Comhairle Ceantair Lár Uladh Mid Ulster District Council

Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2020/0251/O **Recommendation:** Refuse	**Target Date:** 20 April 2020
Proposal: Dwelling	**Location:** N.W. Of 11 Glengomna Road Draperstown
Applicant Name and Address: Patrick Murray 25A Dunlogan Road Draperstown	**Agent name and Address:** Newline Architects 48 Main Street Castledawson BT45 8AB

Summary of Issues:

This application was first before Members at April 2021 Planning Committee with a recommendation to refuse. It was submitted as a replacement dwelling application and it was considered that the building to be replaced did not exhibit the essential characteristics of a dwelling. As such, it was deemed contrary to Policies CTY 1 and CTY 3 of PPS 21. Members agreed to defer the application for an office meeting, which was facilitated on the 22nd April 2021. At this meeting the applicant was asked to explore the possibility of a farm case and a P1C and farm maps were submitted for consideration. The application has now been assessed as a farm dwelling under Policy CTY 10 of PPS 21 and it is considered that the proposal fails to meet the siting criteria associated with CTY 10 and the recommendation to Members is to refuse the application. My justification for this is detailed further in this report.

Summary of Consultee Responses:

Characteristics of the Site and Area

The site is located within the open countryside, approximately 1.7km North West of the settlement limits of Draperstown and 0.8km west of Moneyneaney as per the Magherafelt Area Plan 2015. The site is located NW of No 11 Glengomna Road Draperstown, which is also within the Sperrins AONB.

The red line includes access to the site via an existing agricultural laneway taken from the Glengomna Road that serves as access to several agricultural fields around the site. The

surrounding topography raises from the Glengomna Road towards the site. It is noted the site is relatively flat where the site boundaries are flanked by mature trees with intermittent vegetation. I note the site has within its curtilage wallsteads probably the remnants of old buildings scattered throughout various locations within the site curtilage.

Description of Proposal

This is an outline planning application for dwelling, now being assessed under CTY 10 of PPS21 - Dwelling on a farm. It was initially submitted as a replacement dwelling.

Deferred Consideration:

To be considered as a dwelling on a farm a development must comply with all criteria set out in Policy CTY 10 of PPS 21. The first test is that the farm business is active and established. DAERA have verified the applicants farm details and have advised Council that the category 1 farm business ID was allocated on the 19/11/1991 and that the farm business has made claims in each of the last 6 years. I am therefore satisfied that the farm business is active and established for the required period.

The second test is that no development opportunities have been sold or transferred off the farm holding. I have carried out a search of planning decisions on the lands associated with the farm business and I am satisfied that there are no development opportunities that have been sold or transferred off. There was outline approval granted on the 20/10/2011 for a farm dwelling using the applicants farm details. This was more than 10 years ago and so does not result in any policy conflict.

The third criteria relates to the siting of a dwelling. The policy dictates that a new dwelling should be visually linked or sited to cluster with an established group of buildings on the farm. The address of the farm business is 25a Dunlogan Road. At this address is the main farm dwelling and farm buildings. It is not proposed to site a dwelling beside these buildings. The application site is occupied by the remains of 2 old buildings. From inspection they do not appear to be used for any agricultural purpose and they would provide minimal shelter for any animal. I do not regard them as an established group of buildings on the farm. This criterion does provide an exception to site at an alternative location. There must be health and safety reasons or verifiable expansion plans for doing so. There has been no information put forward for this exception to be considered. As such, the proposal is considered to be at conflict with criteria c of CTY 10.

I recommend that Members refuse this application for the reasons outlined below.

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 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.

Reason 2

The proposal is contrary to Policy 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 alterative 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

Signature(s): Karla McKinless

Date: 9 July 2024

Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report
Committee Application

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

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, Drapers	Proposed replacement dwelling	VALID APPLICATION RECEIVED	
LA09/2018/1603/O	Site at 60m NE OF 15 Glengomna Roa	Proposed infill dwelling and garage	PERMISSION REFUSED	05.04.2019
H/2013/0374/F	160m North East of 15 Glengomna Ro	Proposed dwelling on the farm	PERMISSION GRANTED	24.12.2013
H/2011/0424/O	160m North East of 15 Glengomna Ro	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

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:

ANNEX

Date Valid	24th February 2020
Date First Advertised	10th March 2020
Date Last Advertised	

Details of Neighbour Notification (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

Date of Last Neighbour Notification	4th March 2020
Date of EIA Determination	
ES Requested	No

Planning History

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

Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/0566/F **Recommendation:** Approve	**Target Date:** 27 June 2022
Proposal: Proposed 3 townhouses and in curtilage parking	**Location:** Site To Rear Of 41 Oldtown Street Cookstown
Applicant Name and Address: Mr Ronnie Nicholl 3A Glenarny Road Cookstown	**Agent Name and Address:** Premier Building Design Ltd 24 Lower Ballinderry Road Lisburn BT28 2JH
Summary of Issues: This application was first before Members at December 2023 Planning Committee. It was recommended for refusal as it was considered that the proposal failed to comply with PPS 7 in that the layout and density was inappropriate for the character of the area, inadequate private amenity space was being provided and not enough car parking spaces were available. Members agreed to defer the application for an office meeting, which was facilitated on the 14th December 2023. Following the submission of a revised scheme, which reduced the number of units from 4 to 3, the development is now being recommended for approval. The justification for this is detailed further in this report.	
Summary of Consultee Responses: No new consultations have been carried out to inform this deferred consideration	
Description of Proposal The proposal is for the erection of 3 townhouses with in-curtilage parking. The town houses are two storey, 3 bedroom, 5 person units with attic accommodation. The 3 dwellings follow the rising ground level from Oldtown Street up towards Ferguy Heights. The external finishes are as follows:	

Roof - black concrete roof tiles
Walls - smooth white render
Windows - grey uPVC
Black rainwater goods
Precast concrete cills
Black uPVC fascias and barges.

Deferred Consideration:

The main areas of PPS 7 conflict with this application were based on density and the over development of the site as well as the under provision of parking. The scheme has been reduced from 4 townhouses to 3. This has resulted in an approximately 50% increase in private rear amenity space, from an average of 16m2 to now providing 30m2. Creating places advises than an area less than around 40m2 will generally be unacceptable. Given this site is located within the developments limits of Cookstown and is just outside the Town Centre it would not be unreasonable to accept this slightly lesser provision due to the proximity of the site to various areas of public and communal open space. I would refer specifically to the play park on Orritor Street, Fairhill Football Pitch, Playground and Tennis Courts and Beechway Playing Field. I also note that Creating Places advises that less than 40m2 is generally unacceptable. The inclusion of the term generally would allow for some flexibility around this provision. I do accept that 30m2 is tight but it will still allow for the siting of clothes lines, refuse bins and oil tanks - all of which are best located to the rear of a property.

With regards to the provision of parking spaces, this revised scheme is providing 5 unassigned spaces at the front of the row of townhouses, 1 of which is a disabled space. Parking Standards would indicate that for a 3 bed terrace house 1.75 unassigned spaces would be required for

each unit. This equates to 5.25 spaces, which is normally rounded up to 6. That leaves a shortfall of 1 space. At the deferred office meeting it was advised that public carparking within the Town Centre could be utilised. I acknowledge that on street public parking is available in very close proximity to the site on Oldtown Street and James Street. I would accept that this is acceptable solution to deal with the shortfall of 1 space.

I am satisfied that the revised scheme deals with the Policy QD 1 of PPS 7 concerns raised by the initial case officer. There are no objections to the development from any third party and I recommend that Members approve this application subject to the conditions listed below.

Conditions/Reasons for Refusal:

Approval Condtions

Condition 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.

Condition 2
No development shall commence on site until a method of sewage disposal has been submitted to Mid Ulster District Council Planning Department agreed in writing with NIW.

Reason: To ensure the development can provide an adequate means sewage disposal without compromising the environment.

Signature(s): Karla McKinless

Date: 20 June 2024

Development Management Officer Report
Committee Application

Summary	
Committee Meeting Date: 5 December 2023	**Item Number:** 5.6
Application ID: LA09/2022/0566/F	**Target Date:** 27 June 2022
Proposal: Proposed 4 townhouses and in curtilage parking	**Location:** Site To Rear Of 41 Oldtown Street Cookstown
Referral Route: Refuse **is recommended**	
Recommendation: Refuse	
Applicant Name and Address: Mr Ronnie Nicholl 3A Glenarny Road Cookstown	**Agent Name and Address:** Premier Building Design Ltd 24 Lower Ballinderry Road Lisburn BT28 2JH
Executive Summary: This proposal is for a terrace of four dwellings on a small restricted site. The proposed development has been assessed against the relevant policies and in particular Policy QD1 of PPS 7. The site measures approximately 320m2, while the four dwellings have a footprint of 130m2. Within the remaining 190m2 only four parking spaces are proposed while DfI Roads have advised that 7 spaces are required. The result of providing the four dwellings, four parking spaces and the pedestrian footpath leaves only 63m2 for private amenity space for the four dwellings, when Creating places stipulates that for any individual house an area less than 40m2 will be generally unacceptable. This proposal only provides between 35-50% of the required private amenity space. The proposed development is therefore considered to be substandard and is therefore being recommended for refusal for the reasons as stated below.	

Case Officer Report

Site Location Plan

Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	
Non Statutory Consultee	NI Water - Multiple Units West	LA09-2022-0566-F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx
Statutory Consultee	DFI Roads - Enniskillen Office	DFi Respons feb 2023.docx
Statutory Consultee	DFI Roads - Enniskillen Office	DFi Respons feb 2023.docx

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

No letters of objection have been received in relation to this planning application nor have any other issues been raised.

Characteristics of the Site and Area

The site is a small backland site which is located within a mainly residential area, set back 40m off Oldtown Street, which is one of the principal access roads into the town centre. The lands are indicated as white land in the Cookstown Area Plan. Around 60% of the site is located within an Area of Townscape Character with the remainder being outside. The site is located immediately adjacent to, but outside the town centre as designated in the Cookstown Area Plan 2010. The site is located to the rear of no's 37, 39 and 41 Oldtown Street, with No.41 being a dental surgery and No's 39 & 37 being private dwellings, all of which are two storey buildings with attic accommodation. Oldtown Street contains a mixture of uses comprising of ground floor retail / office accommodation / hot food premises and residential dwellings, but is predominantly commercial in character.
The site also encompasses part of the rear yards of No's 37, 39 and 41. To the rear of No.41 is a modest two storey outbuilding with a small single storey annex, having a total footprint of 70m2. Another small outbuilding exists within the site and to the rear of No's. 39-37 with a footprint of around 35m2. In total, the site has an area of around 300m2.

Description of Proposal

The proposal is for the erection of 4 townhouses with in-curtilage parking. The town houses are two storey, 3 bedroom, 5 person units with attic accommodation, each having a useable floorspace of around 70m2. Each unit has a small restricted rear private amenity space providing between 13.6m2 and 21m2 with an average of 15.7m2. The development includes 4 no. car parking spaces, one of which is for disabled parking, located at the front of the dwellings.

The four dwellings follow the rising ground level from Oldtown Street up towards Ferguy Heights, with finished floor levels of units 1 & 2 stepping up 0.65m above units 3 & 4.
The external finishes are as follows:-
Roof - black concrete roof tiles
Walls - smooth white render
Windows - grey uPVC
Black rainwater goods
Precast concrete cills
Black uPVC fascias and barges.
The dwellings each have a single dormer window placed mid-way up the roof.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

The relevant policies for consideration of this application are:
Cookstown Area Plan 2010

Strategic Planning Policy Statement
Planning Policy Statement 3 - Access, Movement and Parking
Addendum to Planning Policy Statement 6 - Areas of Townscape Character
Planning Policy Statement 7 - Quality Residential Environments
Addendum to Planning Policy Statement 7 - Safeguarding the Character of Established Residential Areas
Planning Policy Statement 12 - Housing in Settlements
Planning Policy Statement 13 - Transportation and Land Use
Creating Places

A block plan has been provided for the proposed development showing the four dwellings set within small individual plots.

PPS 7 Quality Residential Environments - Policy QD 1 Quality in new Residential Environments requires new residential developments to create a quality residential environment which should be based on a concept plan which drawn on the positive aspects of the surrounding area. Proposals must conform to nine criteria listed in the policy in order to protect residential amenity, residential character, environmental quality and movement. Any proposals which fails to satisfy the criteria, even if the site is designated for residential use, will not be acceptable.

As this is a full application the proposed layout is therefore being assessed against these criteria as follows:-
(a) Whilst the proposed development respects the surrounding context and is appropriate to the character and topography of the site in terms of scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas, it fails to respect the surrounding context in terms of layout. The density of the surrounding area in Ferguy Heights is 55 dwellings per hectare, whereas the proposed development has a density of 133 dwellings per hectare. The proposal to provide four dwellings within this small restricted site is considered to be gross over-development in that the built form limits the potential to provide an acceptable degree of private amenity space.
(b) Although the site is located within an area of townscape character, there are no features of archaeological or built heritage, nor are there any landscape features which require protection.
(c) This proposed layout is for 4 dwellings, therefore there is no requirement for the provision of public open space. The proposed layout provides for all dwellings to have between 14m2 and 21m2 of private amenity space, with an overall average of 16m2. Creating Places sets the standards which are considered acceptable for private open space as follows, 'To promote choice for residents a variety of different garden sizes should be provided and back garden provision should therefore be calculated as an average space standard for the development as a whole, and should be around 70 sq m per house or greater. Garden sizes larger than the average will generally suit dwellings designed for use by families, while smaller areas will be more appropriate for houses with 1 or 2 bedrooms or houses located opposite or adjacent to public or communal open space. For any individual house however an area less than around 40 sq m will generally be unacceptable'.
This gives rise to a number of concerns. Firstly, the average size of the back gardens is 16m2 which is well below the acceptable average of 40m2. Secondly, the proposed

dwellings are three bedroomed and would therefore be expected to provide rear gardens larger than the average of 40m2. As the site is not opposite or adjacent to public or communal open space, the required standards cannot be allowed to fall to such an inadequate level. Furthermore the size of the proposed rear gardens do not allow adequate space for everyday activities including the siting of clothes lines, refuse bins and oil tanks.
As the proposed site includes a portion of the rear yards of No's 41, 39 and 37, it also has a knock-on effect on the private amenity spaces to the rear of those properties. The private amenity spaces of No's 41, 39 & 37 are being reduced from 87m2, 48m2 & 50m2 to 37m2, 20m2 & 18m2 respectively. Therefore the proposed development falls well short of the minimum standards required by the guidance in Creating Places and is therefore contrary to this policy test.
(d) As the site is close to the centre of Cookstown and within walking distance of all local facilities, the provision of neighbourhood facilities are not deemed necessary within the site;
(e) The site has direct access onto Oldtown Street and surrounding areas and will provide an acceptable movement pattern, including walking and cycling, which will enable occupants to access public transport routes and the public network system;
(f) The proposed scheme makes provision for four communal parking spaces at the front of the site, one of the spaces is for disabled parking. However, Creating Places sets the standards for parking requirements for such developments and states that for 3 bed terraced houses the total number of unassigned parking spaces required per dwelling is 1.75. Therefore the proposed development requires a total of 7 parking spaces which results in a shortfall of 3 spaces. Consequently the parking provisions for this site are inadequate.
(g) The design and finishes of the proposed dwellings are considered acceptable for this urban location.
(h) Given the existing surrounding land uses, the proposal will not create a conflict with adjacent land uses which is predominantly residential;
(i) The proposal includes a pedestrian walkway along the side of unit 4 leading to the rear of all units. This walkway could be fitted with a lockable security gate to provide access to residents only, thereby preventing the walkway being used for anti-sociable behaviour.

Addendum to Planning Policy Statement 7 – Safeguarding the Character of Established Residential Areas Policy LC1 Protecting Local Character, Environmental Quality and Residential Amenity states that:- In established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing, where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria set out below are met:

(a) the proposed density is not significantly higher than that found in the established residential area;
As discussed in the consideration of Policy QD1 above, the density of the surrounding area in Ferguy Heights is 55 dwellings per hectare, whereas the proposed development has a density of 133 dwellings per hectare. The density of the proposed development is considerable higher than the existing surrounding area and therefore the proposal is contrary to this policy test.

(b) the pattern of development is in keeping with the overall character and environmental quality of the established residential area;
The pattern of the propose development is in keeping with the overall character insofar as it is for a terrace of dwellings with car parking to the front with rear amenity spaces to the rear.
(c) all dwelling units and apartments are built to a size not less than those set out in Annex A.
The proposed units provide a floor area of 70m^2 each, whereas Annex A states that for a 5 person / 3 bedroom dwelling, the space standards should be a minimum of 95/100m^2. In reality, the floor areas of the proposed dwellings fall well below the standards required for a 5 person / 3 bedroom flat or single storey dwelling. Therefore the proposed development is contrary to this policy test.

Consultee responses

Roads advised that having reviewed the parking provision as per Drawing 01Rev A date stamped 22/12/2023, the minimum requirements for a 4 dwelling development at this location is 7 spaces.

NI Water initially advised that the proposed development should be refused as a high level assessment has indicated potential network capacity issues. This issue can be dealt with by means of a negative condition requiring the applicant to satisfactorily resolve this with NI Water prior to commencement of any works on site.

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

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1
The proposed development is contrary to Planning Policy Statement 7 Policy QD1 in that it would not, if permitted, respect the surrounding context and would be inappropriate to the character in terms of layout, density and would result in over development of the site, which is too small to permit the erection of four dwellings of the design and dimensions proposed and with adequate amenity space.

Reason 2

The proposed development is contrary to Planning Policy Statement 7 Policy QD1 in that it would, if permitted, fail to provide acceptable levels of private amenity space for the proposed dwellings and would also result in an unacceptable reduction in the level of private amenity space for existing properties.

Reason 3
The proposed development is contrary to Planning Policy Statement 7 Policy QD1 in that it would, if permitted, fail to provide adequate and appropriate levels of car parking for the proposed dwellings.

Signature(s): Malachy McCrystal

Date: 21 November 2023

ANNEX	
Date Valid	2 May 2022
Date First Advertised	17 May 2022
Date Last Advertised	17 May 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 5 Ferguy Heights Cookstown Tyrone BT80 8HU The Owner / Occupier 2 Ferguy Heights Cookstown Tyrone BT80 8HU The Owner / Occupier 4 Ferguy Heights Cookstown Tyrone BT80 8HU The Owner / Occupier 3 Ferguy Heights Cookstown Tyrone BT80 8HU The Owner / Occupier 6 Ferguy Heights Cookstown Tyrone BT80 8HU The Owner / Occupier 8 Ferguy Heights Cookstown Tyrone BT80 8HU The Owner / Occupier 6A Ferguy Heights Cookstown Tyrone BT80 8HU The Owner / Occupier 6B Ferguy Heights Cookstown Tyrone BT80 8HU The Owner / Occupier 33 Oldtown Street Cookstown Tyrone BT80 8EE The Owner / Occupier 37 Oldtown Street Cookstown Tyrone BT80 8EE The Owner / Occupier 39 Oldtown Street Cookstown Tyrone BT80 8EE The Owner / Occupier 41 Oldtown Street Cookstown Tyrone BT80 8EE The Owner / Occupier 35 Oldtown Street Cookstown Tyrone BT80 8EE	
Date of Last Neighbour Notification	28 June 2022
Date of EIA Determination	
ES Requested	<events screen>

Planning History

Ref: I/1993/0033
Proposals: 3 No Dwellings
Decision: PR
Decision Date:

Ref: I/2001/0666/F
Proposals: 2 No Semi-Detached Dwellings
Decision: PG
Decision Date: 12-JUN-02

Ref: LA09/2019/0232/F
Proposals: Proposed 8 No. semi detached dwellings (additional info received)
Decision: PG
Decision Date: 01-DEC-20

Ref: I/2001/0637/F
Proposals: 65 No Dwellings and Estate Layout
Decision: PG
Decision Date: 06-APR-07

Ref: I/2007/0287/A
Proposals: Brushed aluminium letters fixed to wall
Decision: CG
Decision Date: 21-JUN-07

Ref: LA09/2020/1437/F
Proposals: Change of use from existing dental surgery to domestic living accommodatio
and provision of carparking spaces
Decision: PG
Decision Date: 11-MAY-21

Ref: I/2007/0742/F
Proposals: Change of use from storage/vacant premises on first floor to hairdressing salon with store, wc, kitchen & teared access
Decision: PG
Decision Date: 11-JAN-08

Ref: I/1999/0658/F
Proposals: 4 No Semi - Detached Dwellings and Estate Road
Decision:
Decision Date:

Ref: I/1998/0554
Proposals: CONSTRUCTION OF 2 DWELLINGS AND ESTATE ROAD

Decision: 112
Decision Date: 22-OCT-99

Ref: I/1998/0073
Proposals: Two Number Dwellings and Estate Road
Decision: WITHDR
Decision Date:

Ref: OLD_I/1998/0554
Proposals: CONSTRUSTION OF 2 DWELLINGS AND ESTATE ROAD
Decision: HISAPP
Decision Date: 04-JAN-99

Ref: I/1995/0229
Proposals: 1 Pair Semi-Detached Houses
Decision: PG
Decision Date:

Ref: I/1981/0194
Proposals: PRIVATE HOUSING DEVELOPMENT
Decision: PG
Decision Date:

Ref: I/1994/0187
Proposals: 1 pair of Semi-Detached Houses
Decision: WITHDR
Decision Date:

Ref: I/1988/0095
Proposals: ALTERATIONS TO APPROVED HOUSING ESTATE AND SERVICE ROAD
Decision: PG
Decision Date:

Ref: I/1995/6021
Proposals: Proposed Dwellings Ferguy Heights, Cookstown
Decision: QL
Decision Date:

Ref: I/1995/0386
Proposals: 1 pair of semi-detached dwellings
Decision: PG
Decision Date:

Ref: I/1996/0241
Proposals: 4 No Dwellings and garages
Decision: PG

Decision Date:

Ref: I/1990/0510
Proposals: Change of use from Dwelling to Dental Surgery
Decision: PG
Decision Date:

Ref: I/1987/0433
Proposals: GARAGE
Decision: PG
Decision Date:

Ref: I/2005/1390/F
Proposals: Proposed in curtilage carparking and turning area and construction of rampe
access with walls to railings to facilitate disabled access to existing dental surgery
Decision: PG
Decision Date: 08-MAR-06

Ref: I/1990/6083
Proposals: Dental Surgery 41 Oldtown Street Cookstown
Decision: QL
Decision Date:

Ref: I/2001/0142/F
Proposals: Proposed Extension & Alterations to Premises with the Provision of 3 No Fla
& New Shop Front
Decision: PG
Decision Date: 22-JUN-01

Ref: I/1990/0263
Proposals: Change of use from retail unit to Bookmakers Office
Decision: PG
Decision Date:

Ref: LA09/2022/0566/F
Proposals: Proposed 4 townhouses and in curtilage parking
Decision:
Decision Date:

Ref: I/2003/0235/O
Proposals: Dwelling and garage
Decision:
Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-
NI Water - Multiple Units West-LA09-2022-0566-F.pdf
DFI Roads - Enniskillen Office-Roads Consultation full approval.docx
DFI Roads - Enniskillen Office-DFi Respons feb 2023.docx
DFI Roads - Enniskillen Office-DFi Respons feb 2023.docx

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

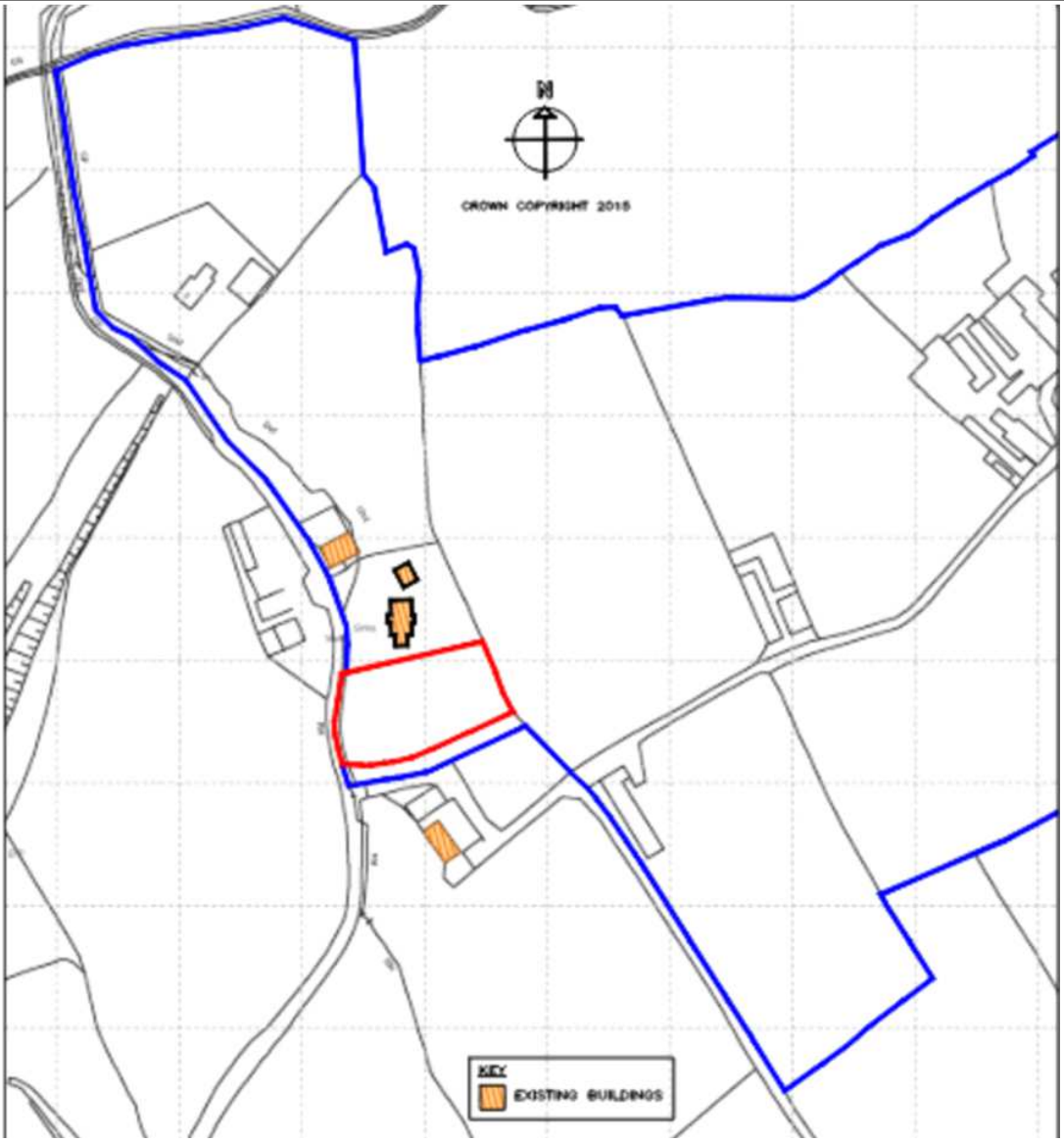
Not Applicable

Comhairle Ceantair Lár Uladh Mid Ulster District Council

Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2023/0359/O **Recommendation:** Refuse	**Target Date:** 12 July 2023
Proposal: Proposed Infill Dwelling and Garage	**Location:** Land Approx. 190M South East of 2 Lisalbanagh Road, Magherafelt
Applicant Name and Address: Mr Richard Brown 46 Megargy Road Magherafelt BT45 5HP	**Agent Name and Address:** Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
Summary of Issues: This application was first before Members at July 2023 Planning Committee. It was recommended for refusal as it was considered to be contrary to Policies CTY 1, CTY 8 and CTY 14 of PPS21 in that there was no substantial and built up road frontage and if approved, it would result in creation of ribbon development. It was also considered that it would have a negative impact on the rural character of the area in terms of not respecting the settlement pattern and the resulting build up of development if approved. It would have a negative impact on the rural character of the area in terms of not respecting the settlement pattern and the resulting build up of development if approved. It was agreed to defer the application and following a site inspection and a re-consideration of the case, I recommend that the application be refused. The justification for this recommendation is detailed further in this report.	
Summary of Consultee Responses: No new consultations were carried out to inform this deferred consideration.	
Description of Proposal This is an outline application for a proposed infill dwelling and garage located at lands approximately 190m south of No. 2 Lisalbanagh Road, Magherafelt.	

The map below submitted as part of a recent application in this area (LA09/2024/0763/O) gives an indication of approvals adjacent to this site sharing the same road frontage.



Deferred Consideration:

My reconsideration of this case is based on Policy CTY 8 of PPS 21. I am also giving consideration to a recent Court of Appeal Decision (Gordon Duff v Newry Mourne and Down Borough Council) following a Judicial Review of two infill dwellings.

The application site is a 0.3 hectare plot of land relying on a recently constructed road fronting dwelling to the immediate North, an old stone agricultural building, sited on the road edge just further to the North, 2 partially built dwellings further North (LA09/2023/0108/RM and LA09/2023/0107/RM) and another dwelling even further to the North. To the South it is relying on an agricultural building which does not have a direct frontage with the public road and is accessed via an existing laneway. The gap under consideration is similar in size to the domestic curtilage of the dwelling to the immediate North. It is also noted that there has been a recently submitted application (LA09/2024/0763/O) for an infill dwelling between LA09/2023/0108/RM and the existing dwelling immediately adjacent to this site.

The recent Court of Appeal Decision warns against a temptation to view CTY 8 as a permissive policy. CTY 8 clearly states that planning permission will be refused where it creates or adds to a ribbon of development. The judgement is unequivocal when it states that unless the exception to CTY 8 has been shown to be truly available on the facts of the case, then permission must be refused because ribbon development is unacceptable under the policy guidelines, unless it falls within a permitted exception.

Having viewed this site on the ground it is my opinion that due to its size, the gap under consideration does not constitute a visual break between the development to the North and that to the South, but what I do advise Members is that the agricultural building being relied on to the South cannot be considered as road frontage development for the purpose of this policy test. It clearly is accessed via an existing laneway and is separated from the public road by a fenced off agricultural field. The proposal therefore cant be deemed to be a gap within a substantial and built up road frontage and if approved would result in the extension of a ribbon of development which would impact the rural character of this area.

The previous case officer had cited the creation of build up as a concern as well as the development being out of keeping with the traditional settlement pattern in the area. Notwithstanding my consideration that the proposal fails to comply with CTY 8, it is my opinion that a dwelling on this site would reflect the settlement pattern in this immediate area which is characterised by road frontage dwellings. I would also acknowledge that given the existing development in this location there already is a small clustering and build up of development. The approval of a dwelling on this site would add to this build up and would go some way to further eroding the rural character of the area.

I have also considered this proposal under Policy NH5 of PPS 2, which deals with the loss of priority habitat. Consultation with DFI Roads has indicated that 45m of hedgerow removal (either direction) would be required for the provision of splays along the site frontage. The roadside hedge would appear to be native species hedgerow in excess of 1m in height and 0.5m in width. This would require the applicant to submit a bio-diversity checklist so that an ecologist could considerany potential loss of priority habitat. This has not been requested as the proposal is considered unacceptable in principle, however I do not suggest it form a reason for refusal under PPS 2 as the applicant has not been asked to address this concern.

I recommend that Members refuse this application for the reasons listed below.

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 1
The proposal is contrary to Policy CTY 1 of Planning Policy Statement 21 - 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.

Reason 2
The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21 - Development in the Countryside in that the proposed site does not represent a substantial and built-up frontage and

would, if permitted, result in the extension of a ribbon of development along the Lisalbanagh Road.

Reason 3
The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, result in a suburban style build-up of development when viewed with existing buildings, would extend a ribbon of development and therefore would lead to a detrimental change to the rural character of the countryside.

Signature(s): Karla McKinless

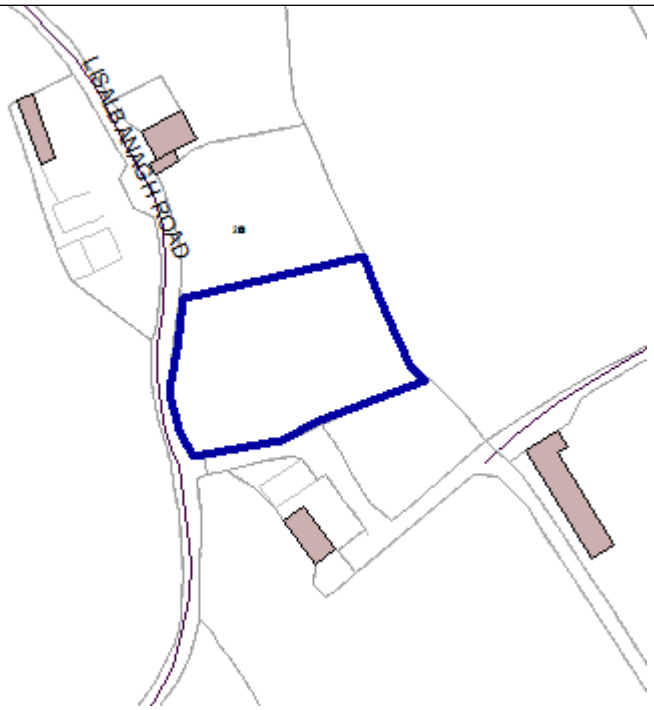
Date: 24 June 2024

Development Management Officer Report
Committee Application

Summary	
Committee Meeting Date: 4 July 2023	**Item Number:** 5.9
Application ID: LA09/2023/0359/O	**Target Date:** 12 July 2023
Proposal: Proposed Infill Dwelling and Garage	**Location:** Land Approx. 190M South East of 2 Lisalbanagh Road, Magherafelt
Referral Route: Refuse **is recommended**	
Recommendation: Refuse	
Applicant Name and Address: Mr Richard Brown 46 Megargy Road Magherafelt BT45 5HP	**Agent Name and Address:** Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
Executive Summary: The current application is presented as a refusal, having failed to meet the requirements of policy CTY 1, 8 and 14 of PPS 21.	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Statutory Consultee	Rivers Agency	297475 - Final Response.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Dfl Roads require drawings for this application - up load to portal.
Statutory Consultee	DFI Roads - Enniskillen Office	Dfl Roads Response 16/05/2023.

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Characteristics of the Site and Area

The application site is located at lands approximately 190m southeast of No. 2 Lisalbanagh Road, Magherafelt, falling within the open countryside.

The front (western side) of the site is defined by a mature hedge, whilst the northern and southern boundaries are defined by a wire and post fence. The rear (eastern) boundary is defined by a line of mature trees and vegetation.

I note the immediate and wider setting is characterised predominately agricultural land uses with a scattering of residential dwellings and associated outbuildings.

Description of Proposal

This is an outline application for a proposed infill dwelling and garage located at lands approximately 190m south of No. 2 Lisalbanagh Road, Magherafelt.

Representations
One neighbour notification letter was issued in relation to this application however, no objections have been received to date.

Consultations

- Dfl Roads were consulted and have no objection to the proposal subject to the inclusion of a condition.
- Rivers Agency were consulted as a portion of the site lies within an area of predicted pluvial flooding and have provided guidance for developers.

Planning History
LA09/2023/0108/RM - Land Approx 90M SE of 2 Lisalbanagh Road, Magherafelt - Proposed Infill Dwelling and Garage – Permission Granted 02.05.2023.

LA09/2023/0107/RM - Land Approx 60M SE of 2 Lisalbanagh Road, Magherafelt - Infill Dwelling and Garage – Permission Granted 02.05.2023.

LA09/2022/1140/O - Land Approx 90M South East Of 2 Lisalbanagh Road, Magherafelt, BT45 5HR - Dwelling and Garage – Permission Granted 16.12.2022.

LA09/2021/0611/O – L and Approx. 60M SE Of 2 Lisalbanagh Road, Magherafelt, BT45 5HR - Proposed infill dwelling and garage. – Permission Granted 09.02.2022.

LA09/2019/1538/F - Land Approx. 160M S.E Of 2 Lisalbanagh Road, Magherafelt - Proposed dwelling and garage on a farm – Permission Granted 11.02.2020.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Magherafelt Area Plan 2015
The site falls within the open countryside, approximately 1.9km west of the settlement limits of Magherafelt. There are no other zonings or designations on the site.

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

Planning Policy Statement 21 – Sustainable Development in the Countryside
Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the Countryside. The application to be considered is for a dwelling and garage under the provisions of policy CTY 8 – Ribbon Development.

Policy CTY 8 states that "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".

The application is seeking an infill site between No. 2B Lisalbanagh Road and an outbuilding located to the south of the site. Immediately north of the site there is a dwelling, and further north is an old outbuilding, both of which I am content represent development along the frontage.
The outbuilding to the south of the proposed site is set back approximately 25m from the road and is accessed via a laneway that runs along the southern boundary of the application site. This outbuilding therefore does not have road frontage.
In my opinion, the development mentioned does not constitute the definition of a substantially built-up frontage which is described as 'a line of 3 or more buildings along a road frontage without accompanying development to the rear'.

CTY 13 – Integration and Design of Buildings in the Countryside
Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. A new building will be unacceptable where;
(a) It is a prominent feature in the landscape; or

(b) The site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or
(c) It relies primarily on the use of new landscaping for integration; or
(d) Ancillary works do not integrate with their surroundings; or
(e) The design of the building is inappropriate for the site and its locality; or
(f) It fails to blend with the landform, existing trees, buildings, slopes, and other natural features which provide a backdrop; or
(f) In the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.

The current proposal is for outline planning permission and details of the design have not been submitted at this stage. It is considered that the site has the capacity to absorb a dwelling of suitable size and scale.

CTY 14 – Rural Character
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.
A new building will be unacceptable where:
(a) It is unduly prominent in the landscape; or
(b) It results in a suburban style build-up of development when viewed with existing and approved buildings; or
(c) It does not respect the traditional pattern of settlement exhibited in that area; or
(d) It creates or adds to a ribbon of development (see Policy CTY 8); or
(e) The impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.

This application is not deemed acceptable under any of the policy headings in PPS 21 and it is therefore considered that a new dwelling at this location will cause a detrimental change to the rural character of this area which is contrary to CTY 14 as it will result in a suburban style build-up of development when viewed with existing buildings in the area.

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

Habitats Regulations Assessment
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.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1
The proposal is contrary to Policy CTY 1 of Planning Policy Statement 21 - 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.

Reason 2
The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21 - Development in the Countryside in that the proposed site does not represent a substantial and built-up frontage and would, if permitted, result in ribbon development along the Carrydarragh Road.

Reason 3
The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, result in a suburban style build-up of development when viewed with existing buildings and would, if permitted not respect the traditional pattern of settlement exhibited in that area and would, if permitted create a ribbon of development at this part of the Carrydarragh Road and therefore result in a detrimental change to the rural character of the countryside.

Signature(s): Zoe Douglas

Date: 31 May 2023

ANNEX	
Date Valid	29 March 2023
Date First Advertised	11 April 2023
Date Last Advertised	11 April 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 2B Lisalbanagh Road Magherafelt Londonderry BT45 5HR	
Date of Last Neighbour Notification	26 May 2023
Date of EIA Determination	
ES Requested	<events screen>

Planning History

Ref: LA09/2022/1140/O
Proposals: Dwelling and Garage
Decision: PG
Decision Date: 16-DEC-22

Ref: LA09/2023/0107/RM
Proposals: Infill Dwelling and Garage
Decision:
Decision Date:

Ref: LA09/2023/0108/RM
Proposals: Proposed Infill Dwelling and Garage
Decision:
Decision Date:

Ref: LA09/2021/0611/O
Proposals: Proposed infill dwelling and garage.
Decision: PG
Decision Date: 09-FEB-22

Ref: LA09/2019/1538/F
Proposals: Proposed dwelling and garage on a farm

Decision: PG
Decision Date: 11-FEB-20

Ref: LA09/2015/0134/F
Proposals: Proposed 2No.broiler poultry sheds with 4No.feed bins, 2No. gas tanks, a biomass boiler shed ,with fuel bin and an office, changing and standby generator buildin (to contain in total 74000 broilers)
Decision: PG
Decision Date: 03-DEC-15

Ref: LA09/2023/0359/O
Proposals: Proposed Infill Dwelling and Garage
Decision:
Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline resp.docx
Rivers Agency-297475 - Final Response.pdf
DFI Roads - Enniskillen Office-Dfl Roads require drawings for this application - up load to portal.
DFI Roads - Enniskillen Office-Dfl Roads Response 16/05/2023.

Drawing Numbers and Title

Site Layout or Block Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable

Comhairle Ceantair Lár Uladh Mid Ulster District Council

Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2023/0466/O **Recommendation:** Refuse	**Target Date:** 4 August 2023
Proposal: Erection of dwelling and garage	**Location:** Land approximately 150 Metres North of 30 Killyfaddy Road Magherafelt
Applicant Name and Address: Mr Aaron McMurray 30 Killyfaddy Road Magherafelt BT456EX	**Agent Name and Address:** Mr Damian Mc Murray 11 Drumvale Avenue Cookstown BT808QZ
Summary of Issues: This application was first before Members at December 2023 Planning Committee. It was recommended for refusal as it was considered contrary to Policy CTY 6 of PPS 21 in that satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case had not been provided. Members agreed to defer the application for an office meeting, which was facilitated on the 14th December 2023. I re-considered the application against the relevant policy taking account of the information put forward by the applicant and his agent at the office meeting and my recommendation remained to refuse. The application was presented again as a refusal to Members at May 2024 Planning Committee, at which Members agreed to defer the application for a second time so that the applicant could submit additional evidence in respect of alternative solutions/sites. New information has been submitted and considered and my recommendation remains to refuse this application. My justification for this is detailed further in this report.	
Summary of Consultee Responses: No consultations were issued to inform this deferred consideration.	

Description of Proposal

This is an outline application for the proposed erection of a dwelling and garage. The application is submitted with a supporting statement for a dwelling under Policy CTY 6 - Personal and Domestic Circumstances of PPS 21.

Deferred Consideration:

The proposed refusal reason put forward to May 2024 Planning Committee was that the proposal was contrary to Policy CTY 6 of PPS 21 in that it had not been adequately demonstrated that there are compelling and site specific reasons related to the applicant's personal or domestic circumstances that would merit approval for a new dwelling in the Countryside.

Policy CTY 6 begins by stating that Planning Permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling and site specific reasons for this. It then goes on to set out 2 criteria to be met. One is that a new dwelling is a necessary response to the case and that genuine hardship would be caused if permission were refused. The second is that there are no alternative solutions.

The applicant currently resides with his family in number 30 Killyfaddy Road. He seeks a dwelling on this site beside his family so that they can care for his needs if and when his

condition progresses. The details of his condition have already been considered by Members during confidential business at May 2023 Planning Committee. It was agreed to defer this application for a second time so that information discussed during confidential business (ie) confirmation that the alternative solutions by way of alternative sites are not available options to the applicant.

There are 2 development opportunities, a replacement dwelling (LA09/2015/0560/O) and an infill dwelling (LA09/2018/0635/O) which could be utilised by the applicant. It is acknowledged that both these approvals have since expired, however as advised to Members at May 2024 Planning Committee, the development opportunities are still there and can be applied for again. The agent previously advised that both of these have been promised to the applicant's sister and niece. New information has been submitted in respect of these site - specifically a Solicitors Letter, dated 20th May 2024, which states that there are no alternative sites available for Aaron McMurray to utilise other than the application site. I hold limited weight to this letter. It simply states that there are no alternatives available. It does not constitute verifiable evidence that these sites have been legally transferred over to anyone else and as such I would still consider them as alternatives to a new dwelling under Policy CTY 6.

The applicant has also submitted additional information for further consideration. This is more so related to his condition. As I noted at May 2024 Planning Committee, the fact that the applicant has a medical condition is not contested. Policy CTY 6 states that there must be compelling reasons for needing a new dwelling and in paragraph 5.28 it specifically states that such cases will include instances where a young adult requires a continuing and high level of care. It is my opinion that this test has not been met. Whilst I don't dispute that the applicant's condition will require care at different stages as the illness progresses, there are periods where no care is required. This cannot be considered as a continued and high level of care for the purpose of the policy.

The applicant also refers to reasons why alternatives in the Town are not considered. He states that School Traffic could be a time constraint if he lived in Town. According to Route Planner it is 0.9 miles from the applicants dwelling to the Town Centre in Magherafelt and it would take approximately 3 mins journey time. Even with School traffic I would not consider this excessive. He also states that appropriate accommodation with in-curtilage parking and a ground floor bedroom in the Town can not be found. No evidence has been submitted to back up this claim. In terms of genuine hardship the applicant makes the case that refusing this application would result in him losing his independence and the opportunity to start a family. I do have sympathy in this regard however i do not believe this is evidence of a genuine hardship for the purpose of this policy test.

Finally, the applicant notes that his application is being refused because his medical condition does not seem severe enough at this present time. As concluded in appeal decision 2018/A0249 for a CTY 6 case, the PAC states that consideration can only be given to personal circumstances which exist at present and past or future concerns cannot be taken account of.

Members will be aware that these cases are difficult to determine and that there is a very high bar to be met however in the case that bar has not been met. It is not contested that the applicant has special circumstances but that alone is not the test under CTY 6 of PPS 21.
My recommendation to Members remains to refuse this application for the reasons set out below.

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 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.

Reason 2
The proposal is contrary to Policy CTY 6 of PPS 21 in that it has not been adequately demonstrated that there are compelling and site specific reasons related to the applicant's personal or domestic circumstances that would merit approval for a new dwelling in the Countryside.

Signature(s): Karla McKinless

Date: 8 July 2024

Comhairle Ceantair Lár Uladh Mid Ulster District Council

Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2023/0466/O **Recommendation:** Refuse	**Target Date:** 4 August 2023
Proposal: Erection of dwelling and garage	**Location:** Land approximately 150 Metres North of 30 Killyfaddy Road Magherafelt
Applicant Name and Address: Mr arron mcmurray 30 killyfaddy Road Magherafelt BT456EX	**Agent Name and Address:** Mr Damian Mc Murray 11 Drumvale Avenue Cookstown BT808QZ
Summary of Issues: This application was first before Members at December 2023 Planning Committee. It was recommended for refusal as it was considered contrary to Policy CTY 6 of PPS 21 in that satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case had not been provided. Members agreed to defer the application for an office meeting, which was facilitated on the 14th December 2023. I have re-considered the application against the relevant policy taking account of the information put forward by the applicant and his agent at the office meeting and my recommendation remains to refuse. My justification for this recommendation is detailed further in this report.	
Summary of Consultee Responses: No consultations were issued to inform this deferred consideration.	
Description of Proposal This is an outline application for the proposed erection of a dwelling and garage. The application is submitted with a supporting statement for a dwelling under Policy CTY 6 - Personal and Domestic Circumstances of the PPS 21.	

Deferred Consideration:

Policy CTY 6 of PPS 21 provides that planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances and provided the following criteria are met:

1. 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.

2. There are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.

When the application was initially assessed it was accepted that the special personal circumstances of the applicant, supported by the appropriate medical evidence, had been provided. Details of the level of care required in relation to the medical conditions pertaining to the applicant was also provided, including the identity of the main carer.

However, it was considered that not enough evidence was provided to demonstrate why care can only be provided at the proposed site location and how genuine hardship would be caused if planning permission were refused. Furthermore, it was considered that alternative solutions were not adequately explored.

Regarding the level of care required by the applicant, the applicant at the office meeting explained that the nature of his condition means that different levels of care would be required at different times. He currently has agreement from his employer to work from home whereas prior to his diagnosis his job required him to be out on site. A letter to this effect from his employer has been provided. Policy CTY 6 states that there must be compelling reasons for needing a new dwelling and in paragraph 5.28 it specifically states that such cases will include instances where a young adult requires a continuing and high level of care. It is my opinion that this test has not been met. Whilst I don't dispute that the applicant's condition will require care at different stages as the illness progresses, there are periods where no care is required. This cannot be considered as a continued and high level of care for the purpose of the policy.

At the deferred office meeting alternative solutions were further explored. There are 2 development opportunities, a replacement dwelling (LA09/2015/0560/O) and an infill dwelling (LA09/2018/0635/O) which could be utilised by the applicant. The agent advised that both of these have been promised to the applicant's sister and niece. To date, neither have been legally signed over to either party and it is my opinion that they represent an alternative solution that the applicant could avail of. In terms of other alternatives the applicant referenced these in his supporting statement and stated that the existing dwelling has already been extended twice and

therefore cannot accommodate a further extension. Upon review of the existing site curtilage, it is considered that on the contrary, a further extension or domestic annex could be accommodated. It is also stated in the supporting statement that there is no suitable accommodation to rent or purchase in the town, though it is felt that this has not been adequately explored. For example, there is no reason put forward as to why there is no suitable accommodation to purchase or rent in Magherafelt, which is less than a mile from the current address of the main carer.

It is my opinion that no information put forward at the office meeting has changed the initial recommendation that the proposal is contrary to Policy CTY 6 of PPS 21.

Members are advised that the applicant was provided the opportunity to put forward a farm case under CTY 10 but the agent confirmed that this was not a route they wanted to consider.

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 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.

Reason 2
The proposal is contrary to Policy CTY 6 of PPS 21 in that it has not been adequately demonstrated that there are compelling and site specific reasons related to the applicant's personal or domestic circumstances that would merit approval for a new dwelling in the Countryside.

Signature(s): Karla McKinless

Date: 18 April 2024

Development Management Officer Report
Committee Application

Summary	
Committee Meeting Date: 5 December 2023	**Item Number:** 5.13
Application ID: LA09/2023/0466/O	**Target Date:** 4 August 2023
Proposal: Erection of dwelling and garage	**Location:** Land approximately 150 Metres North of 30 Killyfaddy Road Magherafelt
Referral Route: Refuse **is recommended**	
Recommendation: Refuse	
Applicant Name and Address: Mr arron mcmurray 30 killyfaddy Road Magherafelt BT456EX	**Agent Name and Address:** Mr Damian Mc Murray 11 Drumvale Avenue Cookstown BT808QZ

Executive Summary:

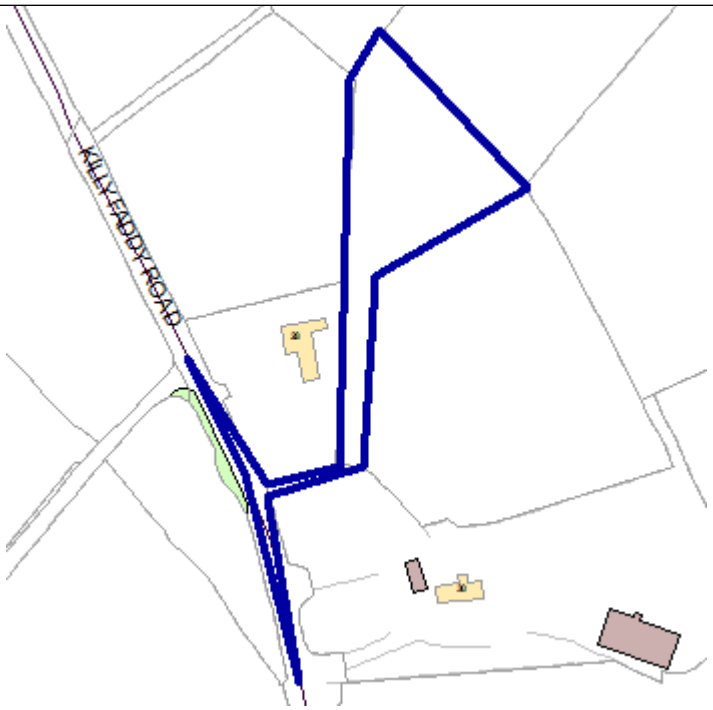
The proposed is for an outline dwelling and garage under Policy CTY 6 - Personal and Domestic Circumstances. With due sympathy to the cirumstances of the case, It is recommended that the proposed be refused for the following reason:

It is deemed that there is insufficient evidence to suggest that a new dwelling at the proposed site is a necessary response to the particular circumstances of the case. It has been agreed that the proposed does not comply with Policy CTY 6 of PPS 21.

It is accepted that the proposed however does comply with CTY 13 and CTY 14 of PPS 21 at this outline stage.

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Characteristics of the Site and Area

The site of the proposed development is located in the rural countryside approximately 0.7 miles south and outside of the Magherafelt settlement limit as defined in the Magherafelt Area Plan 2010. The site for the proposed dwelling comprises the northern portion of an agricultural field which is located approximately 150m north of 30 Killyfaddy Road, Magherafelt. A second dwelling sits just south west of the site and is identified as

no. 28. The site is approximately 0.25 ha and slopes gradually up from the Killyfaddy road, with access via the same. Site boundaries include mature hedgerow and trees along the western, northern and eastern edges of the field. The southern boundary is undefined and opens up into the remaining and much larger field. The wider surrounding environment consists of agricultural fields and farm clusters.

Description of Proposal

This is an outline application for the proposed erection of a dwelling and garage. The application is submitted with a supporting statement for a dwelling under Policy CTY 6 - Personal and Domestic Circumstances of the PPS 21.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

Magherafelt Area Plan 2015

The site of the proposed development is located in the rural countryside approximately 0.7 miles south and outside of the Magherafelt settlement limit as defined in the Magherafelt Area Plan 2010.

Relevant Histories

None

Representations

No third party representation have been received to date.

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

SPPS – Strategic Planning Policy Statement for Northern Ireland

The 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 dwellings for compelling and site specific reasons under Policy CTY 6 – Personal and Domestic Circumstances. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Planning Policy Statement 21: Sustainable Development in the Countryside

Policy CTY1 provides clarification on which types of development are acceptable in the countryside. In this instance the application is for a dwelling in the countryside for personal and domestic circumstances. This application is therefore assessed under Policy CTY 6 of PPS 21.

Policy CTY 6 of PPS 21 provides that planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances and provided the following criteria are met:

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.

There are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.

With regard to part A, It is accepted that the special personal circumstances of the applicant supported by the appropriate medical evidence has been provided in the statement of case. Details of the level of care required in relation to the medical conditions pertaining to the applicant is also provided, including the identity of the main carer.

However, an explanation that is sufficient enough as to why care can only be provided at the proposed site location and how genuine hardship would be caused if planning permission were refused is not forthcoming. The agent suggests that the applicant would benefit from having his own place and the policy is open to such cases where independent living is encouraged. However, the policy states that a new dwelling must be a necessary response. Upon consideration of the case at hand with the senior planner, it is considered that a new dwelling, while likely to be beneficial to the applicant, is not a necessary action. Furthermore, it has not been adequately demonstrated that genuine hardship would be caused if planning permission were refused at this current moment in time.

With regard to part B, the supporting statement suggests that care can no longer be provided at the applicant's current address at no. 30 Killyfaddy Road (which is also the address of the main carer), due to a large number of people living at the house. When considered against policy, this is arguably more of an inconvenience rather than a compelling push-factor which would warrant the building of a new dwelling in the countryside. The supporting statement does touch on alternative solutions, though it is agreed with the senior planner that these are not adequately explored. It is stated that the existing dwelling has already been extended twice which and therefore cannot accommodate a further extension. Upon review of the existing site curtilage, it is considered that on the contrary, a further extension or domestic annex could be accommodated. It is also stated in the supporting statement that there is no suitable accommodation to rent or purchase in the town, though it is felt that this has not been adequately explored. For example, there is no reason put forward as to why there is no suitable accommodation to purchase or rent in Magherafelt, which is less than a mile from the current address of the main carer.

Having assessed the statement of case with the senior planner it has been agreed that the proposed outline dwelling fails to meet Policy CTY 6 of PPS 21.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is considered that a well-designed dwelling could blend in successfully with its immediate and wider surroundings if it were of a size and scale that is comparable to the dwellings in the vicinity. The site is complete with long-established natural boundaries in the form of mature hedgerow and trees. It is therefore a site that would not rely primarily on the use of new landscaping. I am content that ancillary works and any future dwelling at the site could be designed in such a way as to integrate with the surrounding locality. The proposed complies with Policy CTY 13 at this outline stage.

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. It is considered that the site and its surrounding environs are suitable for absorbing a dwelling of a suitable size and scale. The proposed complies with Policy CTY 14 at this outline stage.

Other material considerations

DfI Roads were consulted in this application and provided no objection to the proposed subject to the standard RS1 condition.

This site is not located within or adjacent to any protected areas, including SACs, SPAs and Ramsar sites.

This site is not located within or adjacent to any listed buildings / structures.

The site is not subject to any issues pertaining to flooding.

Recommendation

With due sympathy to the circumstances of this case, it is noted that the proposed fails to comply with Policy CTY 6 of PPS 21. It is therefore recommended that this application be refused.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1
The proposal is contrary to Policy CTY 6 of PPS 21 in that satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case has not been provided.

Signature(s): Benjamin Porter

Date: 22 November 2023

ANNEX	
Date Valid	21 April 2023
Date First Advertised	2 May 2023
Date Last Advertised	2 May 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 27 Killyfaddy Road Magherafelt Londonderry BT45 6EX The Owner / Occupier 28 Killyfaddy Road Magherafelt Londonderry BT45 6EX The Owner / Occupier 30 Killyfaddy Road Magherafelt Londonderry BT45 6EX	
Date of Last Neighbour Notification	2 May 2023
Date of EIA Determination	
ES Requested	<events screen>

Planning History

Ref: H/2008/0167/F
Proposals: Retrospective application for garage for storing boat and trailer plus retrospective approval for reducing ground level to form hard standing area.
Decision: PG
Decision Date: 18-AUG-08

Ref: H/2007/0439/F
Proposals: Extension to a Dwelling
Decision: PG
Decision Date: 15-APR-08

Ref: LA09/2015/0560/O
Proposals: Erection of a replacement dwelling
Decision: PG
Decision Date: 07-MAR-16

Ref: H/2004/1544/O
Proposals: Site of Dwelling and Detached Garage.
Decision: PR
Decision Date: 11-JAN-06

Ref: H/1998/0336
Proposals: ALTERATIONS AND ADDITIONS TO DWELLING
Decision: PG
Decision Date:

Ref: LA09/2021/0322/F
Proposals: Erection of replacement dwelling & detached garage.
Decision: PG
Decision Date: 19-JAN-22

Ref: LA09/2023/0466/O
Proposals: Erection of dwelling and garage
Decision:
Decision Date:

Ref: H/2008/0084/F
Proposals: Replacement 1½ storey dwelling and 1½ storey garage at 25 Killyfaddy Roac
Magherafelt
Decision: PG
Decision Date: 21-MAY-09

Ref: H/2006/0941/F
Proposals: Production of electricity for domestic dwelling by erection of a proven WT 6000 6KW wind turbine with TM 1500 15m mast
Decision: PG
Decision Date: 16-MAY-07

Ref: LA09/2018/0635/O
Proposals: Infill development , involving the erection of chalet type bungalow with detached garage.
Decision: PG
Decision Date: 11-DEC-18

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline resp.docx

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable

Comhairle Ceantair Lár Uladh Mid Ulster District Council

Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2023/0714/O **Recommendation:** Refuse	**Target Date:** 11 October 2023
Proposal: Site for new dwelling and garage under Planning Policy CTY 6	**Location:** Adj to 20 Sessiagh Road Tullyhogue Cookstown
Applicant Name and Address: Mr Alan Nethercott 30 Old Rectory Park Cookstown BT80 9XR	**Agent Name and Address:** Rodney Henry 2 Liscoole. Cookstown BT80 8RG

Summary of Issues:

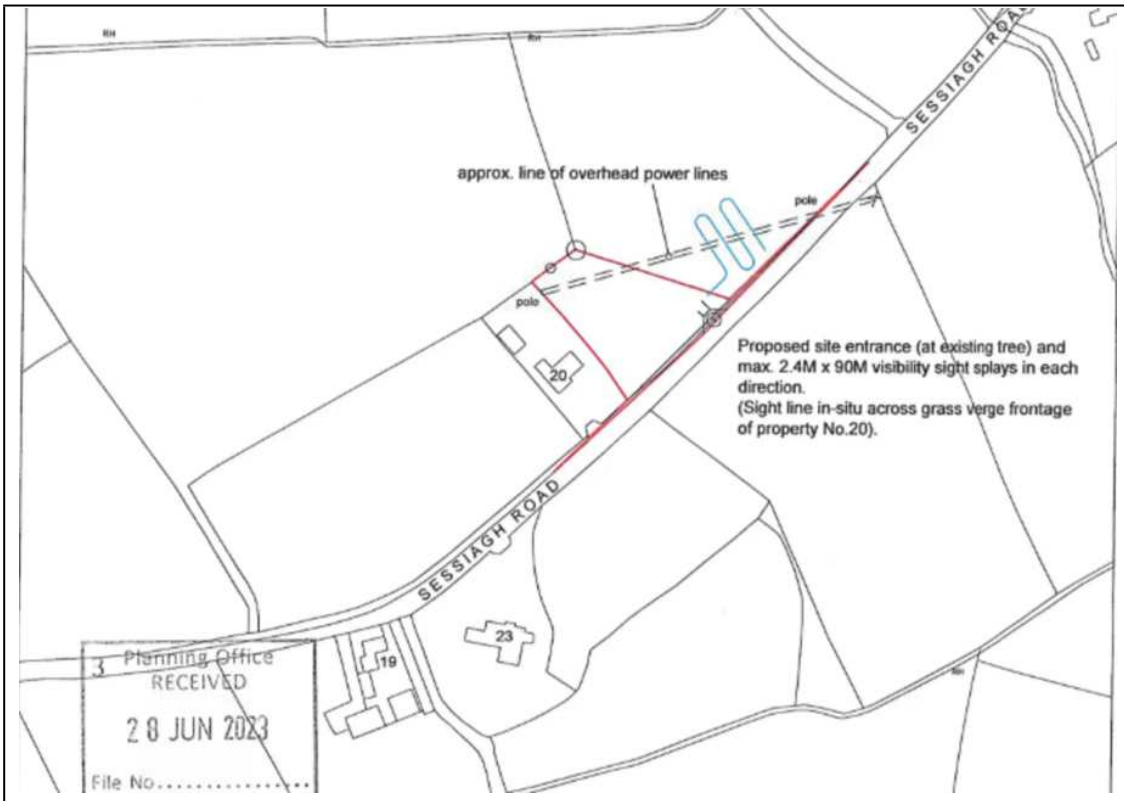
This application was first before Members at December 2023 Planning Committee. It was recommended for refusal as it was considered to be contrary to Policy CTY 6 of PPS21 in that satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case had not been provided. It was agreed to defer the application for an office meeting which was facilitated on the 14th December 2024. Following a site inspection and a re-consideration of the case, I recommend that the application be refused. The justification for this recommendation is detailed further in this report.

Summary of Consultee Responses:

No new consultations were carried out to inform this deferred consideration.

Description of Proposal

This is an outline application for a dwelling and garage under Planning Policy CTY 6.



Deferred Consideration:

Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered to be acceptable in the countryside. This proposal is for a dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6.

Policy CTY 6 begins by stating that Planning Permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling and site specific reasons for this. It then goes on to set out 2 criteria to be met. One is that a new dwelling is a necessary response to the case and that genuine hardship would be caused if permission were refused. The second is that there are no alternative solutions.

This applicant currently resides in Cookstown, approximately 4 miles from the application site. He seeks this dwelling to live closer to his family so they can attend to him and provide support as required. His mother resides at number 19 Sessiagh road and his sister lives at number 23. The site is immediately adjacent to number 30 Sessiagh Road. The occupant of number 20 has no connection to the applicant. Without going into the specifics of the applicants condition, supporting documentation has been submitted from the Planning Agent, the applicants sister and his mother, his GP Practice and the NHSCT. (I will go into the specific details of these letters during Confidential Business at Planning Committee).

His GP has advises it would be in his best interests to have suitable accommodation close to his family. The Trust has advised it would be beneficial for him to be in close proximity to his sister who can assist him and support him. His mother and sister call with him to provide

necessary daily support. His mother owns the application site and an adjoining field and this is only land she owns which can be built on. They want him living out of the town for a safer and more balanced life. His Planning Agent has advised that the high level of care required for the applicant is harder to maintain with him living 4 miles away. His mother doesn't drive and relies on others to take her into Cookstown to assist him. His mother doesn't own her house at number 19 and so has no say in extending it as an alternative option. His sister who lives at number 23 owns her house but feels he needs his own dwelling so that he keeps some independence. Temporary accommodation is not considered as a solution. His Sister has also noted that siblings living together is no longer considered "normal". Her dwelling is large with a large garden and if she passed away he would be unable to upkeep this dwelling. Furthermore, if the applicant required a care package it would impact on privacy if he lived with her or her brother.
Having considered all the documentation provided, it is my opinion that no explicit medical evidence has been supplied to confirm that there is a genuine need for the applicant to live beside his mother and sister. Limited details have been provided about the current level of care for the applicant. These focus on emotional support, cooking meals and help with personal hygiene. This is not sufficient to meet the CTY 6 test of "compelling and site specific needs".

As concluded in appeal decision 2018/A0249 for a CTY 6 case, the PAC states that consideration can only be given to personal circumstances which exist at present and past or future concerns cannot be taken account of. I acknowledge that the applicants sister and mother want him to be closer to them so that he has a safer and more balanced future, however this does not demonstrate that there is a genuine need for a dwelling on this site or that genuine hardship would result if this application is refused.

With regards to exploring alternative solutions it has been noted that the applicants mother does not own her dwelling and so it cannot be extended. I accept that this may prove difficult however there has been no consideration given to the applicant moving in with his mother. The case for retaining independence is cited for a standalone dwelling however I hold limited weight to this when the case for moving in with his mother has not been fully explored. His sister has cited a similar argument for him not moving in with her. She does refer to having a large house with a large garden and so there is an option to extend her dwelling to provide ancillary accommodation. At the office meeting she referred to the topography of the land beside her dwelling not being conducive to building an extension. Having visited the site it is my opinion that there is ample room to extend and provide ancillary accommodation without requiring too much ground works. It is my opinion that it has not been demonstrated that these alternative solutions are not feasible or viable options to meet the accommodation needs of the applicant.

On the basis of the evidence provided I find that there is insufficient justification for a dwelling based on the personal and domestic circumstances of the applicant. I do accept that it may be more convenient for him to live in this area rather than 4 miles away but it has not be demonstrated that a new dwelling is a necessary response or that genuine hardship would result if this application is refused. Members will be aware that these cases are difficult to determine and that there is a very high bar to be met however in the case that bar has not been met. It is not contested that the applicant has special circumstances but that alone is not the test under CTY 6 of PPS 21.

Consideration also has to be given to the site in terms of integration and rural character under policies CTY 13 and CTY 14 of PPS21. The site is a roadside plot that benefits from a backdrop

of rising land and a mature SW boundary. It is relatively flat and is bounded on one side by a dwelling. The roadside hedge would require removal and would open the site up slightly more. A single storey dwelling would not appear overly prominent on this site, would not create a ribbon of development nor would it result in an unacceptable build up of development. A dwelling here would not have a negative impact on the rural character of this area and I am satisfied that there is no conflict with policies CTY 13 and CTY 14 of PPS 21.

I have also considered this proposal under Policy NH5 of PPS 2, which deals with the loss of priority habitat. Consultation with DFI Roads has indicated that 90m of hedgerow removal (either direction) would be required for the provision of splays along the site frontage. The roadside hedge would appear to be native species hedgerow less than 1m in height. This would not require the applicant to submit a bio-diversity checklist. Given the quality and amount of the hedgerow needing removed I would have no concerns that it would result in a concerning loss of priority habitat.

Refusal is recommended for the reasons set out below.

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 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.

Reason 2
The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long term 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. Furthermore it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.

Signature(s): Karla McKinless

Date: 28 June 2024

Development Management Officer Report
Committee Application

Summary	
Committee Meeting Date: 5 December 2023	**Item Number:** 5.19
Application ID: LA09/2023/0714/O	**Target Date:** 11 October 2023
Proposal: Site for new dwelling and garage under Planning Policy CTY 6	**Location:** Adj to 20 Sessiagh Road Tullyhogue Cookstown
Referral Route: Refuse **is recommended**	
Recommendation: Refuse	
Applicant Name and Address: Mr Alan Nethercott 30 Old Rectory Park Cookstown BT80 9XR	**Agent Name and Address:** Rodney Henry 2 Liscoole. Cookstown BT80 8RG

Executive Summary:

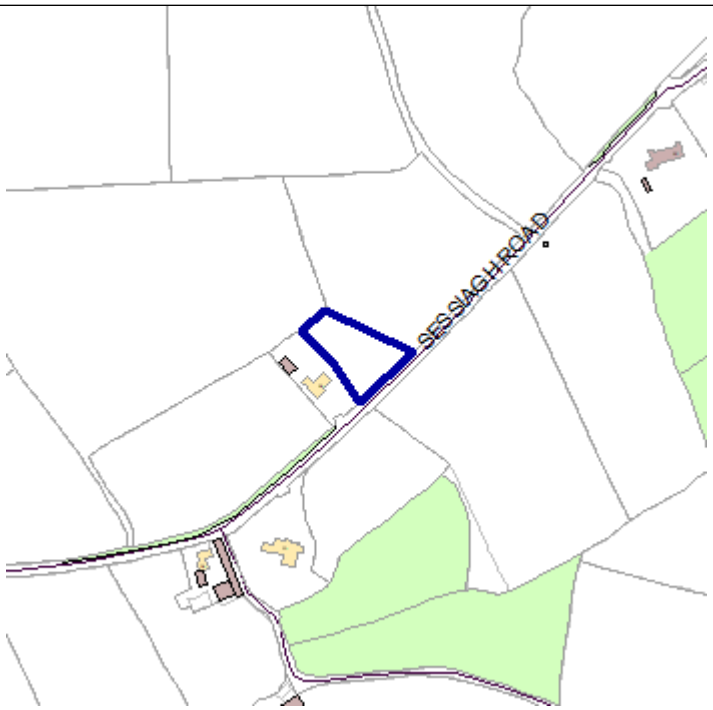
The proposed is for an outline dwelling and garage under Policy CTY 6 - Personal and Domestic Circumstances. With due sympathy to the cirumstances of the case, It is recommended that the proposed development be refused for the following reason:

It is deemed that there is insufficient evidence to suggest that a new dwelling at the proposed site is a necessary response to the particular circumstances of the case. It has been agreed that the proposed does not comply with Policy CTY 6 of PPS 21.

It is accepted that the proposed however does comply with CTY 13 and CTY 14 of PPS 21 at this outline stage.

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.docFORM RS1 STANDARD.docFORM RS1 STANDARD.docRoads outline.docx

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Characteristics of the Site and Area

The site of the proposed development is located in the rural countryside approximately 0.2 miles east and outside of the Tullyhogue settlement limit as defined in the Cookstown Area Plan 2010. The site for the proposed dwelling comprises the south western portion of an agricultural field which is located adjacent and east to no. 20 Sessiagh Road, Tullyhogue. The red-lined site area is approximately 0.2 ha and slopes gently and gradually up from east to west. The site sits higher than the Sessiagh Road and the proposed access is via the same. Site boundaries include low-cut hedgerow along the roadside boundary, two metre high hedgerow along the western edge of the field and a backdrop of mature trees along the rear north western boundary. The eastern boundary is undefined and opens up into the remaining and much larger field. The wider surrounding environment consists of the nearby Tullyhogue settlement to the west and elsewhere agricultural fields and farm buildings / dwellings scattered sparingly throughout the local area.

Description of Proposal

This is an outline application for a new dwelling and garage under Planning Policy CTY 6.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

Cookstown Area Plan 2010

The site of the proposed development is located in the rural countryside approximately 0.2 miles east and outside of the Tullyhogue settlement limit as defined in the Cookstown Area Plan 2010.

Relevant Histories

None

Representations

No third party representation have been received to date.

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

SPPS – Strategic Planning Policy Statement for Northern Ireland

The 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 dwellings for compelling and site specific reasons under Policy CTY 6 – Personal and Domestic Circumstances. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Planning Policy Statement 21: Sustainable Development in the Countryside

Policy CTY1 provides clarification on which types of development are acceptable in the countryside. In this instance the application is for a dwelling in the countryside for personal and domestic circumstances. This application is therefore assessed under Policy CTY 6 of PPS 21.

Policy CTY 6 of PPS 21 provides that planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances and provided the following criteria are 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.

b) There are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.

With regard to part A, It is accepted that the special personal circumstances of the applicant supported by the appropriate medical evidence has been provided. Details of the level of care required in relation to the medical conditions pertaining to the applicant is also provided, including the identity of the main carers.

The applicant's current address in the southern end of Cookstown is 3-4 miles away from the identified main carers residing at 19 and 23 Sessiagh Road. Nos. 19 and 23 are located 100 metres south west on the other side of the road from the proposed site for

the dwelling. It is accepted that the applicant would benefit from living closer to his carers at these addresses. Part A of the policy requires that satisfactory evidence be provided showing that a new dwelling is a necessary response. It is arguably the case that a new dwelling is a favourable response given the details of the hardship evidenced in this case. However, under Part B, for a new dwelling to be a necessary response it must also be provided that there are no alternative solutions to meet the particular circumstances of the case. This can include an extension or annex attached to an existing dwelling; or the conversion or reuse of another building within the curtilage of a property; or the use of a temporary mobile home for a limited period of time. The supporting statement provides that a temporary mobile home is not a solution as the applicant is not an elderly person. While it is accepted that the applicant would benefit from living closer to his carers, there is no compelling reason provided why this could not amount to an extension or domestic annex within the curtilage of no. 23 Sessiagh Road, for example. Other alternative solutions, such as the potential to rent or purchase property within Tullyhogue (which is within close proximity to the carers) have not been fully elaborated on. It is therefore agreed with the senior planner that the case is not without viable alternative solutions that could meet the needs of the applicant and his carers.

Having assessed the statement of case with the senior planner it has been agreed that the proposed outline dwelling fails to meet Policy CTY 6 of PPS 21.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is considered that a well-designed dwelling could blend in successfully with its immediate and wider surroundings if it were of a size and scale that is comparable to the dwellings in the vicinity. The site is complete with long-established natural boundaries in the form of hedgerow and trees, particularly along the western and north western boundaries of the site. It is therefore a site that would not rely primarily on the use of new landscaping. I am content that ancillary works and any future dwelling at the site could be designed in such a way as to integrate with the surrounding locality. The proposed complies with Policy CTY 13 at this outline stage.

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. It is considered that the site and its surrounding environs are suitable for absorbing a dwelling of a suitable size and scale. The proposed complies with Policy CTY 14 at this outline stage.

Other material considerations

Dfl Roads were consulted in this application and provided no objection to the proposed subject to the standard RS1 condition.

This site is not located within or adjacent to any protected areas, including SACs, SPAs and Ramsar sites.

This site is not located within or adjacent to any listed buildings / structures.

The site is not subject to any issues pertaining to flooding.

Recommendation

With due sympathy to the circumstances of this case, it is noted that the proposed fails to comply with Policy CTY 6 of PPS 21. It is therefore recommended that this application be refused.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1
The proposal is contrary to Policy CTY 6 of PPS 21 in that satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case has not been provided.

Signature(s): Benjamin Porter

Date: 22 November 2023

ANNEX	
Date Valid	28 June 2023
Date First Advertised	11 July 2023
Date Last Advertised	11 July 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 20 Sessiagh Road Cookstown Tyrone BT80 8SN	
Date of Last Neighbour Notification	4 July 2023
Date of EIA Determination	
ES Requested	<events screen>
Planning History	
Summary of Consultee Responses DFI Roads - Enniskillen Office-DC Checklist 1.docFORM RS1 STANDARD.docFORM RS1 STANDARD.docRoads outline.docx	
Drawing Numbers and Title Site Location Plan Plan Ref: 01	
Notification to Department (if relevant) Not Applicable	

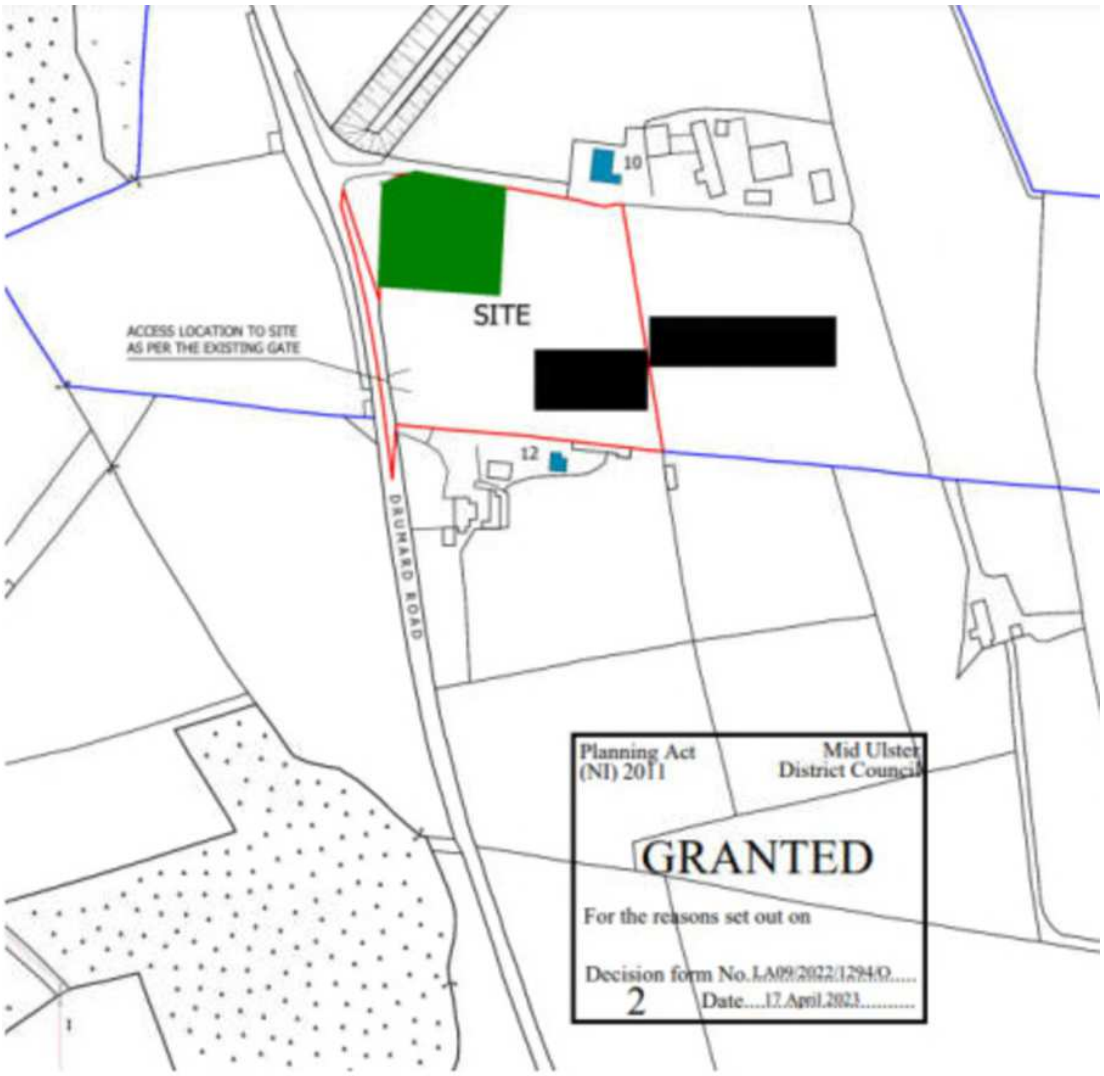
Comhairle Ceantair Lár Uladh Mid Ulster District Council

Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2023/1031/F **Recommendation:** Refuse	**Target Date:** 12 January 2024
Proposal: Removal of Condition 4 (the dwelling shall be sited in the area shaded green on drawing L01) of Planning Application LA09/2022/1294/O for a dwelling and domestic garage	**Location:** On Lands Approx 35M North of No 12 Drumard Road Kilrea
Applicant Name and Address: Mr Colm Bradley 74 Drumnagarner Road Kilrea BT51 5TE	**Agent Name and Address:** CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: This application was first before Members at December 2023 Planning Committee with a recommendation to refuse. It was considered that the removal of the siting condition applied under LA09/2022/1294/O would result in a development that would be contrary to Policy CTY 10 of PPS 21 in terms of visual linkage and clustering. It would also mean a dwelling erected anywhere outside of the siting condition would appear overly prominent in the local landscape and would lack enclosure and as such, would be contrary to Policies CTY 13 and CTY14 of PPS 21. Members agreed to defer the application for an office meeting which was facilitated on the 18th January 2024. At the office meeting, a photomontage was supplied to support the case. Having considered this, as well as viewing the site on the ground I recommend that the application be refused due to concerns around prominence. My justification for this recommendation is detailed further in this report.	
Summary of Consultee Responses: No consultations were required to inform this deferred consideration	

Description of Proposal

This is a planning application which is seeking the removal of Condition 4 (the dwelling shall be sited in the area shaded green on drawing L01) of Planning Application LA09/2022/1294/O for a dwelling and domestic garage. The plan below shows the green shaded area referred to.



Deferred Consideration:

In considering this application it is important for Members to be aware of the justification for approving LA09/2022/1294/O, which was approved as a site for a dwelling on the farm.

LA09/2022/1294/O was initially presented to Planning Committee with a recommendation to refuse as the site wasn't visually linked or sited to cluster with an established group of buildings on the farm. It was also recommended to refuse as it would be contrary to CTY 13 and CTY 14 on the basis that a dwelling would be a prominent feature in the landscape and that the site would rely primarily on the use of new landscaping for integration. LA09/2022/1204/O was subsequently deferred for an office meeting where it was agreed that the senior planning officer

would carry out a site visit to investigate potential alternative sites which would be more policy compliant. The area shaded green was identified as the most policy compliant site. A dwelling located in this area would visually link with buildings on the farm and would be the least prominent location. LA09/2022/1294/O was approved by Members subject to this siting condition. The siting condition was not contested by the applicant or their agent at Planning Committee.

Under this current application the applicant has applied to remove this siting condition and a photomontage was supplied at the deferred office meeting which indicated the preferred siting of a dwelling located further South and further up the slope.

Having viewed this site on the ground and holding weight to the planning history it is my opinion that a dwelling sited anywhere within the red line of the application site would retain some degree of visual linkage with the buildings on the farm. Siting a dwelling anywhere along the Southern boundary would not adhere with the SPPS objective of clustering but it would be hard to argue that there was no visual linkage. For this reason, I do not believe there is any conflict with policy CTY 10 of PPS 21.

I do however have concern about how prominent a dwelling would appear if it is sited anywhere outside of the green shaded area. The siting condition was attached to ensure a dwelling would be sited on the lowest level of the site. The site rises quite steeply in an Eastern direction. It levels out to form a ridge and then drops again further to the East. The applicant's preference would be to site a dwelling along this ridge. Whilst critical views from the South will be screened by a thick hedgerow the front of the site is open and it doesn't benefit from any backdrop. A dwelling, irrespective of its scale or massing, would appear overly prominent and goes against what is required in policy CTY 13 and CTY 14 in order to protect rural character. New landscaping along all boundaries except to the South, would be fundamental to integrate a dwelling and this also goes against Policy CTY 13. For these reasons I recommend that Members refuse this application in order to protect rural character and to also remain consistent in their consideration of prominence, which was why the siting condition was agreed under LA09/2022/1294/O

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 1
The removal of condition 4 from LA09/2022/1294/O is contrary to Policy CTY 13 of Planning Policy Statement 21 in that it would result in a dwelling that would be a prominent feature in the landscape. Also, a dwelling located anywhere outside the green shaded area would fail to have a suitable degree of enclosure to integrate into the landscape.

Reason 2
The removal of condition 4 from LA09/2022/1294/O is contrary to Policy CTY 14 of Planning Policy Statement 21 in that it would result in a dwelling that would be an unduly prominent feature in the landscape.

Signature(s): Karla McKinless

Date: 8 July 2024

Development Management Officer Report
Committee Application

Summary	
Committee Meeting Date: 5 December 2023	**Item Number:** 5.26
Application ID: LA09/2023/1031/F	**Target Date:** 12 January 2024
Proposal: Removal of Condition 4 (the dwelling shall be sited in the area shaded green on drawing L01) of Planning Application LA09/2022/1294/O for a dwelling and domestic garage	**Location:** On Lands Approx 35M North of No 12 Drumard Road Kilrea
Referral Route: Refuse **is recommended**	
Recommendation: Refuse	
Applicant Name and Address: Mr Colm Bradley 74 DRUMNAGARNER ROAD KILREA BT51 5TE	**Agent Name and Address:** CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary: The application to seeking to remove a siting condition of LA09/202/1294/O. The agent has not identified any alternative sites where they would want the dwelling to be located. However, it is felt anywhere outside the area shaded in green would result in either the dwelling being a prominent feature in the landscape given the topography of the site and also if sited anywhere in the southern portion of the site would result in it not being sited to cluster or visually linking with an established group of buildings on the farm. No consultations were required, and three neighbouring properties were notified.	

Case Officer Report

Site Location Plan

Consultations:

Consultation Type	Consultee	Response

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan 2015. The red line of the application site comprises of the front portion of a larger agricultural field. The site rises in an eastern direction from the road to the eastern boundary of the red line, which is currently undefined as the field extends further east and levels out. A low-level hedge defines the northern and western

boundary with mature trees and hedges defining the southern boundary. The surrounding area is a mix of agricultural and single dwellings, with a dwelling located directly north of the site with associated farm buildings and a third-party dwelling and buildings located to the south.

Representations
No third party written representations have been received.

Description of Proposal

This is a planning application which is seeking the removal of Condition 4 (the dwelling shall be sited in the area shaded green on drawing L01) of Planning Application LA09/2022/1294/O for a dwelling and domestic garage.

Planning History
LA09/2022/1294/O- Site for dwelling & domestic garage. Permission Granted 17th April 2023.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

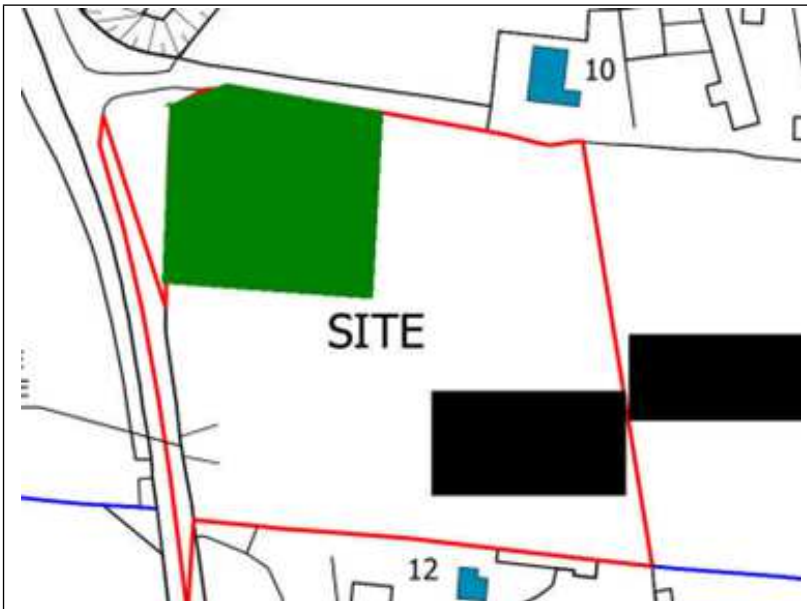
Magherafelt Area Plan 2015
Strategic Planning Policy Statement (SSPS)
PPS 21: Sustainable Development in the Countryside
Mid Ulster Local Development Plan 2030- Draft Plan Strategy

This application seeks to remove condition 4 of planning approval LA09/2022/1294/O which states the following:

"The proposed dwelling shall be sited in the area shaded green on drawing L01 uploaded on Public Access on 22 Aug 2022

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

The image below is a snippet of the approved drawing for reference to show the location of the area shaded in green.



The above application was initially presented to the planning committee with the recommendation to be refused as the site failed to comply with criteria C of CTY 10 in that it wasn't visually linked or sited to cluster with an established group of buildings on the farm. It was also recommended to refuse as it would be contrary to CTY 13 and CTY 14 on the basis it would be a prominent feature in the landscape and the site relies primarily on the use of new landscaping for integration.

The application was subsequently deferred for an office meeting where it was agreed that the senior planning officer would carry out a site visit to investigate potential alternative sites which would be more policy compliant.

Following this the senior planning officer identified the site in the northwest corner of the site would meet the visual linkage test contained within CTY 10. It would be obvious when travelling along the Drumard Road that a dwelling sited here was connected with the farm buildings at number 10. It was also felt it would be necessary to condition the ridge height, floor space and siting of the dwelling to ensure that the dwelling would not appear prominent on this road side site, which does rises considerably in an Eastern direction. It was also acknowledged that the applicants preferred location for siting a dwelling does not cluster with the farm buildings and in my opinion would fail to visually link with the farm buildings. It would result in a dwelling that would be too prominent on this site hence why the siting condition was applied.

The agent has applied to remove this siting condition however has not indicated an alternative siting.

In this case I feel the siting condition which was applied to planning approval LA09/2022/1294/O is necessary to ensure that the proposal complies with policy CTY 10 criteria C, Policy CTY 13 and CTY 14. Should a dwelling be sited to the immediate east of the green shaded area, it would comply with criteria C of CTY 10, but it would fail to comply with CTY 13 and CTY 14 in that it would appear as a prominent feature in the landscape as it would be located at the top of a hill with no existing screening or

buildings to allow it to integrate. Anywhere in the southern portion of the red line a dwelling would not be sited to visually link or cluster with the established buildings on the farm. It would result in a gap between the established farm buildings and the proposed dwelling. Furthermore, a dwelling sited in the south eastern portion of the site, which was the preferred siting location for the application LA09/2022/1294/O would also fail to fully meet CTY 10, CTY 13 and CTY 14.

Therefore, it is recommended that this application to remove condition 4 should be refused as it would result in a dwelling being sited anywhere outside the area shaded in green and resulting in a dwelling being a prominent feature in the landscape and/or would not be sited to cluster or be visually linked to the established group of buildings on the farm.

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

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1
The removal of condition 4 from LA09/2022/1294/O is contrary to Policy CTY 10 of Planning Policy Statement 21 as the applicant has not demonstrated that the removal of the condition would result in a dwelling being sited to visually link or cluster with an established group of buildings on the farm.

Reason 2
The removal of condition 4 from LA09/2022/1294/O is contrary to Policy CTY 13 of Planning Policy Statement 21 as the applicant has not demonstrated that the removal of the condition would not result in a dwelling being prominent feature in the landscape nor that there is a suitable degree of enclosure for a new dwelling to integrate into the landscape.

Reason 3
The removal of condition 4 from LA09/2022/1294/O is contrary to Policy CTY 14 of Planning Policy Statement 21 as the applicant has not demonstrated that the removal of the condition would not result in a dwelling being an unduly prominent feature in the

landscape.
Signature(s): Ciaran Devlin **Date:** 23 November 2023

ANNEX	
Date Valid	29 September 2023
Date First Advertised	10 October 2023
Date Last Advertised	10 October 2023

Details of Neighbour Notification (all addresses)
The Owner / Occupier
12A Drumard Road Kilrea Londonderry BT51 5TJ
The Owner / Occupier
10 Drumard Road Kilrea Londonderry BT51 5TJ
The Owner / Occupier
12 Drumard Road Kilrea Londonderry BT51 5TJ

Date of Last Neighbour Notification	3 October 2023
Date of EIA Determination	
ES Requested	<events screen>

Planning History

Ref: LA09/2017/0016/NMC
Proposals: Proposed in line movement of Structure IMP73 (2 metres) West of previously approved location.
Proposed in line movement of Structure IMP56 (1.5 metres) South West of previously approved location.
All alterations are contained within the land ownership boundaries of the landowners wh requested the movements.
Decision: CG
Decision Date: 17-JAN-17

Ref: LA09/2022/1294/O
Proposals: Site for dwelling & domestic garage
Decision: PG
Decision Date: 17-APR-23

Ref: LA09/2017/0002/DC
Proposals: Discharge of conditions 11 and 12 on Planning Application LA09/2015/1294/I
Decision: AL
Decision Date: 13-JAN-17

Ref: LA09/2023/1031/F
Proposals: Removal of Condition 4 (the dwelling shall be sited in the area shaded green on drawing L01) of Planning Application LA09/2022/1294/O for a dwelling and domestic garage
Decision:
Decision Date:

Ref: LA09/2017/0017/NMC
Proposals: Proposed in line movement of Structure IMP42 (11 metres) West of previous approved location.
Proposed in line movement of Structure IMP76 (3 metres) West of previously approved location.
Proposed in line movement of Structure IMP79 (30 metres) North to boundary hedge.
This will require a further movement to structures AM78 (10 metres) and AM81 (10 metres) to accommodate this new structure location.
All alterations are contained within the land ownership boundaries of the landowners wh requested the movements.
Decision: CG
Decision Date: 17-JAN-17

Summary of Consultee Responses

-

Drawing Numbers and Title

Notification to Department (if relevant)

Not Applicable

Comhairle Ceantair Lár Uladh Mid Ulster District Council

Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2023/1381/O **Recommendation:** Refuse	**Target Date:** 2 April 2024
Proposal: Dwelling and garage (infill)	**Location:** 35M SE of 37 Ballynacross Road, Knockloghrim
Applicant Name and Address: T Elliott Esq 23 Ballynacross Road Knockloghrim Magherafelt BT45 8PY	**Agent Name and Address:** Russell Finlay 350 Hillhead Road Knockloughrim Magherafelt BT45 8QT

Summary of Issues:

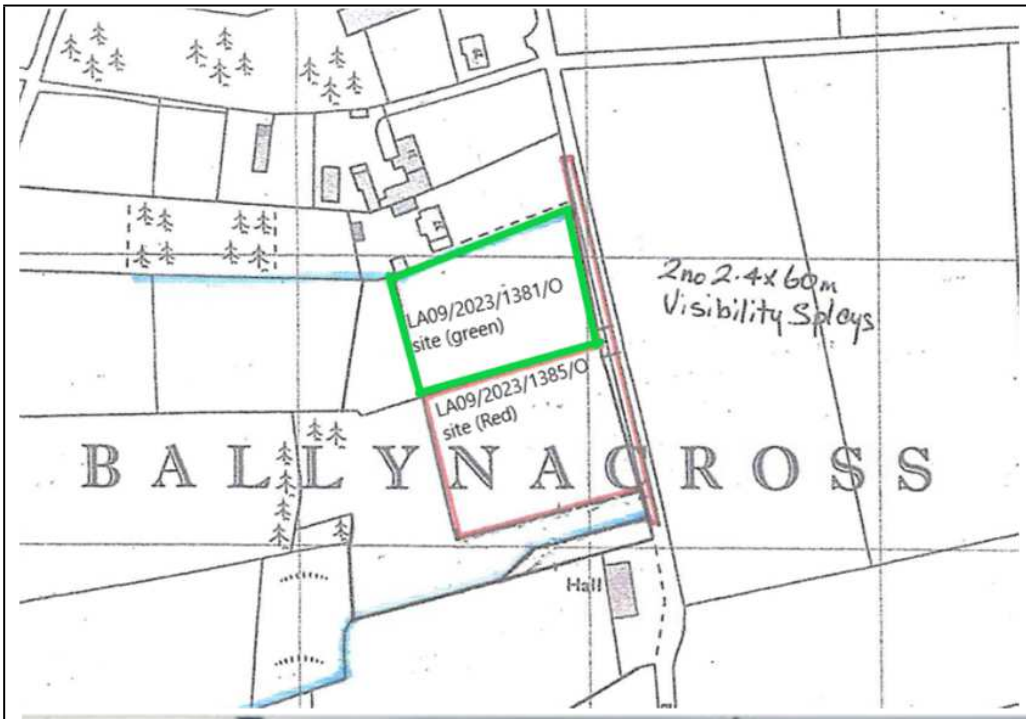
This application was first before Members at April 2024 Planning Committee. It was recommended for refusal as it was considered to be contrary to Policies CTY 1, CTY 8 and CTY 14 of PPS21 in that the gap along the road frontage was deemed excessive in size and if approved, the development would result in creation of ribbon development. It was also considered that it would have a negative impact on the rural character of the area. It was agreed to defer the application for an office meeting which was facilitated on the 22nd April 2024. Following a site inspection and a re-consideration of the case, I recommend that the application be refused. The justification for this recommendation is detailed further in this report.

Summary of Consultee Responses:

No new consultations were carried out to inform this deferred consideration.

Description of Proposal

This is an outline application for a proposed site of dwelling and garage.



Deferred Consideration:

My reconsideration of this case is based on Policy CTY 8 of PPS 21. I am also giving consideration to a recent Court of Appeal Decision (Gordon Duff v Newry Mourne and Down Borough Council) following a Judicial Review of two infill dwellings.

The application site is a 0.32 hectare plot of agricultural land. There is a second application (LA09/2023/1385/O) for an infill dwelling immediately adjacent to this site currently under consideration so in effect, this gap and the adjacent site is for a double infill.

Policy CTY 8 states that Planning Permission will be refused for a building which creates or adds to a ribbon of development. It goes on to detail an exception where there is a small gap

site sufficient only to accommodate up to a maximum of 2 houses provided this respects the existing settlement pattern along the frontage.

The recent Court of Appeal Decision warns against a temptation to view CTY 8 as a permissive policy. The policy clearly states that planning permission will be refused where it creates or adds to a ribbon of development. The judgement is unequivocal when it states that unless the exception to CTY 8 has been shown to be truly available on the facts of the case, then permission must be refused because ribbon development is unacceptable under the policy guidelines, unless it falls within a permitted exception.

The main concern with this site and that being considered under LA09/2023/1385/O is the size of the gap. Between the dwelling at No. 37 Ballynacross Road and the hall at No. 39 Ballynacross Road there is a gap of approximately 116 metres. The plot size of No. 37 is approximately 28m in length, and the plot size of No. 39 is approximately 45m in length. Therefore, the size of this gap can be considered significantly greater than the average plot size and could accommodate more than two dwellings.

The Court of Appeal Decision addresses the importance of maintaining visual breaks as required by CTY 8. The gaps referred to in these policies are inherently valuable because they maintain the rural appearance of the countryside. It states the thrust of CTY 8 is to refuse the infilling of gaps subject to the very limited cases where characteristic rural openness has already been destroyed because a pre-existing area of substantial and continuously built up frontage has been identified. Having visited this site on the ground I am satisfied that the gap under consideration does act as a visual break between the development to the North and that to the South. There is limited visual appreciation between the hall and the dwelling at number 37 and this is down to the size of the gap. I hold the view of the previous case officer that the proposal is contrary to Paragraph 5.34 of CTY8 in that if approved the development will erode on the rural character of the area and will extend a ribbon of development.

I have also considered this proposal under Policy NH5 of PPS 2, which deals with the loss of priority habitat. Consultation with DFI Roads has indicated that 60m of hedgerow removal (either direction) would be required for the provision of splays along the site frontage. The roadside hedge would appear to be native species hedgerow in excess of 1m in height and 0.5m in width. This would require the applicant to submit a bio-diversity checklist so that an ecologist could consider any potential loss of priority habitat. This has not been requested as the proposal is considered unacceptable in principle, however I do not suggest it form a reason for refusal under PPS 2 as the applicant has not been asked to address this concern.

I recommend that Members refuse this application for the reasons set out below.

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 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.

Reason 2
The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it does not constitute a small gap site sufficient only to accommodate up to a maximum of two houses within a substantial and continuously built up frontage. If permitted this development would extend a ribbon of development along the Ballynacross Road.

Reason 3
The proposal is contrary to Policy CTY14 of Planning Policy Statement 21: Sustainable Development in the Countryside in that it would result in a detrimental change to the rural character of the countryside, in that the two dwellings would, if permitted, extend a ribbon of development along this section of the Ballynacross Road.

Signature(s): Karla McKinless

Date: 24 June 2024

Development Management Officer Report
Committee Application

Summary	
Committee Meeting Date: 9 April 2024	**Item Number:** 5.19
Application ID: LA09/2023/1381/O	**Target Date:** 2 April 2024
Proposal: Dwelling and garage (infill)	**Location:** 35M SE of 37 Ballynacross Road, Knockloghrim
Referral Route: Refuse **is recommended**	
Recommendation: Refuse	
Applicant Name and Address: T Elliott Esq 23 Ballynacross Road Knockloghrim Magherafelt BT45 8PY	**Agent Name and Address:** Russell Finlay 350 Hillhead Road Knockloughrim Magherafelt BT45 8QT

Executive Summary:

This proposal has been assessed under all relevant policy and guidance, that is the SPPS, the Magherafelt Area Plan 2015, PPS3, PPS 21 (CTY 1, 8, 13 AND 14). Issues raised by the Planning Department include conflict with planning policy 21 specifically CTY 1, 8 and 14 therefore it is recommended for refusal.

This proposal fails to meet Policy CTY 8 of PPS 21 as the gap under consideration is of a size that it could accommodate more than two dwellings. The gap site consists of two planning applications, one of which is to be considered under planning application LA09/2023/1385/O.

A consultation request was sent to DFI Roads which has raised no concerns.

Case Officer Report

Site Location Plan

Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Outline resp.docx

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Characteristics of the Site and Area

The site is located within the open countryside as defined in the Magherafelt Area Plan 2015. The site is approximately 0.93km northeast of the development limit of Knockloughrim. The site is currently identified as lands 35M southeast of 37 Ballynacross Road, Knockloghrim; the site comprises of a rectangular segment of land, the topography of which is relatively flat. The site is currently bounded by mature trees

and hedgerow on all boundaries. I note that the immediate surrounding area is characterised by a mixture of single detached residential dwellings, sprawling agricultural fields and dispersed farm complexes.

Description of Proposal

This is an outline application for a proposed site of dwelling and garage.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Representations

Two (2) neighbouring properties were notified, and press advertisement was carried out in line with the Council's statutory duty. To date no third party representations have been received.

Relevant Planning History

Reference: H/2005/0901/O, Proposal: Site of dwelling and garage, Location: 90M S Of 37 Ballynacross Road, Knockloughrim, Decision and Date: Permission Refused 14.02.2007.

Reference: LA09/2023/1385/O, Propsal: Dwelling and garage (infill), Location: 85M SE of 37 Ballynacross Road, Knockloghrim, Decision and Date: Pending Consideration.

Planning Assessment of Policy and Other Material Considerations

- Magherafelt Area Plan 2015
- SPPS - Strategic Planning Policy Statement for Northern Ireland
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside

Magherafelt Area Plan 2015

The Magherafelt Area Plan 2015 identifies the site as being in the rural countryside, approximately 0.93km northwest of Knockloughrim. There are no other zonings or designations within the Plan.

SPPS – Strategic Planning Policy Statement for Northern Ireland

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. 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. It does not present any change in policy direction therefore existing policy applies, the primary consideration being PPS21 – Sustainable Development in the Countryside.

The SPPS gives provision for development in the countryside subject to a number policy provisions, including CTY 8 of PPS 21 which deals with Ribbon Development. There has been no change in policy direction in the SPPS in respect of Ribbon Development therefore Policy CTY 8 of PPS 21 remains my primary policy consideration in this assessment.

Mid Ulster District Council Draft Plan Strategy 2030

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 as far as material to the application, and to any other material considerations. Sections 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. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

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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 a new access onto the Ballynacross Road. DFI Roads have no concerns subject to visibility splays of 2.4m x 60m as per the RS1 form, if approved this will be conditioned to be complied with at Reserved Matters stage.

Planning Policy Statement 21 – Sustainable Development in the Countryside

Policy CTY 1- 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. In this instance the application is for an infill dwelling and as a result the development must be considered under CTY 8 of PPS 21.

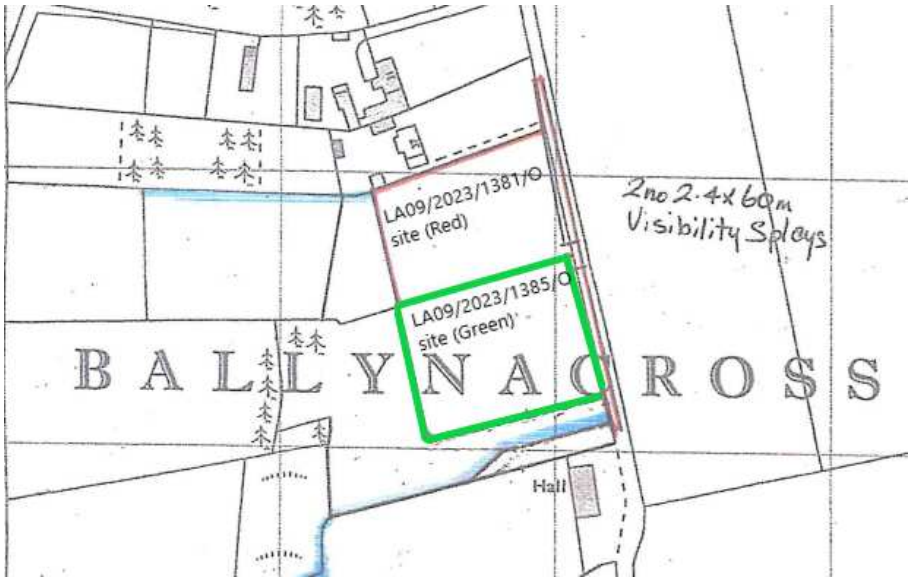
CTY 8 - Ribbon Development

Policy CTY 8 of PPS 21 states that planning permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however 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. Policy CTY 8 also states that planning permission will be refused for applications which create or add to ribbon development in the countryside. A substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

It is important to note that the applicant is applying for a dwelling and garage under the same policy under planning application LA09/2023/1385/O on lands north of the site (see figure 1).

Figure 1 (Courtesy of agent site location map)



Having assessed the site and surrounding area I do not consider the site meets with the requirements of Policy CTY 8. I do not believe this application site can be considered as a small gap site sufficient only to accommodate up to a maximum of two houses.

Between the dwelling at No. 37 Ballynacross Road and the building No. 39 Ballynacross Road there is a gap of approximately 116 metres (Figure 2). The plot of frontage of No. 37 is approximately 28m, and the plot size of No. 39 is approximately 45m. Therefore, the size of this gap can be considered significantly greater than the average plot size and could accommodate more than two dwellings.

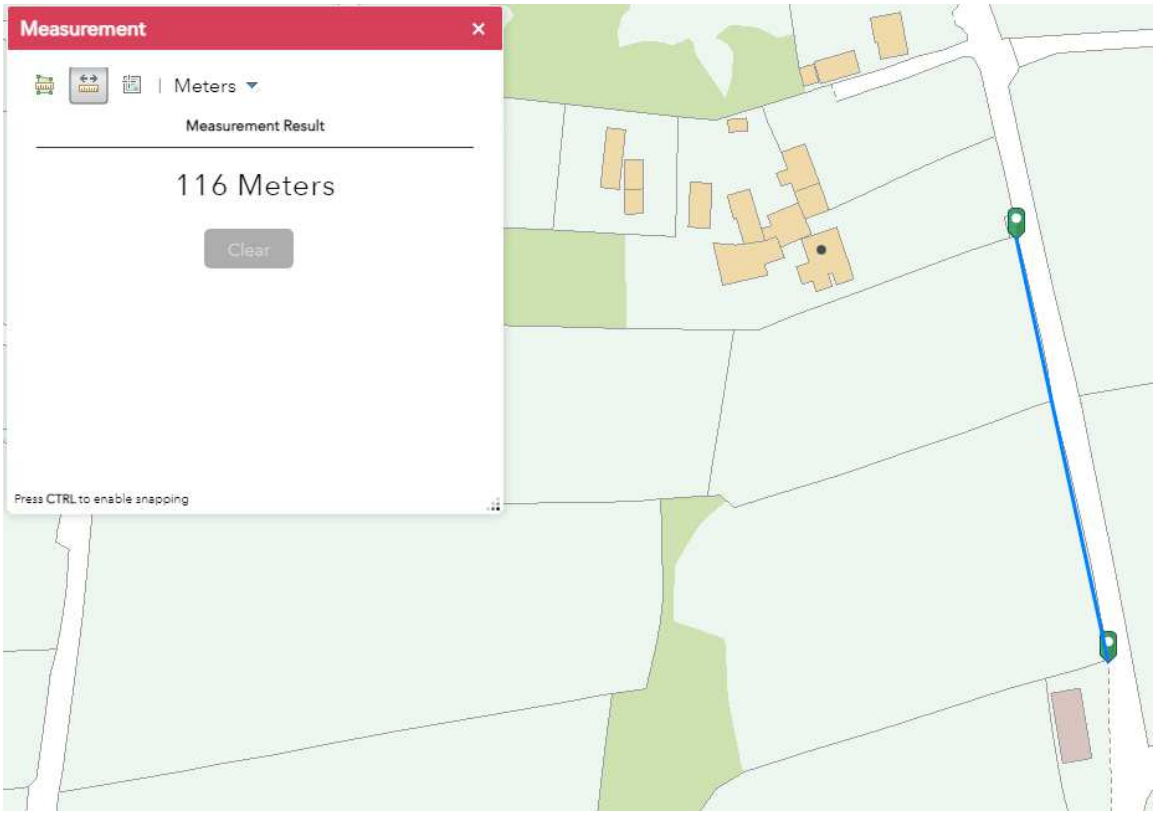
Furthermore, the gap site in question currently appears as a visual break between the small cluster of development to the North and to a degree, a cluster of development to the south. I hold the view that the proposal is contrary to Paragraph 5.34 of CTY8 in that if approved the proposed will erode on the rural character of the area and will extend a ribbon of development.

With regard to the built-up frontage, I hold the view that dwelling No.31 and No.37 north of the site, alongside the building No.39 south of the site hold a common built-up frontage and as such I am content the application meets this policy test of CTY 8.

Overall, I am of the opinion that the proposed does not comply and is contrary to Policy

CTY 8.

Figure 2 (imagine from Mid Ulster Council Ortho)



CTY 13 - Integration and Design of Buildings in the countryside

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. I note that this is only an outline application therefore no design details have been submitted however, given the landform and landscape, and the proposed concept plan provided by the agent, I believe that an appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape. Additional landscaping would be required to aid integration therefore a landscaping scheme would be required in any reserved matters application. From which, I am content that the application is able to comply under CTY 13.

CTY 14 - Rural Character

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. I am content that an appropriately designed dwelling will not appear prominent in the landscape. I note that this application has failed under Policy CTY 8, therefore it will erode rural character and will extend a ribbon of development. It is therefore considered the proposal fails under Policy CTY 14.

Other Considerations

This site is not located within or adjacent to any protected areas, including SACs, SPAs and Ramsar sites.

The site is not located within or adjacent to any listed building / structures.

The site is not subject to any issue issues pertaining to flooding.

Habitats Regulations Assessment

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.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 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.

Reason 2
The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it does not constitute a small gap site sufficient only to accommodate up to a maximum of two houses within a substantial and continuously built up frontage. If permitted this development would create a ribbon of development along the Ballynacross Road.

Reason 3
The proposal is contrary to Policy CTY14 of Planning Policy Statement 21: Sustainable Development in the Countryside in that it would result in a detrimental change to the rural character of the countryside, in that the two dwellings would, if permitted, create a ribbon of development along this section of the Ballynacross Road.

Signature(s): Ciara Carson **Date:** 26 March 2024

ANNEX	
Date Valid	19 December 2023
Date First Advertised	9 January 2024
Date Last Advertised	9 January 2024
Details of Neighbour Notification (all addresses) The Owner / Occupier 39 Ballynacross Road Knockcloghrim Magherafelt Londonderry BT45 8PY The Owner / Occupier 37 Ballynacross Road, Magherafelt, Londonderry, BT45 8PY	
Date of Last Neighbour Notification	21 December 2023
Date of EIA Determination	
ES Requested	<events screen>

Planning History

Ref: LA09/2023/1381/O
Proposals: Dwelling and garage (infill)
Decision:
Decision Date:

Ref: H/2006/0670/F
Proposals: Proposed Kitchen extension to rear, utility room and sun room extension to side of existing dwelling
Decision: PG
Decision Date: 20-OCT-06

Ref: LA09/2023/1385/O
Proposals: Dwelling and garage (infill)
Decision:
Decision Date:

Ref: H/1978/0315
Proposals: PORCH AND ALTERATIONS AND ADDITIONS TO BUNGALOW
Decision: PG
Decision Date:

Ref: H/2005/0901/O

Proposals: Site of dwelling and garage.
Decision: PR
Decision Date: 22-FEB-07

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline resp.docx

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable

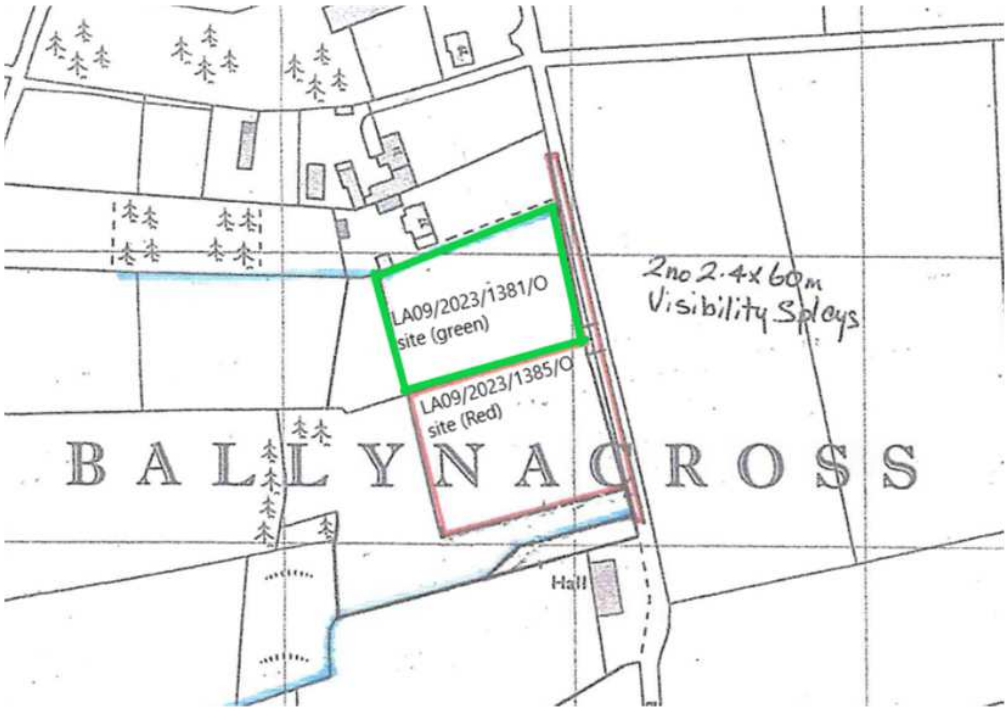
Comhairle Ceantair Lár Uladh Mid Ulster District Council

Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2023/1385/O **Recommendation:** Refuse	**Target Date:** 2 April 2024
Proposal: Dwelling and garage (infill)	**Location:** 85M SE of 37 Ballynacross Road, Knockloghrim
Applicant Name and Address: T Elliott Esq 23 Ballynacross Road Knockcloghrim Magherafelt BT45 8PY	**Agent Name and Address:** Russell Finlay Building Design Consultant 350 Hillhead Road Knockcloughrim Magherafelt BT45 8QT
Summary of Issues: This application was first before Members at April 2024 Planning Committee. It was recommended for refusal as it was considered to be contrary to Policies CTY 1, CTY 8 and CTY 14 of PPS21 in that the gap along the road frontage was deemed excessive in size and if approved, the development would result in creation of ribbon development. It was also considered that it would have a negative impact on the rural character of the area. It was agreed to defer the application for an office meeting which was facilitated on the 22nd April 2024. Following a site inspection and a re-consideration of the case, I recommend that the application be refused. The justification for this recommendation is detailed further in this report.	
Summary of Consultee Responses: No new consultations were carried out to inform this deferred consideration.	

Description of Proposal

This is an outline application for a proposed site of dwelling and garage.



Deferred Consideration:

My reconsideration of this case is based on Policy CTY 8 of PPS 21. I am also giving consideration to a recent Court of Appeal Decision (Gordon Duff v Newry Mourne and Down Borough Council) following a Judicial Review of two infill dwellings.

The application site is a 0.33 hectare plot of agricultural land. There is a second application

(LA09/2023/1381/O) for an infill dwelling immediately adjacent to this site currently under consideration so in effect, this gap and the adjacent site is for a double infill.

Policy CTY 8 states that Planning Permission will be refused for a building which creates or adds to a ribbon of development. It goes on to detail an exception where there is a small gap site sufficient only to accommodate up to a maximum of 2 houses provided this respects the existing settlement pattern along the frontage.

The recent Court of Appeal Decision warns against a temptation to view CTY 8 as a permissive policy. The policy clearly states that planning permission will be refused where it creates or adds to a ribbon of development. The judgement is unequivocal when it states that unless the exception to CTY 8 has been shown to be truly available on the facts of the case, then permission must be refused because ribbon development is unacceptable under the policy guidelines, unless it falls within a permitted exception.

The main concern with this site and that being considered under LA09/2023/1381/O is the size of the gap. Between the dwelling at No. 37 Ballynacross Road and the hall at No. 39 Ballynacross Road there is a gap of approximately 116 metres. The plot size of No. 37 is approximately 28m in length, and the plot size of No. 39 is approximately 45m in length. Therefore, the size of this gap can be considered significantly greater than the average plot size and could accommodate more than two dwellings.

The Court of Appeal Decision addresses the importance of maintaining visual breaks as required by CTY 8. The gaps referred to in these policies are inherently valuable because they maintain the rural appearance of the countryside. It states the thrust of CTY 8 is to refuse the infilling of gaps subject to the very limited cases where characteristic rural openness has already been destroyed because a pre-existing area of substantial and continuously built up frontage has been identified. Having visited this site on the ground I am satisfied that the gap under consideration does act as a visual break between the development to the North and that to the South. There is limited visual appreciation between the hall and the dwelling at number 37 and this is down to the size of the gap. I hold the view of the previous case officer that the proposal is contrary to Paragraph 5.34 of CTY8 in that if approved the development will erode on the rural character of the area and will extend a ribbon of development.

I have also considered this proposal under Policy NH5 of PPS 2, which deals with the loss of priority habitat. Consultation with DFI Roads has indicated that 60m of hedgerow removal (either direction) would be required for the provision of splays along the site frontage. The roadside hedge would appear to be native species hedgerow in excess of 1m in height and 0.5m in width. This would require the applicant to submit a bio-diversity checklist so that an ecologist could consider any potential loss of priority habitat. This has not been requested as the proposal is considered unacceptable in principle, however I do not suggest it form a reason for refusal under PPS 2 as the applicant has not been asked to address this concern.

I recommend that Members refuse this application for the reasons set out below.

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 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.

Reason 2
The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it does not constitute a small gap site sufficient only to accommodate up to a maximum of two houses within a substantial and continuously built up frontage. If permitted this development would extend a ribbon of development along the Ballynacross Road.

Reason 3
The proposal is contrary to Policy CTY14 of Planning Policy Statement 21: Sustainable Development in the Countryside in that it would result in a detrimental change to the rural character of the countryside, in that the two dwellings would, if permitted, extend a ribbon of development along this section of the Ballynacross Road.

Signature(s): Karla McKinless

Date: 24 June 2024

Development Management Officer Report
Committee Application

Summary	
Committee Meeting Date: 9 April 2024	**Item Number:** 5.20
Application ID: LA09/2023/1385/O	**Target Date:** 2 April 2024
Proposal: Dwelling and garage (infill)	**Location:** 85M SE of 37 Ballynacross Road, Knockloghrim
Referral Route: Refuse **is recommended**	
Recommendation: Refuse	
Applicant Name and Address: T Elliott Esq 23 Ballynacross Road Knockcloghrim Magherafelt BT45 8PY	**Agent Name and Address:** Russell Finlay Building Design Consultant 350 Hillhead Road Knockcloughrim Magherafelt BT45 8QT

Executive Summary:

This proposal has been assessed under all relevant policy and guidance, that is the SPPS, the Magherafelt Area Plan 2015, PPS3, PPS 21 (CTY 1, 8, 13 AND 14). Issues raised by the Planning Department include conflict with planning policy 21 specifically CTY 1, 8 and 14 therefore it is recommended for refusal.

This proposal fails to meet Policy CTY 8 of PPS 21 as the gap under consideration is of a size that it could accommodate more than two dwellings. The gap site consists of two planning applications, one of which is to be considered under planning application LA09/2023/1381/O.
A consultation request was sent to DFI Roads which has raised no concerns.

Case Officer Report

Site Location Plan

Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Outline resp.docx

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Characteristics of the Site and Area

The site is located within the open countryside as defined in the Magherafelt Area Plan 2015. The site is approximately 0.93km northeast of the development limit of Knockloughrim. The site is currently identified as lands 85M southeast of 37 Ballynacross Road, Knockloghrim; the site comprises of a rectangular segment of land, the topography of which is relatively flat. The site is currently bounded by mature trees

and hedgerow on all boundaries. I note that the immediate surrounding area is characterised by a mixture of single detached residential dwellings, sprawling agricultural fields and dispersed farm complexes.

Description of Proposal

This is an outline application for a proposed site of dwelling and garage.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Representations

Three (3) neighbouring properties were notified, and press advertisement was carried out in line with the Council's statutory duty. To date no third party representations have been received.

Relevant Planning History

Reference: H/2005/0901/O, Proposal: Site of dwelling and garage, Location: 90M S Of 37 Ballynacross Road, Knockloughrim, Decision and Date: Permission Refused 14.02.2007.

Reference: LA09/2023/1381/O, Propsal: Dwelling and garage (infill), Location: 35M SE of 37 Ballynacross Road, Knockloghrim, Decision and Date: Pending Consideration.

Planning Assessment of Policy and Other Material Considerations

- Magherafelt Area Plan 2015
- SPPS - Strategic Planning Policy Statement for Northern Ireland
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside

Magherafelt Area Plan 2015

The Magherafelt Area Plan 2015 identifies the site as being in the rural countryside, approximately 0.93km northwest of Knockloughrim. There are no other zonings or designations within the Plan.

SPPS – Strategic Planning Policy Statement for Northern Ireland

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. 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. It does not present any change in policy direction therefore existing policy applies, the primary consideration being PPS21 – Sustainable Development in the Countryside.

The SPPS gives provision for development in the countryside subject to a number policy provisions, including CTY 8 of PPS 21 which deals with Ribbon Development. There has been no change in policy direction in the SPPS in respect of Ribbon Development therefore Policy CTY 8 of PPS 21 remains my primary policy consideration in this assessment.

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Planning Policy Statement 21 – Sustainable Development in the Countryside

Policy CTY 1- 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. In this instance the application is for an infill dwelling and as a result the development must be considered under CTY 8 of PPS 21.

CTY 8 - Ribbon Development

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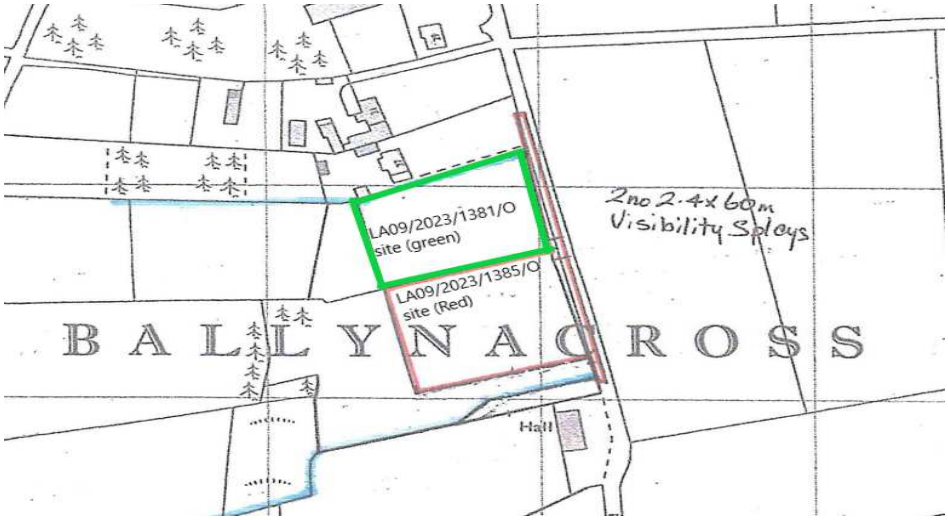
It is important to note that the applicant is applying for a dwelling and garage under the same policy under planning application LA09/2023/1381/O on lands north of the site (see figure 1).

Figure 1 (Courtesy of agent site location map)



Having assessed the site and surrounding area I do not consider the site meets with the requirements of Policy CTY 8. I do not believe this application site can be considered as a small gap site sufficient only to accommodate up to a maximum of two houses.

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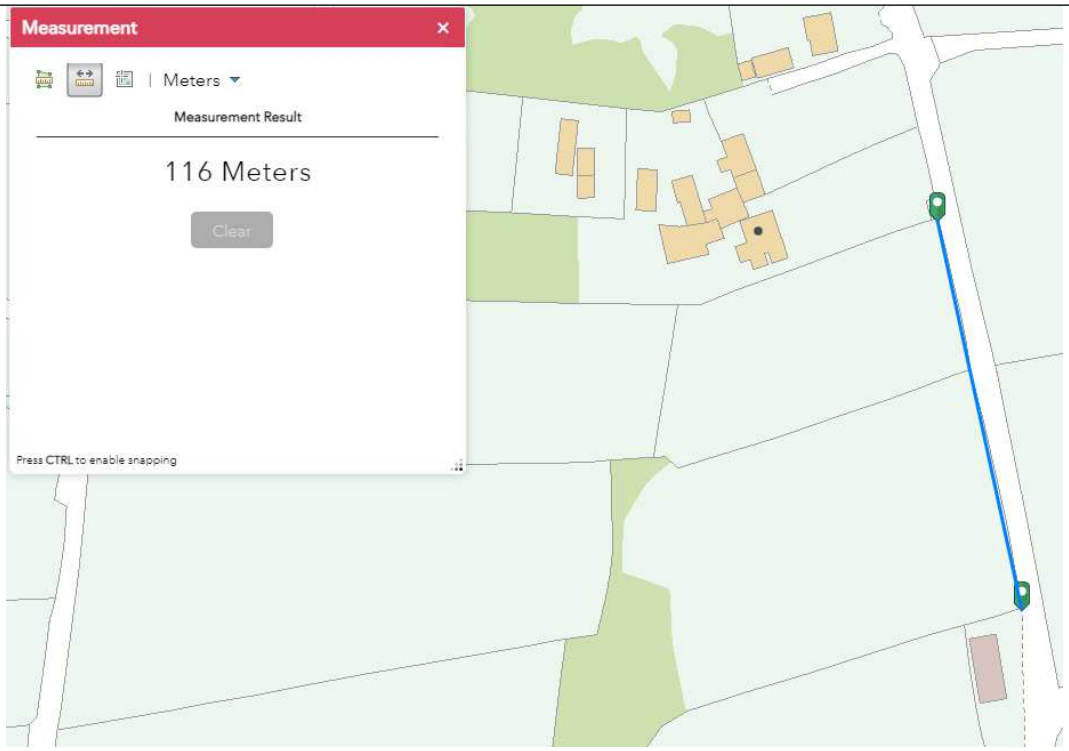
Furthermore, the gap site in question currently appears as a visual break between the small cluster of development to the North and to a degree, a cluster of development to the south. I hold the view that the proposal is contrary to Paragraph 5.34 of CTY8 in that if approved the proposed will erode on the rural character of the area and will extend a ribbon of development.

With regard to the built-up frontage, I hold the view that dwelling No.31 and No.37 north of the site, alongside the building No.39 south of the site hold a common built-up frontage and as such I am content the application meets this policy test of CTY 8.

Overall, I am of the opinion that the proposed does not comply and is contrary to Policy CTY 8.

Figure 2 (imagine from Mid Ulster Council Ortho)



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Other Considerations

This site is not located within or adjacent to any protected areas, including SACs, SPAs and Ramsar sites.

The site is not located within or adjacent to any listed building / structures.

The site is not subject to any issue issues pertaining to flooding.

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Summary of Recommendation:

Refuse is recommended

Refusal Reasons

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Signature(s): Ciara Carson

Date: 26 March 2024

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Date Last Advertised	9 January 2024
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Date of EIA Determination	
ES Requested	<events screen>

Planning History

Ref: LA09/2023/1385/O
Proposals: Dwelling and garage (infill)
Decision:
Decision Date:

Ref: LA09/2023/1381/O
Proposals: Dwelling and garage (infill)
Decision:
Decision Date:

Ref: H/2005/0901/O
Proposals: Site of dwelling and garage.
Decision: PR
Decision Date: 22-FEB-07

Ref: H/2006/0173/O
Proposals: Site of Dwelling & garage
Decision: PG
Decision Date: 19-JUN-06

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline resp.docx

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable