

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 4 June 2019 in Council Offices, Ballyronan Road, Magherafelt

Members Present

Councillor Mallaghan, Chair

Councillors Bell, Black, Brown, Clarke, Colvin, Cuthbertson, Gildernew, Glasgow, Kearney, McKinney, D McPeake, S McPeake, Mullen, Quinn, Robinson

Officers in Attendance

Dr Boomer, Planning Manager
Mr Bowman, Head of Development Management
Ms Doyle, Senior Planning Officer
Mr McCrystal, Senior Planning Officer
Ms McCullagh, Senior Planning Officer
Ms McKearney, Senior Planning Officer
Mr Marrion, Senior Planning Officer
Ms McNally, Council Solicitor
Mr Stewart, Senior Planning Officer
Miss Thompson, Democratic Services Officer

Others in Attendance

Applicant Speakers

LA09/2017/1258/F	Mr Nugent
LA09/2018/1564/F	Ms Given
LA09/2019/0166/F	Mrs Dale
LA09/2019/0186/F	Mr McElduff
LA09/2017/0126/F	Councillor Milne
LA09/2018/1093/F	Mr Cassidy
	Councillor Milne
LA09/2018/1367/F	Mr McElhone

The meeting commenced at 7.02 pm

P054/19 Apologies

None.

P055/19 Declarations of Interest

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

P056/19 Chair's Business

In response to the Chair, Members confirmed that they had received training necessary in order to attend tonight's meeting.

The Chair, Councillor Mallaghan referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred from tonight's meeting schedule for an office meeting –

Agenda Item 4.7 – LA09/2018/0799/F – Demolition of garage and provision of detached dwelling adjacent to 23 Beechland Road, Magherafelt for Ashley Booth.

Agenda Item 4.17 – LA09/2019/0064/O – Infill dwelling at site 40m SE of 15 Lough Road, Ballymaguigan for Patrick McKenna.

Agenda Item 4.28 – LA09/2019/0300/O – Dwelling and garage between 34 and 36 Coagh Road, Cookstown for William and Heather Hutchinson.

Proposed by Councillor Bell
Seconded by Councillor Mallaghan and

Resolved That the planning applications listed above be deferred for an office meeting.

The Chair, Councillor Mallaghan further advised that agenda item 4.22 – LA09/2019/0186/F would be heard 'In Committee'.

Matters for Decision

P057/19 Planning Applications for Determination

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

LA09/2016/0470/F Retention of the change of use of existing buildings to Class B2 Light Industrial, Class B3 General Industrial and Class B4 Storage and Distribution at 111 Ballynakilly Road, Coalisland for Mr James Devlin

Members considered previously circulated report on planning application LA09/2016/0470/F which had a recommendation for approval.

Councillor Cuthbertson stated he had declared an interest in this application the last time it was brought forward however he was aware that the description of the application may have changed. Councillor Cuthbertson asked if the site had been visited recently.

Mr Marrion stated that it had been some time since the site was visited.

The Planning Manager stated he was conscious of the description of the application and stated that if any works had taken place which were contrary to the previous permission those works would be unauthorised and the best way for officers to investigate the matter would be for the Councillor to send email to officers.

Councillor Cuthbertson referred to approval granted in January 2019 and asked if the same conditions would take effect now rather than the last time.

Mr Marrion confirmed that the same conditions would take effect now.

Proposed by Councillor Gildernew
Seconded by Councillor Bell and

Resolved That planning application LA09/2016/0470/F be approved subject to conditions as per the officer's report.

LA09/2017/0232/F Cow and calf unit over existing slurry tank at 62 Crossowen Road, Clogher for Simon Campbell

Members considered previously circulated report on planning application LA09/2017/0232/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Gildernew and

Resolved That planning application LA09/2017/0232/F be approved subject to conditions as per the officer's report.

LA09/2017/1258/F Retention of building as a domestic garage at 18 Cookstown Road, Dungannon for Mr Barry O'Neill

Mr Marrion (SPO) presented a report on planning application LA09/2017/1258/F advising that it was recommended for refusal.

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

Mr Nugent stated that the applicant realised he had done wrong in erecting the garage without permission but was trying to rectify the situation. Mr Nugent stated that DfI Roads had deemed the garage would be unsafe for commercial use and therefore the applicant had reverted back to making an application for domestic use. Mr Nugent felt that as domestic use was now being applied for he did not think the sightline issue needed to come under consideration as there would be no intensification of use. Mr Nugent stated that if the garage was conditioned solely for domestic use then the applicant will have learned his lesson, Mr Nugent felt there was no merit in having the garage demolished and stated that aesthetically the garage would have no adverse impact and highlighted that there were no objections to the proposal.

In response to Planning Manager's questions Mr Nugent advised that former commercial buildings were behind the dwelling and that the applicant's father had previously worked at growing mushrooms.

The Planning Manager stated it was his understanding that none of these buildings were authorised. The Planning Manager also questioned why there should be a domestic garage in the middle of a commercial area. The Planning Manager stated that sightlines

were the main issue with this application, he added that the applicant had chosen to build the garage and was not sure he had learned his lesson as he could have went to planning appeal and asked to retain the garage but did not.

Mr Nugent stated that the applicant was trying to find an avenue which avoided the need to achieve sightlines.

The Planning Manager asked why the applicant did not try to achieve the sightlines required.

Mr Nugent stated he could only reiterate what he had already said and that there was no issue with anything on the site.

The Planning Manager highlighted that buildings were only authorised if they had planning permission or a certificate of authorisation.

The Chair, Councillor Mallaghan referred to query over DfI Roads consultation.

Mr Marrion advised that DfI Roads had been consulted on agricultural and domestic use of the garage and that they had stated that sightlines of 4.5m by 120m were required in both directions.

The Chair, Councillor Mallaghan asked if this could be achieved.

Mr Nugent advised that sightlines in the direction of Carland could not be achieved.

The Chair, Councillor Mallaghan stated that whilst the garage would make no difference to the site itself, the advice coming from DfI Roads was significant.

Proposed by Councillor Mallaghan
Seconded by Councillor Robinson and

Resolved That planning application LA09/2017/1258/F be refused on grounds stated in the officer's report.

LA09/2018/0382/F Rationalisation and continued extraction of minerals from Magheraglass sand and gravel quarry; a lateral westerly extension; phased development plans and holistic restoration at Magheraglass Sand & Gravel Pit, Knockaleery, Magheraglass Road, Cookstown for Creagh Concrete Products

Members considered previously circulated report on planning application LA09/2017/0232/F which had a recommendation for approval. Members were also advised as per addendum circulated of additional conditions to be attached.

Proposed by Councillor Glasgow
Seconded by Councillor Kearney and

Resolved That planning application LA09/2018/0382/F be approved subject to conditions as per the officer's report and additional conditions as set out in addendum circulated.

LA09/2018/0595/F Free range poultry shed with 2 no. feed bins, a standby generator building and associated site works at 150m NW of 49 Gorey Road, Dungannon for Mr Weldon Hall

Members considered previously circulated report on planning application LA09/2018/0595/F which had a recommendation for approval.

Proposed by Councillor Gildernew
Seconded by Councillor Robinson and

Resolved That planning application LA09/2018/0595/F be approved subject to conditions as per the officer's report.

LA09/2018/0781/O Dwelling at site immediately S of 59 Cahore Road, Draperstown for reps of Mr Peter Bradley

Members considered previously circulated report on planning application LA09/2018/0781/O which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor Bell and

Resolved That planning application LA09/2018/0781/O be approved subject to conditions as per the officer's report.

LA09/2018/0799/F Demolition of garage and provision of detached dwelling adjacent to 23 Beechland Road, Magherafelt for Ashley Booth

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

LA09/2018/0924/F Dwelling and garage 150m W of 35 Drumnafern Road, Donaghmore for Leo Quinn

Members considered previously circulated report on planning application LA09/2018/0924/F which had a recommendation for approval.

Proposed by Councillor Gildernew
Seconded by Councillor Colvin and

Resolved That planning application LA09/2018/0924/F be approved subject to conditions as per the officer's report.

LA09/2018/1024/F Demolition of existing dwelling houses and erection of 11 apartments at 100 Rainey Street, Magherafelt for John J Donnelly

Members considered previously circulated report on planning application LA09/2018/1024/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor D McPeake and

Resolved That planning application LA09/2018/1024/F be approved subject to conditions as per the officer's report.

LA09/2018/1092/F 4 semi detached dwellings to replace 2 previously approved semi detached dwellings; septic tanks to serve sites 59 and 61 at lands S of 43 to 57 Lambfield Drive, Dungannon for Countrywide Homes NI Ltd

Members considered previously circulated report on planning application LA09/2018/1092/F which had a recommendation for approval.

Proposed by Councillor Gildernew
Seconded by Councillor Colvin and

Resolved That planning application LA09/2018/1092/F be approved subject to conditions as per the officer's report.

LA09/2018/1171/F Change of use of existing domestic shed and garden to visitors shed and garden; creation of a new vehicular access to the Castledawson Road and associated development at 59 Castledawson Road, Magherafelt for Mr Eamon Regan

Members considered previously circulated report on planning application LA09/2018/1171/F which had a recommendation for approval.

Proposed by Councillor Kearney
Seconded by Councillor S McPeake and

Resolved That planning application LA09/2018/1171/F be approved subject to conditions as per the officer's report.

LA09/2018/1207/F Alternative vehicular entrance to that previously approved under M/2014/0331/F at 34-38 The Square, Coalisland for Western Building Systems

Mr Marrion (SPO) presented a report on planning application LA09/2018/1207/F advising that it was recommended for approval, Mr Marrion stated that amended plans had also been received in relation to provision of passing bays which addressed the concern of an objector. Mr Marrion stated that approval could be conditioned which would require passing bays are in place prior to the commencement of works.

Proposed by Councillor Gildernew
Seconded by Councillor Colvin and

Resolved That planning application LA09/2018/1207/F be approved subject to conditions as per the officer's report.

LA09/2018/1296/O Dwelling and garage at lands 75m S of 16 Ballyheifer Road, Magherafelt for Glenbrook Stud

Members considered previously circulated report on planning application LA09/2018/1296/O which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Brown and

Resolved That planning application LA09/2018/1296/O be approved subject to conditions as per the officer's report.

LA09/2018/1564/F 4 apartments with associated car parking (previous approval M/2008/0412/F) 10m to the rear of 60 Union Place, Dungannon for Mr Brendan Cunningham

Mr Marrion (SPO) presented a report on planning application LA09/2018/1564/F advising that it was recommended for approval and stated that two additional objections had been received since reports were issued.

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

Ms Given stated she was representing Ms McNally who lived at 56 Union Place. Ms Given stated that a permission had been granted a number of years ago but had now expired and that Council could take its own view on the current application. Ms Given stated that the proposal would bring about overdevelopment of a compact environment and added that the proposal was not well thought out, that some apartments would have limited natural light and that there would be direct overlooking into Ms McNally's garden which was not conducive to a quality scheme design. Ms Given also referred to the limited distances between no.56 and the proposal and that it was felt the proposal was contrary to QD1 of PPS7, DCAN8 and Creating Places. Ms Given felt that if the proposal was approved it would set a precedent and asked Members to consider a site meeting to see what the impacts of the proposal would be.

In response to question from the Planning Manager, Ms Given advised that the garden slopes away from the kitchen window of 56 Union Place.

In response to the Planning Manager's question regarding separation distances Mr Marrion advised that there was a distance of 14m between the back wall of no.56 to the nearest wall of the proposal.

The Planning Manager asked what the key concern was, whether it was loss of privacy to the garden of no.56 or the dwelling itself.

Ms Given stated that there were concerns that the site would become overdeveloped and that there would be direct overlooking from some windows of the proposal into the garden of 56 Union Place.

The Planning Manager stated that those concerns were fair but highlighted that there would already be overlooking into the garden from existing properties on either side of no.56.

Ms Given stated that there were also concerns in relation to loss of amenity through disturbance.

The Planning Manager referred to earlier comment in relation to Creating Places and stated that this document is guidance rather than policy and there was nothing therein which had to be adhered to but could be used as a rule of thumb for designers. The Planning Manager stated it was not his view that this is a quality scheme, he referred to previous permission and that should the Committee decide to refuse the application then the applicant can go to planning appeal. The Planning Manager stated that Creating Places, DCAN8 and PPS7 were all in place when the previous approval was granted and that there had been no material change in policy context in the interim. The Planning Manager stated that the previous approval was not a great decision as the existing dwellings would be looking across and onto the roof of the proposal and this was a factor the committee should be mindful of.

The Council Solicitor stated that based on the case officer's report the previous approval had not commenced and therefore the Committee was not looking at a fallback situation, but rather the planning history. Therefore, planning history is a material consideration but cannot be given determining weight.

Councillor Cuthbertson declared an interest in the application, he stated he knew the objectors and had spoken with some of their family members. Councillor Cuthbertson expressed some concern that the maps/pictures being shown tonight do not give a true representation of what the situation is on the ground and that when standing in the kitchen of no.56 the proposal will be directly overlooking. Councillor Cuthbertson referred to there being no objections from DfI Roads in relation to the proposal and stated that the access laneway does not belong to them which might be the reason for this. Councillor Cuthbertson stated that Union Place was a narrow road which had dwellings and businesses and that the proposal would only add to vehicle movements in the area. Councillor Cuthbertson felt there was an ideal opportunity for a site meeting.

Councillor Cuthbertson withdrew to the public gallery.

Councillor Gildernew stated he could understand the concerns of residents and proposed a site meeting take place.

The Planning Manager stated that a site meeting would be a good idea as there were concerns over neighbouring amenity. The Planning Manager stated that further consideration should also be given to DCAN8 and Creating Places.

Councillor Mullen seconded Councillor Gildernew's proposal for a site meeting.

Councillor Quinn declared an interest in the application as he stated he had visited with Ms McNally 6-7 months ago in relation to the application. Councillor Quinn concurred with Councillor Cuthbertson's comments in that the maps being shown do not offer a true representation of what the site looks like in reality. Councillor Quinn also expressed concern over the access laneway and stated that two cars could not pass on it and the overall lack of privacy the proposal would create.

Councillor Quinn withdrew to the public gallery.

Councillor Colvin stated that further advice was needed on the over intensification of development.

The Planning Manager stated that this would be given further consideration when reporting back to Committee.

Resolved That planning application LA09/2018/1564/F be deferred for a site meeting.

Councillor Quinn rejoined the meeting.

LA09/2018/1650/F Extension to retail Unit 1 at Castlefields, Thomas Street, Dungannon for Nano Developments Ltd

Members considered previously circulated report on planning application LA09/2018/1650/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Robinson and

Resolved That planning application LA09/2018/1650/F be approved subject to conditions as per the officer's report.

LA09/2019/0059/F Detached garage to rear of dwelling at 5 Drumconvis Road, Coagh, for Robert Hosseini

Members considered previously circulated report on planning application LA09/2019/0059/F which had a recommendation for approval.

Proposed by Councillor Glasgow
Seconded by Councillor McKinney and

Resolved That planning application LA09/2019/0059/F be approved subject to conditions as per the officer's report.

LA09/2019/0064/O Infill dwelling at site 40m SE of 15 Lough Road, Ballymaguigan for Patrick McKenna

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

LA09/2019/0109/F Temporary use of existing garage as a self contained living accommodation at 14 Culbane Road, Portglenone for P McTaggart

Members considered previously circulated report on planning application LA09/2019/0109/F which had a recommendation for approval.

Proposed by Councillor Kearney
Seconded by Councillor McKinney and

Resolved That planning application LA09/2019/0109/F be approved subject to conditions as per the officer's report.

LA09/2019/0141/F Agricultural Shed adjacent to 21 School Lane, Gulladuff, for Mr Eugene Bradley

Ms McCullagh (SPO) presented a report on planning application LA09/2019/0141/F advising that it was recommended for refusal.

Councillor S McPeake stated he knew the applicant and was surprised that there had been no request to speak or communication from them in relation to the proposed refusal. Councillor S McPeake proposed an office meeting.

The Planning Manager stated the proposal did not appear to be for agricultural use but rather domestic. The Planning Manager also stated that, if approved, the site may offer a gap for one or more houses.

Councillor Cuthbertson rejoined the meeting at 7.57pm.

Councillor S McPeake asked if officers had had any communication with the agent for the application.

Ms McCullagh stated that the agent had advised that "They would keep an eye on what was happening" with the application.

The Planning Manager stated that if it was felt a shed was needed the existing shed could be replaced or a new shed sited next to the existing shed.

Councillor S McPeake proposed that the Planning department make contact with the applicant/agent to give opportunity for consideration to be given to the re-siting/design of the proposal.

Mr McCrystal (SPO) confirmed that the agent for the application was contacted but that he did not recall an opportunity to reconsider application being made.

Councillor McKinney seconded Councillor S McPeake's proposal.

Resolved That planning application LA09/2019/0141/F be held until applicant/agent is offered opportunity to reconsider proposal.

LA09/2019/0155/F Infill dwelling and garage adjacent to Timageeragh Cottages, Tirgarvil Road, Upperlands for A McKee

Members considered previously circulated report on planning application LA09/2019/0155/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Brown and

Resolved That planning application LA09/2019/0155/F be approved subject to conditions as per the officer's report.

LA09/2019/0166/F Change of house type from approved (M/2008/1206/F) at sites 34, 36, 38, 40, 42 & 44 Aughnaree Manor, Aughnacloy for TG Developers Ltd

Mr Marrion (SPO) presented a report on planning application LA09/2019/0166/F advising that it was recommended for approval. Mr Marrion also referred to the addendum circulated in which additional information had been lodged in support of objection.

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

Mrs Dale stated she was speaking on behalf of her son who was currently working overseas. Mrs Dale stated that the main issue related to layout of sites 34 and 36 which are not situated as per approved plans and are much closer to no.28 which will have an effect on the amount of sunlight being provided to this dwelling. Mrs Dale confirmed that the foundations for nos. 34 and 36 are already in place. Mrs Dale also stated that the gable wall of no.34 will be completely overlooking no.28 which will lead to loss of amenity and invasion of privacy. Mrs Dale felt that the reduced separation distance between nos. 28 and 34 are not sufficient for emergency access and maintenance access to rear of no.34. Mrs Dale also referred to Creating Places document and that she felt the proposal was contrary to this document.

In response to question from Planning Manager Mrs Dale advised that her son bought the house over three years ago.

In response to Planning Manager who asked when previous approvals were granted, Mr Marrion advised that permission for three storey dwelling was granted in 2007.

The Planning Manager stated that from looking at the plans the proposal will not be as high as previous approval but that the footprint would be slightly bigger and slightly closer to the boundary of no.28. The Planning Manager stated there were previous permissions in place when no.28 was bought that are not hugely variant to what is being proposed now.

Mrs Dale stated her son was advised when buying no.28 that no houses would be built behind it.

The Council Solicitor stated that because the extant permission had been commenced and this was looking to change house types, then the Members could consider the fallback position. In order to assess fallback, there were two elements to consider; (i) the nature and content of the alternative operations and sufficient comparison of this; and (ii) the likelihood of the alternative operations being carried out.

Mr Marrion discussed comparisons with the extant permission and the current application including providing distances from gable wall of no.34 to boundary fence of no.28 under previous applications –

2005 permission – 3 metres

2008 permission – 2 metres

2019 – 1.5 metres

Councillor Gildernew felt that the developer had done everything possible in reducing the height of the dwellings from 3 storey to 2 storey. Councillor Gildernew proposed the officer recommendation to approve the application.

Councillor Colvin seconded Councillor Gildernew's proposal.

Resolved That planning application LA09/2019/0166/F be approved subject to conditions as per the officer's report.

LA09/2019/0186/F Retention of mobile home for temporary accommodation at 98a Gortlenaghan Road, Dungannon for Tony McElduff

Application to be considered 'In Committee'.

LA09/2019/0238/F Farm dwelling and garage in substitution of dwelling approved under under LA09/2017/0632/O at 250m S of 23 Macknagh Lane, Upperlands for Anthony McGuckin

Members considered previously circulated report on planning application LA09/2019/0238/F which had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor Clarke and

Resolved That planning application LA09/2019/0238/F be approved subject to conditions as per the officer's report.

LA09/2019/0263/O Infill dwelling and garage at land adjacent to and rear of 23 Grange Road, Moy for Mr Sam Smith

LA09/2019/0264/O Infill dwelling and garage at lands adjacent and immediately W of 27 Grange Road, Moy for Mr Sam Smith

Members considered previously circulated reports on planning applications LA09/2019/0263/O and LA09/2019/0264/O which both had a recommendation for approval.

Proposed by Councillor Gildernew
Seconded by Councillor Clarke and

Resolved That planning applications LA09/2019/0263/O and LA09/2019/0264/O be approved subject to conditions as per the officer's reports.

LA09/2019/0272/O Dwelling and detached garage at land approx. 90 m NW of 4 Dunronan Road, Moneymore for Michael J Wilson

Ms McCullagh (SPO) presented a report on planning application LA09/2019/0272/O advising that it was recommended for refusal.

Proposed by Councillor Mallaghan
Seconded by Councillor Bell and

Resolved That planning application LA09/2019/0272/O be refused on grounds stated in the officer's report.

LA09/2019/0276/RM 1 chalet house at site to rear of 93 and 93a Granville Road, Dungannon for Mr Kevin McVeigh

Mr Marrion (SPO) presented a report on planning application LA09/2019/0276/RM advising that it was recommended for approval. Mr Marrion also referred to addendum circulated and that amended drawings had been received in which additional parking is proposed and windows are to be moved to side elevation.

In response to question from the Planning Manager, Mr Marrion advised that the amended drawings had only been received and that objectors had not been notified of the new information.

The Planning Manager stated he would be more content with Members taking a decision on the application after objectors have been notified of the amended drawings.

The Chair, Councillor Mallaghan proposed that the application be held for 30 days to allow for neighbour notification on the amended plans.

Councillor Gildernew seconded Councillor Mallaghan's proposal.

Resolved That planning application LA09/2019/0276/RM be held for 30 days to allow for neighbour notification on the amended plans.

LA09/2019/0300/O Dwelling and garage between 34 and 36 Coagh Road, Cookstown for William and Heather Hutchinson

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

LA09/2019/0344/O Bungalow with separate domestic garage at site adjacently S of 63 Anneeter Road, Cookstown for Oliver Conlan

Members considered previously circulated report on planning application LA09/2019/0344/O which had a recommendation for approval.

Proposed by Councillor Colvin
Seconded by Councillor Bell and

Resolved That planning application LA09/2019/0344/O be approved subject to conditions as per the officer's report.

LA09/2019/0547/F Amendment to previous approval LA09/2018/1148/F to provide new Vehicular Access onto Old Eglish Road, includes reducing the exit road to 4m wide at Black Lane, Mullaghanagh, Dungannon for Dungannon United Youth

LA09/2019/0549/F Variation of condition 2 approval LA09/2018/1149/F to allow entrance from Black Lane to remain, also preventing vehicles exiting onto Black Lane, Mullaghanagh, Dungannon for Dungannon United Youth

Members present (Councillors Bell, Black, Brown, Clarke, Colvin, Cuthbertson, Gildernew, Glasgow, Kearney, Mallaghan, McKinney, D McPeake, S McPeake, Mullen, Quinn, Robinson) declared an interest in these applications.

Members considered previously circulated reports on planning applications LA09/2019/0547/F and LA09/2019/0549/F which both had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Gildernew and

Resolved That planning applications LA09/2019/0547/F and LA09/2019/0549/F be approved subject to conditions as per the officer's reports.

LA09/2017/0126/F Housing development with reduction to 37 no. units and alterations to house types from previous lapsed permission H/2008/0216/F at site at Magherafelt Road, Draperstown at junction with Drumard Road for Rea Developments

Ms McCullagh (SPO) presented a report on planning application LA09/2017/0126/F advising that it was recommended for approval.

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

Councillor Milne referred to previous meeting in which Members were advised that housing should not be refused as an appeal is likely to succeed and Council would be liable for compensation. Councillor Milne stated that planning appeal success is only

25% and that there were good grounds to refuse this application as it is likely to give rise to conflict between residential and already established neighbouring industrial activity. Councillor Milne highlighted that the previous permission had lapsed and neither party are bound by the previous decision, the Councillor also stated that the application is contrary to QD1 of PPS7. Councillor Milne again highlighted that the compatibility of users is a material consideration and that users will not be compatible in this instance. Councillor Milne highlighted industrial use close to a school in which pupils have had to go home due to health problems, the Councillor also spoke in relation to Reid Engineering which is encircling homes and that planners have a responsibility to protect buyers.

The Planning Manager stated it was important that the Committee do not make decisions based on what they think the Planning Appeals Commission will do and advised that there is always a risk of cost against Council when there has been a previous approval. The Planning Manager stated that the land in question is zoned for housing within Magherafelt Development Plan, the Planning Manager recognised that there was industrial use to one side of the proposal but that the housing has been moved further away from this activity. The Planning Manager advised that Environmental Health had been consulted on the application and have no objections, subject to conditions. The Planning Manager stated that this site was not comparable with the Reid Engineering site and that he did not know what decision Planning Appeals Commission would have taken if there had not been previous permissions in place.

It was confirmed that the last permission expired in 2015 and there was nothing to suggest works had commenced at the site prior to this, on this basis, the Planning Manager stated there was no fallback position. The Planning Manager stated that the previous permission and zoning of the land were material considerations and that the established industrial activity next to the site made for an awkward decision but advised that if the Committee were minded to refuse the application clear reasoning would need to be provided.

Councillor Clarke asked how far Draperstown development limits extended.

Councillor McKinney stated that the development is outside the 30mph limit and that land opposite the proposal site was not zoned for housing.

The Planning Manager stated that Members should not try to redefine settlement limits, that the planning case had been set out as clearly as possible and that it was his role to ensure Members have given full consideration to an application.

Councillor S McPeake asked if it was a material consideration that the previous permission had lapsed. The Councillor also asked if there had been any intensification of industrial use since the previous permission had been granted.

Ms McCullagh advised that there was an application for extension to Sperrin Galvanisers in 2007 and also storage approved in 2018.

The Chair, Councillor Mallaghan asked what view would be taken if the application were to be refused due to the adverse economic impact on Draperstown if the current industrial activity had to relocate away from the area.

The Planning Manager stated this reasoning would be problematic.

The Council Solicitor stated that the planning history is a material consideration but it cannot be given determining weight. The Solicitor advised that the proposal is in accordance with extant Magherafelt Development Plan and that if the Committee were minded to refuse the application then they would need to be clear about those material considerations that indicate that the Plan should not be followed, the weight to be attributed to them and provide detailed reasoning for same.

Councillor S McPeake referred to intensification of use and activity by one of the neighbouring industries to the site.

The Council Solicitor stated how the land had changed could be a material consideration.

The Planning Manager suggested that the proposal may prejudice the future operations of established businesses and asked if any evidence had been submitted from objectors in this regard.

Ms McCullagh advised that the objector had submitted a contrary noise impact report, they had also expressed their concern regarding potential for complaints and the threat to the future success of their business and security of jobs. The objector did not feel the proposal would be built in a quality residential environment.

Councillor Clarke highlighted that the adjacent sales yard had also doubled in size over the last five years. The Councillor stated that the proposal would be located to the East of industrial activity and would therefore suffer from noise and dust etc coming from the industrial use.

The Council Solicitor stated that objections need to be evidence based, that consultee and technical responses have been referenced within the case officer's report and any representations needed to be evidence based.

Councillor Kearney stated he felt road noise should also have been considered. Councillor Kearney proposed the planning application be approved.

The Chair, Councillor Mallaghan stated that similar to planning policy, the Committee had to go with the Magherafelt Development Plan even though they may not like everything within it.

The Planning Manager stated that, if starting again, he would not be inclined to zone such a site for housing.

The Chair, Councillor Mallaghan referred to the property slightly further to the east of the proposal site and asked if there was anything on record of a complaint relating to industrial use from this property.

The Planning Manager stated that Environmental Health had been consulted on the proposal and if there was record of a previous noise issue then they would be advising noise abatement.

Councillor Cuthbertson seconded Councillor Kearney's proposal to approve the application.

Councillor S McPeake stated he could not go with the proposal to approve the application and felt it was the wrong message to be sending out that 30+ dwellings can be built beside a galvanising plant.

Councillor McKinney stated he could not provide the facts and figures needed but felt that this proposal represented Reid Engineering multiplied by 37 and it was wrong to approve such a site for housing. Councillor McKinney also stated that the proposal is being located off a busy road and felt that traffic movements into/out of site would be dangerous.

The Planning Manager reminded Members not to make a decision based on what it thinks the Planning Appeals Commission will do but to be mindful of decisions that may set precedents. The Planning Manager stated that the Committee was also accountable to the ratepayer and that an appeal could result in costs taken against Council. The Planning Manager stated that as there were no concerns raised by Environmental Health in relation to the application the Committee were in unknown territory. The Planning Manager also referred to Magherafelt Development Plan and that, whilst outdated, it was still the plan in use, the Planning Manager also recognised that intensification of industrial use increased the potential for greater nuisance and if houses are built next to industrial activity it could give rise to future complaints.

The Council Solicitor advised that if the Committee were minded to refuse the application and an appeal was then taken, that costs at the PAC would be awarded if Council (or any other party) were found to have acted unreasonably.

Councillor McKinney felt the Committee had good reason to refuse the application, both for the good of the local area and Mid Ulster.

The Planning Manager suggested that based on the comments by Members of the Committee, a reason for refusal could be that the development of housing on the proposed site would prejudice the future operations of the industrial use on neighbouring land.

Councillor Gildernew stated that he was aware of the type of work of a galvanising plant and noise which would arise from such activity. The Councillor advised that most plants of a similar nature work around the clock and this is not conducive to housing being built in close proximity.

The Planning Manager clarified that no one was talking about closing the galvanising plant but the argument being put forward was that the proposal could disrupt activity.

Councillor Cuthbertson stated that if the application was approved this did not mean it would ever be built. The Councillor referred to other applications and concerns regarding houses that were not yet built. Councillor Cuthbertson referred to first application under consideration tonight which was approved within 20 metres of residential housing and a playpark, the Councillor felt that that application and this application under consideration now were similar albeit reversed situation but that the same consideration had not been

given to the first application. Councillor Cuthbertson stated that there was a proposal on the table and a counter proposal had yet to be made.

The Chair, Councillor Mallaghan stated that papers are issued to all Members well in advance of a meeting and that Members have time to give due consideration to all matters for decision. The Chair stated that in relation to this application, Members had indicated they were not unanimously agreed in approving the application.

Councillor McKinney stated he had not made a proposal to refuse the application.

Councillor Gildernew asked if there was any in between on the matter.

The Chair, Councillor Mallaghan advised that an office meeting had already taken place and that most Members appeared to be familiar with the site.

The Planning Manager asked if the applicant would want to reconsider the proposal further ie. increasing the separation distance between housing and neighbouring industrial activity.

The agent for the application advised that the applicant was not in attendance tonight but he suspected that it would be unlikely that he would want to reconsider the scheme any further.

The Planning Manager stated that if there was an intention to revise the proposal the application could be deferred.

Councillor Gildernew proposed that the application be deferred in order to consult with the applicant regarding further revision of the scheme.

There was no seconder to Councillor Gildernew's proposal.

Members voted on Councillor Kearney's proposal to approve the application –

For – 7

Against – 9

Members who voted against the proposal agreed the following reason for refusal –

- That the Committee felt the application would prejudice the established industrial use and is in contravention with Policy PED8 of Policy Statement 4.

Resolved That planning application LA09/2017/0126/F be refused as the Committee felt the application would prejudice the established industrial use and is in contravention with Policy PED8 of Policy Statement 4.

LA09/2017/1196/A **Business signage; including signage on S&W elevations and free standing sign in front of building at 15-17 Church Street, Magherafelt for Mid Ulster Back Care and Physiotherapy**

LA09/2018/1521/LBC **Business signage; including signage on S&W elevations and free standing sign in front of building at 15-17 Church Street, Magherafelt for Mid Ulster Back Care and Physiotherapy**

Ms McCullagh (SPO) presented a report on planning applications LA09/2017/1196/A and LA09/2018/1521/LBC advising that they were both recommended for refusal.

Proposed by Councillor Colvin
Seconded by Councillor Clarke and

Resolved That planning applications LA09/2017/1196/A and LA09/2018/1521/LBC both be refused on grounds stated in the officer's report.

LA09/2018/0425/F **Relocation of dwelling from previous approval H/2008/0322/F at 45m S of 7a Crocknamohil Road, Draperstown for D and A Developments**

Members considered previously circulated report on planning application LA09/2018/0425/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McKinney and

Resolved That planning application LA09/2018/0425/F be approved subject to conditions as per the officer's report.

LA09/2018/0746/O **Dwelling and domestic garage 50m NE of 49 Fivemile Straight, Carnamoney, Draperstown for Mr Connor McPeake**

Members considered previously circulated report on planning application LA09/2018/0746/O which had a recommendation for approval.

Proposed by Councillor Bell
Seconded by Councillor Clarke and

Resolved That planning application LA09/2018/0746/O be approved subject to conditions as per the officer's report.

LA09/2018/1093/F **Dwelling and domestic garage/store approx. 70m ESE of 7 Gortinure Road, Tamnymullan, Maghera for Mr Michael McEldowney**

Ms McCullagh (SPO) presented a report on planning application LA09/2018/1093/F advising that it was recommended for refusal.

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

Mr Cassidy stated that there was no policy to say a hipped roof was unacceptable. Mr Cassidy advised that the site is two metres below road level and is bounded by trees which will be retained, he advised that the dwelling will not be visible from critical views and that the materials to be used are sympathetic to that used in the area. Mr Cassidy also referred to photographs, previously supplied, which show the variation of house and roof types in the locality.

In response to the Planning Manager, Ms McCullagh advised that properties neighbouring the site were low storey.

The Planning Manager agreed that there was no policy which says a hipped roof is unacceptable and that it can be done well in some situations, the Planning Manager stated that the proposal would be dominant whilst being surrounded by modest dwellings. The Planning Manager advised that the applicant was offered the option of reconsidering the design of the proposal but stated that he wanted a decision taken on the application as it stands. On this basis, the Planning Manager stated that the applicant will have the opportunity to go to planning appeal or make a new application.

Councillor Milne stated that he knew this road well and stated that the proposal is not out of character for the area and will be located in a hollow out of view. Councillor Milne felt that the application should be approved or, if not approved, a site meeting arranged.

Councillor S McPeake stated that the site is well integrated in a populated part of the country with many variations of houses and also suggested a site meeting would be beneficial.

The Planning Manager stated that the issues pertaining to the site can be easily resolved and that the applicant is aware of this. The Planning Manager stated that if a site meeting is arranged and only one Councillor turns up it is embarrassing.

The Chair, Councillor Mallaghan stated that advice had been given to the applicant and that negotiation may get the application over the line.

Councillor Bell referred to pictures within the officer report which showed a similar house type to that being proposed neighbouring the application site.

In response to the Planning Manager's question Mr Cassidy stated that the applicant would be willing to reconsider the design of the proposal.

Councillor Glasgow stated that site visits are beneficial but that very often he is the only Councillor attending. Councillor Glasgow stated that it is an embarrassing situation when the Member proposing the site meeting is not even in attendance.

Councillor McKinney proposed an office meeting between the Head of Development Management and the agent/applicant.

Councillor Kearney seconded Councillor McKinney's proposal.

Councillor S McPeake stated that the reason he suggested a site meeting was to see the types of houses along the Gortinure road but that he was content to go down the road of an office meeting.

Resolved That planning application LA09/2018/1093/F be deferred for an office meeting with the Head of Development Management.

LA09/2018/1263/RM Dwelling 20m S of 40 Derrygonigan Road, Cookstown for Finbar Crawford

Members considered previously circulated report on planning application LA09/2018/1263/RM which had a recommendation for approval.

Proposed by Councillor Bell
Seconded by Councillor Colvin and

Resolved That planning application LA09/2018/1263/RM be approved subject to conditions as per the officer's report.

LA09/2018/1367/F Retention of garage with part change of use to living accommodation at 10m N of 30 Loughdoo Road, Pomeroy for Karl Heron

Councillor Mallaghan declared an interest in this application and withdrew from the Chair to the public gallery.

Councillor Robinson took the Chair.

Ms McCullagh (SPO) presented a report on planning application LA09/2018/1367/F advising that it was recommended for refusal. As per addendum circulated, Ms McCullagh advised that a further objection letter had been received.

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

Mr McElhone advised that the garage was built in 2009 and that the applicant and his wife lived there from 2010-2016. Mr McElhone advised that the applicant had delivered an appeal to the Enforcement Notice however this was subsequently returned advising that the response date had been missed. Mr Elhone advised that there is evidence to show that the garage was used as a dwelling from 2010-2016.

The Planning Manager asked how the garage got divided into three ownerships.

Mr McElhone stated this was related to wills.

The Planning Manager stated there was an argument that the proposal was harmful to neighbouring amenities and invited Mr McElhone to outline why it wasn't.

Mr McElhone stated that the garage had been lived in for more than five years.

The Planning Manager referred to issues of concealment and asked Mr McElhone if rates had been paid on the garage.

Mr McElhone stated he was unsure about this.

Proposed by Councillor McKinney
Seconded by Councillor Colvin and

Resolved That planning application LA09/2018/1367/F be refused on grounds stated in the officer's report.

Councillor Mallaghan retook the Chair.

LA09/2018/1578/O Dwelling and garage 25m E of 28 Drumkee Road, Dungannon for Ms Claire Heron

The Head of Development Management presented a report on planning application LA09/2018/1578/O advising that it was recommended for refusal.

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

Councillor Molloy highlighted point 34 of Planning Protocol in that the applicant/agent will be contacted in relation to gaining access for a site meeting and stated that neither the applicant or agent received prior notification of site meeting which took place.

Councillor Molloy stated that the site consisted of two structures, one of which has a concrete floor and partial block walls. Councillor Molloy stated that the structures were run as a nursery for a number of years and could be looked at as a brownfield site and that the character of the area would be improved by replacing the structures. Councillor Molloy advised that the area is made up of rural housing, that there are a number of clusters, a community centre and football field in the vicinity of the site. Councillor Molloy stated that at the March planning meeting a farm dwelling was approved next to 32 Drumkee Road and would open up the opportunity for infill but that the farm dwelling passed in March would have to be substantially started which could take a number of years. Councillor Molloy felt the proposal was an opportunity to remove an unsightly structure and replace it with something better.

In response to the Planning Manager, the Head of Development stated that, when visiting the site, it did not feel defined or have its own sense of place.

The Planning Manager asked if the polytunnels were used as a garden centre or nursery.

Councillor Molloy advised that the polytunnels were used as a nursery.

The Planning Manager stated he felt that policy was not being adhered to but that it was up to the Committee whether they wanted to approve the application as an exception. The Planning Manager asked how long the nursery had been there.

Councillor Molloy advised that the nursery had been there for 15-20 years.

The Planning Manager felt there may be some argument in the benefits of replacing the structures and the impact on the countryside being limited.

Councillor Clarke referred to a similar planning application which went to planning appeal and that there was no definition on what size a structure had to be. Councillor Clarke stated that greenhouses were structures and that these polytunnels had been there for a long time.

The Planning Manager felt Councillor Clarke may be getting policies mixed up, for this application there is a policy which will facilitate replacement of buildings that may not have previously been residential however he was not sure that this application fitted in with that policy.

Councillor Gildernew proposed that the application be approved as he felt what was being proposed would look better than what was there at the moment.

Councillor Colvin seconded Councillor Gildernew's proposal.

The Planning Manager stated that the previous use of the polytunnels seemed to be someone working from home and there was no distinct risk of a previous retail use. The Planning Manager felt there would be no change in rural character providing a bungalow was built on the site.

Councillor Glasgow advised that he had visited the site and that the polytunnels currently on site were an eyesore and an opportunity to develop the site should be seized. Councillor Glasgow stated that the neighbouring area is not overly populated. Going forward, Councillor Glasgow asked that if someone puts up a greenhouse would they think they are automatically entitled to getting a dwelling approved.

The Planning Manager stated that in this case there was a footprint of a building and he did not think approving this application would set a precedent.

In response to Members questions the Planning Manager stated that, should this application be approved, it may be possible for further site opportunities to be created, but this would depend on frontage.

Councillor Cuthbertson stated he would have concerns in approving the application as the polytunnels were operated as a business that was not lawful and that there was no certificate of permission in place. Councillor Cuthbertson proposed that the application be refused.

The Council Solicitor advised Members that if the Committee were treating the application as an exception, then a specific case had to be made and appropriate reasons needed to be provided. The Council Solicitor also expressed concern that there was no previous permission or certificate of lawfulness for the site and that the lawfulness of existing use had not been tested or proven.

The Planning Manager stated he would be inclined to go with the officer recommendation and advised that the proposal does not meet policy. The Planning Manager stated that if there had been a previous retail use the case would have been stronger. If the

application was brought to appeal the Planning Manager stated he was unsure what the outcome would be.

Councillor S McPeake referred to previous comments in relation to lawfulness and asked if evidence of transactions were provided if this would help to clarify the situation.

The Planning Manager stated that the use of the polytunnels would need to be continuous and that they had clearly been abandoned.

Councillor Cuthbertson stated that if the application is refused the applicant has opportunity of appeal.

The Planning Manager outlined the reasons for refusal and stated that, if the application is to be treated as an exception, reasons needed to be given.

Councillor Gildernew stated that he had proposed that the application should be approved and he did this as he felt the site provided a unique opportunity to replace the current unsightly structures with a dwelling.

Members voted on Councillor Gildernew's proposal –

For – 10
Against - 5

Members who voted in favour of the proposal agreed the following conditions –

- Dwelling should be a bungalow with a 5.5 metre ridge height
- Dwelling should be sited where existing buildings are
- Hedges to be retained
- Pairing of access

Resolved That planning application LA09/2018/1578/O be approved subject to the following conditions -

- Dwelling should be a bungalow with a 5.5 metre ridge height
- Dwelling should be sited where existing building are
- Hedges to be retained
- Pairing of access

LA09/2019/0128/F Replacement dwelling and domestic garage adjacent to and NW of 51 Ballynahaye Road, Ballygawley for Mr Cathal O'Neill

Members considered previously circulated report on planning application LA09/2019/0128/F which had a recommendation for approval.

Proposed by Councillor Bell
Seconded by Councillor Robinson and

Resolved That planning application LA09/2019/0128/F be approved subject to conditions as per the officer's report.

INTO COMMITTEE

Resolved That meeting go 'Into Committee' to consider planning application LA09/2019/0186/F.

P058/19 Receive report on Consultation Response to Fermanagh and Omagh District Council on LA10/2019/0508/F

Mr Marrion (SPO) presented previously circulated report which sought agreement to respond to a consultation on a planning application that Fermanagh & Omagh District Council are considering.

Proposed by Councillor Cuthbertson
Seconded by Councillor Brown and

Resolved That Council respond to Fermanagh and Omagh District Council Consultation on planning application LA10/2019/0508/F as follows – *Mid Ulster District Council have no concerns in relation to the development provided Fermanagh and Omagh District Council fully considers the proposal against the prevailing rural policy and impacts of the development on the environment and local residents.*

P059/19 Receive report on Consultation Response to DfE on Petroleum License Application

The Planning Manager presented previously circulated report which sought Members views on the application for a Petroleum Licence to cover the area surrounding Lough Neagh.

The Chair, Councillor Mallaghan expressed concern that there may be use of helicopters when carrying out surveying similar to when surveys were recently carried out in Sperrins. Councillor Mallaghan stated that if helicopters are to be used that the detail of such surveying should be publicised.

The Planning Manager stated that if aerial surveying was to be done it would need to be publicised and he agreed to include this in the correspondence to the Department.

In response to Councillor Clarke's comments the Planning Manager stated that investigations will be done in two stages, firstly by soil sampling and secondly, by seismic imaging.

Councillor Quinn concurred with the Chair's comments in relation to potential helicopter use when surveying and that the detail of such surveying needed to be publicised. The Councillor also opposed fracking.

The Planning Manager stated those carrying out surveying should not enter lands without the landowners permission.

Proposed by Councillor Colvin
Seconded by Councillor Quinn and

- Resolved** That the Planning Manager write to the Department of Economy advising that Council note the application for the licence and would ask that they draw the applicant's attention to: -
- 1 The need to ensure landowners permission.
 - 2 The need to notify the Council prior to undertaking and excavation on drilling before exercising permitted development rights.
 - 3 The permitted development rights are restricted on sensitive sites such as areas of Special Scientific Interest and Archaeological sites.
 - 4 That the Council in line with regional planning policy opposes any extraction based on none conventional measure such as fracking.
 - 5 That any aerial surveying should be publicised before being undertaken.

Matters for Information

P060/19 Minutes of Planning Committee held on 2 April 2019

Members noted minutes of Planning Committee held on 2 April 2019.

P061/19 Consultation on Environmental Statement Addendum to A5 Western Transport Addendum and other Documentation

Councillor Robinson declared an interest in this item.

Mr Marrion (SPO) presented previously circulated report which highlighted the Department for Infrastructure Consultation on the Addendum to the Environmental Statement for the A5 Western Transport Corridor and Draft Reports to inform the Appropriate Assessment for a new road scheme.

Members noted the content of the report.

P062/19 Receive report on Heritage at Risk in Northern Ireland

The Head of Development Plan and Enforcement presented previously circulated report which provided information from Ulster Architectural Heritage regarding Heritage at Risk in Northern Ireland.

Members noted the content of the report.

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Quinn
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 item P057/19 (In Committee Item) and items P063/19 to P069/19.

Matters for Decision

- P057/19 Planning Applications for Determination (In Committee Item)
- P063/19 Receive Report on Fermanagh and Omagh Local Development Plan 2030: Draft Plan Strategy
- P064/19 Receive Enforcement Report

Matters for Information

- P065/19 Confidential Minutes of Planning Committee held on 2 April 2019
- P066/19 Receive report on representation to the Development Plan Strategy
- P067/19 Enforcement Live Case List
- P068/19 Enforcement Cases Opened
- P069/19 Enforcement Cases Closed

P070/19 Duration of Meeting

The meeting was called for 7 pm and concluded at 12.05 am.

Chair _____

Date _____



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

ADDENDUM TO PLANNING COMMITTEE AGENDA

FOR PLANNING COMMITTEE MEETING ON: 4th June 2019

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
4.4	Additional conditions to be attached to any decision	Members to note
4.12	Amended drawings received	Members to note
4.14	Additional objections received	Members to note objections and consideration of these.
4.21	Additional information lodged in support of objection.	Members to note
4.27	Amended drawings received	Members to note, additional parking provided and windows moved off side elevation
5.7	Further objection letter received	For members to note

Agenda Item 4.4 – Additional conditions to be attached to planning application LA09/2018/0382/F –

20. No quarrying shall take place in Phase 2 prior to the submission and written agreement being obtained from the Council of details including the restoration of the site in its entirety with an accompanying table specifying full details of the restoration to take place during phases 2, 3 and 4 of the development

Reason: To facilitate the retention of the area hatched brown on plan 190219-dwg-Ecology and final restoration of the site

21. There shall be no winning and working of minerals in the area shaded brown on the western boundary of the site as denoted on plan 190119-dwg-Ecology

Reason: For ecological purposes and to ensure that this area is not disturbed by mineral operations.

22. Within two years from the grant of planning permission the Operator shall submit to the Council, a contemporary topographical survey of the site. The survey shall be carried out by the Operator no more than 2 months in advance of the submission of the same.

Reason: To provide demonstrable clarification that the development has been implemented in accordance with the approved plans.

23. Every two years following the submission of the initial topographical survey, as required in condition No. xx [above], and until such times as the permitted reserves on site are exhausted, the operator shall submit to the Council a contemporary topographical survey of the site.

Reason: To ensure that development and the approved restoration landform is being implemented in accordance with the approved plans.

24. Following the submission of the topographical surveys, required as per conditions Nos. xx and xx [above] and following a written request from the Council, the operator shall submit to the Council an estimated reserve calculation advising the Council of the estimated in situ permitted workable reserves remaining on site.

Reason: To inform the Council's mineral records and Local Development Plan undertakings

25. No restoration shall take place within phase 3 until an interim restoration plan has been submitted for the agreement of the Planning Authority. This restoration plan should show details of the restoration and planting which has already been undertaken and detail the additional planting to be undertaken within a specified time period. The restoration plan shall be based on the topographical surveys required under condition no xx. Soft landscaping works undertaken by the operator shall be denoted and annotated within the interim plan. The interim restoration plan shall

include details of planting plans, written planting specifications, seed specifications, schedules of plants and trees together with species, size at the time of planting, location, spacing and numbers. The interim plan shall also inform the Council how the restoration undertaken by the operator conforms with the final restoration concept as submitted to the Council under condition No xx and what aftercare provisions, such as cultivating, fertilising, watering, drains and treatment of the land are being implemented to ensure that the restoration is being managed thereafter.

Reason: To ensure the provision of amenity afforded by the restoration design and landscape design as approved.

26. No extraction shall take place within phase 4 until an interim restoration plan has been submitted for the agreement of the Planning Authority. This restoration plan should show details of the restoration and planting which has already been undertaken and detail the additional planting to be undertaken within a specified time period. The restoration plan shall be based on the topographical surveys required under condition No xx. Soft landscaping works undertaken by the operator shall be denoted and annotated within the interim plan. The interim restoration plan shall include details of planting plans, written planting specifications, seed specifications, schedules of plants and trees together with species, size at the time of planting, location, spacing and numbers. The interim plan shall also inform the Council how the restoration undertaken by the operator conforms with the final restoration concept as submitted to the Council under condition No xx and what aftercare provisions, such as cultivating, fertilising, watering, drains and treatment of the land are being implemented to ensure that the restoration is being managed thereafter.

Reason: To ensure the provision of amenity afforded by the restoration design and landscape design as approved.

27. No extraction shall take place within phase 4 until the operator has provided an aftercare programme. To accompany the aftercare programme the developer will need to demonstrate that either a fund, bond or policy has been put in place to complete the remaining restoration works and provide for the aftercare programme. The aftercare programme shall be based on a contemporary topographical survey and include details on planting, cultivating, fertilising, watering and water management, drainage and treatment of the land during the 5 year aftercare period.

Reason: To facilitate the holistic restoration of the site.

28. Five years following the exhaustion of the permitted reserves the operator shall submit to the Council a topographical survey of the site. The survey shall denote the implementation of the final restoration planting in accordance with the approved plans.

Reason: To demonstrate implementation of the restoration in accordance with approved concept and aftercare programme.