

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 6 March 2018 in Council Offices, Ballyronan Road, Magherafelt

Members Present

Councillor Mallaghan, Chair

Councillors Bateson, Bell, Clarke, Cuthbertson, Gildernew, Glasgow, Kearney, McAleer, McEldowney, McKinney, McPeake, Mullen, Reid, Robinson

Officers in Attendance

Dr Boomer, Planning Manager (7.40 pm)
Ms Doyle, Senior Planning Officer
Mr Marrion, Senior Planning Officer
Mr McCrystal, Senior Planning Officer
Ms McEvoy, Head of Development Plan and Enforcement
Mr McGibbon, Senior Planning Officer
Ms McKearney, Senior Planning Officer
Ms McNally, Council Solicitor
Ms Grogan, Committee Services Officer

Others in Attendance

Applicant Speakers

LA09/2016/1692/F	Chris Cassidy
LA09/2017/0897/F	Sean Lavery (Against)
LA09/2017/0897/F	Chris Cassidy (For)
LA09/2017/1384/O	Patrick McMullan
LA09/2017/1494/F	Paul Heron
LA09/2015/0147/F	Chris Cassidy

The meeting commenced at 7.04 pm

P032/18 Apologies

Councillor Mullen.

P033/18 Declarations of Interest

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

P034/18 Chair's Business

The Chair reminded members of the NILGA Planning Training Programme, which was being offered and felt that this may be beneficial to Councillors on the Planning Committee. He said that any member which wished to be included should forward on their name to Democratic Services.

The Head of Development Plan and Enforcement drew members attention to the undernoted planning applications for determination and sought approval to having the following deferred from the list tonight.

- Item 4.1 – H/2014/0119/F – Deferred for an Office Meeting
- Item 4.8 – LA09/2016/1692/F – Deferred for an Office Meeting
- Item 4.13 - LA09/2017/1158/O – Deferred to Access the Additional Information

Proposed by Councillor McKinney
Seconded by Councillor Bateson and

Resolved: That it be recommended to the Council to deal with the remaining applications as listed.

Matters for Decision

P035/18 Planning Applications for Determination

The Chair drew Members attention to the undernoted planning applications for determination.

H/2014/0119/F Microhydro Electricity Generating Renewable Energy System on the Glengomna Water, Turbine House, 150m SE of 91 Bancran Road, Draperstown. Intake structure 1300m NW of turbine house on Glengomna Water for Mr C Heron

Mr McCrystal (SPO) presented previously circulated report on planning application H/2014/0119/F advising that it was recommended for refusal.

Resolved: That planning application H/2014/0119/F be deferred for an office meeting.

M/2014/0318/F Renewal of planning permission M/2007/1030/F for erection of a housing development (reduced scheme) at lands adjacent to Quarry Lane, Dalradia Park, No's 1-14 Meadowvale, 4A Carland Road and Drumglass High School, Dungannon for Geda Construction

Members considered previously circulated report on planning application M/2014/0318/F which was recommended for approval.

Proposed by Councillor Reid
Seconded by Councillor Gildernew

Resolved: That planning application M/2014/0318/F be approved subject to conditions as per the officer's report.

LA09/2015/0709/O Site for food production unit (factory) and new access to have 3 passing bays, at 300m NE of 160 Tandragree Road,

Pomeroy, Dungannon for Samuel Robinson (Cloughbane Farm Shop)

Members considered previously circulated report on planning application LA09/2015/0709/O which was recommended for approval.

Proposed by Councillor Reid
Seconded by Councillor Cuthbertson and

Resolved: That planning application LA09/2015/0709/O be approved subject to conditions as per the officer's report.

LA09/2016/1052/F Installation of a pedestrian/cycle linkage and a new art feature with associated site and landscape works at Castledawson Roundabout forming the junction between the A6, A31 Castledawson Road and A54 Magherafelt Road, Townland of Killyneese for TransportNI

Members considered previously circulated report on planning application LA09/2016/1052/F which was recommended for approval.

Proposed by Councillor Clarke
Seconded by Councillor Kearney and

Resolved: That planning application LA09/2016/1052/F be approved subject to conditions as per the officer's report.

LA09/2016/1293/F Extension to storage facilities and improvements to sight lines at the main entrance, 6 Grange Road, Cookstown for Allingham Transport

Members considered previously circulated report on planning application LA09/2016/1293/F which was recommended for approval.

Proposed by Councillor Glasgow
Seconded by Councillor Bell and

Resolved: That planning application LA09/2016/1293/F be approved subject to conditions as per the officer's report.

LA09/2016/1342/F Dwelling in substitution of remaining 2 plots of planning approval H/2005/0495 adjacent to 1, 3 and 5 Roughan Glen, Halfgayne Road, Maghera for Thomas and Bernard Cassidy

Members considered previously circulated report on planning application LA09/2016/1342/F which was recommended for approval.

Proposed by Councillor McEldowney
Seconded by Councillor Bateson and

Resolved: That planning application LA09/2016/1342/F be approved subject to conditions as per the officer's report.

LA09/2016/1403/F Replacement dwelling and garage at 45 Rocktown Road, Bellaghy for Mr David Arrell

Members considered previously circulated report on planning application LA09/2016/1403/F which was recommended for approval.

Proposed by Councillor Bateson
Seconded by Councillor McKinney and

Resolved: That planning application LA09/2016/1403/F be approved subject to conditions as per the officer's report.

LA09/2016/1692/F Change of house type to previous approval I/2008/0534/F at lands adjacent to 35 Killymuck Road, Coagh, Cookstown for Mr Terence McGuckin

Mr McCrystal (SPO) presented previously circulated report on planning application LA09/2016/1692/F advising that it was recommended for refusal.

Resolved: That planning application LA09/2016/1692/F be deferred for an office meeting.

LA09/2017/0625/O Dwelling and domestic garage/store on a farm at approx. 30m ENE of no 52 Five Mile Straight, Draperstown for Aidan McGuigan

Members considered previously circulated report on planning application LA09/2016/1403/F which was recommended for approval.

Proposed by Councillor Kearney
Seconded by Councillor McAleer and

Resolved: That planning application LA09/2017/0625/O be approved subject to conditions as per the officer's report.

LA09/2017/0735/F General upgrading works, removal of NW extension, new fleche and roof lights added to roof, new extension to the NW and SW at St Mary's Church, Lavey, 68 Mayogall Road, Knockloughrim for Fr Eamon Graham PP

Members considered previously circulated report on planning application LA09/2017/0735/F which was recommended for approval.

Proposed by Councillor McPeake

Seconded by Councillor Kearney and

Resolved: That planning application LA09/2017/0735/F be approved subject to conditions as per the officer's report.

LA09/2017/0834/F Social Housing Development (28 dwellings), access roads and site works at lands to the rear and SSW of 14-32 Barrack Street, Coalisland for J&A Developments Ltd

Members considered previously circulated report on planning application LA09/2017/0834/F which was recommended for approval.

Proposed by Councillor Clarke
Seconded by Councillor Reid and

Resolved: That planning application LA09/2017/0834/F be approved subject to conditions as per the officer's report.

LA09/2017/0897/F Part use of existing farm shed to provide internal dry storage of peat at 100m NW of 213 Washingbay, Coalisland for Jim McCuskey, Evergreen Peat

Mr Marrion (SPO) presented previously circulated report on planning application LA09/2017/0897/F advising that it was recommended for refusal.

The Chair advised that a request to speak against the application had been received and invited from Mr Lavery to address the committee.

Mr Lavery advised that the key issue about this application was not about the use of the site as an agricultural base but rather about being a commercial business and legally this could not be justified, as it was not an active farm. It appeared that DEARA confirmed in 2016 that Mr Joe McCuskey (applicant for the original 2012 permission) had still not been granted a flock number, in spite of an understanding that they would apply for such a number if the shed was approved by the Department as the case made at the time was for future livestock, with the applicant now listed as a Mr Jim McCuskey. Planning permission was for a built shed, but there was a failure in the construction of the doors and a built concrete wall surrounding the area, which no planning permission was granted for. It was agreed that no lorries or trailers were to be parked at the site, which is now not the case as it is being run as a commercial business rather than an agricultural one which permission was approved for.

Mr Lavery stated that the shed was having a visual impact on the rural character of the area as lorries and trailers can clearly be seen from afar. He said that there was also the pollution impact on the rural area as a disused generator is laying redundant and would support the recommendation of Planning Officers to refuse the application as it wasn't an active farm but rather than a commercial one.

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

Mr Cassidy advised that the Supporting Statement for part use of existing farm shed to provide internal dry storage of peat in association with the applicants established horticultural business (Evergreen Peat).

He stated that Evergreen peat commenced trading from the Ferry Road site in the 1950's manufacturing baled peat and today, Evergreen offers a comprehensive range of 100% peat based composts to customers throughout Ireland, Mainland UK and Europe. The company has recently been awarded an export licence to import into the Middle East and Australia. The company employs 26 people and operate a fleet of 13 lorries and 30 trailers, with all the business being operated within the red line as outlined in the overhead presentation. With the exception of his dwelling the applicant does not own any additional land around the premises, nor is there any opportunity to acquire any more.

The site at Ferry Road is fully utilised and the applicant wishes to restore plastic rolls used to wrap the pallets and produce bags within a section of the approved shed at Washingbay. The plastic rolls would be stored on racks with all storage being within an approved shed with no external storage being proposed.

He said that it was proposed to only use a small part of the shed for storage with the remainder continuing to be used for this agricultural business as outlined. The existing shed is currently full with the applicant's large and expensive machinery and at no time was there a request for access, but if the request was made the applicant would be happy to make provision.

The rolls are currently stored externally within the Ferry Road yard and due to the constricted site is frequently suffering damage with the slightest tear rendering them unusable. Policy CTY 11 states that planning permission would be granted for a farm diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm. The first of four criteria, criterion (a) of Policy CTY 11, requires the farm business to be currently active and established. Policy CTY 10 of PPS 21 sets out the determining criteria for what is an active and established business. 5.39 of Policy CTY 10 states for the purposes of the policy "agricultural activity" refers to the production, rearing or growing of agricultural products including harvesting, milking, breeding and keeping animals for farming purposes or maintaining the land in good agricultural and environmental condition. The working peat for the business is thus classified as a farming activity.

Mr Cassidy stated that the Planning Department stated that there was no established farm business ID in existence. This is incorrect as the applicant had a farm number 656156 established on 7 November 2011 and is classed as an active status of the business by DARD.

The appellant's farm comprises two separate parcels of land, his farm survey number is 6/127/018 and applicant ref 173350. The first group is located at the application site and comprises three fields of 5.88ha. The second fields are located approx. 1 mile away immediately south of 152a Washingbay Road and consist of 2.44ha. No single farm payment was claimed thus there are no current farm maps.

He advised that the Council in their report to members questioned if the Peat is itself produced from the farm lands owned, when in fact the peat is harvested from lands owned by the applicant in Derryloughlin as depicted, with the bog being approx. a half mile from the Evergreen processing plant. The peat has been tested by DARD officials on a regular basis to ensure it is free from disease as shown in previously circulated letter from DARD Inspector, Mr John Riddles dated 14 December 2017.

Environmental Health has been consulted and has no concerns. The site is already used for storage of the applicant's farm machinery and as all storage will be inside the building it would not involve the loss of high grade agricultural land. The building would use the existing access to the site thus there would be no prejudice to road safety.

In conclusion Mr Cassidy advised that the proposed was essential for the smooth running of the business and would allow the applicant to buy in bulk thus reducing costs and rendering the business more effective.

The Head of Development Plan and Enforcement said that she just wanted members to be aware that the extraction of peat for the purposes described in the application would not be an agricultural activity but would be considered an industrial one.

Councillor Reid enquired if anyone from the Planning Department was aware about the breach of enforcement and if so could more information or clarity be provided.

Mr Marrion (SPO) advised that an enforcement case was opened for the parking of trailers at the site, but this was closed as they were removed, but it seems to be the case that they have returned again.

In response to Councillor Glasgow's query, Mr Marrion (SPO) advised that DEARA advised that the business ID was established in 2011 but no flock number or herd number was associated with it, which would indicate that it was not an active farm business.

In response to Councillor Gildernew regarding whether the committee could pass the application, the Head of Development Plan and Enforcement advised that based on the information the application would not meet criteria (a) of Policy CTY11 which requires a farm business to be currently active and established.

Councillor Reid enquired could any part of the farm be classed as active and if not could it be farmed by a second party.

Councillor Bell said that he was confused in the images provided as the first picture showed an image of a built shed with trailers and the next image showed nothing.

Mr Marrion (SPO) referred to the most recent image and advised that this was the view of the site and buildings which was approved.

In response to Councillor Glasgow's query about the ownership of the dwelling in the image, Mr Marrion (SPO) advised that picture was taken from the roadway and

shows the extent the works which has developed, but that it was not owned by the applicant.

Councillor McPeake said that the shed could be deemed legal enough for farming and classed essentially as a part change of use.

The Chair suggested deferring the application for an office meeting until further information was sought, providing members were happy to do so.

Councillor McKinney said that clarification was needed from the Department on Business ID numbers and what the categories represented.

Proposed by Councillor Gildernew
Seconded by Councillor Reid and

Resolved: That planning application LA09/2017/0897/F be deferred for office an meeting.

LA09/2017/1158/O Site for dwelling to the rear of 5 Ballynorthland Demesne, access of Moy Road, Dungannon for Mr Keith Burgess

Mr Marrion (SPO) presented previously circulated report on planning application LA09/2017/1158/O advising that it was recommended for refusal.

Resolved: That planning application LA09/2017/1158/O be deferred until it is reconsidered.

LA09/2017/1160/F Extension to dwelling with increase in ridge height and replacement garage at 6 Birch Grove, Cookstown for Shea and Annie Quinn

Members considered previously circulated report on planning application LA09/2017/1160/F which was recommended for approval.

Proposed by Councillor Glasgow
Seconded by Councillor Bell and

Resolved: That planning application LA09/2017/1160//F be approved subject to conditions as per the officer's report.

LA09/2017/1309/O Workshop at lands 55m NE of 72 Glenshane Road, Castledawson Road, Castledawson for John Beare

Members considered previously circulated report on planning application LA09/2017/1309/O which was recommended for approval.

Proposed by Councillor McKinney
Seconded by Councillor Bateson and

Resolved: That planning application LA09/2017/1309/O be approved subject to conditions as per the officer's report.

LA09/2017/1384/O Dwelling on a farm at land approx. 110m E of 208 Carnteel Road, Lisgallon, Dungannon for Augustine McMullan

Councillor McAleer declared an interest in planning application LA09/2017/1384/O. Mr Marrion (SPO) presented previously circulated report on planning application LA09/2017/1384/O advising that it was recommended for refusal.

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

Mr McMullan said that firstly, in regards to part C of policy CTY 10 the proposed dwelling cannot be clustered with the current farm buildings due to the farm being located in an elevated position on the skyline. This means that the existing access point has a very steep gradient with extremely poor sight lines as highlighted by the case officers report which states that “entrance is of steep nature and he felt that the intensification of that particular access could increase concerns relating to road safety” It would take an extreme amount of environmental works to bring this entrance close to the standard required. There is another access road which again has an extremely steep gradient and poor site lines but this runs adjacent to the River Oona which floods on a regular basis, which would be a health and safety concern.

Furthermore, the farm had increased substantially in the last few years in terms of acres and herd size and in the near future the farm buildings would have to expand on the current site in order to facilitate the increased number of animals. He said that careful consideration had been given to choosing the alternative site adjacent to the farm buildings during discussion at the PAD application process and local planning clinics. This proposed site has an existing entry with excellent visibility splays in both directions. The case officer’s reports agree that it meets policy PPS 3 access, movement and parking.

It has a much lower elevation and level gradient and is bound on its northern, southern and western boundaries with a mature hedge grow which has been planted at a considerable expense. It also rises significantly to the east, providing a backdrop to the site. The case officers report concurs that this site “exhibits a closed nature due to significant degree of vegetation and mature hedge grow” It also states under the title of integration “I consider this site to be well integrated and able to facilitate a dwelling” and under the title of rural character “it is considered that the site and its surrounding environment is suitable for absorbing a dwelling” the case officers report concludes that the proposed site “may well present a better location in terms of integration and rural character”

Mr McMullan said that in regards to part B of policy CTY10 there have been two sites passed for planning approval on the farm both over 14 years ago. The two sites in question were gifted to two of his brothers who live and continue to work on the farm namely case number M/2004/1412 and M/2004/1413. One of those brothers is now in charge of the active Farm business ID which is confirmed by DEARA on the case officer’s report. This shows that these sites haven’t been sold to anyone external but had been gifted by his father and not for financial reward but as a necessity in order

to maintain the upkeep of the farm he worked his entire life to provide. It is very important I remain on the footprint of the farm to complete my day to day duties and oversee the welfare of the livestock.

At the time these sites were passed for planning approval in 2004 this policy CTY 10 didn't even exist, so he felt it would be extremely harsh to apply criteria retrospectively to a policy which was introduced in 2010 and backdated to November 2008. As the youngest of 4 brothers born 4 years apart and who live and work on the farm it is clear we would have sorted this issue had we been aware of it at the time, it would have been impossible to predict how planning policy would change 6 years into the future. He said that his brothers were working in the building trade so were able to complete the work themselves without the need for lending from a bank which is why the deeds were never transferred over at the time of planning approval. There deeds were transferred over in 2009 and 2012.

To conclude Mr McMullan hoped that a degree of leniency could be applied to this case as the fact remains that a dwelling on the farm has not been passed for planning approval in almost 15 years. There is no 3rd party objections and he has made every effort possible at a considerable expense to ensure that the proposed site meets criteria for integration, rural character, health and safety and access considerations.

The Head of Development Plan and Enforcement referred to Mr McMullan's statement regarding sites being gifted and stated that she wished to clarify that for the purpose of the policy sold off will mean any development opportunity disposed of from the farm holding to any other person including a family member.

Councillor Gildernew said that he knew the site and stretch of road extremely well and stated that it was situated on a very steep and hazardous lane. He said that it was particularly dangerous going up the hill never mind coming down as you go directly onto the main road. He said that it was unfortunate that sites were passed before the new law came in as it put people at a disadvantage.

Councillor McAleer agreed with Councillor Gildernew and said that it was unfair how policy has dictated the outcome, as three sons had each been gifted a site on the family farm they all worked on and due to circumstances 2 of the sons had availed of the sites which resulted in the remaining son being put at in an unfavourable circumstance due to change in policy and this was putting farming families at a disadvantage. She said that she knew the site well and said that the other site that was being recommended would not be allowed by TransportNI, as it was hazardous and that the Committee was here to try and see a reasonable outcome.

Councillor Clarke said that Mr McMullan had been caught out by a decision by a 10 year period and if he had known this 14 years ago there wouldn't be a problem with this now. He said that the decision was taken in 2010 to change the policy and six years later planning permission was sought by the applicant and if this had of being known at the time, we wouldn't be in this situation.

Councillor McKinney suggested deferring the application for Dr Boomer and his team to look at because of the extreme circumstances.

The Planning Manager entered the meeting at 7.40 pm.

Councillor Reid agreed that this application should be looked at again to see if anything can be solved.

Proposed by Councillor McKinney

Seconded by Councillor Reid and

Resolved: That planning application LA09/2016/1692/F be deferred for an office meeting.

LA09/2017/1434/F Retention of access to the rear of 2 Moor Gardens, Coalisland for Mary E Devlin

Members considered previously circulated report on planning application LA09/2017/1434/F which was recommended for approval.

Proposed by Councillor Reid

Seconded by Councillor Bateson and

Resolved: That planning application LA09/2017/1434/F be approved subject to conditions as per the officer's report.

LA09/2017/1450/O Dwelling and domestic garage, 40m S of Drumreany Road, Castlcaulfield, Dungannon for Mr & Mrs Aidan Loughran

Members considered previously circulated report on planning application LA09/2017/1450/O which was recommended for approval.

Proposed by Councillor Gildernew

Seconded by Councillor Reid and

Resolved: That planning application LA09/2017/1450/O be approved subject to conditions as per the officer's report.

LA09/2017/1494/F Temporary mobile home accommodation at 125 Sixtowns Road, Draperstown for Michelle McNamee

To be taken in confidential business due to sensitive issues.

LA09/2017/1736/O Dwelling (renewal of permission M/2014/0499/O) at lands adjacent to 125 Bush Road, Dungannon for Councillor Denise Mullan

Members considered previously circulated report on planning application LA09/2017/1736/O which was recommended for approval.

Proposed by Councillor Mallaghan
Seconded by Councillor Gildernew and

Resolved: That planning application LA09/2017/1736/O be approved subject to conditions as per the officer's report.

LA09/2017/1756/O Replacement dwelling at 30m SW of 152 Washingbay Road, Upper Meenagh, Coalisland for Patrick Brady

Members considered previously circulated report on planning application LA09/2017/1756/O which was recommended for approval.

Proposed by Councillor Reid
Seconded by Councillor Gildernew and

Resolved: That planning application LA09/2017/1756/O be approved subject to conditions as per the officer's report.

H/2015/0010/F Stables and Tack Store approx. 70m NW of 175 Glen Road, Maghera for Jenna Duffy

Members considered previously circulated report on planning application H/2015/0010/F which was recommended for approval.

Proposed by Councillor McEldowney
Seconded by Councillor McKinney

Resolved: That planning application H/2015/0010/F be approved subject to conditions as per the officer's report.

LA09/2015/0147/F 4 Apartments with parking at 32 Mullaghboy Lane, Magherafelt for Mr Philip Donaghy

Ms Doyle (SPO) presented previously circulated report on planning application LA09/2015/0147/F advising that it was recommended for refusal.

Councillor Glasgow left the meeting at 7.43 pm.

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

Mr Cassidy advised that this application was an amended proposal from 6 apartments to 4 apartments and that it had been presented before the committee in May 2017 with a recommendation to refuse based on parking concerns.

The site is located beside shops, schools and transport links and is located 400 metres from the Diamond and less than 100m from the town centre boundary. A traffic survey report confirms there are 80 unused parking spaces within 60 metre radius of the proposal including 4 number spaces to the front of the site and 8 to the side. Social housing needs Magherafelt – 75 units (source Mid Ulster Social Housing Investment Plan 2016). People in housing stress Magherafelt – 128 (source Mid

Ulster Social Housing Investment Plan 2016). 121 classified as homeless in Magherafelt (source Northern Ireland Housing Executive).

Transport NI had been asked four times to comment on how the increase in demand for parking within the vicinity of the site was not met with on street parking and Transport NI have also been asked for an onsite meeting and to date no reply to either has been forthcoming.

Paragraph 5.43 of PPS3 states that it may be possible for small scale developments which would not generate significant parking demand to rely on using on street parking for parking provision. In such instances Transport NI would require evidence to demonstrate the capacity and availability of such alternative parking provision. This evidence had been provided by way of a detailed Traffic Impact Assessment again the findings of which are unchallenged by Transport NI.

Policy AMP7 states that the location of a development has to be considered in any assessment on parking. Account has to be taken of the fact that there was abundant on street parking and the fact that the appeal site abuts two roads where there is significant on street parking available. In this evidential context, there was sufficient on street car parking in the vicinity to accommodate the proposal.

Mr Cassidy advised that the proposal was for 4 single person flats where car ownership was unlikely to occur. This assessment was backed up by correspondence with Clanmill Housing Association and Triangle Housing Association in current schemes which they were involved with designing and where they have specifically requested that car park provision be kept to a minimum as it was often under used.

Mr Cassidy asked that the Committee respectfully approve the scheme in its current format.

The Planning Manager advised that this application had been deferred the last time because of the issues relating to carparking and enquired why if the flats were built for a single person, why was it a two bedroom flat as this could impact on the amount of carparking spaces required.

Mr Cassidy said that a similar scheme had been built in Ballymena with 54 carparking spaces being made available but in the long run only 9 cars utilised the spaces. He stated that Transport NI are refusing to meet and that he was keen to get this sorted.

The Planning Manager advised members that the issue here was that Clanmill was a private scheme for 2 bedroom units and that carparking should be provided to the front and doesn't understand why an amended parking layout wasn't considered as the opportunity was given to the agent to get this resolved. He said that the property was sitting on a junction and that Transport NI were objecting because of the potential danger and it was up to them to defend for appeal.

Councillor Bell enquired if Roads Service refused to meet with the applicant how can they recommend refusal.

The Planning Manager said that it was removed from the schedule the last time because of carparking issues and that it was the decision of Roads Service if they wished to meet the applicant and agent.

Councillor Bell said that at any time, there could be an increase in carparking at any nearby properties and they may decide to park on the street.

The Planning Manager stated that Roads Service had recommended refusal on the grounds of highway safety and would advise members to think very carefully on the application as this could be going against the Roads Safety decision and their reasons.

Councillor Glasgow returned to the meeting at 7.55 pm.

Councillor Reid said that the map showed there was room for onsite parking and whilst this was an unusual shape of ground, it could be developed for communal use, but felt it would be unwise to go against a statutory agency who were advising that the site would be hazardous.

Ms Doyle (SPO) advised that the Head of Development Management had met with the Agent to try and resolve the matter but he refused to comply with the Head of Development Management's suggestions.

Councillor McAleer said that it was important to address these issues and that she couldn't understand why the opportunity for a possible resolution wasn't taken.

Proposed by Councillor Bateson
Seconded by Councillor Mallaghan and

Resolved: That planning application LA09/2015/0147/F be recommended for refusal.

LA09/2016/0889/F Conversion of a redundant building to a dwelling at 40m SW of 38 Lisnamuck Road, Tobermore for Ian Hopper

Members considered previously circulated report on planning application LA09/2016/0889/F which was recommended for approval.

The Planning Manager advised the committee that he had received an email from the family of the objector to the application, Mr Henderson to say that he had recently passed away and requested that the application be deferred. He said that a letter of objection had been received from the family advising that they wished to have time to consult with their barrister and then another letter was received from Manor Architects on their behalf. He felt that this wasn't a reason to defer the application but that it was up to members to decide.

Councillor Kearney declared an interest in application LA09/2016/0889/F.

Councillor Kearney advised that he had been contacted last week by the family of the Objector and was sad to say that both the Objector and the Applicant had recently

passed away and feels that some compassion should be shown to both parties at this difficult time.

Councillor Kearney withdrew to the public gallery.

Councillor Reid said that this was sad news for both families concerned, but that the Planning Manager has been put in a position on deciding what to do, either refusing or approving the application.

The Planning Manager said that the original objection was received from Mr Henderson and in this instance given that both parties have had a recent bereavement, he would suggest that the application be deferred for a month to give the Objector's family the opportunity to have their say.

Councillor McKinney said that he wanted it recorded that the decision was made by Officers and that the same consideration should be given to all families and that this wasn't going to change the mind of the committee.

The Planning Manager said that if the committee wished to make a decision tonight that this was their right, but would like members to have the opportunity to read correspondence before making a decision.

Councillor Bateson said that the deaths are the same for both families concerned, but that a decision was being made on planning matters only and proposed to go with the officer recommendation.

The Council Solicitor advised that taking a decision on the application tonight may be a bit hasty if there were potential new issues which may need explored and noted that the committee might wish to defer the application until these issues are considered.

Councillor Reid said that there had been a lot of objection letters received from 2016 and it was unfair to keep putting this application back as everything else had went with no major issues, but by going on what the Council Solicitor had indicated he would be happy to defer the application so more consideration was given to it.

The Chair said that it seemed that the committee would prefer to proceed with making a decision on the application tonight.

The Chair advised members that the committee would return to the application later in the meeting.

LA09/2017/0923/F Dwelling and domestic garage, 45m NW of 177 Glen Road, Maghera for Jenna Duffy

Members considered previously circulated report on planning application LA09/2017/0923/F which was recommended for approval.

Proposed by Councillor Reid

Seconded by Councillor McKinney and

Resolved: That planning application LA09/2017/0923/F be approved subject to conditions as per the officer's report.

LA09/2017/1032/O Single dwelling (amended siting) to the rear of 137 Lisacclare Road, Killeen, Stewartstown for Mrs Cora Donnellan

Members considered previously circulated report on planning application LA09/2017/1032/O which was recommended for approval.

Proposed by Councillor Bateson
Seconded by Councillor Reid and

Resolved: That planning application LA09/2017/1032/O be approved subject to conditions as per the officer's report.

CONFIDENTIAL BUSINESS

Proposed by Councillor Bateson
Seconded by Councillor Bell and

Resolved That planning application LA09/2017/1494/F be heard as confidential business.

Open Business resumed at 8.20 pm

**Continuation of
LA09/2016/889/F Conversion of a redundant building to a dwelling at 40m SW of 38 Lisnamuck Road, Tobermore for Ian Hopper**

The Planning Manager said that it was his recollection that this site wasn't originally accepted as a replacement, but as a conversion and was deferred because of the extension of the new building. He said if it went back as a replacement dwelling this could be interpreted on what could be displayed and as the bar had been lowered by the Minister in his statement, it could meet the conversion criteria and for a replacement dwelling. In relation to conditions for access, this would not be required because it was a replacement dwelling. He said that the key decision was making the standard and this would meet it.

Ms Doyle (SPO) advised an application was made for a conversion.

The Planning Manager advised that conditions could be put on.

Councillor Bateson said that it would be better dealing with the planning conditions and not permission.

Proposed by Councillor Bateson

Seconded by Councillor Reid and

Resolved: That planning application LA09/2016/0889/F be deferred for a one month until further investigations are carried out.

Councillor Kearney returned to the meeting.

P036/18 Receive report on revisions to the Protocol for the Operation of the Planning Committee

The Planning Manager drew attention to the previously circulated report to agree amendments to the Protocol for the Operation of the Planning Committee in order to reduce the time spent at the Planning Committee.

Councillor McPeake said that the additions were improvements, but like a few alterations included regarding site meetings. He stated that the timings of planning meetings were being looked at and a survey carried out, but that he would be concerned about site meeting and their description as it was seldom that members attend them and do not want to make it too difficult as in other areas a site meeting could occur for a full day each month. He said that he would like other members thoughts as it should be looked at more regularly.

Councillor McEldowney left the meeting at 8.25 pm.

Councillor McPeake advised that one Agent told him that it was difficult to provide all the relevant information within 2 to 3 minutes at a Planning Committee and that it would be more productive to show visuals. He said that it was good to see more photographs before the meeting taking place as members appreciate more time on considering information coming through and not just at the last minute.

The Planning Manager said that when we started out, visualisation was of great difficulty and now the committee are in a position to be provided with visuals and scans on plans etc. He said that this was of tremendous help as it could be uploaded from the system to the iPad. He said that a few reports could be done for the next time to see if more information to see plans and photographs and that he would be asking his three teams to see if this would help. He stated that it would be of great help if Agents give the Planning Department all relevant information on time.

Councillor McEldowney returned to the meeting at 8.30 pm.

The Planning Manager said that the Head of Development Management had designed a Performa to go on the website and setting out bullet points to see what was needed.

The Planning Manager referred to site meetings and said that he would caution members on liaising with people as sometimes only one or two councillors attend. He said that although site meetings are beneficial and helps with the visualisation, the key impacts are down to policy reasons now.

The Council Solicitor advised that the member's concerns could be addressed in relation to the site visit. The language used in the protocol does suggest an element of inflexibility and as the protocol is part of the standing orders this is what governs the running of the committee. Therefore, there could be some rewording to this part of the protocol, however, any amendment should not mean that a site visit is the default position, but rather there still needs to be a purpose and justification for the decision to hold a site visit.

Councillor McPeake agreed that the language was flowing in one direction compared to colleagues in other Councils.

The Council Solicitor said that in relation to speaking rights and visuals, again there is a requirement within the Protocol that they provide sufficient information etc. on what they wish to speak on and also that they cannot circulate anything additional on the night. This is necessary as members do need time to consider information and it should prevent the committee from being ambushed on the night.

Councillor Reid referred to Item 3.1 – Paragraph (iv) *“Limit speakers to one opportunity to speak to the Committee, and advise that they will not normally be given the opportunity to speak for a second time if the application is deferred and returned to Committee for final decision”* and was wondering about an application which come back with slightly more evidence, it would be hard to ask the Agent to come back again and asked if this should be at the Chair's discretion. He asked if any new information with a different view would have the potential to make a different decision.

In response the Planning Manager advised that the Agent would have the opportunity to speak.

The Chair advised that it would be at the Chair's discretion either way.

Councillor Cuthbertson enquired if these were guidelines or rules.

The Planning Manager said that it was not in the standing orders, as it would have to go back to full Council for their agreement.

Councillor Cuthbertson enquired if the Council defer away from this or would they have to stick to this.

The Planning Manager said that it was protocol, it was not a legislative requirement but there could be a problem.

Councillor Cuthbertson referred to the deferred list, a list which is brought before the committee on what was coming because it has no other road to go and that continues every month.

The Chair advised that this prevents additional speaking and the information is from the Case Officer.

Councillor Cuthbertson said that there was no more defers on the list.

The Planning Manager said that most Agents use their speaking rights when the application is first presented to committee. If deferred they get the opportunity to present their case to officers, and accept the outcome. Most officers do not choose to come and argue their case when represented to committee recognising that the issues have been aired.

Councillor Cuthbertson referred to application H/2014/0119/F which was raised earlier in the meeting which was deferred from this meeting in 2014 and he felt that this should be sufficient time to make a decision and still it was being deferred.

The Planning Manager said that he would agree on this as a caution, it was indicated that this information was held by a public body and this could be the case as he wasn't an expert. There was a ruling on a judicial review concerning Belfast City Council against PAC for further information being submitted and the courts found against Belfast City Council for not allowing them to proceed. The fact that these are put on the agenda and come for a meeting and have a say is all that's required.

Proposed by Councillor McPeake
Seconded by Councillor Bateson and

Resolved: To adopt the changes recommended as per the amended protocol (appendix one) and to include amendments regarding site meetings as previously mentioned.

The Chair referred to the enforcement case list which was circulated and felt that it was too long.

Councillor Gildernew agreed with the Chair that the list was very long.

The Planning Manager advised that the first list indicated what has been received, the 2nd list indicates how it was being dealt with and the final list advises of how it is progressing as enforcement is quite tricky as discretionary on action and the need to show how things are being done in a timely matter as a paper trail shows evidence of a time line.

P037/18 Committee Meeting Times

The Planning Manager drew attention to the previously circulated report to request that consideration be given to changing the times of the Planning Committee meetings.

He said that the planning meetings are very lengthy and that there was only one other Council that had their meeting at 7 pm in the evening. He said that members of his staff have children and that it was unfair to be out so late and that he has a responsibility to his staff to try and accommodate them.

He asked that members consider the following options:

- (i) Leave the meetings at 7 pm as current
- (ii) Start meetings at 2 pm
- (iii) Start meetings at 5 pm – commencing with closed items but with a break before considering applications from 7 pm onwards

The Chair suggested that this item be deferred until next month until each party had an opportunity to discuss the options before making a decision and taking into account a member's availability.

Councillor Reid felt that it would be better to put on hold until after the AGM, as it would allow members who could attend a 5 o'clock start the opportunity to sit on the Planning Committee. He would suggest that a proper hot meal be provided to members and staff as most would be coming straight from the workplace as in line with other Councils. He felt that there should be money made available for hot food as there was adequate money being received from planning fees.

Councillor Bateson agreed that it would be a good idea if you start with a full complement of staff, it will even out and serve everyone.

Councillor Cuthbertson said that all we ever hear about is how good a job the Planning are doing every month and how we are outdoing every other Council. He said that he would be off the opinion to leave it where it was at 7 pm and as other meetings rotate around other Councils, consideration should be given to others from further afield like the Clogher Valley area who don't have as much flexibility. He said that coming to a meeting for 5 pm for closed business, which does not take 2 hours to conduct results in being away from your home longer and hearing people talking about their family lives also impacts on his family life as he wouldn't be able to see his children around tea time.

The Chair said that he agreed with Councillor Cuthbertson about sitting about for 2 hours.

The Council Solicitor referred to governance and that in relation to any proposed amendment to the standing orders, that the members would need to be mindful of Standing Order 30.2 which states that any motion to vary the standing orders will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council. This also applies in relation to the previous item, i.e., proposed changes to the Protocol.

Councillor Kearney advised that he wouldn't be able to attend the forthcoming Policy & Resources Committee on Thursday night where it was listed on the Agenda about moving towards paperless items. He said that it was hard to move away as being able to see planning applications on hard copies was very beneficial compared to the iPad and asked that consideration be given to allow Planning as being a special circumstance.

Proposed by Councillor Gildernew
Seconded by Councillor Bell and

Resolved: That a decision on committee meeting times be deferred until members have an opportunity to discuss with their parties on an outcome.

Matters for Information

P038/18 Minutes of Planning Committee held on Tuesday 6 February 2018

Members noted minutes of Planning Committee held on Tuesday 6 February 2018.

P039/18 Receive letter from Dfl

Members noted previously circulated letter dated 14 February 2018 from Dfl.

Councillor Kearney left the meeting at 8.55 pm.

The Planning Manager advised that Dfl have provided further correspondence to advise they are not calling this in for Determination under Section 29 of the Planning Act (NI) 2011. They have directed the Council to conduct a Pre-Determination hearing and wanted it noted that this would be arranged in due course.

He said that there may be a problem getting a quorum and suggested we add it to the Agenda for the next meeting.

Proposed by Councillor McKinney
Seconded by Councillor Reid and

Resolved: That the issue of Pre-Determination hearing be added to the agenda for the next meeting and discuss it at the end of open business before going into confidential business.

P040/18 Receive letter from Ulster Architectural Heritage Society

Members noted previously circulated correspondence from Ulster Architectural Heritage Society.

P041/18 Receive report on Road Abandonment

Members noted previously circulated correspondence regarding Abandonment Order.

*Meeting recessed at 9 pm and recommenced at 9.20 pm.
Councillors Gildernew did not return to the meeting.*

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Glasgow
Seconded by Councillor Clarke 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 P042/18 to

Matters for Decision

P042/18 Receive LDP Report – Renewable Energy
P043/18 Receive LDP Report – Minerals
P044/18 Receive Enforcement Reports

Matters for Information

P045/18 Confidential Minutes of Planning Committee held on 6 February 2018
P046/18 Enforcement Case Liveload
P047/18 Enforcement Case Opened
P048/18 Enforcement Cases Closed

P049/18 Duration of Meeting

The meeting was called for 7 pm and ended at 10.50 pm.

Chair _____

Date _____