
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0733/O	<b>Target Date:</b>
<b>Proposal:</b> Infill dwelling	<b>Location:</b> 156m S.W. of 30 Mulnavoo Road Draperstown
<b>Referral Route:</b> Approval – Objections Received.	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Cormac Mc Cormick 87 Drumbane Road Swatragh Maghera	<b>Agent Name and Address:</b> OJQ Architecture 89 Main Street Garvagh Coleraine BT51 5AB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	NIEA	Substantive Response Received
Non Statutory	NIEA	Substantive Response Received
Non Statutory	NIEA	No Objection

<b>Representations:</b>	
Letters of Support	None Received
Letters of Objection	6
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
<b>Summary of Issues</b>  <p>There were six objections received in relation to the proposal, the details of these objections will be discussed in detail later in the report. The main issues raised were:</p> <ul style="list-style-type: none"> <li>• Principle of Development</li> <li>• Inaccuracies on P1 form (ownership, address and current use of land)</li> <li>• Natural Heritage Issues</li> <li>• Access</li> <li>• Protected Species within site</li> </ul>	
<b>Characteristics of the Site and Area</b>  <p>The site is located approx. 156m SW of 30 Mulnavoo Road, Draperstown. The site is located within the countryside as designated within the Magherafelt Area Plan 2015. The site is noted on the P1 form as being agricultural land however from the site visit, it appears to be a woodland area at present. The site is generally flat throughout and the immediate surrounding area has a number of existing dwellings but beyond that, land is generally quite rural in nature with scattered dwellings and their associated outbuildings.</p>	
<b>Description of Proposal</b>  <p>Outline planning permission is sought for an infill dwelling.</p>	
<b>Planning Assessment of Policy and Other Material Considerations</b>  <p><u>Representations</u> Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 32a, 32b and 32c Mulnavoo Road. At the time of writing, six representations were received. Three of the objections were received from 32a, one objection received from 32b and the other two objections were received from two separate planning agents acting on behalf of the owners/occupiers of 30 and 32c Mulnavoo Road.</p> <p>The principle of development was raised in the objections, noting that as some of the houses along this laneway didn't have a frontage to the road, it couldn't be counted as an infill. The report will detail later exactly why we feel it meets the criteria of CTY 8 of PPS 21 for a gap site. All of the dwellings, 32a, 32b and 32c all share a common frontage with the laneway which accesses from Mulnavoo Road. There is a line of 3 or more buildings and the gap site is not considered big enough to accommodate any more than two dwellings, therefore meeting the criteria set out in CTY 8.</p>	

There were a number of alleged inaccuracies on the P1 form, including the address, ownership (certificate filled in) and the current use of the site. The objections note that the address should be noted as lands between two existing dwellings to highlight that it is an infill, however we feel that the address given is still accurate in determining where the proposed site is and therefore amendments relating to the address were not sought after. Occupied properties either side have also been directly neighbour notified. Ownership queries related to the original access which was proposed, noting that the applicant did not own the access and did not fill in Cert C and serve notice on relevant landowners. The access was subsequently amended as a result of DfI Roads concerns and there have been no further objections relating to ownership issues since the submission of the amended access.

There were a number of issues raised in relation to concerns relating to natural heritage and protected species which inhabit the lands of the proposed site. The site is identified in the objections as Derrynoyd Forest and sighting of the red squirrel species was noted within objection also. A biodiversity checklist and an ecological appraisal was submitted from the agent and NIEA were consulted. In their most recent response, the Natural Environment Division within NIEA have stated that they have considered the impacts of the proposal on natural heritage interests and on the basis of the information provided, they have no concerns subject to conditions. On this basis, given that NIEA are the competent authority in dealing with these concerns, we consider the proposal acceptable subject to conditions given.

In the most recent objection received, issues relating to site water levels were raised. The flood maps were checked and it didn't appear that the site itself was in an area at risk of flooding and therefore no further consultation was carried out. NIEA would be the relevant body who would provide the consent to discharge at the site.

#### Planning History

There is not considered to be any relevant planning history associated with the site. There were two recent refusals just east of the site, which one of the objectors referred to in their objection (LA09/2019/0846/O and LA09/2019/0849/O).

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

- Magherafelt Area Plan 2015
- 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 Magherafelt Area Plan identify the site as being outside any defined settlement limits, located east of Moneyneany Settlement Limit. There are no other specific designations or zonings within the Plan.

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



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

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations.

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. Weight is only given to substantially complete buildings rather than permissions or foundations.

It is considered that the proposed site meets the policy test in that there is a continuous built up frontage along this road frontage of the laneway. At present, there is two dwellings west of the site and to the east of the site is a further dwelling. These dwellings also have accompanying buildings to the sides of them which all can be counted towards the line of three buildings. Therefore, taking into consideration what is on the ground at present, I am satisfied that there is a line of three or more buildings along this laneway frontage and therefore the proposal meets this policy requirement. I consider that the gap between existing dwellings and buildings would be sufficient to accommodate no more than two dwellings, given the existing frontages along this laneway.

Policies CTY 13 and CTY 14 are also applicable in relation to the proposal. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. I find no reason why a dwelling could not be designed to integrate successfully with its surrounding and the wider character of the area.

DfI Roads were consulted and have no objection to the proposal subject to condition. They noted within their response that they were aware of other applications which were in the system and that if all were to be granted they would be asking for the road to be brought up to adoptable standard. It should be noted that two of these applications were

refused and therefore this would leave 4 dwellings up this laneway and therefore would not meet the threshold to be adopted.	
<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation:</b>  Approval is recommended.	
<b>Conditions/Reasons for Refusal:</b>  1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:- i. the expiration of 5 years from the date of this permission; or ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.  Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.  2. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.  Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.  3. Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 60m in both directions and 60m forward sight line, shall be provided in accordance with the 1:500 site plan submitted as part of the reserved matters application. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.  Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.  4. At Reserved Matters stage, details of the developments proposed landscaping/planting scheme must be provided, to include details of all necessary vegetation removal and efforts to compensate for the loss of habitats worthy of protection.  Reason: To compensate for the loss of natural heritage features worthy of protection.  5. At Reserved Matters stage, full surveys for red squirrel and pine marten must be submitted, with particular attention given to potential impacts on any dreys/dens located within the application site. Mitigation must also be provided if necessary.  Reason: To protect red squirrel and pine marten.	

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

Reason: To protect breeding birds.

#### Informatives

1. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*);
- damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection;
- damage or destroy anything which conceals or protects any such structure;
- Disturb a badger while it is occupying a structure or place which it uses for shelter or protection.
- Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of badger on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

2. The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- kill, injure or take any wild bird; or
- take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
- at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
- obstruct or prevent any wild bird from using its nest; or
- take or destroy an egg of any wild bird; or
- disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
- Disturb dependent young of such a bird.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

It is therefore advised that any tree or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season between 1<sup>st</sup> March and 31<sup>st</sup> August.

3. The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:

- a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;
- b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- c) Deliberately to disturb such an animal in such a way as to be likely to -
  - i. affect the local distribution or abundance of the species to which it belongs;
  - ii. Impair its ability to survive, breed or reproduce, or rear or care for its young; or
  - iii. Impair its ability to hibernate or migrate;
- d) Deliberately to obstruct access to a breeding site or resting place of such an animal;  
or
- e) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of bat activity / roosts on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

4. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the red squirrel (*Sciurus vulgaris*);
- damage or destroy, or obstruct access to, any structure or place which red squirrels use for shelter or protection;
- damage or destroy anything which conceals or protects any such structure;
- Disturb a red squirrel while it is occupying a structure or place which it uses for
- shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of red squirrel on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

5. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the pine marten (*Martes martes*);
- damage or destroy, or obstruct access to, any structure or place which pine martens use for shelter or protection;
- damage or destroy anything which conceals or protects any such structure;
- Disturb a pine marten while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of pine marten on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

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

<b>ANNEX</b>	
<b>Date Valid</b>	29th May 2019
<b>Date First Advertised</b>	13th June 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 32a Mulnavoo Road Draperstown Steven and Violet Linton 32a Mulnavoo Road, Draperstown,BT45 7LR Steven and Violet Linton 32a Mulnavoo Road, Draperstown,BT45 7LR Steven & Violet Linton 32a, Mulnavoo Road, Draperstown, Londonderry, Northern Ireland, BT45 7LR The Owner/Occupier, 32b Mulnavoo Road Draperstown Freda McCluskey 32b, Mulnavoo Road, Draperstown, Londonderry, Northern Ireland, BT45 7LR The Owner/Occupier, 32c Mulnavoo Road Draperstown Russell Finlay Building Design Consultant,350 Hillhead Road,Knockloughrim,Magherafelt,BT45 8QT Brendan Johns Town Planning Consultants,13 Sperrin View,Omagh,Co. Tyrone,BT78 5BJ	
<b>Date of Last Neighbour Notification</b>	24th October 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No

## **Planning History**

Ref ID: LA09/2019/0733/O

Proposal: Infill dwelling

Address: 156m S.W. of 30 Mulnavoo Road, Draperstown,

Decision:

Decision Date:

Ref ID: H/2002/0744/F

Proposal: Dwelling and Garage

Address: 250m W of 32 Mulnavoo Road, Draperstown

Decision:

Decision Date: 21.01.2003

Ref ID: H/2002/0349/F

Proposal: Dwelling & Garage.

Address: 200m W of 30 Mulnavoo Road, Draperstown.

Decision:

Decision Date: 27.01.2003

Ref ID: H/2002/0454/F

Proposal: Dwelling and Garage

Address: Mulnavoo Road, Mullaghnamaragh, Draperstown

Decision:

Decision Date: 18.10.2002

Ref ID: H/2001/0457/O

Proposal: Site of dwelling & garage

Address: 120m West of 30 Mulnavoo Road, Mullaghnamaragh, Draperstown

Decision:

Decision Date: 24.09.2001

Ref ID: H/1991/0036

Proposal: DWELLING

Address: MULNAVOO ROAD DRAPERSTOWN

Decision:

Decision Date:

## **Summary of Consultee Responses**

NIEA: Content, subject to conditions and informatives.

DfI Roads: Content, subject to conditions and informatives.

## **Drawing Numbers and Title**

Drawing No. 01b  
Type: Amended site location map  
Status: Submitted

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

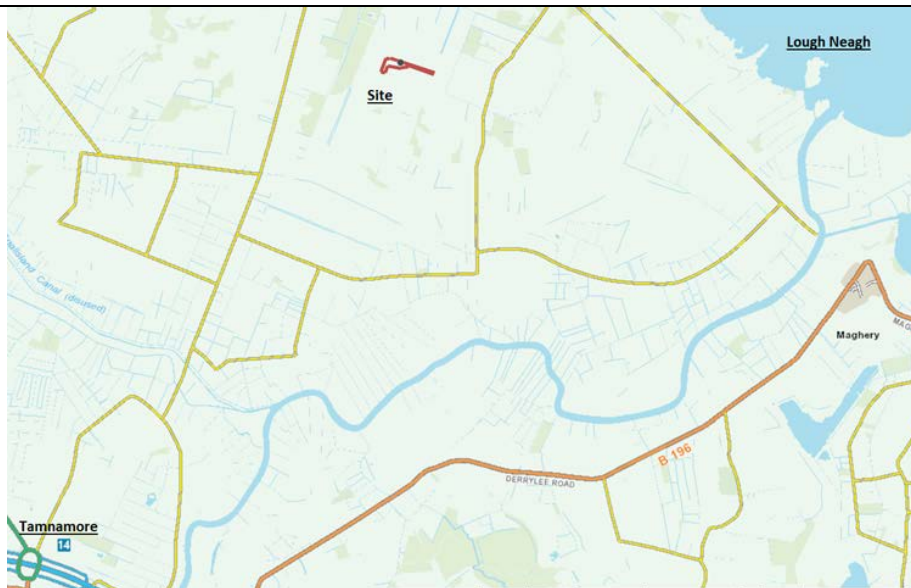
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0768/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of two storage sheds and yard associated with an established business (Barren Yennie Peat Products).	<b>Location:</b> Lands 70m West of 33 Kanes Rampart Coalisland BT71 4QY
<b>Referral Route:</b> Contrary to Policy	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Barran Yennie Peat Products 33 Kanes Rampart Coalisland BT71 4QY	<b>Agent Name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge
<b>Executive Summary:</b>	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

No representations were received

### Characteristics of the Site and Area

The site is located in the open countryside just a short distance to the south west of Lough Neagh and north of the M1 motorway. The settlement limits of Annaghmore is approx. 4km to the North west and it lies outside all other areas of constraint as depicted by the DSTAP 2010.



The red line of the site includes a long narrow laneway off Kaners rampart and leads to the dwelling and garage at number 33. Included within the red line there are two other buildings located relatively close to the dwelling and then two larger buildings located along the rear boundary somewhat removed from the dwelling site. There is also a large hard cored yard area, a storage area which at the time of site visit was packed on one side with peat mounds and on the other with what appeared to be the finished peat bales.

### Description of Proposal

The proposal seeks full planning permission for the retention of two storage sheds and yard associated with an established business (Barren Yennie Peat Products).



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

### **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

DSTAP 2010

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 4: Planning and Economic Development

Planning Policy Statement 21: Sustainable Development in the Countryside

### **Relevant Histories**

M/1988/0097 - CHANGE OF USE FROM AGRICULTURAL SHED TO PEAT PROCESSING BUILDING - GRANTED

### **Relevant Enforcement History on Site**

LA09/2017/0113/CA - Unauthorised Commercial Peat Extraction ? (Enf action being pursued)

LA09/2019/0039/CA ? Unauthorised buildings, yard area & modular dwelling.(Receipt of application)

### **Representations**

No objections have been received

### **Dungannon and South Tyrone Area Plan 2010**

The site lies outside any settlement limit defined in the DSTAP 2010, it is in close proximity to Lough Neagh, and a short distance to the North of the M1 motorway. I do not consider the proposal impacts on the either of the above and I do not consider there any policies within the plan that deal with industrial development in the countryside.

### **Mid Ulster District Council Draft Plan Strategy 2030**

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.

### **SPPS - Strategic Planning Policy Statement for Northern Ireland**

The Strategic Planning Policy Statement for Northern Ireland sets out the Departments Regional Planning Policies and provides guidance for the Councils to take into account in their Local Development Frameworks. Until the Council has adopted its own LDP, current regional policy as set out in the suite of Published Planning Policy Statement provides the planning policies for consideration unless the SPPS provides a different policy direction or offers clarification, then the policy in the SPPS is given determining weight. I do not consider the SPPS has changed any policies in relation to the expansion of an existing business in the countryside.

### **Planning Policy Statement 21 Sustainable Development in the Countryside**

Policy CTY 1 of PPS21 allows a number of types of development in the countryside, where it relates to business development if the policies contained within PPS4 are met then the proposal will meet with CTY1.

Policy PED2 of **PPS4** allows economic development in the countryside where it meets with other specified criteria in policies PED3, PED6 and the general criteria in PED9 is relevant to the consideration of all economic development proposals.

I consider **PED3 - Expansion of an Existing Industrial Development in the Countryside** to be relevant, as we can see from the previous planning history on the site as well as ortho-photography that peat processing has been carried out at this site for over 30 years.

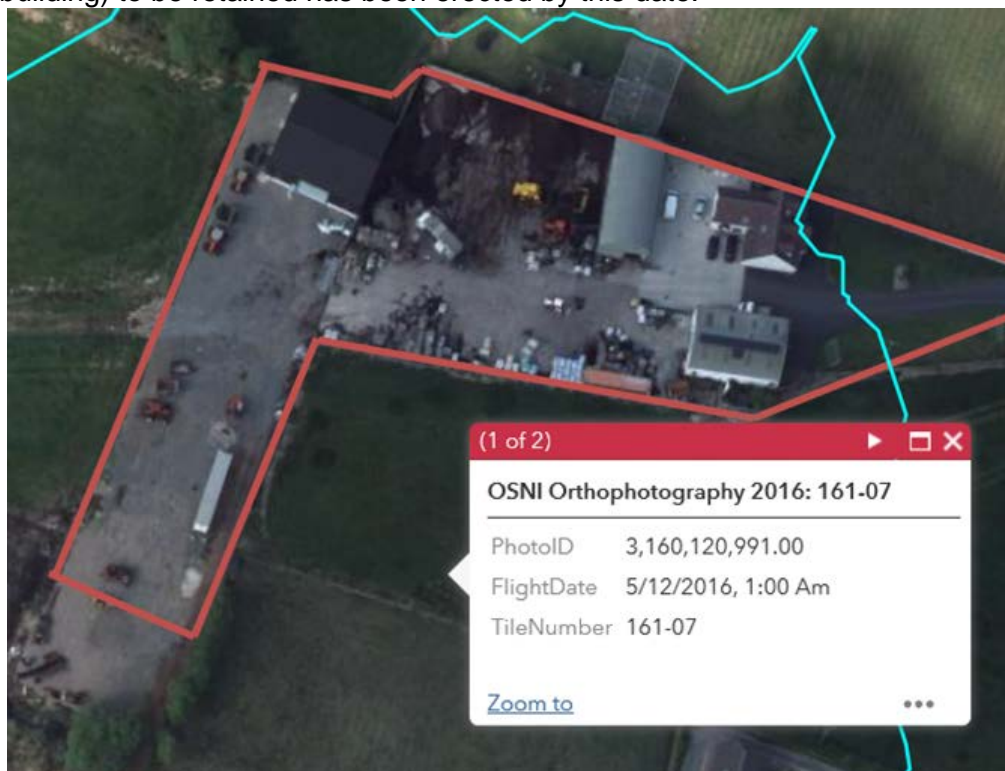
This proposal is for the retention of two storage sheds and yard associated with an established business 'Barren Yennie Peat' (established circa 1988) and as such I consider this is the expansion of an established economic development use, as such the provisions of Policy PED 3 apply.

Policy PED 3 states the expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise.

The red line of the site not including the portion to the rear which is to be retained is approx. 1.2 acres. The portion to be retained at the rear of the site includes a 0.7acre increase in area. This equates to an approximate 60% site growth which in my opinion is a major increase

In addition the two buildings to be retained measure 715m<sup>2</sup> floor space combined and would represent the two most dominant buildings now on the site when compared with the much smaller existing buildings.

Aerial photographs of the site from May 2016 (see below) indicate that one of the buildings (most northern building) to be retained has been erected by this date.





The more recent Orthophotography from the site dated May 2019 show that at this point both sheds have been erected. NB. It also shows an additional shed has been erected which the applicant has falsely indicated as existing on the plans. (indicated by yellow arrow)



The proposal is for the retention of a building with a floor space of approx. 715sqm in area. Views of the building from the surrounding public road network are limited and the building are seen at the rear of the site with a number of other buildings screening the views. I do not have any major concerns regarding the building integrating into its surroundings.

Due to the size of the proposed expansion, I consider the proposal does represent a major increase in site area and therefore does not comply with PPS4 PED 3.

In addition to Policy PED 3, this proposal is required to meet the requirements of **Policy PED 9 - General Criteria for Economic Development**, which for the following reasons I consider does:

- this proposal is considered compatible with the surrounding land uses given the existing use for peat processing established 1988.

- The building is located within the existing yard, there may be issues relating to noise due to works within the buildings, however I do not think, given the existing development and uses around it, as well as the distance from existing and approved residential properties, that this building will unduly exacerbate any existing issues.

- It will not adversely affect features of the natural or built heritage as there are no features of built heritage on site or in the immediate vicinity.

- The site is not located in an area at risk of flooding and i am content it should not cause or exacerbate flooding in line with Planning Policy Statement 15: (Revised) Planning and Flood Risk

- There will be no effluent and no concerns regarding emissions have been raised.
- This proposal does not involve the creation of a new access unto a public road or intensification of the site.
- As the site is located within a rural area, a movement pattern providing acceptable links to public transport was not necessary.
- The buildings do not include any new landscaping or infrastructure, it is of an appearance that is not out of place in this type of industrial environment.
- The proposal does not involve any new fences, as the site is self-contained and well secured, it is generally designed to deter crime and promotes personal safety.

#### **Other considerations**

DFI roads have been consulted a number of times and have requested a Transport Assessment Form to be submitted on three occasions. This information has not been submitted despite being sought on numerous occasions over a long period of time. DFI Roads requesting the parking to be shown and kept in line with PPS3 parking standards. However, despite the repeated requests for this information, at the time of writing this is still outstanding. It is my opinion that this info should be allowed the Council to determine the application, and having not received sufficient information, the Council refuses this application as this information is material to the determination of this application.

#### **Recommendation**

Taking account if all of the policy considerations above and the lack of information, I consider this proposed development cannot be considered to meet PED3 of PPS4 and cannot be approved.

**Neighbour Notification Checked**

**Yes**

#### **Refusal Reasons**

1. The proposal is contrary to Planning Policy Statement 4, Industrial Development and Policy PED 3 - Expansion of an Existing Industrial Development in the Countryside, in that the development would, if permitted, have an adverse impact on the environment by virtue of the significant increase in the site area of the enterprise.

2. Having notified the applicant under Article 7 (4) of the Planning (General Development) Order (Northern Ireland) 1993 that further details regarding access and parking arrangements were allowed the Council to determine the application, and having not received sufficient information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	6th June 2019
<b>Date First Advertised</b>	20th June 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 11 Kanes Rampart, Coalisland, Tyrone, BT71 4QY The Owner/Occupier, 23b , Kanes Rampart, Coalisland, Tyrone, BT71 4QY The Owner/Occupier, 27 Kanes Rampart Coalisland Tyrone The Owner/Occupier, 27a Kanes Rampart Coalisland The Owner/Occupier, 29 Kanes Rampart Coalisland Tyrone The Owner/Occupier, 33 Kanes Rampart, Coalisland, Tyrone, BT71 4QY The Owner/Occupier, 39 Kanes Rampart Coalisland Tyrone The Owner/Occupier, 47 Kanes Rampart, Coalisland, Tyrone, BT71 4QY	
<b>Date of Last Neighbour Notification</b>	18th June 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2019/0768/F Proposal: Retention of two storage sheds and yard associated with an established business (Barren Yennie Peat Products). Address: Lands 70m West of 33 Kanes Rampart, Coalisland, BT71 4QY, Decision: Decision Date:  Ref ID: M/1995/0316 Proposal: Extension to dwelling Address: 33 KANES RAMPART DERRYLOUGHAN COALISLAND Decision: Decision Date:  Ref ID: M/1988/0097	

Proposal: CHANGE OF USE FROM AGRICULTURAL SHED TO PEAT PROCESSING BUILDING

Address: 33 KANES ROAD, DERRYLOUGHAN, COALISLAND

Decision:

Decision Date:

Ref ID: M/1986/0412

Proposal: IMPROVEMENTS TO DWELLING

Address: 33 KANES ROAD, DERRYLAUGHAN, COALISLAND

Decision:

Decision Date:

Ref ID: M/1996/0665

Proposal: Erection of dwelling

Address: APPROX 80M SE OF 23 KANES ROAD DERRYLAUGHAN COALISLAND

Decision:

Decision Date:

Ref ID: M/2002/0012/O

Proposal: Proposed domestic dwelling

Address: 100m S.W. of 23 kanes Rampart Derrylaughlan, Coalisland, Co. Tyrone

Decision:

Decision Date: 06.03.2002

#### **Drawing Numbers and Title**

Drawing No. 04

Type: Proposed Plans

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

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

Date of Notification to Department:

Response of Department:





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

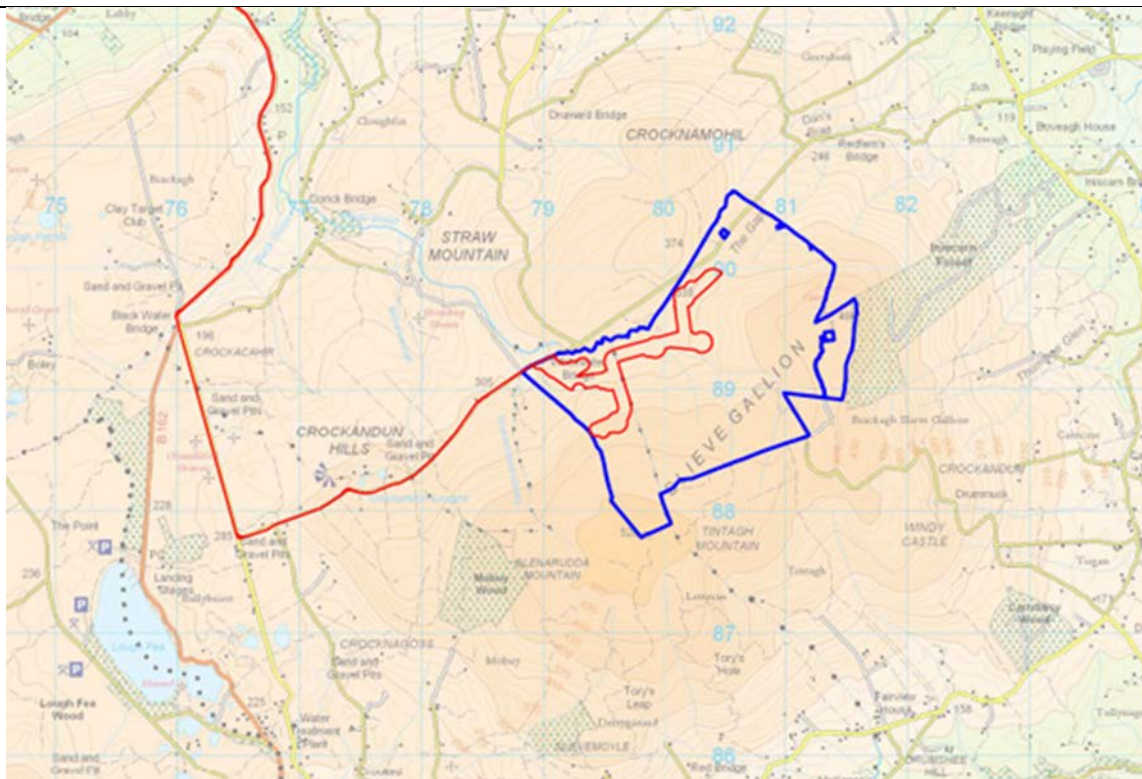
**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0990/F	<b>Target Date:</b>
<b>Proposal:</b> Construction of a wind farm comprising up to 4 wind turbines (maximum tip height of 145m ,this includes blade height of between 52m and 58.5m and hub heights between 84m and 93m) an electrical substation/control building, construction of internal access tracks, spoil deposition areas, temporary construction compound new access onto Cullion Road, formation of 2 passing bays along Cullion Road, road widening and upgrade works at B47/Disert Road junction, Disert Road bends, Disert Road/ Ballybriest Road junction, Ballybriest Road/ Cullion Road junction, Cullion Road and all associated ancillary works. (Amended proposal)	<b>Location:</b> Lands approximately 300m S/SW of 29 Cullion Road Desertmartin
<b>Referral Route:</b> Major application.	
<b>Recommendation: Approval</b>	
<b>Applicant Name and Address:</b> ABO Wind NI Ltd Unit 1 Wallace Studios Wallace Avenue Lisburn BT27 4AE	<b>Agent Name and Address:</b>
<b>Executive Summary:</b> Positive assessment of reduced proposal for 4 No. turbines.	
<b>Signature(s):</b> M.Bowman	



## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	NIEA	Content
Statutory	Historic Environment Division (HED)	Advice
Non Statutory	Rivers Agency	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	DETI - Geological Survey (NI)	Additional Information Required
Statutory	DfE Energy Division	Content
Statutory	Belfast International Airport	Content
Non Statutory	CAA - Directorate of Airspace Policy	No Objection
Non Statutory	National Air Traffic Services	Considered - No Comment Necessary

Non Statutory	Royal Society for the Protection of Birds - Headquarters	Substantive Response Received
Non Statutory	Council For Nature Conservation And The Countryside	
Non Statutory	Arqiva Services Limited	No Objection
Non Statutory	Cable And Wireless Worldwide PLC	
Non Statutory	Everything Everywhere Limited	Considered - No Comment Necessary
Non Statutory	N.I Water - Windfarms	No Objection
Non Statutory	Ofcom Northern Ireland	Substantive Response Received
Non Statutory	P.S.N.I. Information And Communications Services	Substantive Response Received
Non Statutory	The Joint Radio Company	No Objection
Non Statutory	Shared Environmental Services	Substantive Response Received
Non Statutory	Northern Ireland Tourist Board	Substantive Response Received
Non Statutory	UK Crown Bodies - D.I.O. LMS	Considered - No Comment Necessary
Non Statutory	UK Crown Bodies - D.I.O. Safeguarding	No Objection
Non Statutory	NI Water - Strategic Applications	Substantive Response Received
Non Statutory	NIE - Windfarm Developments	Substantive Response Received
Non Statutory	Ulster Angling Federation Ltd	
Statutory	DETI - Geological Survey (NI)	Error
Non Statutory	The Joint Radio Company	No Objection
Non Statutory	DETI - Geological Survey (NI)	No Objection
Non Statutory	Ulster Angling Federation Ltd	
Non Statutory	UK Crown Bodies - D.I.O. Safeguarding	
Statutory	NIEA	

Statutory	Historic Environment Division (HED)	
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	CAA - Directorate of Airspace Policy	
Non Statutory	National Air Traffic Services	
Non Statutory	Council For Nature Conservation And The Countryside	
Non Statutory	Cable And Wireless Worldwide PLC	
Non Statutory	Arqiva Services Limited	
Non Statutory	The Joint Radio Company	
Statutory	Shared Environmental Services	
Non Statutory	DETI - Geological Survey (NI)	
Non Statutory	Eircom UK Limited	No Objection
Statutory	Historic Environment Division (HED)	Content
Non Statutory	Environmental Health Mid Ulster Council	
<b>Representations:</b>		
Letters of Support	1	
Letters of Objection	1	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b> – Consideration of 4 turbines as an extension to Cullion wind farm against Local Dev Plan/ SPPS/ Policy PPS18 and associated best practise guidance. Local objection received not felt to outweigh the policy compliant aspects of the amended reduced scheme. PPS6 issues regarding scheduled monument to consider in reaching recommendation to approve.		
<b>Characteristics of the Site and Area</b> This proposal represents and extension to Cullion Wind Farm which was approved by the Dept in 2012 under reference H/2010/0009/F as below:  Proposal: Amendment to proposed windfarm including reduction from 11 to 6 wind turbines (hub height 80m, blade diameter 90m) with an overall height from ground to blade tip of 125m, 2 borrow pits, 110kv substation and compound, construction of internal site tracks and associated works. Address: Crockandun, approximately 450m west south-west of junction of Cullion Road and Drumard Road, Draperstown, Magherafelt.		

Open exposed and largely undefined AONB NW downslopes of Slieve Gallion approx. 5.2km SE of Draperstown with one other single turbine present on Drumard Road. Extensive quarrying activity on lands further to the SW both on Cullion road and off Disert Road where 3 large further turbines exist with Brackagh Quarry. The 6 existing similar turbines forming Cullion wind farm about the SW boundary of the site following Cullion Road with associated infrastructure. Isolated dispersed single dwellings with No 29 Cullion Road being closest. Other nearest dwellings mainly located along Drumard road, some distance and at a lower elevation than the application site. Livestock grazing on significant open expanses of open marshy grassland dominated by rush species or modified bog.



### **Description of Proposal**

Construction of a wind farm comprising up to 4 wind turbines (maximum tip height of 145m, this includes blade height of between 52m and 58.5m and hub heights between 84m and 93m) an electrical substation/control building, construction of internal access tracks, spoil deposition areas, temporary construction compound new access onto Cullion Road, formation of 2 passing bays along Cullion Road, road widening and upgrade works at B47/Disert Road junction, Disert Road bends, Disert Road/ Ballybriest Road junction, Ballybriest Road/ Cullion Road junction, Cullion Road and all associated ancillary works. (Amended proposal)

The rated electrical output of the potential 4 turbines ranges from 3.3mw to 4.2mw.

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

An Environmental Statement (ES) accompanied this application. The proposal was reduced to 4 no turbines and Further Environmental Information (FEI I) was submitted. I have taken into consideration the environmental information presented in relation to the



application, as required by Regulation 4 of the Planning (Environmental Impact Assessment) Regulations 2017. The applicants under Section 27 of The Planning Act (NI) 2011 have carried out their obligations to undertake a PAN notice and undertake public consultation which was held on the 24 May 2019 in St Colms high school, Draperstown.

In accordance with Section 45 of the Planning Act (Northern Ireland) 2011, the decision maker must, in dealing with an application for planning permission, have regard to the local development plan, so far as material to the application, and to any other material considerations. Section 6 of the 2011 Act indicates that where regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The appeal site falls within the Magherafelt Area Plan 1968-2001 and is located in the open countryside within and AONB. There appear to be no policies relating to renewable energy in the Magherafelt Area Plan and it is therefore of limited assistance in determining this application.

Policy CTY 1 of PPS 21 states that there are a range of types of development which in principle are considered to be acceptable in the countryside and that contribute to the aims of sustainable development. One of these is renewable energy projects in accordance with PPS 18. PPS 18 is supported by the BPG and the SPG.

Policy RE 1 Renewable Energy Development Development that generates energy from renewable resources will be permitted provided the proposal, and any associated buildings and infrastructure, will not result in an unacceptable adverse impact on:

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

Proposals will be expected to be located at, or as close as possible to, the source of the resource needed for that particular technology, unless, in the case of a Combined Heat and Power scheme or a biomass heating scheme, it can be demonstrated that the benefits of the scheme outweigh the need for transportation and an end user is identified. Where any project is likely to result in unavoidable damage during its installation, operation or decommissioning, the application will need to indicate how this will be minimised and mitigated, including details of any proposed compensatory measures, such as a habitat management plan or the creation of a new habitat. This matter will need to be agreed before planning permission is granted.

The wider environmental, economic and social benefits of all proposals for renewable energy projects are material considerations that will be given significant weight in determining whether planning permission should be granted. The publication Best Practice Guidance to Planning Policy Statement 18 'Renewable Energy' will be taken into account in assessing proposals.

Wind Energy Development Applications for wind energy development will also be required to demonstrate all of the following:

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

- (ii) that the development has taken into consideration the cumulative impact of existing wind turbines, those which have permissions and those that are currently the subject of valid but undetermined applications;
- (iii) that the development will not create a significant risk of landslide or bog burst; 8
- (iv) that no part of the development will give rise to unacceptable electromagnetic interference to communications installations; radar or air traffic control systems; emergency services communications; or other telecommunication systems;
- (v) that no part of the development will have an unacceptable impact on roads, rail or aviation safety;
- (vi) that the development will not cause significant harm to the safety or amenity of any sensitive receptors<sup>1</sup> (including future occupants of committed developments) arising from noise; shadow flicker; ice throw; and reflected light; and
- (vii) that above-ground redundant plant (including turbines), buildings and associated infrastructure shall be removed and the site restored to an agreed standard appropriate to its location. Any development on active peatland will not be permitted unless there are imperative reasons of overriding public interest.

For wind farm development a separation distance of 10 times rotor diameter to occupied property, with a minimum distance not less than 500m, will generally apply. The supplementary planning guidance 'Wind Energy Development in Northern Ireland's Landscapes' will be taken into account in assessing all wind turbine proposals.

I have considered each of these determining policy criteria below in the remainder of my report.

## **VISUAL AMENITY AND LANDSCAPE CHARACTER**

### **Policy**

Policy RE 1 of PPS 18 says that development that generates energy from renewable resources will be permitted provided that it will not result in an unacceptable adverse impact on, amongst other things, visual amenity and landscape character.

The RDS does not provide operational policy. However, in commenting on how RG 11 might be realised as regards conserving and protecting our natural environment, the bullet point at paragraph 3.31 sets out the aim of recognising and promoting the conservation of local identity and distinctive landscape character. It says that landscape character is what makes an area unique and defines it as *"a distinct, recognizable and consistent pattern of elements....in the landscape that makes one landscape different from another, rather than better or worse"*. It adds that informed and responsible decisions on the management of sustainable future landscapes can only be made if proper regard is paid to their existing character. It concludes that by understanding how places differ, we can ensure that future development is well situated, sensitive to its location and contributes to environmental, social and economic objectives. The NI Landscape Character Assessment (LCA) 2000 is said to provide valuable guidance on landscape character and scenic quality.

The European Landscape Convention defines landscape as *"an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors"*.



The SPPS (paragraph 6.218) identifies the aim in relation to renewable energy as to facilitate the siting of renewable energy generating facilities in appropriate locations within the built and natural environment in order to achieve NI's renewable energy targets and to realise the benefits of renewable energy without compromising other environmental assets of acknowledged importance. Paragraph 6.222 says that particular care should be taken when considering the potential impact of all renewable energy proposals on the landscape. Some may be able to accommodate wind farms more easily than others on account of their topography, landform and ability to limit visibility. Paragraph 6.230 adds that it will not necessarily be the case that the extent of visual impact or visibility of wind farm development will give rise to negative effects; wind farm developments are by their nature highly visible yet this in itself should not preclude them as acceptable features in the landscape. The ability of the landscape to absorb such development depends on careful siting, the skill of the designer and the inherent characteristics of the landscape such as landform, ridges, hills, valleys and vegetation.

The Justification and Amplification (J&A) text to Policy RE1 recognises that larger-scale wind energy developments are likely to be visible over distances. It adds that of all renewable technologies, wind turbines are likely to have the greatest visual and landscape effects. It goes on to say that in assessing planning applications, the Department recognises that the impact of turbines on the landscape will vary according to their size and number and the type of landscape involved. It acknowledges that some of these impacts may be temporary if conditions are attached to planning permission requiring turbines' future decommissioning.

Paragraph 1.3.18 of the BPG says that there are no landscapes into which a wind farm will not introduce a new and distinctive feature and that the need for development of renewable energy resources means that it is important for society at large to accept wind energy proposals as a feature of many parts of NI for the foreseeable future. However, at paragraph 1.3.19 it adds that this is not to suggest that areas valued for their particular landscape and/or nature conservation interest will have to be sacrificed. Paragraph 1.3.25 acknowledges that turbines in wind farms will normally be tall, frequently located in open land and therefore will often be highly visible. At paragraph 1.3.26, the BPG attempts to provide a general guide to the effect which distance has on the perception of a wind farm in an open landscape. It states that: at up to 2kms, turbines are likely to be prominent features; at 2 – 5km, relatively prominent; and at 5 – 15km, prominent in clear visibility and seen as part of the wider landscape. Paragraph 1.3.32 of the BPG says that in comparison to other, well-established, forms of development in the countryside, wind turbines are relatively unfamiliar, prominently vertical and have the significant characteristic of movement. They will be distinctive features in the landscape. Decision-makers must assess their visual impact with these characteristics clearly in mind. I note that more than a decade has passed since this was written and turbines are more prevalent.

Taking all of the foregoing into account, criterion (i) of Policy RE 1 requires that the development will not have unacceptable impact on visual amenity or landscape character through: the number, scale, size and siting of turbines. Criterion (ii) requires that consideration be given to the cumulative impact of existing wind turbines, those which have permissions and those that are currently the subject of valid but undetermined applications (and appeals).

Paragraphs 1.3.33 – 1.3.37 inclusive of the BPG provide advice on cumulative landscape and visual impacts. It does not define what constitutes “*the area*” referred to in paragraph 1.3.36. Paragraph 1.3.33 provides assistance where it says that the cumulative impact of a number of neighbouring developments is an important material consideration. The nature and character of the location and the landscape in which a development is located, will partly determine the acceptability or otherwise of siting proposals in proximity to each other. To my mind, the use of the words “*neighbouring*” and “*proximity*” indicate that, in considering the issue of cumulative impact, the focus should primarily be on the area within which the proposal is located.

Section 3.2 of the SPG provides further guidance on the matter. It says that separation distances ranging from 6km (for smaller sites in landscapes with some enclosure) to 12km (for larger sites in open exposed landscapes) are desirable to prevent the landscape becoming dominated by wind farms and to reduce intervisibility. It adds that judgements on cumulative impacts must be made on a case-by-case basis taking account of the specific character of the landscape and the siting, layout and intervisibility of the proposed wind energy development with other wind energy developments in the same LCA, in neighbouring LCAs and in the RoI. Guidance anticipates cumulative impact being a product of turbine numbers and separation distance.

Paragraph 6.186 of the SPPS notes that AONBs are designated primarily for their high landscape quality, wildlife importance and rich cultural and architectural heritage. Paragraph 6.187 says that development proposals therein must be sensitive to the distinctive special character of the area and the quality of their landscape, heritage and wildlife. Paragraph 6.188 states that in assessing proposals, including cumulative impacts in such areas, account will also be taken of the LCAs and any other relevant guidance. There is no embargo on wind energy development within AONBs.

Policy RE1 and its accompanying text makes no specific mention of AONBs. However, the BPG at paragraph 1.3.23 says that a cautious approach is necessary in relation to those landscapes which are of designated significant value, such as AONBs. The “*cautious approach*” therein that was advocated by the BPG is included in the SPPS at paragraph 6.223. The paragraph does not define what is meant by a “*cautious approach*” but refers to the potential difficulty in accommodating wind energy proposals in such sensitive landscapes without detriment to the region’s cultural and natural heritage assets. Whilst PPS 18 is not cancelled by the SPPS, the cautious approach advocated by the BPG has been given more weight by its inclusion therein.

Paragraph 5.16 of PPS 2 says that in assessing proposals account will be taken of the Landscape Character Assessments and any other published guidance such as countryside assessments produced as part of the development plan process as well as AONB Management Plans and local design guides. The Northern Ireland Environment Agency (NIEA) published ‘*Wind Energy Development in Northern Ireland’s Landscapes*’ (2000) as SPG to PPS 18. It divides the NI countryside into 130 LCAs each based upon local patterns of geology, landform, land use, cultural and ecological features. For each, the key characteristics and landscape condition are described and sensitivity to change analysed. It is intended to provide broad, strategic guidance in relation to the landscape and visual impacts of wind energy developments.

There is no management plan or design guide for the Sperrins AONB. Paragraph 2.3 of the SPG says that landscape sensitivity to wind energy development depends on many

factors. It adds that each landscape has its own sensitivities, depending on its landform and land over as well as on a range of other characteristics and values including, for example, enclosure, visibility, condition, scenic and perceptual qualities, natural and cultural heritage features and cultural associations. Importantly, sensitivity depends on landscape character as well as on landscape values.

The application site lies within LCA 41 'Slieve Gallion'

## **Wind Energy Development in Northern Ireland's Landscapes: SPG to accompany PPS18**

### **LCA 41 Slieve Gallion**

Location: Counties Londonderry and Tyrone. Eastern edge of the Sperrins between Cookstown and Draperstown.

### **Key Landscape and Visual Characteristics and Values**

#### **Scale**

Large scale upland area rising to 528m AOD. Steep, flat-topped summit of a former volcanic plug.

#### **Landform**

Prominent summits on the eastern fringe of the Sperrins. Distinctive profile with steep-sided, flatter summit than the surrounding mountains and an uneven slope profile. Northern slopes are shallower and more undulating than those on the south. Resistant band of limestone outcrops at the foot of the hill and is dissected by streams in deep, narrow valleys. Upland plateau with blanket bog around Lough Fea; lower outlier hills to south-west.

#### **Enclosure**

Slieve Gallion is largely open and untreed at high levels. Increasing hedge and tree cover on lower slopes, particularly to the south, where there are many copses and hedgerow trees, creating a secluded, soft, sheltered character. Shores around Lough Fea are wooded and further west on the outlier hills there are extensive areas of conifer forest, including part of Davagh Forest.

#### **Complexity of landcover and features**

Lower slopes have a diverse landscape pattern with an irregular patchwork of fields punctuated by small blocks of woodland. Many of the narrow glens are densely wooded. Some small conifer plantations on the ridges south of the summit. Fields become smaller on steeper slopes and on the valley floor and are mainly enclosed by hedgerows. No large settlements but scattered farms and houses connected by narrow, twisting lanes.

#### **Man-made influence**

Single tall mast on the summit of Slieve Gallion. Extensive sand and gravel quarrying of glacial moraine on the north-western side of Slieve Gallion summit, the upland plateau

fringes of Lough Fea and in the western outlier hills. Blocky form of conifer woodlands is prominent in parts.

#### Skylines and settings

Prominent gateway feature for the Sperrins. Hill slopes, particularly those facing south and east, are extremely sensitive and part of the wider landscape setting of Cookstown and Magherafelt. Western outliers, although smaller scale, are also notable skyline features. Bright blue kettle hole lake of Lough Fea provides a visual focus.

#### Visibility and views

Outstanding 360° views of most of Sperrins and Lough Neagh basin. Focal point in views towards Sperrins from south and east.

#### Landscape quality (condition)

Landscape quality is generally good, particularly on the southern and eastern slopes, but deteriorates in the western part of the LCA where quarrying and to a lesser extent forestry are intrusive and have damaged the landscape fabric.

#### Scenic quality

Most of the LCA lies within the Sperrin AONB. The attractive and verdant slope and valley Wind Energy Development in Northern Ireland's Landscapes: SPG to accompany PPS18 landscapes and southern and eastern flanks of Slieve Gallion are also an ASQ.

#### Wildness and tranquillity

The summit of Slieve Gallion has a relatively strong wild character, although this has been affected by the mast and quarrying. The plateau area north of Lough Fea has a very strong wild character with extensive heather moor and bog.

#### Natural and cultural heritage features

Numerous sites of earth science interest including Slieve Gallion and Lough Fea deglacial complex. Upland raised bog and blanket bog ASSIs at Teal Lough. Remnant semi-natural valley-side woodlands. Wealth of archaeological sites on the plateau area (including part of Beaghmore ASAI). Registered Park at Lissan.

#### Cultural associations

Not known.

#### Amenity and recreation

Forest trail from Inishcarn Forest to summit. Viewpoints and picnic sites near Lough Fea. Scenic route north of Slieve Gallion. The Councils promotion of the Davagh MTB trails and Dark Skies project is noted but is somewhat removed from this location by distance and topography in my view.

### **Assessment for Wind Energy Development**

Overall sensitivity Slieve Gallion is an LCA of varied sensitivity, reflecting its varied character. The summits and steep southern and eastern slopes are highly sensitive to wind energy development as they are exposed to long views and provide a visual focus over a very wide area. Land around Lough Fea, which links the area to South Sperrin (LCA 24) is also highly sensitive. The south-western outlier hills, although adversely affected by sand and gravel extraction and forestry, are visually prominent thus increasing the sensitivity of this area to wind energy development. The north-western slopes of Slieve Gallion, with their more rounded topography and lower visual prominence, are somewhat less sensitive, particularly where they are already affected by commercial sand and gravel extraction.

Overall Sensitivity - High to medium

### **Location, siting, layout and design considerations**

Most of this LCA has visual prominence and a role as an important landmark. The area of this LCA with the best potential capacity for wind energy development is the western slopes of Slieve Gallion, where the landscape is affected by widespread sand and gravel extraction. Consideration could be given to setting any development in this area well back from the steeper, more prominent slopes along the northern edge of the massif to optimise topographic screening. Care should be taken to avoid adverse impacts on views westwards across the plateau area around Lough Fea towards South Sperrin LCA and on views of Slieve Gallion from the south and east. Care should also be taken to avoid adverse impacts on natural and cultural landscape features. At the time of assessment there were no operational or consented wind farms in this LCA. The nearest such wind farms were at Crockagarron around 20km to the south-west and at Rigged Hill and Long Mountain, around 30km to the north and north-west respectively. Separation distances from any development in adjoining LCAs, notably the Moyola Valley LCA to the south, should be a consideration.

### **Evolution of the proposal**

The applicant's associated EI shows the iterative nature of the design process that continued to evolve after submission of this planning application whereby the scheme was revised in late 2020 in response to feedback from the Council. This revision was in the form of a reduction of the proposal from 6 to 4 turbines as a result of the Council's concerns on landscape character as outlined below. The applicant removed the battery storage element from the proposal on the 11<sup>th</sup> Mar 2021.

### **Further Environmental Information (FEI)**

The Council was consulted on various aspects of the assessment process including viewpoint (VP) locations, the production of visualisation information and wind farms to be

included in the cumulative assessment. The applicant addressed all of Councils suggested VPs as requested below.

### Assessment of viewpoints

:

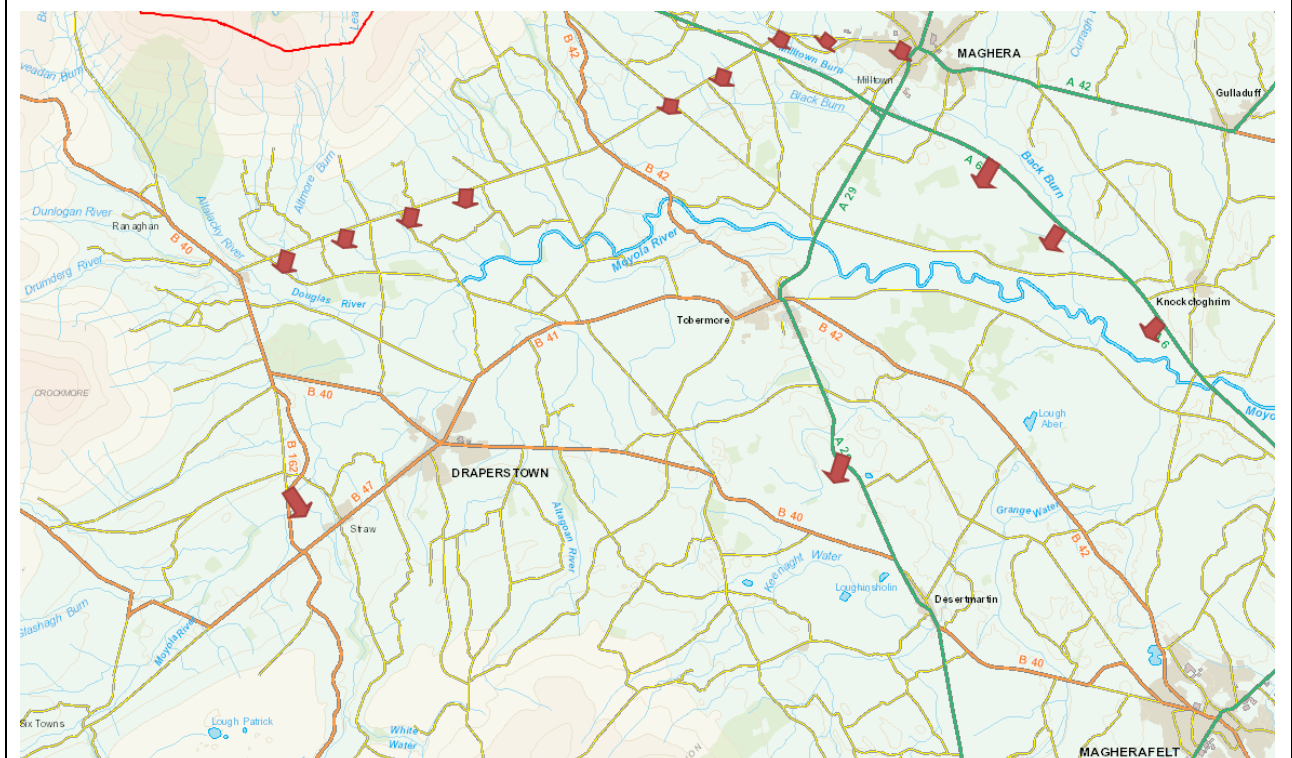
On the 15 July 2020 I contacted Clyde Shanks with the following comments relating to the Councils concerns on the proposed 6 turbines and their likely impact on landscape character, specifically Slieve Gallion :

In response to your clarification re Critical viewpoints for Cullion w farm and further to my last correspondence which refers to Ts 3/4/5/6 I hope the below, whilst not exhaustive, based on my on-site observations identifies for you those viewpoints of most concern in terms of sensitive landscape impact and prominence / competing with Slieve Gallion summit.

These are essentially critical views from the A29, the main Derry road, Crawfords Supermarket in Maghera, Glen Road out of Maghera, Fivemilestraight, and Strawmore Lane (B40).

PS I have omitted a further viewpoint just North of Lough Fea between the car park and the Black Water Bridge, if you can raise that viewpoint also looking across towards Slieve Gallion and the existing wind farm.

I have previously set out the Councils concerns in relation to the turbines referred to above and would ask if you could, without prejudice, provide any further observations in relation to these concerns within 21 days from the date of this e-mail, or as may alternatively be agreed.



A response from the developer on the 27<sup>th</sup> July challenged the Council's concerns and included a revised visual report and assessment. On the 28<sup>th</sup> Sept 2020 Council however advise the agent of the following concerns:

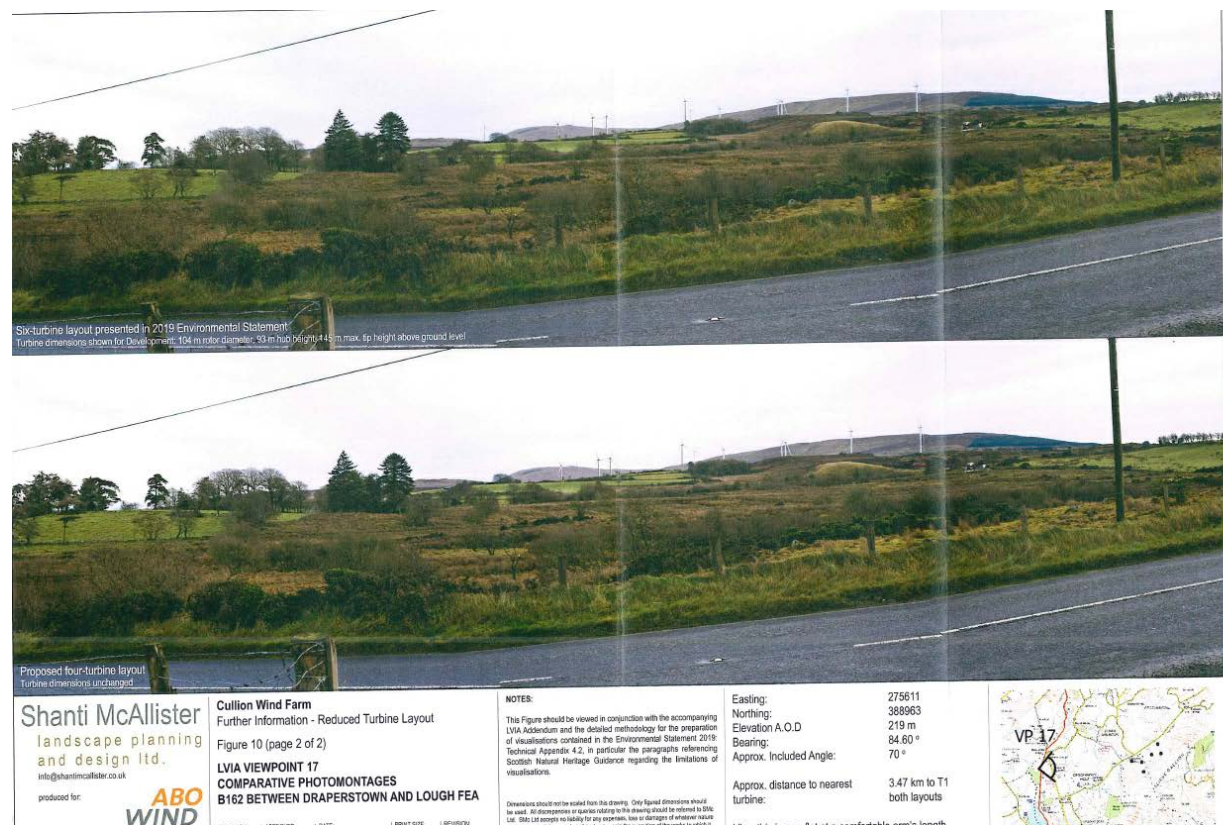
Turbines 6 and 5 remain problematic for the Council in visual and landscape character terms and would be best removed from the scheme, and in addition I would be keen to see what can be done to reposition T3 further downslope.

In addition a request was made to establish if anything could be done to better 'consolidate' T4 with T2 and 3 which would be left slightly on its own should T 5 and 6 removed. This was whilst also being mindful of the site constraints as identified on Drawing Fig 2.1.

In response on the 1<sup>st</sup> Oct 2020 the developer offered the following revisions to the proposal:

- T5 and T6 have been removed;
- T4 has moved west by 23.8m (see image attached and within original proposed micro- siting); and
- T3 has moved north by 23.8m within original micro siting and has dropped in elevation by 5m

Both T3 and T4 movements remain within original micro siting buffer.





(Viewpoint from Disert Road between Lough Fea and Brackagh Quarry (6 turbines top image / amended proposal for 4 turbines bottom image)

### **Impact on AONB**

Policy NH6 of PPS 2 applies to AONBs. It says that planning permission for new development therein will only be granted where it is of appropriate design, size and scale for the locality. It sets out three specific requirements that should be met, two of which are relevant in this instance:

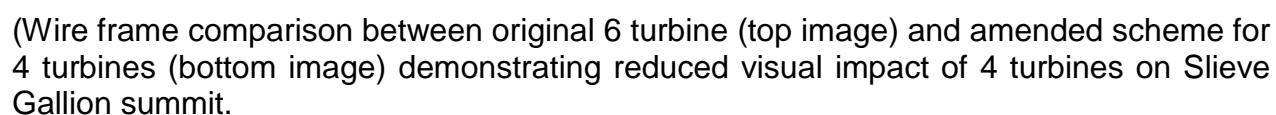
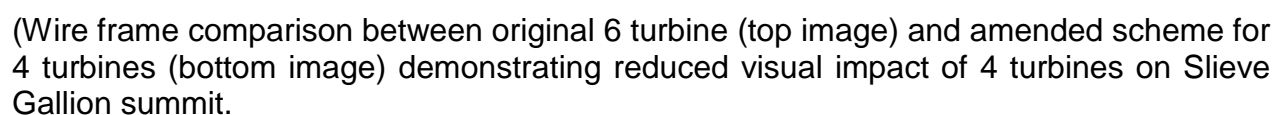
- (a) The siting and scale of the proposal be sympathetic to the special character of the AONB in general and of the particular locality; and
- (b) The development respects or conserves features of importance to the character, appearance or heritage of the landscape.

These considerations are addressed by Policy RE 1 and its associated guidance. Policy NH 6 does not add anything of significance to the assessment of the impact of the proposed development on the AONB. Therefore, if the proposal satisfies Policy RE 1, it would also meet the requirements of Policy NH 6.

This reduced proposal represents an extension to the now well established wind farm which has been operating without giving rise to objection. In terms of the visual absorption of these additional 4 turbines into the local landscape, these logically follow the topography of the lower ridge line slopes and extend the overall windfarm sensitively along Cullion Road. The removal of Turbines 5 and 6 now permits the wind farm to stop short of competing with the summit of Slieve Gallion and this I see as a significant environmental improvement in visual terms which permits the Council to look more positively upon the scheme.

In relation to cumulative visual impacts from this extension to the wind farm, its amended and reduced form has helped to somewhat 'compact' its visual impression with the existing 6 turbines. I have paid regard to the single turbine development on Drumard Road, one of which exists (and has recently been approved to be up-powered to a taller model) along with 2 other smaller turbines yet to be constructed on the downslopes of Drumard Road to the N of this site. These are the physically closest other wind turbines to the site and given the topography difference offered by the fall in Drumard road I am content that this breaks up the degree of visual relationship between this extension to the wind farm and these individual turbines. Further to the NW the 3 tall turbines located within Brackagh Quarry appear significantly removed in terms of distance and this assists in avoiding a strong visual connection with this proposal for an additional 4 turbines as part of the existing Cullion wind farm. All in all the visual impact and impacts on landscape character are satisfactory in my view when considering all important approaching views to the site and from surrounding scenic areas.





## **ARCHAEOLOGY & CULTURAL HERITAGE**

A heritage asset (HA) or historic asset is defined as any element of the archaeological and built heritage that is of sufficient importance to be a material consideration in determination of a planning application. An impact on the setting of a HA occurs when the presence of a development changes its surroundings in such a way that affects (positively or negatively) the asset's heritage significance.

State care and scheduled monuments are regionally important historic monuments afforded protection under The Historic Monuments and Archaeological Objects (NI) Order 1995 [the Order].

The Consultation responses relating to historic environment, whilst raising no objections which would merit a refusal of the application (based on 6 turbines) does state:

HED (Historic Monuments) have considered the FEI and continue to advise that minor revisions to the turbine layout would minimise the visual effects of the proposal on the setting of Ballybriest State Care monument, per Policy BH 1 of PPS 6. Any approval for this scheme should be conditional on pre-development archaeological mitigation, per Policy BH 4 of PPS 6.

As expressed in the consultation response of 6.12.19, HED (Historic Monuments) continues to advise that minor revisions to the turbine layout be considered to minimise adverse visual effects upon the integrity of the setting of Ballybriest State Care monument, in line with the previous planning decision for the adjacent wind farm H/2010/009/F.

(Historic Monuments) is mindful of the effects of existing development in the lands to the east of the monument and is not explicitly advising that this proposal is, in principle, contrary to archaeological planning policy. Rather, we are providing advice to the planning authority, as decision maker, on how the effects of this proposal upon the historic environment may be minimised as far as possible, in line with policy.

The view towards Slieve Gallion is considered by HED (Historic Monuments) as a critical view. The tomb is aligned towards this landform and this relationship, whether intended by the original builders (the significance of mountain or hilltop landforms within the prehistoric landscape has been noted) or perceived by the modern visitor, contributes to the visitor experience, understanding and enjoyment of this site. This view also influences the experience of visitors while walking on the main public access to the site to the field gate. Paragraphs 38-41 of PAC decision 2016/A0221 are relevant as they recognise the pedestrian access to a State Care monument as a critical view and part of the integrity of the sites setting which contributes to visitor enjoyment. HED (Historic Monuments) advises that relatively minor changes to the proposed turbine layout could minimise the impact of the proposed windfarm on the setting of this regionally important monument, in line with consideration of the previous approval

H/2010/0009/F. The FEI simply attempts to critique the HED position in this case

In considering the position of NIEA and having been in further correspondence with NIEA it appears that the turbines impacting on the view from Ballybriest to Slieve Gallion are turbines 1, 2, 4 and 6, with the main impacts presented by 1 and 2. The view and turbines are illustrated on the photomontage (fig. 9.21 from the ES) Re-siting of the turbines noted to maintain a clear line of sight to the summit of Slieve Gallion would be desirable.

The scheme has since been reduced to 4 turbines with the removal of what was turbines 5 and 6. In liaising further with NIEA about this reduction and the overall scheme, and whilst I acknowledge that Ts 1, 2 and 4 remain, it has been indicated to the Council that NIEA are mindful of the existing windfarm impact, and of the previous case history and have again confirmed that their position is that they are only advising how impacts may be minimised, but do not consider an outright archaeological reason for refusal would be sustainable in this case. In considering the overall merits of the proposal, including the potential socio-economic benefits which I intend to expand upon later in my report, I have concluded that the presence of the current wind farm has potentially lessened overall concerns about the impact of this application on the monuments setting, I say this in full knowledge that this was one of the factors which led to a reduction in the original wind farm turbine numbers. The removal of Ts 5 and 6 have increased the physical separation of the proposal from Slieve Gallion, and whilst this has not as successfully benefitted the views of Slieve Gallion from Ballybriest State Care monument, and given that the applicant has retained turbines 1-4 whilst being aware of the HED concerns, I believe there is insufficient policy basis on which to pursue a refusal of the application on Policy BH1 of PPS6.

Members can therefore in my view consider that the proposal as now presented, whilst still being able to be 'improved' to further satisfy NIEA, appears not to be so detrimental to lead to NIEA suggesting that it be refused as being contrary to PPS6 and the associated guidance relating to the setting of monuments.

### **NIEA NED/ SES Consideration of the proposal.**

This planning application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Mid Ulster District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations.

Having considered the nature, scale, timing, duration and location of the project it is concluded that, provided the following mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site.

The following mitigation should be included through conditions.

1. The applicant/appointed contractor must submit a Final Construction Environmental Management Plan (CEMP) for approval by Mid Ulster District Council Planning before commencement of any works on site. This Final CEMP should contain all the environmental mitigation, including Section 6 Final Decommissioning Plan as detailed in the Outline Construction Environmental Management Plan completed by ABO Wind NI Ltd, dated July 2019.

Reason: To ensure that the applicant/appointed contractor is aware of and implements the appropriate environmental mitigation during construction and decommissioning phases.

#### **Shared environmental service**

#### **NIEA**

##### Land , Soil and Air

Land and Groundwater Team, Regulation Unit, has considered the impacts of the proposal on the groundwater environment and on the basis of the information provided is content with the proposal without conditions.

##### Geology / land stability

GSNI have read the Peat Slide Risk Assessment prepared by Whiteford Geoservices Ltd and are content that the risk of peat slide at the site will be insignificant if the procedures outlined in the Recommendations section are adhered to.

##### Natural Heritage and Conservation Areas

Natural Environment Division (NED) has considered the impacts of the proposal on designated sites and, specifically in relation to designated sites and on the basis of the information provided to date, is content with the proposal. In terms of other natural heritage interests NED has no concerns subject to conditions

#### **PPS15 Policy FLD 1 Development in Fluvial (River) and Coastal Flood Plains**

The Strategic Flood Map (NI) indicates that portions of the site lie within the 1 in 100 year fluvial flood plain. The reduction in the application to 4 turbines shows none of these to be located within an area identified as being subject to flood risk. I do acknowledge that an access beyond T4 is proposed to cross the whitewater river and it is here where some flood risk is identified. The ES FRA concludes that its modelling confirms no significant effect on flooding elsewhere. Under FLD 4 of Planning Policy Statement 15, Artificial modification of a watercourse is normally not permitted unless it is necessary to provide access to a development site or for engineering reasons. This culverted section is in my view to gain access to the rear of T4. Rivers Agency have accepted the finding of the submitted FRA and I consider that the proposal should represent no flood risk to the site or elsewhere

A 5m maintenance strip is required along all watercourses unless the watercourse can be maintained from the opposite bank by agreement with the landowner. It should be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development by way of a planning condition. Clear access and egress should be provided at all times. This can be ensured by a condition.

### **Consideration of neighbouring amenity.**

Environmental Health have considered the original and now reduced proposal and raise no objections. No objections have been received from occupiers of property in the local area nor do I consider there to be any unacceptable risks to property from shadowflicker / ice throw or indeed noise given the analysis of the proposal by EHO and my observations on visiting the site and wider locality. This is a remote landscape sufficiently far enough removed from occupied property which in the main lies closest beyond the crest towards the NW on the lower parts of Drumard Road. I have considered that the immediate and wider locality has a presence of wind turbines these including the existing wind farm, one existing smaller turbine (recently approved to be up-powered) along with 2 extant permissions for 2 further smaller turbines to the NNW on the downslopes of Drumard Road. In the further distance the 3 large turbines within Brackagh Quarry have a locally distinctive presence in the visual quality of the area, there also being a single smaller turbine visually linked with these. I do not however anticipate any increased impact on outlook or amenity presently being experienced by occupied dwellings by this proposal, in isolation or cumulatively. The closest dwelling is that located at number 29 Cullion which appears to be a property which may have the outset been a party to the application in relation to being served notice upon as a landowner.

To fully assess the impacts on any receptors it should be noted that the EHD response states:

The same noise impact assessment has been submitted for the amended 4 no. turbines as was submitted for the original 6 no. turbine application. The assessment shows that noise from the 6 turbines will meet ETSU-R-97 limits provided some mitigation measures are put in place for receptors labelled R7, R8, R9, R13 and R14. We are therefore satisfied that noise from the updated (4 no.) proposal will not breach ETSU-R-97 limits. It should be noted that submitted noise predictions for 6 no. wind turbines are likely to be slightly higher than for 4 no. wind turbines which may affect future wind farm/turbine development in the locality. A number of specific noise level conditions are suggested which are detailed at the end of my report.

### **Communication links**

Consultation responses do not indicate any concerns relating to communication / fixed link matters. OFCOM identify 2 EIRCOM links and a consultation was issued to them, it stated EMR Integrated Solutions are responsible for managing the Eir NI microwave radio network.

EMR Integrated Solutions on behalf of Eir NI have assessed this proposal and have no technical safeguarding objection to this Planning Application based on the information provided.

I have assumed that these responses take full account of any micro-siting ability and where this isn't acceptable will have indicated this. Micro-siting appears only to be relevant only to T3 and T4.

### **Tourism Impacts.**

Planning Policy Statement 16; Tourism (PPS 16) Policy TSM 8, Safeguarding of Tourism Assets states that planning permission will not be granted for development that would in itself or in combination with existing and approved development in the locality have an adverse impact on a tourism asset such to significantly compromise its tourist value. The justification and amplification test states that for the purposes of this statement a tourism asset is defined as any feature associated with the built or natural environment which is of intrinsic interest to tourists.

This is a windfarm landscape and I have paid regard to it's location within an AONB. I have already concluded that the proposal would not result in a significant increase to the already cumulative impact of windfarm / single turbine development in the area. With reference to tourism interests the BPG at paragraph 1.3.81 states that the judgement of acceptability based on landscape protection should provide adequate protection for tourism interests. The threshold of landscape protection is generally more sensitive to windfarm development than tourism, therefore if it is deemed acceptable within the landscape at the planning stage, there should be no unreasonable impacts on tourism interests.

The NITB response states that research to date on the impact of wind farms on tourism is inconclusive in terms of whether they have a negative, neutral or positive influence on the decision of tourists to visit. Whilst I acknowledge the importance of this wider local landscape for the Councils Dark skies / Davagh Forest tourism objectives, The Head of Tourism in the Council has not raised any issues of concern with the proposal on the basis that it is not envisaged that this proposal will have an impact on the tourism sector in the area, or any future tourism plans within Mid Ulster District Council.

In seeking the Councils Head of Tourism views I am not concerned that a significant number of visitors would be deterred from visiting the general area and countryside and that its tourist value would be significantly compromised by the proposal. The existing Cullion Wind farm which has been operational now for 5 years or so does not appear to have detracted visitors from the area or from the Davagh / Dark Skies project area. I am not of the view that an extension to it for 4 further turbines will measurably alter this trend.

### **Socio-economic benefits of the proposal.**

In taking a cautious approach to the development given its location in the AONB, there are nonetheless significant socio-economic benefits associated with the proposal. The ES addendum at appendix 4 contains such an analysis provided by Cognet Management Consulting. Even in its reduced guise to 4 turbines there are the following impacts identified:

### **National Impacts.**

- Load capacity is said to be 35%-50% higher than the NI Industry average. And 53 – 70% higher than the UK average and 45 – 61% higher than the ROI average.

- It will provide sufficient energy from renewable sources to power between 16,037 and 19,232 homes and contribute to the reduction of between 20,127 and 28,477 tonnes of CO2 emissions

### **Regional impacts:**

- Expenditure across the 30yr project life equates to circa £40.6m – 42.2m which includes £27.5m - £29.3m of expenditure that will be retained in the NI economy.
- £1.2m of the construction expenditure and circa £188k to £205k per annum of the operations and maintenance expenditure will be retained in the Mid Ulster District Area.
- 86.1 FTE job years of employment created / sustained in NI across the 30 yr project life.

### **Local impacts**

- Annual business rates of up to £241,668 of which up to £110,426 will go to MUDC
- Potential to encourage circa £116,000 of business visitor expenditure in the NI economy (based on a foreign installation team being located in NI during the construction phase)
- A total commitment to landowners of circa £4.3 million across the 30 year project lifetime
- Generation of between £33,000 and £42,000 per annum across the 30yr project life which will be re-invested into the local community through a Community Benefit Initiative.

### **Summary of objection to / support of application.**

One letter of objection has been received to the initial proposal for 6 turbines by The Ulster Hang gliding and paragliding club stating it became aware in Oct 2020 of the application. Concerns are raised about the sites close proximity to a long establish flying site used by the club and that no approach has been made by the company, or assessment of flying risks has been made. It is stated that the club has previously engaged with the company on other projects. It is concluded that the scheme for 6 turbines represents serious risks to pilots safety. I understand from the planning consultant that ABO Wind are aware of these concerns and had been liaising with the club.

In response, given the removal of the 2 turbines closest to the summit, and upon re notifying the club of these changes no further objection has been received. Whilst I cannot assume that the concerns of the club have been met I am aware that the views of the CAA have also been sought in relation to the proposal. I find insufficient basis upon which to attach determining weight to this matter in so far as it should lead to a refusal of the application as now amended and reduced.

Conditions are suggested by the CAA and others concerning aviation safety, these include updating the database on tall structures. The CAA have stated the following:

Like any wind turbine development, the proposed subject development has the potential to impact upon aviation-related operations; Civil Aviation Publication No. 764 refers.

Any structure of 150 metres or more must be lit in accordance with the Air Navigation Order and should be appropriately marked. In addition, for obstacles under 150m, there might be a need to install aviation obstruction lighting to some or all of the associated wind turbines in response to aviation stakeholders' comments.

In addition, there is a civil aviation requirement in the UK for all structures over 100 metres high to be charted on aviation maps. It should be noted that the maximum height is measured from the ground level to the maximum blade tip height, not the hub or nacelle. Such structures should be reported to the Defence Geographic Centre (DGC) which maintains the UK's database of tall structures (the Digital Vertical Obstruction File) at least 10 weeks prior to the start of construction.

A letter of support has been received from the Chairman of Ballinascreen GAC. It states that the club registers its support for the application and that it will provide clean green energy for a large number of homes in the Mid Ulster area. The club state that it considers it vital to address the matter of climate change that wind farms such as this can effectively do in a sustainable manner. The application is adjacent to an existing windfarm which will help it fit into this local area. During the construction period there will be a positive boost to the local area via local shops / accommodation/ aggregate. The wind farm will also contribute rates to the council area and offers a benefit fund for the local community.

### **Draft Local Area Plan Considerations.**

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

The following policies would apply to the proposed development:

#### **POLICY NH 6 – AREAS OF OUTSTANDING NATURAL BEAUTY (page205)**

Development will be required to be sensitive to the distinctive special character and landscape quality of the Sperrins Area of Outstanding Natural Beauty and its visual amenity in order to conform with the Local Development Plan. Specific policies, such as for high structures and mineral development, will be dealt with under separate policy considerations (refer to Policies RNW1 & MIN1). Where appropriate, the Council will provide local policies and guidance in order to assist in the design of housing within settlements.



## POLICY TOHS 1 – OUTSIDE OF AREAS OF CONSTRAINT ON WIND TURBINES AND HIGH STRUCTURES (page 228)

Outside of Special Countryside Areas and Areas of Constraint on Wind Turbines and High Structures telecommunications development (including necessary enabling works) and overhead cable development will conform with the Plan where;

- Siting and design of development, including any necessary enabling works will not result in an unacceptable impact on visual amenity and environmentally sensitive features and locations
- Operators can demonstrate the need for new telecommunications development, existing network constraints, potential effects of such development and measures to mitigate visual and environmental impacts.
- Applications for the development of telecommunications equipment should be accompanied by a statement demonstrating compliance with ICNIRP guidelines for public exposure to electromagnetic fields.
- Operators are able to demonstrate that the development shall not cause undue interference to radio spectrum users.
- In the case of overhead cables, the chosen route follows the natural features of the environment and in urban areas, wirescape is kept to a minimum with preference being given to undergrounding.

In the case of telecommunications development, new masts should only be considered where site sharing is not a feasible option or where it offers an improved environmental solution.

Subject to the above considerations, telecommunications development, overhead cables and high structures will normally be restricted to 15 metres in height above original ground levels in Areas of Constraint on Wind Turbines and High Structures.

Exceptions may be considered where it is demonstrated that the development is;

- An essential electricity transmission or supply which, if not provided, would result in demonstrable hardship
- Telecommunications apparatus to serve a recognised “not spot.”
- For a farm structure essential for the operation of agriculture in that area.

Where the above exceptions apply, a 25 metre height restriction will be applied and the applicant will be required to demonstrate that they have given full consideration to the landscape sensitivity of the area. Higher structures will only be considered if it is demonstrated that the proposal is of regional importance.

## POLICY RNW 1 – RENEWABLE ENERGY (page 235)

Outside of Special Countryside Areas, proposals for development that generate or store energy from renewable resources including solar, hydropower, thermal, geothermal, hydrothermal and biomass, shall accord with the Plan. However, a cautious approach will be adopted towards all renewable energy development proposals within the Sperrin AONB, Slieve Beagh and the along the Clogher Valley ridge line. The wider environmental, economic and social benefits of all proposals for renewable energy projects are material considerations that will be given appropriate weight in determining whether planning permission should be granted. Where any project would result in

unavoidable damage during its installation, operation, or decommissioning, then the application must demonstrate how this shall be minimised and mitigated including details of any proposed compensatory measures such as a habitat management or the creation of a new habitat and applicants will be required to ensure that upon decommissioning, land is adequately restored and planning conditions to this effect will be applied. Favourable consideration will be given to the re-use, refurbishment, repair and repowering of existing renewable energy development in order to prolong the life span of developments such as wind farms and solar farms providing that these do not result in unacceptable impacts on the environment or residential / visual amenity.

## WIND ENERGY DEVELOPMENT

Outside of Special Countryside Areas and Areas of Constraint on Wind Turbines and High Structures, development for generation or storage of wind energy shall accord with the Plan providing it does not result in: i. an unacceptable impact on visual amenity or landscape character; ii. a detrimental cumulative impact, taking into account existing permissions and undetermined applications; iii. the creation of a significant risk of landslide or bog burst; iv. development will not be permitted in active peatland, unless there are imperative reasons of overriding public interest; v. any part of the development giving rise to unacceptable electromagnetic interference to communications installations; radar or air traffic control systems; emergency services communications; or other telecommunications systems; vi. an unacceptable impact on roads rail or aviation safety; vii. significant harm to the safety or amenity of any sensitive receptors (including future occupants or committed development) arising from noise, shadow flicker, ice throw or reflected light and / or loss of residential amenity through visual intrusion or over dominance; and viii. unacceptable adverse impacts on the operation of tourism or recreation interest. For wind farm development, a separation distance of 10 times rotor diameter or 4 times the tip height (whichever is the greater) an occupied property will apply, with a minimum separation distance of 500m between the wind farm and occupied property being required. Within Areas of Constraint on Wind Turbines and High Structures, wind turbines of a height greater than 15m to hub height will conflict with the Plan. Within Areas of Constraint on Wind Turbines and High Structures proposals for a wind turbine with a hub height below 15m are required to comply with policy tests and criteria of Policy RNW 1.

In concluding I am satisfied that the proposal, as amended, is now compliant with the Magherafelt Area Plan, Policy PPS18 and its associated best practise guidance and I have considered its impacts against all other relevant policies relating to the built and natural environment. I see no issues raised by consultees which would justify an opinion to refuse the application, subject to appropriate conditions which are set out below.

**Summary of Recommendation: Approval subject to conditions.**

**Conditions**

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

Reason: Time limit

2. The permission shall be for a limited period expiring 30 years from the date on which electricity from the wind farm is first connected to the grid. Within 12 months of the cessation of electricity generation at the site, or upon the expiration of this permission, whichever is sooner, all structures and access tracks shall be removed and all land affected by the development restored in accordance with a decommissioning scheme submitted to and approved by the planning authority prior to the commencement of any works, or in accordance with any variation to the scheme to which the planning authority subsequently agrees in writing.

Reason: Time limit.

3. The developer shall notify the Planning Authority in writing of the date of commencement of works on the site and of the date when the windfarm has become operational (i.e. connected to the national grid).

Reason: To permit the Council to be made aware of the commencement and operational phases of the proposal.

4. There shall be no development activity, including any vegetation clearance, during the upland bird core breeding season, which runs from 15 March to 31 July.

Reason: To protect breeding birds.

5. Prior to the erection of the turbines and masts, bird flappers, taping streamers or similar devices shall be attached along all guy lines at regular intervals and these shall be maintained for the lifetime of the structure.

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

6. Prior to the commencement of development, a final Ornithological Management Plan shall be submitted and agreed in writing by the Planning Authority incorporating the measures detailed in Appendix 4.3 of Volume 4 of the Environmental Statement which accompanies this application.

Reason: To assess the impacts of the proposal on the local bird population.

7. No development activity, including ground preparation or vegetation clearance, shall take place until a final Habitat Management Plan (HMP) has been submitted to and approved in writing by the Planning Authority. The approved HMP shall be implemented in accordance with

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

- a) Clear aims, objectives and timings of proposed habitat management/restoration;
- b) Description of pre-construction, baseline habitat conditions;
- c) Appropriate maps, clearly identifying habitat management areas;
- d) Detailed methodology and prescriptions of habitat management and restoration measures, including timescales, and with defined criteria for the success of the measures;
- e) Details of the prohibition of habitat damaging activities, including agricultural activities;
- f) Confirmation of landowner agreement with all proposed habitat management measures for the lifetime of the wind farm;
- g) Details of the regular monitoring of the effectiveness of habitat management and restoration measures using appropriate methodology (e.g. visual inspections, vegetation quadrats, fixed point photography) in years 1, 2, 3, 5, 10, 15, 20, 25 & 30 after construction.
- h) A full bird monitoring programme as proposed in Appendix 4.3 of the Environmental Statement, including both walk-over and vantage point surveys, should be carried out in the year of construction (Year 0) and in years 1, 2, 3, 5, 10, 15 and 20 of operation.

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

8. Progress reports detailing the implementation and monitoring of the Habitat Management Plan shall be produced by a competent ecologist and submitted to the planning authority in years 1, 2, 3, 5, 10, 15, 20, 25 & 30 after construction, within 6 months of the end of each monitoring year. These shall include details of any necessary contingency and/or remedial measures to ensure that the aims and objectives of the Habitat Management Plan are met.

Reason: To ensure proper implementation of the habitat management plan and make provisions for any necessary contingency and/or remedial measures.

9. No turbine shall become operational until a Bat Mitigation and Monitoring Plan (BMMP) has been submitted to and approved in writing by the Planning Authority. The approved BMMP shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority. The BMMP shall include the following:
  - a) Details of the proposed monitoring of bat activity across the site post construction using appropriate methodology.
  - b) Details of bat carcass searches at selected turbines using appropriate methodology.
  - c) Details of the production of yearly monitoring reports to be submitted to the planning authority within 6 months of the end of each monitoring year;
  - d) Provision for additional mitigation or contingency measures which may be deemed necessary depending on the results of the monitoring and which shall be implemented if instructed by the Planning Authority;
  - e) Provision for review of the mitigation measures and the length of the monitoring plan.

Reason: to monitor the impact of the proposal on bats.

10. No development activity, including ground preparation or vegetation clearance, shall take place until a Final Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Planning Authority. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise approved in writing by the Planning Authority. The CEMP shall include the following:
  - a) Construction methodology and timings of works;
  - b) Pollution Prevention Plan; including agreed details of the establishment of buffer zones to

watercourses and details of watercourse crossings;

c) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;

d) Peat/Spoil Management Plan; including identification of peat/spoil storage areas, management and handling of peat/spoil and details of the reinstatement of excavated peat/spoil;

e) Water Quality Monitoring Plan;

f) Environmental Emergency Plan;

g) Details of the appointment of an Ecological Clerk of Works (ECoW) and their roles and responsibilities;

h) Draft Decommissioning Plan detailing the removal of infrastructure, protection of habitats, pollution prevention measures and the restoration of habitats and natural hydrological processes on the site.

Reason: To protect Northern Ireland priority habitats and species, to ensure implementation of mitigation measures identified within the Environmental Statement.

11. The applicant/appointed contractor must submit a Final Construction Environmental Management Plan (CEMP) for approval by Mid Ulster District Council Planning before commencement of any works on site. This Final CEMP should contain all the environmental mitigation, including Section 6 Final Decommissioning Plan as detailed in the Outline Construction Environmental Management Plan completed by ABO Wind NI Ltd, dated July 2019.

Reason: To ensure that the applicant/appointed contractor is aware of and implements the appropriate environmental mitigation during construction and decommissioning phases.

12. No other development hereby permitted shall be commenced until a detailed programme of Works and any required / associated traffic management proposals shall be submitted to and agreed by DfI Roads, prior to the commencement of any element of road works.

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

13. Before any work commences on site the applicant/agent shall in association with DfI Roads Maintenance Section carry out a condition survey on all haul routes (other than the protected route network) and shall at their expense carry out and provide to DfI Roads a video detailing the condition of the existing public road being considered as haul routes

REASON: To ensure that the road works considered necessary to provide proper, safe and convenient means of access to the site are carried out at the appropriate time

14. No part of the development hereby permitted shall be commenced until the works necessary for the improvement of the public road and the provision of passing bays have been completed in accordance with the details as generally indicated in Volume 2:Appendix 10.3 of the Environmental Statement date stamped 19 July 2019.

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

15. No other development hereby permitted shall be commenced until the vehicular access including visibility splays of 2.4 x 90 metres at its junction with Cullion Road shall be provided in accordance with Volume 2: Appendix 10.2 of the Environmental Statement date stamped 19 July 2019

REASON: To ensure that that a satisfactory means of access in the interests of road safety and convenience of road users

16. The erection of the proposed turbines should be reported to the Defence Geographic Centre (DGC) which maintains the UK's database of tall structures (the Digital Vertical Obstruction File) at least 10 weeks prior to the start of construction. (e-mail to [dvof@mod.uk](mailto:dvof@mod.uk)). The DGC will require the accurate location of the turbines/meteorological masts, accurate maximum heights, the lighting status of the turbines and / or meteorological masts and the estimated start / end dates for construction together with the estimate of when the turbines are scheduled to be removed. In addition, the developer should also provide the maximum height of any construction equipment required to build the turbines. In order to ensure that aviation stakeholders are aware of the turbines and / or meteorological masts while aviation charts are in the process of being updated, developments should be notified through the means of a **Notice to Airmen** (NOTAM). To arrange an associated NOTAM, a developer should contact CAA Airspace Regulation ([AROps@caa.co.uk](mailto:AROps@caa.co.uk)); providing the same information as required by the DGC at least 14 days prior to the start of construction.

Reason: In the interests of aviation safety.

17. In the interests of air safety, the turbines hereby approved shall be fitted with aviation warning lighting upon their erection. The mast should be fitted with a minimum intensity 25 candela omni directional, flashing, red light or equivalent infra-red light fitted at the highest practicable point of the structure.

Reason: In the interests of aviation safety.

The developer must notify UK DVOF & Powerlines at the Defence Geographic Centre with the following information prior to development commencing:

- a. Precise location of development.
- b. Date of commencement of construction.
- c. Date of completion of construction.
- d. The height above ground level of the tallest structure.
- e. The maximum extension height of any construction equipment.
- f. Details of aviation warning lighting fitted to the structure(s)

Reason: In the interests of aviation safety.

18. Under the terms of Schedule 6 of the Drainage (Northern Ireland) Order 1973, prior to commencement of any works or operations hereby approved, the applicant must submit to DfI Rivers, for its consent for any proposal to carry out works which might affect a watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc.

Failure to obtain such consent prior to carrying out such proposals is an offence under the aforementioned Order which may lead to prosecution or statutory action as provided for.

Reason: To ensure compliance with the Drainage Order (NI) 1973.

19. The level of noise emissions from the combined effects of the wind turbines (including the application of any tonal penalty) when calculated in accordance with the attached Guidance Notes, shall not exceed the values set out in the attached Table 1. Noise limits for dwellings which lawfully exist or have planning permission for construction at the date of this consent but are not listed in the Tables attached shall be those of the physically closest location listed in the Tables unless otherwise agreed with the Mid Ulster District Council. The coordinate locations to be used in determining the location of each of the dwellings are listed in Table 2.

The wind farm noise level is recalculated by adding the tonal penalty (if any) to the wind farm noise.

Table 1

Receptor		Wind Speed standardised 10m height								
		L <sub>A90</sub> dB(A)								
		4m/s	5m/s	6m/s	7m/s	8m/s	9m/s	10m/s	11m/s	12m/s
R1	29 Cullion Road	30.3	33	36.1	38.1	40.9	43.4	44.4	44.4	44.4
R2	23 Cullion Road	19.5	22.1	25.1	27.4	30.7	33.2	34.2	34.2	34.2
R3	Cullion Road	21.3	23.9	27	29.1	32.4	34.9	35.9	35.9	35.9
R4	10 Keenaght Road	19.6	22.2	25.3	27.5	30.8	33.3	34.3	34.3	34.3
R5	45 Brackaghlistea Rd	20.7	23.2	26.3	28.5	31.8	34.3	35.3	35.3	35.3
R6	50 Brackaghlistea Rd	21	23.6	26.7	28.8	32.1	34.6	35.6	35.6	35.6
R7	53 Drummard Road	21.4	23.9	27	29.2	32.4	34.9	35.9	35.9	35.9
R8	55 Drummard Road	21.4	23.9	27	29.2	32.5	35	36	36	36
R9	21 Brackagh Lane	18.1	20.6	23.7	26	29.3	31.8	32.8	32.8	32.8
R10	59 Drummard Road	20.4	23	26	28.2	31.5	34	35	35	35
R11	49 Drummard Road	22.4	24.9	28	30.1	33.4	35.9	36.9	36.9	36.9
R12	64 Drummard Road	22.6	25.1	28.2	30.3	33.6	36.1	37.1	37.1	37.1
R13	57 Drummard Road	21.1	23.6	26.7	28.9	32.2	34.7	35.7	35.7	35.7
R14	62 Corrick Road	22.5	25	28.1	30.3	33.5	36	37	37	37

Table 2

	Receptor	X co-ordinates	Y co-ordinates
R1	29 Cullion Road	280506	390290
R2	23 Cullion Road	281543	391209

R3	Cullion Road	281179	391086
R4	10 Keenaght Road	281300	391362
R5	45 Brackaghlistlea Rd	279234	391440
R6	50 Brackaghlistlea Rd	279155	391349
R7	53 Drummard Road	277959	390386
R8	55 Drummard Road	277987	390418
R9	21 Brackagh Lane	278000	390271
R10	59 Drummard Road	277849	390520
R11	49 Drummard Road	278214	390444
R12	64 Drummard Road	278698	390825
R13	57 Drummard Road	277922	390414
R14	62 Corrick Road	277893	389928

Reason: To protect residential amenity.

20. Within 28 days from the receipt of a written request from Mid Ulster District Council following a complaint to Mid Ulster District Council from the occupant of a dwelling which lawfully exists and has planning permission at the date of this consent, the wind farm operator shall, at the wind farm operators expense, employ an independent consultant approved by Mid Ulster District Council to assess the level of noise emissions from the wind farm at the complainant's property following the procedures described in the attached Guidance Notes.

Reason: To protect residential amenity.

21. The wind farm operator shall provide to Mid Ulster District Council the independent consultant's assessment and conclusions regarding the said noise complaint, including all calculations, audio recordings and the raw data upon which those assessments and conclusions are based. Such information shall be provided within 3 months of the date of the written request of Mid Ulster District Council unless otherwise extended in writing by the Local Planning Authority.

Reason: To protect residential amenity.

22. Wind speed, wind direction and power generation data shall be continuously logged and provided to Mid Ulster District Council at its request and in accordance with the attached Guidance Notes within 28 days of such request. Such data shall be retained for a period of not less than 12 months.

Reason: To protect residential amenity.

23. No turbine shall be brought into operation before a scheme for the assessment and regulation of Amplitude Modulation (AM) has been submitted to and approved by the Planning Authority. The scheme shall be in accordance with the metric recommended by the Institute of Acoustics and the penalty scheme presented in the work undertaken by WSP Parsons Brinkerhoff on behalf of DECC.

Reason: To protect residential amenity.

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



Reason: To protect residential amenity

25.No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by Mid Ulster Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:

- The identification and evaluation of archaeological remains within the site;
- Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;
- Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and
- Preparation of the digital, documentary and material archive for deposition.
- 

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

26.No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 25.

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

27.A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 25. These measures shall be implemented and a final archaeological report shall be submitted to Mid Ulster Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Mid Ulster Council.

Reason: To ensure that the results of archaeological works are appropriately analysed and disseminated and the excavation archive is prepared to a suitable standard for deposition.

28. A 5m maintenance strip is required along all watercourses unless the watercourse can be maintained from the opposite bank by agreement with the landowner. It should be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development by way of a planning condition. Clear access and egress should be provided at all times.

Reason: In the interests of ensuring access is unimpeded for watercourse maintenance purposes.

**Signature(s) M.Bowman**

**Date: 23 Mar 2021**

ANNEX	
<b>Date Valid</b>	19th July 2019
<b>Date First Advertised</b>	8th August 2019
<b>Date Last Advertised</b>	3rd March 2020
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 29 Cullion Road, Desertmartin, Londonderry, BT45 5NR Stephen Hill Email Address	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2019/0990/F Proposal: Construction of a wind farm comprising up to 6 wind turbines (maximum tip height of 145m ,this includes blade height of between 52m and 58.5m and hub heights between 84m and 93m) an electrical substation/control building, energy storage area, construction of internal access tracks, spoil deposition areas, temporary construction compound new access onto Cullion Road, formation of 2 passing bays along Cullion Road, road widening and upgrade works at B47/Disert Road junction, Disert Road bends, Disert Road/ Ballybriest Road junction, Ballybriest Road/ Cullion Road junction, Cullion Road and all associated ancillary works. Address: Lands approximately 300m S/SW of 29 Cullion Road, Desertmartin, Decision: Decision Date:	
Ref ID: LA09/2019/0383/PAN Proposal: Construction of wind farm comprising up to 6no. wind turbines (to a maximum tip height of 145 metres; this includes blade lengths of between 52m and 58.5m and hub heights of between 84m and 93m), an electrical substation/control; building, energy storage area, construction of internal access tracks, spoil deposition areas, temporary construction compound, delivery route improvements, and all associated ancillary works. Address: Lands approx. 300m S/SW of 29 Cullion Road, Desertmartin, Co.Londonderry., Decision: Decision Date:	
Ref ID: LA09/2016/1410/DC Proposal: Discharge of Planning Condition No 10 with Planning Approval H/2010/0009/F Address: Crockandun, approximately 450m WSW of junction of Cullion Road and Drumard Road, Draperstown, Magherafelt, Decision: RL Decision Date:	

Ref ID: LA09/2018/0408/DC

Proposal: Discharge of Planning Condition 19 of Planning Approval H/2010/0009/F (Crockandun Wind Farm)

Address: Crockandun, approx 450m WSW of junction of Cullion Road and Drumard Road, Draperstown, Magherafelt,

Decision: AL

Decision Date:

Ref ID: LA09/2016/1568/F

Proposal: Variation of condition 19 on Planning Approval H/2010/0009/F

Address: Crockandun, approximately 450m WSW of junction of Cullion Road and Drumard Road,,Draperstown, Magherafelt,

Decision: PG

Decision Date: 08.08.2017

Ref ID: LA09/2016/1567/DC

Proposal: Discharge of Condition No 20 of Planning Approval H/2010/0009/F

Address: Crockandun, approximately 450m WSW of junction of Cullion Road and Drumard Road, Draperstown, Magherafelt,

Decision: AL

Decision Date:

Ref ID: LA09/2015/0891/DETEI

Proposal: Upgrade an Existing Access Track and Associated Access Point to Access Wind Farm

Address: Townland of Crockandun, near Draperstown, Magherafelt,

Decision: NRES

Decision Date:

Ref ID: H/2009/0501/F

Proposal: Erection of 225kw wind turbine with tower height of 30m

Address: Approx 750m North West of Drumard Road/Cullion Road Junction, Straw Mountain, Draperstown

Decision:

Decision Date: 21.01.2010

Ref ID: H/2010/0009/F

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

Address: Crockandun, approximately 450m west south-west of junction of Cullion Road and Drumard Road, Draperstown, Magherafelt.

Decision: PG

Decision Date: 30.11.2012

Ref ID: H/2009/0407/E

Proposal: Scoping Report: Proposed Crockandun Windfarm.

Address: Crockandun, near Draperstown, Co Londonderry

Decision:

Decision Date:

Ref ID: H/2008/0684/F

Proposal: Erection of 1 no temporary meteorological mast of 70m in height for the purpose of monitoring wind speed.

Address: Crockandun, 1000m SW of junction of Cullion Road & Drumard Road, Magherafelt. Site entrance located on Cullion Road.

Decision:

Decision Date: 21.05.2009

Ref ID: LA09/2015/0973/NMC

Proposal: Reconfigure the hob height and rotor diameter dimensions of the turbine to a hub height of 75m and a rotor diameter of 100m ,complying with a tip height of on more than 125m.

Address: Crockandun Wind farm, Draperstown,,

Decision: CR

Decision Date:

Ref ID: LA09/2016/0159/F

Proposal: Amendment of Condition 25 of Planning Approval H/2010/0009/F

Address: Crockandun, approx. 450m west south-west of junction of Cullion Road and Drumard Road, Draperstown, Magherafelt,

Decision: PG

Decision Date: 25.05.2016

Ref ID: LA09/2016/0735/F

Proposal: Variation of Condition No 7 of Planning Approval H/2010/0009/F

Address: Crockandun, approximately 450m WSW of junction of Cullion Road and Drumard Road, Draperstown, Magherafelt.,

Decision: PG

Decision Date: 05.08.2016

#### **Summary of Consultee Responses**

#### **Drawing Numbers and Title**



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1237/F	<b>Target Date:</b>
<b>Proposal:</b> Construction of retail unit (subdivided) together with associated improved access. Parking and footpath/cycleway to site frontage (6 units) (additional information)	<b>Location:</b> 7 Crossowen Road Augher Tenements Augher Tyrone BT77 0BA.
<b>Referral Route:</b> Recommendation to refuse	
<b>Recommendation:</b>	Refuse
<b>Applicant Name and Address:</b> Finlay Holdings Ltd 8 Knockmany Road Castlehill Demesne Augher BT77 0BA	<b>Agent Name and Address:</b> Chris Allen Architects 310 Lough Shore Road Rahalton Enniskillen BT93 7FL
<b>Executive Summary:</b> Proposal is contrary to PPS3 Access, Movement and Parking policies AMP2 and AMP3 in that there is no provision of a right hand turning lane which will impact on the efficient movement of traffic along this protected route and conditions of general safety.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



**Representations:** None Received

### Description of proposal

This is a full planning application for the construction of retail unit (subdivided) together with associated improved access. Parking and footpath/cycleway to site frontage (6 units) for Finlay Holdings Ltd.

### Characteristics of site and area

The site is located on the site of the former Creamery and is accessed from a protected route (Crossowen Road) within the settlement limits of Augher. The site has been cleared and is relatively flat with gravel hard-core finish and is bounded to the south by an existing Gym (The Edge), to the east by the public road and The Station House Caf? and public toilets, and to the north by buildings that back onto the site and front onto Augher Main Street (mix of residential and commercial). To the west is a residential garden separated by 2.5m high paladin security fence.

Main Street lies to the north, and the area is defined by a mix of residential, commercial and business premises. Opposite the site is a car park associated with Tyrone Tiling which also has recycling banks at one end.

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

### **Planning Act 2011**

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

### **Development Plan- Dungannon and South Tyrone Area Plan 2010 (DSPTAP)**

All of the site is located within the village of Augher which is located approximately 28 kilometres southwest of Dungannon on the A4 Dungannon to Enniskillen route. The northern part of the site is zoned as an area of potential archaeological potential, all the site is identified as an area of constraint on mineral development. The site accesses onto the A4 which is a protected route. No part of the site is located within the Area of Townscape Character.

Under Policy SET1 of DSPTAP it states that favourable consideration will be given to development proposals within settlement limits including zoned sites provided certain criteria are met including; the proposal is sensitive to the size, character and function of the settlement in terms of scale, form, design and use of materials; the proposal respects the opportunities and constraints of the specific site and its surroundings and, where appropriate, considers the potential for the creation of a new sense of place through sensitive design; there is no significant detrimental affect on amenities; there is no significant conflict with recognised conservation interests; there are satisfactory arrangements for access, parking and sewage disposal; where appropriate, any additional infrastructure necessary to accommodate the proposal is provided by the developer; and the proposal is in accordance with prevailing regional planning policy and the policies, requirements and guidance contained in Part 3 of the Plan.

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.

### **Key Planning Policy Considerations**

SPPS Strategic Planning Policy Statement

PPS3 Access Movement and Parking

PPS6 Planning and Archaeology and Built Heritage

### **Design Guidance**

Living Places- An Urban Stewardship and Design Guide for Northern Ireland

### **Relevant site history**

None

### **3rd party representations**

There are no 3rd party representations, including objections, to this proposal. I am satisfied that all neighbours have been notified and appropriate advertisement has taken place in accordance with Councils statutory duties.

### **Consideration**

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

The SPPS provides a regional framework of planning policy that is taken account of in the preparation of Mid Ulster Councils 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. Para 6.267 states that town centres 'provide a wide variety of retailing and related facilities, including employment, leisure and cultural uses'.

Para 6.278 states that proposals for shops in villages and small settlements must be consistent with the aim, objectives and policy approach for town centres and retailing, meet local need (i.e. day-to-day needs), and be of a scale, nature and design appropriate to the character of the settlement.

This proposal consists of 6 individual retail units which reflect the small scale nature of most retail provision that is currently found in Augher. In my opinion these retail units will not threaten the retail draw of larger towns in the Mid Ulster Area or elsewhere and will provide an opportunity for new business within Augher at an appropriate location with good links to Augher Main Street via public road and footway links, and served well by parking and servicing provision. Given the size of the proposed unit they will be of an appropriate size to serve the day-to-day needs of the people of Augher and surrounding rural catchment area, and will not look out of place or out of scale in this village context. The units are placed close to a main prominent road that provides a main access/exit route to the Village. In my view, the position of these units will improve the visual amenity of this area of the Village as the built form will reduce the current void experienced when approaching the village along this stretch of road, which will add to a sense of arrival to Augher. These units will also improve the vitality and viability of Augher Village and extra footfall in this area will support surrounding services and businesses, including the adjacent cafe. The modest scale and nature of the building and the amalgamation of shops therein are appropriate to the streetscape of the area within which it sits.

Taking the surrounding context, which is a mix of commercial shops, pubs and other retail units alongside residential properties, I consider the relationship of this proposal acceptable at this site and location. The proposal is sensitive to the size, character and function of the settlement in terms of scale, form, design and use of materials. Environmental Health do not raise any concern over impacts on existing or proposed private residential amenity or other neighbouring properties and land uses in this area.

The proposal is located within a potential area of archaeological interest and just outside the designated Area of Townscape Character. I consulted Historic Environment Division



to comment on these aspects and they raised no objection to this proposal. I find the proposal to be in accordance with the aims and objectives of PPS6 Planning, Archaeology and Built Heritage.

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

The proposal involves the right hand turn of vehicles into the site from a protected route, when travelling out of the village towards Clogher. To support this proposal the agent has provided a Transport Assessment Form and some further additional supporting information on trips to and from the site provided by a Chartered Transport Engineer. I have consulted with DfI Roads for their advice. There is conflict between the Chartered Engineer and DfI Roads in that the former states that there is no requirement for a right hand turning lane into the site from Augher main Street, while DfI Roads insist that there is a need for such provision. In their most recent response DfI Roads conclude that in order to maintain traffic progression along this protected route, and in the interest of road safety a right hand turning lane will be required to support this application as the proposal will result in 814 two way trips to the site. As such, DfI Roads recommends that in the absence of a right hand turning lane that the proposal should be refused as it is contrary to policies AMP2 and AMP3 of PPS3.

In my view, sufficient opportunity has been allowed for the applicant/agent to address this road safety issue and it is clear they have failed to do so. As DfI Roads clearly state that there will be road safety consequences, along with impacts to the function of a protected route which will have knock on impacts on the economy, it is my view that the proposal should be refused for the reasons stated. The Dungannon and South Tyrone Area Plan, policy SET1 states that proposals within settlement limits also have to demonstrate satisfactory arrangement for access, which is not the case in this instance.

### **Other Considerations**

This site is on the site of the old creamery within Augher. As such there may be impacts of land contamination. The agent has provided Land Contamination Reports for the site and NIEA now have no objections subject to conditions should permission be granted. Environmental Health raise no objections to this proposal.

Initially NIW raised concern that there is no sewage capacity within Augher to cater for this development. However on 1/7/2020 NIW changed their view and stated that although the receiving WWTW currently has no capacity this proposal can be approved on the basis of reduced hydraulic and biological loading from the previous land use. Therefore connection to mains sewage can be achieved.

The proposal does not involve a new access or additional parking. I am satisfied satisfactory access and parking arrangements are already in place as there is on street parking on the Main Street in Clogher.

Shared Environmental Services do not raise any environmental objections to this proposal, in terms of impacts to N2K sites.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
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### **Summary of Recommendation:**

That planning permission is refused for the following reasons;

**Reasons for Refusal:**

1. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the intensification of use of this existing access in close proximity to a road junction would add to existing traffic hazards created by the slowing down and turning movements of vehicles entering and leaving the access
2. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it would lead to an unacceptable level of conflict by reason of the increased number of vehicles entering and leaving the existing access
3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 3, in that it would, if permitted, result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the efficient movement of traffic along this protected route and conditions of general safety.
4. The proposal is contrary to policy SET1 of the Dungannon and South Tyrone Area Plan in that it has not been demonstrated that a satisfactory arrangement for access can be achieved.

**Signature(s)****Date:**

ANNEX	
<b>Date Valid</b>	19th September 2019
<b>Date First Advertised</b>	1st October 2019
<b>Date Last Advertised</b>	15th October 2019
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 17 Main Street,Augher,Tyrone,BT77 0BD The Owner/Occupier, 19 Main Street,Augher,Tyrone,BT77 0BD The Owner/Occupier, 2 Irish Street,Augher,Tyrone,BT77 0AZ The Owner/Occupier, 21 Main Street,Augher,Tyrone,BT77 0BD The Owner/Occupier, 27 Main Street,Augher,Tyrone,BT77 0BD The Owner/Occupier, 29 Main Street,Augher,Tyrone,BT77 0BD The Owner/Occupier, 9 Crossowen Road,Augher,Tyrone,BT77 0BA The Owner/Occupier, Property People,24 Main Street,Augher,Tyrone,BT77 0BD The Owner/Occupier, Station House,5 Crossowen Road,Augher,Tyrone,BT77 0AX	
<b>Date of Last Neighbour Notification</b>	25th September 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No

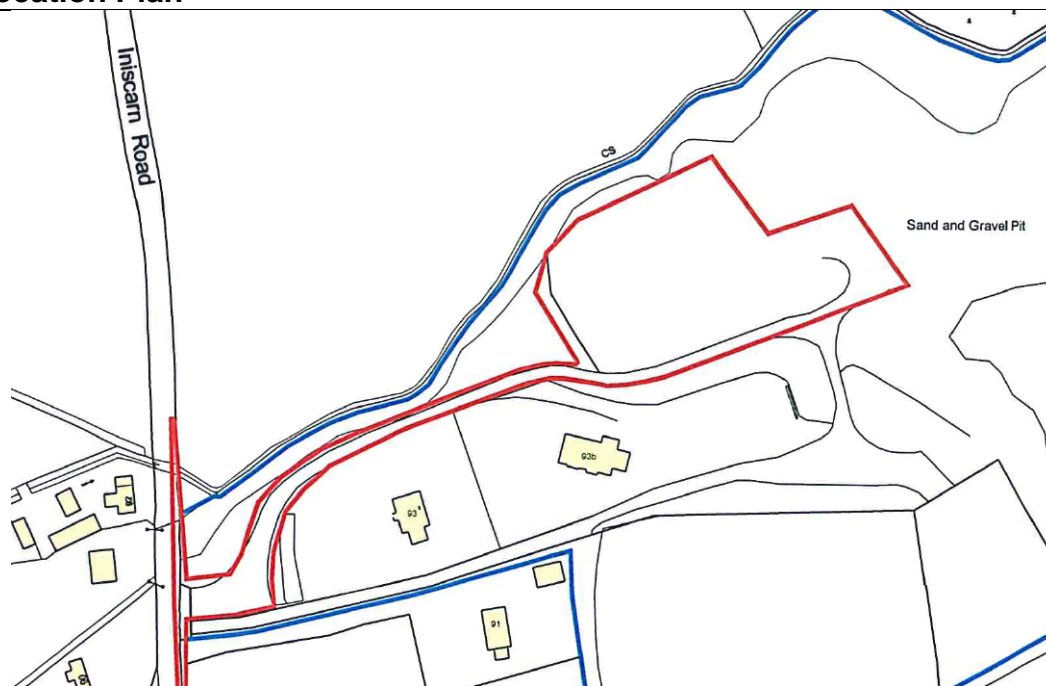


**Development Management Officer Report**  
**Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1647/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed portion of lands to be used for vehicle storage and sales in association with existing plant and machinery business	<b>Location:</b> 120m N.E. of 93 Iniscarn Road Desertmartin
<b>Referral Route:</b>  Recommended as refusal	
<b>Recommendation: REFUSAL</b>	
<b>Applicant Name and Address:</b> CAM Plant and Sales 32 Brough Road Castledawson	<b>Agent Name and Address:</b> CMI Planners 38 Airfield Road Toome BT41 3SG
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
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 site is located immediately adjacent to 93b Iniscarn Road, Desertmartin, which is located within the countryside as identified in the Magherafelt Area Plan 2015. The site is accessed via a laneway on the Iniscarn Road. There is an unauthorised car sales business operating from the adjacent dwelling (No. 93 Iniscarn Road) for which there is ongoing enforcement action. The site occupies a former sand and gravel quarry.

## **Description of Proposal**

Full application for 'proposed vehicle storage and sales'.

A CLUD has been granted on the site under LA09/2019/0428/LDE for 'Hardcore area used for plant, machinery and vehicle storage in ass. with quarry permission H/1980/0196/F'.

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

I have assessed this proposal under the following:

SPSS

Magherafelt Area Plan 2015

Planning Policy Statement 4 - Planning and Economic Development

Planning Policy Statement 21 - Sustainable Development in the Countryside

PPS4 - Planning and Economic Development PED 2 Economic Development in the Countryside.

Under the provision of Section 6 (4) of the Planning Act (NI) 2011 the determination must be made in accordance with the Local Development Plan (LDP) unless material considerations indicate otherwise.

The Strategic Planning Policy Statement (SPPS) provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's LDP. At present, the LDP has not been adopted, therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS. As the proposal relates to a vehicle sales business PPS 5 was therefore a relevant material consideration until the publication of the SPPS. However, with PPS 5 being cancelled the proposal falls to be considered under the SPPS and other retained policies. The aim of the SPPS is to support and sustain vibrant town centres across Northern Ireland through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions, consistent with the RDS.

There has been no application for a Certificate of Lawfulness granted for any retail use. The appropriate vehicle for determining whether a land use is established is a Certificate of Lawfulness of Existing Use or Development (CLUD) under Section 169 of the Planning Act (NI) 2011.

LA09/2019/0428/LDE for 'Hardcore area used for plant, machinery and vehicle storage in association with quarry permission H/1980/0196/F' was granted on the site. Through investigations on this application it was not demonstrated that the plant and machinery and vehicle storage was anything more than what would be expected in conjunction with the previous quarry use. The use approved in this Certificate does not constitute a change of use and does not facilitate the storage of plant, machinery or vehicles for any commercial purpose, they are uses associated with the previous quarry permission of

1980. This approval therefore does not aid in demonstrating that car sales has been an established use in this countryside location for over 5 years.

The last lawful use of the premises never had the benefit of any approved retail or sales use. Consequently this application is not for a change of use from one retail type to another, but for the introduction of a lawful retail element for the first time. Although it is acknowledged the site has had vehicles on it in past, these were purely associated with the Quarry as shown in the approved CLUD. Therefore, in my opinion, in the absence of any justification, any decision must weigh in favour of maintaining the last lawful use, which was being used as a disused pit / quarry and insufficient evidence exists to establish any commercial / business use on it.

The main issues in assessing this application are whether the proposed development is acceptable in the countryside and whether any sustained policy objection is outweighed by other considerations. The policy context is provided by the Strategic Planning Policy Statement for NI (SPPS), PPS 21 Sustainable Development in the Countryside and PPS 4 Planning and Economic Development.

The SPPS advises that to maintain and enhance the attractiveness of the countryside as a place to invest, live and work, the countryside requires a sustainable approach to new development, consistent with the RDS. The RDS recognises that to sustain rural communities, new development and employment opportunities are required which respect local, social and environmental circumstances. To ensure that proposals are satisfactorily integrated into the rural landscape, they need to be in an appropriate location.

In considering what types of development are acceptable in the rural area, the SPPS sets out the criteria for residential and non-residential developments. In addition it also advises that other types of development apart from those mentioned should be considered as part of the development plan process in line with the other policies set out within the SPPS. The SPPS promotes the re-use of previously used buildings, it also requires all development in the countryside to integrate into its setting, respect rural character and be appropriately designed.

However, while car/vehicle sales is considered to be *Sui Generis*, as defined in the Planning (Use Classes) Order (NI) 2015, for planning policy purposes, it is generally considered as a retail activity and therefore requires planning approval to operate from these premises.

The SPPS has a presumption against retailing in the countryside apart from some specific activities such as farm shops, craft shops and shops serving tourist or recreational services. Such retail facilities should be required to be located within existing buildings. While the above is not an exhaustive list, all the examples of retailing in the countryside relate to shops which by definition are buildings.

There is no provision for car sales or retail activity in Policy PED 2: Economic Development in the Countryside and Policy PED 4: Redevelopment of an Established Economic Development Use in the Countryside explicitly excludes retailing. This has been confirmed by the Planning Appeals Commission in its decision to refuse the

retention of a car sales on a site at Craigadoo Road Ballymena, in its decision of 10th April 2015, Ref: 2014/A0150.

As the proposal is not supported by the SPPS or PPS 4, it then falls to be considered under PPS 21. Policy CTY 1 of PPS 21 sets out a range of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. This policy goes on to state that other types of development in the countryside will only be permitted where there are overriding reasons why the development is essential and could not be located in a settlement. As the applicant has not provided sufficient supporting statement as to why the proposed development is essential in this rural location and could not be located within a settlement, it is contrary to Policy CTY 1 of PPS 21.

Consequently, taking all material considerations into account, I can only find that the proposal is contrary to planning policy and that no circumstances have been presented which would support the setting aside of the policies identified above. Therefore planning permission should be refused. It is evident that the last lawful use of the site was that of being a disused pit / quarry and that insufficient evidence exists to establish any commercial / business use on it.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Insufficient evidence exists to establish any commercial / business use on the site and refusal is recommended and it does not meet relevant policy considerations.

**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 the Magherafelt Area Plan 2015 and SPPS in that the site lies outside any designated development limits and no special need has been demonstrated to justify relaxation of the strict planning controls exercised in the countryside.

**Signature(s)**

**Date:**



ANNEX	
<b>Date Valid</b>	18th December 2019
<b>Date First Advertised</b>	14th January 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 88 Iniscarn Road Desertmartin Londonderry The Owner/Occupier, 93 Iniscarn Road Desertmartin Londonderry The Owner/Occupier, 93b Iniscarn Road Desertmartin	
<b>Date of Last Neighbour Notification</b>	8th January 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2019/0428/LDE Proposal: Hardcore area used for Plant, Machinery and Vehicle Storage Address: Lands 80m NE of 93 Iniscarn Road, Desertmartin, Decision: PR Decision Date:  Ref ID: LA09/2019/1647/F Proposal: Proposed portion of lands to be used for vehicle storage and sales in association with existing plant and machinery business Address: 120m N.E. of 93 Iniscarn Road, Desertmartin, Decision: Decision Date:  Ref ID: H/1973/0025 Proposal: LV/MV O/H LINE (C.1192) Address: KEENAGHT 'D' - DESERTMARTIN Decision: Decision Date:  Ref ID: H/2014/0073/F Proposal: Proposed dwelling and garage	

Address: 80M North East of 93 Iniscarn Road Desertmartin,  
Decision: PG  
Decision Date: 19.09.2014

Ref ID: H/2013/0264/O  
Proposal: Proposed Dwelling on Farm  
Address: 80m North East of 93 Iniscarn Road, Desertmartin,  
Decision: PG  
Decision Date: 09.01.2014

Ref ID: H/2003/0430/O  
Proposal: Site of dwelling house and garage.  
Address: Site adjacent to junction of Iniscarn Road & Longfield Lane, Desertmartin.  
Decision:  
Decision Date: 06.12.2004

Ref ID: H/1997/0259  
Proposal: LANDFILL SITE FOR INERT WASTE  
Address: INISCARN ROAD/LONGFIELD LANE DESERTMARTIN  
Decision:  
Decision Date:

Ref ID: H/1980/0196  
Proposal: GRAVEL PIT AND PORTABLE WASHER  
Address: INISCARN ROAD, KENNAGHT, DESERTMARTIN  
Decision:  
Decision Date:

Ref ID: H/2007/0680/RM  
Proposal: Proposed Dwelling and garage.  
Address: 80m West of 31 Longfield Lane, Iniscarn Road, Desertmartin  
Decision:  
Decision Date: 22.11.2007

Ref ID: H/2005/0722/O  
Proposal: Site of Dwelling and Garage  
Address: 80m West of 31 Longfield Lane, Iniscarn Road, Desertmartin  
Decision:  
Decision Date: 22.02.2007

Ref ID: H/2004/0691/F  
Proposal: Proposed dwelling and garage.  
Address: 50m East of 92 Iniscarn Road, Desertmartin.

Decision:  
Decision Date: 25.04.2005

Ref ID: H/2003/0920/O  
Proposal: Site of one dwelling.  
Address: Site 50m East of 92 Iniscarn Road, Desertmartin, Magherafelt.  
Decision:  
Decision Date: 16.06.2004

Ref ID: H/1988/0069  
Proposal: SITE OF BUNGALOW  
Address: OPP 92 INNISCARN ROAD DESERTMARTIN MAGHERAFELT  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

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

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

Drawing No.  
Type:  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0105/F	<b>Target Date:</b>
<b>Proposal:</b> Offsite expansion of an established engineering business to facilitate a programme of expansion and social distancing using an existing farm building. Workshop to Class B2 assembly of finished products (Products fabricated off-site) (AMENDED DESCRIPTION)	<b>Location:</b> 70m NW of 21 Terryglassog Road Eglishe Dungannon
<b>Referral Route:</b> This application fails to meet the policy criteria of PED 3 of Planning Policy Statement 4, Planning and Economic Development, in that there is no provisions for the “off-site” expansion of an established economic development use in the countryside. It is also contrary to Policy AMP 2 of PPS 3 – Access, Movement and Parking in that it has not been demonstrated that development if permitted would not prejudice road safety or significantly inconvenience the flow of traffic along the Terryglassog Road.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Jordan Cabins Tullygiven Brantry Dungannon BT70 1QA	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge Magherafelt BT41 3SG
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

Letters of Support	None Received
Letters of Objection	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

This application site is located on land 70 metres NW of No 21 Terryglassog Road, about 2 kilometres South of the village of Eglish. It comprises a parcel of land which measures approximately 0.67 hectares and sits on the outer side of a bend in the road. The site includes 5 sheds of varying sizes and a hardstanding yard area and although these buildings are all included within the red line, this particular application applies to a single building as is shaded yellow. The building subject of this application sits parallel to and alongside the eastern boundary, some 59 metres West of No 21. It measures 31 metres by 11 metres and has a ridge height of 16.5 metres. This shed is to the rear of

the south eastern corner of the large shed at the front of the site and it is internally connected to this building. It has a curved roof and has no openings along the eastern elevation.

Along the western elevation are 2 large doors in the southern corner of the building, measuring a total of 8.5 metres in height and 11.8 metres wide. Entrance through these doors will allow access to the other 3 buildings within the application site as they are all interconnected and are not separate entities.

The entrance to the application site is at the north eastern corner on the outside of an almost ninety degree bend, where galvanised palisade fencing approximately 3 metres high and large double gates allow access. The northern boundary comprises this security fencing with an agricultural laneway running just outside of and along this boundary. This is the access laneway to a single wind turbine located approximately 300 metres to the north west. The western boundary of the site is mostly hedgerow separating the site from the agricultural land to the west. The southern boundary is undefined on the ground and is to the rear of a standalone building which sits across the yard and opposite to the other 4 buildings. The eastern boundary is a staggered hedgerow for most and runs along the building subject of this application. Close to where the eastern boundary meets the road entrance the site is bound by the galvanised security fencing.

Directly opposite the site entrance on the inner section of the bend in the road is an agricultural shed and outbuildings associated with the dwelling to the east at No 20 Terryglassog Road. This minor road is twisting and narrow as it makes its way through the undulating countryside, with few places for 2 vehicles to pass easily. This site is located in the countryside and omitting it, the character of the immediate area is typically rural with detached dwellings interspersed and agricultural fields the dominant landuse.

### **Planning History**

There are a number of planning applications and appeals on this application site. In my opinion they are all relevant to this current planning application, however I will highlight those which refer specifically to the particular building subject of this application.

- March 1999 - Application M/1999/4021 for the proposed extension to agricultural buildings was approved as Permitted Development on this site for the same applicant.

- October 2006 - M/2005/0152/F was refused permission for the Change of use of agricultural buildings to provide engineering workshop.

- March 2009 - Three different appeals regarding development on this site were heard during the one Accompanied Site Visit by the PAC and the outcome was concluded as;
  - a)Appeal 2007/A0274 -This appeal referred to application M/2005/0152/F - Change of use of agricultural buildings to provide engineering workshop. The PAC dismissed this appeal as the appellant acknowledged the buildings had never been utilised for agricultural purposes and also due to the unsuitability of the Terryglassog Road to deal with traffic generated by the use on this site.

- b)Appeal 2007/E085 - This dealt with application 2006/E0088 which was dismissed. The Commissioner upheld the Department's refusal reasons in that it was not immune from enforcement action and stated the use of the building (also subject of this application) for engineering works must cease and the removal of all associated equipment and vehicles which were stored in the surrounding yard.

c) Appeal 2006/E002- The appellant contested the Departments Enforcement Case 2006/E0089. In this appeal the appellant claimed he began utilising the barn as an adjunct to his main engineering business at Tullygiven Point, which is approximately 2 kilometres south of this site, as the crow flies. The barn subject of this appeal is the building to which this planning application refers to. The Planning Appeals Commission (PAC) concluded this development was not immune from Enforcement action and that it failed to meet planning policy provisions.

-August 2010 - M/2009/0388/F was refused permission for the Proposed retention of vacant buildings for agricultural purposes.

-January 2011 - A Certificate of Lawful Existing Development was refused on this site under M/2010/0888/LDE. This was for 4 distinct but inter-connected buildings on site:

- Building 1 - shed of Dutch barn design.
- Building 2+3 - Large shed with roller openings.
- Building 4 - Two office rooms, reception area, kitchen and canteen.

-November 2011 - Enforcement case M/2004/0034CA was closed.

- December 2015 - M/2013/0356/F was granted permission for the proposed use of redundant shed for farm purposes. This was applicable to the shed which sits to the west of the building subject of this planning application. The application was submitted on the back of an Enforcement Notice which came into effect on 31st March 2009, requiring the removal of 3 buildings and the use as an engineering workshop to cease. It was initially presented to Council with a recommendation for refusal as it was contrary to CTY 12 in that it was not demonstrated there were no alternative sites on the holding. Following the deferral of this application, it was decided to grant planning permission for this shed, solely for the use of stabling horses and activities associated with this.

## **Description of Proposal**

This application seeks full planning permission for the "Offsite expansion of an established engineering business to facilitate a programme of expansion and social distancing using an existing farm building. Workshop to Class B2 assembly of finished products (Products fabricated off-site)" at 70m NW of 21 Terryglassog Road, Eglish for Jordan Cabins.

Initially this application was submitted seeking permission for a Change of Use from an Engineering Workshop to Class B2 Assembly of finished products which are fabricated off site. This amended description is discussed in detail below.

Following research and assessment of the planning histories on this application site, it was concluded that there is no permitted lawful use of an engineering workshop, thus deeming the initial description of this proposed development invalid as it is incorrect. The agent at first disputed these findings saying the building was immune from enforcement action, however following discussion about the previous enforcement notices and subsequent appeals on this site, the agent agreed the description was not accurate.



In October 2020, the agent provided a P1 form with the amended description as is above and it is this which this report will assess. It is noted that during the interim between the proposal descriptions being amended, the Covid-19 Pandemic had started, as is evident from the wording of the new description of the proposal.

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

The Strategic Planning Policy Statement (SPPS) published in September 2015 states “the guiding principle for policies and proposals for economic development in the countryside is to facilitate proposals likely to benefit the rural economy and support rural communities, while protecting or enhancing rural character and the environment, consistent with strategic policy elsewhere in the SPPS”.

Para 6.88 goes on to say that in the interests of rural amenity and wider sustainability objectives, the level of new building for economic development purposes outside settlements must however be restricted. Exceptions to this general principle may be justified outside a village or small settlement where there is no suitable site within the settlement. This application in my opinion fails the SPPS as the agent has failed to justify this site location in relation to a lack of availability of land with a settlement limit.

This application site is located in the rural countryside, outside of any designate settlement limit as identified in the Area Plan, therefore the relevant policy context is provided by PPS 21 : Sustainable Development in the Countryside (PPS 21). Policy CTY 1 of PPS 21 lists a range of different types of development which in principle, are considered acceptable in the countryside and the circumstances wherein planning permission will be granted. This proposed development does not meet any of the requirements of PPS 21. The documentation submitted fails to demonstrate how this application meets the policy requirements of CTY 1.

PPS4 provides the policy context for expansion of an established economic development use. The Council is being asked to regard this as a remote expansion of Jordan Cabins which operates 4.5 kilometre from this location. Whilst Jordan Cabins is an established economic development use I am not of the view that the subject site has any established economic use which could facilitate its expansion under Policy PED3 of PPS4. Taking this position calls into question whether Policy PED2 of PPS4 is met, this

sets out that proposals for economic development will be permitted in the countryside in accordance with

- PED 3 – The Expansion of an Established Economic Development Use.
- PED 4 – The Redevelopment of an Established Economic Development Use.

As there is no established economic status applicable to the building subject of this application, I do not feel this proposal complies with the policy requirements in PPS 4, namely PED 2.

Policy PED 9 lists 13 criteria which must be met by all proposals for economic development. This application fails PED 9 as;

- a) It is not compatible with surrounding land uses as the immediate area is characterised by single residential units and agricultural development.
- b) I am not satisfied the proposed use will not harm the amenities of nearby residents in terms of noise nuisance and traffic problems in the immediate vicinity.
- e) As is explained in more detail below, I am not satisfied the proposed use will not create a noise nuisance harming the amenities of nearby residents.
- g) Also explained below, I would have concerns regarding the ability of the existing minor road network to facilitate the traffic generated by this proposal. My concerns regarding this has previously been confirmed by the PAC as is detailed elsewhere.
- h) No access arrangements, parking and manoeuvring areas have been provided to support this proposal. This application applies to a single building, the use of the yard area within this application site has been not been referred to in this application.
- j) No landscaping scheme was submitted to enhance this proposal.
- m) I do not feel any measures have been taken to assist the integration of this development into the surrounding landscape.

### **Consultations and Representations**

This application was advertised in the local press and two neighbours were notified, in line with the Council's statutory duty. No objections were received for this application.

### **DFI Roads**

The applicant has indicated in the application form they propose to utilise an existing unaltered access onto the Terryglassog Road. DFI Roads were consulted and responded in April 2020 requesting further information and amended plans detailing;

- Parking for entire development to be shown
- Drainage proposals at the entrance to be shown and where it will discharge too ensuring there is no discharge into any existing DFI Roads system.
- The provision of a 45m FSD to be annotated for right turning into the site.
- A Traffic Assessment Form - TAF to be submitted for consideration
- Information on the areas and uses for all sheds within the site.

The TAF was submitted and Roads were then reconsulted upon receipt of the TAF and amended access details. In August they stated they had no objections to this proposal subject to subject to standard condition requiring visibility splays of 2.4 metres x 45 metres in both directions, with a Forward Sight Distance of 45 metres also.

After this, the applicant later changed the description of the proposal and DFI Roads were reconsulted. They responded requesting clarity on the newly described

development proposal. As there were a number of other issues that needed addressing and information provided did not demonstrate this was achievable, I did not reconsult DFI Roads.

Appeal 2007/A0274 (as discussed above) referred to application M/2005/0152/F - Change of use of agricultural buildings to provide engineering workshop. The PAC dismissed this appeal as the appellant acknowledged the buildings had never been utilised for agricultural purposes and also the suitability of the Terryglassog Road to deal with traffic generated by the use on this site.

There is no evidence to satisfy concerns I would have regarding this application in terms of road safety. I am not convinced there has been any change in this road network since the PAC upheld the decision to dismiss the application in terms of road safety as discussed above. Therefore, I am of the opinion this proposal is contrary to PPS 3 in that it is contrary to AMP 2 as it has not been demonstrated this proposal will not prejudice road safety or significantly inconvenience the flow of traffic along the Terryglassog Road.

### Environmental Health

The Environmental Health Department of Mid Ulster Council were consulted on this application. They responded in May 2020, having undertaken a desktop assessment on the Change of Use from an engineering workshop proposal. From this they concluded it has the potential to impact residential amenity of two third party receptors located at Nos 20 and 21 Terryglassog Road. Therefore a Noise Impact Assessment outlining the typical noise levels from the proposed assembly in addition to existing noise levels from existing activities and to consider their cumulative impact at these nearby residential properties. The sound power and/or pressure levels of all noise sources should also be provided.

The Environmental Health Department also noted that the Planning Case Officer must be satisfied there is an existing land use for an Engineering Workshop on the proposed site.

Until such information is provided, the Environmental Health Department are unable to provide any further comment on this proposal.

The agent submitted an Acoustic Report in September 2020. However, I am not satisfied nor has it been effectively demonstrated to me that there was a lawful engineering use on this site. Due to the inconsistencies obtained from this report, it is deemed invalid as there was no evidence of noise from existing engineering operations on this site to provide a baseline, as the site was abandoned as a result of Enforcement Action and the outcome of Appeal by the PAC as detailed above.

Environmental Health were reconsulted when the description was amended and they responded in February 2021. Following a site visit they recommended a number of conditions to attach to any approval, due to the proximity of nearby sensitive receptors. These conditions restricted the;

- Exact type of industrial use in the building,
- Permitted operational hours and days of business,
- The doors are closed at all times, except when used for access and egress
- Any permitted operations apply to this building alone.

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Policy PED 3 in PPS 4 Planning and Economic Development caters for the expansion of an established economic development use in the countryside. However, no provisions are made in this policy which would accommodate the off-site expansion of an established economic development in countryside. Therefore this application fails to meet the policy requirements of PPS 4, along with PED 2 and PED 9 also.

It has not been demonstrated accurately as to how this proposed use may impact upon the neighbouring receptors in terms of traffic and noise nuisance.

It is worth drawing Members' awareness to a recent planning application from the same applicant, which lies within the Armagh, Banbridge and Craigavon Borough Council area.

Planning permission was granted in April 2018 for the erection of a new manufacturing unit at premises along the Battleford Road, County Armagh which the applicant also owns.

This application was approved on the premise it was an expansion of an existing industrial business. This new building has a footprint of 2,835 metres squared with a ridge height of 14.6 metres FFL and is currently under construction. It is also worthy to note, the construction of this building is only approximately 4.5 kilometres from this application site, albeit in a different council jurisdiction.

**Reasons for Refusal:**

1. This proposal is contrary to Policy PED 3 of Planning Policy Statement 4, Planning and Economic Development, in that there is no provisions for the off-site expansion of an established economic development use in the countryside.
2. This proposal is contrary to Policy PED 2 in Planning Policy Statement 4, Planning and Economic Development in that this proposal fails to meet the provisions of the policy and has not been demonstrated it is an exceptional circumstance.
3. This proposal is contrary to Policy PED 9 in Planning Policy Statement 4, Planning and Economic Development in that it has failed to demonstrate that the proposal,
  - a) Is compatible with surrounding land uses
  - b) Does not harm the amenities of nearby residents
  - e) Does not create a noise nuisance
  - g) The existing road network can safely handle any extra vehicular traffic generated,

- h) Adequate access arrangements, parking and manoeuvring area are provided,
- j) The site layout, building design, associated infrastructure and landscaping arrangements are of high quality,
- m) Satisfactorily assists integration into the landscape.

4. This proposal is contrary to Policy AMP 2 of PPS 3 - Access, Movement and Parking in that it has not been demonstrated that development if permitted would not prejudice road safety or significantly inconvenience the flow of traffic along the Terryglassog Road.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	24th January 2020
<b>Date First Advertised</b>	11th February 2020
<b>Date Last Advertised</b>	15th December 2020
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 20 Terryglassog Road Dungannon Tyrone The Owner/Occupier, 21 Terryglassog Road Dungannon Tyrone	
<b>Date of Last Neighbour Notification</b>	3rd December 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/0105/F Proposal: Change of use from engineering workshop to Class B2 assembly of finished products (Products fabricated off-site) Address: 70m NW of 21 Terryglassog Road, Eglish, Dungannon, Decision: Decision Date:  Ref ID: M/2013/0356/F Proposal: Proposed use of redundant shed for farm purposes Address: 70m NW of 21 Terryglassog Road, Eglish, Dungannon, Decision: PG Decision Date: 15.12.2015  Ref ID: LA09/2015/0033/F Proposal: Erection of single wind turbine, associated access and 2 no. electricity cabinets Address: Approx. 383m West North West of 20 Terryglassog Road, Dungannon, BT70 1LX, Decision: PG Decision Date: 16.02.2016  Ref ID: M/2005/0152/F Proposal: Change of use of agricultural buildings to provide engineering workshop Address: Terryglassog Road, Eglish, Dungannon Decision: Decision Date:	

Ref ID: M/1999/4021

Proposal: Proposed extension to agricultural Buildings

Address: 80M SOUTH OF 20 TERRYGLASSOG ROAD EGLISH DUNGANNON

Decision:

Decision Date:

Ref ID: M/2009/0388/F

Proposal: Proposed retention of vacant buildings for agricultural purposes

Address: 80m South West of 20 Terryglassog Road Eglish Dungannon

Decision:

Decision Date: 25.08.2010

Ref ID: M/2010/0888/LDE

Proposal: Land at Terryglassog Road, Eglish, Dungannon, Co Tyrone, BT70 1LX

Address: 4 Distinct but inter connected buildings on site.,Building 1 - shed of dutch barn design.,Building 2+3 - Large shed with roller openings.,Building 4 - Two office rooms, reception area, kitchen and canteen.,

Decision:

Decision Date:

Ref ID: M/2000/0522/O

Proposal: Site for dwelling and garage

Address: 50m south of 20 Terryglassog Road Eglish Dungannon

Decision:

Decision Date: 05.10.2000

Ref ID: M/2003/1283/O

Proposal: 1 No. Dwelling

Address: 50m South of 20 Terryglassog Road Eglish Dungannon

Decision:

Decision Date: 09.12.2003

Ref ID: M/2006/1706/RM

Proposal: Proposed New Dwelling and Detached Garage

Address: 50m South of 20 Terryglassog Road, Eglish, Dungannon

Decision:

Decision Date: 11.01.2007

Ref ID: M/1981/0127

Proposal: NEW BUNGALOW

Address: TERRYGLASSOG

Decision:

Decision Date:



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

## Development Management Officer Report Committee Application

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



## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

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

## Characteristics of the Site and Area

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

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

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

## Description of Proposal

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

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

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

## Relevant planning history

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

## Representations.

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

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

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

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

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

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

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

Regional Development Strategy 2030  
Strategic Planning Policy Statement for Northern Ireland  
Magherafelt Area Plan 2015  
PPS 21: Sustainable Development in the Countryside  
PPS 3: Access, Movement and Parking  
Supplementary Planning Guidance: Building on Tradition: A Rural Design Guide for N Ireland.

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

Magherafelt Area Plan 2015 the site is located in the rural countryside outside any designated settlement. The site lies close to a Local Landscape Policy Area. The Strategic Planning Policy Statement for Northern Ireland advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained. The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations.

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

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

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

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

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

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

As stated previously, I have contacted the agent to obtain further information as to other lands under his ownership, which to date have not been received. In the absence of the relevant farm maps or clarification from the agent that there are no other farm buildings on the farm holding, it cannot be demonstrated the proposal meets the requirements of this criterion of policy. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm or that no dwellings or development opportunities out with the settlement limits have been sold off from the farm holding within 10 years of the date of this application.

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

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



**Figure 1.**

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

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

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

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

There are no flooding or residential amenity concerns.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

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

**Reasons for Refusal:**

1. The proposal is contrary to the Strategic Planning Policy Statement and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it insufficient information has been provided to demonstrate that no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.
2. The proposal is contrary to the Strategic Planning Policy Statement and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it insufficient information has been provided to demonstrate visually linked or sited to cluster with an established group of buildings on the farm.

**Signature(s)**

**Date:**

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

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

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

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

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

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

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

### **Summary of Consultee Responses**

Content

### **Drawing Numbers and Title**



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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0251/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed replacement dwelling	<b>Location:</b> N.W. of 11 Glengomna Road Draperstown
<b>Referral Route:</b>  Refusal: - Contrary to Policy CTY1 and Policy CTY3 of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Patrick Murray 25a Dunlogan Road Draperstown	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
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

Contrary to Policy CTY3 of PPS 21.

### Characteristics of the Site and Area

The site is located within the open countryside, approximately 2.5km North West of the settlement limits of Draperstown and located approximately 100m NW of No 11 Glengomna Road Draperstown. The site's red line includes access to the site via an existing agricultural laneway taken from the Glengomna Road which serves as access to several agricultural fields. The surrounding topography raises from the Glengomna Road towards the site, which within the site become relatively flat. I note the site has within its curtilage two wallsteads that are relatively adjacent to each other. The site has good boundary definition along both the north eastern and south comprising of mature trees with sporadic vegetation and a post and wire fence. The site access is adjacent to dwellings No.11 to the east and No 15 to the west both are large two story dwellings setback from the road.

This area is a rural in character with an undulating topography. It has a dispersed settlement pattern with the predominant form of development being single dwellings and farm buildings. The

area is designated as an Area of Outstanding Natural Beauty (Sperrins) as per the Magherafelt Area Plan 2015.

### Description of Proposal

This is an outline planning application for the proposed replacement dwelling located northwest of No 11 Glengomna Road, Draperstown.

### Relevant planning histories.

Reference	Location	Proposal/Complaint	Status	Date
LA09/2020/0251/O	N.W. of 11 Glengomna Road, Draperstown	Proposed replacement dwelling	VALID APPLICATION RECEIVED	
LA09/2018/1603/O	Site at 60m NE OF 15 Glengomna Road	Proposed infill dwelling and garage	PERMISSION REFUSED	05.04.2019
H/2013/0374/F	160m North East of 15 Glengomna Road	Proposed dwelling on the farm	PERMISSION GRANTED	24.12.2013
H/2011/0424/O	160m North East of 15 Glengomna Road	Site for a Dwelling on the Farm	PERMISSION GRANTED	21.10.2011

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

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

### 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 9th March 2020 (publication date 10th March 2020). Five (5) neighbouring properties were notified on 4th March 2020; all processes were in accordance with the Development Management Practice Note 14 (April 2015).

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

**HRA Determination** - (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2015, 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.

### Planning Assessment of Policy and Other Material Considerations

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

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030 Draft Plan Strategy  
Strategic Planning Policy Statement (SPPS)  
PPS 21 Sustainable Development in the Countryside  
CTY 3 Replacement Dwellings.

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the Countryside.

Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In this instance, the application is for a replacement dwelling and as a result, it must be considered under CTY 3 of PPS 21. CTY 3 states:-

Planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum, all external structural walls are substantially intact. For the purposes of this policy, all references to dwellings will include buildings previously used as dwellings.

Buildings designed and used for agricultural purposes, such as sheds or stores, and buildings of a temporary construction will not however be eligible for replacement under this policy.

Favourable consideration will however be given to the replacement of a redundant non-residential building with a single dwelling, where the redevelopment proposed would bring significant environmental benefits and provided the building is not listed or otherwise makes an important contribution to the heritage, appearance or character of the locality.





**Figure 1:** Clearly shows the condition of the wallsteads that is constructed of stone. Located to the rear is a small outshoot with a mono roof constructed from timber and corrugated sheeting.



**Figure 2.** This photo shows the view from the front of building of one of the wallsteads. There is no evidence of any external window or door openings and the absence of roof. Observations made during the site inspection it was noted that there were no evidence of an internal fireplace, internal rooms and no evidence of any external chimney visible on the building.

A Statement of Support was submitted by the agent in support of the application.

Note 2.1 the statement claims the site was part of a clachan which was the home of two families, which has been abandoned a long period of years and had fallen into a state disrepair.

Note 2.3 of the statement makes the point that the curtilage of the site is vague, due to years of agriculture in the surrounding fields and animals grazing throughout the site.

The agent submitted historic maps that showed in the context of the site a building with associated buildings on the site. Although the historical maps do show a structures associated

with the site here for many years, but the maps failed to provide any clarification around the use of the building in the past.



**Figure 3.** Clearly shows a significant part of the building having already collapsed with mature trees growing from within the building, which suggests this building has been abandoned for a very considerable period of time.

I am not persuaded from my assessment and observations made on site and having reviewed the maps provided by the agent that the building to be replaced exhibits the essential characteristics of a dwelling and therefore fails to meet of Policy CTY3.

Following the group discussion having reviewed the further information provided, it was agreed that the information provided does not provide sufficient evidence to prove the building exhibits essential characteristics of a dwelling.

Following discussions with Dr Boomer, Planning Manager, it was agreed to request the agent amends the site location plans to show the more prominent building on site as the potential replacement building highlighted in green. This information was requested without prejudice to the outcome of the determination of the application.

Following submission of amended site location plan 01 (Rev-1) stamp date 17/02/2021, the application was discussed further with Dr. Boomer after careful consideration it was felt that the wallsteads in their current condition are contrary to Policy CTY3, which states that all proposals for a replacement dwelling will only be permitted where a list of criteria are met including;

The proposed replacement dwelling should be sited within the established curtilage of the existing building, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.

The building that is proposed to be replaced does have a defined curtilage albeit outlined by nature where vegetation and trees forms an outline border that may been the original curtilage, which opens onto a large agricultural field.

Therefore, I am not persuaded that the building is suitable for consideration for a replacement in accordance with Policy CTY3 in that the building lacks the essential characteristics of a dwelling.

In terms of Policy CTY 13 and Policy CTY 14 of PPS 21. Policy CTY 13 stipulates that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

If a valid replacement was to be granted, I am content that a modest dwelling with a ridge height of 7m could be accommodated which will not be a prominent feature in the landscape given the site's setback from the public road and topography of the surrounding area; and the retention of existing vegetation which defines the boundaries will be of benefit to the site. The views from the public road or any other neighbouring properties Nos 11 and 15 would not be adversely impacted on. I am content the proposal complies with the Policy Criteria of CTY 13.

In terms of CTY 14, which stipulates that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.

I am content the proposal would not be a prominent feature in the landscape, it would not result in a sub-urban style build-up of development and it would not create or add to a ribbon of development.

#### **Other Material Considerations.**

The access arrangements involves alteration to an existing access to a public road. Therefore, I am also satisfied that the proposal will not lead to a significant deterioration in road safety under the provisions of PPS 3 Access, Movement and Parking.

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

#### **Neighbour Notification Checked**

**Yes**

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

Refused



**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 CTY 3 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building which is proposed to be replaced does not exhibit the essential characteristics of a dwelling and cannot be considered a replacement dwelling.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	24th February 2020
<b>Date First Advertised</b>	10th March 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 10 Glengomna Road Draperstown Londonderry The Owner/Occupier, 11 Glengomna Road Draperstown Londonderry The Owner/Occupier, 12 Glengomna Road Draperstown Londonderry The Owner/Occupier, 15 Glengomna Road Draperstown Londonderry The Owner/Occupier, 8 Glengomna Road Draperstown Londonderry	
<b>Date of Last Neighbour Notification</b>	4th March 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2020/0251/O Proposal: Proposed replacement dwelling Address: N.W. of 11 Glengomna Road, Draperstown, Decision: Decision Date:  Ref ID: LA09/2018/1603/O Proposal: Proposed infill dwelling and garage Address: Site at 60m NE OF 15 Glengomna Road, Draperstown, Decision: PR Decision Date: 05.04.2019  Ref ID: H/2013/0374/F Proposal: Proposed dwelling on the farm Address: 160m North East of 15 Glengomna Road, Draperstown, Decision: PG Decision Date: 24.12.2013	

Ref ID: H/2011/0424/O

Proposal: Site for a Dwelling on the Farm

Address: 160m North East of 15 Glengomna Road, Draperstown,

Decision:

Decision Date: 21.10.2011

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

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

Date of Notification to Department:

Response of Department:



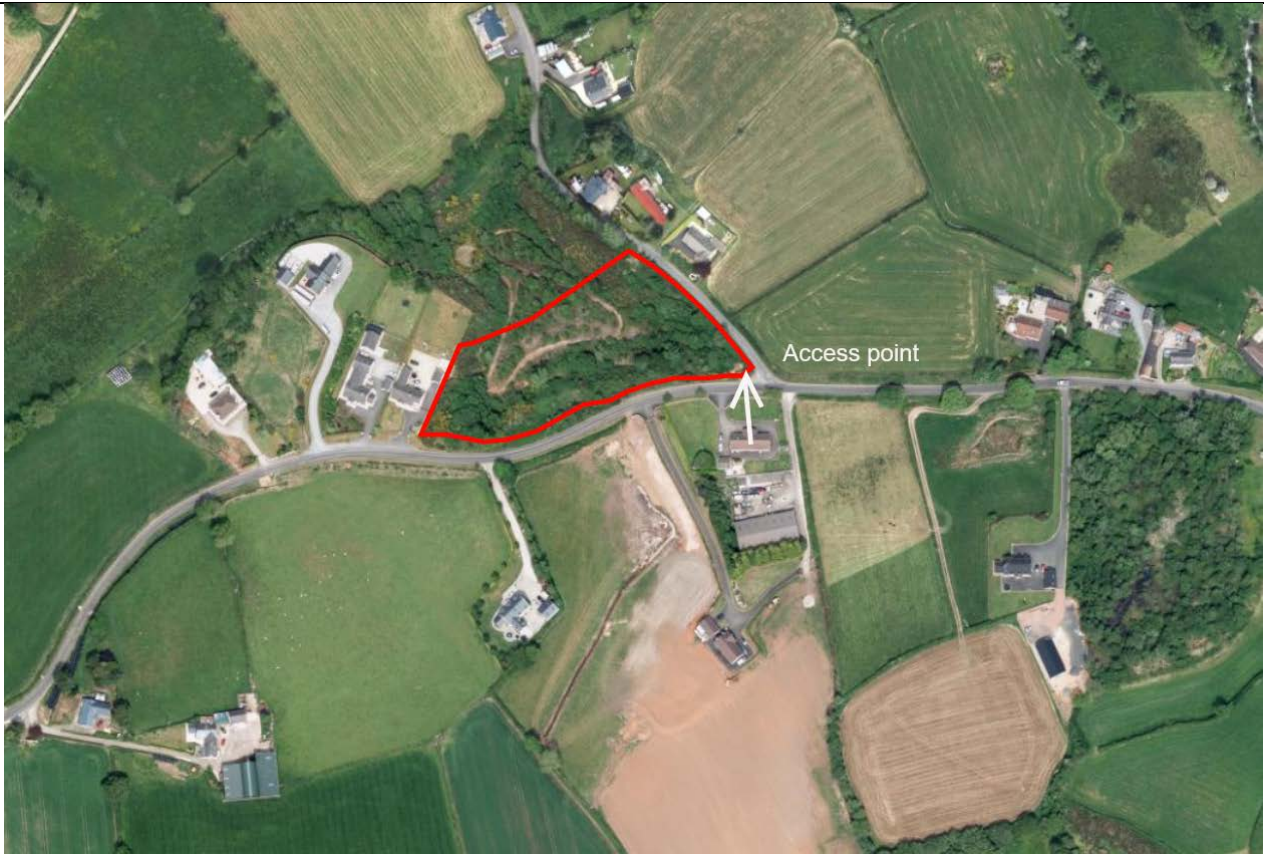
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
 District Council

## Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0361/A	Target Date:
Proposal: Fabricated stainless steel/aluminum back-lit letters.	Location: Lands at the junction of Carrydarragh Road & Turnaface Road. To the immediate E & NE of No.21 Turnaface Road Moneymore Magherafelt.
Referral Route:  This application is being presented to Committee as it is being recommended for Refusal.	
Recommendation:	REFUSE
Applicant Name and Address: ARK Kingdom Ministires 55 Molesworth Street Cookstown BT80 8NX	Agent Name and Address: Bronagh Gordon 15 Rathkeel Road Broughshane Ballymena BT42 4NN
Executive Summary:	
Signature(s):	

## Case Officer Report

## Site Location Plan



## Consultations:

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

## Representations:

Letters of Support	None Received
Letters of Objection	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 objections have been received in respect of this application.

## Characteristics of the Site and Area

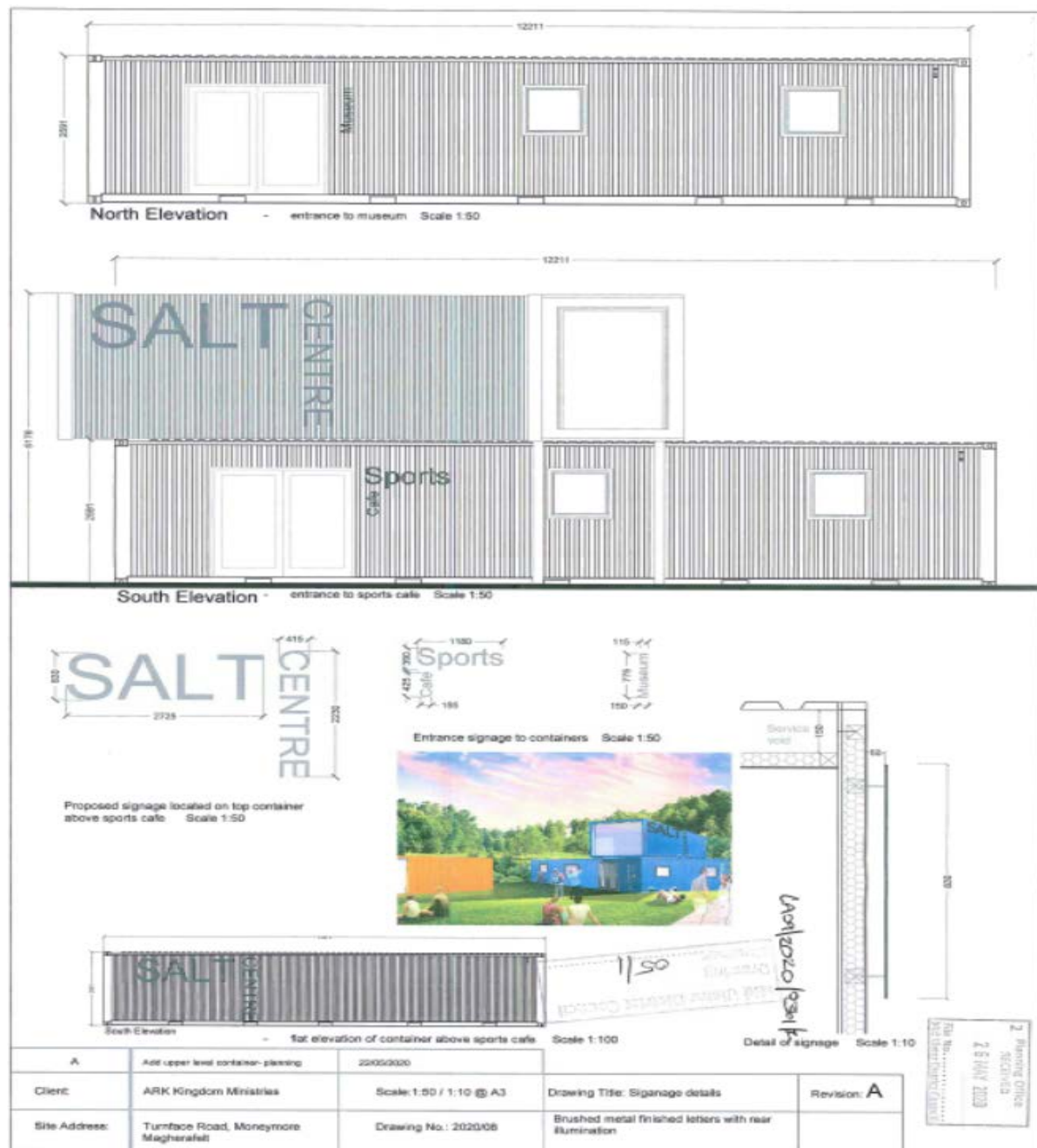
The site is located at the junction of the Turnaface Road and Carrydarragh Road on the site of a former sand pit/quarry. The access to the site is on the junction via a pair of security gates. This leads down into the pit via a shallow gradient where the quarry floor sits approximately 6m-8m below road level and is largely overgrown with shrubbery and semi-mature trees of a height of up to 8-10m. There is a wide grass verge along the Turnaface Road of between 3-6m wide and rising up from road level to a height of around 3m with a post and rail fence to the rear with semi-mature trees and shrubbery to the rear of the fence. To the rear of the fence/trees is a 3m wide shelf which then drops steeply into the quarry floor.

Due to the topography of the site, the depth which the quarry floor sits below the road level and the amount of both boundary vegetation and the trees and shrubbery on the quarry floor, there are no critical views of the site from either the Turnface Road or the Carrydarragh Road.

### Description of the proposal

The proposal for the erection of fabricated stainless steel/aluminum back-lit letters to provide signage for the associated application which proposes the erection of storage containers for use as a sports cafe and a museum.

The letters spell out 'SALT CENTRE', 'Sports Café' and 'Museum'. The Salt Centre sign is to be erected on the top container at first floor level whilst the other two signs are to be at ground level.



Planning Assessment of Policy and Other Material Considerations

The main policy considerations in the assessment of this application are:-

Under the provision of Section 6 (4) of the Planning Act (NI) 2011 the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

The 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.

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

The signage falls to be considered under the prevailing policy PPS 17 - Control of Outdoor Advertisements Policy AD 1 Amenity and Public Safety. This policy advises that 'consent will be given for the display of an advertisement where'

- (i) it respects amenity, when assessed in the context of the general characteristics of the locality; and
- (ii) it does not prejudice public safety.

The policy also advises that the guidance set out in Annex A for different categories of outdoor advertisement will be taken into account in assessing proposals.

Whilst the guidance provided at Annex A does not specify what is acceptable in terms of signage on a community/religious building, the guidance provided for commercial premises would appear to be most appropriate.

This guidance states that :-

- fascia signs should be of an appropriate size, and sited and designed to harmonise with the shop front, the facade of the building and any detailing thereon;
- where a new commercial building is proposed, the location of fascia signage should be integrated into the overall design;
- where external illumination is proposed, trough lighting is preferred. The trough should extend over the whole fascia and be painted to integrate it into the whole display.

Whilst the design of the proposed signage may appear to be acceptable in principle, the building which the signage is to be erected on and which is subject of the associated application Ref: LA09/2020/0362/F, is unacceptable. As it was agreed at the Planning Committee meeting on 2nd March 2021 that the containers on which the proposed signage are to be erected should be refused planning permission, there is no justification for the proposed signage.

Therefore it is my opinion that the proposed signage should be refused advertising consent as there is no sports cafe or museum.

DfI Roads were asked to comment on the proposed signage and requested clarification of the status of the associated containers before issuing a substantive response.

Therefore this application should be refused for the following reason:-

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refuse for the reason listed below:-

Reason for Refusal:

1. The proposal is contrary to Policy AD 1 of Planning Policy Statement 17 Control of Outdoor Advertisements as the buildings on which the signage are to be fixed do not exist and it does not relate to an approved development.

Signature(s)

Date:



ANNEX	
Date Valid	12th March 2020
Date First Advertised	
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier,	
Date of Last Neighbour Notification	
Date of EIA Determination	N/A
ES Requested	No
Planning History  Ref ID: LA09/2020/0362/F Proposal: Our proposal is to use converted storage containers on the site. The new purpose is to provide 4No. storage containers to be used as a 2 storey sports cafe and 2No. storage containers for museum. Maintain existing vehicular access and provide ancillary parking and landscaping. Address: Lands at the junction of Carrydarragh Road and Turnaface road. To the immediate East & North East of No21 Turnaface Road, Moneymore, Magherafelt., Decision: Decision Date:  Ref ID: LA09/2020/0361/A Proposal: Fabricated stainless steel/aluminum back-lit letters. Address: Lands at the junction of Carrydarragh Road & Turnaface Road. To the immediate ,E & NE of No.21 Turnaface Road, Moneymore, Magherafelt., Decision: Decision Date:  Ref ID: I/1974/0371 Proposal: SAND AND GRAVEL QUARRYING Address: FEENANMORE, MONEYMORE Decision: Decision Date:  Ref ID: I/1998/0177 Proposal: Continuation of sand extraction and screening operation	

Address: FEENAMORE SANDPIT APPROX 40M NORTH-WEST OF NO.16  
TURNAFACE ROAD MONEYMORE

Decision:

Decision Date:

Ref ID: I/2000/0248/O

Proposal: Replacement Dwelling

Address: 21 Turnaface Road, Feenan More Money more

Decision:

Decision Date: 20.06.2000

#### Summary of Consultee Responses

DfI Roads requested clarification on the planning status of the associated storage containers prior to providing a substantive response.

#### Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Approved

Drawing No. 02

Type: Proposed Plans

Status: Approved

Drawing No. 03

Type: Proposed Plans

Status: Approved

Drawing No. 04

Type: Proposed Plans

Status: Approved

Drawing No. 05/1

Type: Proposed Plans

Status: Approved

#### Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



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

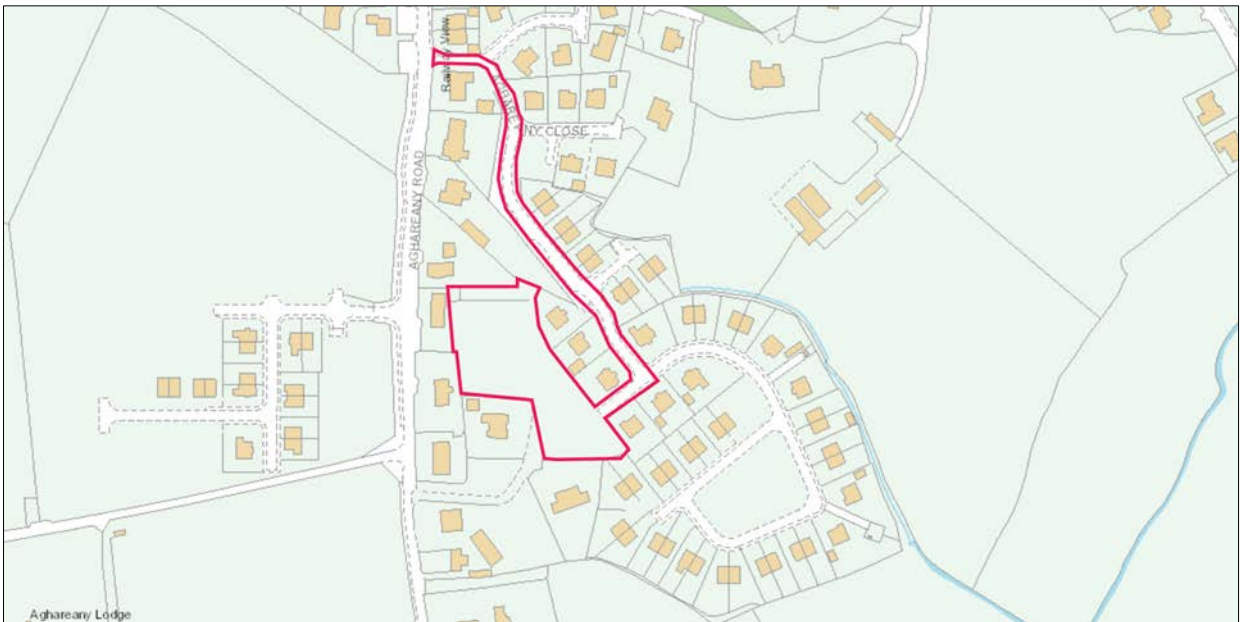
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0423/F	<b>Target Date:</b>
<b>Proposal:</b> Amend scheme design to that previously approved ( M/2009/0913/F and M/2011/0253/F), incorporating 9 no. two storey dwelling and detached garages i.e. (8 no. semi detached + 1 no. detached)	<b>Location:</b> Land immediately west of Ferny Park Gardens and north of Larden Well Aghareany Road Donaghmore
<b>Referral Route: Objections</b>	
<b>Recommendation: Approve</b>	
<b>Applicant Name and Address:</b> Mrs Shauna Clarke 2 Larden Well Aghareany Road Donaghmore	<b>Agent Name and Address:</b> McKeown & Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received
Statutory	Rivers Agency	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	3	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Characteristics of the Site and Area</b>		
<p>The site is located approx. 1.2km northwest of Dungannon within the development limits of Donaghmore, as defined by the Dungannon and South Tyrone Area Plan 2010. Donaghmore settlement is in two nodes. Whilst the majority of the settlement's housing, services and facilities are located in the main village cluster, there is also an area of housing to the southeast, at Annaghbeg, within which the current site sits.</p> <p>The site is a relatively large, irregular shaped plot comprising a gravelled yard. It is set back from and accessed off the Aghareany Road located to its west via an existing estate road serving Aghareany Close and Ferny Park Gardens a well-established and relatively new housing development, respectively. The access serving the site taken off the Aghareany Road further to the north of the site will run along the west side of Aghareany Close then through Ferny Park Gardens before breaking into the site.</p> <p>The site sits between detached properties running along and accessed off the east side of the Aghareany Road, which bound it to the north, west and south; and a mix of detached and semi-detached properties within Ferny Park Gardens which bound it to the east.</p> <p>The landform in the area falls from the Aghareany Road downwards in an easterly direction through the site and Ferny Park Gardens, beyond. As such, the site sits just below the housing to its west but elevated above the housing within Ferny Park Gardens, in particular nos. 21, 23 &amp; 25 Ferny Park Gardens, 3 detached, 2-storey properties, the rear gardens of which back onto the site.</p> <p>The site is primarily bound to the east by close-boarded fencing enclosing the rear gardens of the properties within Ferny Park Gardens. A mix mature vegetation and fencing enclosing the rear gardens of nos. 48, 50, 56, 54 Aghareany Rd (mix of 1 ½ storey and bungalows) bounds the site to the north and west. Similarly, mature vegetation enclosing the front / side garden of no. 7 Larden Well bounds the site to its south. The site is open onto the front / side garden of no. 1 Larden Well, which bounds it to the southwest. Nos. 1 &amp; 7 are both large 2-storey detached properties.</p>		

The immediate area surrounding the site is residential with a mix of house types, styles and finishes bounding it on all sides. Existing roadside development and vegetation bounding it, largely screen the site to views from the Aghareany Road.

### Description of Proposal

This is a full planning application for a housing development consisting of 9 two storey dwellings and detached garages (8 semi-detached, 3 bedroom) + 1 detached, 4 bedroom) to be located on lands immediately west of Ferny Park Gardens and north of Larden Well, Aghareany Road Donaghmore.



Fig 1: Site Plan

As seen above in Fig: 1 the dwellings are to be located to the south and west side of the estate road proposed to serve them, which is to be accessed off the existing estate road through Ferny Park Gardens.

Three pairs of semis (house type J), each with a flush footprint design, are to be located in a linear line to the north of the site, orientated to face in an easterly direction onto the estate road serving them, and an area of proposed open space (sloping embankment) between the site and properties 21, 23 & 25 Ferny Park Gardens. The remaining pair of semis (house type J1), with a staggered footprint and split-level design; and detached dwelling are to be located to the south of the site backing onto semis within Ferny Park Gardens and no. 7 Larden Well, respectively; and fronting onto the estate road and aforementioned open space to the north.



The dwellings all have parking provision to the front and / or side and private gardens to their rear. The detached property has a detached garage proposed to its rear east side.

All the properties have rectangular floor plans with pitched roof constructions approx. 8.9m above ffl, black roof tiles and a white k-rend finish to walls. The semis have decorative quoins and bands; and the detached has a two storey front projection comprising a decorative ground floor bay window and a single store rear return. The difference in levels between the split-level semis (house type J1) is approx. 1m.

This is an amend scheme design to that previously approved on site under M/2009/0913/F and M/2011/0253/F (see 'Planning History' further below.)

It is noted that the scheme described above and being assessed below in 'Planning Assessment of Policy and Other Material Considerations' is a revision of that submitted at the outset of this application (see Fig 2, below for 10 two-storey dwellings). The revised scheme was sought, in particular to address concerns over the impact of the original proposal on the amenity of neighbouring properties, nos. 21, 23 & 25 Ferny Park Gardens, which are located on significantly lower lands to the east of the site.



Fig 2: Site Plan at outset.

### Planning Assessment of Policy and Other Material Considerations

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the

application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

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

- Dungannon and South Tyrone Area Plan 2010
- Strategic Planning Policy Statement for Northern Ireland
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access, Movement and Parking
- Development Control Advice Note 15: Vehicular Access Standards
- Parking Standards
- Planning Policy Statement 7: Quality Residential Environments
- Planning Policy Statement 7 (Addendum): Safe Guarding the Character of Established Residential Areas
- Creating Places
- Development Control Advice Note 8: Housing in Existing Urban Areas

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

### **Relevant Planning History**

#### On Site

- M/2009/0913/F – 2 no. of two storey dwellings – Approx. 85m NE of 64 Aghareany Rd Donaghmore – Granted 12<sup>th</sup> May 2010 (see Fig 3, below)
- M/2011/0253/F – Proposed 2 no. detached 2 story dwellings and domestic garages - 100m NE and 120m NE of 64 Aghareany Rd Donaghmore – Granted 23<sup>rd</sup> June 2011 (see Fig 4, below)





Fig 3: Granted site location plan  
Adjacent Site



Fig 4: Granted site location plan

- M/2006/1182/F – Proposed new access road, footpaths and visibility splays to facilitate the development of a new housing scheme – Lands within and adjacent to Aghareany Close Donaghmore – Granted 23<sup>rd</sup> November 2006
- M/2008/0168/F – Proposed housing development of 40 units incorporating – lands within and adjacent to Aghareany Close Donaghmore – Granted 20<sup>th</sup> November 2008
- LA09/2018/0926/F – Housing development consisting of 10 no. 2 storey semi-detached dwellings – Site immediately S of 12 Aghareany Close Aghareany Rd Donaghmore – Granted 14<sup>th</sup> March 2019
- LA09/2019/0680/F – Vary condition 3 of M/2008/0168/F enabling at least 50% of dwellings to be occupied prior to provision of proposed public open space and all peripheral planting indicated on drawing 06(Rev.1) to enable site to be developed without disturbance of the open space when formed – Granted 14<sup>th</sup> August 2019
- LA09/2019/1570/DC – Discharge condition 5 (management and maintenance agreement for areas of open space) of M/2008/0168/F – Discharged 18<sup>th</sup> December 2019

The above applications relate to the housing development, 'Ferry Park Gardens', which abuts the site to the east and south. Access to the current site is proposed through Ferry Park Gardens.

### **Consultations**

1. DfI (Roads) were consulted in relation to access, movement and parking arrangements for the proposal. Roads have responded with no objections to the proposal subject to amended drawing no. 9(Rev.02) received on the 15<sup>th</sup> January 2021 to address technical issues raised in earlier responses, standard conditions

and informatives. Accordingly, I am content the proposal meets the requirements of Planning Policy Statement 3: Access, Movement and Parking.

2. NI Water (Multi Units West) were consulted and indicate that there is available capacity within Donaghmore WWTW for this development to connect, therefore it is demonstrated that sewage can be disposed of safely.
3. Environmental Health were consulted in relation to the proposed development and have raised no objections subject to the following standard informative, which I am content can be attached to any subsequent decision notice:

The Clean Neighbourhood and Environment Act (Northern Ireland) 2011 - The applicant is advised to ensure that all plant and equipment used in connection with the construction of the development is so situated, operated and maintained as to prevent the transmission of noise to nearby premises.

4. Rivers Agency were consulted in relation to the proposed development accompanied by a Drainage Assessment (D.A) and responded under PPS15 (Revised): Planning and Flood Risk, Policies as follows:
  - *FLD1 Development in Fluvial Flood Plains* - Flood Maps indicate the development does not lie within the 1 in 100 year fluvial flood plain.
  - *FLD2 Protection of Flood Defence and Drainage Infrastructure* - in the event of an undesignated watercourse we are unaware of, being discovered on site, this policy applies.
  - *FLD3 Development and Surface Water* - page 7 of D.A states the issue of out-of-sewer flood risk could be addressed by attenuating the 1 in 100 year event within the proposed drainage network. If achieved this would satisfy the requirement under FLD 3 to provide adequate measures to mitigate the flood risk from the development to elsewhere. However, this proposal exceeds the design standards required under 'Sewers for Adoption, NI' (SfA), consequently there is no guarantee that NIW will adopt this theoretical design. Additionally, there is no requirement under SfA for NIW to consider flood risk from out-of-sewer flooding beyond the development under consideration, therefore no guarantee this form of flood risk will be considered outside the planning process. Consequently, Rivers requested the D.A be resubmitted to provide a demonstration of how out-of-sewer flooding will be managed if the proposed drainage network is designed and constructed in accordance with SfA or Planning includes the following condition which I consider reasonable, as part of its planning permission if granted:
    - Prior to the commencement of any of the approved development on site, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 must be submitted to the Planning Authority for its consideration and

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

### **Dungannon and South Tyrone Area Plan 2010**

This site is located within the development limits of Donaghmore where there is a presumption in favour of development. The Plan allows for development within settlements provided it meets with the requirements of SETT 1. SETT 1 sets out 6 criteria and a general criteria to meet with regional policy, I consider that if the development meets with the regional policies contained in PPS3: Access, Movement and Parking, PPS7: Quality Residential Environments and the addendum to PPS7: Safe Guarding the Character of Established Residential Areas, then it will meet with the requirements of SETT1. The Plan does not provide any guidance for this site's development as a housing site, it refers to regional policies and I consider the appropriate policies are contained in SPPS, PPS3, PPS7 and addendum to PPS7.

### **Strategic Planning Policy Statement (SPPS) for Northern Ireland**

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The SPPS gives specific provision for Housing in Settlements subject to a number of policy provisions. It does not present any change in policy direction with regards to residential development in settlements. As such, existing policy will be applied i.e. PPS 7 and the Addendum to PPS 7.

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

The site is proposed to be accessed off the Aghareany Road via an existing estate road through Ferny Park Gardens. DfI (Roads) have been consulted and have raised no objections subject to standard conditions and informatives. It would also appear from the site layout submitted adequate in-curtilage parking for 2 vehicles has been accommodated within the curtilage of each dwelling. I am therefore content that this proposal is in compliance with the policy provisions of PPS 3.

### **Planning Policy Statement (PPS) 7: Quality Residential Environments**

PPS 7 is the relevant material planning policy for this type of development within a settlement. All proposals for residential development will be expected to conform to a number of criteria laid out in the policy. I will deal with these as they appear in the policy.

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

The area is characterised by a mix of residential development. Aghareany Close a well-established housing development is located further north of the site comprising a mix of 2-storey and single storey detached properties. Ferny Park Gardens a relatively new housing development comprising a mix of 2 storey detached and semi-detached

properties is located to the east. A mix of single, 1 ½ and 2-storey detached dwellings in a mix of styles and finishes bound the site to the west along Aghareany Road and to the south within Larden Well. I am content this proposal for 9, 2-storey properties comprising a mix of house types (8 semis & 1 detached) arranged along the west and south side of the estate road will respect the surrounding context and is appropriate to the character and topography of the site.

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

The site is not located within an area of known archaeological importance or built heritage and existing vegetation along the boundaries of the site is proposed to be, and will be conditioned to be, retained therefore I have no concerns in this regard.

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

The proposal includes the provision of adequate enclosed private amenity space to the rear of the properties and public areas to the front. Given the size of the proposal public open space is not considered necessary, that said, a small area of planted open space has been provided on a sloping embankment to the east / north of the estate road proposed to serve the site. This area of planted open space alongside existing vegetation bounding the site and proposed planting soften the visual impact of the development and assist in its integration with the surrounding area.

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

Given the size of the proposal, new neighbourhood facilities are not considered necessary.

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

This proposal includes the provision of footpaths leading to the front of the site, to the Aghareany Road bound by a footpath. The footpaths will support walking and enhance the safety of pedestrians. DfI Roads have been consulted and are satisfied with the proposal subject to standard conditions and informatives.

- adequate and appropriate provision is made for parking;

Parking provision is also considered under Planning Policy Statement 3: Access, Movement and Parking. It would appear from the site layout adequate in-curtilage parking for 2 vehicles has been accommodated within the curtilage of each dwelling

satisfying the requirements set out in Creating Places. DFI Roads have raised no concerns in respect of parking.

- the design of the development draws upon the best local traditions of form, materials and detailing;

The design of the proposed dwellings are considered appropriate to the site and locality. All are the properties have rectangular floor plans with pitched roof constructions with blue / black roof tiles and a white k-rend finish to walls. The semis have decorative quoins and bands; and the detached has a two storey front projection comprising a decorative ground floor bay window and a single store rear return.

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

Paragraph 7.16 of Creating Places advises that there should be a minimum separation distance of 10m between the rear of new houses and the common boundary. This proposal be enlarge adheres to this advice and as such I am content its design and layout is acceptable and as such there should not be any unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing. The plots are all proposed to be well enclosed by existing or proposed planting and / or fencing in particular at ground level protecting neighbouring amenity from overlooking from main serving windows. Upper floor windows are largely bedroom, bathroom / warbrode and cause no significant concern. I would note the separation distance in relation to the higher split-level semi to the south of the site is in part just under the 10m distance set in guidance. However, I am content in this instance the parameters set out above as guidance only and can relaxed. The deep garden of the property within Ferny Park Gardens this particular semi backs onto means an overall separation distance of over 20m will be retained between the rear wall of both properties. Furthermore, the property the semi back onto sits on lands ½ m a higher. I note whilst the semis to the north of the site have provided the separation distance required I initially had some concerns relating to the limited overall separation distance between the rear wall of the properties on site and the dwelling to their rear. However, upon further consideration I am content there should be no unacceptable impact on amenity of the neighbouring properties to the rear, as their rear gardens are well enclosed and the site sits on lower lands. As such, there will be no overlooking from any ground floor main serving windows. I also have no significant concern regard the impact of the proposed dwellings on 1 and 7 Larden Well as the proposed properties are orientated gable end and / or backing onto these properties front gardens / driveways and not the private amenity space to their rear. In terms of unacceptable noise or other disturbance to the adjacent primarily residential properties, I do not foresee any cause for concern.

- the development is designed to deter crime and promote personal safety

I am satisfied that the dwellings will be located in an established residential location where there will be enough dwellings close by to deter crime to some degree.

**On the basis of the above assessment the proposal under consideration complies with all the criteria set out in policy QD 1 of PPS 7.**

**PPS 7 (Addendum) - Safe Guarding the Character of Established Residential Areas**

I am satisfied that this proposal complies with Policy LC 1 of the Addendum to PPS 7, Protecting Local Character, Environmental Quality and Residential Amenity, in that the proposal will not result in a significantly higher residential density in this area, the proposed designs are in keeping with the existing character of the area and the unit size is not less than recommended in Annex A of this policy.

**Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 3 letters of objection were received from the owners/occupiers of nos. 23, 25 & 21 Ferny Park Gardens located to the east of the site on the 17<sup>th</sup> August 2020, 26<sup>th</sup> August 2020 & 28<sup>th</sup> August 2020, respectively. Noting the objections were made in relation to the initial scheme submitted, not the revised scheme considered above, the key issues in no particular order raised were as follows:

1. Dominance / overlooking / loss of privacy - to neighbouring properties.
2. Overshadowing / loss of light - to neighbouring properties.
3. Contrary to Policy QD 1 of PPS 8 - no provision of public open space.
4. Contrary to Policy FLD 3 of PPS 15 / Increased flood risk - through use of impermeable surfaces in area prone to flooding/poor drainage. Elevated lands / embankment to rear of their properties, where dwellings to be sited, has already resulted in surface water run off flooding their / existing occupants gardens and garages. Though part rectified by the excavation of a trench along rear boundaries, substantial volumes of water runs through the embankment and drainage runs, to drain the embankment, when it rains. Impacts of flooding/climate change not fully accounted for in Ferny Park Gardens development, as large volumes of water run from current site along the street to the side of no. 25 Ferny Park Gardens when it rains, identifiable by a clay stain on the road. Plans for current site do not show how: it will be adequately, drained; the embankment stabilised; an outfall for the storm system; or a foul treatment system. Assume attempt to connect to storm and foul systems in place in Ferny Park Gardens.
5. Sewage capacity issues arising from overdevelopment in area taking account of existing and proposed housing.
6. Contrary to PPS 3 / Road Safety - existing road network can barely cope with traffic volumes leading to leading to congestion, delays, unsafe traffic manoeuvres, heightened danger to pedestrians including young children that reside in the area. This will increase with completion of Ferny Park Gardens & Larden Meadows. Further dwellings along or accessing onto Aghareany Rd will exacerbate problem / safety concern posing a add to claims received for cars damaged because of the poor condition of the road.
7. Development on 'backland plot' as identified in DCAN 8. Ferny Park Gardens whilst constructed recently already has character. The proposal only seeks to maximise dwellings on a small and irregular shaped plot.
8. Impact on nature conservation
9. Noise pollution / disturbance from prolonged construction work / use of new estate road.

10. Contrary to Policy LC 1 of PPS7 (addendum) as dwellings different size, style and greater density to existing bounding site i.e. semis encircled by detached.
11. Contrary to PPS12 as does not reflect house types required in area.
12. Contractor assured no future development on site.
13. Impact on property values.

I would re-iterate that the above objections were received in relation to the initial proposal, which would have seen 3 detached dwellings (of original 10) located on the elevated embankment immediately to the rear of the objectors properties. In response to that scheme owing to the elevated nature of the site above the objectors properties, proximity of the proposed properties, and whilst defined by fencing exposed nature of objectors backs yards, I would agree dominance, overlooking and loss of privacy was a significant concern. There may also have been a small degree of loss of light.

Accordingly, a revised scheme was sought to address the concerns above and it is this scheme that has been assessed in the main body of this report further above and deemed acceptable under the relevant policy requirements. I believe the revised scheme now offers a good separation distance between the objectors' properties and the dwellings within the proposed development. The proposed estate road, which was re-aligned, and a new area of planted open space separate the objectors' properties from dwellings within the development removing any previously considered unacceptable impact of this development on the amenity currently afforded to the objectors' properties. The area of open space incorporating planting will also soften the overall impact of the development.

At this point, I note the aforementioned revised scheme was re-advertised and neighbours, including objectors re-notified, and there were no further objections / concerns raised in relation to the revised scheme. That said below, I have continued through the remaining issues / concerns raised in relation to the development of this site.

In relation to the flooding / drainage of the site, Rivers Agency have been consulted and the issues outlined brought to their attention. Rivers Agency however raised no concerns with the development of this site subject to a condition to safeguard against flood risk to the development and elsewhere (see 'Consultees'). I would acknowledge as the objectors have clearly outlined this is an elevated site above their properties and water will naturally fall from higher to lower ground causing potential for flooding. In this case I believe the road layout within the proposed development and planting of trees within the area of open space to be created from the embankment may help to direct water away from the objectors' back gardens and into road drainage; and help absorb it in to the trees root system, respectively. In relation to the embankment being stabilised, the dwellings located on it at the outset of the application have been removed and it is now being left as an area of open space.

NI Water raised no concerns with the development connecting to existing storm sewers and advised sewage capacity is available within Donaghmore WWTW for the development. The concerns raised by the objectors' were also brought to the attention of DfI Roads and Environmental Health. DfI Roads deemed the proposal to comply with PPS3 subject to standard conditions and informative. Accordingly, I am content the proposed development should not prejudice road or public safety. Environmental Health

raised no noise pollution / disturbance concerns in relation to the development subject to the applicant being advised to ensure that all plant and equipment used in connection with the construction of the development is so situated, operated and maintained as to prevent the transmission of noise to nearby premises.

I have no concern about the development of this site, a largely gravelled yard, within an area of housing from a nature conservation aspect. Existing vegetation along the boundaries of the site is to be retained; and additional planting proposed. Due to a small sheugh adjacent the eastern boundary, the site may hydrologically connect to Lough Neagh SPA/Ramsar. However, considering the scale of the proposal and the significant distance upstream it is unlikely there would be any significant effects from the proposal to the downstream European sites during the construction phase. As NI water outline available capacity at the receiving WWTW I am content there should be no operational issues. The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site.

I believe the size, style and density of the dwelling are in keeping with properties in the wider vicinity and the variation in house types will give greater choice. In relation to the contractor assurance that there would be no future development on site and impact on property values whilst considered this is not a material matter in the assessment of this proposal in the settlement limits whereby there is a presumption in favour of housing.

I believe the scheme meets with guidance in DCAN8. The site is of a size and scale to accommodate the proposed development which in my opinion respect and integrates with its existing context. It integrates existing landscape features and provides a residential aspect onto the new road which has been configured with landscaping to the outside to help protect existing residential amenity and soften and integrate the overall scheme.

**Taking all of the above into consideration I would recommend the approval of this application.**

**Neighbour Notification Checked**

Yes

**Summary of Recommendation**

Approve

**Conditions**

Drawing nos. 01(Rev.01), 02(Rev.02), 03, 04, 05(Rev.01), 07, 08, 09(Rev.02), 10, 11

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

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



2. The existing natural screenings of the site shall be permanently retained as indicated in blue on Drawing No. 02(Rev.02) bearing the date stamp 7 DEC 2020, unless otherwise agreed in writing with the Council.

Reason: In order to safeguard the amenities of neighbouring occupiers and in the interests of visual amenity.

3. During the first available planting season following the occupation of the first dwelling constructed on this development site, all proposed hard and soft landscaping works, as annotated on Drawing No. 02(Rev.02) bearing the date stamp received 7 DEC 2020, shall be carried out. The scheme shall comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: To ensure the provision of a high standard of landscape and in the interests of visual amenity.

4. The area of open space as detailed on Drawing No. 02(Rev.02) bearing the date stamp received 7 DEC 2020, shall be maintained and managed in accordance with a Landscape Management Plan to be submitted and agreed by council prior to the occupation of any of the individual units hereby approved.

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

5. The developer shall provide, prior to the occupation of any of the individual units hereby approved, a signed agreement with a landscape management company for the maintenance of the area of open space. The area of open space as detailed on Drawing No. 02(Rev.02) bearing the date stamp received 7 DEC 2020, shall be maintained by the nominated management company in accordance with the Landscape Management Plan.

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

6. The boundary treatments for the site and each of the plots as identified on Drawing No. 02(Rev.02) bearing the date stamp received 7 DEC 2020, shall be completed prior to the occupation of any of the individual units hereby approved.

Reason: To ensure a quality residential environment.

7. The block wall identified on drawing Drawing No. 02(Rev.02) bearing the date stamp received 7 DEC 2020, from points (J) – (K) – (L) shall be 1.5m high,

300mm wide and in general conformity with Drawing No.11, bearing the date stamp received 26 MAR 2021.

Reason: To ensure a quality residential environment.

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

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

9. The vehicular access, including visibility splays, shall be provided in accordance with Drawing No. 9(Rev.02) bearing the date stamp received 15 JAN 2021, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

10. The access gradient(s) to the dwelling(s) hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

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

1. The Mid Ulster District Council/Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 9(Rev.02) bearing the date stamp received 15 JAN 2021.

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

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

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

3. No dwelling hereby permitted shall be occupied until the street lighting has become operational for that part of the service road which provides access to it as indicated on Drawing No. 9(Rev.02) bearing the date stamp received 15 JAN 2021.

Reason: To ensure the orderly development of the site and that there is a safe and convenient road system within the development.

### Informatives

1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.
4. The decision notice relating to this planning application should be read in conjunction with the conditions / informatives associated with previous approvals Application Reference M/2009/0913/F & M/2011/0253/F and all other approvals for this site.
5. The applicant must apply to the DfI Roads for a licence indemnifying the Department against any claims arising from the implementation of the proposal.

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

6. Under the above Orders the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the Department/DfI to make the roads (including road drainage) in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The

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

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

Under the terms of The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001, design for any Street Lighting schemes will require approval from Dfi Roads Street Lighting Consultancy, Marlborough House, Craigavon. The Applicant is advised to contact Dfi Roads Street Lighting Section at an early stage to agree a works programme for works associated with relocating of any existing street light columns. The Applicant/Developer is also responsible for the cost of supervision of all street works determined under the Private Streets Order (Northern Ireland) 1980.

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

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

The development shall not be commenced until a Certificate issued by a Chartered Structural Engineer certifying that the structure has been designed in accordance with the relevant standards and guidance, has been submitted to and accepted by Dfi. The certificate should state; "I/We certify all reasonable professional skill and care has been used in the design & check of the above named structure in accordance with the following design standards and advice notes." Reason: In the interests of road safety.

Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road,

verge, or footway bounding the site. The consent is available on personal application to the Section Engineer whose address is Section Office Main Street, Moygashel, Dungannon. A monetary deposit will be required to cover works on the public road.

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

Highway design shall be in accordance with the current relevant standards of the Design Manual for Roads and Bridges. In exceptional circumstances Departures from Standard maybe necessary and shall be supported by a full technical, safety, environmental and economic justification. All details shall be submitted to Network Services through the relevant Division.

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

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

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

The developer is required to enter into a licence agreement with the Department for Infrastructure, for the carrying out of the road works approved, prior to the commencement of any works to the public road network.

The licence agreement shall be issued through the Development Control Officer, Network Planning Section, Western Division, County Hall, Omagh and the developer should allow up to three months for completion of the licence.

Accordingly the developer is advised to make an early personal application for the issue of the licence. He should also initiate early discussions for the satisfactory programming of the road works with the Private Streets Engineer, Consultancy at County Hall, Omagh

## 7. The Clean Neighbourhood and Environment Act (Northern Ireland) 2011.

The applicant / developer is advised to ensure that all plant and equipment used in connection with the construction of the development is so situated, operated and maintained as to prevent the transmission of noise to nearby premises.

8. Please see NI Water consultation response to this planning application dated and scanned to the planning portal on the 30<sup>th</sup> June 2020 for information purposes.
9. Please see Rivers Agency consultation responses to this planning application dated and scanned to the planning portal on the 10<sup>th</sup> June 2020 and 25<sup>th</sup> November 2020 for information purposes including that:

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

**Signature(s)**

**Date:**



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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0452/F	<b>Target Date:</b> 15/07/20
<b>Proposal:</b> Replacement of Dwelling with New Dwelling and Garages (existing dwelling retained as agricultural store)	<b>Location:</b> 20 Reaskcor Road Dungannon
<b>Referral Route:</b> 13no. Objection letters received	
<b>Recommendation:</b>	<b>Approval</b>
<b>Applicant Name and Address:</b> Mr & Mrs G Burrows 51 Terrennew Road Dungannon BT70 3AB	<b>Agent Name and Address:</b> ACA Architecture Ltd Cottage Studios Gortrush Great Northern Road Omagh
<b>Executive Summary:</b> The application seeks permission for a replacement dwelling and garage. The building to be replaced exhibits the essential characteristics of a dwelling and all external structural walls are substantially intact as per the requirements of PPS 21 CTY3. The proposed replacement dwelling is not sited within the established curtilage of the existing building and the application seeks to retain the existing building as an agricultural store. There are concerns and a number of objections have been received which specifically relate to the retention of the existing building as an agricultural store given the recent renovations and high standard of finishes to the existing subject building. However, overall it is considered the proposal complies with the relevant, prevailing planning policy. 13No. objections have been received and are considered below.	
<b>Signature(s):</b>   	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen	Advice
Statutory	DFI Roads - Enniskillen	Content
Non Statutory	NIEA	Substantive Response
Non Statutory	NIEA	No Objection
Statutory	Historic Environment Division	Content

### Representations:

Letters of Support	None Received
Letters of Objection	13
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### Characteristics of the Site and Area

The application site comprises an existing two storey roadside dwelling with a farm holding comprising a number of farm buildings to the rear; a small triangular roadside field; and a portion of a large field which has a mixture of topsoil and an area of hardstanding/rubble. The site is located in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan 2010. The surrounding context is largely rural with agricultural land predominantly surrounding the site. However, the site is located immediately outside and adjacent to the settlement limits of Castlecaufield. The settlement of Caustlecaufield is to the NE and encompasses the agricultural field adjacent to the red line. The land within the red line is relatively flat however the ground level inclines significantly when travelling in a south-westerly direction along Reaskor Road, therefore the proposal site is on elevated land when compared to the ground level of the adjacent Parkanaur Road.

The two-storey replacement opportunity subject to this application site is in good condition and appears to have underwent recent interior and exterior renovations. On



the date of the site inspection it was noted recent front kerbing and evidence of a rear garden wall under construction providing a boundary between the farm holding and the existing building. The existing dwelling and farmyard are currently accessed via an existing access to the southern corner of the site, whilst the proposed access to the dwelling does not appear to be formalised however it was noted on the date of the site inspection that the boundary treatment to the northeast may have recently been removed. The south and east boundaries are defined by exiting vegetation with the remaining boundaries relatively undefined. The existing farm buildings and partial hedging will provide some screening of the proposal site when travelling north-easterly on Reaskcor Road. Public views will be more open when travelling south-westerly on Reaskcor Road and also when travelling on the Terrenure Road and Parkanure Road, particularly in a south-westerly direction.

### **Description of Proposal**

This application seeks full planning permission for an offsite replacement dwelling with garage and retention of existing dwelling as an agricultural store at 20 Reaskcor Road, Dungannon.

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

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

### **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  
 Dungannon and South Tyrone Area Plan 2010  
 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  
 Building on Tradition - A Sustainable Design Guide for Northern Ireland

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

### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, 13 No. Objection letters have been received.

Seven identical objection letters were received in respect of the proposed development and relate to the following concerns:

- The existing dwelling is habitable and no justification has been provided to replace it or information as to why it cannot be retained or extended;
- The proposed site is approximately 3 metres higher than the ground level of the existing dwelling and the proposed dwelling is excessively large approximately 4 times larger than the existing dwelling;
- The siting and design fail to comply with planning policy and guidance. The siting is out of character with the traditional settlement pattern and the design is at odds with Building on Tradition in terms of excessive scale, glazed area, projections and roof planes.

Three objection letters were also received from Mr Robert Carson and three further letters from Manor Architects and William Orbinson QC on behalf of Mr Robert Carson. These objection letters repeat the issues outlined above and also raise further concerns which I have aimed to summarise below:

- The existing dwelling is modern, does not have the characteristics of an agricultural building, does not readily lend itself to agricultural function and ample agricultural storage on site already. The dwelling has recently been refurbished and the proposal appears to be an attempt to have two dwellings on the holding;
- Retention should not be allowed rather conditioned to be demolished and removed otherwise this sets a worrying precedent, allows for a floundering of policy with potential for retention through five year rule; or a future change in policy may allow the conversion of the building back to dwelling status;
- No justification for off site location which offers no amenity or siting benefits;
- Residential amenity will be hampered due to access arrangements and proximity to farm buildings; acoustic reports, odours and other contamination reports which satisfy environmental health should be completed as house may at some stage be sold;
- Proposal significantly and grossly greater than the existing dwelling and the double garage attached to the dwelling emphasises the dwelling is too large and bears no relationship to the scale of site, building to be replaced or adjacent buildings;
- The description on the submitted drawings do not reference replacement dwelling and the floor plans are not fully detailing making it impossible to establish the scale of the structure;
- The proposal will fail to integrate, appear prominent from approaching vantage points and relies entirely on new planting and retention of the farm buildings to achieve any level of integration;
- Scale, massing, mix and match of styles are non-compliant with policy. Fenestration has disproportional solid to void ratio;
- Badgers often appear crossing the Reaskcor Road and the field boundary which runs west of the site is an ideal habitat for badgers which should be investigated;
- This is archaeologically sensitive area – 100m south of the proposed dwelling is a tree ring rath, evidence of ancient field systems in the wider area, north west is Lough Aughlish and an ancient Crannog therefore in accordance with Policy BH1 the proposal should be refused or HED should be consulted;
- Should Council consider Policy BH1 inapplicable having consulted HED, the objector contends the archaeological assets are of local importance and the proposal is contrary to Policy BH2 and permission should be refused if the setting of assets are not preserved by the proposal, as per paragraph 3.10 of PPS6;

- Objector suspects there could be some archaeological materials on site given the archaeological context of the site and elevated nature within that context therefore Policy BH3 is engaged and HED should be consulted and the Applicant should be requested to provide an archaeological evaluation involving ground surveys and targeted licensed excavation;

#### Consideration of concerns

- Retention of existing building – The application has sought retention of the existing building for agricultural storage. Further information regarding how the existing building will be adapted for agricultural use have been provided on Drawing 04 (pasted below). The members should consider the objectors' comments with respect the retention of the existing building. The extant Area Plan, as well as the emerging Local Development Plan and prevailing planning policy are the relevant policy context to be considered, it is not possible to consider future policy that does not or may not exist as referred to in an objection letter. Policy CTY3 does not include criteria on retention criteria including characteristics of the building or justification for retention. Should permission be granted, a condition will be attached to any forthcoming approval restricting the use to agricultural only and not for human habitation. Should the applicant be found to breach this planning condition, this will be a matter for the planning enforcement team.



- Siting of the proposed dwelling – The proposal seeks an offsite replacement dwelling, justification was sought for the proposed siting which was received on 13/01/21. It is not considered the proposed siting is out of character with the traditional settlement pattern as stated in objection letters, the proposed dwelling is sited behind an existing large agricultural shed which will assist with integration. However the siting of the proposed dwelling outside the established curtilage of the existing building is considered in greater detail in the assessment of policy criteria later in this report.

- Scale, massing and design of proposed dwelling – It is not agreed that the design is at odds with Building on Tradition guidance document. Whilst it is accepted there is a large amount of glazing which may in other instances be considered unacceptable, in this case the large glazed window features are to the northwest elevation where there will be limited public views of this elevation given the topography of the site and surrounding landform. The remaining elevations have an acceptable solid to void ratio with predominantly vertical emphasis fenestration, the front elevation includes dormer windows from the wall which it was noted are present in other dwellings in the surrounding area. There is a mix of house designs in the locality, the design and finishes which include natural sandstone feature to a portion of the dwelling and garage are considered appropriate to the rural setting and will not significantly impact local distinctiveness. The drawings submitted are all to scale and provide the size of the proposed dwelling. It is noted the objectors' comparisons with respect ridge height and scale of the existing and proposed dwellings are inaccurate. Drawing 02 Rev 2 provides site levels which indicates a ground level of the existing building broadly similar to that of the ground level of the proposed dwelling. It is noted that the proposed dwelling is significantly larger than the existing building, almost double in size with the existing building approximately 1873sqft, whilst the proposed building is approximately 3700sqft with a proposed double garage at 600sqft. However, it is noted that the building to be replaced is a large dwelling and in this instance it is considered the scale, size and design to be appropriate to the setting and the replacement opportunity. The policy test within Policy CTY3 is the overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building, this is considered in more detail in the assessment of policy later in this report.
- Residential amenity – An objector has questioned have acoustic reports, odours and other contamination reports been completed and Environmental Health consulted given proximity to farm buildings. The existing farm buildings are within the red line of the application site and are in the applicant's ownership as detailed on the signed Certificate A of the P1 Form. Given that the farm buildings are in the applicant's control, it is not considered necessary to request the applicant to go the time or expense to provide these reports and consultation with Environmental Health is not considered necessary in this instance. Should the proposed replacement dwelling be sold in the future, the proximity to existing farm building will be a matter of consideration for the buyer to consider in that instance/scenario and therefore does not form part of the assessment of this planning application.
- Badgers – Following receipt of the letter of representation raising concerns there may be badgers on site, the agent provided a Biodiversity Checklist which states there was no evidence of badger setts or usage within the site during the walkover assessment. NIEA were consulted as the relevant statutory consultee under The Planning (General Development Procedure) Order (Northern Ireland) 2015 (as amended). NIEA required clarification from the ecologist that the required 25m buffer zone, outside the Red Line Boundary was surveyed for badgers and further information in relation to the bat roosting potential should the existing building be removed. Clarification was received from Willow Environmental dated 29<sup>th</sup> September 2020 that the site within the red line boundary was checked for presence of badger and this was extended to 25-

30m beyond the development boundary and no evidence of badger was found and the existing building is to be retained as part of this proposal. Following this, NIEA have advised they have considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, have no concerns. It is therefore considered the proposal will not significantly impact natural heritage interests.

- Archaeologically sensitivity – Following receipt of the letters of representations raising concerns with regard potential impact to archaeological remains, assets and their setting, Historical Environment Division were consulted as the relevant statutory consultee under The Planning (General Development Procedure) Order (Northern Ireland) 2015 (as amended). HED advised in their response dated 11/02/21 that they had considered the application, letters of representation and conducted a site inspection to the site as well as a number of the archaeological monuments and historical landscapes in the surrounding area to assess the impact of the proposed development upon the setting of these monuments. They provided a detailed assessment and concluded HED does not consider that the proposed development will have any adverse impacts upon the settings of the historic monuments and designed landscape assets within the surrounding landscape. Due to the relatively small-scale development area and considering that it is not close to any of the recorded sites or monuments in the surrounding area, on the basis of current evidence the potential for buried archaeological remains within the proposed development area is considered to be low. Archaeological mitigation in advance of development is unnecessary in this case. Given that HED have carried out a detailed assessment, I am content that the proposal does not offend Policy BH1, Policy BH2 and Policy BH3 and do not consider refusal could be sustained on this basis.

### **History on Site**

LA09/2017/0987/LDP - 1 Proposed pig house to include 4 working pens, 5 fattening pens and 3 holding pens. Access to be through existing field gate from Reaskcor Road, 1m high fence to perimeter of concrete yard - 25m South East of 20 Reaskcor Road, Dungannon – Certificate of Lawfulness 29/08/17

M/2002/0740/F - Replacement of fire damaged dwelling - Forthill Farm, 20 Reaskcor Road, Castlecaulfield – Permission Granted 27/08/02

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

Dungannon and South Tyrone Area Plan 2010 – the site lies in the rural countryside outside any designated settlement with no other specific designations or zonings.

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

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

the countryside subject to certain criteria. In this instance the application is for a replacement dwelling and as a result it must be considered under CTY3 of PPS21.

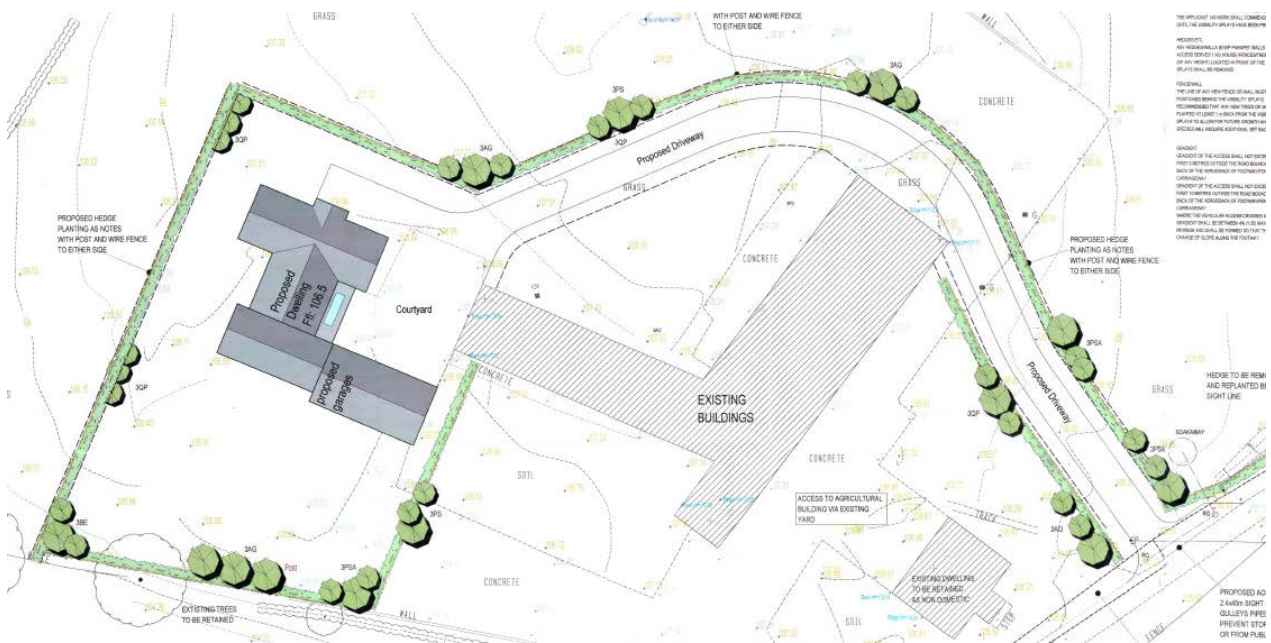
The building to be replaced is a two storey, rectangular shaped roadside dwelling. It was noted on the date of the site inspection that the dwelling appears to be recently refurbished. I am satisfied the building exhibits all the essential characteristics of a dwelling for the purposes of policy and whilst does not appear to be currently occupied, is finished to a high standard and could be lived in its current state. It was noted from a history search that the dwelling was granted permission for a replacement of a fire damaged dwelling in August 2002, prior to the adoption of PPS 21. The dwelling is not considered a non-listed vernacular building.

The proposed replacement dwelling is not sited with the curtilage of the existing dwelling and is located approximately 53 metres northwest of the existing dwelling, behind existing farm buildings. Policy CTY3 states the proposed replacement dwelling should be sited within the established curtilage of the existing building, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. It is not considered the existing curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling therefore further information was sought from the applicant to justify the replacement dwelling being located offsite. A Supporting Statement was received on 13/01/21 which argues the following:

- the proposed siting provides demonstrable benefits including greater integration from the public vantage points;
- given the retention of the existing dwelling for agricultural use, the remaining curtilage would significantly limit the size and amenity space and the proposal site is the next available site which can provide amenity and integration;
- the shed currently under construction opposite the existing dwelling is outside the applicants ownership and has the potential to impact residential amenity.

It is accepted that the proposed siting provides an acceptable degree of integration given the existing farm buildings and trees will assist in screening public views and will ensure the proposal will not have a visual impact significantly greater than the existing building. However, it is not accepted the alternative position would result in demonstrable landscape benefits given the existing building is sought to be retained therefore will still be present in the landscape. As stated above, there are concerns with the retention of the existing dwelling as an agricultural store given the recent renovations to an extremely high standard observed on the date of the site inspection and noted in objection letters. However, following internal discussion with regard the prevailing policy it was agreed Policy CTY3 does not provide any policy tests with respect seeking to retain replacement opportunities and the proposed use as agricultural only will be conditioned to any forthcoming approval should permission be granted. It is accepted that there is not reasonable space to accommodate a dwelling within the remaining area of the curtilage as the existing dwelling is retained for agricultural storage as stated in the agents supporting argument above. The agent has also argued amenity grounds given there is an agricultural shed under construction opposite the existing dwelling which is outside the applicants control, located southeast and opposite the existing dwelling. Members should note a proposed Certificate of Lawful Development was granted for a Pig house to include 4 working pens, 5 fattening pens and 3 holding pens on this site, 25m South

East of 20 Reaskor Road on 29/08/17. However, it should also be noted this structure under construction is currently the subject to an ongoing enforcement investigation. The agent argues justification for the offsite replacement dwelling given proximity to this shed, however the proposed siting is located a mere 4.4 metres from an existing agricultural shed. Having considered this in internal group meetings, it is accepted that the existing sheds on site are within the applicants control whilst the shed currently under construction in proximity of the site is outside the applicants control and could potentially give rise to residential amenity issues in the future. Therefore, it is accepted the proposed siting could provide amenity benefits. As stated previously in this report, the siting of the proposed dwelling to the rear of existing large farm buildings will allow the application to integrate into the surrounding landscape. The land rises significantly when travelling from the settlement of Castlecaufield, southerly along Reaskor Road therefore the application site is elevated and appears on much higher ground and susceptible to public views particularly when travelling on Parkanaur Road and Terrenure Road. Having considered the siting of the proposed development in relation to the existing built form and vegetation on the site and the extent of public views of the site, it is not considered the proposal will detrimentally impact on rural character and the proposal will cluster with the existing farm buildings. The design is considered to be high quality, appropriate to a rural setting and although there is a modern elements with a large extent of glazing, this feature is to the northwest elevation where public views will be limited. It is noted there may be some views of this elevation on approach to Reaskor Road from the village of Castlecaufield, however given the proposed dwelling is sited in close proximity to the existing farm buildings, as well as existing trees, which will be conditioned to be retained, views of this modern feature will be filtered and short-term so this will not appear overbearing or unacceptable in this instance. It appears all necessary services are available without significant adverse impact on the environment or character of the locality.



On balance, following internal discussions with the Senior Planner it is considered the proposal meets the policy requirements of Policy CTY3 and therefore no refusal reasons on relevant prevailing policy grounds could be sustained. The retention of the existing dwelling will be conditioned for agricultural purposes only and a statutory charge will be

registered to ensure the existing dwelling is no longer used for human habitation. Should the existing dwelling be used for purposes other than agricultural, this will be a matter for Mid Ulster District Council Planning Enforcement to investigate.

CTY 13 Design and Integration and CTY 14 Rural Character under PPS 21 are also relevant to this proposal. The proposal site is relatively flat however it is noted the ground level is significantly higher than the ground level of the adjacent public road network. When travelling in either direction along Parkanaur Road, the application site appears at a significantly higher level. The proposed dwelling is a large two storey dwelling with attached large double garage. The design is considered acceptable and will not detract from the surrounding rural character. Given the siting in close proximity to existing large buildings, I do not consider the proposal will appear overly prominent and the existing built form will assist in providing a suitable degree of enclosure. It is considered the proposal will cluster with existing farm buildings and there is some degree of trees and existing vegetation to ensure acceptable visual integration into the surrounding landscape. Drawing 02 Rev 2 provides a landscaping plan which details the existing vegetation to the southern boundary to be retained with new planting along the remaining boundaries including the new proposed access. I do not consider the proposal will create a ribbon of development or significantly impact rural character. Overall, I consider the proposal is in accordance with CTY13 and CTY14

#### **Access Considerations**

The proposal seeks to create a new access onto Reaskcor Road. DfI Roads were consulted and have responded offering no objection subject to conditions ensuring the necessary vehicular access, including the permeant closure of the existing access to the replacement opportunity and the provision of visibility splays of 2.4m x 45m in both directions. I am satisfied that there is an adequate means of access to and from the site and that the proposal therefore complies with the requirements of PPS 3 AMP 2.

**Neighbour Notification Checked**

**Yes**

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

Having weighted up the above policy and material considerations, approval is recommended subject to the following conditions.

#### **Conditions**

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

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

2. Following the occupation of the dwelling hereby approved, the dwelling to be replaced, coloured green on the approved drawing No 01 bearing the date stamped 1<sup>st</sup> April 2020, shall only be used as an agricultural store and not for human habitation.

Reason: To ensure that the proposed development does not result in the creation of an additional dwelling in the countryside.



3. The dwelling hereby permitted shall not be occupied until the existing access indicated on Drawing No. 02 Rev 2 bearing the date stamp 12/11/2021 has been permanently closed and the verge properly reinstated to DfI Roads satisfaction.

Reason: In order to minimize the number of access points on to the public road in the interests of road safety and the convenience of road users.

4. The vehicular access, including visibility splays of 2.4 x 45m in both directions, shall be provided in accordance with Drawing No. 02 Rev 2 bearing the date stamp 12/11/2021 prior to the commencement of any other works or other development hereby permitted.

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

5. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250 mm above the level of the adjoining carriageway before the development hereby permitted is commenced and such splays shall be retained and kept clear thereafter.

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

6. The access gradient shall not exceed 8% (1 in 12.5) over the first 5.0m outside the road boundary. Where the vehicular access crosses footway or verge, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

7. The gradients and levels of the site, and, the finished floor levels of the development hereby permitted shall be as shown on drawing No 02 Rev 2 bearing the date stamp received 12/11/2021, unless otherwise agreed in writing by Council.

Reason: To ensure the development integrates into the surroundings.

8. The existing mature trees and vegetation along the eastern and southern boundaries shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: In the interests of visual amenity.

9. 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 written consent to any variation.

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

10. All proposed planting as indicated on approved Drawing No. 02 Rev 2 date stamped 12/11/2021 shall be carried out in the first available planting season and any trees or shrubs which, within a period of 5 years from the occupation of the building, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity.

### **Informatives**

1. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by Mid Ulster District Council or other statutory authority.
2. The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department Infrastructure for which separate permissions and arrangements are required.
3. It is the responsibility of the developer to ensure that Surface water does not flow from the site onto the public road. The existing roadside drainage is accommodated and no water flows from the public road onto the site. The developer should note that this planning approval does not give consent to discharge water into a DfI Roads NI drainage system.
4. Notwithstanding the terms and conditions of the Mid Ulster District Council's approval set out above, you are required under Article 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Moygashel Depot, Main Street, Moygashel, BT71 7QR. A monetary deposit will be required to cover works on the public road.
5. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:  
kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*);  
damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection;

damage or destroy anything which conceals or protects any such structure; disturb a badger while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

6. If there is evidence of badger on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.
7. The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:
  - a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;
  - b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
  - c) Deliberately to disturb such an animal in such a way as to be likely to -
    - i. affect the local distribution or abundance of the species to which it belongs;
    - ii. Impair its ability to survive, breed or reproduce, or rear or care for its young; or
    - iii. Impair its ability to hibernate or migrate;
  - d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
  - e) To damage or destroy a breeding site or resting place of such an animal.
8. If there is evidence of bat activity / roosts on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.
9. The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

kill, injure or take any wild bird; or take, damage or destroy the nest of any wild bird while that nest is in use or being built; or at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or obstruct or prevent any wild bird from using its nest; or take or destroy an egg of any wild bird; or disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or disturb dependent young of such a bird. Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

It is therefore advised that any tree or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season (e.g. between 1<sup>st</sup> March and 31<sup>st</sup> August).
10. The applicant's attention is drawn to the HED document Guidance on Setting and the Historic Environment, which provides advice on the analysis of the settings of heritage assets in Northern Ireland, and how the potential effects of development proposals may be assessed.

**Signature(s)**

**Date:**



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0507/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed replacement timber engineering workshop and office accommodation	<b>Location:</b> 36 Rossmore Road Dungannon BT71 4BJ
<b>Referral Route: Objection</b>	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Glenfort Timber Engineering 36 Rossmore road Dungannon BT71 4BJ	<b>Agent Name and Address:</b> McKeown & Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b> Meets policy PED3 and 9 of PPS4.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Representations:

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

### Summary of Issues

Removal of hedgerow of objector;  
 Road Safety, pedestrians and dog walkers will be impacted, road not capable of accommodating additional traffic;  
 Pollution;  
 Impacts of noise from lorries;  
 Entrance to No. 39 will become more dangerous.

### Description of proposal

This is a full planning application for a proposed replacement timber engineering workshop and office accommodation at 36 Rossmore Road, Dungannon, BT71 4BJ.

### **Characteristics of site and area**

This application site is an irregular rectangular shaped plot measuring 0.7 hectares. It is located along the Rossmore Road with the southern boundary of the site abutting the road. The eastern boundary of the site abuts an existing private laneway that provides access for dwellings and farmlands to the north. This boundary comprises a concrete wall approximately three meters high for the most. This wall leads to a fenced boundary with pillars either side of the gated access at the south eastern corner of the site. Beyond the laneway to the east are more dwellings with associated outhouses and sheds.

There is a substantial lay-by/gravel area to the east of the access to the site which is used as an informal parking/turning/manoeuvring area for existing vehicles. The northern boundary is defined by an earth bund approx. 4 to 5 m high, beyond which is a relatively newly constructed 2 Storey dwelling. The western boundary has some new tree planting and a post and wire fence beyond which is an agricultural field. The site is relatively flat, but rises very gently to the north, and is currently operated by Glenfort Timber Engineering who specialise in the production of hand built timber trusses and frames. There is a large agricultural style building, a port-a-cabin, storage container on the site with the surrounding yard used to store materials.

The site is located approximately 0.5 kilometres west of Dunagannon. It is designated as green belt in the Dungannon and South Tyrone Area Plan 2010.

The surrounding area is quite rural in character with individual dwellings located along winding roads. St Malachys GAC, Edendork has a training pitch south of the site and on the opposite side of the road.

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

### **Planning Act 2011**

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

### **Relevant Planning Policy**

Regional Development Strategy for Northern Ireland 2035 (RDS)  
 Dungannon and South Tyrone Area Plan 2010  
 Planning Strategy for Rural Northern Ireland  
 PPS 3 - Access, Movement and Parking  
 PPS 4 - Planning and Economic Development  
 PPS21- Sustainable Development in the Countryside

### **Area Plan**

Dungannon and South Tyrone Area Plan 2010- the site is old green belt area, where the policy provisions of SPPS and PPS21 are now relevant.

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.

### Relevant Planning History

M/2014/0392/F- retention of change of use from redundant agricultural building to a timber engineering(joinery) workshop, permission granted 06.10.2015.

M/2014/0401/F- Retention of office and ancillary accommodation at timber engineering (joinery) workshop, permission granted, 06.10.2015

Prior to these permissions there were planning enforcement cases opened on this site in 2006 and 2010. These enforcement cases are now closed as the issues were resolved with the above permissions.

### 3rd party representations

A late 3rd party objections has been received on this application (received by e-mail 22/02/2021) from the residents of No. 39 Rossmore Road. The objection raises concern that the permission could (quote) 'contravene planning by not contacting us at 39 Rossmore Road'. The objection also raised concern that their hedges and trees would be removed for provision of sight splays.

On checking the planning portal there is a record that No. 39 Rossmore Road was sent a neighbour notification letter on 28.05.2020. I am satisfied that No. 39 was properly notified in line with Council's statutory duty. Notwithstanding this fact, the letter of objection has now been acknowledged and the objector is aware of the development. Plus, the late objection will be taken into consideration as part of the processing of this application.

The visibility splays for this proposed development are shown on block plan drawing No. 02 rev1 date received 20/08/2020. I have consulted DfI Roads for comment on the access and they have no objections subject to conditions. DfI Roads confirm that the visibility splays at this site are in place. DfI Roads have not indicated that land on the opposite side of the road is required to provide acceptable visibility and safe access to the application site. Drawing 02 rev1 shows no requirement for hedge or tree removal to No. 39. Should any tree or hedge to No. 39 be removed without the landowners consent then this becomes a 3rd party dispute and is outside the remit of this planning application. The objectors concerns in this regard are not determining to the outcome of this proposal.

A further objection from No. 39 was received by e-mail on 09/03/2021 which raises concern over the following issues;

- this small country road would not be able to sustain the additional traffic and lorry movements from the site;
- heavy goods vehicles would cause pollution, and increase noise levels;
- the entrance to No. 39 is a concealed entrance and with more traffic this would cause more danger to vehicles emerging from this property, plus would put pedestrians and dog walkers at increased risk;
- the proposal is more suited to an industrial area and not this countryside location.

In response to this objection I make the following comments and observations. DfI Roads have not raised any concern over additional traffic on this road. The agent has provided a Transport Assessment Form and DfI Roads have accepted the figures contained within. The business is existing, and while the extension/enlargement of the business may increase vehicle movements, this will not be to an unacceptable degree and DfI Roads have accepted this in terms of road safety. Road walkers currently deal with vehicles travelling to and from this existing business in the countryside, improvements in visibility splays at the entrance of the site will improve motor vehicle visibility when entering and exiting the site which will improve road safety. Pedestrians will have to be careful when walking along this stretch of road as is the case at present. DfI Roads have not raised pedestrian safety as an issue.

I am not convinced that some additional vehicle movements will result in unacceptable levels of pollution and there is no Clean Air policy in place within this area of countryside.



Should the entrance to the property at No. 39 be substandard then there is nothing to stop the property owner making improvements to their access to improve visibility in and out of their property.

In terms of the countryside location for this development, there is scope within PPS4 to increase established businesses in the countryside, subject to certain criteria being met including consideration of impacts on residential amenity through impacts of noise. I will consider this aspect of the objectors concerns in the main consideration of my report below.

I am satisfied that neighbour notification and advertisement of this proposal have been carried out in line with Council's statutory duties.

### **Consideration**

This proposal is for the replacement of an existing timber engineering workshop and office accommodation, to provide an new timber engineering workshop and offices. It is proposed to redevelop all of the site.

The buildings and use of the land as an existing timber engineering workshop have been established under M/2014/0392/F and M/2014/0401/F.

PPS21 Sustainable Development in the Countryside- Policy CTY1 list certain types of development that are considered acceptable in the countryside, including development for economic use in accordance with the policy provisions of PPS4 Planning and Economic Development. The SPPS introduced in September 2015 is a consolidation of some 20 PPS's, and PPS4 is a retained policy until such time as a Plan Strategy for Mid Ulster Council is adopted. The SPPS does not introduce any new policy considerations which would impact on the assessment of this proposal.

Policy PED 2- Economic Development in the Countryside sets out the circumstances where proposals for economic development use/business use are considered to be acceptable in the countryside. As an economic use has been established on this site under the above mentioned planning histories, and the current proposal is to re-develop an established economic development use in the countryside, then I am of the view that policy PED4- Redevelopment of an Established Economic Development Use in the Countryside is applicable.

Policy PED4 of PPS4 allows for the redevelopment of an established economic development use in the countryside where it can be demonstrated that the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is only a proportionate increase in the site area; there would be environmental benefits as a result of the redevelopment; the redevelopment scheme deals comprehensively with the full extent of the existing site or in the case of partial redevelopment addresses the implications for the remainder of the site; and the overall visual impact of replacement buildings is not significantly greater than that of the buildings to be replaced.

Currently on site there is an existing engineering workshop and ancillary stores and offices. It is proposed to replace the existing workshop with a larger shed. While this shed is larger it is my view that it will not result in an operation significantly greater than what is currently experienced at this site and area. In my view the character of this area of countryside will not experience detriment through this redevelopment.

There is a modest site increase proposed to the south, increasing the overall site area by less than 20%, I believe this to be a proportionate increase in site area and will not result in a site in excess of what exists.

While the buildings to be replaced are of a smaller size and scale to the new workshop and office building it is my view that these will not have a visual impact significantly greater than what exists. The office building has the appearance of a 2 story building, with symmetrical roof pitch

and is reflective of proportions found in traditional rural buildings, and will group with the larger shed, reading as one planning unit. Given the winding nature of the public road network, existing roadside vegetation in the area, and proposed landscaping, it is my view that views of buildings on this site are only viewed from very short distances, that the development will not be prominent in the landscape, and over time with maturing vegetation will become less visible in the landscape.

I consulted Environmental Health (EH) for their view on this proposal, given the re-siting and increase in floor area of the engineering workshop and proximity of the same to surrounding residential amenity in this area. EH requested a Noise Impact Assessment which the agent provided. EH has considered this assessment and raises no objections subject to the inclusion of conditions for the control of Noise and operations from the building and wider site area. I find these reasonable to add to any permission so that surrounding residential amenity and rural character can be protected from noise created from this new development. In my view, this redevelopment will result in environmental benefits, as the actual construction of the building where work will take place from within will be designed in accordance with acceptable noise attenuation materials, which the building to be replaced is not. This, along with other planning conditions, should result in improved noise conditions and environmental quality for nearby residents. Additional landscaping to site boundaries will also improve the biodiversity value of the surrounding area.

The redevelopment of the site deals comprehensively with the entire site area and not just part.

In my view policy PED4 is met.

In all cases for new industrial development in the countryside policy PED9: General Criteria for Economic Development is applicable. This policy sets out a number of criteria that has to be met. Environmental Health are content that nearby residential properties will not be detrimentally impacted by noise, nuisance or other disturbance from this proposal, subject to the addition of planning conditions to control noise levels. Additional traffic may be generated from this new proposal but I am not convinced that this will be of a nature or scale sufficient to cause detriment to surrounding residential amenity and Environmental Health do not raise this as an issue in their consultation response. The objectors concerns in relation to this are not determining in this instance. Under M/2014/0392/F a condition was attached to limit hours of operation. In my view this original condition is more appropriate as it will reflect continuity in decision making. I also feel it important to carry through some other conditions which were attached to the previous permission such as retention of the wall and no outside manufacturing to take place anywhere on the site. I do not feel it necessary to attach the noise retention value to the wall as this will be achieved through the construction of the new building and will be covered. However, as the wall will still offer some level of protection from noise, I find it important to retain. The remaining conditions suggested by Environmental Health are reasonable in my view.

No features of natural heritage have been identified and the site is not subject to flooding. Historic Environment Division were consulted as a nearby historic monument was identified within a spatial search. HED state that on the basis of the information provided they are content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements and raise no objection to the proposal.

DfI Roads were consulted on access provision. They stated in their original response that splays that were to be put in place under previous permissions (M/2014/0392/F and M/2014/0401/F) were not in place and that the access was sub-standard. After in-house discussions it was decided to allow the agent/applicant an opportunity to implement acceptable access provision as per the previous permissions. After a few months the agent contacted me to say that the access was now in place. I re-consulted DfI Roads to re-visit the site and to provide new comments in relation to the access. DfI now have no issue with the access. Conditions will be applied to ensure the access remains in place to an acceptable standard and is permanently retained.

There is sufficient space within the site for the satisfactory parking and manoeuvring of vehicles within this existing yard. The site caters for private car use for employee parking and visitors. DfI Roads do not raise any concern in this regard, or other road safety or road capacity issues. Landscaping is proposed which will enhance bio-diversity and assist with further integration. The site is currently secured by existing boundary treatments and fencing. In my view the proposal is in keeping with policy PED9.

I am satisfied that the proposal will integrate into this area of countryside, will not add to a build up of development, or add to any existing ribbon of development as an existing building is being replaced and the existing access point utilised. The policy provisions of PPS21, namely CTY8, 13 and 14 are not offended.

#### **Other considerations**

No land contamination issues have been identified.

Existing septic tank provision will be used and upgraded where necessary. Separate consent for septic tank provision is issued by NIEA under their own environmental legislation and is a separate process to obtaining planning permission. The onus is on the developer to ensure they have all appropriate consents and permissions in place required for their development to go ahead.

The proposal will not have a detrimental impact on the amenity of neighbouring residential properties through overlooking, over shadowing or over dominance of the proposed development.

Geological Survey NI were consulted as the proposal has been identified as being within an area of abandoned coal mines. GSNI have raised no concern however advise the developer that they should satisfy themselves, by seeking appropriate professional advice and carrying out ground surveys and site investigations if necessary, to ensure that the ground conditions are suitable for any particular use or developments. This can be attached as an informative.

NIW do not raise any concern over this development.

#### **Neighbour Notification Checked**

**Yes**

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

That planning permission is granted subject to the following conditions;

#### **Conditions**

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

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

2. The walls and roof panels of the proposed engineering workshop hereby approved, and indicated on drawing No. 02 rev1 date stamp received 20/08/2020 and drawing No. 03 date stamp received 24/04/2020, shall be constructed and permanently retained with no gaps to provide a sound reduction Rw of not less than 27dB as outlined in Doc1: Noise Impact Assessment date stamp received 11/11/2020.

Reason: To safeguard nearby residential amenity and to safeguard the character of this area of countryside.

3. The roller shutter doors of the proposed engineering workshop hereby approved, and indicated on drawing No. 02 rev1 date stamp received 20/08/2020 and drawing No. 03 date stamp received 24/04/2020, shall be constructed and permanently retained with no gaps to provide a sound reduction Rw of at least 25dB as outlined in Doc1: Noise Impact Assessment date stamp received 11/11/2020

Reason: To safeguard nearby residential amenity and to safeguard the character of this area of countryside.

4. All external doors to the proposed workshop shall be kept closed at all times when the workshop is operational, except for the purposes of access and egress only.

Reason: To safeguard nearby residential amenity and to safeguard the character of this area of countryside.

5. There shall be no external plant or equipment.

Reason: To safeguard nearby residential amenity and to safeguard the character of this area of countryside.

6. The operating hours, including deliveries to and from the site, shall be restricted to 08.30 hours to 17.00 hours Monday to Friday only and there shall be no operations or deliveries at any time outside of these hours including Saturdays or Sundays.

Reason: To safeguard nearby residential amenity and to safeguard the character of this area of countryside.

7. The 2.7 metres wall, indicated in yellow on Drawing No 02REV1 date stamped 20/08/2020 shall be retained permanently in situ.

Reason: To protect the amenity of adjoining properties.

8. No external manufacturing shall be carried out within the site outlined in red shown on Drawing No 01 date stamp received 24/04/2020, except from inside of the replacement manufacturing building hereby approved and indicated on drawings No. 02 rev1 date received 20/08/2020 and drawing No. 03 date stamp received 24/04/2020, unless otherwise agreed in writing by Mid Ulster District Council.

Reason: To protect the amenity of adjoining properties.

9. The office building hereby approved, indicated on drawings No. 02 rev1 date stamp received 20/08/2020 and 04 date stamp received 24/04/2020 shall be used as ancillary to the main business hereby approved and for no other purposes, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: to protect the character of this area of countryside and to safeguard the residential amenity of neighbouring properties.

10. All proposed landscaping, indicated on drawing No. 02 rev1 date stamp received 20/08/2020 shall be planted as shown within the first planting season from commencement of development hereby approved, and shall be permanently retained thereafter. Should any newly planted tree, shrub or hedge die within 5 years of being planted, then another new tree, shrub or hedge shall be planted in its place.

Reason: To safeguard and improve biodiversity in this area of countryside and to assist with integration into the landscape.

11. The vehicular access, currently in situ, including visibility splays of 2.4 x 60m to the West and 2.4 x 45m to the East, and Forward Sight Distance of 45m, shall be permanently retained and in accordance with Drawing No 02(rev 1) date received 20/08/2020.

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

12. The access gradient shall not exceed 8% (1 in 12.5) over the first 5.0m outside the road boundary. Where the vehicular access crosses footway or verge, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

13. No operations from any building or land hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 02(Rev 1) dated 20/08/2020 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

#### Informatives

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

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

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

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

It is the responsibility of the developer to ensure that

- Surface water does not flow from the site onto the public road
- The existing roadside drainage is accommodated and no water flows from the public road onto the site
- The developer should note that this planning approval does not give consent to discharge water into a DfI Roads NI drainage system.

Notwithstanding the terms and conditions of the Mid Ulster District Council's approval set out above, you are required under Article 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which

involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Moygashel Depot, Main Street, Moygashel, BT71 7QR. A monetary deposit will be required to cover works on the public road.

5. DETI Geological Survey of NI advise the following

Use by the customer of information provided by the Geological Survey of Northern Ireland is at the customers risk. The Department for the Economy gives no warranty, expressed or otherwise implied as to the quality or accuracy of information supplied by the Survey. The report provides only general indications of ground conditions and must not be relied upon as a source of detailed information about specific areas or as a substitute for site investigation or ground surveys. Users must satisfy themselves, by seeking appropriate professional advice and carrying out ground surveys and site investigations if necessary, that the ground conditions are suitable for any particular use or developments

**Signature(s)**

**Date:**

## ANNEX

<b>Date Valid</b>	24th April 2020
<b>Date First Advertised</b>	26th May 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 35 Rossmore Road Dungannon Tyrone The Owner/Occupier, 38 Rossmore Road Dungannon Tyrone The Owner/Occupier, 39 Rossmore Road Dungannon Tyrone Damian Pat Email Address	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	12th February 2021
<b>ES Requested</b>	No

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 12th April 2021	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0523/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed residential development	<b>Location:</b> Lands between Lindsayville and Ballyneil Road and to the rear of 122-128 Shore Road and to the rear of 1-6 Lovedale Ballyronan
<b>Referral Route:</b> Objections Received	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Seamus Donnelly 9b Longfield Road Desertmartin BT45 5NW	<b>Agent Name and Address:</b> Vision Design 31 Rainey Street Magherafelt BT45 5DA
<b>Executive Summary:</b> This proposal for a residential development within the development limits of Ballyronan complies with all relevant planning policy. 3 no. objections have been received and all material planning matters raised have been fully considered. They do not merit the refusal of the application. Approval is recommended.	
<b>Signature(s):</b>	



**Case Officer Report****Site Location Plan****Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received
Non Statutory	Rivers Agency	Substantive Response Received
Statutory	NIEA	Content
Statutory	Historic Environment Division (HED)	Advice
Non Statutory	Rivers Agency	Substantive Response Received
Statutory	Historic Environment Division (HED)	Content
Statutory	Rivers Agency	
Statutory	Rivers Agency	Advice

**Representations:**

Letters of Support	None Received
Letters of Objection	3
Number of Support Petitions and signatures	No Petitions Received

Number of Petitions of Objection and signatures	No Petitions Received
<p><b>Summary of Issues</b></p> <p>In line with Statutory Neighbour Notification Procedures, 31 neighbouring properties were notified of this application. The application has also been advertised in local press. To date, there have been 3 letters of objection received and the issues raised in these letters are summarised and considered below:</p> <ol style="list-style-type: none"> <li>1.                      Occupants of 8 Ballyneill Road dated 11th June 2020 <ul style="list-style-type: none"> <li>• Loss of green space</li> <li>• Increase in air pollution and the impact this has on human health</li> <li>• Noise from traffic and the impact of this on mental and physical health</li> <li>• Sewage system not adequate</li> <li>• Impact on residential amenity from, loss of privacy, poor air quality</li> <li>• Impact on character of village.</li> </ul> </li> <li>2.                      Occupants of 17 Ballyneill Road dated 15th June 2020 <ul style="list-style-type: none"> <li>• Impact on natural environment</li> <li>• Impact on privacy</li> <li>• Request condition be attached re: retention of boundaries</li> </ul> </li> <li>3.                      Occupants of 8 Ballyneill Road dated 16th December 2020 <ul style="list-style-type: none"> <li>• Noise impact from traffic</li> <li>• Concern regarding waste management</li> <li>• Loss of views</li> <li>• Overdominance</li> <li>• Request that house types are bungalows and that trees/hedges are planted.</li> </ul> </li> </ol> <p>In consideration of the issues raised I would make the following comments: The site is unzoned white land within the settlement of Ballyronan. It is not zoned as an area of open space that should be protected/retained as open space. The nature of the proposal is residential and one that is not associated with unacceptable levels of air pollution. The proposal will generate more traffic movements however Environmental Health have not raised any concerns about unacceptable noise levels associated with the proposal. In relation to noise, they have recommended an informative to be attached to any favourable decision in respect of the hours of construction. NIW have confirmed that the village of Ballyronan does not have waste water treatment capacity. I recommend that a condition be attached to any favourable decision which ensures the provision of a temporary treatment plant. The condition will also require the specification of the plant and any associated odour or noise information. A conceptual site layout has been submitted which gives me no concern regarding loss of privacy. More detail will be submitted under a RM</p>	

or Full application in which window positions etc can be assessed. This site is outside the designated Area of Townscape Character. It is adjacent to a Listed Building and Historic Environment Division have been consulted and have no objections to the proposal. The proposal is residential in nature, is low density and is located in an area of the village that is predominantly residential in nature. As such I have no concerns about the impact of the proposal on the character of the area. This site contains semi mature boundaries comprised of gorse hedgerow and semi mature trees. These boundaries will be conditioned to be retained and augmented where possible. This will ensure the promotion of biodiversity. Concern has been raised about loss of views. No one has a legal entitlement to a view so that is not an issue that can be given any material weight in this assessment. Overdominance is a material planning consideration. The proposed development will be located at the opposite side of the road from number 8 (objector) and according to the concept plan the dwellings fronting onto the road will be two storey with hipped roofs. It is my opinion that given the separation distances involved and the general scale and massing, overdominance will not be an issue. It has been requested by the objector that the dwellings be bungalows, however I do not think it is necessary to condition this as the surrounding area is characterised by a mix of two storey dwellings and bungalows.

Having fully considered all the issues raised by third parties, it is my opinion that the material planning concerns raised do not merit the refusal of this application. Conditions will be attached to any favourable decision to deal with some of the concerns surrounding vegetation and sewage capacity.

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

The application site is a 0.49 hectare L shaped parcel of undeveloped white land located on lands between Lindsayville and the Ballyneill Road, Ballyronan and immediately opposite number 8 Ballyneill Road, Ballyronan. The site is flat and sits at a similar level to the public road. There is sporadic semi mature vegetation along the Northern site boundary and within the site. The roadside boundary is defined by a low level hedgerow and a public footpath which connects into the village centre. To the immediate South West of the site are 2 small telephone exchange buildings and a two storey hipped roof dwelling which is a grade B2 Listed Building. Further to the West is Lovedale Housing Development which is a low density development of orlets/bungalows. The Northern boundary of the site abuts Lindsayville, which is a NIHE development. There is also an existing electricity sub-station and an area of public open space to the North of the site. The Eastern boundary of the site abuts the rear yards of commercial properties, 124 and 126 Shore Road and a public house, 3-7 Ballyneill Road.

This area is characterised primarily with residential developments of varying densities. There are commercial properties located towards the village centre (eg) a convenience store, public houses, an off licence and a petrol filling station and Ballyronan Marina, which is a designated Local Landscape Policy Area is located further to the East of the site. The village centre is designated as an Area of Townscape Character.

### **Description of Proposal**

This is an outline application for a residential development. A design concept plan has been submitted which provides an indicative layout showing 3 detached dwellings and 8 semis, with access to the development coming directly off the Ballyneill Road.



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

#### **Planning History**

I/2003/0350/O - Lands between Lindsayville and Ballyneill Road and to the rear of 122 - 128 Shore Road and to the rear of 1 - 6 Lovedale, Ballyronan. Outline planning for residential development (and associated garages). Approved 17-02-04

I/2007/0127/O - Renewal of outline approval I/2003/0350/O. Approved 22-04-2008

## Planning Assessment of Policy and Other Material Considerations

The relevant policies and guidance under consideration in this assessment are:

- Strategic Planning Policy Statement (SPPS)
- Cookstown Area Plan 2010 (CAP)
- Mid Ulster District Council Local Development 2030 - Draft Plan Strategy
- Planning Policy Statement 3 - Access, Movement and Parking.
- Planning Policy Statement 6 - Archaeology and The Built Heritage
- Planning Policy Statement 7 - Quality Residential Environments.
- Planning Policy Statement 15 - Planning and Flood Risk
- Creating Places
- Parking Standards

### **SPPS Strategic Planning Policy Statement for Northern Ireland**

The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

Paragraph 4.11 of the SPPS states that there are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by planning authorities when proposing policies or managing development. For example, the planning system has a role to play in minimising potential adverse impacts, such as noise or light pollution on sensitive receptors by means of its influence on the location, layout and design of new development.

Paragraph 4.12 of the SPPS states other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing. Adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. However, the above mentioned considerations are not exhaustive and planning authorities will be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas.

I am satisfied that this residential proposal, its conceptual density and layout will not have an adverse impact on neighbouring residential amenity. This will be further considered under any Full or RM application. The residential nature of the proposal will not give rise to any unacceptable emissions or odours.



Consultation with NIW has confirmed that there is WWTW Capacity issues currently in Ballyronan. Provision of a Temporary Treatment Plant will be necessary. The applicant has submitted a Drainage Assessment with this application and following consultation with Rivers Agency, no objection has been raised about drainage or flooding. Again, a condition will be necessary re: a final Drainage Assessment in order to safeguarding against floodrisk. Consultation has been carried out with Environmental Health who have raised no objection in terms of noise or any other nuisance.

The SPPS gives specific provision for Housing in Settlements subject to a number policy provisions. It does not present any change in policy direction with regards to residential development in settlements. As such, existing policy will be applied, primarily PPS 7, Quality Residential Environments.

### **Cookstown Area Plan 2010 (CAP)**

This site is within the settlement of Ballyronan as defined in the CAP. This site is not zoned and as such is not subject to any key site requirements. The CAP does recognise that local demand for housing within the village is likely to be high. The CAP states that comprehensive development within the village will normally be permitted provided the scale, layout and detailed design are compatible with the scale and character of the settlement and that residential developments in excess of 20 units will not normally be permitted. I am satisfied that this conceptual proposal for 11 units is not at conflict with the area plan.

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

### **Planning Policy Statement 2 - Natural Heritage**

NIEA (Natural Environment Division) have been consulted as the application was accompanied by a biodiversity checklist and an ecological assessment. NED has considered the impacts of the proposal on designated sites and other natural heritage interests and on the basis of the information provided, have no objections to the proposal. They have recommended conditions be attached to any favourable decision relating to the retention of hedgerows/compensatory planting and details of any lighting plans. These should ensure the protection of biodiversity and protected species. On the basis of this advice from NED I am satisfied that the proposal is not at conflict with any relevant policies contained within PPS 2.

### **Planning Policy Statement 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 the Ballyneill Road. DFI Roads have been consulted and have

recommended a standard Private Streets Outline condition and a condition providing 2.4m x 45m splays. Given the fact that this is an outline application parking details have not been provided.

### **Planning Policy Statement 7 - Quality Residential Environments.**

PPS 7 is a material planning policy for this type of development in an urban context. All proposals for residential development will be expected to conform to a number of criteria laid out in Policy QD 1 of PPS 7. I will deal with these as they appear in the policy.

#### **The development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas -**

The proposed development is residential in nature and is on un-zoned white land within the village of Ballyronan. Given the low density residential nature of the proposal (11 units) which is located in an area where there are other housing developments of similar densities as well as single dwellings, I am content that it will not impact negatively on the character of the area. The site is relatively flat and gives rise to no issues with levels/topography. The conceptual layout is generally acceptable.

#### **Features of the archaeological and built heritage, and landscape features should be identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development -**

The site is not in an area of archaeological importance/potential. There is however a Listed Building immediately adjacent to the site. HED have been consulted and have no objections to the proposal subject to the inclusion of a condition that ensures the development be in accordance with drawing 05. This will ensure that the detailed design will respect the character of the adjacent listed building in terms of scale, height, massing and use of materials. There are no TPO protected trees within the site. There is existing boundary which will be conditioned to be retained.

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

The proposed development is below the threshold (25 units) for requiring public open space as detailed in PPS 8 Open Space, Sport and Outdoor Recreation. The provision of private open space will be considered in more detail under any future Full or RM application. The concept plan does however indicate that each dwelling would have some degree of private amenity space. I would recommend that a condition be attached to any favourable decision in respect of providing additional planting along site boundaries. This will help soften the impact of the proposal.

#### **Adequate provision shall be made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development -**

The site is within the development limits of Ballyronan and there are existing neighbourhood facilities already available in the locality (eg) shops, public houses etc. The density of the scheme does not merit the provision on stand alone facilities.

**A movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures** - As the site is within a settlement there is an existing movement pattern (eg) foot paths and bus routes. The level of traffic travelling through the settlement would be fairly high and would be travelling at a low speed. DFI Roads have been consulted and have no objections to the proposal.

**Adequate and appropriate provision is made for parking-** Parking Standards would indicate that in-curtilage parking for 2 cars should be provided. This detail will be assessed under any future Full or RM application submitted.

**The design of the development must draw upon the best local traditions of form, materials and detailing** - This is an outline application so only limited detail is provided in respect of form, materials and detailing. As this site is adjacent to a Listed Building HED did require some information in this regard. It is proposed that the dwellings will have a hipped roof design to reflect the roof on the Listed building and they will be similar in form and massing. HED are agreeable to this.

**The design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance** - The site is surrounded by residential properties of varying densities. A conceptual layout has been submitted which would indicate that there should be no overshadowing, loss of light or over dominance issues as the proposed dwellings will be sited far enough away from existing dwellings to negate this. The proposed development will be at the rear of a row of small Bungalows in Lindsayville. It will be necessary to avoid any gable windows in the new dwellings in the Western portion of the site. This will be a matter for consideration under the detailed design stage. The residential nature of the proposal will not give rise to any unacceptable odours, noises or dust, albeit there may be some experienced during construction phase but won't be permanent.

**The development is designed to deter crime and promote personal safety** - I am satisfied that the overall development is considered to be designed to deter crime and promote personal safety. In-curtilage parking may be provided and street lighting exists along the adjacent public roads.

### **Planning Policy Statement 15 - Planning and Flood Risk**

This site is not within any fluvial or coastal flood plain. A drainage assessment (DA) was submitted with the application as the proposal is for more than 10 dwellings and this is the Policy FLD 3 threshold. The DA states that this is a preliminary design and that it is proposed to attenuate more than the 30 year event in the drainage network. Rivers Agency have been consulted with the DA and have recommended that a pre-commencement condition be attached to any favourable decision which requires the submission of a final DA containing a detailed drainage network design. This is in order to safeguard against flood risk to the development and elsewhere. I have no objection to attaching this pre-commencement condition to any favourable decision.



<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation:</b>	
Approve subject to conditions	
<b>Conditions</b>	
<p>1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-</p> <p>i. the expiration of 5 years from the date of this permission; or</p> <p>ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.</p> <p>Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.</p>	
<p>2. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.</p> <p>Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.</p>	
<p>3. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The development shall be in accordance with the requirements of the Councils Creating Places Design Guide and, for the purpose of adopting private streets as public roads, the Council shall determine the width, position and arrangement of the streets associated with the development and the land to be regarded as comprised in those streets.</p> <p>Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Street (Northern Ireland) Order 1980.</p>	
<p>4. The visibility splays of 2.4 metres by 45 metres at the junction of the proposed access road with the Ballyneil Road, shall be provided prior to the commencement of any other works or other development. The centre line of the access road shall be positioned a minimum of 15 metres from the access road to Gaussen Villas</p> <p>Reason: To ensure road safety</p>	
<p>5. Plans at Reserved Matters shall show retention of trees and hedgerow on the site boundaries and compensatory planting with native species for removal of trees and hedgerow within the site.</p>	

Reason: To protect biodiversity within the site, including protected species.

6. At Reserved Matters a Lighting Plan shall be submitted for any proposed external lighting scheme, showing light spill of 1 Lux or less on boundary vegetation.

Reason: To minimise the impact of the proposal on protected species.

7. Proposals for the detailed design and development of the application site shall be in accordance with that detailed on planning drawing 05, date stamped 19.11.2020.

Reason: To ensure that the detailed design respects the character of the listed building in terms of scale, height, massing, the use of appropriate materials and that the detailed design is compliant with Policy BH11 (Development affecting the Setting of a Listed Building) of the Departments Planning Policy Statement 6: Planning, Archaeology and the Built Heritage

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

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

9. Details of the location and specification of a Temporary Treatment Plant, along with a maintenance programme shall be submitted at Reserved Matters Stage.

Reason: To ensure adequate sewage disposal

#### Informatives

1.The development access will impact on the speed ramp on Ballyneil Road. The developer should consult with DfI Roads and get approval in principle to relocate the speed ramp prior to a Reserved Matters Application

2.Please refer to the informatives recommended by NIEA (NED) and Drainage and Water in their response dated 9th July 2020, which is available to view on the Planning Portal.

3.The applicant should take into consideration that this proposal is located in close proximity to a number of existing businesses e.g. The Village Chippy, Jonny Foxs Bar, Mace, The Cove Bar etc. Such activities may have a resulting impact upon the amenity enjoyed by the proposal due to noise, odour etc. The applicant should be advised that nuisance action cannot be used to subsequently address these prevailing conditions and that only future increases or intensification of adverse impacts may be considered in the determination of a nuisance.

Construction work, which is audible at any noise sensitive property outside the site, shall only take place between the hours of 07.00 - 19.00 hours on Monday to Friday, 07.00 - 13.00 hours on Saturday with no such working on Sunday. All construction work should be in accordance with BS 5228:2009.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	30th April 2020
<b>Date First Advertised</b>	26th May 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Gaussen Villas,Money more,Londonderry,BT45 6JE The Owner/Occupier, 1 Lovedale Ballyronan Magherafelt The Owner/Occupier, 1 Quay Court,Money more,Londonderry,BT45 6JE The Owner/Occupier, 10 Lindsay Ville Ballyronan Magherafelt The Owner/Occupier, 12 Ballyneill Road,Money more,Londonderry,BT45 6JE The Owner/Occupier, 120 Shore Road,Money more,Londonderry,BT45 6JE The Owner/Occupier, 124 Shore Road,Money more,Londonderry,BT45 6JE The Owner/Occupier, 126 Shore Road,Money more,Londonderry,BT45 6JE The Owner/Occupier, 14 Ballyneill Road,Money more,Londonderry,BT45 6JE The Owner/Occupier, 16 Ballyneill Road,Money more,Londonderry,BT45 6JE The Owner/Occupier, 17 Ballyneill Road Ballyronan Money more Gerard & Angela Murray 17 Ballyneill Road, Money more, Ballyronan, BT45 6JE The Owner/Occupier, 18 Ballyneill Road,Money more,Londonderry,BT45 6JE The Owner/Occupier, 2 Lindsay Ville Ballyronan Magherafelt The Owner/Occupier, 2 Lovedale Ballyronan Magherafelt The Owner/Occupier, 2 Quay Court,Money more,Londonderry,BT45 6JE The Owner/Occupier, 20 Ballyneill Road,Money more,Londonderry,BT45 6JE The Owner/Occupier, 22 Ballyneill Road,Money more,Londonderry,BT45 6JE The Owner/Occupier, 24 Ballyneill Road,Money more,Londonderry,BT45 6JE The Owner/Occupier, 3 Ballyneill Road Money more Londonderry	

The Owner/Occupier,  
 3 Lovedale Magherafelt Londonderry  
 The Owner/Occupier,  
 3 Quay Court, Moneymore, Londonderry, BT45 6JE  
 The Owner/Occupier,  
 4 Lindsay Ville Magherafelt Londonderry  
 The Owner/Occupier,  
 4 Lovedale Magherafelt Londonderry  
 The Owner/Occupier,  
 4 Quay Court, Moneymore, Londonderry, BT45 6JE  
 The Owner/Occupier,  
 5 Ballyneill Road, Moneymore, Londonderry, BT45 6JE  
 The Owner/Occupier,  
 5 Lovedale Ballyronan Magherafelt  
 The Owner/Occupier,  
 6 Lindsay Ville Magherafelt Londonderry  
 The Owner/Occupier,  
 7 Ballyneill Road, Moneymore, Londonderry, BT45 6JE  
 K O'Neill  
 8 Ballyneill Road, Moneymore, Ballyronan, BT45 6JE  
 The Owner/Occupier,  
 8 Ballyneill Road, Moneymore, Londonderry, BT45 6JE  
 The Owner/Occupier,  
 8 Lindsay Ville Magherafelt Londonderry  
 K O'Neill

<b>Date of Last Neighbour Notification</b>	
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<b>Date of EIA Determination</b>	
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<b>ES Requested</b>	No
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### Planning History

Ref ID: LA09/2020/0523/O

Proposal: Proposed residential development

Address: Lands between Lindsayville and Ballyneil Road, and to the rear of 122-128 Shore Road and to the rear of 1-6 Lovedale, Ballyronan,

Decision:

Decision Date:

Ref ID: I/2003/0350/O

Proposal: Outline planning for residential development (and associated garages) (Change of proposal) (Re-advertisement)

Address: Lands between Lindsayville and Ballyneill Road and to the rear of 122 - 128 Shore Road and to the rear of 1 - 6 Lovedale, Ballyronan.

Decision:

Decision Date: 17.02.2004

Ref ID: I/1978/0552

Proposal: HOUSING DEVELOPMENT

Address: BALLYRONAN

Decision:

Decision Date:

Ref ID: I/2007/0127/O

Proposal: Renewal of existing Outline Planning approval for residential development (and associated garages) for 12 no. units.

Address: Lands between Lindsayville and Ballyneill Road and to the rear of 122-128 Shore Road and to the rear of 1-6 Lovedale, Ballyronan

Decision:

Decision Date: 22.04.2008

Ref ID: I/2011/0280/LBC

Proposal: Proposed replacement garage

Address: 17, Ballyneill Road, Ballyronan, Magherafelt,

Decision:

Decision Date: 24.06.2011

Ref ID: I/2011/0109/F

Proposal: Proposed replacement garage

Address: 17, Ballyneill Road, Ballyronan, Magherafelt, BT45 6JE,

Decision:

Decision Date: 24.06.2011

Ref ID: I/2003/1145/F

Proposal: Decant site for 1 No Mobile & furniture Store

Address: Linsayville, Ballyronan

Decision:

Decision Date: 11.02.2004

Ref ID: I/2009/0584/F

Proposal: Retention of function room and associated toilets (Change of use from living accomodation)

Address: The Cove Bar, 126 Shore Road, Ballyronan

Decision:

Decision Date: 18.01.2010

Ref ID: I/2004/1211/F

Proposal: Proposed change of use of existing living room and dining area to new off licence and new shop front adjacent to the Cove Bar (Amended Proposal)  
 Address: The Cove Bar, 126 Shore Road, Ballyronan, Magherafelt  
 Decision:  
 Decision Date: 08.03.2005

Ref ID: I/1994/0315  
 Proposal: Addition of a porch/canopy extension  
 Address: THE COVE BAR SHORE ROAD BALLYRONAN MAGHERAFELT  
 Decision:  
 Decision Date:

Ref ID: I/1998/0043  
 Proposal: Extension to Public House  
 Address: THE COVE BAR 126 SHORE ROAD BALLYRONAN  
 Decision:  
 Decision Date:

Ref ID: I/1998/4007  
 Proposal: Refurbishment of interior  
 Address: COVE BAR BALLYRONAN  
 Decision:  
 Decision Date:

#### **Summary of Consultee Responses**

DFI - No objections. Conditions recommended  
 NIW - No WWT capacity  
 HED - No objections. Condition recommended  
 NIEA - No objections. Conditions recommended.  
 Rivers - No objections. Conditions recommended.  
 EH - No objections

#### **Drawing Numbers and Title**

01 - Site location  
 02 - Site survey  
 03 - Site Analysis  
 04 - Site Concept  
 05 - Photomontages and sections

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

Date of Notification to Department:  
 Response of Department:







**Development Management Officer Report**  
**Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0714/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and domestic garage based on policy CTY8	<b>Location:</b> Approx 30m South of 5 Tamlaghtduff Park Bellaghy
<b>Referral Route:</b>  Objections received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Ms Sheila Fullerton 31 Birchwood Bellaghy	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

Letters of Support	None Received
Letters of Objection	4
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### Summary of Issues

Objections have been received which have raised concerns that the application is contrary to policy in that the site does not represent a gap site. Concerns were also raised regarding the red line of the site, specifically the need for third party land to achieve visibility splays. These concerns will be addressed within the body of this report.

### Characteristics of the Site and Area

The site is located within the open countryside, 0.3km North West of the settlement limits of Bellaghy as defined by the Magherafelt Area Plan 2015. The red line of a site is

currently a small piece of agricultural land, with a small watercourse running along the south eastern boundary of the site along with a strong mature tree line at the south eastern boundary. Along the roadside there is a number of mature trees which define the boundary. The north western and north eastern boundaries are undefined and the site runs into the existing garden and drive way leading to No.5 Tamlaghtduff Park, Bellaghy. The surrounding area, although located within the open countryside is a well built up area with a number of dwellings located to the north and north west of the site. Adjacent to the site on the south eastern boundary is a parish hall, with a grave yard, Parochial House and Roman Catholic Church located beyond this.

### **Description of Proposal**

This is an outline planning application for a proposed dwelling and domestic garage based on Policy CTY8 approximately 30m South of 5 Tamlaghtduff Park, Bellaghy.

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

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

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS 3 - Access, Movement and Parking;

Revised PPS15: Planning and Flood Risk

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.

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'.

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.



With regards to the continuous and built up frontage, I note that there is a line of development to the north/north east of the site with No.05 adjacent to the site and the development along the Tamlaghtduff Road continuing including a barn and No 7 and 9 Tamlaghtduff Park located along the roadside. To the east/southeast of the site, there is a community hall adjacent to the site. The objector raised the point that as No.5 and the barn beside it are set back from the road, they should be classed as development to the rear and cannot be considered to be part of the continuous built up frontage at this area. However, the justification and amplification of CTY 8 states, "A 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked." I am content that this is the case as all the buildings share a common frontage and are visually linked.

I am content that the site is of an appropriate size in which it could accommodate a single dwelling. The agent provided a conceptual drawing showing how a dwelling could be sited at this location. In terms of the existing development pattern along Tamlaghtduff Park, I do not feel the proposed site represents an important visual break. The parish hall located adjacent to the site is separated by a mature tree and hedgerow, and although the hall has a larger frontage of approximately 60m, the dwelling at No.5 and the buildings that continue along Tamlaghtduff Park have smaller frontages, similar in appearance to the proposed site, which is approximately 20m.

From such, I am content on balance that the site represents a small gap site which could only accommodate one dwelling, within an otherwise substantial and continuously built up frontage.



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. The existing hedgerow on the eastern/ south eastern boundary should be retained to ensure the dwelling integrates into the landscape.

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 wherein it will still be able to respect the pattern of development in the area.

### **PSP 3: Access, Movement and Parking**

Objections were raised regarding the visibility splays required with the owner of No.5 stating the visibility splays proposed are not achievable at this site. A consultation was issued to DfI Roads with reference to the application and to the objections raised. DfI Roads have responded to state that the dwelling at No.5 Tamlaghtduff Park had a condition attached relating to visibility splays for 2.4 x 45m being provided, with hedges to be planted behind this. DfI Roads have stated the recently planted hedge at the front of No.5 now obstructs these splays, so the hedge is to be set back. Based on this information provided, the Enforcement Section of the Planning Department have been informed of the alleged breach of planning condition here and will investigate



appropriately. Once the hedge is set back and the visibility splays re-instated, a visibility splay of 2.4m x 45m is achievable for this proposal LA09/2020/0714/O. DfI Roads offer no objection subject to a condition requesting access to be shown as part of reserved matters stage showing the access to be constructed in accordance with the attached RS 1 form.

### **Revised PPS15: Planning and Flood Risk**

A consultation was issued to DfI Rivers as the site is located adjacent to a watercourse. DfI Rivers confirmed the site was not within the 1 in 100 year fluvial flood plain but that an undesignated watercourse flows adjacent to the south eastern boundary of the site and as such, a minimum 5m maintenance strip is required along this boundary.

### **Other Material Considerations**

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

### **Neighbour Notification Checked**

**Yes/No**

### **Summary of Recommendation:**

Approval, subject to conditions

### **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:-

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

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

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

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

3. The proposed dwelling shall exhibit the traditional elements of rural design particularly in form, proportion and finishes, as set out in the Department of

Environment's Sustainable Design guide for the Northern Ireland countryside, 'Building on Tradition'.

Reason: To ensure the dwelling is in keeping with the character of the rural area.

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

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

5. 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.

6. A 5m maintenance strip should be shown on a scale plan as part of the reserved matters application and shall be kept clear and at a level surface, with no development including tree planting or future unapproved development permitted within the 5m maintenance strip.

Reason: To ensure the watercourse can be accessed and maintained in the future to prevent flooding.

#### Informatives

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

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

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

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	23rd June 2020
<b>Date First Advertised</b>	7th July 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) Gerard McPeake . The Owner/Occupier, 11 Tamlaghtduff Park Bellaghy Londonderry Gerard McPeake 31a Main Street,Limavady,BT49 0EP The Owner/Occupier, 5 Tamlaghtduff Park Bellaghy Londonderry The Owner/Occupier, 7 Tamlaghtduff Park,Bellaghy,Londonderry,BT45 8JR The Owner/Occupier, 8 Tamlaghtduff Park Bellaghy Londonderry The Owner/Occupier, 9 Tamlaghtduff Park Bellaghy Londonderry Gerard McPeake Gerard McPeake Architectural,31a Main Street,Limavady,BT49 0EP Gerard McPeake Gerard McPeake Architectural,31a Main Street,Limavady,BT49 0EP The Owner/Occupier, St Marys Church Hall,1 Tamlaghtduff Park,Bellaghy,Londonderry,BT45 8JR	
<b>Date of Last Neighbour Notification</b>	16th July 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/0714/O Proposal: Proposed dwelling and domestic garage based on policy CTY8 Address: Approx 30m South of 5 Tamlaghtduff Park, Bellaghy, Decision: Decision Date:  Ref ID: H/1999/0557 Proposal: DWELLING & GARAGE Address: ADJACENT TO 7 TAMLAGHTDUFF PARK BELLAGHY Decision:	



Decision Date:

Ref ID: H/1999/0369

Proposal: SITE OF DWELLING

Address: ADJ. TO 7 TAMLAGHTDUFF PARK BELLAGHY

Decision:

Decision Date:

Ref ID: H/1992/6046

Proposal: SITE OF BUNGALOW ADJACENT TO 7 TAMLAGHTDUFF PARK  
BELLAGHY

Address: ADJACENT TO 7 TAMLAGHTDUFF PARK BELLAGHY

Decision:

Decision Date:

Ref ID: H/1979/0344

Proposal: CEMETERY

Address: TAMLAGHTDUFF ROAD, BELLAGHY

Decision:

Decision Date:

Ref ID: H/1982/0247

Proposal: PAROCHIAL HALL

Address: TAMLAGHTDUFF PARK, BELLAGY

Decision:

Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

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

Date of Notification to Department:

Response of Department:



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0727/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of hardcored area to store round bales and agricultural machinery	<b>Location:</b> 70M West of 39 Cullenramer Road Greystone Dungannon
<b>Referral Route: Recommendation to refuse with objections</b>	
<b>Recommendation:</b>	Refuse
<b>Applicant Name and Address:</b> Mr Sean McCaul 262 Ballygawley Road Dungannon BT70 1TG	<b>Agent Name and Address:</b> David McKinley 16 Tarlum Road OMAGH BT78 5QQ
<b>Executive Summary:</b> Contrary to CTY 12 of PPS21 in that; -it has not been demonstrated that the existing agricultural holding is currently active and established; -it is not been demonstrated that it is necessary for the efficient use of the agricultural holding; -it would result in a detrimental impact on the amenity of residential dwellings outside the holding or enterprise by reason of noise, nuisance and general disturbance.  Contrary to policy AMP2 of PPS3 Access, Movement and Parking- insufficient visibility splays onto the public road therefore causing road safety issues	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Representations:

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

### Summary of Objection Issues

Detrimental impacts to private amenity, road safety and ecology. These will be considered in more detail later in my report.

### Description of proposal

This is a full planning application for the retention of hard cored area to store round bales and agricultural machinery.

### Characteristics of Site and Area

This site is located approx. 6.5km SW of Dungannon and is accessed from Cullenramer Road, between dwellings No. 41 to the south and No. 39 to the east, at a sharp bend in the road. The site is set back approx. 30m from roadside and is accessed via a newly formed access between 2 existing block walls approx. 1.5m high. Adjacent and north of the site is a cluster of agricultural barns and associated farm yard. A hedgerow defines the southern and northern boundaries, the eastern boundary is shared with the adjacent farm yard, and the western boundary is not clearly defined.

At the time of my site visit the newly hard cored stone yard had some round bales stored along the western portion of the site. There was also a tractor and low loader trailer parked at the site.

No. 41 is a two storey dwelling that has outside decking extending to a shared boundary with this site and has a conservatory facing the site. A 2m high wooden fence is set behind a 1/2m wide verge at roadside, which impedes visibility when exiting the site to the South West.

The area is defined by single dwellings, farm holdings and agricultural land.

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

### **Planning Act 2011**

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

### **Area Plan**

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

Dungannon and South Tyrone Area Plan 2010: this site is located in the countryside where the SPPS and PPS21 apply.

### **Key Planning Policy**

SPPS Strategic Planning Policy Statement  
PPS21 Sustainable Development in the Countryside  
PPS3 Access Movement and Parking

### **3rd Party Objections**

The adjacent neighbour, No. 41 Cullenramer Road, has objected to this proposal and raise the following concerns which have been summarised;

-Noise and disturbance; at the minute this is a quiet countryside area. Amenity of this dwelling has been detrimentally impacted from the introduction of this use, including noise from heavy machinery and vehicles.

- Fumes/Smells; fumes from heavy vehicles, cant open windows of dwelling.

-Overlooking/loss of privacy; Cannot enjoy sunroom, loss of privacy. Users of the site can look into house from site. Found it difficult to work from home during lockdown due to activity on site. Caused loss of sleep.

-Loss of light/Overshadowing; have to keep bedroom windows, curtains and blinds closed as men driving heavy plant can see into bedrooms. No natural light entering home due to blinds and curtains always being closed.

-Highway safety/danger to road users; the site entrance is at a dangerous corner on a road. Heavy plant travelling at high speed is either obscured by the bend in the road or an outbuilding. Narrow road.

-Adequacy of parking/loading/turning- visual amenity/road access. Vehicles associated with the site are sometimes parked on the roadside which has a negative impact on the objector exiting/entering their own property. Vehicles parked along the road obstruct existing visibility splays. Other than the main road, site users cannot load/unload their plant, cannot turn and cannot park safely.

-Traffic generation/danger to road users; the access to the site does not respect other road users such as walkers/joggers/cyclists, and this will increase road traffic collisions.

-Impact on road itself; because of the amount of heavy plant, there is an increase of dirt, potholes and wear and tear of the public road. Reported to Road Service, still numerous potholes that have never been fixed.

-Impact on nature; the area was once rich in wildlife such as hare, fox, newt, toad, buzzard which have now disappeared from the introduction of this use on this site.

-detrimental impacts to home and garden, increased maintenance/cleaning and loss of amenity due to incessant noise, fumes, debris and dust.

-not only impacts to objector, but also to wider rural area.

These objections will be considered later in my report.

### **Relevant site history**

LA09/2019/1110/F- Retention of temporary waste storage yard, to recycle and remove waste from timber fencing, plastic drainage pipes and inert waste and disposed off through a licensed contractor, storage yard is associated to the duration of the waste from "Gas to the west", permission was refused by Mid Ulster Council on 09.03.2020, this decision was never appealed by the applicant.

Enforcement action is ongoing on this site, with action suspended pending the outcome of this application.

## Consideration

I would like to remind members that an unauthorised use appeared on this site last year without the benefit of planning permission. A temporary waste management facility appeared, along with associated machinery, to store and transfer waste created by the 'Gas to the West' project. The site was an agricultural field before it was hard cored and the unauthorised use appeared. This unauthorised use was reported to our Enforcement Team and is still currently under investigation. In an attempt to rectify the previous use on the site the applicant submitted a planning application LA09/2019/1110/F which was subsequently presented to Planning Committee Members and refused. This decision was never appealed and the unauthorised use has since been removed from the site, however the hard cored yard still remains in place. Round bales have also been introduced onto the site along the western boundary.

It seems that the retention of this stone yard for agricultural use is a reaction by the applicant in an attempt to seek a satisfactory use on the site, rather than one born out of a genuine agricultural need. This will be discussed in more detail later in my assessment.

I think it is also important to address the proposed works to see if they involve development, as it involves the laying of stones on agricultural land. Under section 23 (1) of the 2011 Act, subject to subsections (2) to (6), development means:

-the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

In my view operational development has taken place on this land which has resulted in the physical alteration to the land, which has some degree of permanence to the land itself.

The proposal does not meet agricultural Permitted Development as contained within The Planning (General Permitted Development) Order (Northern Ireland) 2015 (GPD0) as the proposed area/yard is within 75 meters of a dwelling not associated with the farm, and the access to the site is not safe.

Therefore, as the proposal constitutes development I will make an assessment based on planning policy. The Strategic Planning Policy Statement for Northern Ireland sets out the Departments Regional Planning Policies and provides guidance for Councils to take into account in their Local Development Frameworks. Until the Council has adopted its own LDP, current regional policy as set out in the suite of Published Planning Policy Statement provides the planning policies for consideration unless the SPPS provides a different policy direction or offers clarification, then the policy in the SPPS is given determining weight. I do not consider the SPPS has changed any policies in relation to the assessment of agricultural development in the Countryside.

Policy CTY 1 of PPS21 allows a number of types of development in the countryside including policy CTY12 Agricultural and Forestry Development states that planning permission will be granted for development on an active and established agricultural or forestry holding where certain criteria are met.

Therefore before assessing the proposal against any of the 5 criteria it is important to establish if the holding is active and established. For the purposes of this policy the

determining criteria for an active and established business is that set out under Policy CTY 10.

To demonstrate that the farm business is currently active and has been established for at least 6 years the agent provided a supporting e-mail and a number of invoices for works carried out over the years to keep the land in good agricultural quality.

The agent states that the land in question belonged to an aunt that has recently passed away and the land is being transferred to the applicant. The aunt seemed to keep the land in agricultural quality, but it is not clear if the holding was a going concern. While the invoices show that hedge clipping and grass cutting took place this may be enough to show that the land was satisfactorily maintained within good agricultural quality, but there is no evidence to show that it was farmed for a period of 6 years up to the date of the application as a going concern. There is no evidence of business transactions, there is no Agricultural Business ID number, the applicant did not claim single farm payment, and there does not seem to be any income derived from the farm land in question. In my view, it has not been demonstrated that this farm business has been established for a period of 6 or more years.

Part a of CTY12 requires the applicant to demonstrate that the development is necessary for the efficient use of the agricultural holding. In the most recent e-mail the agent states that this hardstanding areas is to store the bales for a time to allow resale and that the applicants are keen to farm with a small amount of pedigree sheep which will be housed in the existing farm buildings. To me, round bales can be stored anywhere on the farm. The agent states that sheep will be housed in the adjacent farm buildings however the site location plan does not seem to include these buildings within blue land. While it is proposed that the applicant will store sheep within these adjacent farm buildings, it is not clear why this area of hardstand is essential for this operation. I also have to raise the previous planning history. The hard core was originally laid down for an unauthorised waste storage site (LA09/2019/1110/F), whose operations and use has now been removed from the site. It seems that the retention of this hard cored are is borne out of a convenience so that it does not have to be removed from the site, rather than out of a necessity for the efficient use of the agricultural holding. I am of the view that it has not been demonstrated that this hard cored area is essential for the efficient use of the agricultural holding.

I am of the view that the location of the yard will not have a detrimental impact on the character of this area of countryside, and that it is located to the rear of an existing grouping of agricultural buildings and is low in the landscape. The proposal does not offend parts b and c of CTY12.

NIEA do not raise any concerns on this proposal. Under LA09/2019/1110/F SES and NIEA did not raise any natural heritage concerns with this proposal. The fill is inert material, consisting of soil and stones which will not cause pollution to the area. The proposal will not have any detrimental impact on known built heritage in the area. Part d is not offended.

Part e requires the development to not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution. An objection has been received by the adjacent

neighbour stating that they will suffer detriment to their residential amenity should this permission be allowed. As the development is currently in situ they state that they are currently experiencing unacceptable detriment to their residential amenity through noise, overlooking and fumes. While this use in my view does not have as big an impact on residential amenity as the previous proposal LA09/2019/1110/F it is still very close to an existing sun room and area of outside decking. Plus, there has been no proposed mitigation proposed which would limit the impact of this proximity on the residential amenity of this property. I consulted Environmental Health and they also raise concern over this proposal stating that it is of the view that there is the potential for adverse environmental health impact on residential amenity and given the proximity of the residential property and amenity space complaints are highly likely. I am of the view that this relationship with the adjacent neighbour is unacceptable, that this land kept as an agricultural field is important to safeguard amenity.

As the proposal does not include a building the remainder of this policy is not applicable.

In my view the proposal is contrary to policy CTY 12 in that it has not been demonstrated that the agricultural business has been established for a period of 6 or more years and that parts (a) and (e) have not been met.

#### PPS3 Access, Movement and Parking

I consulted DfI Roads for comment on the proposed access. DfI Roads state that the entrance visibility splays and forward sight distance are substandard and ask if there is a reasonable prospect of the applicant acquiring control of 3rd party lands necessary to provide a safe means of access. DfI Roads not indicated visibility splay requirements of 2.4m by 75m and a FSD requirement of 75m. When on my site visit some works had taken place at the access, but it is clear that splays to the SW are not in place and 3rd party land will be required to implement satisfactory splays. Land on the opposite side of the road may also be required to implement a satisfactory splay and FSD. The P1 form certificate C has been completed, but only No. 39 was served notice. No. 41 was not served notice and it is clear that part of their land will be required for visibility splays as part of an existing fence blocks visibility to the SW. The P1 form will have to be rectified should the application progress any further. From reading the objection letter of No. 41 it is highly unlikely that permission will be granted for any splay requirement along the roadside frontage boundary of this property. In my view the proposal does not meet policy AMP2 of PPS3 in that a safe and satisfactory access to the public road has not been demonstrated and should be refused.

#### Other Considerations

There is no land contamination issues at present on this site and no concern has been raised by any consultees in this regard.

Objections have been considered, and in my view these are determining where they relate to road safety and residential amenity impacts.

The site is not located within a flood plain and is unlikely to cause flooding elsewhere.

The objector does raise concern about impacts on animals/species in the area. NIEA and SES do not raise any Natural Heritage objections or concerns. In my view this proposal will not have a detrimental impact on protected conservation areas or species.



Additional time was afforded to the agent to provide further information to assist in the processing of this application. This was requested in February with the information to be provided within 2 weeks. To date (23/03/2021) no further information has been received.

**Neighbour Notification Checked**      **Yes**

**Summary of Recommendation:**

That the proposal is refused planning permission for the following reasons;

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

- it has not been demonstrated that the existing agricultural holding is currently active and established;
- it is not been demonstrated that it is necessary for the efficient use of the agricultural holding;
- it would result in a detrimental impact on the amenity of residential dwellings outside the holding or enterprise by reason of noise, nuisance and general disturbance.

2. The proposed development is contrary to policy AMP2 of PPS3 Access, Movement and Parking in that it would, if permitted, prejudice the safety and convenience of road users since it would not be possible within the application site to provide adequate sight lines where the proposed access joins Cullenramer Road.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	24th June 2020
<b>Date First Advertised</b>	7th July 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 39 Cullenramer Road Dungannon Tyrone The Owner/Occupier, 41 Cullenramer Road,Dungannon,Tyrone,BT70 1SP Kate & Seamus McCaul Email Address	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No, this proposal is not a schedule 2 development



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

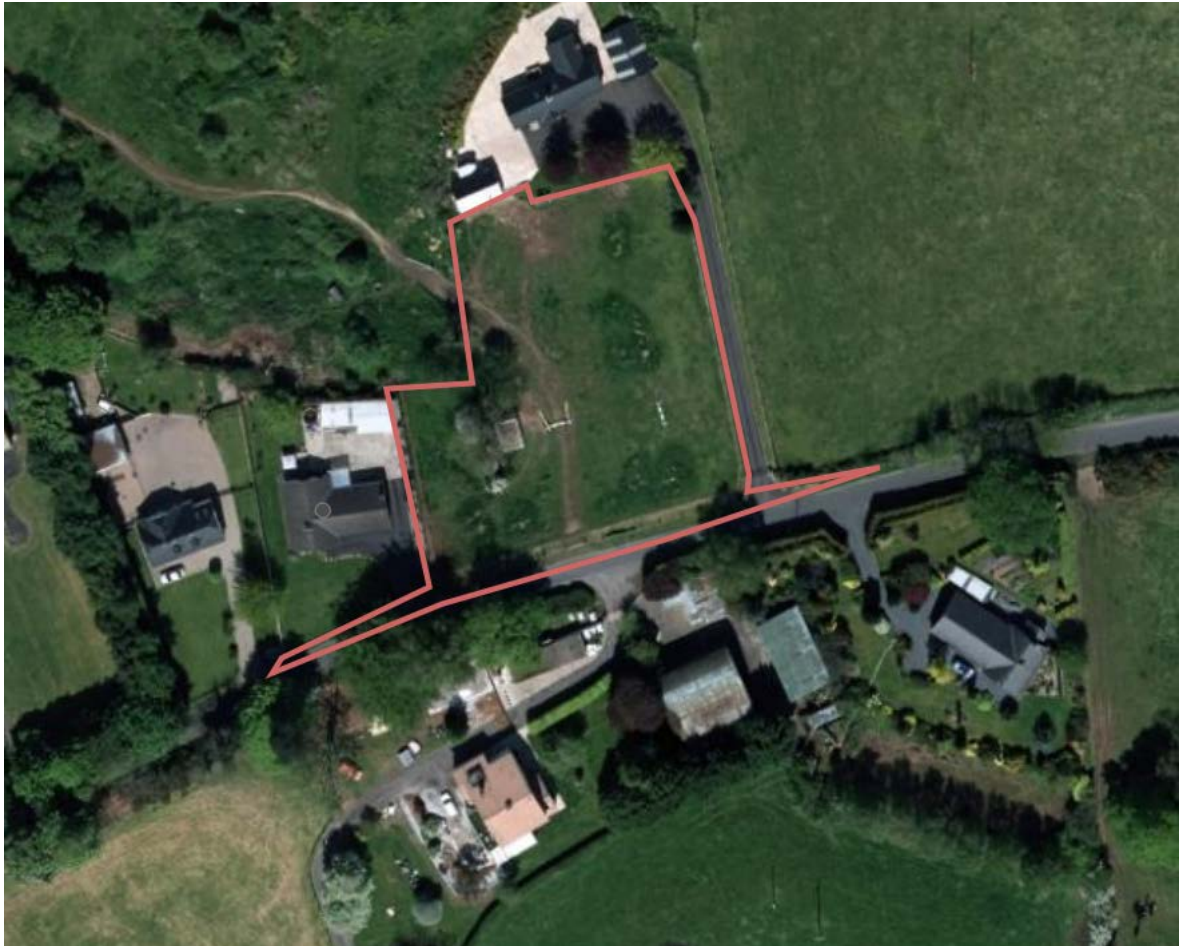
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 12/04/2021	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0870/O	<b>Target Date:</b>
<b>Proposal:</b> Infill dwelling and garage	<b>Location:</b> Approx 20m East of 14 Killyneill Road Dungannon
<b>Referral Route:</b> 1. The proposal is contrary to Plan Policy HOUS 1 Housing Zonings in the Dungannon and South Tyrone Area Plan 2010 in that the application would prejudice the comprehensive development of phase 2 housing zoning DH 32.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Kevin Rafferty 46 Termon Road Carrickmore	<b>Agent Name and Address:</b> C Mc Ilvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
<b>Executive Summary:</b> The application site is within the settlement limit of Dungannon as defined in the Dungannon and South Tyrone Area Plan 2010 and within the Phase 2 Housing Zoning DH32. As the site is within Phase 2 housing land planning permission is only granted for a single rural dwelling that does not prejudice the development of the zoning and rural policy applies i.e. PPS 21. The proposal is for an infill dwelling and I consider the buildings at No. 16 do not have a frontage to the road so the proposal does not meet CTY 8. The proposal does not meet any other policies within PPS 21. The application would also prejudice the development of phase 2 housing zoning DH32.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	NI Water - Single Units West - Planning Consultations	Content
Statutory	Rivers Agency	Advice

### Representations:

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

**Characteristics of the Site and Area**

The site is within and on the edge of the settlement limit of Dungannon as defined in the Dungannon and South Tyrone Area Plan 2010. To the west of the site is urban in character and characterised as predominantly residential in character. The area is built-up with cul-dec-sacs of mainly semi-detached dwellings and further west towards the site there are more developments of detached dwellings. The remaining area to the north, south and west is more rural in character with agricultural fields and single rural dwellings.

The immediate area is along Killyneill Road and just off the junction with the Killyman Road between Dungannon Town Centre and the settlement of Killyman. Along the same side of the road as the application site are 3 other dwellings with a roadside frontage at No. 8, No. 12 and No. 14. To the east of the site is a dwelling at No. 16 which is set back from the road and accessed via a lane off Killyneill Road. Across the road from the site are 2 dwellings on large plots.

The application site is a portion of a larger agricultural field to the north of No. 12, 14 and 16. The topography of the site slopes downwards slightly from east to west. The site has been divided up into several horse paddocks by open-sided fencing and there is a small shed in the north west corner of the site. Along the roadside boundary there is a post and wire fence with an agricultural gate as a means of access to the field and beyond. The field is set back from the road by a grass verge. Along the west boundary and northern boundary with No. 16 is a timber frame fence about 1m in height. Along the boundary with No. 14 there is a 2m high wooden fence and a row of established trees runs through a portion of the site about 14m east of No.14.

**Description of Proposal**

This is an outline application for an infill dwelling and garage at approximately 20m east of No. 14 Killyneill Road, Dungannon.

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

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

**Representations**

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

**Planning History**

No recent planning histories at the application site.

**Mid Ulster Development Plan 2030 – Draft Plan Strategy**

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

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

**Settlement Limit in Dungannon and South Tyrone Area Plan 2010**

The application site lies within and on the boundary of Dungannon settlement limit but the application will not alter the boundary of the limit of development within Dungannon as shown in figure 2 below. The site is within Phase 2 housing designation DH 32 Land East of the Cairn.

Policy HOUS1 zones 257 hectares of land for housing. 148 hectares are zoned as phase 2 lands which has not yet been released for housing development. Any applications on this land must be considered against the rural planning policy and must not prejudice the comprehensive development of the land for housing.

The proposal is within designation DH 32 where there are seven key site requirements, the applicant needs to demonstrate that the proposed dwelling will not compromise any future development within this zoning and meet these key site requirements. This is an outline application so the landscaping of this proposal will be considered at the Reserved Matters Stage. A supporting statement was submitted by the agent, which states the land at DH 32 has not been identified for release under the Housing Review. A siting condition will place the proposed dwelling in the western portion of the site. The key site requirements are that a vehicle access should be from the Killyneill Road and link to another access from the Bush Road further north. As shown in figure 2 below DH32 is covers numerous fields and the key site requirement is that any vehicle access should also link to the Phase 1 housing zoning DH 07. I consider as this is a large housing zoning and if it was ever developed there would be a large increase in the volume of traffic coming and going from this section of the Killyneill Road. I consider if the proposed dwelling was sited in the location proposed as shown in figures 1 and 3 below it would compromise achieving the access and visibility splays of a housing development on this zoning.

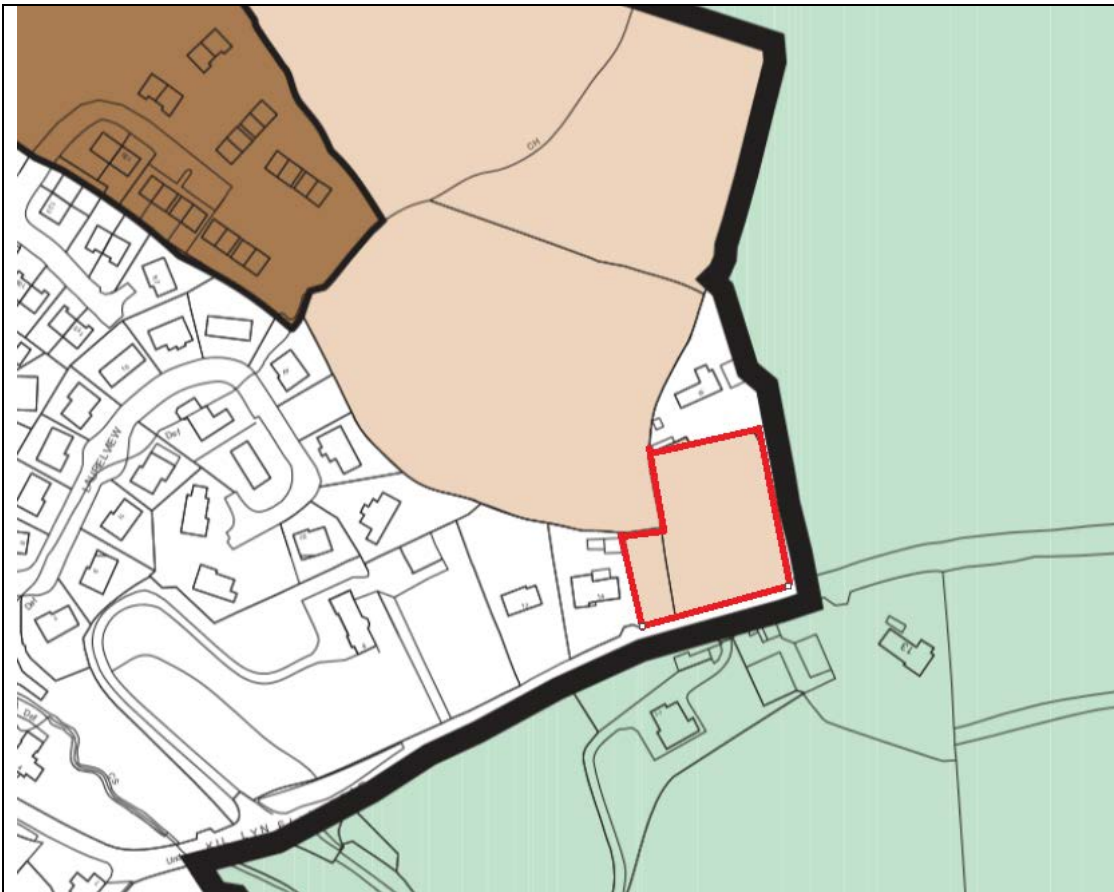


Figure 1 – The application site outlined in red within Phase 2 Housing Zoning DH 32 in the Dungannon and South Tyrone Area Plan 2010

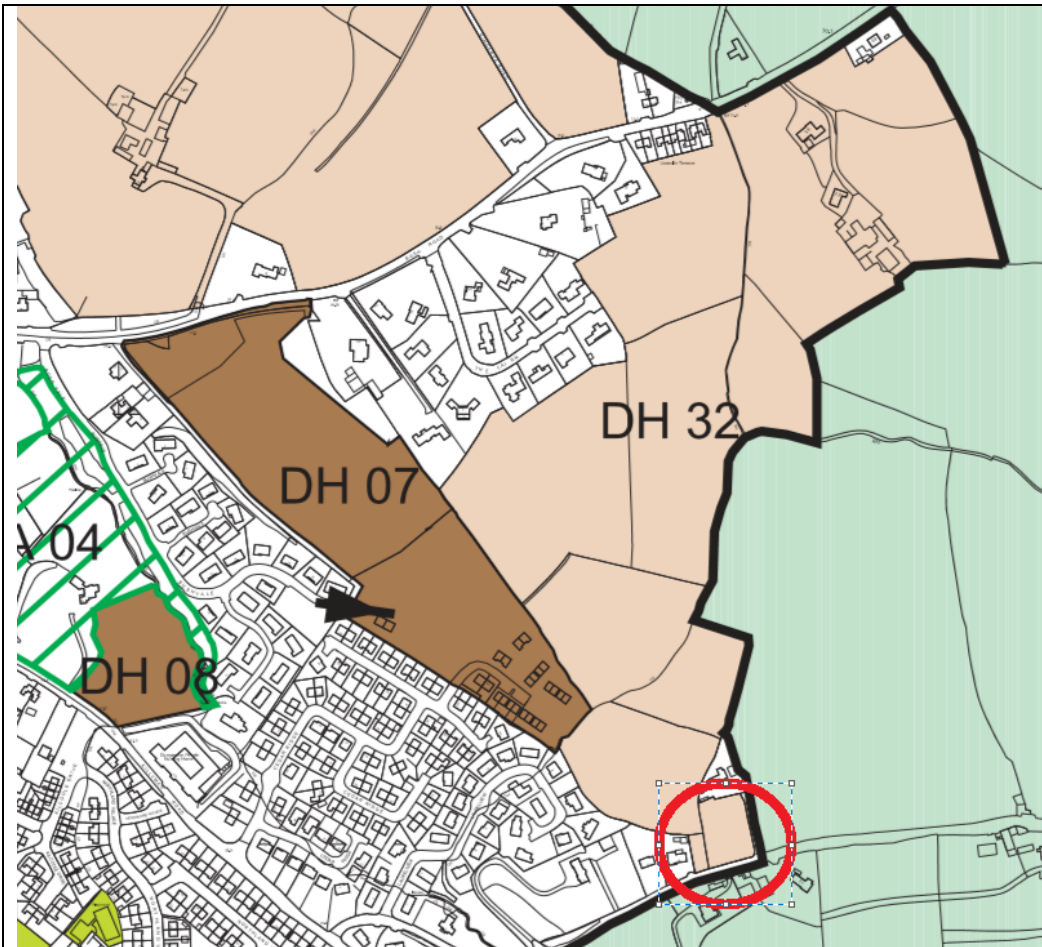


Figure 2 - The application site in the context of the whole zoning DH32 and the linked zoning of DH07.

Figure 3 – Photograph showing the access to DH 32 Phase housing zoning in the north east corner



Existing access to the  
Phase 2 housing land  
behind the application site



As part of the assessment DFI Roads were consulted and responded on 24<sup>th</sup> February 2021. As stated in the key site requirements vehicular access should be from Killyneill Road. DFI roads consider that access arrangements to DH 32 will require road widening along a substantial section of Killyneill Road including the application site frontage to a width of 6m, and pedestrian and cycleway provision will also be required. In addition the development of DH 32 housing land would require a right turning lane and visibility splays of 4.5m x 120m. In terms of the impact on this on this application site DFI Roads state that an future road widening scheme will have a negative impact on visibility splays at properties along this section of road prejudicing road safety. In the Roads consultation response it is stated that the visibility splays for the access arrangements at DH 32 will be within the confines of the red line of this application site. In email dated 24.03.2021 the agent included a concept plan for information purposes only to address Roads comments in the latest consultation response. The agent considers 4.5 by 120m splays to serve the zoned development land and these splays can be achieved without intrusion into the red outline of the application site. The concept plan shows room within the site itself for 4 cars to park meaning visitors would not have to park along the road or up on the kerb as concerned. The agent considers the issue of 3<sup>rd</sup> party land is out of their control as it relates to existing 3<sup>rd</sup> party entrances which will fall within the 'y distance' which they believe will be 80m.

On balance, I consider the application site would have an unacceptable impact on the development of DH 32 housing zoning.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9.

Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

### **Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement.

The proposal does not meet the criteria in CTY 2a as the site is not located at a crossroads or a focal point.

There is no dwelling on the application site that could be replaced so the proposal does not meet CTY 3.

At No. 12 there is a one-half storey dwelling with a driveway and garden area and I am content this dwelling has a frontage to the road. Immediately east at No. 14 there is a single storey which also has a driveway and garden area serving as a road frontage. Abutting the east boundary of No. 14 is the application site which is a portion of an agricultural field which is currently being used as horse paddocks. Abutting the east boundary of the site is the access lane to No. 16 as shown in figure 5 below. No. 16 is set back from the Killyneill Road by 56m and the only frontage No. 16 has to the road is the access, gates and a stone wall on either side. In CTY 8 it states there should be a substantial and continuous built up frontage. The land in front of No. 16 is not part of the garden of No. 16 as it is part of the agricultural field and is currently horse paddocks as shown in figure 4. I consider No. 16 does not have a common frontage with the other buildings along this road such as No. 12 and No. 14. It is set back from the road by 56m and is sitting on a single site with no other buildings abutting its boundary. Therefore, I do not consider the site is a gap site between 3 or more buildings and would add to a ribbon of development.

No. 12 has a plot frontage of 20m and No. 14 has a plot frontage of 26m and the application site has a frontage of 50m. No. 16 only has an access lane which has a frontage to the road and this is 8m in width. There are no other dwellings east of No. 16, only agricultural fields. The applicant has proposed to site the dwelling beside the eastern boundary of No. 14 as shown in a drawing in figure 6 below. If the dwelling was placed in this location any frontage would be approximately 20m. I am content this plot frontage is acceptable and reflects the plot size along this stretch of road. In addition, the application site is capable of accommodating only 2 dwellings as set out in the policy in CTY 8.

Figure 4 – Photograph of the front of No. 16 Killyneill Road





Figure 5 – Photograph of the entrance to No. 16 Killyneill Road



Figure 6 – Drawing submitted by the applicant to demonstrate where they would prefer the proposed dwelling sited.

In terms of CTY 10 the only farm buildings at the site are a small shed and in discussions with the agent it has been stated there is no farming operations at the site. The agent has confirmed the applicant does not have a DAERA farm business ID nor would have a 6 year farming history at the site.

### **CTY 13 – Integration and Design of Buildings in the Countryside**

CTY 13 and CTY 14 deal with rural character and integration and design of buildings in the countryside and both policies would be relevant should the principle of development be acceptable on this site.

I am content the dwelling will not be a prominent feature in the landscape. The proposed dwelling and garage is within the settlement limit of Dungannon in an area which is already built up with dwellings with a roadside frontage. There are critical views in both directions but the dwelling will read with other dwellings in long distance views so I have no concerns and the site has a flat topography.

There is mainly timber fencing as boundary treatment at the site but there is a row of mature trees along the eastern boundary of the preferred siting which could be retained. I am content new planting will not be primarily relied on for the purposes of integration.

There is an agricultural access at the site so a new vehicular access will be created.

The design of the proposed dwelling will be considered at the Reserved Matters Stage. I consider a single storey dwelling would integrate well at this site as the main house type along this road is single storey.

I am content that the proposal is capable of complying with CTY 13.

**CTY 14 – Rural Character**

CTY 14 states that planning permission will be granted for a building where it does not cause a detrimental change to, or further erode the rural character of the area. On balance, I am content the proposal will not be a prominent feature in the landscape. I am content a one-storey dwelling could be accommodated at this site and would respect the traditional pattern of development in the area. This area is already built-up with a number of dwellings and is on the edge of the settlement limit of Dungannon so I have no concerns it will lead to a suburban style build-up of development. I am satisfied a new access will not damage rural character. As No. 16 does not have a substantial frontage to Killyneill Road I consider the dwelling will add to a ribbon of development and this would damage rural character.

**Consultees**

NI Water were consulted and have no objections.

Rivers Agency were consulted as part of the site has surface water flooding but responded with no concerns.

**Planning Policy Statement 3 – Access, Movement and Parking**

As discussed earlier in the assessment DFI Roads have concerned that the application site will impact on visibility splays for an access to housing zoning DH 32.

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

**Neighbour Notification Checked** Yes

**Summary of Recommendation:**

The proposal is recommended for refusal as it is contrary to Plan Policy HOUS 1 Phase 2 Housing Zonings in the Dungannon and South Tyrone Area Plan 2010.

**Reasons for Refusal:**

1. The proposal is contrary to Plan Policy HOUS 1 Housing Zonings in the Dungannon and South Tyrone Area Plan 2010 in that the application would prejudice the comprehensive development of phase 2 housing zoning DH 32.

**Signature(s)**

**Date:**



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

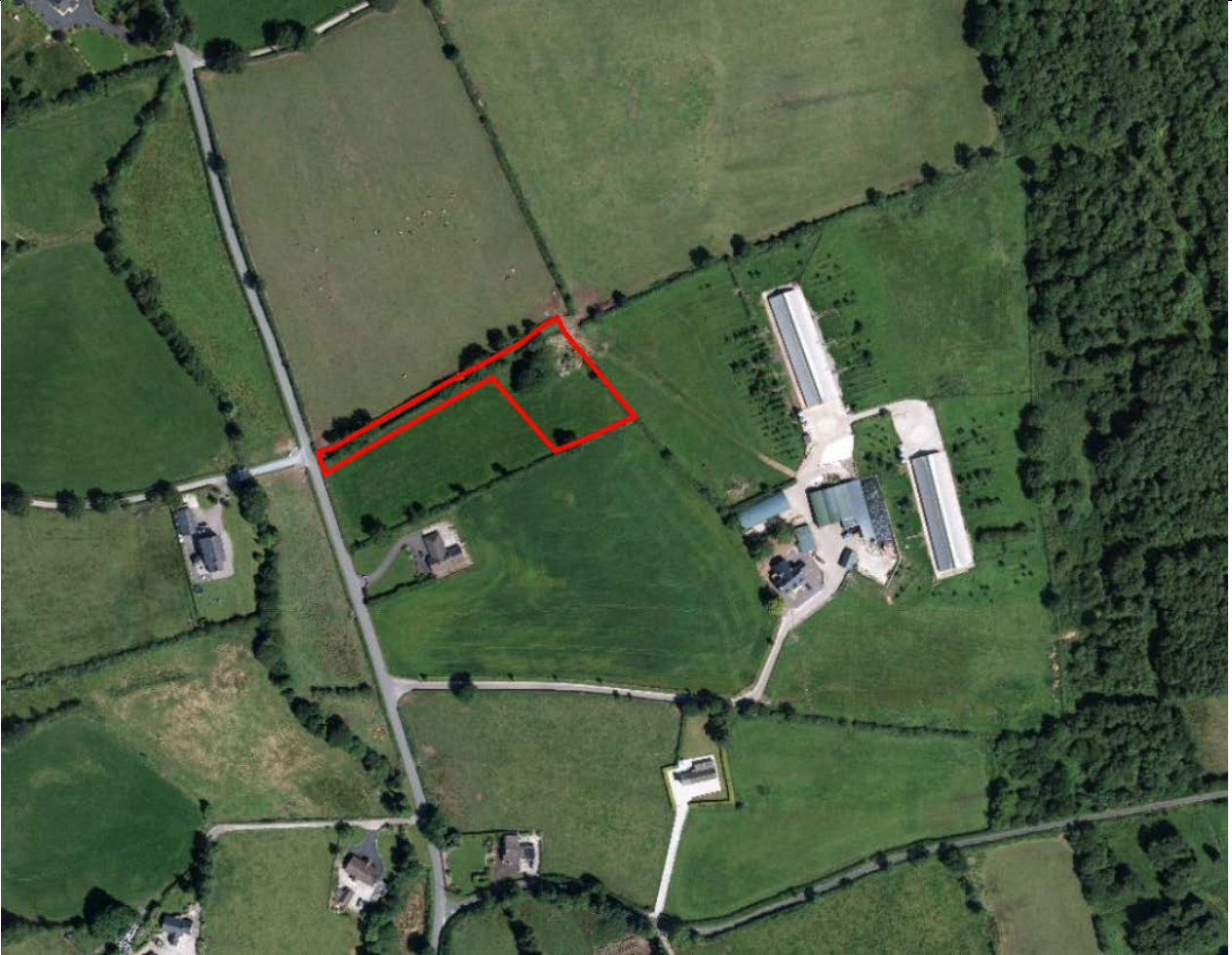
## Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0881/O	Target Date:
Proposal: Dwelling & garage	Location: Approx. 140m NW of 57 Tullyodonnell Road Rock Dungannon
Referral Route:  This application is being presented to Committee as it is being recommended for refusal.	
Recommendation:	REFUSE
Applicant Name and Address: Mr Enda Mallon 57 Tullyodonnell Road Rock Dungannon BT70 3JH	Agent Name and Address: C McIlvar Ltd Unit 7 Cookstown Enterprise Centre Cookstown BT80 9LU
Executive Summary:	
Signature(s):	



## Case Officer Report

## Site Location Plan



## Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	DAERA - Omagh	Substantive Response Received

## Representations:

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

## Summary of Issues including representations

No objections have been received in respect of this application.

### Characteristics of the Site and Area

The site is located at the north-eastern end of a roadside field. The ground levels in the field rise steeply from the road towards the site which occupied an elevated position at the rear of the field. There is a narrow laneway existing along the north-western boundary leading from the road to the site. This laneway is bounded on both sides by low cut hedgerows with a small number of mature trees close to the road. The laneway leads to a small area containing a small amount of rubble at the northern end of the site. This area has a few mature trees close to the south-western boundary which extend approximately 1/3 of the way across the 55m site frontage.

There are hedgerows along the north-western, north-eastern and south-eastern boundaries of the site, however, the front, south-western boundary is undefined.

The main farm grouping is located around 70-80m to the east and is located on the opposite side of the crest when viewed from the critical viewpoints along either the Tullyodonnell Road or the Shivey Road. There are critical views of the site from the entrance of No.4 Shivey Road until reaching the junction of the Tullyodonnell Road and Shivey Road, when travelling along Shivey Road. There are also critical views from the junction of Tullyodonnell Road and Shivey Road to the proposed access laneway when travelling along Tullyodonnell Road. From the latter critical viewpoint, the site will appear to be located on a very elevated position in the landscape.

### Description of proposal

This is an outline application for dwelling and garage/store under PPS21 CTY10 and associated with a farm holding.

### Planning Assessment of Policy and Other Material Considerations

Under the provision of Section 6 (4) of the Planning Act (NI) 2011 the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

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

The 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.

The proposal accords with the Cookstown Area Plan 2010 insofar as it is for a site for a dwelling in the rural area and is linked to an established farm business.

The main policy considerations in the assessment of this application are:-

CTY 10 - Dwellings on Farms

Planning permission will be granted for a dwelling house on a farm where all of the stated criteria are met:-

DAERA's response confirmed that the business has been in existence for more than 6 years and that the business has claimed single farm payment or agri-environment payments within the last 6 years.



- A planning history check of the farm shows that no dwellings or development opportunities in the countryside have been sold off from the farm holding since 25th November 2008. Although a number of approvals have been granted on the farm holding, however, these have all been within the settlement development limit of The Rock and therefore are not counted as development opportunities under this policy.
- Policy CTY 10 also requires any such new building to be visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access should be obtained from an existing lane.

As stated above, the site is located around 70-80m from the group of main farm buildings and is visually separated from these. Any dwelling on this site will be around 90m from the nearest building within the farm group and will be closer to No.59 Tullyodonnell Road, which is a third party dwelling not associated with the farm business. This is critical, especially when the site is seen from the viewpoints noted above. From both the Tullyodonnell Road and the Shivey Road, the site will appear divorced from the farm grouping and will have no visual linkage with these. This separation is exacerbated due to the farm buildings lying much lower in the landscape than the proposed site, which occupies a prominent location on a hill top. From the critical viewpoints, the site will be located on the crest of a hill with no visual connection with the main farm grouping.

The policy does however, allow for consideration to be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

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

Whilst no health and safety reasons have been provided for the site to be located away from the main farm grouping, the applicant submitted some justification in the form of an explanation contained at Q6 in the P1C form. This statement advises that the applicant has 7 fields (fields 1, 5, 6B, 7A, 7B, 8 & 11) which are organic ground which serve the chicken farm which is contracted to Moy Park for 18 years. It takes 3-5 years to convert ground to organic ground. It is stated that it is not possible to build a dwelling on any part of the organic ground. It further states that 7 acres of organic ground are required for each poultry house to enable the poultry to feed on. As field 4 is the closest field to the farm grouping which is (not) classified as organic ground, it has been chosen as the preferred site. Field 4 is also within walking distance to the existing poultry houses. A certificate of compliance is attached which states that 6.84 Ha of ground are categorised as organic. It does not however, state which fields this relates to. That statement was later amended to state that only fields 6A, 6B, 7A, 7B, 8 & 9 are required as organic ground in connection with the poultry business.

Nevertheless, the applicant has two poultry houses each requiring 7.5 acres of organic ground ie. a total of 15 acres. The Certificate of Compliance is for 6.84 Ha ie. 16.9 acres, 1.9 acres in excess of what is required for the two poultry houses. The acreage of the six fields as stated above as being organic ground is as follows:-

Field	Ha	(acres)
6/106/005/6A}		
6/106/005/6B}	1.06	(2.62)
6/106/005/7A		
6/106/005/7B	2.35	(5.81)
6/106/005/8	1.33	(3.29)
6/106/005/9	2.10	(5.19)
Total	6.84	(16.89)

The aerial map shows the proposed site in relation to the organic ground around the farm buildings with two alternative sites which would meet the policy requirements.



Is it therefore clear that the fields as stated on the P1C as being required for organic purposes have a total more than what is required for the two poultry houses. The 6 fields as stated contain an additional 0.77ha (1.9 acres) over and above what is required. Therefore there is no justifiable reason why the proposed site cannot be located in a field much closer to and visually linked to the main farm grouping, such as fields 6/106/005/5 or 6/106/005/8, both of which abut the main farm yard and are also accessed via the existing laneway. Either of those alternative sites would meet the policy requirements and would achieve a much better degree of integration than the proposed site, in addition to being much less prominent.

Policy CTY 10 also states that 'In such circumstances the proposed site must also meet the requirements of CTY 13(a-f), CTY 14 and CTY 16.'

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

The proposed site occupies an elevated location in the local landscape with critical views of the site from the entrance to No.4 Shivey Road until reaching the junction of the Tullyodonnell Road and Shivey Road, when travelling along Shivey Road. There are also critical views from the junction of Tullyodonnell Road and Shivey Road, to the proposed access laneway when travelling along Tullyodonnell Road. From the latter critical viewpoint, the site will appear to be located on a very elevated position in the landscape. The site is considered to be prominent and occupies a hilltop location on the local landscape. Due to the fact the site boundaries are low, well-trimmed hedges along the north-east and south-east whilst the south-western boundary is largely undefined, any dwelling on this site will be almost totally reliant on the few trees along the north-western boundary which extend a short distance across the front of the

site. Additionally any dwelling on this site would suffer from not having any backdrop as the north-eastern boundary is not visible from the road. This only serves to emphasise how prominent the site is.



The proposed site is located on top of the crest

When viewed from the critical viewpoints, any dwelling will appear prominent as the site lacks sufficient long established natural boundaries to the front, south-eastern side and to the rear and is therefore unable to provide a sense of enclosure. When viewed from the Tullyodonnell Road, the site also lacks an acceptable backdrop to enable any dwelling to sit comfortably within the landscape and consequently even a modest dwelling with a 5.5m ridge height would appear prominent. Any dwelling on this site will rely heavily on substantial landscaping and planting to achieve an acceptable degree of integration and any such landscaping would take a considerable time to provide an adequate degree of screening. Given its elevated location, any dwelling on this site would fail to blend with the landform, existing trees, slope or other natural features which could provide an acceptable backdrop.

Although the access is proposed to be taken along an existing farm lane, it is proposed to remove the hedge along the south-eastern side of the lane and to widen the laneway. Whilst this is understandable due to the restricted width of the existing laneway, it will result in the laneway suffering from a lack of integration as it rises up the steep incline towards the site and therefore the ancillary works will not integrate into the surrounding landscape. Furthermore, as a dwelling on the proposed site is neither visually linked nor sited to cluster with an established group of buildings on the farm, it would fail to integrate into the surrounding landscape and is therefore considered to be contrary to this policy.

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 reason; or
- verifiable plans to expand the farm business at the existing building group(s).

Apart from the insufficient justification as discussed above, no justifiable reason, neither health safety nor verifiable plans to expand the farm business have been provided as to why the applicant cannot site the proposed dwelling close to the existing farm buildings. Although the agent has attempted to justify why the site cannot be located within field 5, immediately adjacent to the existing farm yard, by stating 'Field 5 is a large open roadside field which rises steeply from road level to meet the applicants farm holding. The field lacks boundaries for integration and the applicant feels that a site located at the top of



this field next to his farm buildings would appear unduly prominent contrary to Policies CTY13 & 14 of PPS 21.



Existing access lane leading to the applicants farmyard

I do not agree that this assessment, as can be seen from the above extract from Google Street View, the landform does not rise steeply but instead rises more gently away from the road. A dwelling could easily be located beside the existing farmyard without resulting in a prominent site. This is demonstrated by the fact that the existing farm buildings are not visible at the end of the access lane as the land drops away from the crest. Either of the alternative sites identified above, in particular field 8, could accommodate a dwelling to a much greater degree than the proposed site as either site would not be as prominent and they would also achieve an acceptable degree of integration.

The alternative sites, as indicated, are available to the applicant to the south of the existing farm buildings as this is on land within their ownership, access can be gained using the existing farm lane, and such sites would both visually link and be sited to cluster with a group of established buildings on the farm.

#### CTY 14 – Rural Character

This application is for a site for a dwelling on a farm holding that is sited away from the existing farm buildings. The site as discussed above, occupies an elevated location and will appear unduly prominent in the landscape. The impact of the proposed access works are also unacceptable as the proposed laneway will require the removal of an existing hedgerow along the side of the proposed laneway. This will open up views of the laneway which climbs up the steeply rising ground towards the elevated site and which will be clearly visible from the critical views on approach along the Tullyodonnell Road.

Due to the critical views of the proposal, any dwelling on this site, including the associated site works required for the access, will result in a detrimental change to rural character. The proposal is therefore contrary to this policy.

#### PPS 3 – Access, Movement and Parking;

The proposal is to create a new residential access which will require hedge removal along the Tullyodonnell Road in order to provide the necessary visibility splays of 2.4m x 90m in both directions.

This will required approximately 40m hedge removal on both sides. The proposed laneway will have to be widened to 4.8m for the first 20 of its length. Dfi Roads advised that they have no objection to the proposed development subject to conditions.

CTY 16 – Development relying on non-mains sewerage advises that planning permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem. As this is a rural site and P1 application form states that foul sewage will be disposed of via a septic tank, it is not envisaged that there will be an issue with pollution.

#### Recommendation

On consideration of the above, it is my opinion that the proposal fails to meet the requirements of Policies CTY 1, 10, 13 and 14 for the reasons as stated below:-

Neighbour Notification Checked	Yes
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#### Summary of Recommendation:

Refuse for the reasons stated below.

#### Refusal Reasons;

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:  
the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm;  
health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm;  
verifiable plans exist to expand the farm business at the existing building group to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:  
a dwelling on the proposed building would be a prominent feature in the landscape;  
the proposed site is unable to provide a suitable degree of enclosure for a dwelling to integrate into the landscape;  
the proposed dwelling relies primarily on the use of new landscaping for integration;  
the ancillary works do not integrate with their surroundings;  
the proposed dwelling fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop;  
the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm,  
and therefore would not visually integrate into the surrounding landscape.

- |   |
|---|
| <p>4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:</p> <ul style="list-style-type: none"><li>the dwelling would, if permitted, be unduly prominent in the landscape;</li><li>the impact of ancillary works would damage rural character;</li><li>and would therefore result in a detrimental change to erode the rural character of the countryside.</li></ul> |
| <p>Signature(s)</p> <p>Date:</p>  |

ANNEX	
Date Valid	23rd July 2020
Date First Advertised	4th August 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 58 Tullyodonnell Road,Dungannon,Tyrone,BT70 3JH The Owner/Occupier, 59 Tullyodonnell Road,Dungannon,Tyrone,BT70 3JH The Owner/Occupier, 60 Tullyodonnell Road,Dungannon,Tyrone,BT70 3JH	
Date of Last Neighbour Notification	13th August 2020
Date of EIA Determination	
ES Requested	Yes /No
Planning History  Ref ID: LA09/2020/0881/O Proposal: Dwelling & garage Address: Approx 140m NW of 57 Tullyodonnell Road, Rock, Dungannon, Decision: Decision Date:  Ref ID: I/1987/0346B Proposal: Dwelling Address: 150M NE OF JUNCTION TO 60 TULLYODONNELL ROAD, ROCK, COOKSTOWN Decision: Decision Date:  Ref ID: I/1987/0346 Proposal: PRIVATE DWELLING Address: TULLYODONNELL, ROCK, DUNGANNON Decision: Decision Date:	
Summary of Consultee Responses  All consultees responded without raising any issues of concern.	

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

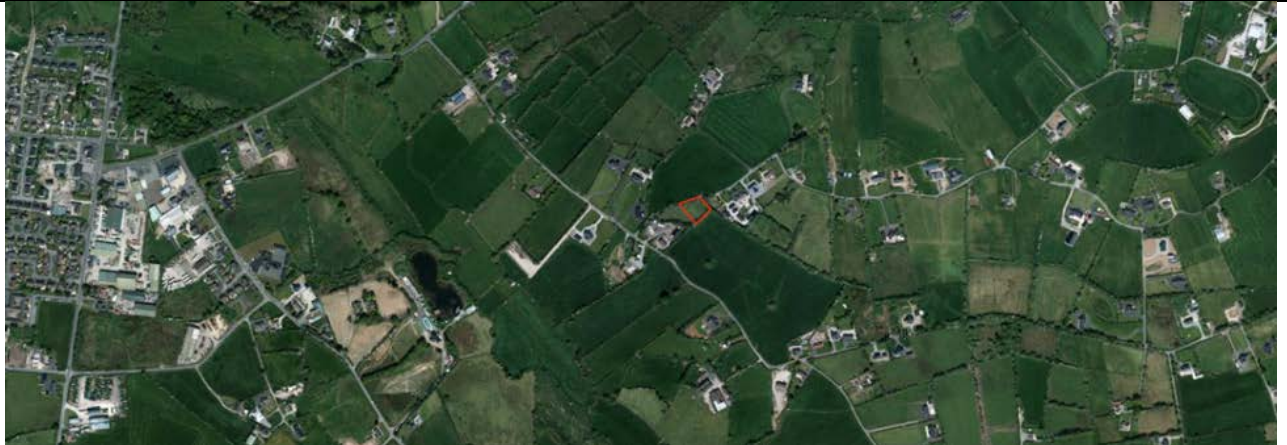
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0888/O	<b>Target Date:</b>
<b>Proposal:</b> Site for 1 no dwelling & garage under CTY8	<b>Location:</b> Drummurrer Lane 90m NE of 20 Annaghnaboe Road Coalisland
<b>Referral Route: Refusal</b>	
<b>Recommendation: Refuse</b>	
<b>Applicant Name and Address:</b> Mr Paul Henry 24 Lurgaboy Lane Coalisland BT71 6JX	<b>Agent Name and Address:</b> Michael Herron Architects 2nd Floor Corner House 64-66a Main Street Coalisland BT71 4NB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DETI - Geological Survey (NI)	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

### Description of Proposal

This is a full planning application for a dwelling and garage to be located on lands at Drummurrer Lane 90m NE of 20 Annaghnaboe Road Coalisland.

The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 8 Ribbon Development.

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

The site is located in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan 2010, approx. 1km east of Annaghmore village.

The site comprises the eastern half of a small, relatively flat semi-circular shaped roadside field located adjacent Drummurrer Lane, approx. 100m northeast off its junction with the Annaghnaaboe Rd. Note current application LA09/2020/0890/O comprises same proposal for a dwelling in the other half of the host field (see 'Planning History' further below).

The host field nestles between nos. 11 Drummurrer Lane, a 1 ½ storey dwelling accessed off and fronting onto Drummurrer Lane and a large gravelled yard running to the northwest side and rear of no. 20 Annaghnaaboe Road, a single storey dwelling accessed off and fronting onto the Annaghnaaboe Road.

It is noted a single storey garage ancillary to and located to the southwest side of no. 11 Drummurrer Lane, has had a change of use to a dwelling and is now known as no. 9 Drummurrer Lane (see 'Enforcement History' further below).

Access to the aforementioned gravelled yard is off the Annaghnaaboe Rd just northwest of no. 20's access. A large shed sits within this yard immediately to the rear of no. 20 and fronting northwest towards Drummurrer Lane. The shed appears to be in association with a bouncy castle business. Foundations of a dwelling, 2no. of mobiles, and a portacabin also sit within this yard to the northwest side of no. 20. The lawfulness of the shed, mobiles and portacabin are under investigation by Planning's Enforcement Team (see 'Enforcement History' further below).

There are 2 further dwellings running along Drummurrer Lane to immediate northeast of no. 11 Drummurrer Lane, these are nos. 11a and 15 Drummurrer Lane, two single storey dwellings.

Views into the site are screened by a mix of high hedgerows and trees bounding the host field. The only undefined boundary of the site is the southwest boundary, which opens unto the western half of the host field.

The area surrounding the site is rural in nature comprising largely agricultural lands. It has come under considerable development pressure in recent years with a number of largely bungalow dwellings running along the roadside of Drummurrer Lane to the northeast of the site. And a number of 2 storey dwellings set back on larger plots running along the Annaghnaaboe Rd to the northwest/west of the site.

### **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  
Dunannon and South Tyrone Area Plan 2010  
Planning Policy Statement 3: Access, Movement and Parking  
Development Control Advice Note 15: Vehicular Standards  
Planning Policy Statement 21: Sustainable Development in the Countryside  
Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

### **Representations**

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

### **History**

#### On site

- M/2003/0959/O – Proposed Dwelling – 150m SW of Drummurer Lane Coalisland – Withdrawn 26<sup>th</sup> March 2004

The above application was the current site's host field.

- LA09/2020/0890/O – Infill site for 1 no dwelling & garage under CTY8 – Drummurer Lane 60m North of 20 Annaghnaboe Road Coalisland – on going.

#### Adjacent site

- M/2006/0832/O – dwelling – Adjacent to 20 Annaghaboe Rd Coalisland – Granted 11<sup>th</sup> October 2006
- M/2007/0630/RM – Proposed dwelling with attached garage – Adjacent to 20 Annaghaboe Rd Coalisland – Granted 27<sup>th</sup> November 2007

The above applications relate to the a site approved (foundations) in gravelled yard to northwest side of no. 20 Annaghnaboe Rd.

- M/2009/0286/F – Proposed domestic garage & store – To the rear of 11 Drummurer Lane Coalisland – Granted August 2009
- M/2014/0116/O – Proposed site for dwelling (infill site at junction to create a cluster) – Adjacent to and SE of 18 Annaghnaboe Road Coalisland – Granted 28<sup>th</sup> May 2014
- M/2014/0543/RM – proposed dwelling and domestic garage – Adjacent to 18 Annaghaboe Road Coalisland – Granted 6<sup>th</sup> January 2015

The above 2 applications relate to no. 18b Annaghnaboe Rd a relatively new dwelling located at the opposite side of the road to the west of the site and to the inside (north) of the Drummurer Lane and Annaghnaboe Rd junction. This dwelling was granted under infill policy.

### Enforcement History

- LA09/2020/0152/CA – Alleged change of use of garage / store to a dwelling – Case closed 21<sup>st</sup> January 2021 as immune from enforcement action
- LA09/2020/0153/CA – Alleged unauthorised buildings on site, including replacement shed, two mobiles and a portacabin - Ongoing

### **Consultees**

1. DFI Roads were consulted in relation to access, movement and parking arrangements and have no objection subject to standard conditions and informatives, subject to which I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
2. DETI Geological Survey of Northern Ireland (GSNI) were consulted as the site was located within an area of constraint on abandoned mines – GSNI responded that having assessed the above planning proposal in view of stability issues relating to abandoned mine workings. A search of their “Shafts and Adits Database” indicates that the proposed site is not in an area of known abandoned mines.

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

Dungannon and South Tyrone Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

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.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in Policy CTY1 of PPS21.

One instance, and that which the applicant has applied under, is the development of a small gap site in accordance with Policy CTY8 - Ribbon Development.

Policy CTY8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental criteria. For the purposes of this policy the definition of a substantial built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

Bearing in mind the above, the agent submitted a supporting statement with this application outlining with the aid of a concept sketch, how he considers the site / host field complies with the tests of Policies CTY 8, 13, and 14 of PPS 21 and respectfully requests planning permission for a traditional 1 ½ storey dwelling and garage. I have summarised the principle points in support of this application below:

- a) The site / host field is not located within an otherwise substantial and continuously built up frontage of buildings along Drummurrer Lane as defined by Policy CTY8 of PPS21. Whilst a dwelling on site will have a frontage to Drummurrer Lane it would

not be 'book ended' by development to the SW given the absence of any lawful development which shares a frontage with Drummurrer lane.



Fig 1: Concept Sketch

- b) The gap / host field located between Nos. 11 Drummurrer Lane and 20 Annaghnaaboe Road measures approx. 100m and is sufficient only to accommodate a maximum of two dwellings in a manner that reflects the existing buildings along the frontage. This application is seeking consent for one dwelling on a plot some 50m wide i.e. one half of the total gap. Application LA09/2020/0890/O seeks consent for one dwelling on similar plot to the other half of total gap.
- c) The size, scale, siting and plot size of the proposal would respect the existing development pattern. The applicant proposes a traditionally designed 1½ storey dwelling and detached garage, that would fit in well with the development pattern in the immediate vicinity of the site. The site benefits from screening in either direction together with a backdrop of mature hedging that will allow such a dwelling to integrate well onto the site with minimal impact on the surrounding rural environment thereby making this infill development more acceptable. The proposed site and layout being put forward also follows the guidance as set out on Page 76 of 'Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside' which relates to gap sites and infill principles.



- d) A dwelling on this site fronting onto Drummurrer Lane will integrate on this site to comply with policy CTY13 of PPS21 as the site / host field benefits from being well enclosed by existing vegetation and its location within an existing and continuously built up frontage. It whilst a new hedgerow and planting will define the new boundary to the west and supplementary planting can be provided within the curtilage to promote enhanced biodiversity.

Having assessed the site, taking into account the information in support of this application as detailed above, I do not consider the site meets with the requirements of Policy CTY8.

The reason being the site / host field is not in my opinion located within an otherwise substantial and continuously built up frontage i.e. a line of 3 or more buildings running along Drummurrer Lane, without accompanying development to the rear.

Whilst I am content the site / host field is bound by at least 4 buildings running along and fronting onto Drummurrer Lane to the northeast (nos. 9, 11, 11a & 15 Drummurrer Lane, as detailed in Characteristics of the Site and Area) as previously mentioned I am not content it is bound to its southeast by buildings with a frontage onto Drummurrer Lane.

The site is bound to its southeast by a gravelled yard. The gravelled yard contains only the foundations of a dwelling approved under M/2006/0832/O and M/2007/0630/RM respectively, which cannot be considered for the purposes of policy as a building until substantially complete to eaves level. Whilst it also contains 2 no. of mobiles and a large shed located to the northwest side and immediate rear of no. 20 Annaghabe Rd, respectively, I am not content these are lawful and can be considered for the purposes of Policy CTY 8. The mobiles and large shed are currently the subject of investigation by Planning's Enforcement Team.

My own checks of orthos show the mobiles would not appear to have been in place more than 5 years and are therefore not immune to enforcement action. Furthermore, any approval for such development would normally only be forthcoming on a temporary basis under the provisions of PPS21.

In relation to the large shed, owing to gaps in historical orthos available I could not confirm whether it has been erected for more than 5 years or not. That said even if the shed was found by the Enforcement Team to have been erected for more than 5 years and immune from enforcement action, I still would not consider it to have a frontage onto Drummurrer Lane. This is owing to its location to the rear of no. 20 Annaghabe Rd, set back and screened from Drummurrer Lane, on a well enclosed yard. There are only glimpses of the shed from Drummurrer Lane, through mature vegetation defining the northwest boundary of the yard.

### **Additional considerations**

I would agree with the agent the host field is sufficient only to accommodate a maximum of two dwellings in a manner that reflects the existing buildings along the Drummurrer Road frontage to its northeast. Whilst the site has the capacity to integrate a 1 ½ storey dwelling and ancillary garage of an appropriate size, scale and design with minimal the development would still extend a ribbon of development along the lane leading a further

erosion of what is left of the areas rural. I believe a suitably designed scheme would not have had any unreasonable impact on existing or potential neighbouring properties (LA09/2020/0890/O) in terms of overlooking or overshadowing due again to the existing vegetation bounding the host field, alongside the separation distances which could have been retained.

Checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available online identified no built heritage assets of interest or natural heritage features of significance on site.

NI Flood Maps have been checked and whilst they indicate a small amount of surface water flooding along the back boundary of the site this is minimal and the site could still developed for a dwelling outside the identified area.

**Recommendation:** Refuse

The site / host field is not in my opinion located within an otherwise substantial and continuously built up frontage i.e. a line of 3 or more buildings running along Drummurrer Lane, without accompanying development to the rear. It will result in the extension of ribbon development leading to the further erosion of rural character.

<b>Neighbour Notification Checked</b>	Yes
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<b>Summary of Recommendation</b>	Refuse
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**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 CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the extension of ribbon development along Drummurrer Lane further eroding the rural character of this area.

**Signature(s)**

**Date:**





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

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

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0890/O	<b>Target Date:</b>
<b>Proposal:</b> Infill site for 1 no dwelling & garage under CTY8	<b>Location:</b> Drummurrer Lane 60m North of 20 Annaghnaboe Road Coalisland
<b>Referral Route: Refusal</b>	
<b>Recommendation: Refuse</b>	
<b>Applicant Name and Address:</b> Mr Paul Henry 24 Lurgaboy Lane Coalisland BT71 6JX	<b>Agent Name and Address:</b> Michael Herron Architects 2nd Floor Corner House 64-66a Main Street Coalisland BT71 4NB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	DETI - Geological Survey (NI)	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

**Description of Proposal**

This is a full planning application for a dwelling to be located on lands at Drummurrer Lane 60m North of 20 Annaghnaboe Road Coalisland.

The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 8 Ribbon Development.

**Characteristics of the Site and Area**

The site is located in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan 2010, approx. 1km east of Annaghmore village.

The site comprises the western half of a small, relatively flat semi-circular shaped roadside field located adjacent Drummurrer Lane, approx. 100m northeast off its junction with the Annaghnaboe Rd. Note current application LA09/2020/0888/O comprises same proposal for a dwelling in the other half of the host field.

The host field nestles between nos. 11 Drummurrer Lane, a 1 ½ storey dwelling accessed off and fronting onto Drummurrer Lane and a large gravelled yard running to the northwest side and rear of no. 20 Annaghnaboe Road, a single storey dwelling accessed off and fronting onto the Annaghnaboe Road.

It is noted a single storey garage ancillary to and located to the southwest side of no. 11 Drummurrer Lane, has had a change of use to a dwelling and is now known as no. 9 Drummurrer Lane (see 'Enforcement History' further below).

Access to the yard is off the Annaghnaboe Rd just northwest of no. 20's access. A large shed sits within this yard immediately to the rear of no. 20 and fronting northwest towards Drummurrer Lane. The shed appears to be in association with a bouncy castle business. Foundations of a dwelling, 2no. of mobiles, and a portacabin also sit within this yard to the northwest side of no. 20. The lawfulness of the shed, mobiles and portacabin are under investigation by Planning's Enforcement Team (see 'Enforcement History' further below).

There are 2 further dwellings running along Drummurrer Lane to immediate northeast of no. 11 Drummurrer Lane, these are nos. 11a and 15 Drummurrer Lane, two single storey dwellings.

Views into the site are screened by a mix of high hedgerows and trees bounding the host field. The only undefined boundary of the site is the northeast boundary, which opens unto the eastern half of the host field.

The area surrounding the site is rural in nature comprising largely agricultural lands. It has come under considerable development pressure in recent years with a number of largely bungalow dwellings running along the roadside of Drummurrer Lane to the northeast of the site. And a number of 2 storey dwellings set back on larger plots running along the Annaghnaboe Rd to the northwest/west of the site.

**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:**

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Strategic Planning Policy Statement for Northern Ireland

Dunannon and South Tyrone Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 21: Sustainable Development in the Countryside

Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

**Representations**

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

**History**

On site

- M/2003/0959/O – Proposed Dwelling – 150m SW of Drummurer Lane Coalisland – Withdrawn 26<sup>th</sup> March 2004

The above application was the current site's host field.

- LA09/2020/0888/O – Site for 1 no dwelling & garage under CTY8 – Drummurrer Lane 90m NE of 20 Annaghnaaboe Road Coalisland – on going

Adjacent site

- M/2006/0832/O – dwelling – Adjacent to 20 Annaghnaaboe Rd Coalisland – Granted 11<sup>th</sup> October 2006
- M/2007/0630/RM – Proposed dwelling with attached garage – Adjacent to 20 Annaghnaaboe Rd Coalisland – Granted 27<sup>th</sup> November 2007

The above applications relate to the a site approved (foundations) in gravelled yard to northwest side of no. 20 Annaghnaaboe Rd.

- M/2009/0286/F – Proposed domestic garage & store – To the rear of 11 Drummurrer Lane Coalisland – Granted August 2009
- M/2014/0116/O – Proposed site for dwelling (infill site at junction to create a cluster) – Adjacent to and SE of 18 Annaghnaaboe Road Coalisland – Granted 28<sup>th</sup> May 2014

- M/2014/0543/RM – proposed dwelling and domestic garage – Adjacent to 18 Annaghoboe Road Coalisland – Granted 6<sup>th</sup> January 2015

The above 2 applications relate to no. 18b Annaghoboe Rd a relatively new dwelling located at the opposite side of the road to the west of the site and to the inside (north) of the Drummurr Lane and Annaghoboe Rd junction. This dwelling was granted under infill policy.

#### Enforcement History

- LA09/2020/0152/CA – Alleged change of use of garage / store to a dwelling – Case closed 21<sup>st</sup> January 2021 as immune from enforcement action
- LA09/2020/0153/CA – Alleged unauthorised buildings on site, including replacement shed, two mobiles and a portacabin - Ongoing

#### **Consultees**

1. DFI Roads were consulted in relation to access, movement and parking arrangements and have no objection subject to standard conditions and informatives, subject to which I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
2. DETI Geological Survey of Northern Ireland (GSNI) were consulted as the site was located within an area of constraint on abandoned mines – GSNI responded that having assessed the above planning proposal in view of stability issues relating to abandoned mine workings. A search of their “Shafts and Adits Database” indicates that the proposed site is not in an area of known abandoned mines.

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

Dungannon and South Tyrone Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

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.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in Policy CTY1 of PPS21.

One instance, and that which the applicant has applied under, is the development of a small gap site in accordance with Policy CTY8 - Ribbon Development.

Policy CTY8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental criteria. For the purposes of this policy the definition of a substantial built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

Bearing in mind the above, the agent submitted a supporting statement with this application outlining with the aid of a concept sketch, how he considers the site / host field complies with the tests of Policies CTY 8, 13, and 14 of PPS 21 and respectfully requests planning permission for a traditional 1 ½ storey dwelling and garage. I have summarised the principle points in support of this application below:

- a) The site / host field is not located within an otherwise substantial and continuously built up frontage of buildings along Drummurrer Lane as defined by Policy CTY8 of PPS21. Whilst a dwelling on site will have a frontage to Drummurrer Lane it would not be 'book ended' by development to the SW given the absence of any lawful development which shares a frontage with Drummurrer lane.



Fig 1: Concept Sketch

- b) The gap / host field located between Nos. 11 Drummurrer Lane and 20 Annaghnaaboe Road measures approx. 100m and is sufficient only to accommodate a maximum of two dwellings in a manner that reflects the existing buildings along the frontage. This application is seeking consent for one dwelling on a plot some 50m wide i.e. one half of the total gap. Application LA09/2020/0888/O seeks consent for one dwelling on similar plot to the other half of total gap.



- c) The size, scale, siting and plot size the of the proposal would respect the existing development pattern. The applicant proposes a traditionally designed 1½ storey dwelling and detached garage, that would fit in well with the development pattern in the immediate vicinity of the site. The site benefits from screening in either direction together with a backdrop of mature hedging that will allow such a dwelling to integrate well onto the site with minimal impact on the surrounding rural environment thereby making this infill development more acceptable. The proposed site and layout being put forward also follows the guidance as set out on Page 76 of 'Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside' which relates to gap sites and infill principles.
- d) A dwelling on this site fronting onto Drummurrer Lane will integrate on this site to comply with policy CTY13 as the site / host field benefits from being well enclosed by existing vegetation and its location within an existing and continuously built up frontage. It whilst a new hedgerow and planting will define the new boundary to the west and supplementary planting can be provided within the curtilage to promote enhanced biodiversity.

Having assessed the site, taking into account the information in support of this application as detailed above, I do not consider the site meets with the requirements of Policy CTY8.

The reason being the site / host field is not in my opinion located within an otherwise substantial and continuously built up frontage i.e. a line of 3 or more buildings running along Drummurrer Lane, without accompanying development to the rear.

Whilst I am content the site / host field is bound by at least 4 buildings running along and fronting onto Drummurrer Lane to the northeast (nos. 9, 11, 11a & 15 Drummurrer Lane, as detailed in Characteristics of the Site and Area) I am not content it is not bound to its southeast by buildings with a frontage onto Drummurrer Lane.

The site is bound to its southeast by a gravelled yard. The gravelled yard contains only the foundations of a dwelling approved under M/2006/0832/O and M/2007/0630/RM respectively, which cannot be considered for the purposes of policy as building until substantially complete to eaves level. Whilst it also contains 2no. of mobiles and a large shed located to the northwest side and immediate rear of no. 20 Annaghboe Rd, respectively, I am not content these are lawful and can be considered for the purposes of Policy CTY 8. The mobiles and large shed are currently the subject of investigation by Planning's Enforcement Team.

My own checks of orthos show the mobiles would not appear to have been in place more than 5 years and are therefore not immune to enforcement action. Furthermore, any approval for such development would normally only be forthcoming on a temporary basis under the provisions of PPS21.

In relation to the large shed, owing to gaps in historical orthos available I could not confirm whether it has been erected for more than 5 years or not. That said even if the shed was found by the Enforcement Team to have been erected for more than 5 years and immune from enforcement action, I still would not consider it to have a frontage onto

Drummurrer Lane. This is owing to its location to the rear of no. 20 Annaghboe Rd, set back and screened from Drummurrer Lane, on a well enclosed yard. There are only glimpses of the shed from Drummurrer Lane, through mature vegetation defining the northwest boundary of the yard.

**Additional considerations**

I would agree with the agent the host field is sufficient only to accommodate a maximum of two dwellings in a manner that reflects the existing buildings along the Drummurrer Road frontage to its northeast. Additionally, I believe a suitably designed scheme would not have had any unreasonable impact on existing or potential neighbouring properties (LA09/2020/0888/O) in terms of overlooking or overshadowing due again to the existing vegetation bounding the host field, alongside the separation distances which could have been retained.

Checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available online identified no built heritage assets of interest or natural heritage features of significance on site.

NI Flood Maps have been checked and whilst they indicate a small amount of surface water flooding along the back boundary of the site this is minimal and the site could still developed for a dwelling outside the identified area.

**Recommendation:** Refuse

The site / host field is not in my opinion located within an otherwise substantial and continuously built up frontage i.e. a line of 3 or more buildings running along Drummurrer Lane, without accompanying development to the rear. When read in conjunction with the adjacent application M/2020/0888/O it will result in the extension of ribbon development leading to the further erosion of rural character.

<b>Neighbour Notification Checked</b>	Yes
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<b>Summary of Recommendation</b>	Refuse
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**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 CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the extension of ribbon development along Drummurrer Lane leading to a further erosion of the areas rural character.

**Signature(s)**

**Date:**



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**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0919/F	<b>Target Date:</b>
<b>Proposal:</b> New 3m wide vehicular access, 1.8m high close board gates & fence	<b>Location:</b> 52 Tobermore Road Magherafelt
<b>Referral Route:</b>  DfI Roads offering an objection	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Eric Glendinning 52 Tobermore Road Magherafelt BT45 5EH	<b>Agent Name and Address:</b>
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

## **Summary of Issues**

DfI Roads have been consulted and are of the opinion the proposal should be refused. Their reason for refusal is provided:

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP2, in that the access if permitted would prejudice the safety and convenience of road users since adequate provision cannot be made clear of the highway for the parking, turning, loading and unloading of vehicles which would be attracted to the site.

Following group discussions in the planning office, we have been minded to recommend the approval of this proposal. DfI Roads have also provided conditions to be attached to any approval.

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

The site is located within the settlement limits of Magherafelt as per the Magherafelt Area plan. The red line of the application site includes No.52 Tobermore Road, which is a mid terrace dwelling, located in the middle of a row of three dwellings. The red line includes a portion of land to the front of No.52 and extends to north, along the front of No.54 to a yard at the rear of the properties. The front of No.52 has an existing fence and small yard, with a grassed area extending from the property towards the public road.

Access to the property is currently from an existing right of way, which is accessed to the south and runs in front of No.50 along all three properties. An additional private access is located to the north, which is used to access No.54 Tobermore. The applicant currently uses the right of way to the south, and accesses the yard to the rear by travelling in front of No.54. The yard to the rear is relatively small and is fenced in, with a small garden shed located in the corner. To the west of the yard, the applicants land extends into an existing agricultural field.

## **Representations**

No third party representations have been received in relation to this application.

## **Description of Proposal**

This is a full planning application for a proposed new vehicular access, 1.8m high close board gates and fence at 52 Tobermore Road, Magherafelt

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

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement (SPPS)  
PPS 3 - Access, Movement and Parking

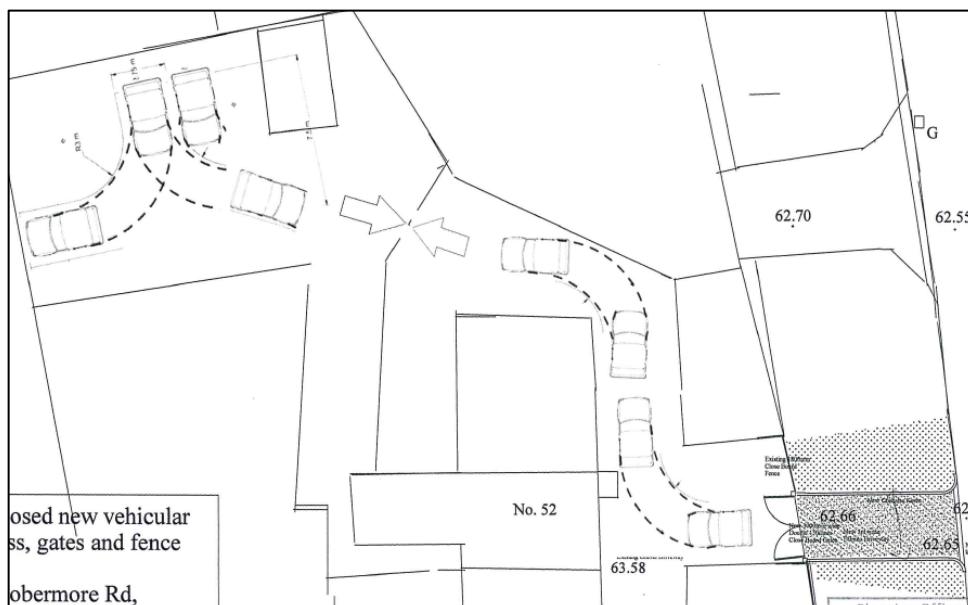
The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to

take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that “proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety”.

Policy CTY 1 within PPS 21 highlights that all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. CTY 1 also highlights that access arrangements must be in accordance with the Departments published guidance.

Planning Policy Statement 3 (PPS 3) Access, Movement and Parking contains the relevant policy for assessing this application for a new access. Policy AMP 2 Access to Public Roads states that planning permission will only be granted for a development involving direct access onto a public road where, such access will not prejudice road safety or significantly inconvenience the flow of traffic and does not conflict with Policy AMP 3.

DfI Roads were consulted on the proposal and have raised on-going concerns about the access onto the Tobermore Road. DfI Roads states that provision must be made for vehicles to reverse and exit the site in forward gear. The applicant then provided additional/amended drawings to clearly identify that there is sufficient space for a car to enter the site via the proposed access and travel past No.54 to the yard where vehicles can be parked and turned and exit the site in forward gear.



Following the submission of these plans, DfI Roads responded to still object. They acknowledged that the applicant has shown space to the rear where vehicles can turn and park, but state this would require co-operation from the adjacent neighbor to leave space clear in front of No.54 to pass by. They also noted this area in front of No.54 is restricted and could be difficult for vehicles manoeuvring to the rear. In addition, based



on the above, it could result in reversing movements onto the Tobermore Road where the access is proposed within the national speed limits of 60mph and on the inside of a sweeping corner further adding to road safety concerns. DfI Roads have stated that access to the area at the rear is more controlled from the existing access at No.54, however the applicant has advised this is a private driveway and they cannot use this access.

Following a discussion at a group meeting it was agreed that sufficient space is available for vehicles to pass in front of no.54 and access the rear of the site where they can park and turn, allowing vehicles to exit in forward gear. Currently, access is gained by the applicant at the existing access to the south, which allows them to travel in front on the three dwellings, into the yard at the rear. DfI Roads stated concerns that the proposal relies on the neighbor at No.54 to leave space for access to the rear, but having carried out a site visit I am content that No.54 has sufficient space to the north to park at least two vehicles, (as shown in the image below) and would allow space for vehicles to pass.



View from in front of No. 54 looking North West to yard at the rear

It should also be noted that if access to the yard at the rear was blocked in front of No.54 a vehicle would be able to reverse in front of No.52 & No. 50 and drive out of the new access in forward gear. Currently, if access was blocked in front of No.50 and No.54 the applicant would have to park on the side of the public road, which in my opinion would be a road safety issue which could be overcome by this proposal. The applicant has stated the access south of No.50 is a right of way, which continues into their yard at the rear, so if this was to be blocked or impeded it would be a civil issue. I am of the view that even if when using this new access point a vehicle was prevented access to the rear yard, there remains the ability to reverse in front of No.50 and then drive forward to exit onto the Tobermore Road in a forward gear.

Following the group discussion it was agreed to re-consult DfI Roads to request conditions should the council be minded to approve the application. In response, DfI Roads stated they remain of the opinion that un-controlled parking at house 54 will create the potential for vehicles either needing to reverse unto Tobermore Road from house 52 or park on the newly formed driveway. This would also result in parked vehicles blocking the sightlines from both houses 50 and 54 and obstructing the F.S.D on the bend on Tobermore Road, thus creating a hazard on the road.



View from No.54 looking south towards existing Southern access point which travels along the front of all three dwellings

Further they state the proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMPS 2 in that if permitted, would prejudice the safety and convenience of roads users since adequate provision cannot be made clear of the highway for parking, turning, loading and unloading of vehicles which would be attracted to the site.

It was agreed at a group meeting these concerns raised by DfI Roads can be overcome as there is sufficient space available to the applicant to allow them to turn as to avoid reversing onto the Tobermore Road therefore, maintaining a safe access onto the public road and complying with Policy AMP 2 of PPS 3.

### **Other Material Considerations**

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in

assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

**Neighbour Notification Checked**

**Yes/No**

**Summary of Recommendation:**

Approval

**Conditions**

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

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

2. The vehicular access including visibility splays 2.4 x 120 metres and a 120 metre forward sight distance, shall be provided in accordance with Drawing No 01 Rev 01 bearing the date stamp 20 Jan 2021 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Informative**

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

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

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

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



Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	30th July 2020
<b>Date First Advertised</b>	11th August 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 50 Tobermore Road Magherafelt Londonderry The Owner/Occupier, 54 Tobermore Road, Magherafelt, Londonderry, BT45 5EH	
<b>Date of Last Neighbour Notification</b>	14th August 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/0919/F Proposal: New 3m wide vehicular access, 1.8m high close board gates & fence Address: 52 Tobermore Road, Magherafelt, Decision: Decision Date:  Ref ID: LA09/2018/1608/DC Proposal: Discharge of condition 4 on Planning Application H/2015/0077/F Address: Lands at Sounding Hill Quarry, Tobermore Road, Magherafelt, Decision: AL Decision Date:  Ref ID: H/1978/0121 Proposal: QUARRYING OPERATIONS Address: SOUNDING HILL QUARRY, MAGHERAFELT Decision: Decision Date:  Ref ID: H/1997/0186 Proposal: NEW ENTRANCE Address: 54 TOBERMORE ROAD MAGHERAFELT Decision: Decision Date:  Ref ID: H/2004/0310/F Proposal: Alterations and Extension to Dwelling. Address: 54 Tobermore Road, Magherafelt	

Decision:

Decision Date: 23.06.2004

Ref ID: H/1992/0370

Proposal: CHANGE OF COMMUNAL VEHICULAR ENTRANCE TO SINGLE VEHICULAR ENTRANCE AND NEW PAIRED ACCESS

Address: 50-54 TOBERMORE RD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1997/0629

Proposal: ALTS AND ADDS TO DWELLING

Address: 52 TOBERMORE ROAD MAGHERAFELT

Decision:

Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 01 REV 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Proposed Elevations

Status: Submitted

Drawing No. 04

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 05

Type: Block/Site Survey Plans

Status: Submitted

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

Date of Notification to Department:

Response of Department:



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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0924/F	<b>Target Date:</b>
<b>Proposal:</b> Variation of condition 4 (ridge height & floor area) from planning approval LA09/2018/1296/O allowing a 8m ridge height and removal of floor area restriction	<b>Location:</b> Lands 75m South of 16 Ballyheifer Road Magherafelt
<b>Referral Route:</b> Increase ridge height from 6m to 8m as an exception to Policy BH11 of PPS 6	
<b>Recommendation: Approve</b>	
<b>Applicant Name and Address:</b> Glenbrook Stud 58 Moneymore Road Magherafelt BT45 6HG	<b>Agent Name and Address:</b> C.McIlvar Ltd Unit 7 Cookstown Enterprise Centre Cookstown BT80 9LU
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Advice
Statutory	Historic Environment Division (HED)	

### 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 have been received and all other material considerations including HED HB concerns have been assessed within the determination in this report

### Characteristics of the Site and Area

The proposed site is identified as lands 75m south of No 16 Ballyheifer Road, Magherafelt. The site is located just at the outer edge of the settlement limits of Magherafelt, in accordance with the Magherafelt Area Plan 2015. The site is rectangular in shape with plot size measuring 0.58 of a hectare. The site is situated within a large agricultural field in the open countryside where topography is relatively flat throughout and is well screened by mature trees and thick vegetation. The site is located approximately 40m south of Ballyheifer House, which is a grade B listed building. The proposed access involves the construction of a new access onto Ballyheifer Road which follows established field boundary.

## Description of Proposal

The applicant is seeking a variation of condition 4 of the outline approval LA09/2018/1296/O seeking approval to increase the ridge height from 6m to 8m.

## Relevant planning history.

LA09/2019/1296/O Site of proposed two storey dwelling and garage at lands 75m south of 16 Ballyheifer Road, Magherafelt.

## 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 10th August 2020 (publication date 11th August 2020). One (1) neighbour property was notified on 14th August 2020; all processes were in accordance with the Development Management Practice Note 14 (April 2015).

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

**HRA Determination** - (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2015, 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.

## Planning Assessment of Policy and Other Material Considerations

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 provided by PPS 21 and the SPPS.

1. Strategic Planning Policy Statement (SPPS).
2. Magherafelt Area Plan 2015.
3. PPS 21 Sustainable Development in the Countryside (CT1, CTY 13 & 14)
4. PPS 6 Archaeology and the Built Environment. BH11

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

Policy CTY1 of PPS 21 details a range of types of development which are considered to be acceptable in principle in the countryside. The principle of development has already been determined under LA09/2018/1296/O based on CTY 10 farm dwelling.

**Reason: To ensure that the development is not prominent in the landscape in accordance with the requirements of Planning Policy Statement 21 and to protect the setting of the adjacent listed building known as Ballyheifer House.**

This topographic map illustrates a proposed residential development. The site is characterized by a series of contour lines indicating varying elevations, ranging from approximately 20.00 to 28.00 feet. Several building footprints are shown, including a large central structure labeled 'Shadybrook House' and several smaller buildings. A network of roads and paths is depicted, with some areas shaded in green to represent landscaped or wooded areas. The map also shows existing infrastructure, such as a road running along the left side and a road labeled 'Shadybrook Road' at the top. The overall layout suggests a planned residential community with integrated landscaping and infrastructure.

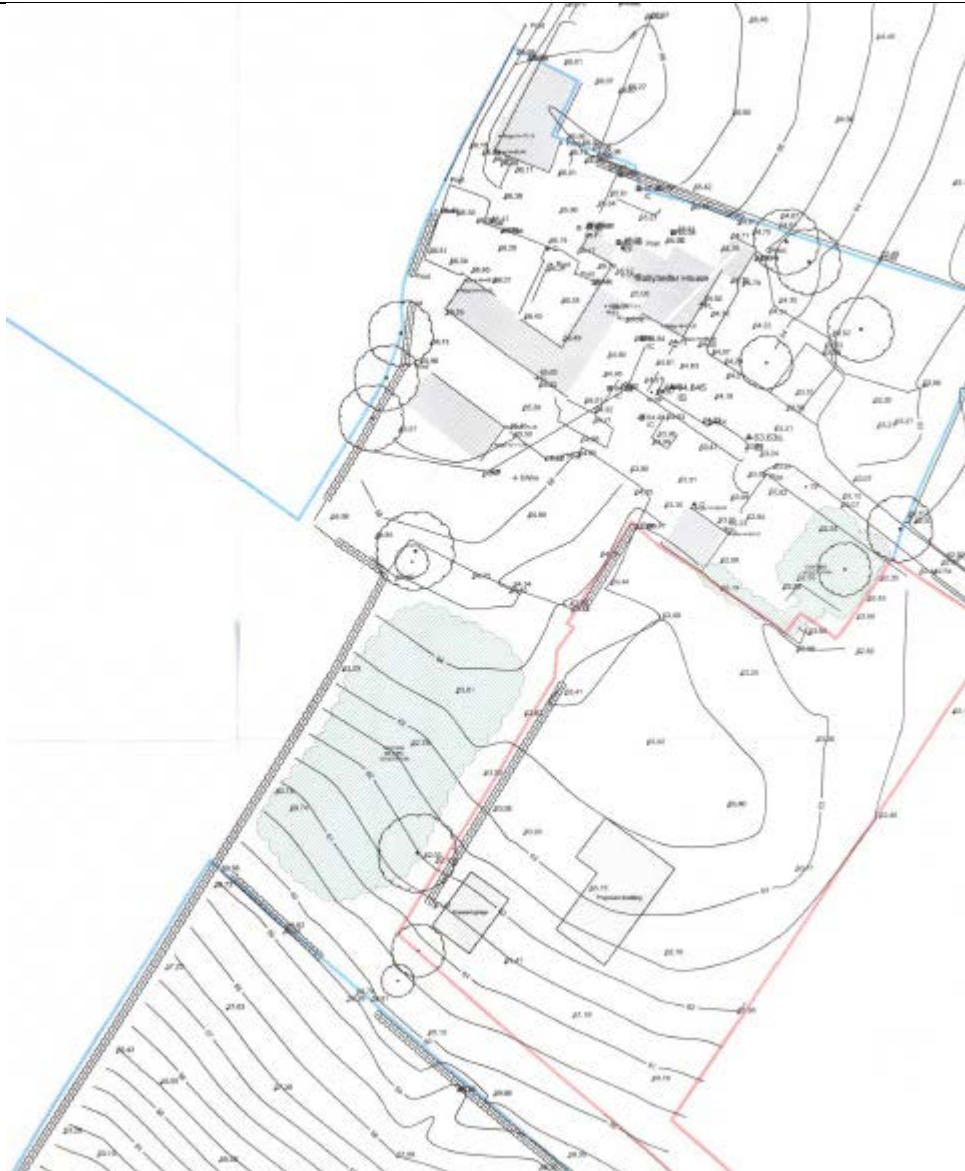
The principle policies for assessing this application are PPS 6 BH11, CTY 13 and 14 of PPS 21. Historic Environment Division (HED) were consulted on 13/8/2020. In their initial response HED raised concerns that the proposed ridge increase would have an adverse impact of Ballyheifer House and setting, which is a Grade B listed building. HED HB considers the proposal contrary to Policy BH11 of the Department's Planning Policy Statement 6: Archaeology and the Built

Environment in that the proposed dwelling with a ridge height beyond 6m offends Policy requirements of BH11 (a) states that the proposed designed respects the listed building in terms of scale, height, massing and alignment. HED HB acknowledges receipt of amended drawings Nos (site layout plan) topography survey existing and proposed site sections.

It is noted the agent annotated on drawing 01 stamp date 31 July 2020 an area shaded pink taken from NIEA map, which incorporated the grounds surrounding Ballyheifer House. The mature vegetation and tree coverage which surrounds the site, and particularly to the southeast and southwest is an important feature in terms of integration. I feel that this vegetation will provide a sufficient degree of enclosure so as to prevent a negative impact on the setting of Ballyheifer House and with proposed landscape scheme would help to restrict the level of visibility onto the site. This is supplemented by landscaping works. I also note the visual presence and of a number of other buildings located to the south of the main house which presently interfere with clear views of it when viewed from the SW approach along Ballyheifer Road.

The principal planning officer has reviewed the proposal and after contacting the agent on 22 Dec 2020 following a visit to the site asked for a reduction to 8m and that consideration be given to removing all development further SW away from the Listed Building. The plan below shows the result of this. Sections submitted in Nov 2020 also assist.





It is important to note that the survey site plan show the proposed dwelling re-sited further southwest centred on an existing datum level 63.15 ffl and shows datum level of the listed building at 65.12 ffl a difference of 1.97m.

I am satisfied that the re-siting the proposed garage along with a ffl of 62.30 for the main dwelling, whilst exceeding the original restrictions by 2m, will not visually compete with Ballyheifer House to the extent that Policy PPS6 and associated guidance on the setting of listed buildings is offended justifying a reason for refusal. The site and Ballyheifer house also sit well back from the roadside creating quite distant views of both. HED have been re-consulted however given their previous response to the proposal this is unlikely to change significantly. I note that permitted development rights were not removed under the previous permission, this could have allowed greater protection to that area between the proposed development and Ballyheifer House. Whilst perhaps desirable to do so I do not believe this can be imposed within the scope of this application. I note the proposed planted buffer is absent from the revised site plan but remains on the site location plan No. 01 date stamped 31 July 2020. This is not altered by this permission and should remain covered under the original approval. This will reinforce the protection of that part of the site from built development.

I am satisfied that an overall separation distance when one considers the dwelling and garage, allows me to positively consider an 8m ridge height which would still achieve a satisfactory relationship with Ballyheifer House. The extent of floor area / footprint is not significantly altered from the original permission and it is my view that the below amended condition is acceptable in this regard.

No other issues are raised by consultees and there have been no third party objections to the proposal.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approved with conditions

**Conditions:**

The proposed dwelling shall have a ridge height of no more than 8m metres above a finished floor level of 62.300 as per drawing No 02 (Rev-1) stamp date 27 January 2021 and its total floor area and garage shall be in general conformity with the footprint of the proposed dwelling and garage as also shown on Drawing No. 02 (Rev-1) stamp date 27 January 2021.

Reason: To ensure that the development is not prominent in the landscape in accordance with the requirements of Planning Policy Statement 21 and to protect the setting of the adjacent listed building known as Ballyheifer House.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	31st July 2020
<b>Date First Advertised</b>	11th August 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 16 Ballyheifer Road Magherafelt Londonderry	
<b>Date of Last Neighbour Notification</b>	14th August 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/0924/F Proposal: Variation of condition 4 (ridge height & floor area) from planning approval LA09/2018/1296/O allowing a 8.5m ridge height and removal of floor area restriction Address: Lands 75m South of 16 Ballyheifer Road, Magherafelt, Decision: Decision Date:	
Ref ID: LA09/2018/1296/O Proposal: Site of proposed dwelling and garage. Address: Lands 75m South of 16 Ballyheifer Road, Magherafelt, BT45 5DX., Decision: PG  Decision Date: 13.06.2019	
<b>Summary of Consultee Responses</b>	

**Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02 (Rev-1)

Type: Proposed site layout plan

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



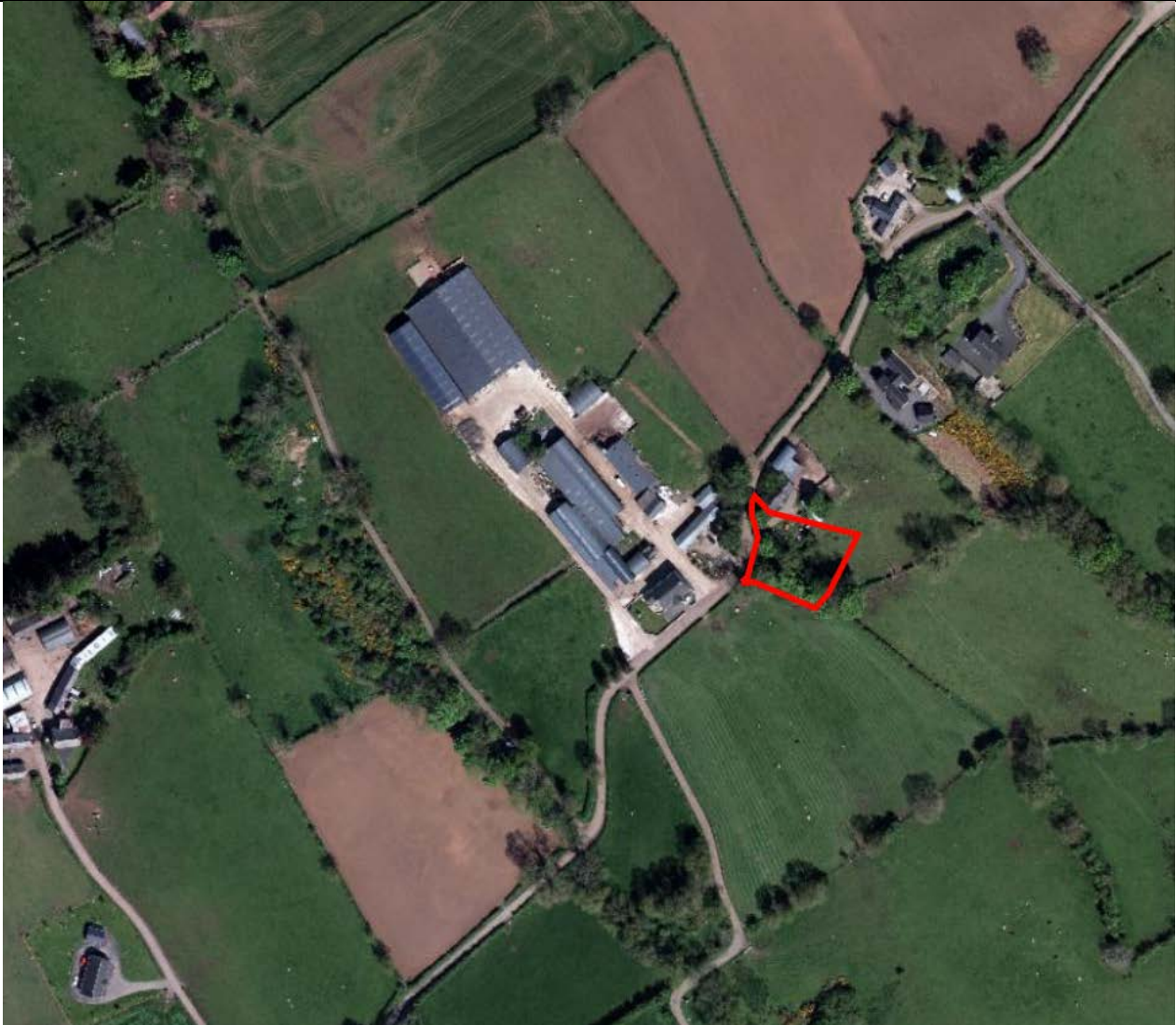
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
 District Council

Development Management Officer Report  
 Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1110/O	Target Date:
Proposal: Proposed site for replacement dwelling	Location: Approx 40m East of 40 Ballymacilcurr Road Maghera
Referral Route:  The application is being presented to Committee as it is being recommended for refusal.	
Recommendation:	REFUSE
Applicant Name and Address: Declan Mc Kenna 143 Tirkane Road Maghera	Agent Name and Address: D M Kearney Design 2a Coleraine Road Maghera BT46 5BN
Executive Summary:	
Signature(s):	

## Case Officer Report

## Site Location Plan



## Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	NIEA	Advice

## Representations:

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



Number of Petitions of Objection and signatures	No Petitions Received
<p>Summary of Issues including representations</p> <p>No representations have been received in respect of this proposed development.</p>	
<p>Characteristics of the Site and Area</p> <p>The site is located in the rural area on a minor road 1.8Km from the main Moneysharvan Road and 2.9Km from Maghera town centre.</p> <p>The site is currently occupied by a vacant and dilapidated building set within a small former farmyard. There is modest vacant two storey dwelling located on the road frontage with associated out-buildings set around the perimeter of the yard. The subject building has four external walls intact up to roof level, with the eaves level approximately 2m above ground level. The walls are constructed with random rubble stone with a single door and one window in the front, north-eastern elevation, with two smaller windows in the rear elevation. The building in question measures approximately 8m x 5m.</p>  <p>The building to be replaced is the unroofed part of the building above.</p>	

There is what appears to be the remnants of what could have been a hearth on the inside of the south-eastern gable wall, although this is by no means conclusive.



Possibly the remnants of a hearth

The north-western gable is attached to an open fronted outbuilding and there are a number of deciduous trees growing very close to the rear wall. The site is located almost directly opposite a large working farmyard.

#### Description of Proposal

The proposal is an outline full application for a replacement dwelling therefore the details of the design and finishes have not been provided nor considered.

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

The main policy considerations in the assessment of this application are:-

The proposal accords with the Magherafelt Area Plan 2015 insofar as it is in the rural area and is for the replacement dwelling.

The site lies outside any defined settlement limits and is open countryside as identified in the Magherafelt Area Plan 2015. No other constraints have been identified.

PPS 21 Policy CTY 3 Replacement Dwellings - states the planning permission will be granted for a replacement dwelling where the building to be replaced exhibits all the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. This includes buildings previously used as dwellings.

The building to be replaced still has the external walls intact, with one doorway and three small windows which are clearly evident. However, there is no further evidence to lead me to believe this building was ever a dwelling. Although there would appear to be, what



may be the remnants of a hearth, there is little of this feature left and this alone is not sufficient to demonstrate conclusively that the building was formerly a dwelling. Given the size of the subject building, the size of the windows, the lack of evidence of any former internal walls, and the shape and size of the so-called hearth, in addition to the position of the building to the front/side of the main dwelling, which would all suggest that the building was some type of former out-building, probably used for agricultural purposes. In my opinion, the building to be replaced is more likely to have been something such as a blacksmiths workshop or a building to make animal foodstuffs. The applicant was requested to provide verifiable evidence that the subject building was formerly a dwelling, however, they have failed to provide any evidence. Consequently, in the absence of verifiable evidence to the contrary, it is my opinion that the proposed development should be refused for the reasons stated below:-

Whilst the subject building may be regarded as being vernacular, due to its current state, its position within the existing built form and the level of mature vegetation which provides screening from the public road, it is not considered to make an important contribution to the heritage, appearance or character of the local area. Therefore, there would be no requirement to retain the building.

In addition, this policy states that proposals for a replacement dwelling will only be permitted where all of the following criteria are met:-

- the replacement dwelling is sited within the established curtilage of the existing dwelling unless it is too restrictive to accommodate a modest size dwelling or that there are clear landscape, heritage, access or amenity benefits; In this case, the proposed development extends outside the existing curtilage as the existing is too restricted and therefore this part of the proposal is acceptable.
- the overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building; As the curtilage of the existing building is too restricted to accommodate a modern dwelling, it will be set outside the boundaries of the existing building. As the existing building will be removed, so will the mature trees growing against the rear wall. This will open up views of the site on approach from the south-west from where any dwelling is going to have a significantly greater impact than the existing building which is well screened from this approach by the existing vegetation.



The existing building has an insignificant visual impact. The mature trees growing against the rear wall will have to be removed, thereby opening up views of the site.

- As this is an outline application, details of the design have not been provided, however, if the proposed development were to be approved, any replacement dwelling should, in my opinion, be restricted to a maximum ridge height of 5.5m above finished floor level with an under-build of 0.45m above existing ground level and the design can be conditioned to be in keeping with the rural design guide;
- All services can be provided without adverse impact on the environment or character of the locality;  
The provision of services will not have any adverse impact on the environment or character of the locality.
- Access will not prejudice safety and convenience of traffic.  
DfI Roads have advised that the proposal will have no adverse effect on traffic.

### PPS 3 - Access, movement and parking

As discussed above, DfI Roads have advised that the proposal will have no adverse effect on traffic.

### Recommendations

In my opinion, there is insufficient evidence to prove the building to be replaced was ever a dwelling and the replacement dwelling will also have a visual impact significantly greater than the existing building. Therefore the proposed development should be refused for the reason stated below:-

Neighbour Notification Checked	Yes
Summary of Recommendation:  Refuse for the reason listed below:-	
Reason for Refusal:  1. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that it has not been demonstrated that the building to be replaced was ever a dwelling and any replacement dwelling would have a visual impact significantly greater than the existing building.	
Signature(s)  Date:	

ANNEX	
Date Valid	14th September 2020
Date First Advertised	29th September 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 40 Ballymacilcurr Road Culnady Londonderry	
Date of Last Neighbour Notification	13th November 2020
Date of EIA Determination	N/A
ES Requested	No
Planning History  Ref ID: LA09/2019/0455/O Proposal: Proposed 2 storey dwelling and detached double garage Address: Approx 72m East of 40 Ballymacilcurr Road, Maghera, Decision: PG Decision Date: 20.06.2019  Ref ID: LA09/2020/1110/O Proposal: Proposed site for replacement dwelling Address: Approx 40m East of 40 Ballymacilcurr Road, Maghera, Decision: Decision Date:	
Summary of Consultee Responses  DfI Roads advised that the access arrangements are acceptable subject to condition.	
Drawing Numbers and Title	

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

Notification to Department (if relevant)

Date of Notification to Department:  
Response of Department:



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

## Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1208/F	Target Date:
Proposal: Proposed stables / Farm shed.	Location: 70m SW of No 30 Loughdoo Road Pomeroy.
Referral Route:  This application is being presented to Committee as it is being recommended for Refusal.	
Recommendation:	REFUSE
Applicant Name and Address: Karl Heron 18 Fairhill Grove Cookstown BT80 8TG	Agent Name and Address: APS Architects LLP Mid Ulster Business Park Unit 4 Cookstown BT80 9LU
Executive Summary:	
Signature(s):	



Case Officer Report

Site Location Plan



Consultations:

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

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

#### Summary of Issues including Representations

No representations have been received in respect of this proposed development.

#### Characteristics of the Site and Area

The site is located in the rural area and is 1.2km north west of Gortacladdy and 2.5km south of Dunnamore at the junction of the Loughdoo Road and the Crancussy Road.

The site is set within and to the rear of an existing yard with large sheds. These sheds are typical of agricultural sheds, however they appear to be used in connection with an unauthorised commercial business operating as 'Bear Competitions'. Some of the existing sheds were undergoing refurbishment during site inspection with new cladding having been fitted and internal insulation being fixed to the walls. There is an office fitted out and in use in the northern end of the western most building. There are two existing stable buildings at the southern end of the eastern most building in the yard and both are currently in use as stables.

Within the yard area, there were a number of vehicles advertised for prizes in upcoming raffles on 'Bear Competition' facebook site. These included a Range Rover, Audi RS3, Nissan GTR, Toyota Hi-Lux and a Fiat 110-90 tractor.

Within the large concrete yard there were several pieces of plant/machinery parked, eg. Tracked excavators, dumpers, telescopic loader lorries and a bulldozer.





To the south of the proposed building and outside the curtilage of the existing yard but what would appear to be within the red line boundary of the site, there is another large shed being erected.



At present there are limited critical views of the site due to the existing built development around the site in addition to the winding road network and the roadside vegetation.

Description of Proposal

The proposal is for the erection of proposed stables / farm shed to the south of the existing sheds and within the boundary of the existing yard. The proposed stables/shed measures 31.0m x 12.8m with an eaves height of 5.2m and a ridge height of 6.2m. The external finishes are smooth render on the bottom half of the walls with goose grey cladding over and on the roof. There are two roller shutter doors, one in either end with a single pedestrian door in the northern side elevation. The proposed building provides 12 individual stalls for stables with a feed livery area.

It is proposed to utilise an existing access to the western end of the site, however, this links through to the access used by the adjoining dwelling and onto the Loughdoo Road.

Planning Assessment of Policy and Other Material Considerations

Relevant planning history

Reference	Location	Proposal/Complaint	Status	Date
LA09/2018/1122/F	50m South of 30 Loughdoo Road, Pon	Retention of dwelling and garage to include alterations	PERMISSION GRANTED	13.02.2019
I/2013/0224/F	70m SW of no. 30 Loughdoo Road, Kil	Part farm diversification to include the bulk storage of fu uels to supply existing business, and a small office all wit within existing agricultural sheds and yard of active farm	PERMISSION REFUSED	22.07.2014

I/2012/0155/F	50m South of 30 Loughdoo Road, Kille	Proposed dwelling on a farm	PERMISSION GRANTED	11.09.2012
LA09/2020/0156/F	50M South of No30 Loughdoo Road, F	Proposed new Access to Dwelling	CONSULTATION(S) ISSUED	
I/2014/0382/F	50m South of 30 Loughdoo Road, Kille	Proposed additional access	APPLICATION WITHDRAWN	20.02.2015
LA09/2020/1208/F	70m S'W of No 30 Loughdoo Road, Pc	Proposed stables / Farm shed.	VALID APPLICATION RECEIVED	
LA09/2020/0132/CA	50m South Of 30 Loughdoo Road,Porr	Alleged unauthorised engineering; deposition of soil and engineering; deposition of soil and creation of laneways	ASSESSMENT OF ENFORCEMENT	
LA09/2019/0100/CA	50m South Of 30 Loughdoo Road,Porr	Alleged storage of steel containers	ENFORCEMENT CASE CLOSED	20.11.2019
I/2013/0038/CA	70m S'W Of 30 Loughdoo Road,Killeer	Fuel sales, storage and distribution	ENFORCEMENT CASE CLOSED	26.01.2016
LA09/2018/0055/CA	50m South Of 30 Loughdoo Road,Porr	Unauthorised access and dwelling not built in accordar nd dwelling not built in accordance with I/2012/0155/F	ENFORCEMENT CASE CLOSED	20.09.2019
LA09/2015/0073/CA	50m South Of 30 Loughdoo Road,Kille	Unauthorised wall and pillars at new entrance	ENFORCEMENT CASE CLOSED	01.05.2018

#### Development Plan and key policy considerations

The site lies outside any defined settlement limits and is open countryside as identified in the Cookstown Area Plan 2010. No other constraints have been identified.

PPS 21 Policy CTY 12 Agricultural and Forestry Development states the planning permission will be granted for development on an active and established agricultural or forestry holding where the proposal satisfies certain criteria. The proposal meets all these criteria as the proposed building;

- is necessary for the businesses efficient use;

No evidence has been provided in respect of the farm business such as farm maps or a completed P1C form. Consequently DAERA have not been consulted as there is no suggestion that there is a farm business to support the proposed development. Without verification that there is an active and established agricultural business, the proposed development does not appear to be necessary;

- it is appropriate in terms of character and scale;

as the site is within an existing yard, the character and scale of the proposed development are appropriate;

- it visually integrates;

as the proposed building will be viewed against and in close association with the existing buildings, it will achieve an acceptable degree of integration;

- there will be no adverse impact on natural or built heritage;

the proposed development will not have an adverse impact on either natural or built heritage;

- there will be no detrimental impact on residential amenity;

Although Environmental Health have not yet responded to the consultation, as the nearest third part dwelling is 70m from the site of the proposed building, it is not anticipated that there will be any detrimental impact on residential amenity.

Furthermore, in cases where a new building is proposed, applicants need to demonstrate that there are no existing farm buildings which can be used, the design and materials are sympathetic to the locality and the proposed building is adjacent to the existing farm buildings. However, consideration may be given to an alternative site for a new building away from the existing farm buildings provided there are no other sites available at another group of buildings and where it is essential for the efficient functioning of the farm or there are demonstrable health and safety reasons.

The site plan as submitted identifies the existing buildings on site as 'Existing farm buildings'. However, those buildings would appear to be used in connection with a commercial business and are clearly not being used for farm use. Therefore, in my opinion, there are no existing farm buildings and there is no reason why the existing buildings cannot be utilised for the proposed use as opposed to erecting a new building. In this case, the proposed development is contrary to planning policy.

Exceptionally consideration may be given to an alternative site away from existing farm buildings provided there are no other sites available at another group of farm buildings and where it is either essential for the

efficient functioning of the business or there are demonstrable health and safety reasons. As there does not appear to be an active and established farm business, the proposed development is not considered to be essential for the efficient functioning of such a business. Additionally, no demonstrable health and safety reasons have been provided as to why the proposed building is set away from existing farm buildings.

CTY 13 - Integration and design of buildings in the countryside requires all buildings in the countryside to achieve an acceptable degree of integration into the surrounding landscape. As the proposed building is set to the side of an existing yard and would be viewed against the backdrop of the existing built form, it would achieve an acceptable degree of integration.

CTY 14 - Rural Character allows for a building in the countryside provided it does not cause a change to or further erode the rural character of the area. The proposed building is not considered to be detrimental to rural character.

PPS 3 - Policy AMP 2 Access to Public Roads advised that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where such access will not prejudice road safety or significantly inconvenience the flow of traffic and Consideration will also be given to, amongst other things, the location and number of existing accesses.

#### Recommendations

In my opinion, although the site may be able to accommodate the proposed building without a detrimental impact on either residential or visual amenity, the applicant has failed to satisfactorily demonstrate;

Why a new building is necessary for the efficient use of the farm business;

Why the existing buildings cannot be utilised for the proposed use;

That the proposed building is sited beside existing farm buildings;

That there are demonstrable health and safety reasons for siting the proposed building away from existing farm buildings.

Therefore planning approval should be refused for the reasons listed below:-

Neighbour Notification Checked	Yes
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#### Summary of Recommendation:

Refuse for the reasons listed below:-

#### Reasons for Refusal:

1. The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been satisfactorily demonstrated that;  
it is necessary for the efficient use of an active and established agricultural holding;  
there are no suitable existing buildings on the holding or enterprise that can be used; and  
the proposal is sited beside existing farm or forestry buildings.

2. The proposal is contrary to policy CTY12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that it has not been satisfactorily demonstrated that there are demonstrable health and safety reasons which exist to justify an alternative site away from existing farm buildings and that this alternative site is essential for the efficient functioning of an active and established farm business.

Signature(s)

Date:

ANNEX	
Date Valid	2nd October 2020
Date First Advertised	13th October 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 30 Loughdoo Road Pomeroy Tyrone	
Date of Last Neighbour Notification	13th November 2020
Date of EIA Determination	N/A
ES Requested	No
Planning History  Ref ID: LA09/2018/1122/F Proposal: Retention of dwelling and garage to include alterations from previously approved, (I/2012/0155/F). Address: 50m South of 30 Loughdoo Road, Pomeroy, Tyrone, BT80 9JG., Decision: PG Decision Date: 13.02.2019  Ref ID: I/2013/0224/F Proposal: Part farm diversification to include the bulk storage of fuels to supply existing business, and a small office all within existing agricultural sheds and yard of active farm Address: 70m SW of no. 30 Loughdoo Road, Kildress, Decision: PR Decision Date: 22.07.2014  Ref ID: I/2012/0155/F Proposal: Proposed dwelling on a farm Address: 50m South of 30 Loughdoo Road, Killeenan, Cookstown, Decision: PG Decision Date: 11.09.2012  Ref ID: LA09/2020/0156/F Proposal: Proposed new Access to Dwelling Address: 50M South of No30 Loughdoo Road, Pomeroy, Decision: RL Decision Date:	

Ref ID: I/2014/0382/F  
 Proposal: Proposed additional access  
 Address: 50m South of 30 Loughdoo Road, Killeenan, Cookstown,  
 Decision: WITHDR  
 Decision Date: 20.02.2015

Ref ID: LA09/2020/1208/F  
 Proposal: Proposed stables / Farm shed.  
 Address: 70m SW of No 30 Loughdoo Road, Pomeroy.,  
 Decision:  
 Decision Date:

#### Summary of Consultee Responses

DfI Roads requested an updated site plan to confirm site usages and how each use is to be accessed and if the paddock and stables are to be accessed differently from the yard.  
 As the principle of the proposed development is not acceptable, it is not considered necessary to request the submission of the additional information.

#### Drawing Numbers and Title

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

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

Drawing No. 03  
 Type: Proposed Plans  
 Status: Approved

#### Notification to Department (if relevant)

Date of Notification to Department:  
 Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1217/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed 2 dwellings (semi detached) with domestic garage	<b>Location:</b> Immediately adjacent to 12 Station Road Moneymore
<b>Referral Route:</b>  Committee - Refuse	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Cherrybrook Developments Ltd 80 Fivemilestraight Maghera	<b>Agent Name and Address:</b> Diamond Architecture 77 Main Street Maghera BT46 5AB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received
Non Statutory	DFI Roads - Enniskillen Office	Consulted in Error
Statutory	Historic Environment Division (HED)	Content
Statutory	DFI Roads - Enniskillen Office	Standing Advice

### Representations:

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

### Summary of Issues

No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below

### Characteristics of the Site and Area

The site is located immediately adjacent to 12 Station Road, Moneymore and is located just within the designated settlement limits as defined in the Cookstown Area Plan, 2010.

The site is triangular shaped and is located adjacent to a row of large detached dwellings along Station Road and there are also large detached dwellings directly opposite the application site. The roadside boundary of the site is well screened with existing vegetation, and the remaining boundaries are fairly well screened with vegetation. The elevation of the site is relatively flat.

### **Description of Proposal**

This application seeks planning permission for 2 No dwellings (semi detached) dwellings with domestic garage.

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

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

- 1.Strategic Planning Policy Statement (SPPS)
- 2.Cookstown Area Plan, 2010
- 3.Planning Policy Statement (PPS) 3 - Access, Movement and Parking
- 4.Planning Policy Statement (PPS) 7 - Quality Residential Environments
- 5.Addendum to Planning Policy Statement 7 – Safeguarding the Character of Established Residential Areas

Supplementary planning guidance:

Creating Places -Achieving Quality in Residential Developments

Planning Strategy for Rural Northern Ireland

Planning History

There is no planning history relevant to the determination of this application

Representations

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

Assessment

Principle of Development

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

The 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.

The Cookstown Area Plan, 2010 identifies the site as being located within the development limits. The application is for 2 No dwellings (semi detached) with domestic garage. Under Policy QD1 of PPS7- planning permission will only be granted for new residential developments where it is demonstrated that the proposal will create a quality and sustainable residential area. The design



and layout of residential development should be based on overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas.

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

- (a) The development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;
- (b) Features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;
- (c) Adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;
- (d) Adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;
- (e) A movement pattern is provided which supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;
- (f) Adequate and appropriate provision is made for parking;
- (g) The design of the development draws upon the best local traditions of form, materials and detailing;
- (h) the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light overshadowing, noise or other disturbance;
- (i) The development is designed to deter crime and promote personal safety

In terms of LC1 of PPS7 Addendum: Safe guarding the Character of Established Residential Areas, Proposals are expected to meet the following criteria:

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

The proposal is for 2 no. dwellings (semi detached) and a domestic garage. This is not in keeping with the surrounding area in terms of appearance, scale, massing and proportion and is completely out of character with the existing streetscene. The adjacent properties along Station road (N0 6, 8, 10 and 12) are all large detached dwellings, single storey and some with attic conversions. Each of these individual dwellings are set on plots of similar size to this application site. The dwellings on the opposite side of the road are also mainly large detached properties either single storey or a storey and a half. The pattern of development is not in keeping with the overall character of the established residential area. As shown in the photographs below:



The proposal is also not in keeping with Policy DES 2 of the Planning strategy for Rural Northern Ireland, as it adversely affects the townscape quality and character of the street pattern.

The material finishes proposed for the dwellings as indicated on drawing No 03, date stamped 05.10.2020, are not in keeping with the existing appearance of the area. The proposal fails to meet this criteria of QD 1PPS 7 and PPS &: Addendum: Safeguarding the Character of Established Residential Areas, and clearly represents overdevelopment on this site.

HED were consulted on this application and responded to say that HED (Historic Monuments) has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy

There is limited private open space within the site, with garden areas to the rear, while the rear garden for dwelling 1 is sufficient, the rear garden for the dwelling 2 is limited due to the triangular shape of the site.

As the proposal is for 2 No dwellings it is considered that it would be unnecessary to provide additional neighbourhood facilities due to the size and scale of the proposal. The proposal would not significantly intensify or place unnecessary demands on the existing neighbourhood provisions and amenities within the area.

The proposal seeks to construct a new access to a public road. Transport NI were consulted on the application and where satisfied subject to conditions. The site is connected to a wider road network and it is not considered necessary to ask the developer to provide additional neighbourhood facilities.

I find that the proposal incorporates sufficient space around the curtilage of the proposed site for the parking and turning of cars. I consider that adequate provision has been made for the provision of in-curtilage parking on the site.

The form, materials and detailing are not considered to be in context with the surrounding existing properties and are therefore not in keeping with the area.

I consider that the proposed dwellings are sited a reasonable distance away from any neighbouring properties. The application site is fairly well screened and however the existing hedgerows on the roadside boundary would have to be removed in order to provide the adequate visibility splays. The proposal is overdevelopment of the site and I do consider that it will cause any detrimental impact on neighbouring amenity.

The proposal is on the edge of the settlement limits of Moneymore and I have no reason to believe that there would be any reasons why crime or personal safety would be an issue on this site.

#### Other considerations

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

Discussions were had with the agent regarding the application and I offered the possibility of amending the application to one dwelling which would be acceptable, however he said the applicant wanted 2 dwellings on the site. The agent submitted a proposal for two detached dwellings for consideration. After discussions with the Planning Manager he agreed that it was still overdevelopment of the site is only suitable for one dwelling. A planning statement in support of the application was then submitted by the agent.

#### Conclusion

In conclusion the proposed development is considered to be contrary to the criteria of policy objectives of the Area Plan, PPS7, PPS 7 addendum safe guarding the character of established residential areas, Policy DES 2 and PPS3, and accordingly is recommended for refusal

#### Neighbour Notification Checked

**Yes**

#### Summary of Recommendation:

Refusal is recommended

#### Reasons for Refusal:

1.The proposal is contrary to Planning Policy Statement (PPS) 7 - Quality Residential Environments and Planning Policy statement (PPS) 7 Addendum – safeguarding the character of established residential areas and Policy DES 2. The proposed development does not respect the surrounding context and is not appropriate to the character of the area or the site in terms of layout, scale, proportions, massing and appearance, nor does it respect the pattern of development on this part of Station Road, Moneymore.

#### Signature(s)

**Date:**

ANNEX	
<b>Date Valid</b>	5th October 2020
<b>Date First Advertised</b>	20th October 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 10 Station Road, Moneymore, Londonderry, BT45 7RA The Owner/Occupier, 11 Station Road Moneymore Londonderry The Owner/Occupier, 12 Station Road Moneymore Londonderry The Owner/Occupier, 13 Station Road Moneymore Londonderry The Owner/Occupier, 22 Station Road Moneymore Londonderry	
<b>Date of Last Neighbour Notification</b>	18th November 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2017/1098/O Proposal: Proposed new dwelling Address: Immediately adjacent to 12 Station Road Moneymore, Decision: PG Decision Date: 13.04.2018  Ref ID: LA09/2020/1217/F Proposal: Proposed 2 dwellings (semi detached) with domestic garage Address: Immediately adjacent to 12 Station Road, Moneymore, Decision: Decision Date:  Ref ID: I/1997/0396 Proposal: Housing Development Address: TURNAFACE ROAD MONEYMORE Decision: Decision Date:	

Ref ID: I/1976/0189  
Proposal: 3 NO SUBSIDY BUNGALOWS  
Address: STATION ROAD, MONEYMORE  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

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:



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1248/O	<b>Target Date:</b>
<b>Proposal:</b> Dwelling and garage (on a farm).	<b>Location:</b> Approx 60m. South of 10 Castlefarm Road Stewartstown BT71 5JD.
<b>Referral Route:</b>  This proposal fails to meet the policy requirements of CTY1, 13 and 15 of PPS 21.	
<b>Recommendation:</b>	REFUSAL
<b>Applicant Name and Address:</b> Mr Michael Quinn 6 Strathmullan Killymeal Road Dungannon BT71 6XJ	<b>Agent Name and Address:</b> Henry Murray 37c Claggan Road Cookstown BT80 8XJ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DAERA - Omagh	Advice
Statutory	Historic Environment Division (HED)	Advice

### Representations:

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

### Summary of Issues

#### Characteristics of the Site and Area

This application site occupies a rectangular portion cut out of a larger agricultural field which sits 60 metres south of Castlefarm Road, Stewartstown. The western boundary of the site is undefined on the ground and the northern roadside boundary is approximately 26 metres and comprises a low hedge with a wide grass verge. The eastern boundary of the site is defined on the ground by a post and wire fence. The southern boundary at the rear of the site is treed and forms the beginning of the Stewartstown Lough Local Landscape Policy Area (LLPA) 2 as designated in the Cookstown Area Plan 2010. LLPA 2 aims to protect Stewartstown Lough which is located approximately 300metres to the south of this site and its surroundings which include archaeological and nature conservation interests.



The development limit for Stewartstown as defined in the Cookstown Area Plan runs along the south western boundary of the host field with the application site outside of it and therefore located within the rural countryside. Stewartstown is a small village with most development focussed along each side of the B160 Road which vertically dissects the town and the road which digresses to the west.



### Planning History

There is some planning history which is relevant to this site.

The field adjacent to and east of this site is also within the ownership of the same applicant and in April 1994, planning permission was granted for a dwelling under I/1993/0412 on this land.

In September 2000, a dwelling was granted approval for a dwelling under I/2000/0428/F on this same site and subsequently I/2005/1106/F was granted in October 2005 for the renewal of previous approved application.

### **Description of Proposal**

This application seeks outline planning permission for a farm dwelling on land approximately 60 metres South of 10 Castlefarm Road, Stewartstown.

### **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 Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received have been subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan, which in this instance is the Cookstown Area Plan 2010.

This application site is located in the rural countryside, outside of any designated settlement development limit identified in the plan, therefore the relevant policy context is provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21). The Strategic Planning Policy Statement (SPPS) published in September 2015 does not have any



impact on this proposal as PPS 21 is retained and it is this policy which this application will be assessed under.

Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered acceptable in the countryside and the circumstances wherein planning permission will be granted for an individual dwelling house are identified.

A dwelling on a farm is acceptable in accordance with the policy provisions of CTY 10, where all of the following criteria must be met:

- (a) The farm business is currently active and has been established for at least 6 years.
- (b) No dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.
- (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:

- i) Demonstrable health and safety reasons; or
- ii) 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.

Criterion (a) requires that the farm business is currently active and has been established for at least 6 years. This statement is reiterated in Paragraph 5.38 of the Justification and Amplification text, which goes on to state that the applicant will therefore be required to provide the farms DARD Farm Business ID Number.

The applicant submitted a DARD farm business ID number on the P1C form which is registered under their name along with the associated Farm Maps. The Department for Agriculture, Environment and Rural Affairs (DAERA) confirms that the applicant's Business ID number was established on 12/07/2005 and thus in existence over 6 years. DAERA also confirmed that payments were made through the Basic Payment Scheme. I am therefore content the applicant's farm business is currently active and has been established over the last 6 years, thereby complying with criteria a.

Following a desk top search of all the applicant's land which was identified by the Farm Maps, there are no records indicating that any dwellings or development opportunities have been sold off from the farm holding within 10 years of the date of the application. I am satisfied this proposal complies with part b.

With regards to criteria (c) the proposed site is to have a visual linkage with existing buildings on the farm. In Question 6 of the P1C form where there is the opportunity for the agent to justify an alternative site in relation to Criteria c, no information was provided. However the agent did state this site was chosen so as to use the existing mature vegetation and village development to the rear to act as backdrop as there are no farm sheds to cluster.

A desktop search of the applicant's farmland shows the farm consists of 2 separate holdings. The land adjacent to and south of this application is outside of the development limits of Stewartstown. The other farm holding comprises a parcel of 3 fields which sit both sides of the Tullagh Road in Cookstown. The field to the north of the road is adjacent to and outside of the development limits of Cookstown, this adjacent land is zoned as H17 housing land in the Cookstown Area Plan. There are no buildings on either of these farm holdings within the applicant's ownership with which a dwelling could be visually linked.

As mentioned above, provided there are no other sites available at another group of buildings on the farm or out-farm, consideration may be given to an alternative site elsewhere on the farm in 2 exceptional circumstances. However due to the location of this application site in the

countryside, Policy CTY 1 is applicable which requires that all proposals for development in the countryside meet other planning and environmental considerations. Policy CTY 15 - The Setting of Settlements is relevant to this application.

I am of the opinion this proposal is contrary to CTY 15, in that development on this application site would mar the distinction between a settlement and the surrounding countryside and therefore would result in urban sprawl. A dwelling and garage here would erode the rural setting to the edge of the built up area and thus blurring the existing clear distinction between Stewartstown and the surrounding countryside.

While undertaking the site visit it was apparent the visibility splays for the approved application are currently in situ. From looking at Historical Ortho maps, it appears the foundations are visible from the 2011 maps. However it is unclear if the access along with the visibility splays which were required as a condition to be provided prior to any development on the site commencing, have been implemented or not. This has neither been verified or refuted by satisfactory evidence, nor was the agent asked to submit an application to demonstrate the development is lawful.



Following discussion of this application at Group with the Principal Planner, questions were raised about the extant permission adjacent to this site. Permission was granted for a dwelling initially and it was subsequently renewed as is explained above.

This dwelling is a large two storey with a hipped roof, a ridge height of 8.6 metres FFL and a footprint of over 175 metres squared. Although this application was approved over 20 years ago, it still has never been constructed and is still within the ownership of the applicant. This raised the question of the need for an additional dwelling through the submission of this application. Although CTY 10 does not state that a need has to be demonstrated, it was considered this information would be an important material consideration in the determining of this application.

As is binding in Policy CTY 8, a dwelling must be built or be substantially complete in order for it to be taken into consideration. Currently there are no dwellings outside of the development limit of Stewartstown on this side of the road for over 700 metres where No 25 sits along the roadside. There is a farm holding at No 15 however this is sited over 300 metres from the main road located at the end of a private laneway. As the permission above has not been constructed it cannot be taken into consideration. Currently on this side of the Castletown Road there is a clear distinction between the settlement and the countryside.

There is no coalescence of the two different settings, they are both visibly separate entities and I feel development on this application site would blur this existing situation and be detrimental to

both the rural locale and the setting of Stewartstown. It is my opinion any development on this application site would mar this clear distinction and thus result in urban sprawl, contrary to CTY 15.

Policy CTY 13 stipulates that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As mentioned above, this site is cut out of a larger field and with the lack of boundaries results in the site being unable to provide a suitable degree of enclosure for the building to integrate into the landscape. A dwelling on this site is not visually linked or sited to cluster with an established group of buildings on a farm, thereby failing to meet the policy requirements of CTY 13.

#### Consultations and Representations

An archaeological site/monument is located in the vicinity of the site POLREFs : TYR039:010 and TYR039:012 so Historic Environmental Division (HED) were consulted. They have no concerns regarding this application proposal in that it will exert no greater demonstrable harm to the above assets and are content it satisfies SPPS and PPS 6.

The applicant has indicated in the application form they propose to construct a new access onto the Castlefarm Road. DFI Roads were consulted on this application and responded stating that they had no objection to the proposal, subject to standard condition requiring visibility splays of 2.4 metres x 60 metres in both directions, with a Forward Sight Distance of 60 metres also. I am satisfied that an adequate means of access to the site can be achieved with the implementation of the conditions and that the proposal complies with the policy requirements of PPS 3 Access, Movement and Parking.

This application was advertised in the local press and one neighbour was notified, in line with the Council's statutory duty. No objections were received for this application. I have no concerns about any significant detrimental impact in terms of neighbour amenity including, overshadowing, dominance or privacy concerns as the dwelling will be sited a reasonable distance away from any neighbouring properties.

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

#### Neighbour Notification Checked

**Yes**

#### Summary of Recommendation:

Having considered the criterion set out in PPS 21, this application fails to meet the policy requirements as stated below and should therefore be refused.

#### Reasons for Refusal:

1. The proposal is contrary to 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 CTY 15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that development would if permitted mar the distinction between the settlement of Stewartstown and the surrounding countryside, and result in urban sprawl.

3.The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and it is not visually linked or sited to cluster with an established group of buildings on a farm.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	9th October 2020
<b>Date First Advertised</b>	20th October 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 10 Castlefarm Road Stewartstown Tyrone	
<b>Date of Last Neighbour Notification</b>	29th October 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b> Ref ID: LA09/2020/1248/O Proposal: Dwelling and garage (on a farm). Address: Approx 60m. South of 10 Castlefarm Road, Stewartstown, BT71 5JD., Decision: Decision Date:  Ref ID: I/1993/0412 Proposal: Dwelling Address: EAST OF JUNCTION OF COAGH ROAD AND CASTLEFARM ROAD STEWARTSTOWN Decision: Decision Date:  Ref ID: I/2005/1106/F Proposal: Renewal of approved application (I/2000/0428/F) erection of dwelling Address: Site immediately to East of junction of Coagh Road/Castlefarm Road, Stewartstown Decision: Decision Date: 22.10.2005  Ref ID: I/2000/0428/F Proposal: Erection of Dwelling Address: Site immediately to east of junction of Coagh Road/Castlefarm Road Stewartstown Decision: Decision Date: 07.09.2000	

**Summary of Consultee Responses**

HED - No objections  
DAERA - No objections  
DfI Roads - No objections

**Drawing Numbers and Title**

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

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

Drawing No. 03  
Type: Proposed Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

## Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1326/F	Target Date:
<b>Proposal:</b> Demolition of existing stone built store and removal of steel building used as existing cottage bakery and construction of new bakery store and loading area in the position currently occupied by stone store on site	<b>Location:</b> 27 Killtmuck Road Kilrea
<b>Referral Route:</b>  This application is being presented to Committee as it does not meet Planning Policy but is being recommended for Approval. The agents spouse is also employed by MUDC in the Planning Department.	
Recommendation:	APPROVE
<b>Applicant Name and Address:</b> Mary Bolton 27 Killymuck Road Kilrea	<b>Agent Name and Address:</b> Gordon Arbuthnot 6 Culnady Road Upperlands Maghera BT46 5TN
Executive Summary:	
Signature(s):	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
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																									
<p>Summary of Issues including Representations</p> <p>No representations have been received in respect of this proposed development.</p>																										
<p>Characteristics of the Site and Area</p> <p>The site is located in the rural area, 6.5Km south west of the centre of Kilrea and 3.0km north east of Upperlands. The site contains modest bungalow, an old stone built store and two shipping containers. The larger of the two containers is used as the existing bakery with the smaller container used for the storage of ingredients. There are limited critical views of the site due to both the existing dwelling and the twisting road network.</p>																										
<p>Description of Proposal</p> <p>The proposal is for the demolition of existing stone built store and removal of steel building used as existing cottage bakery and construction of new bakery, store and loading area in the position currently occupied by stone store on site. The proposed building is to replace the two existing shipping containers which are currently used by the applicant.</p>																										
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>Relevant planning history</p> <p>The relevant planning history on this site is :-</p> <table border="1"> <thead> <tr> <th>Reference</th> <th>Location</th> <th>Proposal/Complaint</th> <th>Status</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>LA09/2020/1326/F</td> <td>27 Killmuck Road, Kilrea,</td> <td>Demolition of existing stone built store and removal of st</td> <td>VALID APPLICATION RECEIVED</td> <td></td> </tr> <tr> <td>H/1979/0282</td> <td>27 KILLYMUCK ROAD, KILREA</td> <td>ALTERATIONS AND ADDITIONS TO BUNGALOW</td> <td>PERMISSION GRANTED</td> <td></td> </tr> <tr> <td>H/2004/1464/F</td> <td>27 Killymuck Road, Kilrea</td> <td>Extension to dwelling</td> <td>PERMISSION GRANTED</td> <td>26.04.2005</td> </tr> <tr> <td>H/1980/0171</td> <td>TIMACONWAY, MAGHERAFELT</td> <td>HV O/H LINE (BM 3759)</td> <td>PERMISSION GRANTED</td> <td></td> </tr> </tbody> </table>		Reference	Location	Proposal/Complaint	Status	Date	LA09/2020/1326/F	27 Killmuck Road, Kilrea,	Demolition of existing stone built store and removal of st	VALID APPLICATION RECEIVED		H/1979/0282	27 KILLYMUCK ROAD, KILREA	ALTERATIONS AND ADDITIONS TO BUNGALOW	PERMISSION GRANTED		H/2004/1464/F	27 Killymuck Road, Kilrea	Extension to dwelling	PERMISSION GRANTED	26.04.2005	H/1980/0171	TIMACONWAY, MAGHERAFELT	HV O/H LINE (BM 3759)	PERMISSION GRANTED	
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<p>Planning Assessment of Policy and Other Material Considerations</p> <p>Development Plan and key policy considerations</p> <p>Under the provision of Section 6 (4) of the Planning Act (NI) 2011 the determination must be made in accordance with the Plan unless material considerations indicate otherwise.</p> <p>The Strategic Planning Policy Statement (SPPS) provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS.</p> <p>The guiding principle for policies and proposals for economic development in the countryside is to facilitate proposals likely to benefit the rural economy and support rural communities, while protecting or enhancing rural character and the environment. Farm diversification, the re-use of rural buildings and appropriate redevelopment and expansion proposals for industrial and business purposes will normally offer the greatest scope for sustainable economic development in the countryside.</p>																										

The RDS recognises that to sustain rural communities, new development and employment opportunities are required which respect local, social and environmental circumstances. Facilitating development in appropriate locations is considered necessary to ensure proposals are integrated appropriately within rural settlements or in the case of countryside locations, within the rural landscape.

All applications for economic development must be assessed in accordance with normal planning criteria, relating to such considerations as access arrangements, design, environmental and amenity impacts, so as to ensure safe, high quality and otherwise satisfactory forms of development.

The policy approach must be to cluster, consolidate and group new development with existing established buildings, and promote the re-use of previously used buildings.

The site lies outside any defined settlement limits and is open countryside as identified in the Magherafelt Area Plan 2015. No other constraints have been identified.

#### Key Planning Policy

The following policy and legislation was considered in the assessment of this application:

- Strategic Planning Policy statement (SPPS)
- Magherafelt Area Plan 2015
- Planning Policy Statement 21 (PPS21) Sustainable Development in the Countryside
- PPS4 Policy PED 2 Economic Development in the Countryside  
PED 9 General Criteria for Economic Development

#### Representations

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

#### Assessment

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.

The Strategic Planning Policy Statement (SPPS) for Northern Ireland-Planning for Sustainable Development, is a material consideration. The provision within PPS21 has been retained under transitional arrangements. The SPPS sets out that planning authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance. Until a Plan Strategy for the whole of the council area has been adopted planning applications will be assessed against policy.

PPS 21 sets out planning policies for development in the countryside. Policy CTY 1 highlights a number of developments which may be acceptable in the countryside. PPS 4 Policy PED 2 - Economic Development in the Countryside states that proposals for economic development in the countryside will be permitted in the following cases:

- The expansion of an established economic development use;
- The redevelopment of an established economic development use;
- Major industrial development;
- Small rural projects.

- All other economic development proposals in the countryside will only be permitted in exceptional circumstances.

When assessed under PED 2, the proposal does not appear to meet any of the above policy tests and would appear to be contrary to this policy. However, the applicant submitted a letter from MUDC Environmental Health Department confirming that the business has been registered with MUDC from November 2010 and is subject to inspection under Regulation (EC) No. 852/2004. The letter also confirms that the shipping container located in the rear yard has been in operation from October 2014. It is therefore clear that the business has operated from the premises for more than five years and would therefore appear to be immune from enforcement action and subsequently would be lawful.

Whilst the applicant would appear to have been operating the bakery from the existing premises for more than five years, they do not have the benefit of a CLUD to prove the existing use is established, nor do they appear to have been paying commercial rates on the property. Therefore the business would not be considered to be an established commercial business in the countryside.

Notwithstanding the above and the fact that the proposal does not meet the policy tests for operating an economic development in the countryside, the business, it would seem, had been operating at some level without complaint for a number of years. In the current economic climate and due to the restrictions currently imposed due to the Covid-19 Pandemic, it would in my opinion be unreasonable to expect the applicant to relocate their business to a more suitable location at this time. In this instance and given the above circumstances, it is again my opinion, that it would in this case be entirely reasonable to treat the proposed development as an exception to policy and therefore grant a temporary approval to the proposed development for a period of three years after which the development can be reassessed under the economic climate existing at that time.

In addition to the above, the proposal also has to be assessed against the policy requirements of Both CTY 13 – Integration and CTY 14 – Rural Character. As the proposal is to replace an existing stone built shed on the same footprint with a similar sized, albeit slightly larger shed, the proposal will be viewed both with and against the existing dwelling. The landform also rises gently towards both the north-west and north-east and therefore provides a better backdrop for the proposal. In my opinion, the proposed building will achieve an acceptable degree in integration. As the proposal is to remove an existing building and replace it with another slightly larger building, there will be little increase in terms of visual impact or change in rural character. Therefore the proposal is acceptable when assessed under both Policies.

#### Conclusion

Whilst the proposed development is contrary to the planning policies as set out above, it is my opinion, that it is reasonable to take into consideration the impact that refusing the application would cause to the applicants business in the current climate and therefore the proposed development should be granted approval for a temporary period of three years after which time the situation can be reassessed.

#### Recommendations

That planning approval be granted for the proposed development subject to the conditions listed below:-

Neighbour Notification Checked	Yes
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Summary of Recommendation:

Approve subject to the conditions listed below:-

Conditions

1. The vehicular access including visibility splays 2.4 x 45 metres and any forward sight distance, shall be provided in accordance with Drawing No 01 bearing the date stamp 23rd October 2020 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

2. The permission hereby granted shall be for a limited period of 3 years only and shall expire on

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

3. The premises hereby permitted shall be used only as a Bakery and for no other purpose in Use Class B2 of the Schedule to the Planning (Use Classes) Order (NI) 1989.

Reason: To prohibit a change to an unacceptable use within this Use Class.

Signature(s)

Date:

ANNEX	
Date Valid	23rd October 2020
Date First Advertised	10th November 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 26 Killymuck Road Upperlands Maghera	
Date of Last Neighbour Notification	3rd December 2020
Date of EIA Determination	
ES Requested	No
Planning History  Ref ID: LA09/2020/1326/F Proposal: Demolition of existing stone built store and removal of steel building used as existing cottage bakery and construction of new bakery , store and loading area in the position currently occupied by stone store on site Address: 27 Killtmuck Road, Kilrea, Decision: Decision Date:  Ref ID: H/1979/0282 Proposal: ALTERATIONS AND ADDITIONS TO BUNGALOW Address: 27 KILLYMUCK ROAD, KILREA Decision: Decision Date:  Ref ID: H/2004/1464/F Proposal: Extension to dwelling Address: 27 Killymuck Road, Kilrea Decision: Decision Date: 26.04.2005  Ref ID: H/1980/0171 Proposal: HV O/H LINE (BM 3759) Address: TIMACONWAY, MAGHERAFELT Decision: Decision Date:	

<p>Summary of Consultee Responses</p> <p>All consultees responded positively.</p>
<p>Drawing Numbers and Title</p>
<p>Drawing No. 01 Type: Site Location Plan Status: Approved</p> <p>Drawing No. 02 Type: Existing Elevations Status: Submitted</p>
<p>Notification to Department (if relevant)</p> <p>Date of Notification to Department: Response of Department:</p>



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1352/F	<b>Target Date:</b>
<b>Proposal:</b>	<b>Location:</b> Lands between 5 Scotchtown Lane Coagh, Cookstown
<b>Referral Route:</b>  The agent's spouse is a member of MUDC Planning Department	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b>  Mr & Mrs Tom Workman  5 Scotchtown Lane Coagh, Cookstown	<b>Agent Name and Address:</b>  Gordon Arbuthnot  6 Culnady Road Upperlands Maghera BT46 5TN
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	NI Water - Single Units West - Planning Consultations	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

### Characteristics of the Site and Area

The proposed site hosts a detached single storey dwelling identified as No 5 Scotchtown Lane Coagh. The host dwelling external finishes encompasses a variation of finishes which includes wet dash render finish, dark roof tiles, brown Upvc windows, doors and white Upvc rainwater goods. There is a lawn located to the front and side with driveway to the front and side. The boundaries are defined by wooden fence and low level hedgerow. There are associated outbuildings to the rear of the dwelling.



## Description of Proposal

The applicant is seeking full planning permission for a single storey extension to a dwelling identified No 5 Scotchown Lane Coagh. The extension is to provide additional bedroom with ensuite and a walk in wardroom. Design details and materials are annotated on DWG No 01 stamp date 29/10/2020. The proposed extension is 6.5m wide, 5.5m in depth and 5m in height.

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

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.

## 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 9th November 2020 (Publication date 10th November 2020). Two (2) neighbouring properties were notified on 26<sup>th</sup> November 2020; all processes were in accordance with the Development Management Practice Note 14 (April 2015).

## Planning Assessment of Policy and Other Material Considerations

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

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 Cookstown Area Plan 2010 does not contain provided by PPS 7 (Addendum): Residential Extensions and Alterations.

1. Cookstown Area Plan 2010.
2. Strategic Planning Policy Statement (SPPS).
3. PPS 7 (Addendum): Residential Extensions and Alterations
4. The Mid Ulster District Council Local Development Plan 2030.

The Cookstown Area Plan 2010 (CAP) operates as the statutory local development plan for the area the site lies within. The CAP does not contain any specific policies relevant to the application. The principal planning policies are therefore provided by **PPS 7 (Addendum): Residential Extensions and Alterations.**

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

### **Assessment**

The principle of development, a proposed extension to an existing residential property is considered to be acceptable, providing the proposal satisfies four criteria tests as outlined under Policy EXT 1 of the first addendum to PPS7.

In regards to visual amenity, part A identifies that the overall siting, scale and design of the proposed extension should appear subordinate to the original host property and should not be detrimental to the character and appearance of the surrounding area. The proposal is sited to the side of the existing dwelling and this in itself helps aid the integration of the proposal into this existing setting. The size of the proposed extension is subordinate in size and scale to that of the existing dwelling and it is noted that it is a single storey extension of a modest size and scale. APPS 7 stipulates that the height, width and general size of the extension should be generally smaller than the existing property and the proposal meets this requirement. The proposal does not add to the existing ridge height of the dwelling and this ensures that there is no significantly greater impact in terms of character when compared with the setting of the existing dwelling.

The proposed development is not considered to significantly alter the character and appearance of the application property or the character of the surrounding streetscape. Materials proposed are in keeping with that used in the original dwelling and the proposed development helps upgrade the property to a more modern amenity standard. The proposed development is therefore considered to be acceptable in regards to the objectives of Part A of Policy EXT 1.

Part B of Policy EXT 1 identifies that a development proposal of this nature would only be considered acceptable where there would be no harmful impact conferred upon the occupiers of adjoining or neighbouring properties.

The proposal is not considered to give rise to any material impact upon the amenity of neighbouring property by reason of over-dominance, over-shadowing or a loss of privacy. The proposal is therefore considered to accord with the objectives of Part B of Policy EXT 1.

Furthermore, the proposal does not cause unacceptable loss of trees or other landscape features and sufficient space remains within the curtilage of the property for recreational and domestic purposes. The proposed development would not have an adverse impact upon the character of the area. The proposal is therefore considered to satisfy the objectives of Part C and D of Policy EXT.

**Recommendation.** Approve subject to standard planning conditions

### **Conclusion.**

I am content that the scale, massing, design and external materials used will be sympathetic with the built form and appearance of the host property. The proposal does not unduly affect the privacy or amenity of neighbouring residents. In addition, the proposal does not cause unacceptable loss of trees or other landscape features and sufficient space remains within the curtilage of the property for recreational and domestic purposes. The proposed development would not have an adverse impact upon the character of the area.

From this the proposal accords with the policy tests of the Addendum to PPS 7 and is able to be taken forward to the Planning Committee as an approval.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Proposal meets the criteria tests of the Addendum to PPS 7

**Conditions:**

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

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

2. The materials to be used in the construction of the external surfaces of the extension hereby permitted, shall match those of the existing dwelling.

Reason: In the interest of visual amenity and to ensure the proposal is in keeping with the existing dwelling.

3. Subject to the above conditions the development shall be carried out in accordance with the stamp approved drawing No 01 stamp date 29 October 2020

Reason: To ensure the development is carried out in accordance with the approved plans.

**Informatives.**

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	
<b>Date First Advertised</b>	
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 33 Corrycroar Road Pomeroy Tyrone The Owner/Occupier, 35 Corrycroar Road Pomeroy Tyrone The Owner/Occupier, 37 Corrycroar Road Pomeroy Tyrone	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: I/1990/0397 Proposal: 11 KV Rural Spur Address: 200M NORTH OF CORRYCROAR BRIDGE, CORRYCROAR ROAD MUNDERRYDOE, COOKSTOWN Decision: Decision Date:  Ref ID: I/1989/0280 Proposal: Dwelling Address: 100M NORTH OF CORRYCROAR BRIDGE MUNDERADOE POMEROY Decision: Decision Date:  Ref ID: I/1989/0280B Proposal: 1.5 Storey Dwelling Address: 100 METRES SOUTH OF CORRYCROAR BRIDGE MUNDERADOE POMEROY Decision: Decision Date:  Ref ID: I/1989/0390 Proposal: Dwelling	

Address: 150 METRES NORTH OF CORRYCROAR BRIDGE CORRYCROAR ROAD POMEROY

Decision:

Decision Date:

Ref ID: I/1989/0170

Proposal: Dwelling

Address: 150M NORTH OF CORRYCROAR ROAD POMEROY

Decision:

Decision Date:

Ref ID: LA09/2020/1385/F

Proposal: Proposed dwelling and garage

Address: Lands between 33 & 35 Corrycroar Road, Pomeroy, Co Tyrone,

Decision:

Decision Date:

Ref ID: I/1990/0104

Proposal: Bungalow

Address: 200 METRES NORTH OF CORRYCROAR BRIDGE CORRYCROAR ROAD MUNDERRYDOE POMEROY

Decision:

Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 01

Type: Site proposed drawings

Status: Submitted

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

Date of Notification to Department:

Response of Department:



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1371/F	<b>Target Date:</b>
<b>Proposal:</b> Replace cycle/footpath approved under M/2004/0778/F to a 2m wide footpath	<b>Location:</b> Shanmoy Downs Eglish Dungannon
<b>Referral Route: Contrary to Policy</b>	
<b>Recommendation:</b>	REFUSE
<b>Applicant Name and Address:</b> T G Developers Ltd 4 Stiloga Road Eglish Dungannon	<b>Agent Name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### 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 objections received

### Characteristics of the Site and Area

The site is located in the settlement limits of Eglish as depicted by the Dungannon and South Tyrone area Plan 2010 and more specifically within the Shanmoy Downs development which is currently under construction.



The red line of the site begins at the Entrance to Shanmoy on the Eglish Road. It runs alongside the existing road right to the western rear corner of the site. The eastern part of the site work has begun and a number of dwellings have been completed including the roadway, however the rear eastern portion has not commenced.



As can be seen below at the time of site visit the road way is in place albeit without the finished surface and the footpath is visible due to the kerbing in place and the pathway has been stoned.





## Description of Proposal

The proposal seeks full planning permission for replacing approved cycle path with a 2metre wide footpath within the entire development.

## Planning Assessment of Policy and Other Material Considerations

### Area Plan

Dungannon and South Tyrone Area Plan 2010- The land is not zoned and remains as white land within the settlement limits of Eglish as depicted by the area plan. All applications within settlement limits are assessed against SETT1 and I consider if the proposal meets with the other regional policies it will also meet with the criteria in SETT1.

### Key Planning Policy

Strategic Planning Policy Statement (SPPS)

PPS 3 - Access Movement and Parking.

PPS 7 - Quality Residential development.

### Planning History

M/2004/0778/F - Approval for residential development of 47 dwellings - 16.09.2010

### 3rd party representation

No objections have been received.

Policy provisions of SPPS do not impact on the provisions of PPS 3 or PPS 7, which are the key consideration until such times as a new area plan for Mid Ulster is introduced.

**PPS3 - Access Movement and Parking** and in particular Policy AMP 8 - Cycle provision is relevant in this application. It states that where appropriate safe and convenient Cycle paths should be provided with links to existing cycle networks. In this case at the time of site visit there are no existing networks to be linked too. AMP 8 states that's the need for cyclists must be taken into account for developments comprising shopping, leisure, or educational or community uses, however, PPS7 addresses the provision of Cycle paths in association with residential development.

In this particular instance DFI Roads - Development Control requests that the cycleway as previously approved is retained. The reasoning for this is to future proof the delivery of a connecting cycleway in accordance with promoting the Ministers Active Travel Plan. So whilst on site it may appear that there are no existing networks to connect too, there are plans in place to create a whole new cycle network upon which this will link into. DFI Roads are recommending refusal of this planning application and as such have provided council with refusal reasons.

**PPS 7 - Policy QD1** requires that a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures.

I have assessed the following:

-It is my opinion that the loss of cycle path will have little significant detrimental impact on the amenity, character or biodiversity of an area as it is replaced with a similar nature of development albeit a smaller 2 metre wide footpath;

-in this case, an area of cycle path is to be replaced by a 2 metre wide footpath, however, the actual benefits of the cycle path remains unclear. It would appear that the cycle path would only be used by the people living in the development and its actual benefits would be minimal. In addition the developer is not planning to do away with the cycle path in totality, but rather replace with a 2 metre wide footpath which is more appropriate given the nature of the development. In this case I do not feel the need for a cycle path from the roadside to the rear of the site is necessary and a 2 metre wide footpath is more appropriate and meets the needs of the development. However, it must be noted that DfI Roads have stated that it is necessary to future proof the delivery of a connecting cycleway in accordance with promoting the Ministers Active Travel Plan and this material consideration must be given determining weight.

#### **Other Considerations**

Some of the site is subject to flooding, however it is the portion at the road front where development has already commenced in accordance with previous permissions. I do not consider his proposal will cause or be at greater risk of flooding. DfI Roads were consulted on this proposal and have no objections subject to conditions and informatives. This proposal will not have a detrimental impact on natural or built heritage in this area.

In light of all of the above it is my opinion that it is not acceptable to replace the existing cycle path with a standard foot path and therefore I consider it should be recommended for Refusal.

**Neighbour Notification Checked**

**Yes**

#### **Refusal Reasons**

1.The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 8: in that it would, if permitted, result in the loss of a cycle path necessary to future proof the delivery of a connecting cycleway in accordance with promoting the Ministers Active Travel Plan.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	3rd November 2020
<b>Date First Advertised</b>	1st December 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 141 Eglish Road,Dungannon,Tyrone,BT70 1LB The Owner/Occupier, St Patrick'S Rc Church,Killyliss Road,Dungannon,Tyrone,BT70 1LE	
<b>Date of Last Neighbour Notification</b>	30th November 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2020/1371/F Proposal: Replace cycle/footpath approved under M/2004/0778/F to a 2m wide footpath Address: Shanmoy Downs, Eglish, Dungannon, Decision: Decision Date:  Ref ID: LA09/2020/1073/F Proposal: Amendment of site layout as previously approved under M/2015/0085/F & M/2004/0778/F to relocate two houses, amend part road layout and access pathway link to Killyliss Road. Address: Shanmoy Downs, Eglish, Dungannon, Decision: Decision Date:  Ref ID: M/2015/0085/F Proposal: Proposed No. 3 Detached Dwellings Address: 35m north of 141 Eglish Road, Eglish, Dungannon, Decision: PG Decision Date: 17.10.2017  Ref ID: LA09/2018/1559/F Proposal: Proposed change of house types as approved in M/2004/0778/F, from 5 No. detached on sites 2, 7, 8, 25 and 26 to 4 pair of semi-detached houses and foul water treatment plant to service additional houses. Address: 120m North West of 141 Eglish Road, Eglish, Dungannon, Decision:	

Decision Date:

Ref ID: M/1980/0370

Proposal: IMPROVEMENTS TO DWELLING

Address: STILLAGO

Decision:

Decision Date:

Ref ID: M/1995/0017

Proposal: Extension and alterations to dwelling

Address: 141 EGLISH ROAD EGLISH DUNGANNON

Decision:

Decision Date:

Ref ID: M/2004/0778/F

Proposal: Proposed residential development of 47 dwellings

Address: Opposite 114 Killyliss Rd, Eglish

Decision:

Decision Date: 12.10.2010

Ref ID: M/1981/0386

Proposal: PRIVATE HOUSING DEVELOPMENT

Address: EGLISH, DUNGANNON

Decision:

Decision Date:

### **Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

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

Date of Notification to Department:

Response of Department:



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1380/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of dwelling	<b>Location:</b> Adjacent & 100m East of 18 Shantavny Road Garvaghy.
<b>Referral Route:</b>  This application fails CTY 1 and also CTY 10 and CTY 13 of PPS 21. It also fails to meet AMP 2 in PPS 3 and BH 1 of PPS 6	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Ciaran Owens Shantavny Road Garvaghy Ballygawley	<b>Agent Name and Address:</b> T A Gourley 35 Moveagh Road Cookstown BT80 9HE
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Advice
Statutory	Foyle Carlingford & Irish Lights Commission	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	NIEA	Advice

### Representations:

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

### Characteristics of the Site and Area

This application site is located along a private laneway off the Shantavny Road. The boundary of Fermanagh and Omagh District Council sits 300 metres to the west of this site, with Garvaghy approximately 2 kilometres further west and Ballygawley 5.5 kilometres to the south east. The surrounding area is quite remote and typically characteristic of an elevated site with gorse vegetation and poor quality agricultural land. Shantavny Scotch Wind Farm sits close by on the opposite side of the road to this site.

This application site occupies a parcel of land on which a modular dwelling is sited some 120 metres off the Shantavny Road. This dwelling for which this application seeks permission for measures 14.4 metres in length, is 7.2 metres wide and has a ridge height of 4.3 metres FGL. The walls are a yellow render cast with blue/black roof tile and white uPvc windows and doors. This dwelling accommodates 3 bedrooms and has a bay window on the front elevation. It has no openings on the eastern gable which faces the road and the western gable has double doors. There are 3 windows on the rear northern elevation and 3 windows on the front southern elevation with the bay window to the left of the front door. The curtilage of the dwelling is marked by a concrete wall beyond which is a barbed wire fence and gravel surrounds the dwelling and joins to the tarmaced lane. This laneway also serves No 18 Shantavny Road, a bungalow which sits to the west of this site and is occupied by the applicant's 2 sisters.

#### Planning History

There is no relevant planning history associated with this site.

#### Description of Proposal

This application seeks planning permission for the retention of a dwelling on land adjacent to and 100m East of 18 Shantavny Road, Garvaghy. This planning application was submitted in response to Court action which is currently being pursued regarding the unauthorised construction of the dwelling under Enforcement Case LA09/2016/0219/CA.

#### 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 Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received have been subject to a Counter Representation period. In light of this the Draft Plan cannot currently be given any determining weight.

The Strategic Planning Policy Statement (SPPS) published in September 2015 does not have any impact this proposal as PPS 21 is retained and it is this policy which this application will be assessed under.

Development in the Countryside is controlled under the provisions of Planning Policy Statement (PPS) 21 Sustainable Development in the Countryside. Policy CTY1 provides clarification on which types of development are acceptable in the countryside and sets out where planning permission will be granted for an individual dwelling house in the countryside, subject to meeting certain criteria.

The agent provided a supporting statement in which they claim the dwelling met the criteria of both CTY 6 and CTY 10 of PPS 21.

CTY 6 in PPS21 sets out that permission will be granted for a dwelling in the countryside where there are compelling reasons related to the applicant's personal or domestic circumstances, provided the following criteria is met:

- a) The applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused; and
- b) There are no alternative solutions to meet the specific circumstances of the case, such as:
  - An extension or annex attached to an existing dwelling
  - The conversion or re-use of another building within the curtilage of the property
  - The use of a temporary mobile home for a limited period to deal with immediate short term consequences.

Medical information was submitted in the form of doctor's records, ambulance reports and hospital discharge letters all dating from 2001 -2015. However, this did not refer to the applicant, but to the applicant's sister who lives at No 18. The agent states the applicant "is involved in caring for his sister who lives together with another sister at No 18. The applicant's partner who resides with him also provides care for the sister when the applicant is at work with a local employer.

While the agent has provided medical records for the applicant's sister covering the years 2011- 2015 to demonstrate as to why this application should be considered under CTY 6 - Special Personal and Domestic Circumstances, I am not persuaded by this information. The agent has not identified the level of care which the applicant provides or any medical evidence documenting the care plan required by Sheila from a medical professional. I am not satisfied the information put forward by the applicant that genuine hardship would be caused if planning permission were refused.

The agent has claimed the existing dwelling at No 18 given its age and layout would not readily facilitate an extension. I am not satisfied by this statement nor convinced that this option has ever been fully investigated. Therefore I am of the opinion this proposal fails to satisfy the requirements of CTY 6, and thus it does not meet this policy.

Policy CTY 13 stipulates that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The shallow pitch of this dwelling and the design is not appropriate in this location. As mentioned above, this site is located in an upland area which is very exposed. There is an absence of any natural boundaries on this site which means it is unable to provide a suitable degree of enclosure for the dwelling to integrate into the surrounding landscape, thereby failing to meet the policy requirements of CTY 13.

The agent in the supporting statement states the applicant owns a farm of over 40 acres since 1979 and has maintained the land in good condition. A number of invoices for bailing were submitted for 2016 - 2018. A lack of information detailing the land within the applicant's ownership and where it is located, along with an absence of any Farm Business ID number, I have been unable to determine if this proposal complies with the criteria required, therefore it fails to meet CTY 10.



### Representations and Consultations

Historic Environmental Division of NIEA were consulted as this dwelling is located next to TYR 52: 22. They responded saying this monument of regional importance is the site of a scheduled prehistoric wedge tomb which is afforded statutory protection under the provisions of the Historic Monuments and Archaeological Objects (NI) Order 1995 and thus BH 1 of PPS6 is applicable. The dwelling to be retained in this application is located approximately 36 metres from the monument and is in line with the functional alignment of the tomb. The site is located to the south-west of this monument and the eastern boundary runs along the edge of the scheduled area around the wedge tomb. HED (Historic Monuments) is concerned as this application is contrary to Policy BH 1 of PPS 6 ? Planning, Archaeology and the Built Heritage, as it would have an unacceptable adverse impact upon the integrity of the setting of the adjacent Scheduled Monument (TYR 52: 22).

This application site falls within a Loughs Agency Consultation Zone. So the Foyle Carlingford & Irish Lights Commission were consulted and have no objections to this application.

DfI Roads were consulted and responded stating they could not provide comment due to the poor quality of the drawings submitted. Appropriate accurate drawings were requested from the agent, however this was not submitted which meant DfI could not comment on this proposal due to a lack of information.

There were no objections to this proposal from the neighbour notification process or advertisement in the local media.

The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and RAMSAR sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats etc) Regulations (NI) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

### **Neighbour Notification Checked**

**Yes**

### **Summary of Recommendation:**

Having considered the policy set out in PPS 21, this proposal fails as it does not meet any of the criteria in CTY 1 and also CTY 10 and CTY 13. It also fails to meet AMP 2 in PPS 3 and BH 1 of PPS 6 also as detailed below.

### **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. This proposal is contrary to Policy CTY 6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated there are compelling and site specific reasons for this proposal related to the applicant's specific personal or domestic circumstances.

3. The proposal is contrary to Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated this proposal meets any of the criterion.

4. The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the dwelling to integrate into the landscape, and the design of the building is inappropriate for the site and its locality.

5. This proposal is contrary to Policy AMP 2 of PPS 3 Access, Movement and Parking, in that it has failed to demonstrate that the access will not prejudice road safety or significantly inconvenience the flow of traffic, due to an absence of sufficient information.

6. The proposal is contrary to Policy BH 1 of PPS 6 Planning, Archaeology and the Built Heritage, as it would have an unacceptable adverse impact upon the integrity of the setting of the adjacent Scheduled Monument (TYR 52: 22).

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	5th November 2020
<b>Date First Advertised</b>	1st December 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 18 Shantavny Road, Garvaghy. Co Tyrone	
<b>Date of Last Neighbour Notification</b>	10th December 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/1380/F Proposal: Retention of dwelling Address: Adjacent & 100m East of 18 Shantavny Road, Garvaghy., Decision: Decision Date:  Ref ID: K/2007/0821/F Proposal: Application under Article 28 of the Planning Order to remove Conditions 6 and 7 and modify Condition 11 of Planning Approval K/2005/0597/F Address: Slieve Divena Hill (In the townlands of Altamooskan) Decision: Decision Date: 16.10.2007	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	

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

Drawing No. 02  
Type: Farm Boundary Map  
Status: Submitted

Drawing No. 03  
Type: Site Layout or Block Plan  
Status: Submitted

Drawing No. 04  
Type: Road Access Plan  
Status: Submitted

Drawing No. 05  
Type: Elevations and Floor Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1432/F	<b>Target Date:</b>
<b>Proposal:</b> Change of house type and position of replacement dwelling previously permitted under LA09/2019/1415/F	<b>Location:</b> 60m East of 5 Drumgarrell Road Cookstown
<b>Referral Route:</b>  Approve - To Committee – Objection received.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> D Conway 1 The Pines Cookstown	<b>Agent Name and Address:</b> T A Gourley Moveagh House 35 Moveagh Road Cookstown BT80 9HE
<b>Executive Summary: Approve</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
<b>Representations:</b>		
Letters of Support	2	
Letters of Objection	1	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	

### Summary of Issues

Approval - To Committee - 1 objection received.

Summary of objection below;

- Noted that there was never an old house on the site therefore isn't a replacement and a bigger house makes no difference.
- Objects to the bigger house which would be visible from 3 sides at a short distance from their property and it is visible from No. 03.
- Raised concerns over the position of the septic tank and how do they get leave way from this point.
- Finally, noted that there is a lot of rock on this area and surrounding areas.

### Characteristics of the Site and Area

The proposed site is located approximately 1.65km west of the development limits of Drummullan and from this the site is located within the open countryside as per defined in the Cookstown Area Plan 2010. The site is identified as 60m East of 5 Drumgarrell Road, Cookstown, in which the red line covers a recently constructed laneway directly off the Drumgarrell Road and leads to the building in which is to be replaced. It is noted that the building identified to be replaced are in need of some repairs. I note that where the building is located there doesn't appear to be anything in the way of an existing curtilage as it appears to be located within a large agricultural field. The predominant

land use is of an agricultural nature, with single dwellings and associated outbuildings also visible in local area.

#### Relevant planning history

LA09/2019/1415/F- Replacement Dwelling - 60m East of 5 Drumgarrell Road, Cookstown - Permission Granted 05/08/20

#### Representations

Two letters of support and one objection were received.

### Description of Proposal

The proposed full application a change of house type and position of replacement dwelling previously permitted under LA09/2019/1415/F, the site is identified as 60m East of 5 Drumgarrell Road, Cookstown.

### Planning Assessment of Policy and Other Material Considerations

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

#### Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

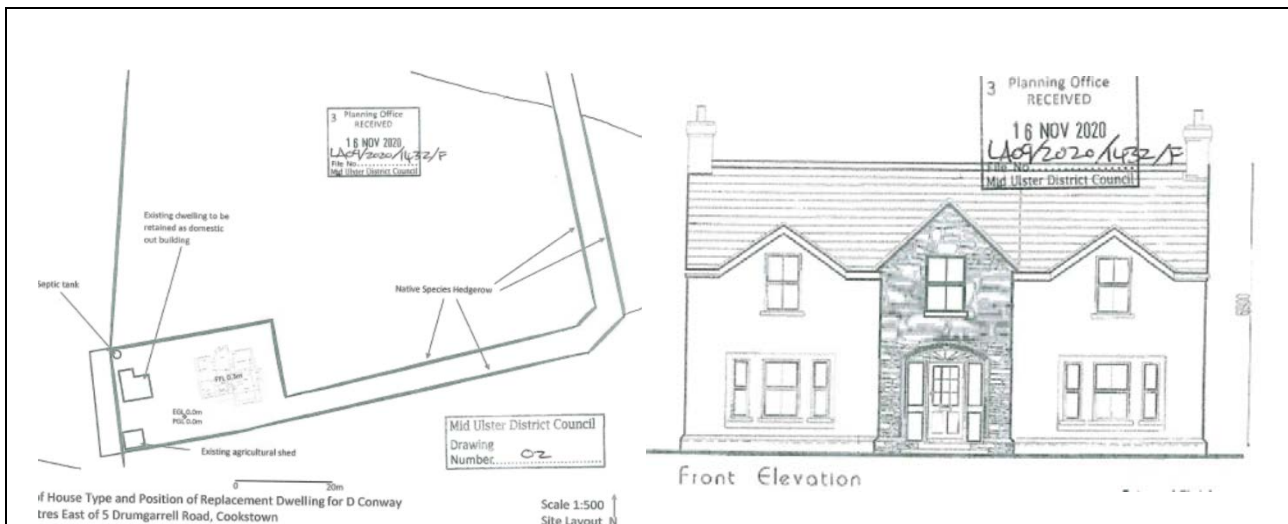
PPS 21: Sustainable Development in the Countryside

PPS 3: Access, Movement and Parking

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

The principle of development has already been established on the site through the recent approval of LA09/2019/1415/F, I note that this application has been received before the expiry of this permission therefore the application is valid. With this in mind, the application must still comply under CTY 13 and 14.

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 the previously approved dwelling was quite small, I note that the proposed dwelling has a 6.9m ridge height above finished floor level and is set further into the site (as seen below)



With this in mind and taking into consideration the wider context of the site I note that there is limited public interest in the site therefore I am content that the dwelling will not appear as visually prominent in the landscape whilst also being able to visually integrate. In terms of the proposed design, I note that this type of design has become typical in the countryside as such I am content that this is acceptable within this rural context. 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. As mentioned previously I am content that a dwelling in this location will not be unduly prominent in landscape, from this I am content that the development is able to respect the pattern of development in the area. I am content on balance that this proposed application will not unduly change the character of the area. On a whole I am content that the proposed development complies with CTY 14.

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

I note that the intention is to use an existing access as per previously approved, deemed acceptable.

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.

In response to the comments made by the objector, to start, in terms of there never being an old house on site and not being a valid replacement, I note that the precedent has been set through the approval LA09/2019/1415/F so I am content that a replacement opportunity exists. In terms of the bigger house being visible from their property, I note that in this position there is limited public views from the public roads and it is unlikely to have an adverse impact on neighbouring amenity so it is been deemed acceptable. With regards to the position of the septic tank, I note that planning requires this to be shown but note a Consent to Discharge will be required from a separate body



again it is deemed acceptable. Finally, in terms of there being a lot of rock in this area, planning has no evidence of this and has no bearing on this decision.

I have no concerns with regards to flooding, residential amenity or ecology.

I recommend approval.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approve

**Conditions:**

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

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

2. This permission is granted solely as a substitute for the permission for a dwelling previously granted on the site under Ref: LA09/2019/1415/F on the 05.08.20 and only one dwelling shall be constructed on the site.

Reason: To ensure that only one dwelling is constructed on site.

3. All landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 02 date stamped 16th November 2020 shall be carried out in the first planting season following the commencement of the construction of the development hereby approved.

Reason: To ensure the development integrates into the countryside

4. 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 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.

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

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

6. If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same place and that/those tree(s) shall be of such size and species and shall be planted at such time as may be specified by the Council.

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

**Informatives**

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

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

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

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	16th November 2020
<b>Date First Advertised</b>	1st December 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) Kevin Madden 1, Drumgarrell Road, Cookstown, Londonderry, Northern Ireland, BT80 8TA Gerard McNally Email Address	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2020/1432/F Proposal: Change of house type and position of replacement dwelling previously permitted under LA09/2019/1415/F Address: 60m East of 5 Drumgarrell Road, Cookstown, Decision: Decision Date:  Ref ID: LA09/2019/1415/F Proposal: Replacement dwelling Address: 60m East of 5 Drumgarrell Road, Cookstown, Decision: PG Decision Date: 11.08.2020  Ref ID: I/2009/0314/RM Proposal: Proposed dwelling with 6m ridge height- associated landscaping, siteworks & access in accordance with PAC Conditions Address: 250m East of 10 Killybearn Road Cookstown, Co Tyrone, BT80 8SZ Decision: AI Decision Date:  Ref ID: I/2004/1479/O Proposal: Site for Dwelling Address: 250 M East of 10 Killybearn Road, Cookstown Decision: Decision Date:	

Ref ID: I/2001/0675/O  
 Proposal: Site for dwelling  
 Address: 250 m East of 10 Killybearn Road, Cookstown  
 Decision:  
 Decision Date: 02.01.2002

Ref ID: I/2001/0218/RM  
 Proposal: Dwelling  
 Address: 350m of 10 Killybearn Road Cookstown  
 Decision:  
 Decision Date: 10.07.2001

Ref ID: I/2001/0217/RM  
 Proposal: Dwelling  
 Address: 150m NE of 8 Drumgarrell Road Cookstown  
 Decision:  
 Decision Date: 10.07.2001

Ref ID: I/2001/0216/RM  
 Proposal: Dwelling  
 Address: 150m NE of 8 Drumgarrell Road Cookstown  
 Decision:  
 Decision Date: 19.07.2001

Ref ID: I/2000/0572/O  
 Proposal: Site for dwelling  
 Address: 140m west of 28 Killybearn Road Cookstown  
 Decision:  
 Decision Date: 27.02.2001

Ref ID: I/2000/0424/O  
 Proposal: Site for dwelling  
 Address: 150m NE of 8 Drumgarrell Road Cookstown  
 Decision:  
 Decision Date: 08.09.2000

Ref ID: I/2000/0423/O  
 Proposal: Site for dwelling  
 Address: 150m NE of 8 Drumgarrell Road, Cookstown  
 Decision:  
 Decision Date: 18.10.2000

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 06  
Type: Proposed Elevations  
Status: Submitted

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

Drawing No. 02  
Type: Site Appraisal or Analysis  
Status: Submitted

Drawing No. 04  
Type: Elevations and Floor Plans  
Status: Submitted

Drawing No. 05  
Type: Elevations and Floor Plans  
Status: Submitted

Drawing No. 03  
Type: Road Access Plan  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1462/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage to cluster with established group of buildings	<b>Location:</b> 40m N.W. of 158 Kilrea Road Killymuck Kilrea
<b>Referral Route:</b>  Objection received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Mrs Shirley Lynch 32 Ballynameen Road Garvagh	<b>Agent Name and Address:</b> C Mc Ilvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

Two objections have been received, the issues have been summarised below.

- Negative impact on the visual amenity, including affecting the character of the area.
- Proposed plans are overbearing and would impact on the amenity of neighbouring property.
- It will cause an increase of traffic to the area.
- Concerns it will de-value property.

The objections have been considered as part of this report.

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

The site is located within the open countryside, outside of any defined settlement limits as per the Magherafelt Area Plan 2015. The red line of the application is located within the south/ south western portion of a larger agricultural field. The field runs along the Kilrea road, with the red line extending west towards an existing cluster of dwellings and agricultural buildings, located off the Kilrea Road. The site sits at a slightly lower level below the Kilrea Road and the southern and western boundaries of the site are defined by a low level hedgerow. The northern and most of the eastern boundary is undefined until the red line meets the existing hedgerow along the Kilrea Road. The immediate surrounding area is a mix of uses, with agricultural fields located around the site as well as agricultural buildings located to the west of the site, amongst four dwellings and an Orange Hall.

### **Description of Proposal**

This is an outline planning application for a proposed dwelling and garage to cluster with established group of buildings at lands 40m N.W. of 158 Kilrea Road.

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

- Magherafelt Area Plan 2015
- Strategic Planning Policy Statement (SPPS)
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- Revised PPS 15: Planning and Flood Risk

The Magherafelt Area Plan identifies the site as being outside any defined settlement limits.

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 new dwellings in existing clusters. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A number of examples are provided in CTY 1 detailing the different cases that would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.



Policy CTY 2a states that planning permission will 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 four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.

I am content that the cluster of development lies outside of a farm and consists of five buildings, four of which are dwellings and the fifth being an Orange Hall. There appears to be a number of ancillary/farm buildings associated with No.162, although I am content that the site is located outside this farm and there are enough other buildings within the immediate area to be considered a cluster.

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

I am content that the cluster appears as a visual entity in the local landscape. Whilst travelling along the Kilrea Road in both directions the cluster is visible in the local landscape.

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

The agent has identified on the site location plan that there is an Orange Hall, known as Killymuck Memorial Orange Hall. I am content this can be considered a focal point, as it is a social/community building.

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

I am content that the site has a suitable degree of enclosure and is bounded on the south with No.158 Kilrea Road and the Orange hall, and is bounded on the west by No. 164 and No. 162 Kilrea Road.

- 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;

Although objections have been received which have raised concerns about a dwelling at this location and its impact on the existing character of the area, I am content that a well designed building can be absorbed into the existing cluster and this development provides a rounding off opportunity at this site. I do not believe a dwelling would significantly alter the existing character or visually intrude into the open countryside so long as it is a well designed dwelling.

- Development would not adversely impact on residential amenity.

Objections have raised concerns that a dwelling at this location would adversely impact on residential amenity. However, I do not believe a well designed dwelling, which is in keeping with the existing style of development at this location would adversely impact on

residential amenity. Sufficient distance remains between all dwellings and the proposed site, so I have no concerns a dwelling here would cause a loss of privacy and a single storey dwelling at this location would not result in a loss of light. Objections also stated a dwelling here would result in a loss of the view they currently enjoy and concerns it would result in a loss of value to their properties. These are not material considerations and cannot be given weight within the assessment of this proposal.

I am content that the proposal complies with the policy criteria of Policy CTY 2a.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore, no design details has been submitted however, I am of the opinion that an appropriately designed dwelling will not appear prominent in the landscape. I am content that a dwelling at this location does not rely solely on new planting for integration, as there is existing boundaries to the west and south, which should be retained. I feel a dwelling here should be restricted to having a maximum ridge height of 5.5m, which will ensure the dwelling is not a prominent feature in the landscape and allows it to blend with the existing buildings located to the south and west. From this, I am content that the application is able to comply with CTY 13.

Policy CTY 14 states that 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. I am content that an appropriately designed building will not appear prominent in the landscape. I am content that this development can be viewed as rounding off and that a dwelling at this site would not change the character of the area.

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

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

DfI Roads were consulted and in their response stated they had no objection subject to a condition requesting the access to be provided as part of the Reserved Matters application in accordance with the RS1 form.

#### Revised PPS 15: Planning and Flood Risk

DfI Rivers were consulted as part of the site was identified as being located within a flood plain. DfI Rivers confirmed that the northern corner of the site was within the 1 in 100 year fluvial flood plain and that this part of the site could only be developed if it was deemed an exception. Furthermore, they identified an undesignated watercourse along the southern and western boundaries and advised that a working strip is shown on the site layout and should be protected from development by way of a planning condition. Having discussed these issues at a group meeting it was agreed to contact the agent to provide a concept plan for the site showing that no development will occur within the flood plain and that a 5m maintenance strip could be achieved along the watercourse.

The agent submitted a conceptual plan, which showed that a dwelling and garage can be accommodated on the site, outside the flood plain. DfI Rivers were consulted on the conceptual layout and were content that a dwelling at the location shown on drawing 02 would be outside the flood plain. As such, they are content and offer no objection to the proposal.

<p>The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. 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.</p>	
<b>Neighbour Notification Checked</b>	<b>Yes/No</b>
<p><b>Summary of Recommendation:</b></p> <p>Approval</p>	
<p><b>Conditions</b></p> <ol style="list-style-type: none"> <li>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:-             <ol style="list-style-type: none"> <li>the expiration of 5 years from the date of this permission; or</li> <li>the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.</li> </ol> </li> </ol> <p>Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.</p> <ol style="list-style-type: none"> <li>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.</li> </ol> <p>Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.</p> <ol style="list-style-type: none"> <li>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.</li> </ol> <p>Reason: To enable the Council to consider in detail the proposed development of the site.</p> <ol style="list-style-type: none"> <li>The proposed dwelling shall have a ridge height of less than 5.5 metres above finished floor level.</li> </ol> <p>Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21 and with the adjacent residential dwellings.</p>	

5. No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.

Reason: In the interest of visual amenity and to ensure the provision, establishment and maintenance of a high standard of landscape.

6. 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.

7. The proposed dwelling shall be sited in the area shaded in green on the approved plan 02 date stamped 08 February 2021.

Reason: To ensure that the development is integrated into the landscape and that no development takes place within the 1 in 100 year fluvial flood plain.

8. The 5m working strip shown hatched on approved plan 02 date stamped 08 February 2021 shall be shown on scale plans submitted as part of the reserved matters application, showing the working strip to be retained. No impediments, land raising or future unapproved development shall take place within this area.

Reason: To ensure the watercourse can be accessed and maintained in the future to prevent flooding.

### Informative

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

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

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

Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals

is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

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

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

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	23rd November 2020
<b>Date First Advertised</b>	8th December 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 158 Kilrea Road Upperlands Londonderry The Owner/Occupier, 160a Kilrea Road Upperlands Mervyn Nelson 162 Kilrea Road, Upperlands, Maghera, BT46 5TB The Owner/Occupier, 164 Kilrea Road Upperlands Londonderry James Steele 164 Kilrea Road, Upperlands, Maghera, BT46 5TB The Owner/Occupier, Orange Hall, 160 Kilrea Road, Upperlands, Londonderry, BT46 5TB	
<b>Date of Last Neighbour Notification</b>	25th February 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/1462/O Proposal: Proposed dwelling and garage to cluster with established group of buildings Address: 40m N.W. of 158 Kilrea Road, Killymuck, Kilrea, Decision: Decision Date:  Ref ID: H/1995/0479 Proposal: SITE OF DWELLING Address: ADJ TO 162 KILREA ROAD UPPERLANDS Decision: Decision Date:  Ref ID: H/2005/0540/F Proposal: Extension to dwelling Address: 162 Kilrea Road, Upperlands, Maghera Decision: Decision Date: 12.01.2006	

Ref ID: H/1977/0412  
Proposal: ALTERATIONS AND ADDITIONS TO HOUSE  
Address: 162 KILREA ROAD, KILLYMUCK, UPPERLANDS  
Decision:  
Decision Date:

Ref ID: H/1996/0525  
Proposal: DWELLING AND GARAGE  
Address: ADJ TO 162 KILREA ROAD UPPERLANDS  
Decision:  
Decision Date:

Ref ID: H/1996/0041  
Proposal: SITE OF DWELLING  
Address: ADJ 162 KILREA ROAD UPPERLANDS  
Decision:  
Decision Date:

Ref ID: H/1993/0611  
Proposal: BUNGALOW AND GARAGE  
Address: KILREA ROAD UPPERLANDS  
Decision:  
Decision Date:

Ref ID: H/1993/0390  
Proposal: SITE OF DWELLING  
Address: KILREA ROAD UPPERLANDS  
Decision:  
Decision Date:

Ref ID: H/1993/0245  
Proposal: SITE OF DWELLING  
Address: KILREA ROAD KILLYMUCK UPPERLANDS  
Decision:  
Decision Date:

Ref ID: H/1997/0083  
Proposal: SITE OF REPLACEMENT DWELLING  
Address: ADJACENT TO 160A KILREA ROAD MAGHERA  
Decision:  
Decision Date:

Ref ID: H/1998/0515  
Proposal: BUNGALOW AND GARAGE  
Address: ADJACENT TO 160 KILREA ROAD MAGHERA  
Decision:  
Decision Date:

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





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1525/O	<b>Target Date:</b>
<b>Proposal:</b> Dwelling on a farm, garage & associated siteworks.	<b>Location:</b> Approx. 300m SW of 159 Davagh Road Draperstown BT45 7BJ.
<b>Referral Route:</b>  Approve - To Committee – Applicant related to a member of the planning staff	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mr Quinn 5b Gortnaskea Road Draperstown Magherafelt BT45 7JO	<b>Agent Name and Address:</b>
<b>Executive Summary: Approve</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	DAERA - Coleraine	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	Historic Environment Division (HED)	Advice
Statutory	NIEA	Advice

### Representations:

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

### Summary of Issues

Approval - To Committee - Applicant is related to a member of the planning staff.

### Characteristics of the Site and Area

The site is located approximately 7.6km south west of the development limits of Straw, as such the site is located within the open countryside but also within an Area of Outstanding Natural

Beauty as per defined by the Magherafelt Area Plan 2015. I note that the area is prominently hilly upland with vast areas of woodland and farms. The site sits along the roadside but the red line covers a portion of a much larger undulating agricultural field. I note that adjacent to the site sits an elongated single storey former dwelling house attached to outbuildings with a projected front porch. I note that the immediate and surrounding area is characterised by agricultural land uses with a scattering of dwellings.

#### Representations

No representations were received in connection with this application.

#### Relevant History

LA09/2018/0076/O - Rear offsite replacement dwelling and garage - 163 Davagh Road, Sixtowns, Draperstown - Permission Granted 03.10.2018

### Description of Proposal

This is an outline application for a proposed dwelling on a farm, garage and associated site works, the site is located approximately 300m SW of 159 Davagh Road, Draperstown.

### Planning Assessment of Policy and Other Material Considerations

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

#### Magherafelt Area Plan 2015

#### Strategic Planning Policy Statement (SPPS)

#### Mid Ulster Local Development Plan 2030 - Draft Strategy

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

#### CTY 1- Development in the Countryside

#### CTY 10 - Dwellings on Farms

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

#### CTY14 - Rural Character

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

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

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

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

(a) the farm business is currently active and has been established for at least 6 years;

(b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and

(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane. Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

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

With respect to (a) I note in the applicants design and access statement it confirmed that the farm business made claims each year but also rented land in conacre. A consultation was sent to DAERA with regards to the Farm Business, in their response stated that the business has been allocated in 1991. Went on to confirm that the farm business has made claims in each of the previous six years. However, they went on to confirm that the proposed site is located on lands associated with another farm business, which seems to reinforce the comments that lands are rented in conacre. From such, I am content that the farm business is active and established as per required by policy.

With respect to (b), upon review of the farm business and after reasonable checks were done I am content that the farm business has not attained any approvals for farm cases in the previous ten years. I note that the applicant attained a replacement site adjacent to this application but after checks it is still in their ownership so I am content that no development opportunities in the previous 10 years.

With respect to (c), as noted there is an elongated single storey dwelling with attached outbuildings beside the site with another farm building opposite the site, I am content that these buildings are able to constitute as a group of existing buildings on the farm. With this in mind, I am content that a dwelling located within the proposed site would be able to successfully visually link and cluster with this group fulfilling this part of the policy. I note that the policy states where possible to use an existing access, I note that this is a roadside site and intends to alter an existing access, which is deemed as acceptable.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore there are no exact design or siting details provided however I am content that an appropriately designed dwelling would not appear as a prominent feature in the landscape. I note that as much of the existing landscaping should be retained where possible, with a new western and southern boundaries planted out, therefore a landscaping scheme should be submitted as part of any reserved matters application. Taken into consideration the landform, surrounding development and the comments made by HED I feel it necessary to restrict the ridge height to be no more than 6.5m from finish floor level. From which, I am content that the application is able to comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As stated that an appropriately designed dwelling would not appear as visually prominent. I am of the opinion that the proposed dwelling would not result in a suburban style build-up of development when viewed with existing and approved buildings. I am content that this application is unlikely to lead to further development than that already exists. From all of this it has been agreed that the application is able to comply with CTY 14 on balance.

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

September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

Other policy and material considerations

PPS 3 - Access, Movement and Parking;

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

I note that a consultation was sent to HED and NIEA respectively; to start, HED responded to state that HED (Historic Monuments) has assessed the application and on the basis of the information provided is content. In that, the proposal can be made satisfactory to SPPS and PPS 6 archaeological policy requirements if the proposed building is of low ridge height and vernacular design. Went on to provide conditions and a request to be consulted on any Full or Reserve Matters application. NIEA did not offer any objection rather provided advice for the planning authority to aid in decision making.

I have no ecological, flooding or residential amenity concerns.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approve

Conditions:

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

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

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

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

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

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

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

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

Reason: In the interest of visual amenity.

5. No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: To ensure the dwelling integrates into the landform.

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

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

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

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

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

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

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

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

#### Informatives

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

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

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

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

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	1st December 2020
<b>Date First Advertised</b>	15th December 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier,	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/0076/O Proposal: Rear offsite replacement dwelling and garage Address: 163 Davagh Road, Sixtowns, Draperstown, Decision: PG Decision Date: 03.10.2018  Ref ID: H/2007/0505/F Proposal: Proposed change of house type from previously approved application H/2006/0745/RM Address: 163 Davagh Road, Sixtowns Decision: Decision Date: 23.10.2007  Ref ID: H/2006/0745/F Proposal: Replacement Dwelling Address: 163 Davagh Road, Sixtowns Decision: Decision Date: 28.02.2007  Ref ID: LA09/2020/1525/O Proposal: Dwelling on a farm, garage & associated siteworks. Address: Approx. 300m SW of 159 Davagh Road, Draperstown BT45 7BJ., Decision: Decision Date:	



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



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

## Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1536/O	Target Date:
Proposal: Dwelling & Garage (infill site)	Location: Between 74 & 76 Hillhead Road Toomebridge BT41 3SP
Referral Route:  This application is being presented to Committee as it is being recommended for refusal.	
Recommendation:	REFUSE
Applicant Name and Address: Mr J Nugent 82 Hillhead Road Toomebridge BT41 3SP	Agent Name and Address: Henry Murray 37C Claggan Road Cookstown BT80 9XJ
Executive Summary:	
Signature(s):	

## Case Officer Report

## Site Location Plan



## Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	NIEA	Considered - No Comment Necessary

## Representations:

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

## Summary of Issues

No representations have been received in respect of this application.

### Characteristics of the Site and Area

The site is comprised of a small field between 2 bungalows, No's 74 and 76, and fronting onto the Hillhead Road. There is a large shed, which appears to be used as a workshop located to the rear of the proposed site. There are no other buildings to either side of the bungalows. To the south-east of No.74 is a small area of rough ground which is separated from the dwelling by a wide band of mature trees. To the north-west of No.76 is another small paddock which has no boundary along the road frontage. The Hillhead Road is part of the A6 protected route running from Toome to Castledawson. There are limited views of the site on approach from either direction due to the built form on each side.

### Description of Proposal

The proposal is an outline application for a site for dwelling and garage within a gap site.

### Planning Assessment of Policy and Other Material Considerations

#### Relevant planning history

H/1980/0003 Alterations and additions to bungalow - Approved 15.02.1980

H/1988/0024 Alterations to dwelling - Approved 14.03.1988

H/1993/0554 Alterations and additions to dwelling - Approved 12.01.1994

Under the provision of Section 6 (4) of the Planning Act (NI) 2011 the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

The Strategic Planning Policy Statement (SPPS) provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP - Draft Plan Strategy has been published for consultation, therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS.

The main policy considerations in the assessment of this application are:-

Magherafelt Area Plan 2015 - the site lies outside any defined settlement limits and is open countryside as identified in the Magherafelt Area Plan 2015.

#### PPS 21 - sustainable development in the countryside

The proposal falls to be considered under Policy CTY 8. In order to assess whether or not an infill opportunity exists, it is first necessary to identify if a substantial and continuously built up frontage, containing a gap is present. Secondly, an assessment of the gap is required in order to ascertain whether it is 'small' in the context of the policy. Although it does not purport to provide an exhaustive list of circumstances, CTY 8 states that a substantial and built up frontage 'includes a line of 3 or more buildings along a road frontage without accompanying development to the rear'.

The site is bounded to the south-east by a single dwelling, No.74, which has no associated outbuildings to either side. Beyond No.74 is a rough field which extends along the road frontage by approximately 85m before reaching the next building. To the north-west of the site is a second dwelling, No.76, which again has no associated out-building to either side. No.76 has a small side garden with a vehicular access onto the Hillhead Road. Beyond No. 76 is a small grass paddock with a frontage of approximately 25m onto the Hillhead Road. Whilst there is no defined boundary between No.76 and the paddock, the paddock is clearly not part of the defined curtilage of No.76. The paddock is a rough grass area whereas the side

amenity space of No.76 is a closely mown area. Therefore it is clear that there are only two buildings in this line, one on each side of the proposed site. Whilst there is undoubtedly a gap, it is not within what constitutes a substantial and continuously built up frontage of at least three buildings. Any dwelling on this site would create a ribbon of development along this road frontage and therefore the proposed site is contrary to Policy CTY 8 in this respect.

While the site fails to satisfy the requirements of CTY 8, it also has to be considered under other policies ie. CTY 13 - Integration and CTY 14 - rural character.

#### CTY 13 - Integration

As the proposed site is set between two existing dwellings, a dwelling of a similar scale and design could be erected on this site without having a detrimental impact of visual amenity and which would achieve an acceptable degree of integration. Therefore the proposal does not offend this policy.

#### CTY 14 - Rural Character

The site is not considered to be a gap site and there will only be transient views of the site on approach from either direction due to the dwellings on either side. However, if this small gap was to be developed with a dwelling, then the three dwellings would constitute a ribbon of development along this stretch of the Hillhead Road. A dwelling on the proposed site would result in a suburban form of development when read with other existing buildings to such an extent as to result in a change of character of the rural area and therefore the proposal is contrary to this policy.

#### PPS 3 Access, Movement and Parking

Policy AMP 3 Access to Protected Routes advises that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access onto a protected route in certain cases. As the development of a gap site is not included as one of the cases referred to in Policy AMP 3, the proposed development is contrary to policy and should therefore be refused.

#### Consultations

DfI Roads advised that unless the proposal is being treated as an exception to Policy AMP 3 then the proposal should be refused.

#### Recommendation

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

Neighbour Notification Checked	Yes
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#### Summary of Recommendation:

Refuse for the reasons listed below:-

#### 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 CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a gap site within a substantial and continuously built up frontage along this part of Hillhead Road.
3. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along this part of Hillhead Road.
4. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 3, in that it would, if permitted, result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

Signature(s)

Date:

ANNEX	
Date Valid	3rd December 2020
Date First Advertised	15th December 2020
Date Last Advertised	
<p>Details of Neighbour Notification (all addresses)</p> <p>The Owner/Occupier, 70 Hillhead Road Creagh Londonderry</p> <p>The Owner/Occupier, 70 Hillhead Road Creagh Londonderry</p> <p>The Owner/Occupier, 74 Hillhead Road Toome Londonderry</p> <p>The Owner/Occupier, 74 Hillhead Road Toome Londonderry</p> <p>The Owner/Occupier, 76 Hillhead Road Creagh Londonderry</p> <p>The Owner/Occupier, 76 Hillhead Road Creagh Londonderry</p> <p>The Owner/Occupier, 79 Hillhead Road Creagh Londonderry</p> <p>The Owner/Occupier, 80 The Creagh (Etre And Otre),Toomebridge,Toome,Londonderry,BT41 3SP</p> <p>The Owner/Occupier, 81 Hillhead Road,Creagh,Londonderry,BT41 3SP</p> <p>The Owner/Occupier, 82A Hillhead Road,Toome,Londonderry,BT41 3SP</p>	
Date of Last Neighbour Notification	16th December 2020
Date of EIA Determination	N/A
ES Requested	No
<p>Planning History</p> <p>Ref ID: LA09/2020/1536/O</p> <p>Proposal: Dwelling &amp; Garage (infill site).</p> <p>Address: Between 74 &amp; 76 Hillhead Road, Toomebridge, BT41 3SP.,</p> <p>Decision:</p> <p>Decision Date:</p> <p>Ref ID: H/1980/0003</p> <p>Proposal: ALTERATIONS AND ADDITIONS TO BUNGALOW</p> <p>Address: 76 HILLHEAD ROAD, TOOMEBRIDGE</p> <p>Decision:</p>	

Decision Date:

Ref ID: H/2005/0515/O

Proposal: Site of demolition of existing piggery to provide site for new retirement dwelling.

Address: Adjacent to 84 Hillhead Road, Creagh, Toome.

Decision:

Decision Date:

Ref ID: H/2002/1099/O

Proposal: Site of dwelling

Address: Adjacent to 66 Hillhead Road, Toomebridge.

Decision:

Decision Date: 07.07.2004

Ref ID: H/1993/0554

Proposal: ALTS AND ADDS TO DWELLING

Address: 76 HILLHEAD ROAD TOOMEBRIDGE

Decision:

Decision Date:

Ref ID: H/1988/0024

Proposal: ALTERATIONS TO DWELLING

Address: 76 HILLHEAD ROAD TOOMEBRIDGE

Decision:

Decision Date:

Ref ID: LA09/2018/0287/F

Proposal: Single storey annex connected to existing dwelling.

Address: 84 Hillhead Road, Creagh Toomebridge, Magherafelt, Co Derry, BT41 3SP.,

Decision: PG

Decision Date: 26.06.2018

Ref ID: H/2014/0132/F

Proposal: Proposed two storey side extension to dwelling

Address: 74 Hillhead Road, Toomebridge, BT41 3SP,

Decision: PG

Decision Date: 24.09.2014

## Summary of Consultee Responses

### Consultations

DfI Roads advised that unless the proposal is being treated as an exception to Policy AMP 3 then the proposal should be refused.

## Drawing Numbers and Title



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

Notification to Department (if relevant)

Date of Notification to Department:  
Response of Department:



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

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1576/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed single storey extension to front and rear of dwelling including replacement garage.	<b>Location:</b> No 10 Lomond Heights Cookstown BT80 8XW.
<b>Referral Route:</b>  Objection received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Mr Gary McCusker 10 Lomond Heights Cookstown BT80 8XW	<b>Agent Name and Address:</b> Paul Moran Architect 18b Drumsamney Road Desertmartin Magherafelt BT45 5LA
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
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### Representations:

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

### Summary of Issues

One letter of objection has been received in relation to this planning application. The objector raised concerns that the replacement garage was taking place on lands partially outside the applicant's ownership.

### Characteristics of the Site and Area

The site is located at 10 Lomond Heights, Cookstown and is situated within the settlement limits of Cookstown as per the Cookstown Area Plan 2010. The dwelling on site is a single storey, detached building located within an existing housing development. The site has a small garden at the front as well as a small drive way to the front. To the left hand side of the house is tarmacked area which leads to an existing garage and then into a larger back garden area. The surrounding area is residential with No. 8 Lomond Heights to the west and No. 12 to the east.

## Description of Proposal

This is a full planning application for a proposed single storey extension to the front and rear of the dwelling, including the replacement of existing garage at 10 Lomond Heights, Cookstown.

## Planning Assessment of Policy and Other Material Considerations

Cookstown Area Plan 2010  
Strategic Planning Policy Statement (SPPS)  
Addendum to PPS 7- Residential Extensions and Alterations

The SPPS provides a regional framework of planning policy that will be taken into account of in preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore, transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Paragraph 6.137 of the SPPS advises that residential extensions should be well designed.

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

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

I am content that the design and materials proposed are sympathetic with the existing property, although proposing some minor changes in design, I do not believe it will detract from the appearance and character of the surrounding area. In terms of the scale and massing of the extension, the proposal includes two separate extensions, with a small extension at the front and an extension to the rear. I am content that these are of small scale and will have no negative impact on the appearance of the building. I believe the proposal will enhance the appearance of the dwelling whilst not detracting from the appearance and character of the area. In terms of the replacement garage, I am content it is of an appropriate design and scale for the location.

Given the size of the proposed extensions, I have no concerns surrounding the privacy or amenity of neighbouring residents. There is sufficient distance between the dwellings and the extension at the rear extends to the rear and does not encroach towards neighbouring properties. The replacement garage is located at the same location of the existing garage; this will not affect the privacy or amenity of the neighbouring residents.

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

Sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.

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

An objection was received by the neighbouring property to the west, which abuts the red line. The objector raised concerns about the red line of the application and claiming the proposed garage was proposing to be developed on lands outside of the applicants ownership. Following this, the applicant submitted amended plans and clarified the proposed development is within the applicants ownership, therefore, the correct certificate was completed within the planning application form. Neighbours were re-notified and no further issues have been raised regarding the boundary.

From this, I am content that the issues have been resolved and that the correct application form and certificate of ownership have been completed.

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

### **Neighbour Notification Checked**

**Yes/No**

### **Summary of Recommendation:**

Approval

### **Conditions**

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

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

Informatives

1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.

### **Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	10th December 2020
<b>Date First Advertised</b>	22nd December 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 12 Lomond Cookstown Tyrone The Owner/Occupier, 15 Lomond Cookstown Tyrone The Owner/Occupier, 17 Lomond Cookstown Tyrone The Owner/Occupier, 8 Lomond Cookstown Tyrone Millar, Shearer & Black Solicitors 9 Georges Street, Dungannon, BT70 1BP	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/1576/F Proposal: Proposed single storey extension to front and rear of dwelling including replacement garage. Address: No 10 Lomond Heights, Cookstown BT80 8XW., Decision: Decision Date:  Ref ID: I/2003/0137/Q Proposal: Housing Development Address: Lomond Heights, Cookstown Decision: Decision Date:  Ref ID: I/2010/0050/F Proposal: Housing development (31no. units); 14no pairs of semi-detached and 3no town houses. Address: Land adjacent and to the north of Lomond Heights, Cookstown, Co Tyrone Decision: Decision Date: 24.02.2012	

Ref ID: I/2006/1239/F

Proposal: Demolition of existing dwelling to make way for new dwelling house.

Address: 12 Lomand Heights, Cookstown

Decision:

Decision Date: 22.05.2007

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 01 REV 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02 REV 01

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Floor Plans

Status: Submitted

Drawing No. 04 REV 01

Type: Proposed Elevations

Status: Submitted

Drawing No. 05 REV 01

Type: Garage Plans

Status: Submitted

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

Date of Notification to Department:

Response of Department:



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

## Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1664/F	Target Date:
Proposal: Proposed agricultural machinery shed	Location: 86m N.W.of 92 Gulladuff Hill Road Knockloughrim Magherafelt
Referral Route:  This application is being presented to Committee as, although it does not meet all the policy criteria, it is being recommended for Approval.	
Recommendation:	APPROVE
Applicant Name and Address: Michael McCrystal 92 Gulladuff Hill Knockloughrim Magherafelt	Agent Name and Address: OJQ Architecture 89 Main Street Garvagh Coleraine BT51 5AB
Executive Summary:	
Signature(s):	



## Case Officer Report

### Site Location Plan



#### Consultations:

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

<p>Summary of Issues</p> <p>No representations have been received in respect of this proposal.</p>
<p>Characteristics of the Site and Area</p> <p>The site is located to the rear of the applicants dwelling which is the only building at this part of the farm holding. The site sits considerably lower than the ground levels around the dwelling, approximately 3-4m. The site is bounded by mature hedgerows along both the northern and southern boundaries. There is an existing laneway leading from the site to the Drummuck Road which is to be used for accessing the site. Due to the low lying ground levels, the existing boundary vegetation and the applicants own dwelling, there are restricted views of the site on approach from either direction.</p>
<p>Description of Proposal</p> <p>The proposal is for the erection of a large farm building measuring 30.5m x 16.3m with a wall plate height of 6.0m and a ridge height of 8.2m. The farm building is to be used for mainly a machinery store with an element of livestock housing and feed storage.</p>
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>Relevant planning history There is no planning history on this site.</p> <p>Representations No representations have been received in respect of this application.</p> <p>Development Plan and key policy considerations The site lies outside any defined settlement limits and is open countryside as identified in the Magherafelt Area Plan 2015. No other constraints have been identified.</p> <p>PPS 21 Policy CTY 12 Agricultural and Forestry Development states the planning permission will be granted for development on an active and established agricultural or forestry holding where the proposal satisfies certain criteria.</p> <p>The proposal is for an agricultural shed to house animals and machinery. The applicant and his brother farm jointly on the family farm and are in the process of dividing this between them with the applicant's brother taking over the existing farmyard and associated buildings. There are no farm buildings on the part of the farm which the applicant is taking over and due to the amount of agricultural machinery and livestock which he holds, a building of the proposed size is necessary. Although the farm is being sub-divided, this is not for the purpose of obtaining dwellings for either party as they both have dwellings recently built. The proposal is therefore considered as a necessity as it would be unreasonable to expect the applicant to continue farming without having appropriate shelter for animals or secure premises for machinery, which at present is stored outside.</p> <p>The proposal meets all the following criteria as the proposed building; is necessary for the businesses efficient use; it is appropriate in terms of character and scale; it achieves an acceptable degree of visually integration;</p>

there will be no adverse impact on natural or built heritage; and  
there will be no detrimental impact on residential amenity.

In this case, as a new building is proposed the applicant also needs to provide sufficient information to confirm all of the following:

- There are no suitable existing buildings on the holding or enterprise that can be used;  
As the applicant is taking over a part of the farm which has no existing buildings, there are therefore no existing buildings which can be used;
- The design and materials to be used are sympathetic to the locality and adjacent buildings;  
The proposed building is a typical farm building and is acceptable in terms of design and materials;  
and
- The proposal is sited beside existing farm or forestry buildings;  
Although the proposed building is not sited beside existing farm buildings it is sited beside the applicants own dwelling which is the only building on this part of the farm.

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

- it is essential for the efficient functioning of the business; or
- there are demonstrable health and safety reasons.
- In this case as there are no existing farm buildings on this part of the holding as discussed above, the proposal is essential for the efficient functioning of the farm business.

DARD have confirmed that the applicants fathers farm business is currently active and has been in existence for more than 6 years.

#### Other policy and material considerations

In my opinion, the site can satisfactorily accommodate a farm building of the design and scale as proposed. The existing dwelling adjacent to the site provides an acceptable degree of screening and together with the distance the proposal is set back from the public road and the topography of the surrounding landform, will allow the proposal to achieve an acceptable degree of integration. As the building is of a typical design, the proposal will not have any impact on rural character. Whilst the proposal does not satisfy all the relevant policy criteria it is considered acceptable given the specific circumstances and it is therefore recommended to Committee that consideration should be given to granting approval for the proposed development.

#### Recommendations

That planning approval be granted subject to the conditions listed below:-

Neighbour Notification Checked	Yes
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#### Summary of Recommendation:

Approve subject to the conditions listed below:-

#### Conditions:

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

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

2. The depth of under-building between finished floor level and existing ground level shall not exceed 0.3 metres at any point.

Reason: In the interest of visual amenity.

3. All proposed planting as indicated on the stamped approved drawing no. 02/2 date stamped 10th February 2021 shall be undertaken prior to the building hereby permitted becoming operational.

Reason: To ensure the proposal is in keeping with the character of the rural area and in the interests of visual amenity.

4. Prior to the building hereby permitted becoming operational a hawthorn or native species hedge shall be planted in a double staggered row 200mm apart, at 450 mm spacing, 500 mm to the rear of the sight splays along the front boundary of the site.

Reason: To ensure the amenity afforded by existing hedges is maintained.

5. The existing natural screenings along the northern and southern boundaries of this site, shall be permanently retained, augmented where necessary and let grow unless necessary to prevent danger to the public in which case a full explanation shall be given to Mid Ulster District Council in writing, prior to the commencement of any works.

Reason: To ensure the development integrates into the countryside and to ensure the maintenance of screening to the site.

6. If any retained hedge/tree is removed, uprooted or destroyed or dies within 5 years from the date of the development hereby approved, becoming operational another hedge/tree or trees shall be planted at the same place and that hedge/tree(s) shall be of such size and species and shall be planted at such time as may be specified by Mid Ulster District Council.

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

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 Mid Ulster District Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless Mid Ulster District Council gives its written consent to any variation.

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

8. The vehicular access including visibility splays 2.4 x 60 metres and a 60 metre forward sight distance, shall be provided in accordance with Drawing No 02/2 bearing the date stamp 10th February 2021 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Signature(s)
Date:

ANNEX	
Date Valid	22nd December 2020
Date First Advertised	12th January 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier,	
Date of Last Neighbour Notification	N/A
Date of EIA Determination	N/A
ES Requested	No
Planning History  Ref ID: LA09/2020/1664/F Proposal: Proposed agricultural machinery shed Address: 86m N.W.of 92 Gulladuff Hill RoadKnockloughrim Magherafelt, Decision: Decision Date:  Ref ID: H/2010/0429/F Proposal: Replacement Dwelling Address: 92 Gulladuff Hill Road, Magherafelt, Decision: MAA Decision Date: 20.04.2011  Ref ID: H/2006/0365/O Proposal: Site of Dwelling & Garage Address: Approx 20m NW of 92 Gulladuff Hill, Maghera Decision: Decision Date:	

Summary of Consultee Responses

All consultees responded positively.

Drawing Numbers and Title

Drawing No. 01/2

Type: Site Location Plan

Status: Approved

Drawing No. 02/2

Type: Site Layout or Block Plan

Status: Approved

Drawing No. 03/2

Type: Proposed Plans

Status: Approved

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0006/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed roadside hot food sales and ancillary development (farm diversification Scheme)	<b>Location:</b> 100m S.S.E. of Knockaconny House 37 Sandholes Road Cookstown
<b>Referral Route:</b>  Recommended refusal	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> IT and RS Mayne 15 Gorticar Road Sandholes	<b>Agent Name and Address:</b> Les Ross Planning 9a Clare Lane Cookstown BT80 8RJ
<b>Executive Summary:</b> Proposal considered against prevailing planning policy – considered the proposal fails to comply Policy CTY 11, Policy CTY 13 and Policy CTY 14 of PPS21. No letters of representation received.	
<b>Signature(s):</b>  <div style="height: 40px; border: 1px solid black;"></div>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Characteristics of the Site and Area

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



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

### **Description of Proposal**

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

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

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

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

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

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

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

### **Representations**

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

### **Relevant Planning History**

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

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

**Key Policy Considerations/Assessment**

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

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

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

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

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

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

The amplification of Policy CTY11 states:

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

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

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

CTY 11 goes on to state that proposals will only be acceptable where they involve the re-use or adaption of existing farm buildings. Exceptionally, a new building may be permitted where there is no existing building available to accommodate the proposed use, either because they are essential for the maintenance of the existing farm enterprise, are clearly unsuitable for adaption and reuse. The proposal seeks to erect a new building on the proposal site, approximately 85 metres from the nearest farm building. It is noted that there are a number of existing buildings located on the farm complex as can be seen in the below site location plan.



It is considered the application fails to meet the requirements of Policy CTY11 as it does not involve the re-use of an established farm building and it has not been demonstrated to meet the exceptions for a new building. The agents supporting letter states all existing sheds are being used for various agricultural activities and it is necessary to position the unit on the roadside to ensure it is convenient to patrons. It is not accepted that the position is necessary for convenience of patrons, there is an established access in place to the existing applicant's farm buildings and the majority of customers would arrive via car given the busy adjacent road network. Following internal group decisions it has been considered adequate information has not been provided to demonstrate a need for the new building and that none of the existing buildings on the farm holding could be re-used or adapted.

Policy CTY 13 - Integration and Design of Buildings in the Countryside states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. It is noted that the proposal site is sited at the lowest level of the field with land rising to the rear which provides a backdrop which will assist with integration. However, as noted previously the proposed development comprises a cut out portion of an existing larger field approximately 85 metres from existing farm buildings.



The design of the building is considered inappropriate to the rural context and it is considered the ancillary works to provide the hard-core laneway will not integrate into the surrounding landscape. The proposed unit is located 27 metres from the adjacent public road and therefore the site will be susceptible to public views with some degree of existing hedgerow in place to the roadside boundary. The submitted drawings do not include landscaping details of any proposed additional planting to assist in integrating the proposed building and hard-core laneway across the field. Should Planning Committee consider planning permission should be granted, it is considered necessary to condition the retention of the existing natural vegetation, as well as the planting of natural hedging to define the boundaries surrounding the proposed development. Overall it is considered the proposed development will fail to visually integrate into the surrounding landscape and it is of an inappropriate design, contrary to Policy CTY 13.

Policy CTY 14 – Rural Character states that planning permission will be granted for a building where it does not cause a detrimental change to, or further erode the rural character of the area. It is considered the nature and design of the proposed

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

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

#### **Additional considerations**

In addition to checks on the planning portal, the Historic Environment map viewer available online have been checked and identified no built heritage assets interests of significance on site. It was identified the proposal site is located in proximity to Lafarge Cement IPRI Site, therefore NIEA were consulted. NIEA have considered the application and offered no objection however advised that applicant should be aware that they may be subject to occasion loss of amenity due to either dust and odour emissions due to the close proximity to the regulated facility. Should Planning Committee consider planning approval should be granted, this advise could be attached to any forthcoming approval as an informative. It was noted on the date of the site inspection the presence of a watercourse in proximity to the existing access. SES were informally consulted and have advised that there is no viable hydrological connection to downstream European sites therefore no conceivable impact to any European sites and formal consultation was not required in this instance.

**Neighbour Notification Checked**

**Yes**

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

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

#### **Reasons for Refusal:**

1. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to 6.73 of the Strategic Planning Policy Statement for Northern Ireland and CTY11 of Planning Policy Statement 21, Sustainable

Development in the Countryside in that it has not been sufficiently demonstrated that the proposed development is to be run in conjunction with the agricultural operations on the farm; the character and scale of the development is not appropriate to its location; and it does not involve the re-use or adaptation of existing farm buildings and it has not been demonstrated that there are no other buildings available to accommodate the proposal.

3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed development would, if permitted, cause a detrimental change to the rural character of the area and fails to respect the traditional pattern of development exhibited in the local area.

**Signature(s)**

**Date:**



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0053/F	<b>Target Date:</b>
<b>Proposal:</b> Change of house type from approved under I/2008/0439/F	<b>Location:</b> Approx 120m East of 24 Muntober Road Cookstown
<b>Referral Route:</b>  Refusal- contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Daniel Ward 60 Blackrock Road Cookstown BT80 9PA	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	

### 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 is an application for a proposed change of house type from planning application I/2008/0439/F. However, the site access was never implemented at the site as required nor was a material start made on the approval. The previous approval subsequently expired on the 14<sup>th</sup> November 2010.

### Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the Cookstown Area Plan 2010. The site is located approximately 90m east of the Muntober Road, with the site sitting at a lower level than that of the road. The site is currently an agricultural field, at the time of the site visit there were horses within the site. The surrounding area is agricultural in nature, with a limited number of single dwellings within the countryside. At the location where the dwelling is to be sited there is currently overgrown vegetation and what appears to be a small, derelict agricultural building.



**Representations**

No third party representations have been received in relation to this planning application

**Description of Proposal**

This is a full planning application for a change of house type from approval I/2008/0439/F.

**Site History**

I/2004/0900/O- Approx 120m East of 24 Muntober Road, Cookstown. Dwelling & garage. PG 10.11.2004

I/2008/0439/F- Approx 120m East of 24 Muntober Road, Cookstown. Proposed erection of single private dwelling & garage. PG 14.11.2008.

LA09/2020/0123/CA- Approx. 120m East Of 24 Muntober Road, Cookstown. Fence not built in accordance with approved plans. Negotiate to resolve.

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

Cookstown Area Plan 2010  
Strategic Planning Policy Statement (SPPS)  
PPS 21: Sustainable Development in the Countryside  
Local Development Plan 2030 - Draft Plan Strategy

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

The principle of development was agreed under the previous application. Permission was granted for a dwelling and garage on 14<sup>th</sup> November 2008. This approval had a condition attached which required the development hereby permitted shall be begun before the expiration of 2 years from the date of this permission. Therefore, the previous approval granted required development to have commenced on site before 14<sup>th</sup> November 2010.

The second condition attached required the vehicular access, including visibility splays and any forward sight lines to be provided in accordance with approved plans, prior to the commencement of any works or other development hereby permitted.

Following a site visit, it was unclear if foundations had been put in place, to indicate a material start of the planning approval. Following a discussion with the agent, a document from Building Control was submitted indicating a number of site visits, with the first being 10<sup>th</sup> November 2010 where partial works to excavate foundations had begun, but had been rejected by building control. No further information or evidence has been provided to show foundations had been poured on site to indicate a material start on the planning approval.

It was clear that the access was not provided in accordance with the approved plans and appears to have not been implemented at any stage. Where the access should be located there is a post and wire fence separating the agricultural field and the public road. Therefore, the previous approval I/2008/0439/F has lapsed as condition 1 and 2 have not be complied with and this application cannot be considered as a change of house type.

For completeness, the design of the proposed change of house type will be also be assessed.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I am content that the proposed dwelling would not be a prominent feature in the landscape as it has established mature boundaries that will allow it to be adequately screened. I am content the design of the dwelling is appropriate for the site and its locality.

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. I am content the proposed change of design would not cause a detrimental change to, or further erode the rural character of the area. It is considered that the proposal would not create or add to a ribbon of development.

#### **Other Material Considerations**

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

#### **Neighbour Notification Checked**

**Yes/No**

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

Refusal

#### **Reasons for Refusal:**

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:**

<b>ANNEX</b>	
<b>Date Valid</b>	14th January 2021
<b>Date First Advertised</b>	26th January 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier,	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2021/0053/F Proposal: Change of house type from approved under I/2008/0439/F Address: Approx 120m East of 24 Muntober Road, Cookstown, Decision: Decision Date:	
Ref ID: I/2008/0439/F Proposal: Proposed erection of single private dwelling & garage Address: Approx 120 metres east of 24 Muntober Road, Cookstown BT80 9LW Decision: Decision Date: 18.11.2008	
Ref ID: I/2004/0900/O Proposal: Dwelling & garage Address: Approx 120m East of 24 Muntober Road, Cookstown Decision: Decision Date: 10.11.2004	
<b>Summary of Consultee Responses</b>	

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



**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0060/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed garage and store within the curtilage of existing dwelling	<b>Location:</b> 65A Lissan Road Cookstown
<b>Referral Route:</b>  Objection received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Mr Paul Donnelly 65A Lissan Road Cookstown	<b>Agent Name and Address:</b> Manor Architects Stable Buildings Manor House 30a High Street Moneymore BT45 7PD
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	2	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	

### Summary of Issues

Two objections have been received from a neighbouring property raising concerns about the impact the proposal would have on their amenity in terms of loss of light and overshadowing. The objector also raised concerns regarding the size and location of the proposed garage. These objections have been fully considered as part of this assessment

### Characteristics of the Site and Area

The site is located within the settlement limits of Cookstown as per the Cookstown Area Plan 2010. The site currently has a large detached two storey dwelling located here, with access taken from the Lissan Road, with a small driveway leading to the dwelling, with the a spacious garden extending further north. The site is bounded on all sides with

existing mature planting on all boundaries, screening the site well from the surrounding area which is mainly residential, with a housing development to the east and a single dwelling to the western boundary.

### **Description of Proposal**

This is a full planning application for a proposed garage and store within the curtilage of the existing dwelling at 65A Lissan Road, Cookstown.

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

Cookstown Area Plan 2010  
Strategic Planning Policy Statement (SPPS)  
Addendum to PPS 7- Residential Extensions and Alterations

The SPPS provides a regional framework of planning policy that will be taken into account of in preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore; transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Paragraph 6.137 of the SPPS advises that residential extensions should be well designed.

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

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

I am content that the design and materials proposed are sympathetic with the built form and appearance of the existing property as they are to match the finishes of the existing dwelling, with a mixture of red brick and smooth render finishes to the walls. Views of the garage will be limited from the public road. In terms of the scale and massing of the proposal, the objector raised some concerns regarding this, as the garage is proposed to have a ridge height of 7.7m from finished floor level, with a garage on the ground floor and a store at first floor level. Although, I am content a garage of this size is sympathetic with the existing dwelling, which is a large two-storey dwelling, and with the existing screening at the site, it will not detract from the appearance and character of the surrounding area.

The objector raised concerns that the original proposed siting of the garage was close to the boundary (approximately 2m away) and this would have a negative impact on their amenity in terms it may cause issues regarding the loss of light. It was agreed at a group meeting that the garage should be sited further away from the eastern boundary as to

alleviate concerns surrounding impacts on the amenity of neighbouring residents. The applicant then submitted amended plans, which show the garage is located 5m from the western boundary, and approximately 9m away from the sunroom located at the rear of the objectors property. It was agreed at a group discussion this was a more acceptable distance and it has been felt this would alleviate the concerns raised by the objector. However, following re neighbour notification, a further objection has been received stating they believe the proposal will still cause issues with a loss of light on the sunroom. They stated it would be preferable if the garage were located closer to the Lissan Road, away from the rear of their property.

However, I am content there is sufficient space between the proposed garage and the objectors dwelling that it will not result in a loss of light. I have no concerns that the proposed garage would result in a loss of privacy on any neighbouring property.

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

Given the size of the existing curtilage which extends to the north, I am content that sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.

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

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

#### **Neighbour Notification Checked**

**Yes/No**

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

Approval

#### **Conditions**

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

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

2. The building hereby approved shall only be used for domestic purposes ancillary to 65A Lissan Road, Cookstown, BT80 8EW.

Reason: To protect the amenity of neighbouring properties



**Informatives**

1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	18th January 2021
<b>Date First Advertised</b>	2nd February 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) Joachim McErlane . The Owner/Occupier, 4 Liscoole Cookstown Tyrone The Owner/Occupier, 5 Liscoole Cookstown Tyrone The Owner/Occupier, 6 Liscoole Cookstown Tyrone The Owner/Occupier, 65 Lissan Road Cookstown Tyrone The Owner/Occupier, 67 Lissan Road Cookstown Tyrone Joachim & Lorraine McErlane	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2021/0060/F Proposal: Proposed garage and store within the curtilage of existing dwelling Address: 65A Lissan Road, Cookstown, Decision: Decision Date:  Ref ID: LA09/2020/0818/O Proposal: Proposed site for 4 No dwellings (Amended Plan) Address: 20m East of 67 Lissan Road, Cookstown, Decision: Decision Date:  Ref ID: I/2012/0232/F Proposal: New two storey dwelling and garage Address: Between 65 And 67 Lissan Road, Cookstown, Co Tyrone, Decision: PG	

Decision Date: 25.10.2012

Ref ID: I/1996/0019

Proposal: Dwelling

Address: LISSAN ROAD, OLDTOWN, COOKSTOWN

Decision:

Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02 REV 01

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Proposed Floor Plans

Status: Submitted

Drawing No. 04

Type: Proposed Elevations

Status: Submitted

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

Date of Notification to Department:

Response of Department:



**Development Management Officer Report  
Committee Application**

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0239/F	<b>Target Date:</b>
<b>Proposal:</b> Garage/store	<b>Location:</b> 2 Ranakeeran Draperstown
<b>Referral Route:</b>  Objection received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Miss Kathleen Glass 2 Ranakeeran Draperstown	<b>Agent Name and Address:</b> Architectural Services 5 Drumderg Road Draperstown BT45 7EU
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
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### Representations:

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

### Summary of Issues

A letter of objection has been received from the neighbouring property raising concerns about the size of the proposal, the impact it will have on the neighbouring view and sunlight. The neighbour was of the view it will have a negative impact on them.

### Characteristics of the Site and Area

The site is located within the settlement limits of Draperstown as per the Magherafelt Area Plan. The dwelling on site is a two storey; semi-detached building finished in a white dash render and is located at the entrance of the development known as Ranakerran, Draperstown. The site has two parking spaces at the front of the dwelling, and a small grass area to the northern boundary along the Derrynoyd Road, leading to an enclosed rear yard. The rear yard is enclosed on the eastern and southern boundary with a 1.8m high wooden fence and a larger wall to the north. The immediate surrounding area is residential in nature.

## **Description of Proposal**

This is a full planning application for a garage/store at the rear of 2 Ranakerran, Draperstown.

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

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement (SPPS)  
Addendum to PPS 7- Residential extensions and alterations

The SPPS provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Para 6. 137 of the SPPS advises that residential extensions should be well designed.

Policy EXT 1 of Addendum to PPS 7 states that planning permission will be granted for a proposal to extend or alter a residential property where all of the following criteria are met:

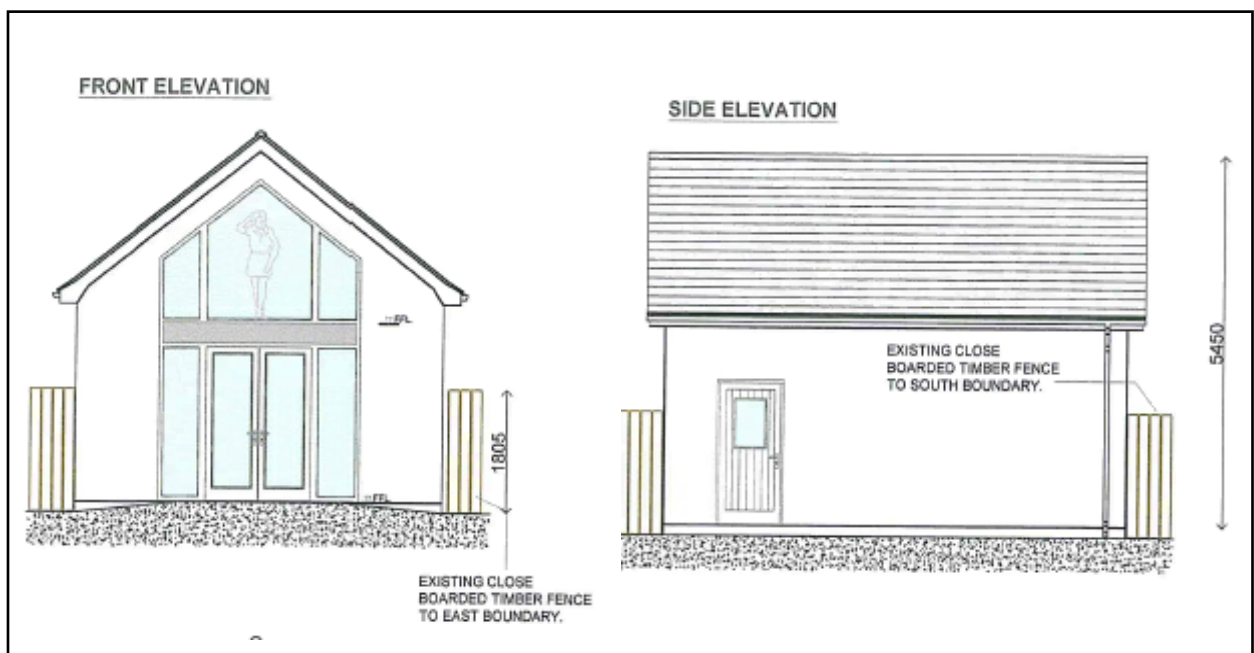
- (a) The scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area;
- (b) The proposal does not unduly affect the privacy or amenity of neighbouring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

Concerns were raised by an objector regarding the scale and massing of the proposal, stating they believe it is disproportionate to the size of the gardens in the area. Following a group discussion in the planning office, it was agreed that the scale and massing of the proposal is sympathetic with the built form and appearance of the area.

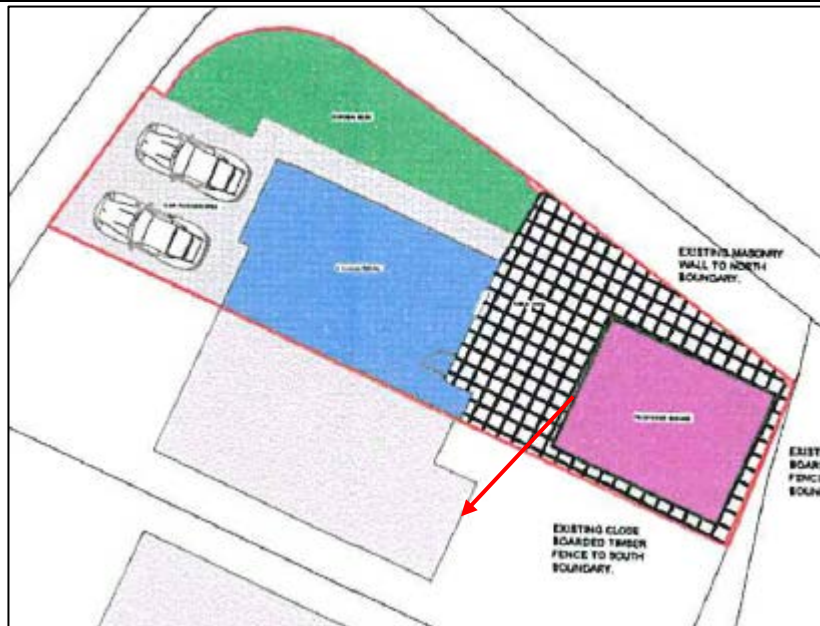
Under The Planning (General Permitted Development) Order (Northern Ireland) 2015 allows for development to take place within the curtilage of a dwelling for a building without the need for planning permission. Although this development does not meet the permitted development rights, it is important to compare what the applicant could get under these permitted development rights. In terms of the size of building the applicant could get under GDPO rights is a building that does not exceed 50% of the total area of the curtilage. The size of the curtilage available is approximately 194 square metres and the footprint of the proposal is 38.5 square metres, which is less than 50% of the total area of the curtilage.

In terms of the height of a building that is permitted under the GDPO, if the building exceeds 4 metres in height it would not be permitted. The height of this proposal is 5.4m and therefore, above what is permitted under permitted development. It is also located within 2 metres of the boundary, where the eaves height cannot exceed 2.5m under the GDPO legislation. The proposal has 3m high eaves exceeding what is permitted under GDPO legislation. Having considered this, and also the position of the proposal within the curtilage, to the rear of the property, I am content that proposal is sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area.

In terms of the design and materials proposed, it was agreed that the proposal will not detract from the appearance and character of the surrounding area as the finishes are to match the existing dwelling.



The objector has also raised concerns that the proposal will have a negative impact on them in terms of their view and sunlight. The impact on someone's right to a view is not a material planning consideration, however the impact on sunlight is. I do not believe the proposal will result in a loss of light to the neighbouring property, as it is a sufficient distance away and given the orientation of the sun on the site, it will not result in a loss of light. It is noted the proposal includes a windows to the front elevation of the building; however, these elevations will be looking directly onto the applicant's property. As shown on the image below, the red arrow denotes the angle of view from the proposed window onto the neighbouring property and its rear garden. It is clear from this any issues with overlooking will be limited given the position of the proposal. Therefore, I am content the proposal will not unduly affect the privacy or amenity of neighbouring residents.



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

Although the proposal will result in the loss of amenity space at the rear of the property, I am content that sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.

### Other policy and material considerations

It has been noted that in the letter of objection, the objector referred to the proposal as a 'dwelling'. The applicant has confirmed the use will be for ancillary purposes related to the dwelling at 2 Ranakeeran. I am content this is acceptable and a condition can be attached to any approval to ensure the proposal is used for domestic purposes only, and not as a separate dwelling.

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

### Neighbour Notification Checked

Yes/No

### Summary of Recommendation:

Approval



**Conditions**

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

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

2. The building hereby approved shall only be used for domestic purposes ancillary to 2 Ranakeeran, Draperstown BT45 7FF.

Reason: To protect the amenity of neighbouring properties

**Informatives**

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

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

**Signature(s)**

**Date:**

**ANNEX**

**Date Valid**

17th February 2021

**Date First Advertised**

2nd March 2021

**Date Last Advertised**

**Details of Neighbour Notification** (all addresses)

The Owner/Occupier,  
25 Derrynoyd Road Draperstown Londonderry  
The Owner/Occupier,  
27 Derrynoyd Road Draperstown Londonderry  
The Owner/Occupier,  
4 Rannakeeran Draperstown Londonderry  
Niall McGurgan  
Email Address

**Date of Last Neighbour Notification**

**Date of EIA Determination**

ES Requested	Yes /No
<p><b>Planning History</b></p> <p>Ref ID: LA09/2021/0239/F  Proposal: Garage/store  Address: 2 Ranakeeran, Draperstown,  Decision:  Decision Date:</p> <p>Ref ID: LA09/2017/0127/DC  Proposal: Discharge of Planning Condition No 2 of Planning Approval LA09/2015/1192/F (Provision of a Landscape Management and Maintenance Plan)  Address: Lands at Derrynoyd Road, Draperstown,  Decision: AL  Decision Date:</p> <p>Ref ID: LA09/2017/0296/DC  Proposal: Condition no 6 - implementation of programme of archaeological works (LA09/2015/1192/F)  Address: Derrynoyd Road, Draperstown,  Decision: AL  Decision Date:</p> <p>Ref ID: LA09/2015/1192/F  Proposal: Retention of existing as built new vehicular access, internal road layout and sub station in accordance with previous planning approval H/2007/0732/F and H/2005/1294/F. New residential development to have change of house types on previous approved H/2007/0732/F with a reduction in density to provide 48 no dwellings (mix of semi-detached and detached with garages)  Address: Derrynoyd Road, Draperstown, Co Derry,  Decision:  Decision Date: 22.09.2016</p> <p>Ref ID: LA09/2017/0417/F  Proposal: Amendments to previously approved application LA09/2015/1192/F change of house types on previously approved plots 20-23, plots 31-35 and plots 45 and 48 (ie.11No dwellings changed) with no increase in density of development plus retention of approved access and internal roads layout  Address: Derrynoyd Road, Draperstown,  Decision: PG  Decision Date: 08.02.2018</p> <p>Ref ID: H/2007/0732/F  Proposal: Amendment to previously approved application Ref. H/2005/1294. Change of house types on previously approved sites 15-44 (Proposed 15-60), incorporating 16 no. additional dwelling units.  Address: Derrynoyd Road, Draperstown  Decision:  Decision Date: 26.06.2008</p>	

Ref ID: H/2003/1026/O

Proposal: Housing development.

Address: Adjacent to no. 20 Derrynoyd Road, Draperstown.

Decision:

Decision Date: 11.01.2005

Ref ID: H/2005/1294/F

Proposal: Erection of 69 number Dwelling Houses - Mix of detached, semi - detached, townhouses & apartments with detached garages.

Address: Derrynoyd Road, Draperstown, Co. Londonderry BT45 7DN

Decision:

Decision Date: 13.06.2007

Ref ID: H/2009/0405/Q

Proposal: Proposed 2no temporary double mobile classrooms

Address: Gaelscoil na Speirini, Derrynoyd Road, Draperstown

Decision:

Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

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

Date of Notification to Department:

Response of Department: