

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 4 August 2020 in Council Offices, Ballyronan Road, Magherafelt and by Virtual Means

Members Present

Councillor S McPeake, Chair

Councillors Bell, Black, Brown, Clarke, Colvin, Cuthbertson, Gildernew*, Glasgow, Kearney, Mallaghan, McFlynn, McKinney, D McPeake, Quinn, Robinson

Officers in Attendance

Dr Boomer, Planning Manager
Mr Bowman, Head of Development Management
Ms Kearney, Senior Planning Officer
Ms McCullagh, Senior Planning Officer
Ms McNally, Council Solicitor
Mr Brown, ICT Support
Ms Grogan, Democratic Services Officer

Others in Attendance

Councillor B McGuigan
Councillors Cuddy*, McLean*

LA09/2019/1367/O

Chris Cassidy
Cllr Brian McGuigan

LA09/2019/1540/O

Chris Cassidy
Cllr Brian McGuigan

* Denotes members and members of the public present in remote attendance

** Denotes Officers present by remote means

The meeting commenced at 7 pm.

The Chair, Councillor S McPeake welcomed everyone to the meeting and those watching the meeting through the Live Broadcast. The Chair, in introducing the meeting detailed the operational arrangements for transacting the business of the Committee in the Chamber and by virtual means, by referring to Annex A to this minute.

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

All confirmed that they had seen the addendum and had time to read it.

P063/20 Apologies

None.

P064/20 Declarations of Interest

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

Councillor Mallaghan declared an interest in planning application LA09/2018/1693/F – Housing Development with 14 dwellings, associated site works; installation of 5 speed control ramps, signs and lighting along the Dunamore Road between 28-40 Dunamore Road at lands SW of 30 Dunamore Road and roadworks between 28-40 Dunamore Road, Dunamore for Des Keenan.

Councillor Mallaghan declared an interest in planning application LA09/2019/0305/O – Health care facility accommodation for multiple doctor surgeries and ancillary uses commonly associated with a medical centre; retail, café and car parking primarily accessed off existing Loy Street public car park at 2, 4, 6 and 8 Loy Street, Cookstown and lands to the rear of Nos 4 to 12 Loy Street, Cookstown for MACM (NI) Ltd.

Councillor S McPeake declared an interest in planning application LA09/2019/1543/F – Change of house type and garage from approved H/2014/0441/F) at 20m SE of 29 Broagh Road, Knockloughrim for Sean McPeake

Councillor S McPeake declared an interest in planning application LA09/2019/1562/RM – Dwelling & garage 50m NE of 28 Broagh Road, Knockloughrim for Sean McPeake

P064/20 Chair's Business

The Planning Manager referred to application which was brought to last month's planning committee meeting regarding an application for housing in Dungannon and Cookstown. He said that there was a lengthy objection to it and legally the Council could not make a determination on the application.

This was because under the Act and Regulations certain procedures and wording needed to be followed in relation to pre community consultation.

He said that it was decided to put the application to one side to allow for the pre-application community consultation to be carried out in accordance with the Regulations.

Councillor Kearney sought permission for a 5-minute recess at 9 pm to give the committee an opportunity to withdraw from the meeting to honor the late John Hume to show solidarity with the people of Derry and Ireland.

The Chair agreed to Councillor Kearney's request.

The Planning Manager referred to tonight's agenda and advised due to Covid-19 situation, refusals outlined in Agenda item 4 were being deferred for this committee which was a first. He said that as this was the middle of the summer and people away on holidays, they may not have the opportunity to know their application was being brought forward for consideration.

Proposed by Councillor Bell
Seconded by Councillor Clarke and

Resolved That all refusals on Agenda Item 4 as listed below be deferred for Office Meetings.

Councillor Cuthbertson said that he understood that one or two applications needed deferring but felt as these were being collated from around 20 July, there was ample time to get it sorted. He said that in his opinion there seemed to be an issue with August meetings every year and unless this committee treats this as a meeting rather than a holiday meeting we were not going to get anywhere and felt that this was quite excessive.

The Chair advised that he could only see this as progress as automatic meetings provided an opportunity for applicants to have their applications brought forward in a fair and impartial way and it was a credit to Mid Ulster Council as some other Councils do not have a meeting in August.

The Planning Manager felt that there seemed to be some confusion amongst some committee members as Mid Ulster does not have a standard approach of taking a recess in August. He stated that there has been no consideration of refusals from March and as most people seek a deferral, it was only fair to give them the opportunity. He said that Mid Ulster wants to give everyone an opportunity and be fair to everyone.

Councillor McKinney concurred with Dr Boomer and stated that he would be happy to agree to the deferrals and give people an opportunity to build up their case and would have no issues.

Matters for Decision

P065/20 Planning Applications for Determination

The Chair, Councillor S McPeake referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred from tonight's meeting schedule for an office meeting/submission of further information/withdrawn –

Agenda item 4.7 – LA09/2019/1394/O – Dwelling and detached garage, 40m E of 12 Newline Road, Cookstown for Laura Rafferty

Agenda item 4.8 – LA09/2019/1418/F – Site for dwelling & domestic garage at approx. 60m NW of 124 Lurgylea Road, Dungannon for Christopher Kelly

Agenda item 4.9 – LA09/2019/1432/O - Site for dwelling and garage 100m NW of No. 84 Loup Road, Moneymore for Michael O'Boyle

Agenda item 4.10 – LA09/2019/1484/O - Site for dwelling at 50m E of No. 91 Aughrim Road, Magherafelt for Keith Fulton

Agenda item 4.12 – LA09/2019/1553/F – Retention of two storey seminar/training room, office and store at 12 Ballynahone Road, Maghera for Emergency Medical Services (NI) Ltd

Agenda item 4.14 – LA09/2019/1638/F – Infill sites for 2 dwellings and garages adjacent to 7 Coalpit Road, Dungannon for Shaun Kelly

Agenda item 4.15 – LA19/2020/0022/O – Dwelling (infill site) at land adjacent to and S of 14 Drumkee Road, Dungannon for Noel Stephenson

Agenda item 4.16 – LA09/2020/0047/O – Site for dwelling & garage approx. 60m W of 121A Desertmartin Road, Moneymore for Henry and Mark Miller

Agenda item 4.17 – LA09/2020/0062/O – Dwelling at site behind 11 Lodge Villas, Donaghmore for Brian Gates

Agenda item 4.18 – LA09/2020/0179/O – Farm dwelling approx. 71m W of 41 Aughagranna Road, Stewartstown for Brian Morris

Agenda item 4.19 – LA09/2020/0194/O – Dwelling and domestic garage 100m SW of 4 Moboy Road, Pomeroy for Dean McNally

Agenda item 4.20 – LA09/2020/0387/O – Dwelling and garage 82m W of 64 Carraloan Road, The Woods, Magherafelt for John Gribbin

Agenda item 4.21 – LA09/2020/0564/O – Dwelling and garage at lands between 121 & 127 Thornhill Road, Pomeroy for Cathal Hayden

Agenda item 5.2 - LA09/2019/1158/O Dwelling and garage 50m SE of 8 Scotts Road, Ballyrogull for Thomas McVey - *withdrawn*

LA069/2018/1612/F Additional high welfare broiler poultry house (to house 37,500 max birds), 2 no. feed bins, reception hut/ generator store and associated works at the existing poultry farm approx. 200m NE of No. 106 Knockmany Road, Augher for Roy Wright

Members considered previously circulated report on planning application LA09/2018/1612/F which had a recommendation for approval.

Proposed by Councillor Robinson
Seconded by Councillor Colvin and

Resolved That planning application be LA09/2018/1612/F approved subject to conditions as per the officer's report.

LA09/2018/1693/F Housing development with 14 dwellings, associated site works; installation of 5 speed control ramps, signs and lighting along the Dunamore Road at lands SW of 30 Dunamore Road and roadworks between 28-40 Dunamore Road, Dunamore for Des Keenan

Councillor Mallaghan withdrew to the public gallery.

Members considered previously circulated report on planning application LA09/2018/1693/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Bell and

Resolved That planning application be LA09/2018/1693/F approved subject to conditions as per the officer's report.

LA09/2019/0305/O Health care facility accommodation for multiple doctor surgeries and ancillary uses commonly associated with a medical centre; retail, café and car parking primarily accessed off existing Loy Street public car park at 2, 4, 6 and 8 Loy Street, Cookstown and lands to the rear of Nos 4 to 12 Loy Street, Cookstown for MACM (NI) Ltd

Councillor Cuthbertson declared an interest in the above item.

Members considered previously circulated report on planning application LA09/2019/0305/O which had a recommendation for approval.

Proposed by Councillor Brown
Seconded by Councillor Clarke and

Resolved That planning application be LA09/2019/0305/O approved subject to conditions as per the officer's report.

Councillor Mallaghan returned to the meeting.

LA09/2019/0718/LBC Replacement of windows and doors at 41 Castletown Road, Aughnacloy for Felicity Dunlop

Members considered previously circulated report on planning application LA09/2019/0718/LBC which had a recommendation for approval.

Proposed by Councillor Cuthbertson
Seconded by Councillor Robinson and

Resolved That planning application be LA09/2019/0718/LBC approved subject to conditions as per the officer's report.

LA09/2019/0869/O Dwelling and domestic garage at site to the rear and N of 24 Washingbay Road, Lower Annagher, Coalisland for Mr & Mrs G McClure

Members considered previously circulated report on planning application LA09/2019/0869/O which had a recommendation for approval.

Proposed by Councillor Bell
Seconded by Councillor Quinn and

Resolved That planning application be LA09/2019/0869/O approved subject to conditions as per the officer's report.

LA09/2019/1035/F Change of use from smoking area to beer garden with external bar, smoking area and toilet facility at LJs Tavern, 62 Rainey Street, Magherafelt for JP Forbes

Members considered previously circulated report on planning application LA09/2019/1035/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor D McPeake and

Resolved That planning application be LA09/2019/1035/F approved subject to conditions as per the officer's report.

LA09/2019/1394/O Dwelling and detached garage, 40m E of 12 Newline Road, Cookstown for Laura Rafferty

Agreed that application be deferred for an office meeting.

LA09/2019/1418/F Site for dwelling & domestic garage at approx. 60m NW of 124 Lurgylea Road, Dungannon for Christopher Kelly

Agreed that application be deferred for an office meeting.

LA09/2019/1432/O Site for dwelling and garage 100m NW of No. 84 Loup Road, Money more for Michael O'Boyle

Agreed that application be deferred for an office meeting.

LA09/2019/1484/O Site for dwelling at 50m E of No. 91 Aughrim Road, Magherafelt for Keith Fulton

Agreed that application be deferred for an office meeting.

LA09/2019/1543/F Change of house type and garage (from approved H/2014/0441/F) at 20m SE of 29 Broagh Road, Knockloughrim for Mr Sean McPeake

The Chair, Councillor S McPeake withdrew to the public gallery.

The Deputy Chair, Councillor Glasgow took the Chair.

Members considered previously circulated report on planning application LA09/2019/1543/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor D McPeake

Resolved That planning application be LA09/2019/1543/F approved subject to conditions as per the officer's report.

LA09/2019/1553/F Retention of two storey seminar/training room, office and store at 12 Ballynahone Road, Maghera for Emergency Medical Services (NI) Ltd

Agreed that application be deferred for an office meeting.

LA09/2019/1562/RM Dwelling & garage 50m NE of 28 Broagh Road, Knockloughrim for Sean McPeake

Members considered previously circulated report on planning application LA09/2019/1542/RM which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McKinney and

Resolved That planning application be LA09/2019/1562/RM approved subject to conditions as per the officer's report.

Councillor S McPeake returned to the meeting and took the Chair.

LA09/2019/1638/F Infill sites for 2 dwellings and garages adjacent to 7 Coalpit Road, Dungannon for Shaun Kelly

Agreed that application be deferred for an office meeting.

LA09/2020/0022/O Dwelling (infill site) at land adjacent to and S of 14 Drumkee Road, Dungannon for Noel Stephenson

Agreed that application be deferred for an office meeting.

LA09/2020/0047/O Site for dwelling & garage approx. 60m W of 121A Desertmartin Road, Moneymore for Mr Henry and Mark Miller

Agreed that application be deferred for an office meeting.

LA09/2020/0062/O Detached dwelling at site behind 11 Lodge Villas, Donaghmore for Brian Gates

Agreed that application be deferred for an office meeting.

LA09/2020/0179/O Farm dwelling approx. 71m W of 41 Aughnagranna Road, Stewartstown for Brian Morris

Agreed that application be deferred for an office meeting.

LA09/2020/0194/O Dwelling and domestic garage 100m SW of 4 Moboy Road, Pomeroy for Dean McNally

Agreed that application be deferred for an office meeting.

LA09/2020/0387/O Dwelling and garage 82m W of 64 Carralooan Road, The Woods, Magherafelt for John Gribbin

Agreed that application be deferred for an office meeting.

LA09/2020/0564/O Dwelling and garage at lands between 121 & 127 Thornhill Road, Pomeroy for Cathal Hayden

Agreed that application be deferred for an office meeting.

LA09/2019/0787/O Dwelling and garage 40m SW of 44 Moyagoney Road, Portglenone for Paul Madden

The Planning Manager sought permission to have planning application LA09/2019/0787/O deferred for one month to allow for the submission of further information and opportunity for Officers to access.

Proposed by Councillor Bell
Seconded by Councillor Kearney and

Resolved That planning application LA09/2019/0787/O be deferred for one month to allow for the submission of further information.

LA09/2019/1158/O Dwelling and garage 50m SE of 8 Scotts Road, Ballyrogully for Thomas McVey

Application withdrawn.

LA09/2019/1367/O Dwelling and domestic garage at site adjacent to 2a Tonaght Road, Draperstown for Mr Jim Hegarty

Ms McCullagh (SPO) presented report on planning applications LA09/2019/1367/O advising that it was recommended for refusal.

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

Mr Cassidy thanked the committee for allowing him the opportunity to address the meeting tonight and advised that this application was for an infill opportunity. He stated that there were three buildings kept between them and that the shed was deemed as lawful as it had a concrete floor with a solid construction which had been there for approximately 15 years. He stated that the bottom shed only accommodated one additional house and felt that it met the policy as this was three buildings and not three dwellings and only a gap between the buildings.

The Planning Manager sought clarity on what the building was and enquired if it was the small steel structure in the corner of the field.

The Chair advised that a Certificate of Lawfulness was sought for the building to confirm its usage for planning purposes.

Mr Cassidy concurred with the Chair and said that previously it was suggested by the Planning Department that if a Certificate of Lawfulness was granted that this would be a satisfactory measure for the planners. He stated that the applicant had spent £1000 obtaining the certificate.

The Planning Manager asked if there was a record that this had been said. Ms McCullagh advised that the applicant had been advised that a certificate may be applied for by the agent if they wish for consideration to be given to it as a lawful building.

The Planning Manager referred to concerning issues in the past regarding the approval of a sheep shed and advised members there was a need to err on the side of caution.

Ms McCullagh advised that the reason for refusal regarding this application was the ribbon development.

The Planning Manager referred to policy where there was a gap between 2 buildings it may be considered as infill, but only where it would integrate and be in character of the area.

Councillor Clarke said that his recollection of the application was that the size of the structure was not a consideration and felt that there was no definition.

The Planning Manager stated that in planning law any permanent structure can be viewed as a building.

Councillor Clarke stated that it looks as if there were three buildings, next to siting and scale etc and felt there could be an opportunity if to integrate another building if it meets the conditions.

Councillor McKinney said that he knew the road well and felt there was a fine line here due to what might be and might not be acceptable, but would like to give the application the benefit of the doubt as nobody was in a position to say whether it was lawful or not. He referred to a previous application which was approved for a building outside Swatragh which had no floor and agreed that this application should be given justification.

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

Councillor B McGuigan referred to the site and stated that he knew the road really well and, in his view, there were two issues here. Firstly, the structure has been there as long as he could remember which was used by a farmer in the field, which integrates the site very well as there was visible vegetation and secondly, any impact on the rural character and the area with the siting of another building wouldn't impact in any way.

The Planning Manager referred to the drawing and stated that it indicated a small house up towards the boundary of the site and following logic would there be a site for another building.

Councillor B McGuigan advised that the gateway on the left of the building located on the left-hand corner of the field was where the building was used by the farmer.

The Planning Manager enquired if the proposed building could be sited towards the centre. He referred to the report where it stated there was no frontage and asked for clarification.

Ms McCullagh advised that the door of the shed was facing towards the southern boundary, and the boundaries agreements suggests that it was well defined with a strong hedge, and around the Sixtowns Road there were trees and hedges defined in that field.

The Planning Manager asked the agent if the applicant would be content with the notion of agreeing to another site within a more central location.

Mr Cassidy said that his applicant would be very happy to agree to the Planning Manager's suggestion of having a more central location.

The Planning Manager said that this could work as the bungalow would be integrate against the existing buildings and hedgerows and should not change the character of the area.

Councillor Clarke referring to the frontage, felt that the site was very similar to the two frontages already there.

Councillor Bell said that he would be happy to approve the application after listening to the debate and felt that everything was taken into account by Dr Boomer and his officers.

Councillor Colvin said that he was astonished that there was building on the site, and if we accept all these little buildings, they will pop up all over the place, but having listened to Dr Boomer's reasonings he would be happy to second the proposal.

The Chair advised that this application was not a clear cut matter, but there was a building on site for 15 years and although he could thoroughly understand Councillor Colvin's point, there was an onus on this committee to make a decision on each application on their own individual merit.

Councillor Black said that it was important that the application was lawfully accepted as it was only acceptable if it doesn't change the character of the area.

The Planning Manager said that he would be happy to proceed with an approval. The rationale being that the site can be viewed as being within a ribbon, even though the shed did not in itself provide a good book end. However, the natural attributes of the site being small triangular with good boundary mitigated against any adverse impact on rural character. This was on the basis conditions be attached height, siting, landscaping and access.

Proposed by Councillor Bell
Seconded by Councillor Colvin and

Resolved That planning application LA09/2019/1367/O be approved subject to conditions outlined by the planning department.

LA09/2019/1376/O Dwelling and garage on a gap site 50m S of 39 Baladoogh Lane, Cookstown for Patrick McAleer

Ms McCullagh (SPO) presented report on planning applications LA09/2019/1376/O advising that it was recommended for refusal.

Councillor Mallaghan advised that he knew that part of the world well and would be familiar with the road. He said that he was aware of the dereliction of the existing site where there was frontage, garden and gates etc and in terms of where there was interruption, two or three sites between sites was the case for rural Tyrone. He referred to the more modern bungalow across the road compared to the small house on an acre of land and said that he did not think it was a million miles away and felt it did not warrant a refusal and should be recommended for approval. He suggested a site visit as a possible way forward and asked that this be considered by the Planning Manager.

The Planning Manager enquired about the terms of dereliction and asked if the wall plate met with replacement standards, with Ms McCullagh agreeing it was a possibility.

In response to Planning Manager's query regarding the frontage, Ms McCullagh advised that the problem was that the site was not big enough to accommodate three houses and further advised that there was a previous permission which was not implemented.

In response to query, Ms McCullagh advised that previous permission had been granted on 24 October 2000 but never developed and had now lapsed.

The Planning Manager in referring to previous planning approval, stated that these were granted under different conditions, with policy now stating permission for up to two houses on the site. He said that he had hoped that the previous application was still alive as in his view this works against the application. He stated that there could have been some leeway if the application was still alive as previous permission showed there could've been a possibility to get another house in there.

Councillor Mallaghan said as a planning committee member he was unaware of the 2000 planning permission and wasn't solid in his thinking.

The Planning Manager felt that a site meeting may be off benefit as in some cases it may elevate some concerns.

Councillor Bell stated that there was space in-between and it could be argued that there could've been four or five houses there at one time. He said that there seemed to be a certain amount of space and nowhere was it stated that the space was too narrow.

The Planning Manager suggested that a site meeting be arranged, and common sense applied when dealing with this sort of thing.

Proposed by Councillor Mallaghan
Seconded by Councillor Brown and

Resolved That planning application LA09/2019/1376/O be deferred for a site visit.

LA09/2019/1415/F Replacement dwelling 60m E of 5 Drumgarrell Road, Cookstown for D Conway

Ms McCullagh (SPO) presented report on planning applications LA09/2019/1415/F advising that it was recommended for refusal.

Councillor Bell sought clarification from those members which attended the site meeting to seek their opinions on whether they thought the dwelling was habitable.

Councillor Glasgow said that it was a very interesting site meeting and certainly was merited and stated that when they entered the house the first thing, they saw was a fireplace and felt that pictures do tell a story. He said that in his personal opinion this dwelling was not for agricultural use and that the tin outside was a deterrent for the adverse weather conditions. He was assured that there was evidence there to suggest that it was previously a family home, as windows were intact and could visibly see external walls which fell within the remit of planning approval.

Councillor McFlynn concurred with Councillor Glasgow and said that four people had entered the house and felt that it was structurally sound, with windows and fireplace intact, concrete flooring all the way out to the entrance, paving and stone visible. She said that in her opinion she would also agree that this previously had been a family home which was lived in.

The Planning Manager said that by looking at the photos he felt that some work had been done quite recently and was far from convinced that it was last used as a dwelling. However, he point out that the policy does not require that the last use was as a dwelling, but that it began life as a dwelling and still retained the essential characteristics of the dwelling. He understood that members who had visited the site took the view it did have those essential characteristics.

Councillor Colvin stated that he was also in attendance and could see why officers were hesitant to recommend approval previously but agreed that it met policy.

Proposed by Councillor Mallaghan
Seconded by Councillor Bell and

Resolved That planning application LA09/2019/1415/F be approved.

Councillor McKinney left the meeting at 8.12 pm.

LA09/2019/1540/F Dwelling and garage between 29 & 31 Macknagh Lane, Maghera for Pdraig McGuigan

Ms McCullagh (SPO) presented report on planning applications LA09/2019/1540/F advising that it was recommended for refusal.

Councillor McKinney returned to the meeting at 8.16 pm.

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

Mr Cassidy referred to policy 5.33 which states that a road frontage includes a footpath or private lane. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage.

He referred previously circulated correspondence and said that image 1 showed an aerial view of the site. The buildings sited back from the road have a frontage to the road of 35 metres as depicted in images 2 & 3. The area along the frontage was well kept in formal gardens and has electrics installed for a gate. The gaps depicted in red respects the size of frontages on either side.

The Planning Manager stated that this application was back to whole issue of character again and looking at the site, three houses were artificially put along the front and were fairly large.

Ms McCullagh agreed that they were prominent but low storey.

The Planning Manager said what was there was a small tin shed and felt as there was no authorisation it could not be given weight. He stated that the photographs seemed to indicate sizeable distances in a big open field, which would show a house being visible and not closed off and the whole point of policy was that infill in a ribbon meant that there would be no impact in relation to integration or change to rural character. In this instance

it appeared the dwelling would not integrate and would lead to a change in rural character.

The Chair advised that a request to speak had been received and invited Councillor B McGuigan to address the committee.

Councillor B McGuigan said that he had listened to the arguments outlined and stated that he had visited the site last Friday to see for himself and by looking at the aerial photos, this did not merit justification. In terms of frontage No. 29 had a substantial frontage, laneways, cables, gate to the front, green area which were kept very well, long type grass etc which continues all along the way to the next house. He advised that 35 metres of frontage was a lot more than the average realm within the countryside and as the road drops away no buildings would be impacting on the landscape along the frontage. He concluded by saying that the aerial view does not do it justice as one side shows a different view and referred to 5.33 of the policy and stated that there were exceptions which showed no massive impact.

The Planning Manager said that to clarify, policy does not take in a laneway, policy states that there could be an infill and a dwelling could be classed as an infill.

He advised that containment, and rural character were key consideration and felt that a site meeting could be beneficial in this case.

Proposed by Councillor Colvin
Seconded by Councillor Black and

Resolved That planning application LA09/2019/1540/F be deferred for a site visit.

**P066/20 Receive Consultation Response to Fermanagh & Omagh Council on
LA10/2020/0206/F**

The Head of Development Management presented report and sought members agreement on Mid Ulster District Council's response to a consultation request from Fermanagh & Omagh District Council for planning application LA10/2020/0206/F for an energy storage facility consisting of 2 no. battery storage compounds, customer electrical substation compound, a grid electrical substation compound, rainwater harvesting area, site access track and other associated infrastructure, site to be surrounded by deer fencing, 5 no. CCTV locations and gates, South of Classic Marble (Showers) Ltd, 31 Garvaghy Bridge Road, Garvaghy, Dungannon for Engie Developments Ireland Ltd.

Councillor Robinson advised that he knew the area very well and would have some concerns as this comes out onto a protected route of the A5. He said that this road emerges onto the passing lane from Omagh and was a short distance before the entrance which could cause serious problems due to the volume of traffic and high speed on this stretch of road, but wanted the committee to know he wasn't against progress but would have major issues around road safety concerns.

The Head of Development Management advised that this had been accessed already in 2019.

Councillor Robinson advised that there was already a small factory operating at the site.

The Planning Manager stated that Fermanagh & Omagh needed to determine with Roads Service on the safety aspect and said that Mid Ulster Council doesn't have to determine the proposal legitimates, only to give comment and it can choose to give no comment.

Councillor Cuthbertson concurred with Councillor Robinson's comments and stated that the entrance was coming out onto Mid Ulster's area and access onto the protected route and referred to comment by Head of Development Management regarding decision taken in 2019 and said that Mid Ulster Council did not make the decision and would second Councillor Robinson's proposal if he wished to make one.

Councillor Robinson said he would like his concerns mentioned in the response.

The Planning Manager said that it was reasonable to change comments to say Mid Ulster District Council was mindful that this was a protected route and could have issues regarding road safety.

Councillor Clarke concurred with comments and stated that there was also a hump in the road and a setting sun, and he also raised concern as it wasn't a safe part of the road.

The Chair said that there was a need to focus on the movement of traffic and felt that these comments needed to be implemented into the response.

Councillor Cuthbertson stated that this was a minor road in bad condition going to a windfarm and felt there was considerable amount of time to get it sorted.

The Planning Manager agreed to add to the point on alternative access.

Proposed by Councillor Robinson
Seconded by Councillor Cuthbertson and

Resolved That agree to the following response being issued to Omagh & Fermanagh District Council Planning Department:

- Mid Ulster District Council have no concerns in relation to the access for the development and long-term visual impacts of this development provided a robust and properly detailed traffic management plan and landscaping and maintenance proposals are agreed prior to commencement of development and properly condition for implementation.
- In addition to the recommended response reported on to the Committee, members asked that Fermanagh and Omagh Council give special attention to traffic and road safety due to the increased use of the access onto a Protected Route and fully investigate the alternative minor road as an alternative means of accessing the site.

Matters for Information

P067/20 Minutes of Planning Committee Meeting held on 6 July 2020

Members noted Minutes of Planning Committee Meeting held on 6 July 2020.

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Bell
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 P068/20 to P071/20.

Matters for Decision

P068/20 Receive Enforcement Report

Matters for Information

P069/20 Confidential Minutes of Planning Committee Meeting held on 6 July 2020

P070/20 Enforcement Cases Opened

P071/20 Enforcement Cases Closed

P072/20 Duration of Meeting

The meeting was called for 7 pm and concluded at 9.35 pm.

Chair _____

Date _____

Annex A – Introductory Remarks from the Chairperson

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

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

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

- If you have joined the meeting remotely please keep your audio on mute unless invited to speak and then turn it off when finished speaking
- Keep your video on at all times, unless you have bandwidth or internet connection issues, where you are advised to try turning your video off
- If you wish to speak please raise your hand in the meeting or on screen and keep raised until observed by an Officer or myself
- Should we need to take a vote this evening please raise your hand in the normal way and keep raised until advised to lower
- For members attending remotely, note that by voting on any application, you are confirming that you were in attendance for the duration of, and that you heard and saw all relevant information in connection with the application you vote on
- When invited to speak please introduce yourself by name to the meeting. When finished please put your audio to mute
- For any member attending remotely, if you declare an interest in an item, please turn off your video and keep your audio on mute for the duration of the item
- An Addendum was emailed to all Committee Members at 5pm today. There is also a hard copy on each desk in the Chamber. Can all members attending remotely please confirm that they received the Addendum and that have had sufficient time to review it?
- If referring to a specific report please reference the report, page or slide being referred to so everyone has a clear understanding
- For members of the public that are exercising a right to speak by remote means, please ensure that you are able to hear and be heard by councillors, officers and any others requesting speaking rights on the particular application. If this isn't the case you must advise the Chair immediately. Please note that once your application has been decided, you will be removed from the meeting. If you wish to view the rest of the meeting, please join the live link.

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

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



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

ADDENDUM TO PLANNING COMMITTEE AGENDA

FOR PLANNING COMMITTEE MEETING ON: 4th August 2020

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

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
4.12	There are 6 Letters of support rather than 1, as noted in the report.	Members to note
5.2	Application has been withdrawn	Members to note
5.5	Additional letters of support received	Members to note

5 Drumgarrell Road,
Killybearn,
Cookstown
Reference: LA09/2019/1415/F
Address: 60 Meters east of 5 Drumgarrell Road
Proposal: Replacement Dwelling



To Whom it may concern.

We note the application in question is on for rejection. Information has been submitted by Michael Donnelly saying his cattle were free to roam in and out of the building in question in relation to the replacement dwelling. We have lived in the area as stated previously for 36 years and Michael Donnelly only farmed the land between 2005 and 2010 approximately give or take a year. During my time living at 5 Drumgarrell road I have never seen any cattle in and out of the building. It should be taken into consideration, I have a direct line of site from my property onto the building. See attached a photo demonstrating I can view the building from my property. When I purchased my property in 1984 the building in question was exposed and gavels were present. The gavels fell due to adverse weather conditions and the building was eventually covered with tin.

Thomas John and Eileen Quinn



Reference: LA09/2019/1415/F
Address: 60 Metres east of 5 Drumgarrell Road
Proposal: Replacement Dwelling



After reviewing the information presented by both the planning case officer and objectors I would like to take this opportunity to respond to issues raised. After talking to residents in the area it is apparent they disagree with Michael Donnelly and Mary Quinn's version of events. They will be submitting information on this if they haven't already done so. The residents of 60, 40 and 35 years (Victor Nelson, Kevin Madden and Thomas and Eileen Quinn) have never seen cattle entering or leaving the dwelling. They also have stated they have recollection of the exposed building before it was protected by tin. As these residents have lived in and owned their properties in the area much longer than the objectors you would expect them to have a more extensive and accurate local knowledge of the dwelling and area.

In reference to picture 2 in Michael Donnelly's response there is absolutely nothing to identify it as being the dwelling in question. Farmers have access to many farming sheds and as this image has nothing in it to distinguish its location, it could quite simply be the internals of a shed anywhere. So, it far from conclusive and should be discarded in this instance.

The pictures provided by Mary Quinn don't have any relevance to this application and don't fit the narrative the objector is trying to create. Picture 2 provides more questions than answers from such a poor-quality picture it makes it hard to identify if the door is opened or closed and there is no depiction of bedding for cattle present in this or any of the photos.

Photo 3 shows a cow eating out of a trough and had nothing to do with the internals of the building.

Photo 4 is quite simply a cow in a field, whether it is in the area in question or not, its relevance is completely lost on me.

The report from case officer Emma McCullagh states that "the proposal failed to demonstrate that it exhibits the main characteristics of a dwelling". The report from the structural engineer states there are the "remains of a fireplace not present in agricultural building", "a living space/area", and "the building has been used for human habitation". This report and the previous pictures along with newly attached surely must demonstrate that the building demonstrates and exhibits the characteristics of a dwelling. Emma acknowledges that from the site visit that the "existing building was substantially intact with all external walls", had "evidence of domestic sized windows" and evidence of an "internal fire place".

I feel the images attached help better demonstrate the characteristics than ones already submitted in the application. Image 1 shows the front of the house with the front door and the window serving the main room and window serving bedroom (glass smashed out). This image also includes a traditional granite door step. Image 2 is a close view of the granite doorstep.

Image 3 shows the reverse angle and you can clearly see the fireplace which would be used for domestic purposes.

Images 4 shows the main room and door into the lean-to scullery. Image 5 is taken from the door into the scullery looking across the main room towards the

door which takes you into the bedroom. Image 6 shows a view through the door into the bedroom. Image 7 shows the rear of the house with the closest window being for the bedroom and the one beside it being for the main room.

Policy CTY 3, Replacement Dwellings

states planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. As you can see from the images included all of these features exist within the building to be replaced and all external walls are substantially intact.

The policy also states that for the purposes of this policy all references to 'dwellings' will include buildings previously used as dwellings. Substantial evidence has been submitted to demonstrate that building was previously used as a dwelling. Even if cattle had been roaming into the building as the objectors have stated this would have been by accident and certainly does not erase the fact that it was previously used as a dwelling, and thus is compliant with policy CTY 3. Having regard to the characteristics of the buildings it is clear that it was not designed or used for agricultural purposes.

I trust the above information is sufficient to demonstrate that the building meets the criteria for a replacement dwelling.

Declan Conway

Image 1



Image 2

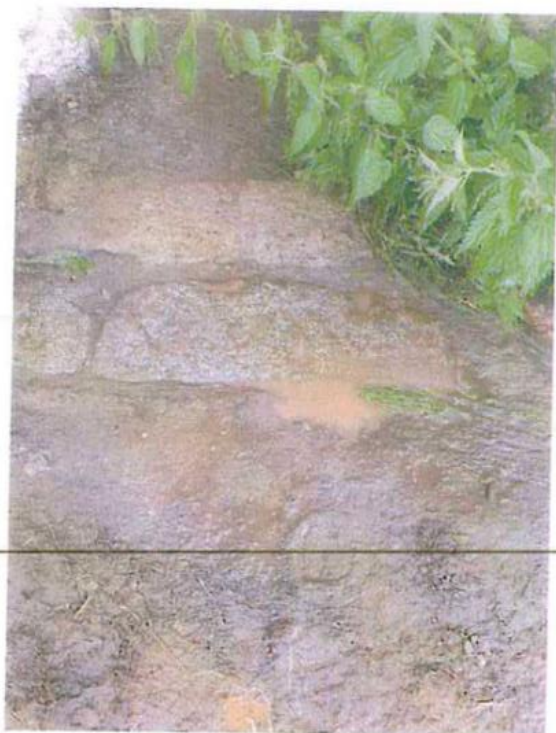


Image 3

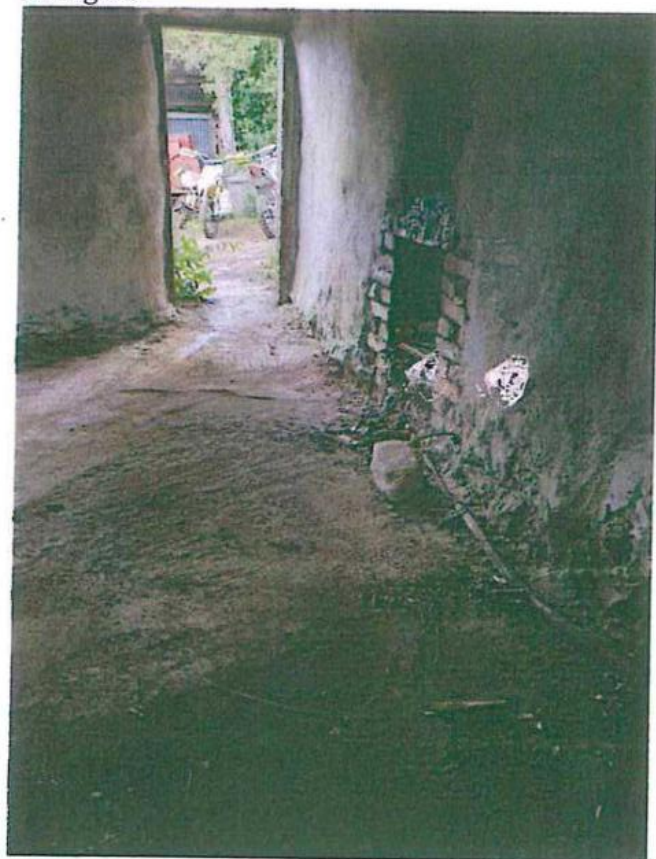


Image 4

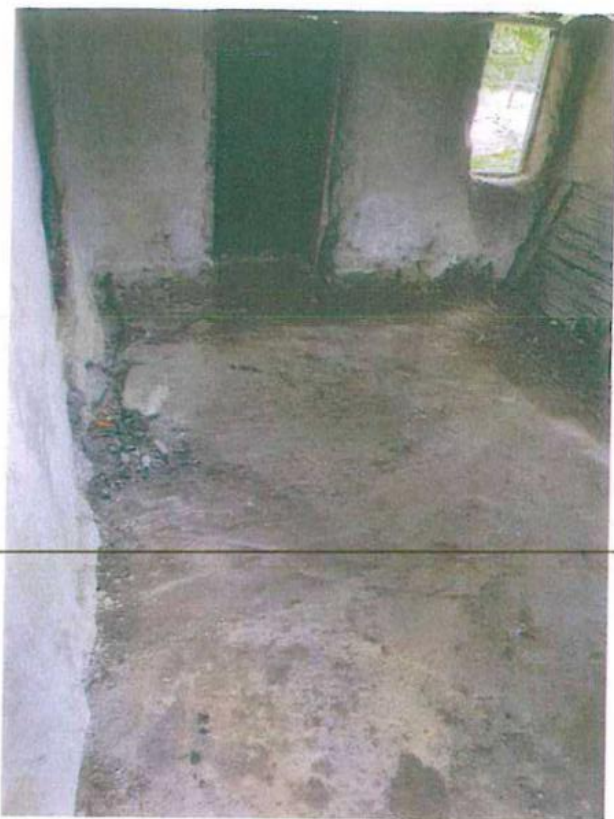


Image 5

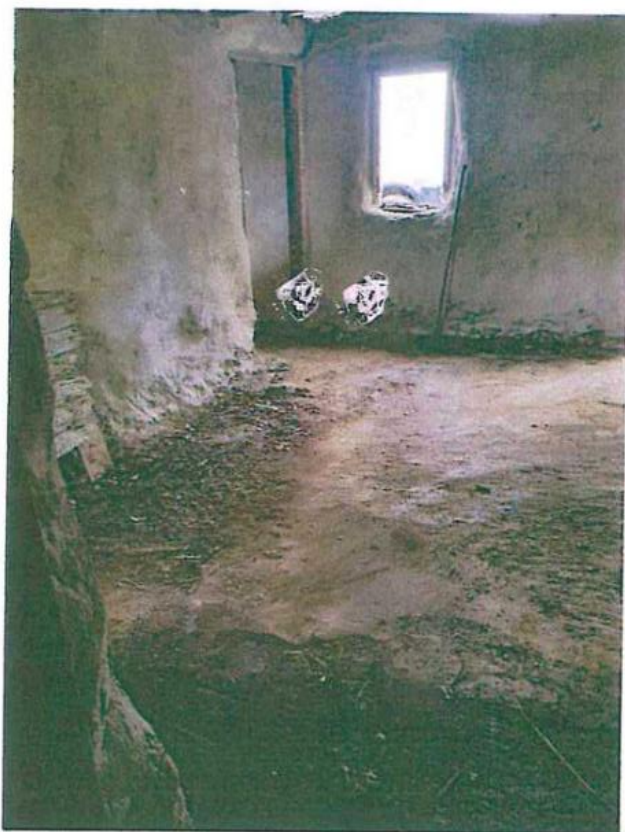


Image 6

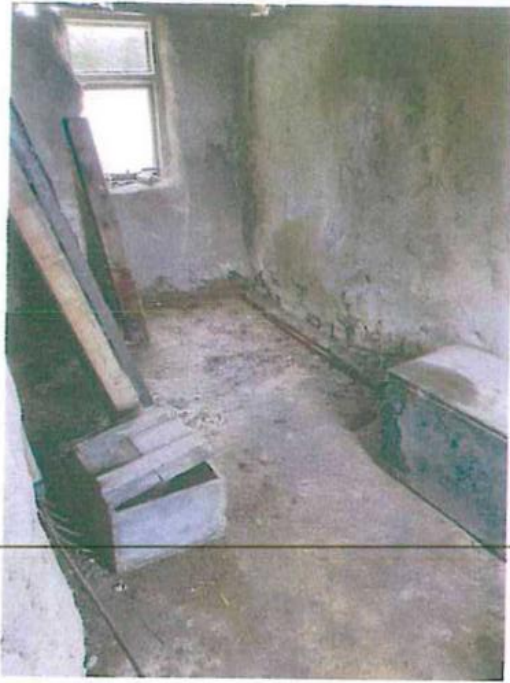


Image 7



24-07-20

Reference: LA09/2019/1415/F

Address: 60 Meters east of 5 Drumgarrell Road

Proposal: Replacement Dwelling

To Whom it may concern,

I note the application is on for rejection and have noticed inaccurate information has been provided by objectors. Michael Donnelly has stated his cattle roamed free between the two plots that weren't subdivided off at the time. He did not seek my permission to do so as I owned the land at the time. I then approached Michael Donnelly and presented him with a bill for grazing my section of the land and the bill remains unpaid. After the bill was presented I installed electric fencing to prevent his cattle coming onto my section of the land. He then stopped grazing my section of the land and shortly after stopped grazing the section owned by Mary Quinn. Therefore, his grievance may have gave him motive for such an objection. Picture 2 in his objection is not of inside the dwelling which I previously owned and there is nothing in the picture which would accurately identify it as being so. Having lived in the area for over 60 years and having farmed all lands in question I have never seen the protected dwelling used for housing cattle. The photos attached by Mary Quinn do not show any cattle coming in and out of the dwelling but only show them in an area around the dwelling. I have already stated in my previous letter of support the reasons for the dwelling being in the condition it is in attached pictures by the objectors. Which was to protect the dwelling from the elements after the gable walls were damaged by a storm.

Signed



1 Drumgarrell Road,
Cookstown,
Co Tyrone,
BT808TA

Reference: LA09/2019/1415/F

Address: 60 Metres east of 5 Drumgarrell Road

Proposal: Replacement Dwelling

I have seen pictures submitted to object to the planning application by Declan Conway. The pictures were put in by Mary Quinn and Michael Donnelly. I remember the house to be replaced before it was covered with tin around 30 years ago and at this stage it had gable walls. It was later covered with tin. Of the 45 years I have lived here I have never seen cattle inside the building. I again would like to mention I am in support of the application

Signed:

Kevin Madden 30.7.2020

