**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 5 October 2021 in Council Offices, Ballyronan Road, Magherafelt and by virtual means**

| | |
|---|---|
| **Members Present** | Councillor Black, Chair<br><br>Councillors Bell, Brown, Clarke, Colvin, Corry, Cuthbertson, Glasgow*, Hughes*, Mallaghan, McFlynn, McKinney, D McPeake, S McPeake, Quinn*, Robinson |
| **Officers in Attendance** | Mr Bowman, Head of Development Management<br>Ms Donnelly, Council Solicitor<br>Ms Doyle, Senior Planning Officer<br>Mr Marrion, Senior Planning Officer<br>Mr McClean**, Senior Planning Officer<br>Ms McCullagh, Senior Planning Officer<br>Mr McKeown*, Senior Planning Officer<br>Mr McGinley, ICT Support<br>Ms Grogan, Democratic Services Officer |
| **Others in Attendance** | Councillor Gildernew***<br>Councillor Molloy***<br><br>LA09/2021/0352/F Declan McKenna<br>LA09/2019/0733/O Orin Quigg<br>LA09/2019/0763/O Chris Cassidy***<br>LA09/2020/0881/O Carol Gourley<br>LA09/2020/1119/O Chris Cassidy***<br>LA09/2020/1225/O Martin Kearney<br>LA09/2021/0495/O Mark Nelson<br>LA09/2021/0495/O Councillor Glasgow* |

* Denotes members and members of the public present in remote attendance
** Denotes Officers present by remote means
*** Denotes others present by remote means

The meeting commenced at 7 pm.

**P130/21 Apologies**

The Service Director of Planning.

**P131/21 Declarations of Interest**

The Chair reminded members of their responsibility with regard to declarations of interest.

The Chair reminded members of a number of items on the agenda tonight which related to Mid Ulster District Council as applicant in the event of them wishing to declare an interest:

*Agenda Item 4.10 – LA09/2020/1497/F - 20 x 30m 3G multi use games area (MUGA) at the Presbyterian Church with ancillary works including floodlighting infrastructure (no Lighting) and fencing; upgrading of the existing carpark, new footpath, link with raised kerb to the school and the MUGA and new railings and gates along Edendoit Road frontage at land adjacent to 1 Edendoit Road, Pomeroy, Dungannon for Mid Ulster District Council.*

*Agenda Item 4.13 – LA09/2020/1643/F – Walking trails within Pomeroy Forest, on the site of the existing trails and a sensory garden to the S of the vacant site of the previously abandoned new forestry building at 56 Pomeroy Road Tanderagee Road, Pomeroy, for Mid Ulster District Council.*

*Agenda Item 4.19 – LA09/2021/0645/A - 4 signs 100mm x 200mm x100mm above ground level at Ballyronan Road roundabout, Magherafelt for Mid Ulster District Council.*

*Agenda Item 4.20 – LA09/2021/0646/A - 4 signs 100mm x 200mm x100mm above ground level at Ballyronan Road roundabout, Magherafelt for Mid Ulster District Council*.

*Agenda Item 4.21 - LA09/2021/0647/A 4 signs 100mm x 200mm x100mm above ground level at Aughrim Road, roundabout, Magherafelt for Mid Ulster District Council.*

*Agenda Item 4.23 – LA09/2021/0749/F - Change of use from existing part forest and provision of carpark (110m SW of 25 Brackagh Road, Iniscarn Road, Iniscarn, Desertmartin) and provision of play park within the existing forest (275m SW of 25 Brackagh Road, Iniscarn Road, Iniscarn, Desertmartin). Upgrade of existing forest trails and ancillary trail signage / waymarker posts - Iniscarn Forest, Iniscarn Road, Desertmartin for Mid Ulster District Council.*

All members in attendance declared an interest in the above items relating to Mid Ulster District Council as a named applicant.

*Councillor S McPeake declared an interest in Agenda Item 5.8 – LA09/2021/1093/F – Agricultural general purpose storage shed adjacent to 68 Lurgylea Road, Dungannon for James Gerard McElroy.*

*Councillor Glasgow declared an interest in Agenda Item 5.17 – LA09/2021/0495/O – Infill dwelling at site NW of 7a Killycurragh Road, Orritor, Cookstown (with access via Craigs Road) for Mr Maurice Freeburn.*

*Councillor Bell declared an interest in Agenda Item 5.13 – LA09/2020/1394/O – Dwelling on a farm between 112 & 118 Ardboe Road, Moortown, Cookstown for Ruairi Donnelly and Aimee O'Neill.*

**P132/21 Chair's Business**

The Chair also referred to addendum which had been circulated earlier in the day and asked if those joining remotely had seen this document and had time to read it.

Members joining remotely confirmed that they had seen the addendum and had time to read it.

The Chair advised that as there was a lot on the agenda tonight, there was another date in the diary for Tuesday 26 October should it be required for any items in an overspill. He stated that this would become evident as the meeting progressed and a decision being made at that point if so required. He advised that any applicants/agents listening in which may have their applications deferred would have an opportunity to present at the overflow meeting if required.

The Head of Development Management referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred from tonight's meeting schedule for an office meeting –

Agenda Item 4.7 – LA09/2020/1046/F – Retention and relocation of partially constructed Farm Shed for farm machinery storage and animal shelter and amendments to approved under LA09/2017/0977/F at 40m NE of 28A Toomag, Galbally for Noel McElduff.

Agenda Item 4.8 – LA09/2020/1098/F – Retention of existing structure to outdoor drinks area at Regans Bar, 19 Hall Street, Maghera for Bernard Regan.

Agenda Item 4.9 – LA09/2020/1322/O – Dwelling adjacent to 59 Drumaspil Road, Drumcrow, Dungannon for Eamonn Donnelly.

Agenda Item 4.12 – LA09/2020/1590/F – Farm building to incorporate stables, farm office, central heating plant room, agricultural storage and farm machinery garage, creation of farm laneway & alterations to public road access at 50m SE of 21 Tandragee Road, Pomeroy for Mr Kyle Smyth.

Agenda Item 4.15 – LA09/2021/0273/O – Site for dwelling and garage at Land at Tullaghmore Road, Roughan Road Cross Roads opposite and 30m S of 57 Tullaghmore Road, Dungannon for Joanne Badger & Jamie Allen.

Agenda Item 4.16 – LA09/2021/0317/O – Infill dwelling and garage between 23 and 27a Macknagh Lane, Upperlands, Maghera for Mr Paddy McEldowney.

Agenda Item 4.17 – LA09/2021/0352/F – Stable and store at lands approx. 55m W of 303 Battleford Road, Dungannon for Mr Patrick McKenna.

Agenda Item 4.18 – LA09/2021/0443/O – Dwelling & garage in gap site 30m W of 154 Battery Road, Cookstown for Shauna Quinn.

Agenda Item 4.25 – LA09/2021/0874/O – Dwelling and garage 30m NE of 122 Creagh Road, Anahorish, Castledawson for Mr Malachy Gribbin.

Agenda Item 4.26 – LA09/2021/0910/O – Dwelling in an infill site at land 200m SW of 211 Ardboe Road, Moortown for Patrick Quinn.

The following items to be withdrawn from tonight's schedule:

Agenda Item 5.4 – LA09/2020/0841/O – Site for a dwelling and domestic garage at approx. 45m W of 59 Lurgaboy Lane, Dungannon for Darren McKenna (withdrawn)

Agenda Item 5.7 – LA09/2020/1027/F – Infill site for 2 dwellings and garages between 11B and 11E Hillside Road, Upperlands for Danny McMaster (withdrawn)

Proposed by Councillor Bell
Seconded by Councillor Clarke and

**Resolved** That the above planning applications be deferred for an office meeting. Also two aforementioned applications be withdrawn from tonight's planning schedule.

**Matters for Decision**

**P133/21 Planning Applications for Determination**

**LA09/2019/0387/F Retention of dwellings (not constructed in accordance with I/2005/0596/F) and minor additional levels to rear garden at 19 & 21 Lucy Street, Pomeroy for Laurence McDonald**

Members considered previously circulated report on planning application LA09/2019/0387/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2019/0387/F be approved subject to conditions as per the officer's report.

**LA09/2020/0007/O Residential development with open space, landscaping, new road infrastructure and associated site works including the demolition of farm outbuildings at and adjacent to 185 Ballyronan Road, Ballyronan Magherafelt for Sylvia Watt**

Members considered previously circulated report on planning application LA09/2020/0007/O which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2020/0007/O be approved subject to conditions as per the officer's report.

**LA09/2020/0480/F Erection of 3 additional commercial units and associated car parking (Amended Plan) at existing yard at 3A Desertmartin Road, Tobermore for Asphalt Burner Services**

Members considered previously circulated report on planning application LA09/2020/0480/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2020/0480/F be approved subject to conditions as per the officer's report.

**LA09/2020/0521/F Residential Development of 30 Semi-Detached & 7 Detached Dwellings with associated access, Roads, Footway, Landscaping & Parking at Site Between Nos 6 & 8a Drumearn Road and to the rear of Nos 1, 1a & 1b Killycurragh Road Orritor Cookstown for Gallion Development (NI) Ltd**

Members considered previously circulated report on planning application LA09/2020/0521/F which had a recommendation for approval.

Proposed by Councillor Colvin
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2020/0521/F be approved subject to conditions as per the officer's report.

**LA09/2020/0739/F Site for 2 detached dwellings and garages at 25m W of 76 Gortgonis Road Coalisland for Mr Conor Tennyson**

Members considered previously circulated report on planning application LA09/2020/0739/F which had a recommendation for approval.

Proposed by Councillor Corry
Seconded by Councillor Colvin and

**Resolved** That planning application LA09/2020/0739/F be approved subject to conditions as per the officer's report.

**LA09/2020/0759/F Housing development consisting of 8 dwellings with associated access, roads, landscaping and provision of temporary treatment plant (Amended Plan) at lands adjacent to 121 Ruskey Road, The Loup, for Mr McVey**

Members considered previously circulated report on planning application LA09/2020/0759/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2020/0759/F be approved subject to conditions as per the officer's report.

**LA09/2020/1046/F Retention and relocation of partially constructed Farm Shed for Farm machinery storage, and animal shelter and amendments to approved under LA09/2017/0977/F at 40m NE of 28A Toomog, Galbally for Noel Mc Elduff**

Agreed that application be deferred for an office meeting earlier in the meeting.

**LA09/2020/1098/F Retention of existing structure to outdoor drinks area at Regans Bar, 19 Hall Street, Maghera for Bernard Regan**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/1322/O Dwelling adjacent to 59 Drumaspil Road, Drumcrow Dungannon for Eamonn Donnelly**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/1497/F 20 x 30m 3G multi use games area (MUGA) at the Presbyterian Church with ancillary works including floodlighting infrastructure (no Lighting) and fencing; upgrading of the existing carpark, new footpath, link with raised kerb to the school and the MUGA and new railings and gates along Edendoit Road frontage at land adjacent to 1 Edendoit Road, Pomeroy, Dungannon for Mid Ulster District Council**

Members considered previously circulated report on planning application LA09/2020/1497/F which had a recommendation for approval.

Proposed by Councillor Brown
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2020/1497/F be approved subject to conditions as per the officer's report.

*Councillor Mallaghan declared an interest in the above application as he sits on the project board for Connecting Pomeroy.*

**LA09/2020/1570/O Site for dwelling and garage at 20m SW of 128 Lisaclare Road Lisaclare, Dungannon for Joe Quinn**

The Head of Development Management said that members were probably aware that no speaking or deferral requests had been sought in relation to the above application and after looking into the background of the application he felt there may be some

personal circumstances which probably haven't been properly teased out yet so far. He advised members that he wouldn't be adverse to a deferring the application for an office meeting if members were in agreement.

Proposed by Councillor McFlynn
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2020/1570/O be deferred for office meeting.

**LA09/2020/1590/O Farm building to incorporate stables, farm office, central heating plant room, agricultural storage and farm machinery garage, creation of farm laneway & alterations to public road access at 50m SE of 21 Tandragee Road, Pomeroy for Mr Kyle Smyth**

Agreed that application be deferred for an office meeting earlier in the meeting.

**LA09/2020/1643/F Walking trails within Pomeroy forest, on the site of the existing trails, and a sensory garden to the S of the vacant site of the previously abandoned new forestry building at 56 Pomeroy Road Tanderagee Road, Pomeroy, for Mid Ulster District Council**

*Councillor Hughes declared an interest in the above application as a member of Connecting Pomeroy group.*

*Councillor Mallaghan declared an interest in the above application as a member of Connecting Pomeroy group.*

Members considered previously circulated report on planning application LA09/2020/1643/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2020/1643/F be approved subject to conditions as per the officer's report.

**LA09/2021/0095/O Infill dwelling and garage 35m NE of 8 Drumconready Road, Maghera, for Joe Heron**

Members considered previously circulated report on planning application LA09/2021/0095/O which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2021/0095/O be approved subject to conditions as per the officer's report.

**LA09/2021/0273/O Site for dwelling and garage at Land at Tullaghmore Road Roughan Road Cross Roads opposite and 30m S of 57 Tullaghmore Road Dungannon for Joanne Badger & Jamie Allen**

Agreed that application be deferred for an office meeting earlier in the meeting.

**LA09/2021/0317/O Infill dwelling and garage between 23 and 27a Macknagh Lane, Upperlands, Maghera for Mr Paddy Mc Eldowney**

Agreed that application be deferred for an office meeting earlier in the meeting.

**LA09/2021/0352/F Stable and store at lands approx. 55m W of 303 Battleford Road Dungannon for Mr Patrick McKenna**

Agreed that application be deferred for an office meeting earlier in the meeting.

**LA09/2021/0443/O Dwelling & garage in gap site 30m W of 154 Battery Road Cookstown for Shauna Quinn**

Agreed that application be deferred for an office meeting earlier in the meeting.

**LA09/2021/0645/A 4 signs 100mm x 200mm x100mm above ground level at Moneymore Road roundabout, Magherafelt for Mid Ulster District Council**

Members considered previously circulated report on planning application LA09/2021/0645/A which had a recommendation for approval.

Proposed by Councillor Brown
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2021/0645/A be approved subject to conditions as per the officer's report.

**LA09/2021/0646/A 4 signs 100mm x 200mm x100mm above ground level at Ballyronan Road roundabout, Magherafelt for Mid Ulster District Council**

Members considered previously circulated report on planning application LA09/2021/0646/A which had a recommendation for approval.

Proposed by Councillor Brown
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2021/0646/A be approved subject to conditions as per the officer's report.

**LA09/2021/0647/A 4 signs 100mm x 200mm x100mm above ground level at Aughrim Road, roundabout, Magherafelt for Mid Ulster District Council**

Members considered previously circulated report on planning application LA09/2021/0647/A which had a recommendation for approval.

Proposed by Councillor Brown
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2021/0647/A be approved subject to conditions as per the officer's report.

**LA09/2021/0678/O Dwelling at land adjacent to and SE of 39 Brookend Road Ardboe for Seamus McGuckin**

Mr Marrion (SPO) presented a report on planning application LA09/2021/0678/O advising that it was recommended for refusal.

Proposed by Councillor Colvin
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2021/0678/O be refused.

**LA09/2021/0749/F Change of use from existing part forest and provision of car park (110m SW of 25 Brackagh Road, Iniscarn Road, Iniscarn, Desertmartin) and provision of play park within the existing forest (275m SW of 25 Brackagh Road, Iniscarn Road, Iniscarn, Desertmartin). Upgrade of existing forest trails and ancillary trail signage / waymarker posts - Iniscarn Forest, Iniscarn Road, Desertmartin for Mid Ulster District Council**

Members considered previously circulated report on planning application LA09/2021/0749/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2021/0749/F be approved subject to conditions as per the officer's report.

**LA09/2021/0831/F Application to vary condition 14 of LA09/2019/0665/F to facilitate early occupation of the completed new school building prior to the completion of all site works which will include in curtilage turning/drop off areas at Holy Trinity College 9-29 Chapel Street Cookstown for St Patrick's Educational Trust Limited**

Members considered previously circulated report on planning application LA09/2021/0831/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2021/0831/F be approved subject to conditions as per the officer's report.

**LA09/2021/0874/O Dwelling and garage 30m NE of 122 Creagh Road, Anahorish, Castledawson for Mr Malachy Gribbin**

Agreed that application be deferred for an office meeting earlier in the meeting.

**LA09/2021/0910/O Dwelling in an infill site at land 200m SW of 211 Ardboe Road Moortown for Patrick Quinn**

Agreed that application be deferred for an office meeting earlier in the meeting.

**LA09/2019/0733/O Infill dwelling at 156m SW of 30 Mulnavoo Road, Draperstown for Cormac McCormick**

Members considered previously circulated report on planning application LA09/2019/0733/O which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2019/0733/O be approved.

**LA09/2019/0763/O Dwelling and garage for a Lough Neagh fisherman at 29m S of 6 Annaghmore Road, Cookstown for Sean Quinn**

Mr Marrion (SPO) presented a report on planning application LA09/2019/0763/O advising that it was recommended for refusal.

The Chair advised that a request to speak in favour of the application and invited Mr Cassidy to address the committee.

Mr Cassidy advised that all his life, eel fishing has been Mr Quinn's livelihood, and indeed, the livelihood of his parents and grandparents before him. He has a full eel licence to fish the lough and a copy of this had been sent into Council. Mr Quinn rises at 4am every single morning to lift the fishing lines laid the day before.

Mr Cassidy stated that the Councils Local Development Plan 2030 was launched on 22nd February 2019, Part J of the policy for dwellings within the plan relates to a dwelling for the holder of a commercial fishing licence, which the applicant has, with the application being submitted in June 2019, 4 months after the plans release.

It was anticipated the plan would proceed fairly quickly and this application could have been approved but due to technical errors and objections it was still awaiting release. These errors and objections have clearly prejudiced Mr Quinn who under the draft plan was fully entitled to a house.

He said that he could see no reason why this application cannot be parked until the release when it will almost certainly gain approval and asked that members consider this avenue.

Councillor S McPeake sought clarification on whether the agent suggested parking this application until the outcome of the Local Development Plan and if this was the case then he would propose to do so as to refuse it now could result in negative connotations. He agreed with the agent that there could be more complications in terms of the timeframe and felt that it was a fair suggestion that it be kept alive until the outcome of the Local Development Plan was published and a sensible suggestion.

The Head of Development Management said that it would be practical for members to exercise some caution in relation to this application. He said that this could result in banking applications where there was a reliance on policy which was probably a considerable period away yet. He said that it seemed equally reasonable that this application could be resubmitted at such times when there was a policy finalised and in place which could be implemented immediately. He stated that he would be cautious about building a backlog of applications, held pending an outcome of the plan and was also aware of the delays relating to it. He advised members that this application had a fair wind since 2019 and had failed on other policy and no current policy in PPS21 and aren't really any other exceptions of CTY1 where this application can find a safe home. He asked members to be mindful of starting to bank up applications pending outcome of the plan, then this could result in a significant amount of cases.

Councillor S McPeake said that he was not so sure where this lay within the draft plan as this was a completely new policy proposal that was being discussed and felt that by looking back at our plan there were tweaks here and there and for him personally, he didn't see any big sways of new applications coming in which would probably merit holding back. He felt that this was a unique policy change that was being discussed and not tweaking around the edges of the margins as if this was the case then this could encourage lots of new applications coming forward.

Councillor Colvin said that whilst he could understand the arguments, he felt there wasn't the scope legally or under the Council's procedures to actually defer and in his opinion that was what the Planning Officer's was alluding to. In his experience of Building Control a decision had to be made and our plan was unlikely to be ratified by the Department for quite some time and these things have to be taken into consideration.

The Chair stated that he had sympathy for both sides of this but felt if the application was to be refused, it doesn't prevent the applicant from applying again when the policy exists to actually determine the application.

Proposed by Councillor McPeake

Seconded by Councillor Bell

To defer the application until the Local Development Plan was in place.

Councillor Colvin sought clarification on how long the application was going to be deferred for and also requested a legal opinion on whether it was appropriate to do it. He said that he would be supportive of deferring the application for one month until legal opinion was sought.

The Chair enquired if Councillor Colvin was against the notion of what was suggested, to defer this application indefinitely until such times that a policy exists to mark it against.

Councillor Colvin advised that he would have to vote against that suggestion.

Proposed by Councillor Colvin

To defer the application for one month until legal opinion was sought.

The Council Solicitor advised that if the Council deferrals were set out in the planning procedures to consider an application and for further information, further negotiation or a site visit and before deferring the application, advice from the Planning Manager should be sought. She said that a deferral may be the case for a short basis to require further information and not for an indefinite period.

The Chair following up on Councillor Colvin's point advised if the committee was moving in the direction of deferring this until such times the policy came into force to be able to examine it against and asked if this could not fit into the definition of the reasons for deferral.

The Council Solicitor advised that this would need to be investigated to see if there was a way to indefinitely defer it and a justification for that. She said that she would be more content to defer the application for one month to consider this.

Councillor Brown referred to Councillor Colvin's comments and said that he would be of the same opinion. He said that two years down the line no-one knows what's going to happen once it goes to the Department in Belfast and they may come back and say that there may be changes made. He advised if this application was put on hold and a housing application was received and refused, then then agents could come along saying '*but under the new policy this would allow this to be in'* and the next thing the Council would be creating a rod to break our own backs. He said that he would be happy to second Councillor Colvin's proposal and doesn't mind if it was a deferral for one month pending what the Council Solicitor has said as long it wasn't a long drawn out process.

Councillor McFlynn sought clarification on what would happen if the site was refused and if the applicant could reapply again for the same site down the line. She enquired if the applicant/agent would be prepared to withdraw it until such times the Local Development Plan was active and then reapply.

The Head of Development Management confirmed that the applicant/agent could reapply on the same site and advised that there had already been a previous refusal on this.

Mr Marrion confirmed that there was a previous refusal which was appealed to the Planning Appeals Commission.

The Head of Development Management advised that legislation does prevent repeat applications or subsequent within a certain time period, but nothing in theory to stop a future application. He stated that this could be withdrawn but this needed to be before members made a decision. He said that members needed to be aware that there could be a flood of applications being received once there was a message out in the public domain that the Council was prepared to bank these applications long term and this could raise some difficult procedural matters for officers to manage.

The Chair said he took on board both arguments and asked if Councillor S McPeake after hearing what he heard still wished to leave his proposal as it was or potentially defer the application for one month to allow this to be considered further and a potential agreement around that.

Councillor S McPeake confirmed that he would be happy to defer the application for one month for further clarification on legal issues.

Proposed by Councillor Colvin
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2019/0763/O be deferred for one month until clarification is sought on legal issues.

**LA09/2019/1183/F Retention of Building for Communal Site Canteen, Locker Room & First Aid Facilities, adjacent to 18 Cookstown Road, Dungannon for Barry O'Neill**

Mr Marrion (SPO) presented a report on planning application LA09/2019/1183/F advising that it was recommended for refusal.

Councillor McKinney said that he was aware that the main sticking point was the access but to use it for a communal site canteen, locker room and first aid facilities was not going to make any additional access because no-one was going to go in there an extra 10 times in the day and only servicing people on the site. He said that he doesn't see the crucial point of access as anyone which was on the site was going to access the site anyway and no additional access for day to day running for communal site canteen, locker room and first aid facilities or whatever. He felt that it was a little harsh to indicate that the access was the main sticking point as development was there for food etc. and not going to add to the traffic flow in his opinion.

The Chair stated that from Councillor McKinney's comments he was saying that it wasn't going to intensify the use of the site in essence.

In response to a query, Mr Marrion (SPO) advised that officers had tried to explore with the agent whether or not there was intensification of the access. The agent was to provide surveys showing the amount of traffic using the access and making a case that this wasn't intensifying the use which they weren't able to do and nothing further submitted to Planning Department.

Mr Marrion (SPO) reminded members that there was enforcement on this site and if this application was to be approved, it would be approved with conditions which would limit the use of the site and may result in further enforcement action taken down the line.

Proposed by Councillor Mallaghan
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2019/1183/F be refused.

**LA09/2020/0841/F Site for a dwelling and domestic garage at approx. 45m W of 59 Lurgaboy Lane, Dungannon for Darren McKenna**

Agreed that application be withdrawn from the schedule earlier in the meeting.

**LA09/2020/0881/O Dwelling & garage at approx.140m NW of 57 Tullyodonnell Road, Rock for Mr Enda Mallon**

Ms McCullagh (SPO) presented a report on planning application LA09/2020/0881/O advising that it was recommended for refusal.

The Chair advised that a request to speak in support of the application had been received and invited Ms Gourley to address the committee.

Ms Gourley said she wished to raise a few points which were raised in the case officer's report. She stated what was critical tonight was that there was no weight given to the previous approval of the site under the old rural planning strategy and during the deferred office meeting Dr Boomer agreed that extent of approval was not implemented was a material consideration and given considerable weight. She said that she was disappointed that it had come back again and the report still doesn't mention that it was still a material factor and critically wise does acknowledge that it was within a different policy context, the same integration and rural character tests apply same as previous. The situation on the ground hasn't changed and to any degree to warrant a dismissal on those grounds as evident of page 4 of the case officer's report, the site was well back from the road, benefits from mature stand of trees which was clear to see on the location plan which would sit on the proposed house effectively screening it from view. The farm lane up to the site is surrounded by a mature hedgerow with intermittent trees and did acknowledge the ancillary work up to the site that the main laneway would have to be widened, but the critical hedgerow which provided the screening doesn't have to be removed or displaced as this can easily happen in the winter months and won't affect the growth of the hedgerow as it can be moved to the side a few metres.

In relation to the visual linkage and clustering, Ms Gourley advised that the policy allowed for an alternative site where there were justifiable reasons that a site at the main farm group wasn't available. She said that this was a small 50 acre holding, ¾ of which were contracted over to Moy Park for organic farming and thousands of chickens roam freely around 5 out of the 7 fields the applicant owns and for biodiversity security reasons it isn't an option to develop a family home in any of the 5 fields associated with Moy Park, which leaves 2 fields (fields 4 and 5 on map), with field 5 looking ideal given that a house could be developed in all size of a farm grip, but this was the applicant's most largest and valuable field for crop rotation. She said that cutting into this field would affect crop harvest and the applicant's single farm payment claim which was needed each year to sustain the farm business and keep it afloat. Field 5 is also open to the elements as it lacks mature boundaries for enclosure and rises steeply from the road in comparison to the selected site, in the corner of field 4 was well screened and had previously obtained approval and due to the mature trees within the site this corner of the field wasn't suitable for crop growing or eligible for inclusion for the single farm payment claim. She advised that an alternative site was selected within walking distance of the largest chicken house for surveillance and convenience purposes and said that a common sense approach was required in decision making and that policy wasn't to be slavishly followed as other factors alongside policy in reaching a formed decision.

In conclusion Ms Gourley advised that there was a need to have a site that worked for the applicant and to work for the farm business and not to disrupt the everyday running and management of the business enterprise.

The Head of Development Management advsied that he was aware that there was an old historical permission on this site and assumed that it was for an old replacement dwelling.

Ms Gourley confirmed that full planning permission was approved for a replacement dwelling which belonged to the applicant's deceased brother. This was approved due to it being well integrated and no rural character issues.

The Head of Development Plan felt that there was no fall-back position here and said that the difficulty here now was that officers were just not looking at an integration test but how the applicant/agent link the side of the cluster. He said that this was a curious and referred to page 4 of the case officer's report which indicates although it has overflow it doesn't look to be far away, which may be a result of topography.

He referred to the agent's comment regarding walking distance but said ideally the policy was a bit more precise and appreciated what was said about how close it was and referred to what CTY10 said in terms of visual linkage and distance, particularly the statement "*it must be visually linked with those buildings with little appreciation of any physical separation that may exist between them*"

In response from Head of Development Plan's query, Ms Gourley advised that the distance was 70 metres. She advised that this was the distance from the site itself to the chicken house to the north of the farm grouping. She advised that this site was for the applicant's son which works alongside his father and owns the chicken house.

As the applicant's son operates and running of the chicken house this would be the main source of surveillance i.e. check chickens at night and other things which may arise at short notice and require immediate attention for successful running of the business and within walking distance.

Ms Gourley updated members on biodiversity and health and safety at the site due to chickens running freely in some of the fields and not appropriate to have alternative sites due to the close proximity of the young family.

Councillor Mallaghan said he would like to address a few things on this particular application and given what he heard from the agent and read within the report. He said that he was looking at this application from some experience as a Poultry farmer himself and there was a need to look at this site and in the event of the farmer wishing to expand the site as some of the time when things are progress well and a decision taken to erect another house. He referred to page 4 of the officer's report and enquired where the farmer was going to put up his next poultry house and by looking at this it was going to be right down in field 5 as there was a need to have the chickens to range out each side particularly in an organic set up like this.

He said that he wished to raise the other issue which wasn't quite policy related and more of a common sense issue. If the farmer was doing this the other way about and applying for a poultry house, he would have to ensure that the house was 150m away from another residential property, but in this case we were expecting this young family to build their new house right on the farm, right next to cattle houses and poultry houses. He said that with an operation like this there was going to be at least 4 to 5 articulated trucks using the lane every week. He said that although policy states to build as close to a cluster as possible, he felt in these circumstances exceptions could be made and where poultry was concerned, there was a need to bring on board other considerations due to the high risk relating to avian influenza and ILT which can be brought onto a farm by vehicles which was very hard to manage particular where there was a shared access.

Councillor Mallaghan felt that there was enough grounds in what he had heard to make the exceptions and would make the proposal to recommend an approval for this application.

Councillor Clarke said that by listening to the agent and viewing the overhead information, felt that the proposed site was the best site as the Tullyodonnell Road runs across the bottom as far as he could see, which seemed to be a laneway up to the farmyard and this road seemed to be the safest. He referred to the vegetation into the entrance of the site on the overhead map, but he could see no vegetation around the other proposed sites and these looked exposed, particularly field 5. He felt that the main part of the Tullyodonnell Road where the main entrance would be with the farm buildings being behind the proposed site and would be happy to second Councillor Mallaghan's proposal to approve the application.

The Chair felt that there were a lot of issues raised in particular to clustering and topography of the land and various other issues of the site and enquired if it would be of any value conducting a site meeting for members. He said that he was aware of a

proposal being made already but this was a suggestion which may help members to move this along and come to a positive outcome.

Councillor Brown said that it was his understanding that this was an outline application and from what he had heard from the agent and other Councillors was quite happy to agree with them. He felt that the site identified was the best site rather taking away prime ground to build a house. He said that there was a laneway with vegetation and felt there was no need for a site visit against this application and the proposal which was made by Councillor Mallaghan and seconded by Councillor Clarke was sufficient and the right approach. He said that in his opinion it meets the criteria and there were other applications brought forward in the past for farm dwellings with a considerably further distance away and as the agent indicated it was 70 metres from the site to the nearest building which was the main place of work.

He said that the site which was identified meets the requirements and would be happy to support Councillor Mallaghan's proposal to approve the application.

Councillor McFlynn said that by listening to what the agent and case officer the main issue here should be safety for a young family. She said that this was a small country road with Lorries coming and going and safety of the family must be taken into consideration. She referred to site outlined in red and felt that this was well curtailed and had a hedgerow all around it and in her opinion the site needs to be well enough away from the main area of the farm, but close enough so the young family can continue their business and would be happy enough to agree with other members to go ahead and approve the site.

The Head of Development Management said that it was perfectly reasonable for members to consider health and safety in relation to this particular type of operation in terms of poultry farming and wasn't the first time it has been heard. In terms of visual linkage and if this had been a flat landscape and was somewhat disadvantaged because of the topography and was interested to hear what was stated earlier about not being able to visually link the farm grouping from the approach on the laneway or even see it. He felt that members should take into consideration the lack of visual connection with the farm grouping when considering also.

He said that he would have a slight concern regarding the amended location plan on page 332 of the overall report. He said that this had pulled the site back towards the northern boundary and the clump of trees seemed to be drawn on and enquired from the agent if there was an intention to develop behind those and retain the frontage vegetation there as this would not leave a lot of room.

Ms Gourley agreed that this was the case and would be happy to keep the periphery trees and would be happy to go with the Head of Development Management suggestion that the house type being a bungalow.

The Head of Development Management referred to Councillor Mallaghan's comments regarding policy and stated that there were two clear exceptions to a site away from the farm; health & safety relating to biosecurity risk and verifiable plans to expand on the farm which was secured permissions for additional poultry contracts. He said that members could consider in relation to health & safety risks as presented and attach

some weight to the previous permission or by it a very different policy context and was up to members to decide.

Councillor Glasgow said that when he was reading the report the main issue for him was the biosecurity as Moy Park operate a 24 hour operation and not the case of lorries operating from 9am to 5pm and more the case of coming and going in the middle of the night and no-one wants that when raising a young family on a farm. As said by previous speakers, a common sense approach needed to avail on this one and would have no issue supporting the proposal made for approval and the right avenue to go down as biosecurity weighs up why this exception must be made for this application.

Proposed by Councillor Mallaghan
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2020/0881/O be approved with appropriate conditions.

**LA09/2020/0899/O Site for a dwelling & domestic garage at approx. 15m N of 69 Anneeter Road, Coagh, Cookstown for Mr Charles Mallon**

Members considered previously circulated report on planning application LA09/2020/0899/O which had a recommendation for approval.

Proposed by Councillor Bell
Seconded by Councillor D McPeake and

**Resolved** That planning application LA09/2020/0899/O be approved subject to conditions as per the officer's report.

**LA09/2020/1027/F Infill site for 2 dwellings and garages between 11B and 11E Hillside Road, Upperlands for Mr Danny Mc Master**

Agreed that application be withdrawn from the schedule earlier in the meeting.

**LA09/2020/1093/F Agricultural general purpose storage shed adjacent to 68 Lurgylea Road, Dungannon, for James Gerard McElroy**

Members considered previously circulated report on planning application LA09/2020/1093/F which had a recommendation for approval.

Proposed by Councillor Colvin
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2020/1093/F be approved subject to conditions as per the officer's report.

**LA09/2020/1119/O Domestic dwelling and garage in a cluster at 10m W of 44 Ballyscullion Road, Bellaghy, for Mr Brian Milne**

Ms McCullagh (SPO) presented a report on planning application LA09/2020/1119/O advising that it was recommended for refusal.

The Chair advised that that a request to speak in favour of the application had been received and invited Mr Cassidy to address the committee.

Mr Cassidy advised that the existing cluster of development spans both sides of the road and extends from number 47 Ballyscullion Road to number 54 Ballyscullion Road. It comprises 12 houses and a number of outbuildings. The Council consider there to be a cluster of development here, as can be seen from the block plan it is bounded by two sides by other houses, site rounds of development at this location, with the sticking point appearing to be a focal point.

A focal point is considered as giving a place a 'sense of identity' and somewhere that is well known to the local community with a sense of presence, and so keeping within the spirit of the policy and he would consider there to be a number of focal points here.

Firstly the cottages that surround the site, these buildings were formally cottages which the workers from Ballyscullion house would have lived. The cottages are on the edge of the estate and are known locally as Ballyscullion Cottages. The listed boundary wall and listed gardens run adjacent to these cottages.

Secondly the cluster is a short distance from the main Bellaghy GAA grounds and what is known as the third pitch.

Thirdly to the north of our site at number 54a and within the cluster is a joinery business. This is a long established business having been here for over 40 years. The business pays business rates on the property and confirmation of this information has been given to Council today.

Mr Cassidy felt that the proposal meets the requirements of Policy 2a and can be said to comply with the overall thrust of the policy which is to round off and consolidate an existing cluster of development without changing the overall character of an area.

Mr Cassidy said that this being the case he would ask members to reconsider the decision.

The Head of Development Management said that by looking at this the main reason for refusal was the focal point and this was confirmed by the case officer.

In response to the Head of Development Management query, Mr Cassidy advised that the cottages were linked up to Ballyscullion House and this was where the workers would have lived at and known locally as Ballyscullion Cottages as previously stated meets 5 out of the 6 criteria and the bit which was left was the sticking point. He said that it was well documented that Planning Appeals were actually of the opinion that policy meets 5 out of the 6 criteria, the focal point isn't the sticking point and in the round if there was no focal point and beats everything else then they were happy to accept it.

The Head of Development Management said that he accepted this and indeed the committee had made a number of decisions which weren't met and as long as the policy was met in the spirit of the policy.

He said that the other issue was the use of the pitches and seemed fairly well removed here and was aware of the club house not being included as it was within the settlement. He said that it was awkwardly placed between three focal points where were relatively weak and would strongly suggest if members were in agreement to conduct a site visit to see what the reality was here, whether it was a cluster and what identity the joinery works have as it was only raised today and no chance to fully consider this.

Councillor Colvin said that he wasn't entirely clear and was listening to the arguments from the agent and agreed with the Head of Development Management that there was a need to have a look at this to see exactly what it was.

Proposed by Councillor Colvin

To hold a site visit before a decision was made on this application.

The Chair said that this may be a very wise move especially as the information only was received today.

Councillor Bell said that he would tend to disagree with the view that Wolfe Tones GAC ground which was approximately 150 - 200 yards down the road wasn't a focal point and a perfect example in his view of a focal point. He said that this was a community hub and the heartbeat of Bellaghy and you couldn't get any better of a focal point than the pitch and did acknowledge that it wasn't right beside the site but had seen other ones which the focal point was further away from the site which was approved. He said that he was very disappointed that the pitch was being considered as a focal point. He said that within the policy and had alluded to it a number of times, that it wasn't written in stone that a focal point was 200 metres, 300 metres, 400 metres away and sought clarity on that.

The Chair said that he took into consideration what Councillor Bell was saying about the distance and his understanding was that the focal point had to be within the cluster in which it was considered but asked the Head of Development Management to provide more clarity.

The Head of Development Management said just to clarity that he wasn't dismissing the pitch as a focal point and agreed it would be, but the circumstances here were different and read out to members a statement from the policy CTY2a – "*the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings"* and although it meets all these tests but the key one is that the cluster is associated with the focal point. He said that he was aware that Ballyscullion Road turns away from Bellaghy and quite highly vegetated on the roadside and feels significantly removed when travelling along the shoreline and he would struggle to have association with the pitch at that point but did acknowledge that it was a cluster in its own right, but just significantly weak on the focal point in his view.

Councillor McKinney said that he would be happy to second Councillor Colvin's proposal to conduct a site visit as he knows the road well and felt that the pitch was a bit far away.

The Chair said that it seemed a sensible way forward and asked members if they would be prepared to defer the application for one month for a site visit.

Councillor S McPeake said that by looking at one of the ordnance survey maps it seemed clear that it was rounding off perfectly for a cluster. He said that he also knew the road well as his mother was reared there and the cluster of houses was always recognised at that location and only made sense as these were homes for workers on the nearby estates. He said that this was a cluster in its own right and would be very supportive of it as it was only a few lengths away from the pitch and deserved merit.

The Chair said that the argument was strong amongst members and to hold a site meeting would be beneficial to explore in more detail and have an appreciation of that.

Proposed by Councillor Colvin
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2020/1119/O be deferred for one month for site meeting.

**LA09/2020/1217/F 2 dwellings with domestic garage (amended scheme) immediately adjacent to 12 Station Road, Moneymore for Cherrybrook Developments Ltd**

Members considered previously circulated report on planning application LA09/2020/1217/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2020/1217/F be approved subject to conditions as per the officer's report.

**LA09/2020/1225/O Infill dwelling at land adjacent to 214 Hillhead, Castledawson for Jim McPherson**

Ms McCullagh (SPO) presented a report on planning application LA09/2020/1225/O advising that it was recommended for refusal.

The Chair advised that a request to speak in favour of the application had been received and invited Mr Kearney to address the committee.

Mr Kearney said that the main principle of the this was does this site change the rural character of the area and would challenge any of the members which drive along the site and coming out of the Moyola Forest after a mile that the string of buildings including the new buildings started and now the near building to the side of the site which has been replaced does not create a very strong infill. He said that the site

wasn't potentially at risk and lies within a designated flood plain by NI Water and identify that would flood within the 100 year flood risk, so the sites as a result of the area long just this section of road up to the single house with the grip on the farm all lay within the floodplain with result that all the sites have been turned on their sides. Sites normally in the area would approximately 60m deep x 30m wide and this was now changed to 30m deep x 60m wide and advised that this was a very unique site and believes that the Council should consider its uniqueness. He said that a quick study was carried out on the size of the site for the potential joined site for a dwelling and it was established that a dwelling and a site within 0.6 acre site by any recommendation was not a large site and the remaining disputed land which was of Council concern left 0.18 acres which would not be suitable for a dwelling in the area because of the floodplain and also because of the slope of the land it would be situated on.

He asked a common sense approach be followed within the Mid Ulster area for a unique site that had very unique characteristics including very rare sites which lay adjacent to flood plains and are of this characteristic.

*Councillor Colvin left the meeting at 8.24 pm and returned at 8.25 pm.*

*Councillor McKinney left the meeting at 8.24 pm and returned at 8.26 pm.*

*Councillor Bell left the meeting at 8.24 pm and returned at 8.27 pm.*

The Head of Development Management said when making decisions on sites there was a need to take into consideration plot sizes and taking a fair assessment of what the average plot size would be and the sizes vary very significantly here. Clearly one of the impediments would be the flood risks as it does squeeze the sites towards the road which wasn't debateable and more of a fact. He questioned the house designs and whether it was feasible to have garages to the side and other house designs could have been designed which could elevate the problem. He said that he was aware of Mr Kennedy's site and the agent had touched on it here and felt that this should merit a site visit. He asked members to be thoughtful of the fact if this application was allowed the other (highlighted in orange) could realistically and feasibly be applied for two dwellings and may be extremely difficult to resist as this would revert back to plot sizes again.

Councillor S McPeake said that he knew the site very well as he lives just 200-300 yards up the road from it and travels on the road every day. He agreed that it was very unique as the river comes out right behind the sites and was aware of Mr Kennedy's being laboriously designed to work within the constraints of the river which came right up to his back door which was also the case for the sites adjacent to it. He concurred with the agent regarding the design of the dwellings being on their side as there was no depth from the roadway to the Moyola River.

He said that he would be very supportive of this application as it wouldn't change the characteristics of that strength of roadway as it was already built up and another one or two dwellings at that location wouldn't change it any way materially.

Councillor Brown concurred with what Councillor S McPeake comments and said that there could be an opportunity to get two dwellings fitted into that space and felt it wouldn't be totally out of character and said that he would be happy to second Councillor S McPeake's proposal for approval if he made one or if there was a need for a site visit he would be happy to second that also.

The Chair sought clarification on what the proposal was regarding this application.

Proposed by Councillor S McPeake
Councillor by Councillor Brown

To approve the application given the uniqueness of the site.

The Head of Development Management asked members to be careful as there could be a difficulty in making a decision for further development of the other site (highlighted in orange) which wasn't yet before the committee for consideration.

Councillor Colvin said that he would also have concerns regarding these very long gap sites as it could be envisaged to be taken to the extreme of half mile long where people put houses in them. He said that members had gone out on a site visit very recently were looking at one which was very long and was really stretching the definition of a gap in his view and whilst he didn't know this area he would defer it to the knowledge to the people like Councillor S McPeake who does live there. He said that he would be concerned about the limits of gap sites and agreed with the Planning Officer that members had to be mindful of that forward.

The Chair said that he didn't have an issue in principle but felt that seeing it on site in terms of understanding all the facts around it, but advised that a proposal was on the table which was being seconded and sought members thoughts on how they wished to progress this application.

Councillor Colvin said that he wished to abstain from this as he preferred to leave it open in future to challenge sites where they were too long and didn't want to be bound by precedent.

The Council Solicitor said that it would be important for members tonight to be mindful in regards to the option to defer back for a site inspection if there was the opinion that perhaps this could lead to other considerations in the future for similar planning applications. She asked that careful consideration be given as this may set a precedent going forward.

The Chair advised if the application was to be approved tonight there was no going back for a deferral as the decision had been taken.

Councillor Colvin said that after listening to legal advice, he felt that it would be important to go and look at the site before a decision was made to satisfy ourselves. He said that although the committee likes to help people out in any way we can there was still an onus on us to take into consideration similar situations which could occur and bind ourselves.

Proposed by Councillor Colvin
Seconded by Councillor McFlynn

To conduct a site visit.

Councillor Bell said that he would be supportive of Councillor S McPeake and Councillor Brown's proposal to approve the application.

The Chair put Councillor S McPeake's proposal to approve the application to the vote:

| | |
|---|---|
| For | 7 |
| Against | 8 |

The Chair put Councillor Colvin's proposal for a site visit to the vote:

| | |
|---|---|
| For | 15 |
| Against | 0 |

Councillor Colvin's proposal was carried.

**Resolved** That planning application LA09/2020/1225/O be deferred for a site visit.

**LA09/2020/1317/O Site for dwelling and garage at lands between 17-19a Drumrot Road, Moneymore for Miss Z McClintock**

Ms McCullagh (SPO) presented a report on planning application LA09/2020/1317/O advising that it was recommended for refusal.

Proposed by Councillor Colvin
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2020/1317/O be refused.

**LA09/2020/1394/O Dwelling on a farm between 112 & 118 Ardboe Road, Moortown, Cookstown for Ruairi Donnelly and Aimee Oneill**

Members considered previously circulated report on planning application LA09/2020/1394/O which had a recommendation for approval.

Proposed by Councillor Colvin
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2020/1394/O be approved subject to conditions as per the officer's report.

**LA09/2021/0103/F Dwelling under I/2006/0905/RM, 20m W of 24 Annahavil Road, Dungannon for Miss Lyn Somerville**

Members considered previously circulated report on planning application LA09/2021/0103/F which had a recommendation for approval.

Proposed by Councillor Colvin
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2021/0103F be approved subject to conditions as per the officer's report.

**LA09/2021/0331/O Site for dwelling at approx. 30m SE of 43 Ardagh Road, Coagh, for Mr Pat Mc Guckin**

Members considered previously circulated report on planning application LA09/2021/0331/O which had a recommendation for approval.

*Councillor Bell declared an interest LA09/2021/0331/O.*

Proposed by Councillor Clarke
Seconded by Councillor D McPeake

**Resolved** That planning application LA09/2021/0331/O be approved subject to conditions as per the officer's report.

**LA09/2021/0333/O Site for dwelling at approx. 20m NW of 90 Ballinderry Bridge Road, Coagh for Mr Pat Mc Guckin**

*Councillor Bell declared an interest LA09/2021/0333/O.*

Members considered previously circulated report on planning application LA09/2021/0333/O which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2021/0333/O be approved subject to conditions as per the officer's report.

**LA09/2021/0495/O Infill dwelling at site NW of 7a Killycurragh Road Orritor, Cookstown (with access via Craigs Road) for Mr Maurice Freeburn**

Ms McCullagh (SPO) presented a report on planning application LA09/2021/0495/O advising that it was recommended for refusal.

The Chair advised that a request to speak in support of the application had been received and invited Mr Nelson to address the committee.

Mr Nelson referred to the overview of proposal and stated that this was an outline application for a new infill dwelling under Planning Policy Statement 21, Policy CTY 8.

He referred to the reasons for refusal:

(a) 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.
(b) The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed dwelling is not located within an existing cluster of development; it does not appear as a visual entity in the local landscape; the cluster is not associated with a focal point or located at a cross-roads; it is not bounded on at least two sides with other development; and it cannot be absorbed into an existing cluster through rounding off.
(c) The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a gap site within a substantial and continuously built up frontage.
(d) 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 dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings.
(e) The proposal is contrary to Policy CTY 15 of Planning Policy Statement 21 Sustainable Development in the Countryside in that the development if permitted would mar the distinction between the designated settlement limits and the surrounding countryside.

Mr Nelson outlined his response to the above reasons for refusal:

**(1) Development is not bounded on at least two sides with other development**

The Professional Planning Report states that during the case officer's site inspection, development of adjacent approved sites had not yet commenced and they did not note any construction started. These are noted as buildings 2, 3 & 4 on the Site Location Plan (Appendix A). This application was relying on buildings 1, 2 & 3 as a minimum to form a line of at least 3 buildings to satisfy the criteria for an infill dwelling. However, building 1 was only present during the case officer's site visit as development had not started on the remainder of the recently planning approved buildings. While the Professional Planning Report was correct at the time off writing, development has now in fact started on site for buildings 2 & 3 (refer to Appendix A) during the latter weeks of May 2021, which are progressing well on-site and have reached roof level (refer to Appendix B for photo). This application was using these buildings to satisfy the requirements for an infill dwelling, and now that development has now started, a line of at least 3 'buildings' now exist.

**(2) Existing structure (building 1) to North is not considered a building**

The Professional Planning Report states that 'Immediately north of the application site is a small square metal structure which appears to be used for storage. This structure does not appear to have the benefit of planning permission however imagery does appear to indicate it has existed in place for more than five years. Given the nature, small scale and finish of this structure, I am not satisfied this would constitute a building which could be used to bookend a gap site'. This is noted as building 1 on the Site Location Plan (Appendix A) / (refer to Appendix B for photo). In regard to infill

dwellings, Policy CTY 8 permits the development of a small gap site within a substantial built-up frontage and defines a substantial built-up frontage as 'a line of 3 or more buildings along a road frontage'. It does not elaborate on what size or type a building should be. Indeed, the interpretation of a building under Statutory Rule of NI 2015 No 70 - The Planning (General Permitted Development) Order (NI) 2015 is as follows: a 'building' does not include plant or machinery or a structure or erection of the nature of plant or machinery and for the purposes of the Schedule does not include any gate, fence, wall or other means of enclosure but includes any structure or erection and any part of a building as so defined' (refer to Appendix C). It is therefore apparent that under planning legislation, this structure is a building, and if considered so, all reasons for refusal can surely be overcome.

**(3) Planning history of similar infill sites outside the settlement limits of Orritor**

This outline application has a lot in common with the below applications, which have all recently been approved just outside the development limits of Orritor as 'rounding off' of development. Building 4 (LA09/2019/1245/O) was initially recommended for refusal as an infill dwelling as it was using buildings within the development limits of Orritor. However, it was ultimately approved as a 'rounding off' of development. Buildings 2 & 3 (LA09/2020/0824/O) located to the west of building 4 were considered as an exception to policy and also approved as a 'rounding off' of development based on the previously mentioned application, even though development of the previously mentioned application had not commenced. I therefore feel that this outline application has a lot in common with the above applications and sets a strong precedent for also considering the proposal as 'rounding off' of development. I also believe that a suitably located and dimensioned dwelling, while not meeting the strict letter of the clustering policy, would respect the general thrust of and spirit of the clustering policy given the number of houses around it, its enclosure by built development and location within the village of Orritor.

*Councillor Clarke left the meeting at 8.47 pm and returned at 8.50 pm.*

The Chair thanked for Mr Nelson for his presentation and asked for any members comments.

Councillor Glasgow said that he knew the site quite well and for anyone growing up in Orritor they would have been aware of this building for years upon years. He said at the end of the day this all comes down to this new guidance we were looking at the minute and how it was going to determine what direction was to be taken in the future. He felt it was a case of whether we disregard the true purpose for what these buildings were truly used for and had served a purpose within that field whether that be providing shelter for any form of animal and there was a need to be realistic as we were a rural Council and these type of buildings were well seen and used throughout the countryside of Mid Ulster. He said that he had seen smaller situations when you look at the structure of the buildings which were previously approved where it was merely 4 posts hammered into the ground and a piece of tin erected around the sides and roof to provide shelter for young calves or sheep and shouldn't be writing this off as just a building as it was a building in its own merit as it continues to serve its purpose. He said that the agent had alluded that another house was going to tip the balance, which Councillor Glasgow disagreed with as Orritor was well beyond that and

was going to integrate quite well into Craigs Road and had the advantage of being tucked back and not visible in his opinion as it was a road that benefited greatly from great vegetation from the Killycurragh side coming back onto the Craigs Road.

He said that was why he declared an interest in the above application as he knows the road well and felt that this building shouldn't be written off as it continues to serve a purpose as a building.

The Head of Development Management referred to the Planning Advice Note (PAN) and said that this plan was submitted before that as a matter of fact and even with the relevant information and the PAN it would still leave the application extremely vulnerable and contrary to policy. He said even if building one was accepted as a lawful building, enquired from the agent where the line of three buildings were along the road frontage for the infill and felt that some of the houses doesn't have frontage onto Craigs Road and was struggling to understand that.

Mr Nelson advised that CTY8 Policy – 5.34 states "*Many frontages in the countryside have gaps between houses or other buildings that provide relief and visual breaks in the developed appearance of the locality and that help maintain rural character. The infilling of these gaps will therefore not be permitted except where it comprises the development of a small gap within an otherwise substantial and continuously built up frontage. In considering in what circumstances two dwellings might be approved in such cases it will not be sufficient to simply show how two houses could be accommodated. Applicants must take full account of the existing pattern of development and can produce a design solution to integrate the new buildings*" and his interpretation of that was that there was a visual link between three buildings and ultimately all facing onto the Craigs Road frontage.

The Head of Development Management said that the visual linkage would still need to relate to a particular frontage and his view that this linked onto the road to the south not Craigs Road. He advised that building one had no planning permission and did not give weight to this and asked members to be mindful of that when assessing infill here.

Councillor Cuthbertson said if the applicant had gone down the road looking for a CLUD would have this had any more bearing on this application before being submitted to planning.

The Head of Development Management said that the CLUD was a way of identifying a lawfulness of a building and still wasn't convinced if this was accepted that as it was unknown how static it was by way of foundations. He felt this building was done to bookend a line of development for the purpose of infill and in his opinion it was doing very little and could be the case of extending and affecting the settlement of Orritor on a northerly way now. He reminded members that the 2 houses (on dotted lines) were approved as an exception to policy and not as an infill as the settlement ran down where the junction was and approved as an acception of rounding off.
Councillor Brown stated that he didn't know the area and asked if there was any merit in arranging a site meeting to see where it fitted in with policy amongst other things that the agent highlighted.

The Head of Development Management advised that it would be beneficial to see this type of application on the ground and had no issue with arranging a site meeting if members were in agreement.

Proposed by Councillor Brown
Seconded by Councillor Colvin and

**Resolved** That planning application LA09/2021/0495/O be deferred for a site meeting.

**P134/21 Response to DAERA on Draft Cycle River Basin Management Plan**

Mr McKeown (SPO) presented previously circulated report to inform members that the Department for Agriculture, Environment and Rural Affairs have invited comments on their draft 3rd Cycle River Basin Management Plan (RBMP). This report and attached letter sets out the Council's considered response to same.

*Councillor Colvin left the meeting at 8.58 pm and returned at 9 pm.*

*Councillor Robinson left the meeting at 8.58 pm and returned at 9.01 pm.*

*Councillor McFlynn left the meeting at 9 pm and returned at 9.03 pm.*

Proposed by Councillor S McPeake
Seconded by Councillor Clarke and

**Resolved** To agree the contents of the report and the attached letter which will be issued to DAERA in response to their consultation on the draft 3rd Cycle River Basin Management Plan.

**P135/21 Correspondence from Dalradian Gold**

The Head of Development Management presented previously circulated report in relation to Dalradian Gold writing to Council to dispute some of the comments made by members at the Committee and to invite the Planning Committee and members to visit their site operations.

Proposed by Councillor Cuthbertson
Seconded by Councillor Robinson and

**Resolved** That it be agreed that

1) The Planning Manager accepts the invitation from Dalradian Gold on behalf of Officers.
2) That it be appropriate for any members to attend if they so wish.

*Councillor Cuthbertson left the meeting at 9.04 pm.*

**P136/21 DfC, HED Public Consultation on Conservation Principles Guidance for the Sustainable Management of the Historic Environment in Northern Ireland**

Mr McKeown (SPO) presented previously circulated report for members to consider Mid Ulster District Council's written representation to public consultation paper by Department for Communities, Historic Environment Division Conservation Principles Guidance for the Sustainable Management of the Historic Environment in Northern Ireland. The paper sets out their proposal for a Conservation framework for the sustainable management of the historic environment in Northern Ireland.

The purpose of this public consultation is to seek the views of all interested parties on the Department's proposal. The consultation runs for eight weeks ending at 5 pm on 8th October 2021. DfC, HED to give due consideration to all responses and a synopsis of response will be published as soon as practicable following the consultation period.

*Councillor Colvin declared interest in the above application due to being a member of Historic Monuments Council.*

Proposed by Councillor Brown
Seconded by Councillor Clarke and

**Resolved** To agree to the Written Representation (Annex A within report) and submit it as a Council's written representation to Public Consultation Paper Conservation Principles: Guidance for the sustainable management of the historic environment in Northern Ireland.

**Key points to be:**

- Lack of Governance, Accountability and Delivery Mechanisms
- No Government Body akin to Historic Scotland, Historic England and CaDU (Mandatory requirement to Identify, Manage, Monitor and Secure NI Heritage Assets
- No Historic Environment NI Act and associated Regulations (Statutory Requirements)
- No Historic Environment NI Strategy (Enforcement Framework)
- No Historic Environment NI Communication Strategy (NI Heritage Networks)
- No Historic Environment NI Education and Training Strategy (Professional Accreditation/CPD)
- No Historic Environment NI Annual Report (Condition of NI Historic Environment)
- Insufficient or No Historic Environment NI Grants and Loans (Financial Investment)
- Lack linkages with draft PfG Outcome Based Priorities such as Public Health and Wellbeing; Heritage and Climate Crisis; Heritage and Economy
- Withdraw PPS23
- Proposed Pilot Programme HED Accredited Conservation Officers

**Matters for Information**

**P137/21 Minutes of Planning Committee held on 7 September 2021**

Members noted minutes of Planning Committee held on 7 September 2021.

**P138/21 Receive Letter from Ulster Farmer's Union**

Members noted correspondence received from Ulster Farmer's Union expressing concerns on the Planning Advice Note ([PAN) Implementation of Strategic Planning Policy on the Development in the Countryside (Appendix 1).

*Live broadcast ended at 9.08 pm.*

**Local Government (NI) Act 2014 – Confidential Business**

Proposed by Councillor Brown
Seconded by Councillor S McPeake and

**Resolved** In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P139/21 to P142/21.

**Matters for Information**

P139/21 Confidential Minutes of Special Planning Committee held on 7 September 2021
P140/21 Confidential Minutes of Planning Committee held on 7 September 2021
P141/21 Enforcement Cases Opened
P142/21 Enforcement Cases Closed

**P143/21 Duration of Meeting**

The meeting was called for 7 pm and concluded at 9.10 pm.

Chair _____

Date _____

**Annex A – Introductory Remarks from the Chairperson**

Good evening and welcome to the meeting of Mid Ulster District Council's Planning Committee in the Chamber, Magherafelt and virtually.

I specifically welcome the public watching us through the Live Broadcast feed. The Live Broadcast will run for the period of our Open Business but will end just before we move into Confidential Business. I will let you know before this happens.

Just some housekeeping before we commence. Can I remind you:-

- If you have joined the meeting remotely please keep your audio on mute unless invited to speak and then turn it off when finished speaking

- Keep your video on at all times, unless you have bandwidth or internet connection issues, where you are advised to try turning your video off

- If you wish to speak please raise your hand in the meeting or on screen and keep raised until observed by an Officer or myself

- Should we need to take a vote this evening please raise your hand in the normal way and keep raised until advised to lower

- For members attending remotely, note that by voting on any application, you are confirming that you were in attendance for the duration of, and that you heard and saw all relevant information in connection with the application you vote on

- When invited to speak please introduce yourself by name to the meeting. When finished please put your audio to mute

- For any member attending remotely, if you declare an interest in an item, please turn off your video and keep your audio on mute for the duration of the item

- An Addendum was emailed to all Committee Members at 5pm today. There is also a hard copy on each desk in the Chamber. Can all members attending remotely please confirm that they received the Addendum and that have had sufficient time to review it?

- If referring to a specific report please reference the report, page or slide being referred to so everyone has a clear understanding

- For members of the public that are exercising a right to speak by remote means, please ensure that you are able to hear and be heard by councillors, officers and any others requesting speaking rights on the particular application. If this isn't the case you must advise the Chair immediately. Please note that once your application has been decided, you will be removed from the meeting. If you wish to view the rest of the meeting, please join the live link.

- Can I remind the public and press that taking photographs of proceedings or the use of any other means to enable persons not present to see or hear any proceedings (whether now or later), or making a contemporaneous oral report of any of the proceedings are all prohibited acts.

Thank you and we will now move to the first item on the agenda.

Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

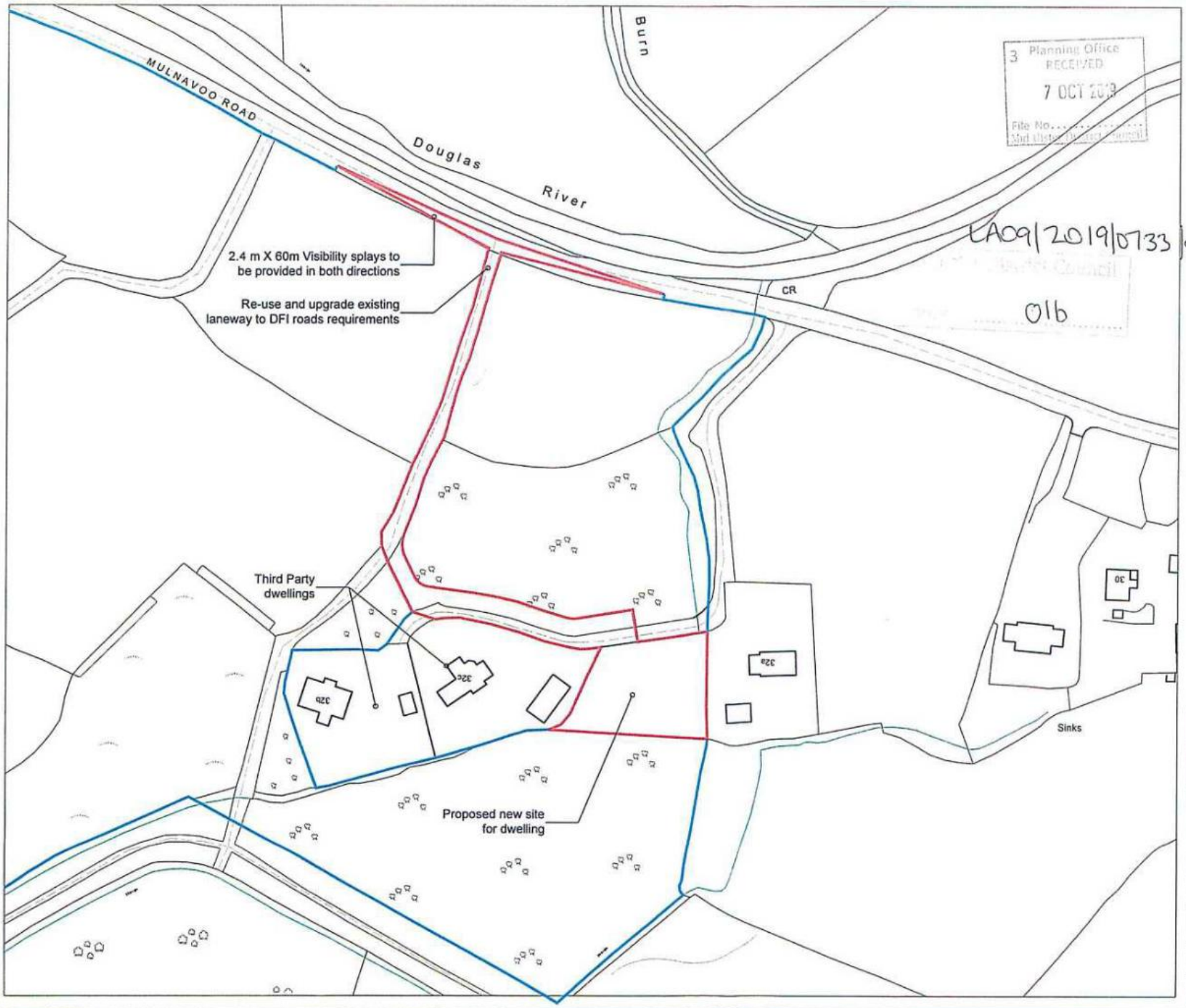
# ADDENDUM TO PLANNING COMMITTEE AGENDA

## FOR PLANNING COMMITTEE MEETING ON: 5 October 2021

**Additional information has been received on the following items since the agenda was issued.**

**Chairs Business**

| ITEM | INFORMATION RECEIVED | ACTION REQUIRED |
|---|---|---|
| 5.1 | Incorrect plan 01a was uploaded to report. See attached correct plan 01b which was used for the re-assessment. | Members to note. |
| 5.3 | Agent submitted late request to speak. Used before | Members to note. |
| 5.4 | Application withdrawn | |
| 5.7 | Application withdrawn | |
| | | |
| | | |
| | | |
| | | |
| | | |




3 Planning Office RECEIVED 7 OCT 2019 File No.....

LA09/2019/0733/O

016

# Site Location Plan

N

Scale = 1:1250

OS Map Reference =
077-05 SE & SW
077-05 NE & NW

Site Area = 2461 m² / 0.246ha

| Rev | Amendment | By | Date |
|---|---|---|---|
| D | | | |
| C | | | |
| B | DFI Roads amendments | P.H. | 03.10.2019 |
| A | DFI Roads amendments | OJQ | |

OJQ architecture
architecture and planning consultancy
The Gadda Building
89 Main Street
Garvagh
Coleraine
BT51 5AB
T:+44(0) 28 295 58449

(Cookstown Office)
41a James Street
Cookstown
Co. Tyrone
BT80 8AA
T:+44(0) 28 8676 6222

E: info@ojq-architecture.com
W: www.ojq-architecture.com

PROJECT TITLE
Outline planning application for infill Dwelling 156 Metres South West of No. 30 Mulnavoo Road, Draperstown, Co. Derry

DRAWING TITLE
Planning Drawings
Site Location Map

| PROJECT No. | DRG. No. | REVISION |
|---|---|---|
| 791-18 | PD-01 | B |
| SCALE | DATE | DRAWN BY |
| 1:1250 [A3] | 23.08.19 | OJQ |
| CLIENT | | CHECKED BY |
| C McCormick | | - |

☐ Information Only ☑ For Approval ☐ As Built
☐ Preliminary ☐ For Construction 