

**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 5 September 2017 in Council Offices, Ballyronan Road, Magherafelt**

**Members Present**

Councillor Mallaghan, Chair

Councillors Bateson, Bell, Clarke, Cuthbertson, Gildernew, Glasgow, Kearney, McAleer, McEldowney, McKinney, Reid, Robinson, J Shiels

**Officers in Attendance**

Dr Boomer, Planning Manager  
Ms Doyle, Senior Planning Officer  
Mr Marrion, Senior Planning Officer  
Ms McKearney, Senior Planning Officer  
Ms McMullen, Council Solicitor  
Ms Grogan, Committee Services Officer

**Others in Attendance**

**Applicant Speakers**

LA/09/2016/1241/F Charlotte Irwin – Six West Ltd  
LA/09/2015/0452/F Clare McParland – Clyde Shanks  
LA09/2015/1223/F Chris Cassidy – CMI Planners  
LA09/2017/0272/F Hayley Dallas – Ross Planning  
LA09/2017/0576/F Thomas Bell – Clyde Shanks  
Elaine Shaw – Northway  
LA09/2015/1239/F Gemma Jobling – JPE Planning  
Eunan Rafferty – Creagh Concrete  
LA09/2016/0797/F Jason Taggart – Taggart Design  
LA09/2016/0965/O Sheila Curtin – 2 Plan NI

Councillor B McGuigan

The meeting commenced at 7 pm

**P117/17 Apologies**

Councillors McPeake and Mullan.

**P118/17 Declarations of Interest**

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

*Councillor Reid declared an interest in application LA09/2016/1307/F*

*Councillor McKinney declared an interest in application LA/2015/1239/F*

*Councillor McAleer declared an interest in LA/2016/0693/F*

**P119/17 Chair's Business**

The Planning Manager updated the committee on the Development Plan and advised that there was good progress and representation being made and would anticipate being in a position to finalise a paper on the consultations responses for the plan in October. He advised that he would liaise with Democratic Services to arrange a suitable date for all members.

## **Matters for Decision**

### **P120/17      Planning Applications for Determination**

**M/2015/0097/F      Housing Development (40 units) state road and foul water treatment plant at 46 Tullyvar Road, Aughnacloy for Leo Daly**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Gildernew  
Seconded by Councillor McKinney and

**Resolved:** That planning application M/2015/0097/F be approved subject to conditions as per the officer's report.

**LA09/2015/0353/F      45 bedroom care home for the elderly at 180 – 182 Battery Road, Moortown (renewal of I/2009/0134/F) for Mr Lawrence McGuigan**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor J Shiels  
Seconded by Councillor Bell and

**Resolved:** That planning application LA09/2015/0353/F be approved subject to conditions as per the officer's report.

**LA09/2015/0452/F      Residential development of 65 dwellings, open space, landscaping, upgrade/traffic calming and ancillary site works at Mullaghboy Lane, Magherafelt for Mr J Keatley**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McKinney  
Seconded by Councillor Kearney and

**Resolved:** That planning application LA09/2015/0452/F be approved subject to conditions as per the officer's report.

**LA09/2015/1223/F      Engineering workshop, welfare building, drainage and service yard in relation to existing company at 21 Farlough Road, Dungannon for Specrum**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Reid  
Seconded by Councillor Clarke and

**Resolved:** That planning application LA09/2015/1223/F be approved subject to conditions as per the officer's report.

**LA09/2016/1136/F Single storey stand-alone coffee shop unit and car parking provision at Oaks Retail Park, Oak Road, Dungannon for MBCC Foods (Ireland) Ltd**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Gildernew  
Seconded by Councillor Reid and

**Resolved:** That planning application LA09/2016/1136/F be approved subject to conditions as per the officer's report.

**LA09/2016/1241/F Extension of existing quarry at Carmean Quarry, Carmean Lane, Moneymore for Northstone Materials**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McKinney  
Seconded by Councillor Clarke and

**Resolved:** That planning application LA09/2016/1241/F be approved subject to conditions as per the officer's report.

**LA09/2016/1246/F Winning and working of minerals (sand and gravel) with restoration to agricultural lands at land W of 53 Knockalerry Road, Cookstown for Mr Wilbert Patterson**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Glasgow  
Seconded by Councillor Reid and

Mr Marrion (SPO) referred to addendum and advised that the address on the planning agenda was incorrect (Knockaleery Road) but was correct on the application and was correctly advertised. He advised that the EHO response was to have conditions attached.

**Resolved:** That planning application LA09/2016/1246/F be approved subject to conditions as per the officer's report.

**LA09/2016/1590/F Store for existing moulds and vehicle parts at 15 Cullenfad Road, Dungannon for Mr Ivan McKeown**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Cuthbertson  
Seconded by Councillor Reid and

**Resolved:** That planning application LA09/2016/1590/F be approved subject to conditions as per the officer's report.

**LA09/2016/1624/O Dwelling and garage on a farm at lands to the rear of 215-217 Washingbay Road, Coalisland for B Donnelly**

Mr Marrion (SPO) presented a report on planning application LA09/2016/1624/O advising that it was recommended for refusal.

Proposed by Councillor Gildernew  
Seconded by Councillor McKinney and

**Resolved:** That planning application LA09/2016/1624/O be refused on grounds stated in the officer's report.

**LA09/2016/1795/F One and a half storey domestic garage at 31 Tullycall Road, Cookstown for Philip Thom**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Reid  
Seconded by Councillor Bateson and

**Resolved:** That planning application LA09/2016/1795/F be approved subject to conditions as per the officer's report.

**LA09/2017/0118/O Dwelling (amended access detail) between 18 and 20 Brackagh Road, Moneymore for Mr & Mrs P Cassidy**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Kearney  
Seconded by Councillor Reid and

**Resolved:** That planning application LA09/2017/0118/O be approved subject to conditions as per the officer's report.

**LA09/2017/0154/F Dwelling on a farm at 120m SE of 48 Stiloga Road, Eglish, Dungannon for PJ and Mikila McGee**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McKinney  
Seconded by Councillor Gildernew and

**Resolved:** That planning application LA09/2017/0154/F be approved subject to conditions as per the officer's report.

**LA09/2017/0180/F New car dealership building, incorporating two new vehicle showrooms, workshop, valet shop sales and administration space; external car parking facilities an associated landscaping works and external car sales provision at lands immediately SE and adjacent to 59 Moy Road, Dungannon for Donnelly Bros**

Application listed for approval subject to conditions as per the officer's report.

Mr Marrion (SPO) drew members attention to circulated addendum from Roads Service advising of additional conditions for inclusion.

Proposed by Councillor Reid  
Seconded by Councillor Gildernew and

**Resolved:** That planning application LA09/2017/0180/F be approved subject to conditions as per the officer's report.

**LA09/2017/0231/O Dwelling and garage/store on a farm at 55m NW of 132 Glen Road, Maghera for Mr Jethro Selfridge**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McKinney  
Seconded by Councillor J Shiels and

**Resolved:** That planning application LA09/2017/0231/O be approved subject to conditions as per the officer's report.

**LA09/2017/0272/F A single wind turbine of up to 2.3 megawatt power output with a maximum overall base blade to tip height of 92.5 metres. Ancillary developments will comprise turbine transformer; turbine hardstand, site entrance with sight line provision; 1 no. electrical control kiosk, construction of new access track; communications antenna; underground electrical cables and communication lines connecting wind turbine to electrical control kiosk; on-site drainage works; temporary site compound; and all ancillary and associated works at Beltonanean Mountain (renewal of I/2012/0211/F) for Graham Bell**

Application listed for approval subject to conditions as per the officer's report.

Councillor Glasgow proposed to accept the recommendation of the Case Officer.

Ms Doyle (SPO) went through the report and advised that this application was a renewal (I/2010/0211/F) of a full planning for a single wind turbine of up to 2.3 megawatt power output with a maximum overall base blade to tip height of 92.5 metres. Ancillary developments would comprise turbine transformer; turbine hardstand, site entrance with sight line provision; 1 no. electrical control kiosk, construction of new access track; communications antenna; underground electrical cables and communication lines connecting wind turbine to electrical control kiosk; onsite drainage works; temporary site compound; and all ancillary and associated works at Beltonanean Mountain.

She advised that the site was located in the townland of Beltonanean, 9km north west of Cookstown on Beltonanean Mountain (at 296m elevation) immediately north of Corvanaghan Mountain. In the immediate environs, the site was accessed off Beltonanean Road on rising ground close to old derelict farm buildings and some sheds with some mature trees and hedges. A 60m met mast was already located close to the site of the proposed turbine. The turbine was located on the lower slopes of this upland area which includes Beltonanean Mountain, Corvanaghan, Oughtmore and Evishbrack Mountain. To the north and east beyond lies the main body of the Sperrins AONB and the site lies metres just within that designated landscape. A quarry and associated buildings, plant and machinery was located immediately south of the site on Corvanaghan Road.

Ms Doyle advised that any development than generates energy from renewable resources would be permitted where the proposal and any associated buildings and infrastructure, would not result in any unacceptable adverse impact on the following planning consideration:

- Public safety, human health or residential amenity
- Visual amenity and landscape character
- Biodiversity, nature conservation or built heritage interests
- Local nature resources, such as air quality, water quality/quantity
- Public access to the countryside.

Ms Doyle stated that a third party objection had been received which raised the following concerns and what her views were on the matter:

- 1) **Previous conditions be attached to this permission should permission be granted – a reasonable request should permission be granted.**
- 2) **That the new assessment takes account of the AONB and a cautious approach being adopted – this has already been addressed**
- 3) **That the light at the tip of the turbine having detrimental impact on the Dark Sky status that the area is trying to establish – no other evidence to prove that Dark Sky status would not be achieved should the light be attached to the turbine for safety measures.**

She advised that the statutory agencies including NIEA, Roads Service and Telecommunications/Television/Aircraft Traffic had no concerns in terms of potential impacts and would be happy to recommend planning permission subject to conditions adhered too.

Councillor Bell said that listening to the officer's report and given the sensitivities around the Dark Skies and other similar projects within that area and taking into consideration the slight changes in protocol from the original planning application, he would be requesting that a site meeting be held.

Councillor Clarke agreed with Councillor Bell's sentiments and agreed that there could be issues around the Dark Sky project as what is visible to the naked eye for night photography could be detrimental due to red dots everywhere.

The Planning Manager advised said that he would have no issue with agreeing to a site meeting as this could determine a way forward on new proposals similar to this one coming forward.

Councillor Reid raised the following questions with the Planning Manager:

- i) Was there no site meeting prior to this application.
- ii) Was there any information received
- iii) If the Planning Manager wasn't 100% happy at any point why was approval granted in the first instance

The Planning Manager stated that approval was granted previously, this does not mean we have agree or disagree with that proposal, however it was a matter of fact that an approval was granted and that account must be taken of it in considering this application. He said that if the members decide to visit the site, this may have additional benefits to the consideration of this application, as it could assist in understanding existing policy and the implications of policy changes in a new Local Development Plan.

He said that the report was the view of the Case Officer which was assigned to the planning application which doesn't necessarily mean that it's the view of everyone else within the Planning Department or indeed the Council. In the terms of the Dark Sky project and the impact of safety regarding aircraft, options should be investigated like infra-red lights which could be picked up by the aircraft.

Councillor Glasgow advised that he would be happy to withdraw his proposal in favour of a site meeting being held.

Proposed by Councillor Bell  
Seconded by Councillor Clarke and

**Resolved:** That planning application LA09/2017/0272/F be deferred for a site meeting.

**LA09/2017/0322/O Site for 2 infill dwellings and garages 50m NW of 25 Aughagranna Road, Stewartstown for Brian McCuskey**

Mr Marrion (SPO) presented a report on planning application LA09/2017/0322/O advising that it was recommended for refusal.

Councillor Reid referred to the two existing properties and site on the map and asked if all the three properties were passed and sitting back behind, would this be classed as a ribbon development.

Mr Marrion (SPO) advised that as this property had access to the road and are all visually linked, to get access there would need to be a hedge and a view along the road.

Councillor Clarke stated that sometimes that this can't be achieved as a hedge may be hiding a building and enquired if there was another dwelling across the road from the proposed site.

The Planning Manager said that by looking at the aerial photo it looks like a large gap.

Councillor Gildernew stated that not taking the one across the road, the site looks as large as whole field and there was a need to take this into consideration.

Proposed by Councillor McKinney  
Seconded by Councillor Cuthbertson and

**Resolved:** That planning application LA09/2017/0322/O be refused on grounds stated in the officer's report.

**LA09/2017/0336/F Dwelling and detached garage (in substitution for approved LA09/2017/1585/O) at approx. 70m NW of 31 Rhone Road, Moy for Matthew Hughes**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McAleer  
Seconded by Councillor Gildernew and

**Resolved:** That planning application LA09/2017/0336/F be approved subject to conditions as per the officer's report.

**LA09/2017/0380/O Site for dwelling in a gap site 80m S of 31 Gortnaskey Road, Draperstown for Oonagh Barrett**

Ms Doyle (SPO) presented a report on planning application LA09/2017/0380/O advising that it was recommended for refusal.

Councillor Bell stated that this committee had previously passed gap sites like this one at No. 31. He said that the size of the frontage on the bend and the property to the south of the site that you could fit another 2 houses into the area. He said that he would be sympathetic towards the applicant in this instance and given that other applications similar to this one had been passed, he would propose an office meeting to get clarity.

Proposed by Councillor Bell



Seconded by Councillor Clarke

To defer for an office meeting.

The Planning Manager advised that this application differs from the previous as looking at the map the 2 houses have their own frontage to the road and a separate detached garage is evident creating 3 or more buildings. An office meeting and an Officer's second opinion.

Councillor Cuthbertson recommended refusing the application as he stated that if the applicant or agent were concerned they would have been here tonight to try and convince the committee to overturn the recommendation of refusal.

Proposed by Councillor Cuthbertson  
Seconded by Councillor J Shiels

To refuse the application.

The Chair advised that all members of the committee should have their opinion taken into consideration and if the majority of members were recommending an office meeting then this should be considered.

Councillor McKinney said that he would be happy to second Councillor Bell's proposal of having a site meeting as it would clarify things.

Councillor B McGuigan was in attendance and the Chair invited him to address the committee.

Councillor B McGuigan advised that he had spoken to the Architects this morning and that they agreed that there were issues around this application and would be happy if the committee would be in agreement to defer for an office meeting so this can be an opportunity to discuss a potential way forward or whether this was an appropriate site.

The Planning Manager agreed that this was a fair request and advised that looking at the aerial photo that the gap looks very big compared to the plan behind and would be good to get an accurate view.

Councillor J Shiels said that he would be happy to second Councillor Cuthbertson's recommendation for refusal.

Members voted on Councillor Bell's proposal to defer planning application LA09/2017/0380/O for an office meeting.

For - 11  
Against - 2

Members voted on Councillor Cuthbertson's proposal to refuse planning application LA09/2017/0380/O.

For - 2  
Against - 11

**Resolved:** That planning application planning application LA09/2017/0380/O be deferred for an office meeting.

**LA09/2017/0385/F Retention of existing 14m lattice tower and security compound with new concrete base and transmission cabin at Slieve Gallion, Tullynagee Road, Moneymore for Go Fibre Limited**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Clarke  
Seconded by Councillor McKinney and

**Resolved:** That planning application LA09/2017/0385/F be approved subject to conditions as per the officer's report.

**LA09/2017/0576/F Clean rainwater harvested attenuation lagoon, culvert (access) and ancillary site works associated with approved and under construction In Vessell Composting Facility at lands approx.. 215m E of 17 Aghnagar Road**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McKinney  
Seconded by Councillor Reid and

**Resolved:** That planning application LA09/2017/0576/F be approved subject to conditions as per the officer's report.

**LA09/2017/0655/F Health and beauty salon at 48A Milltown Street, Dungannon for Leah Cuddy**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McKinney  
Seconded by Councillor Reid and

**Resolved:** That planning application LA09/2017/0655/F be approved subject to conditions as per the officer's report.

**LA09/2017/0827/O Dwelling and garage 50m E of 37 Kilrea Road, Portglenone for Richard Lowry**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Kearney  
Seconded by Councillor Glasgow and

**Resolved:** That planning application LA09/2017/0827/O be approved subject to conditions as per the officer's report.

**LA09/2017/0893/F Domestic shed at 47 Annaghquinn Road, Rock, Dungannon for Kevin McGeehan**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Bell  
Seconded by Councillor Clarke and

**Resolved:** That planning application LA09/2017/0893/O be approved subject to conditions as per the officer's report.

**LA09/2015/1239/F Removal and alteration of conditions 2, 3 and 6 of previous approval H/2007/0546/F in relation to noise and operating hours, at Creagh Industrial Estate, Blackpark Road, for Creagh Concrete Products Ltd**

*Councillor McKinney declared an interest in application LA09/2015/1239/F.*

Application listed for approval subject to conditions as per the officer's report.

Councillor Reid proposed to accept the recommendation of approval.

Ms Doyle (SPO) brought members through the report and advised the description was to amend the proposal for the removal and alteration of conditions 2, 3 and 6 of previous approval H/2007/0546/F relating to noise and operating hours. She advised that 4 local objections had been received to the proposed alteration of opening hours which were previously approved under H/2007/0546/F which were 7.30 am to 7.00 pm Monday to Friday and 7.30 am to 3.00 pm on a Saturday. She said that in effect this permission would permit the operation of building TF1 2½ hours earlier Monday to Saturday and closing 3 hours later Monday to Friday. When the application previously came before the Committee it proposed the alteration to Condition 6 of the earlier permission only to ensure resident's amenity was not adversely affected.

Ms Doyle (SPO) continued to state that after considering all conditions relating to the site which was imposed under application H/2007/0546/F, and to regularise the overall situation relating to building TF1, it seems more appropriate to include conditions 2 and 3 which would read:

Condition 2: i) Internal noise within the buildings permitted by this permission; and  
ii) External noise levels at 1m from all facades and roofs of the buildings permitted by this permission

Planning Service shall be advised in writing of the date of the noise survey at least 2 weeks prior to the event, to enable Planning Service Officer's or Officers from

Planning Service's consultees to witness the measurements. This is to ensure resident's amenity is not adversely affected.

Condition 3: If the noise levels presented within the report required by condition 2, exceed those levels inputted into the noise prediction model contained within the noise report entitles 'Noise Impact Assessment Report for the Proposed New Buildings on the Creagh Concrete Site November 2007' then further works to reduce noise levels until they do not exceed those levels inputted into the noise prediction model shall be undertaken within a time frame specified by Planning Service. Within one month of the completion of further works, a noise survey shall be completed as per condition 2. This is to ensure resident's amenity is not adversely affected.

She advised that full revised noise reports had been submitted to address this proposal (and other related applications for Creagh). The findings have been accepted by EHO of Mid Ulster Council subject to conditions. The Acoustic Consultant for Creagh had utilised noise modelling software to calculate, present, access and predict the environmental noise from the proposed application on the nearest residential properties. The model conclusions demonstrate that noise levels at the nearest noise sensitive receptors are compliant with BS 4142:2014, based on a number of assumptions, there should be no adverse noise impacts predicted at receiver locations.

The Planning Manager referred to the objection letter from Mr & Mrs Mulholland which had been read out and said that it was important to consider this carefully. He said that the letter claimed wrong doing in that the recommendation to approve was made prior to the formal response of the Environmental Health Officer. However prior to asking for a formal response on the EPIC system, the Head of Development Management had verbally liaised with Environmental Health Officers beforehand. He continued to say that it wasn't normal practice to liaise with Objectors over consultee responses and would be content that the Objectors view that the application should be refused had been considered.

Councillor Glasgow stated that this application had been in the pipeline for a long time and that he had every faith that the Planning Department had considered all the aspects of the case carefully and with that in mind would be also recommending approval of the application.

**Resolved:** That planning application LA09/2015/1239/F be approved subject to conditions as per the officer's report.

**LA09/2016/0693/F Detached shed for winter storage of caravan and general domestic use at 239 Ballygawley Road, Dungannon for Martin McCaul**

*Councillor McAleer declared an interest in item LA09/2016/0693/F.*

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Gildernew  
Seconded by Councillor Kearney and

**Resolved:** That planning application LA09/2016/0693/F be approved subject to conditions as per the officer's report.

**LA09/2016/0797/F Retrospective change of use to car sales yard (including front garden changing to hardstanding car display) and tyre/alloy wheels sales at 53 and 53a Ballyronan Road, Magherafelt for Top Gear NI**

Application listed for approval subject to conditions as per the officer's report.

The Chair advised the committee that a request to speak on the application had been received from Mr Taggart who wished to change one of the conditions on the application and invited him to address the committee.

Mr Taggart advised that he was in attendance tonight to try and change the conditions for operating hours for his car dealership business.

The Planning Manager advised in that instance that this would need to be deferred for an office meeting.

Mr Taggart said that he would like to request that the condition on operating hours be enhanced in line with other car dealerships. He advised that the anticipated operating hours would be 8am – 8pm, two evenings a week instead of 8am – 6pm. He said that this would have no impact on residents within the area.

The Planning Manager stated that the conditions was to protect the residents within the area from nuisance in the evening time.

Mr Taggart advised that in the past it was a tyre depot and didn't want to defer the application but rather than move it forward.

Councillor Bell asked if it was possible to approve the condition of having two nights a week only and no more.

The Planning Manager said that he could see issues relating to this as the site was behind residential dwellings and this could cause annoyance, and impact on resident's privacy.

He said that it may be useful for the Case Officer to go through the report and enlighten the committee again.

Ms Doyle (SPO) brought members through the report.

The Planning Manager said that in his view that this was in operation and felt that one month would make no difference to the applicant if the application was differed for one month until clarification had been sought on the proposal.

Proposed by Councillor McKinney  
Seconded by Councillor Clarke and

**Resolved:** That planning application LA09/2016/0797/F be deferred for one month until all issues were investigated.

**LA09/2016/0965/O Dwelling and garage at lands between 103 Killymeal Road and 7 Edendork Road, Dungannon for Mr Rodger Jones**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Gildernew  
Seconded by Councillor Reid and

**Resolved:** That planning application LA09/2016/0965/O be approved subject to conditions as per the officer's report.

**LA09/2016/1300/O New dwelling at site 20m NE of 49 Brough Road and adj to Brough Road Crossroads, Castledawson for Mr Cathal McOscar**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McEldowney  
Seconded by Councillor Bell and

**Resolved:** That planning application LA09/2016/1300/O be approved subject to conditions as per the officer's report.

*The Chair advised that item LA09/2016/1307/F would be taken later in the meeting.*

**LA09/2017/0367/O Dwelling at 51 Drum Road, Cookstown for Mr and Mrs Glackin**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Glasgow  
Seconded by Councillor McKinney and

**Resolved:** That planning application LA09/2017/0367/O be approved subject to conditions as per the officer's report.

***Meeting recessed at 7.55 pm and recommenced at 8.15 pm.***

**P121/17          Removal of Public Payphone at Cavan Road, Bush, Dungannon**

The Chair referred to Addendum item 12 – Removal of Kiosk at Cavan Road, Bush.

The Planning Manager advised that a response had to be issued to BT and would be advising of the community concerns for its removal. He said that he would be asking the committee for approval for an Officer to formally issue a response.

The Chair advised that the residents of Rock requested that their telephone kiosk remain in the village as a conservation piece and may be worth considering the same in the Bush.

Councillor Cuthbertson advised that within the procedure of the Local Authority it states that if residents request that the telephone kiosk remain, BT haven't the authority to remove it. He said that local residents of Bush would be happy for the kiosk to remain as a centrepiece within the Village, but it may be worth taking into consideration the elderly residents in all of this and the possible use of an operational public payphone.

Councillor Clarke said that he knew of one village phone box which was removed after being hit by a car and it was never reinstated by BT.

The Planning Manager stated that there was a need to develop a process on a way forward on the removal of the phone boxes within our communities and he would suggest compiling a report which would be brought back to committee with a view of setting a system in place.

Councillor Kearney said that in some rural communities a public payphone could be a lifeline to some people when trying to contact the Emergency Services.

**Resolved:** That a response be issued to BT on concerns raised by members on the probable removal of public payphone at Cavan Road, Bush, Dungannon

**LA09/2016/1307/F   Construction of motorsport racetrack to include: ancillary buildings (pit garages/hospitality/media centre/press area; medical centre; shower block; crèche; mission hall; and restaurant area & spectator gallery); associated car parking; landscaping; acoustic banking; sound barriers; associated site works; relocated recycling area; internal loop road; and public link road between Dungannon Road and Derry Road with access points on Derry Road (2 No.) and Dungannon Road (1 No.) at Clay Pits, Dungannon Road, Coalisland for Manna Developments**

*Councillor Reid declared an interest in application LA09/2016/1307/F.*

Application listed for approval subject to conditions as per the officer's report.

The Planning Manager advised that the complex in Coalisland should not be just looked upon as a racetrack as there were more issues to take into consideration for example wildlife, transportation, amenity, public safety etc. He said that from the report it shows how each of the issues were not considered fatal to the application and could be dealt with by negative conditions. Each has been worked through, e.g. conditions relating to a new road and the link around the back of Coalisland. He said that Roads Service had accepted to treat this accordingly as this wasn't a housing development and were happy in principle. There were issues around race days as a lot of people would be coming to Mid Ulster and provision would be needed for parking and busing people to the site, which again was to be dealt with within the conditions.

He advised that the noise was the key potential impact and that noise levels was best controlled by limiting the number of event days and restricting vehicle use on non-event days through condition.

Another key issue related to land stability from possible old mines under the site. A view had been taken that as this was a predominantly open space use and that a risk could be mitigated against through use of pre commencement conditions requiring further investigation and engineering or design proposals to overcome any risks.

The Planning Manager stated that he was unhappy about consultations with GSNi and their response regarding mineshafts within the area, and the lack of evidence to whether they were present and whether they posed a major risk. Although GSNi have raised this concern they wouldn't commit to saying that they would be in favour of refusing the application. Investigations have been carried out by the applicant to see if mineshafts were there but the consultants conclusions had not been accepted.

*Councillor J Shiels left the meeting at 8.25 pm.*

The Planning Manager stated that he had received a phone call from the Department regarding Geological Survey stating that they were unhappy to support the proposal because they did not feel they had sufficient information to assess whether there was a risk from the mineshafts.

He read a letter dated 25<sup>th</sup> August 2017 from Geological Survey section outlining their concerns to the proposal. He said that the letter was conflicting as it said two different things and they had every opportunity to object but wouldn't commit to using the word.

Councillor Cuthbertson enquired if the Department could still call the application in if a decision was made tonight.

The Planning Manager stated that the application could be called in at any time prior to a decision being issued and the Department can serve a directive on the Council not to issue a decision. They also have powers to revoke a decision. However, in



his view there was no duty to notify the Department of the application under the provisions of Department of the Environment Planning (General Development Procedure) Order (Northern Ireland) 2015 Planning (Notification of Applications) Direction 2015, which was read out to the committee.

The Council Solicitor advised that the interpretation of the letter was that the proposal indicated a risk and her preference would be to defer the application until the requested information was issued to the Department. She said that she would err on the side of caution as she didn't want it said that proper procedures weren't adhered to.

The Chair advised the committee that a request to speak on the application had been received and invited Mr Maneely to address the committee.

Mr Maneely said that he wanted to thank the Planning Department for going the extra mile on this application. He said that he wasn't expecting this outcome tonight as approximately eight weeks ago, the same thing had been discussed. He said that the letter read out by the Planning Manager was incorrect as Engineers were sent out to investigate the site which was passed and this was then issued to GSNI which they chose to ignore. He continued to say that there was a duty of care as professionals as this was a 140 acre site. He said that this wasn't a principle problem but an Engineering problem and was aware of mineshafts within the area which the Council built its refuge site on and no fatalities had occurred for over 100 years which should tell you something.

Councillor Reid addressed the meeting and advised earlier that he had declared an interest in the application and when he first seen the proposal, he was very excited as it was a massive thing for the Mid Ulster Area which was brought about by one individual man who decided to invest in his own homeland.

Mr Maneely said that the majority of Coalisland and Edendork were sitting on mineshafts and if there was something suspicious about this, that he wouldn't be happy to proceed if things weren't right, but that he was confident it was and on that basis he would be happy to defer the application until everything was in place as he wanted to see this major investment proceeding.

The Chair said that the committee needed to decide on whether to defer the application until the conditions outlined by GSNI were investigated or proceed with the recommendation of the Officer.

Councillor Clarke said that looking carefully at the start of the letter issued by GSNI where they suggested that they have all the relevant information on mines within the area, then they should be the ones who should be advising on how to get around this obstacle. The GSNI should be in a position to start where the information was on the mines and as there were a lot of complications on this one with little effort to try and resolve the matter.

Councillor Bateson felt that only the logical conditions needed to be established and try and work these off and proposed to proceed with the application otherwise it would remain a mystery.

Councillor Glasgow stated that if GSNI were so against the application then why were they not here tonight as villages weren't supposed to be built on mineshafts in the first instance. He said that he agreed with Councillor Clarke in considering such a huge project, why was the relevant information not provided and would second Councillor Bateson's proposal to agree to the recommendation of approval as outlined tonight.

Councillor Kearney also agreed that if GSNI were so concerned about the application, they would have made an effort to be in attendance tonight to highlight their concerns.

The Planning Manager advised that GSNI were aware that the application was recommended for permission subject to conditions relating to land stability and had waited until now to raise concerns and when he asked them if they wished to formally object to the application they didn't commit to a reaction.

Councillor Bell felt that the Statutory Agencies should be held liable if they were withholding information.

Councillor Cuthbertson stated that the conditions were fairly strong and he would be confident that they would be protected by the Council. He said that last month if this application was approved, then the Department could have called it in and asked if a decision was made tonight, could the Department step in and put the project at risk as this could go on for years.

Councillor Bateson said that the only way to establish the implementation of the conditions would be to eliminate them as this site could remain the same for the next 100 years if not being established now.

Councillor Glasgow stated that the conditions were as tight as he had ever seen before for such huge investment and if the conditions were not adhered to then a lot of money would be lost. He said that he felt that this committee had to make a decision to proceed with this project and make a stand against the Statutory Agency.

Councillor Gildernew said that he would also be happy to accept the recommendation of approval of the application.

Councillor Robinson referred to the Council Solicitor's recommendation of using an err of caution and enquired if this should be taken into consideration by the committee.

Councillor Bateson stated that there was an element of risk on any application and based on the information provided, strict conditions are in place and once an established risk was identified then this can be addressed.

The Planning Manager stated that GSNI haven't formally objected to the application.

The Council Solicitor advised that her problem was that the letter was open to interpretation.

The Planning Manager said that there was a need by the committee to make a decision given the applicant had asked for one, the alternative was therefore to approve with condition or refuse based on lack of information.

The Council Solicitor stated that there was a lot involved but that GSNI have asked for information and would go down the route of deferring the application until all the relevant information was generated, and would still be of the opinion that an err of caution be made.

Proposed by Councillor Bateson  
Seconded by Councillor Glasgow

**Resolved:** That planning application LA09/2016/1307/F be approved subject to conditions as per the officer's report.

### **Matters for Information**

#### **P122/17 Minutes of Planning Committee held on Tuesday 1 August 2017**

Members noted minutes of Planning Committee held on Tuesday 1 August 2017.

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

Proposed by Councillor Clarke  
Seconded by Councillor Robinson 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 P123/17 to P128/17.

#### **Matters for Decision**

P123/17 Receive 3 no. Enforcement Cases

#### **Matters for Information**

P124/17 Confidential Minutes of Planning Committee held on Tuesday 1 August 2017

P125/17 Enforcement Live Caseload

P126/17 Enforcement Cases Opened

P127/17 Enforcement Cases Closed

Councillor McKinney requested that at the next meeting that fresh water be provided.

#### **P128/17 Duration of Meeting**

The meeting was called for 7.00 pm and ended at 9.40 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_