

**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 2 June 2020 in Council Offices, Ballyronan Road, Magherafelt and by virtual means**

**Members Present**

Councillor 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 Doyle, Senior Planning Officer\*\*  
Ms McCullagh, Senior Planning Officer\*\*  
Ms McKearney, Senior Planning Officer\*\*  
Ms McNally, Council Solicitor  
Ms McNamee, IT Support  
Mr Moffett, Head of Democratic Services  
Miss Thompson, Democratic Services Officer

**Others in Attendance**

**Applicant Speakers**

LA09/2019/0994/F	Mr Blacklaws
	Mr Bleeks
	Ms Cahoon
	Councillor Wilson*
LA09/2020/0111/F	Ms Wright
	Ms Hancock*

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

\*\* Denotes Officers present by remote means

The meeting commenced at 7.00 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.

**P040/20      Apologies**

None.

## **P041/20      Declarations of Interest**

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

Councillor Cuthbertson declared an interest in planning applications LA09/2017/1226/F, LA09/2018/0484/F and LA09/2019/1285/F.

The Chair, Councillor S McPeake declared an interest in planning applications LA09/2020/0069/F and LA09/2020/0111/F.

## **P041/20      Chair's Business**

The Planning Manager provided update on the functioning of the Planning Department since the announcement of lockdown on 23 March. Members were advised that officers had been asked to work from home with a core admin team remaining in the office to receive planning applications as this is a statutory obligation. The Planning Manager stated that as time has progressed over the last couple of months' group meetings have taken place and decisions are being issued and that since 23 March, 130 applications had been received and 110 decisions had been taken therefore a backlog is not being held. The Planning Manager advised that the Department was now moving to its recovery plan and getting back to normal as much as possible, this will mean having more officers in the office whilst continuing to mix with home working. The Planning Manager felt that if managed correctly then a full planning service could be achieved. The Planning Manager advised that the ongoing situation has also had an effect on the Development Plan and that there was a paper to be considered later in the agenda on how to get this up and running again.

In relation to tonight's agenda the Planning Manager stated that all planning applications were being recommended for approval, the reasons for this were that the pandemic and lockdown situation were still ongoing and that applications for refusal would bring about more people seeking to come to the meeting and that officers wanted to ensure technology worked for this meeting. It was also felt that it was important to deal with applications that could be approved so development can take place as part of recovery. The Planning Manager stated that, if the Committee were minded, then applications for refusal would be brought to next month's meeting.

The Planning Manager also highlighted that the Development Management section of planning had achieved their performance objectives for the year and had indeed achieved their best performance in the last five years.

The Chair, Councillor S McPeake asked if Members were content to move forward with refusals featuring on next month's planning agenda.

Councillor Mallaghan stated he believed this was a reasonable way to move forward.

Councillor Mallaghan also expressed his thanks to the planning team for their support during his past year as Chair. Councillor Mallaghan stated that the Planning Committee were making good planning decisions for Mid Ulster.

## **Matters for Decision**

### **P042/20 Planning Applications for Determination**

The Planning Manager referred to planning application LA09/2019/0994/F in which there had been a request to defer this application from Councillor Wilson as it was felt there had not been adequate consultation with consultees in relation to objections being raised. The Planning Manager advised that the objections to the application were sent to the consultees and their responses are based on being in receipt of the objections. The Planning Manager stated it would not be his advice to permit a deferral on this application and it was reasonable for objectors to present their case to the Committee tonight.

Members were in agreement.

#### **LA09/2017/1226/F Housing development of 76 units adjacent to junction of Station Road and Tullybroom Road, Clogher for T&H Mills**

Members considered previously circulated report on planning application LA09/2017/1226/F which had a recommendation for approval.

Proposed by Councillor Mallaghan  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2017/1226/F be approved subject to conditions as per the officer's report.

#### **LA09/2018/0484/F Waste Water Treatment Works including security fencing, gates, underground sewer pipe, concrete range well, security light, telemetry antenna, kiosks and hard standing area for vehicular access, vehicle turning area and Kingspan BN biodisc RBC unit to service housing development LA09/2017/1226/F at approx. 43m West of 57b Station Road, Clogher and adjacent to existing NI Water waste water treatment works for T and H Mills**

Members considered previously circulated report on planning application LA09/2018/0484/F which had a recommendation for approval.

Proposed by Councillor Brown  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2018/0484/F be approved subject to conditions as per the officer's report.

**LA09/2018/1302/O Housing Development immediately East of 5 to 11 Cavehill Drive, Kilmascally Road, Ardboe for M Mallon**

Members considered previously circulated report on planning application LA09/2018/1302/O which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Mallaghan and

**Resolved** That planning application LA09/2018/1302/O be approved subject to conditions as per the officer's report.

**LA09/2019/0313/F 5 detached dwellings and 12 semi-detached dwellings, detached garages, car parking, landscaping and retaining walls and all other associated site works including temporary treatment works at lands to the NE of 3 Old Omagh Road, Ballygawley for Dr J Gormley**

Members considered previously circulated report on planning application LA09/2019/0313/F which had a recommendation for approval.

Proposed by Councillor Mallaghan  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2019/0313/F be approved subject to conditions as per the officer's report.

**LA09/2019/0317/F 2 detached bungalows and 2 semi-detached dwellings, detached garages, car parking, landscaping and all other associated site works including temporary treatment works at lands to the NE of 3 and 15 Old Omagh Road, Ballygawley for Dr J Gormley**

Members considered previously circulated report on planning application LA09/2019/0317/F which had a recommendation for approval.

Proposed by Councillor Mallaghan  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2019/0317/F be approved subject to conditions as per the officer's report.

**LA09/2019/0456/O 2 dwellings and associated works to the rear of 32 The Square, Stewartstown for Kevin Campbell**

Members considered previously circulated report on planning application LA09/2019/0456/O which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2019/0456/O be approved subject to conditions as per the officer's report.

**LA09/2019/0766/F Café at site 20m E of unit 7-11 Kilcronagh Business Park, Cookstown for K E Holdings**

Members considered previously circulated report on planning application LA09/2019/0766/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2019/0766/F be approved subject to conditions as per the officer's report.

**LA09/2019/0823/F Residential development of 13no. dwellings (9 detached and 4 semi-detached) and 5no. garages and associated siteworks at 6 Tullyodonnell Road, Rock for F P Dev Ltd**

Members considered previously circulated report on planning application LA09/2019/0823/F which had a recommendation for approval.

Proposed by Councillor Mallaghan  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2019/0823/F be approved subject to conditions as per the officer's report.

**LA09/2019/0994/F Housing development of 39 units consisting of 2 storey detached and semi-detached dwellings with open space and temporary waste water treatment works at site N of 3 Coolreaghs Road, Cookstown for J and A Developments Ltd**

Ms Doyle (SPO) presented previously circulated report on planning application LA09/2019/0994/F which had a recommendation for approval.

At the request of the Planning Manager, Ms Doyle shared a site layout plan on the Webex screen so that all Members could see a plan of the development and the extent of the red line.

The Planning Manager asked which properties raised objections in relation to privacy.

Ms Doyle (SPO) advised that an objection was received from 3 Coolreaghs Road in relation to privacy.

On viewing the site layout plan the Planning Manager stated that the separation distance to the opposite side of the Coolreaghs Road was significant, to the south of the site properties would be impacted more to the side which is not the same. The

Planning Manager also highlighted that the development has been designed around an open space and Council are keen to encourage this is included as an integral part of the design of developments.

The Planning Manager referred to road safety and stated that it appeared to be a typical access off the Coolreaghs Road and advised that Roads Service had been consulted and were content with the access.

Councillor Brown asked for clarification in relation to the Planning Manager's earlier comments in relation to this application and that the objector should be allowed to present their case

The Planning Manager confirmed that a request for deferral had been received from Councillor Wilson as it was felt inadequate consideration had been given by consultees to objections in relation to water/sewerage/roads issues. The Planning Manager advised that officers had checked the file and were content that consultees had considered the objections raised. The Planning Manager stated there may be a difference of opinion but that is not to say it has not been considered. In this instance the Planning Manager stated that nothing was going to change by deferring the application and it was right that the Committee considered the application tonight. The Planning Manager stated that the Councillor has a right to address the Committee and was waiting to present their case remotely.

The Chair advised the committee that requests to speak on the application had been received and invited Councillor Wilson to address the committee in the first instance.

Councillor Wilson stated that he had requested a deferral on the application as he lived further along the Coolreaghs Road and that there was inadequate sewer and storm drains in the area and as a result there has been instances of flooding over the years. The Councillor stated that he had raised concerns with the Water Service regarding the floods but that it was his understanding that Water Service do not have any record of previous floods yet there were photographs of raw sewerage into people's houses. In relation to the issue of privacy at 3 Coolreaghs Road Councillor Wilson advised that the proposed development would have a house being built six metres from this property and would mean the residents would be looking out at a brick wall in the future although it was hoped this issue could be sorted when the design came in.

Councillor Wilson stated he was surprised that Water Service had made no reference in their response to previous flooding. Other matters for concern were the roads and footpath system particularly for traffic entering the Coolreaghs Road, this is compounded by a narrow footpath which forces pedestrians onto the road.

The Chair, Councillor S McPeake asked Councillor Wilson to pause his presentation as another objector was waiting outside and in the interests of fairness, the objector needed to hear the full transcript of what he had to say.

The Planning Manager highlighted to Members that the application under consideration was a full application.

The Chair, Councillor S McPeake introduced Ms Cahoon to the meeting and advised that consideration of this application would need to be taken again from the start. He asked that the planning officer give a summary of their report again.

Ms Doyle (SPO) provided a summary of the case officers report and highlighted the main objections raised and that all consultees had been consulted.

The Chair, Councillor S McPeake asked Councillor Wilson to recap and continue with his presentation.

Councillor Wilson stated that the objectors are aware the land is phase 1 land and can be built on but that the issues of concern are mainly around the sewerage system and previous flooding and roads and footpaths issues. Councillor Wilson stated that there were photographs sent in to back up the concerns in relation to sewerage in people's houses and it was a mystery why Water Service had made no reference to this in their response and that he was not sure that Water Service had kept a record of the number of times flooding has taken place in this area.

Councillor Wilson stated that the roads and footpath system at the Coolreaghs/Lissan Road junction was currently unsatisfactory particularly for traffic entering the Coolreaghs Road from the Lissan Road which is compounded by a narrow footpath which forces pedestrians onto the road. With the increased traffic to/from the proposed development this situation will be made even worse and that there is nothing within the plan to upgrade the current footpath. Councillor Wilson stated that the electricity substation at this road junction also causes problems and that the developer proposes to have maintenance vehicles park on the other side of the junction while building work is ongoing. Councillor Wilson also referred to the number of entries and exits and hoped this matter could be addressed moving forward.

Councillor Wilson referred to concerns in relation to the proposed temporary treatment plant for the development and what the word temporary actually means. Councillor Wilson stated objectors would like to know how long temporary is and that to date no satisfactory answers have been received on this matter.

Councillor Wilson stated again that it is appreciated that the proposal lies within phase 1 land and that the objectors are not against the development per se but they are worried and concerned about the sewage, flooding and the roads systems in the area. As it was his understanding that Water Service made no reference to previous flooding in the area in their response Councillor Wilson asked that Water Service be written back to and that the application be deferred.

The Chair, Councillor S McPeake invited Ms Cahoon to address the Committee.

Ms Cahoon stated she was speaking on behalf of her elderly parents who live at 3 Coolreaghs Road, the property which will be most adversely affected by the proposed development. Ms Cahoon advised that her parents had lived at this property for almost 50 years and are upset and concerned what this new development will mean for them, to their quality of life and the value of their property.

Ms Cahoon referred to the planning report which shows the proposal and explained that there are two kitchen windows in the gable wall of her parent's house. Ms Cahoon stated that should the proposal go ahead, there would only be a separation distance of six metres from the proposed property to her parent's house and only three metres from her parent's kitchen window to the garden of the adjacent property. Ms Cahoon stated she appreciated that there had been amendments made to the design of the property but expressed concern over the level of privacy to her parent's home and the impact of noise and dirt if the proposal went ahead only six metres away.

Ms Cahoon stated she lived in a development in another part of Cookstown and that there was currently building development taking place at the bottom of her garden, Ms Cahoon stated she could not convey the considerable impact this recent building work has had on her life ie. Noise, dirt and robbing of privacy. Ms Cahoon stated she was concerned how this proposal would impact on the physical and mental wellbeing of her mother and father who are in there 70s and 80s and have complex health issues and are confined to the house. Ms Cahoon stated her parents have a small garden at the back of their property but this will be completely overlooked if development goes ahead.

Ms Cahoon stated this was a personal matter for her and her parents and asked Members to consider deferring the application to seek to alleviate some of her parent's concerns.

The Planning Manager asked where the kitchen windows in Ms Cahoon's parents home were located.

Ms Cahoon advised that there were two small kitchen windows on the side elevation of her parent's home nearing the proposed development.

In response to question from the Planning Manager Ms Cahoon advised that her parent's kitchen was quite small.

The Planning Manager stated that one of the key elements relating to privacy is habitable rooms. In relation to the kitchen this would not be treated as a habitable room as much as a living room, however for some people the kitchen is their living room.

Ms Cahoon stated that her parents spend a lot of time in their kitchen.

The Chair, Councillor S McPeake invited Mr Blacklaws to address the meeting.

Mr Blacklaws stated that the proposal is within the development limits of Cookstown and acknowledged the 14 objections received in relation to the development, all of which raised similar concerns.

Mr Blacklaws advised that Roads Service were consulted in relation to the development and expressed no road safety concerns. Mr Blacklaws advised that the footpath which abuts the Coolreaghs Road frontage will be widened.

Mr Blacklaws advised that Rivers Agency were consulted and drainage reports were submitted to them. Mr Blacklaws stated that the site does not lie within the 100 year fluvial flood plain however River Agency have asked for a condition that a final drainage design for the discharge of water from the site should be submitted prior to the commencement of any approved development and he stated this will be submitted in due course.

In relation to existing sewer capacity it was advised that Water Service state that the public foul sewer on Coolreaghs Road can become subject to incapacity due to downstream flow and additional network flows combined. The WWtW has capacity for the development. Mr Blacklaws stated that the proposal includes a temporary waste water treatment plant which will discharge into the storm water sewer until such times as the existing public foul sewer is upgraded.

Mr Blacklaws explained that there was a 375mm public storm drain on the site which can service property based on a discharge rate of 26.3m per second and that the detailed drainage design will confirm this.

Mr Blacklaws stated that there will be no significant noise or odour impacts on neighbouring receptors.

Mr Blacklaws referred to concerns in relation to Japanese Knotweed and stated that this issue was not within the space of the works however had been dealt with by a specialist company. Mr Blacklaws also stated that the Council's tree officer did not merit a TPO on existing trees.

Mr Blacklaws stated that he had worked closely with the case officer in relation to this proposal, that the number of dwellings had been reduced from 41 to 39 and that the proposed property adjacent to 3 Coolreaghs Road had been redesigned.

The Planning Manager stated that there appeared to be a problem with the sewerage infrastructure and on occasions the sewers themselves had not drained away and sewerage had then backed up. The Planning Manager stated that there had been work done over the years to Cookstown sewerage works and it was his understanding that these works have been upgraded. The Planning Manager stated that it appeared that Coolreaghs Road had not been connected to the sewerage works and that the proposed development will rely on being serviced by a package plant.

The Planning Manager stated that Rivers Agency have been consulted and are content but have requested that a pre commencement condition be placed on the application and that full details of the drainage system for the development should be submitted and approved prior to any development taking place.

The Planning Manager stated that privacy needs to be taken seriously however in this instance it is quite tricky as you can't expect to have the same degree of privacy on all elevations. As the kitchen window in this case is at a higher level there will not be a same degree of look in and there have been revisions to the design of the proposed adjacent property to try to address concerns.

The Council Solicitor referred to the concerns raised by the objector which are non material planning considerations – one being the loss in value of property and the other relating to the impact of noise and dirt during construction of development. The Council Solicitor advised that those objections are not relevant to the Planning Committee's decision making.

Councillor McKinney stated that it was recognised that there will be houses on this site at some stage but referred to the concerns raised in relation to previous instances of sewerage flooding. Councillor McKinney stated that sometimes the people on ground have more information than the relevant bodies and that the whole situation and recommendation did not sit well with him as it stands now. Councillor McKinney referred to previous presentation to Council by NI Water in which they stated a number of sewerage works across Northern Ireland were not fit for purpose and he was not aware if Cookstown works had been upgraded. Councillor McKinney also referred to the applicant's claim relating to the size of pipe taking water away and whilst he did not dispute this he stated he would like to know the size of the pipe that it would be linking into. Councillor McKinney proposed that the application be deferred.

The Planning Manager stated that officers have raised the issues of concern relating to sewerage with Water Service and they are satisfied with the proposal as is. In relation to issues with flooding Rivers Agency have also been advised of the objections and they are satisfied that a proper drainage system will deal with the concerns. The Planning Manager stated that there will be a package plant for the development and in relation to the water coming off the road and land this will be dealt with by the pipes on the site and may help to alleviate previous problems as the site would be piped.

The Planning Manager stated that the questions have been raised with the relevant agencies and there was not a lot further could be done in relation to those issues of concern.

Councillor Colvin stated that he still had concerns in relation to sewerage and that it was well known that the sewerage system across Mid Ulster is not up to standard. Councillor Colvin stated that he felt the word temporary waste water treatment plant was very misleading and he did not expect there to be any investment in infrastructure in the near future given the current situation. The Councillor stated that temporary could mean the plant is there for years which can then give rise to other complaints such as noise, smell and who will maintain it in the future. Councillor Colvin stated he would not be content with the situation at present and he did not feel it was sufficient for the statutory consultees to say everything will be alright as he was not convinced it will be. Councillor Colvin stated he would like to know how long temporary is going to be as it would help to inform the Members decision making.

Councillor Colvin stated he would also have sympathy with Ms Cahoon and her parents as the kitchen is a living space where a lot of time is spent and that there is nothing to stop the owner of the adjacent proposed property building a conservatory in the future and being even closer to 3 Coolreaghs Road.

Councillor Colvin seconded Councillor McKinney's proposal to defer the application in order to ascertain how long the temporary treatment works will be in operation and also to provide drawings of how privacy to 3 Coolreaghs Road will be maintained.

The Planning Manager stated that there should be proper infrastructure in place and that he was not comfortable with private package plants however did this mean that development should stop or should it be accepted as a measure until the infrastructure is in place. The Planning Manager stated that the long term management of the plant can be conditioned and also permitted development rights for the site adjacent to 3 Coolreaghs Road can be removed.

Ms Doyle (SPO) referred Members to condition 8 in the case officers report –

“Should adoption of the proposed temporary treatment plant not be feasible by Northern Ireland Water, then an adequate and effective maintenance programme shall be put in place for a period not less than 20 years. The programme should be submitted and agreed for approval prior to the occupation of any dwellings hereby approved.

Reason: To ensure the protection of residential amenity.”

The Planning Manager stated it may be better to link a condition such as the one outlined to prior to commencement so that there was not a situation of houses being built and the management of the sewerage system not being in place. The Planning Manager stated he would also want to know how the management plan will be funded.

Councillor Bell referred to NI Water and Rivers Agency being consulted with on numerous occasions in relation to this application and stated he would have confidence in the professionals in those agencies providing information that will stand up. Councillor Bell stated he would have sympathy for some of the objections raised however he felt that the objections have been taken into account and there had been moves to alleviate concerns. Councillor Bell stated that having listened to the officer's report and the debate so far he would propose the officer recommendation to approve the application.

The Planning Manager asked if Councillor Bell was happy with his suggestion in relation to condition 8 and that this should be in place prior to commencement of development.

Councillor Bell asked for clarification in relation to other developments in Cookstown, Dunnganon and Magherafelt and whether they had to take on such a condition.

The Planning Manager stated that practice is always evolving but that perhaps stating prior to commencement of development is unduly harsh and this should be amended to prior to the commencement of dwellings. This would enable the developer to proceed with site works and drainage infrastructure. The Planning Manager stated it would be bizarre to build houses before the infrastructure was in place. The developer would then be in control, the application could be kept alive and gives more flexibility. The Planning Manager also suggested that Permitted

Development rights on the side gable of the property to be situated adjacent to 3 Coolreaghs Road be removed.

The Chair, Councillor S McPeake asked if Councillor Bell was content with the amendments to the conditions of approval as outlined by the Planning Manager.

Councillor Bell stated he was unsure if his previous question had been answered.

The Planning Manager stated that planning works best when people work together and asked the developer if he would be happy to work with the conditions he had suggested.

Mr Bleeks stated that it was their intention to have the treatment plant adopted by NI Water as they have adopted similar plants in other developments.

The Planning Manager challenged the developer to get agreement from NI Water prior to the commencement of any houses. If agreement cannot be achieved with NI Water then he advised the developer to put forward their long term proposals for the management of the temporary plant.

Mr Bleeks stated this would delay the construction of the development.

The Planning Manager stated that there were currently no assurances that NI Water will adopt the plant.

Councillor Bell stated his proposal stands with the inclusion of the additional conditions.

Councillor Colvin stated that the infrastructure was not what it should be and that a partnership approach between Council and developers will be required going forward as it will be the people living in the houses who will suffer if the sewerage system is not up to standard. Councillor Colvin stated that what the Planning Manager was suggesting was not unreasonable and it is probably the first of many similar applications.

The Planning Manager stated that he felt what he had put forward was a sensible approach to ensure the management of the temporary package plant would be in place before building of houses commences.

Councillor McKinney referred to his earlier proposal to defer the application which Councillor Colvin seconded. Councillor McKinney stated that there was an element of horse trading going on with the developer and this is not something the Planning Committee should become involved in. Councillor McKinney stated that his fears were being confirmed during the debate and stated that whilst he recognised there was a need for housing in Mid Ulster the sewerage problem needed to be dealt with first. Councillor McKinney stated he would continue to stand over his proposal to defer the application.

Councillor Mallaghan seconded Councillor Bell's proposal.

The Council Solicitor referred to the additional condition outlined in relation to removing permitted development rights for the property to be situated adjacent to 3 Coolreaghs Road.

The Planning Manager confirmed that this would be a separate condition which would specify that permitted development rights were removed for any extensions or new windows on the side elevation adjacent to 3 Coolreaghs Road.

The Chair, Councillor S McPeake asked if Councillor Bell was content to include this in his proposal.

Councillor Bell stated he was happy that the additional conditions were included.

Members voted on Councillor McKinney's proposal –

For – 6

Members voted on Councillor Bell's proposal –

For - 9

**Resolved** That planning application LA09/2019/0994/F be approved subject to conditions as per the officer's report. That condition 8 be amended to state that the maintenance programme should be submitted and agreed for approval prior to the commencement of the building of dwellings. An additional condition should also be included in which permitted development rights are removed on the side elevation of the property to be sited adjacent to 3 Coolreaghs Road, Cookstown.

**LA09/2019/1276/F Partial removal of roof of drive thru lane at KFC, 45  
Killymoon Street, Cookstown for Kirk and Bryson Co. Ltd**

Members considered previously circulated report on planning application LA09/2019/1276/F which had a recommendation for approval.

Councillor Clarke asked if the roof was a key part of the site on the original application for KFC.

The Planning Manager advised that when KFC made their application at that site Environmental Health had requested something which would reduce the impact of that particular development and that what the developer proposed is what is in situ now. The Planning Manager stated that in order to change the site officers have taken what is being proposed and consulted with Environmental Health however he advised that the site still needed to remain up to a good standard to protect neighbouring amenity. The Planning Manager stated that Environmental Health are content with the proposal.

Proposed by Councillor Colvin  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2019/1276/F be approved subject to conditions as per the officer's report.

**LA09/2019/1285/F Dwelling and garage (change of house type) at 86m NW of 81 Killyliss Road, Dungannon for Gary McCann**

Members considered previously circulated report on planning application LA09/2019/1285/F which had a recommendation for approval.

Proposed by Councillor Brown  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2019/1285/F be approved subject to conditions as per the officer's report.

**LA09/2019/1322/O Site for dwelling and domestic garage approx. 30m S of 4 Killyneese Road, Castledawson for Brendan McKenna**

Members considered previously circulated report on planning application LA09/2019/1322/O which had a recommendation for approval. Members were also directed to addendum which advised of an additional letter of objection from a previous objector. The issues raised in this objection were addressed in the case officer report.

Councillor McKinney referred to the objection letter which suggested that the wrong name was on the application.

Ms McCullagh (SPO) advised that the application was made in the name of Brendan McKenna however he is known as Bernard. The officer advised that there were no other issues with the application.

The Council Solicitor stated she would have no issue provided no prejudice had been caused.

Councillor McKinney referred to the objection letter also stating that a garage was being used as part of farm business.

The Planning Manager stated that if an application is for a dwelling on a farm then the buildings on the farm can be taken into consideration ie. House, garage, shed.

Councillor Brown referred to the 10 year rule and stated that there had been a previous application made in 2013 for the same business id.

Ms McCullagh (SPO) advised that an application had been previously approved in 2013 however no work on this application had commenced.

Proposed by Councillor McKinney  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2019/1322/O be approved subject to conditions as per the officer's report.

Councillor S McPeake vacated the Chair and withdrew from the meeting for the following items.

Councillor Glasgow took the Chair.

**LA09/2020/0069/F Replacement dwelling and garage at site adjacent to 42 Dreenan Road, Drummuck, Upperlands for Mr and Mrs Adam and Catherine Morgan**

Members considered previously circulated report on planning application LA09/2020/0069/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2020/0069/F be approved subject to conditions as per the officer's report.

**LA09/2020/0106/O Dwelling adjacent to/N of 44 A Glencrew Road, Aughnacloy for Enda McGarrity**

Members considered previously circulated report on planning application LA09/2020/0106/O which had a recommendation for approval.

The Head of Development Management also highlighted addendum which advised of an additional letter of objection received.

Councillor Cuthbertson asked if planners had written out to relevant parties to advise of upcoming meeting.

The Planning Manager stated it was not general practice to write out but given there had not been a Planning Committee held for the last couple of months officers had made contact with all relevant parties to advise that there was a meeting coming up in June. The Planning Manager stated that this course of action was only undertaken for this meeting to ensure everyone was aware it was taking place and it is not intended that it continues as it is a labour intensive exercise. The Planning Manager stated that there was also press coverage highlighting that a meeting would take place in June.

Councillor Cuthbertson stated he did not have an issue with writing out but that due to the tendering process there is no press coverage in the Clogher Valley area and only for the objector receiving a letter advising that the meeting was coming up they would not have known.

Councillor Colvin asked for clarification on what a crossroads can be.

The Planning Manager stated that officers can refer to crossroads, or a community facility but that ultimately it should be something which gives a place an identity. The Planning Manager stated that the key thing is that if it is a cluster it should have development on two sides with four buildings, three of which should be dwellings. It was advised that there is a series of criteria in relation to a cluster.

The Planning Manager felt that this case did not look like a traditional crossroads but policy does not say anything in relation to the length of time properties have been there. The Planning Manager stated that policy facilitates the development and therefore the application has passed the test.

Proposed by Councillor Bell  
Seconded by Councillor Mallaghan and

**Resolved** That planning application LA09/2020/0106/O be approved subject to conditions as per the officer's report.

**LA09/2020/0111/F Single storey rear extension and single storey side carport at 10 Ballyheifer Road, Magherafelt for Shauna Wright**

The Head of Democratic Services advised that officers were checking if the objector had been able to gain access remotely as they were not online at present and not in the public gallery.

The Council Solicitor referred to the interim standing orders relating to a member of the public attending remotely and wanting to exercise their right to speak. The Council Solicitor advised that the Chair would have two options – either to adjourn the meeting for a short period to determine if a remote connection can be established or to suspend consideration of this item and continue with other items on the agenda to determine if a remote connection can be established.

The Planning Manager felt that it would be sensible to suspend consideration of this item in the interim and continue with other items on the agenda which will give opportunity to determine if a connection can be made with the objector. The Planning Manager highlighted that the objector may have now chosen not to speak as opposed to not being able to join the meeting remotely.

Councillor Cuthbertson proposed that the application under consideration be suspended for the time being and that the meeting continue with the other items of business.

Councillor D McPeake seconded Councillor Cuthbertson's proposal.

**Resolved** That consideration of planning application LA09/2020/0111/F be suspended in the interim in order to contact the objector. Meeting to continue with other items of business as per agenda.

Councillor S McPeake rejoined the meeting and took the Chair.

**H/2014/0154/F      Agricultural store 150m NE of 20 Newferry Road, Bellaghy  
for Alan Mawhinney**

Members considered previously circulated report on planning application H/2014/0154/F which had a recommendation for approval.

Proposed by Councillor Kearney  
Seconded by Councillor McKinney and

**Resolved**      That planning application H/2014/0154/F be approved subject to conditions as per the officer's report.

**LA09/2018/0944/O   Dwelling and garage (Infill) approx. 90m SE of 43 Rocktown Road, Bellaghy for Mr David Arrell**

Members considered previously circulated report on planning application LA09/2018/0944/O which had a recommendation for approval.

Proposed by Councillor Robinson  
Seconded by Councillor Brown and

**Resolved**      That planning application LA09/2018/0944/O be approved subject to conditions as per the officer's report.

**LA09/2019/0417/O   Dwelling and garage 180m NW of 18 Lower Grange Road, Cookstown for Lawson Martin**

Members considered previously circulated report on planning application LA09/2019/0417/O which had a recommendation for approval.

Proposed by Councillor Colvin  
Seconded by Councillor McFlynn and

**Resolved**      That planning application LA09/2019/0417/O be approved subject to conditions as per the officer's report.

**LA09/2019/1220/F   Dwelling and domestic garage at 35m N of 25 Annaghmore Road, Annaghmore, Coalisland for Eithne O'Neill**

Members considered previously circulated report on planning application LA09/2019/1220/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor Quinn and

**Resolved**      That planning application LA09/2019/1220/F be approved subject to conditions as per the officer's report.

Councillor S McPeake vacated the Chair for the following item and withdrew from the meeting.

Councillor Glasgow took the Chair.

**LA09/2020/0111/F Single storey rear extension and single storey side carport at 10 Ballyheifer Road, Magherafelt for Shauna Wright**

The Planning Manager advised that the objector made a request to speak to the meeting remotely and an invitation to join the meeting was sent.

The Head of Democratic Services confirmed that the invitation had been sent however there was no indication as to whether the person had accepted the invitation or not.

The Planning Manager stated that there was no telephone contact for the objector and referred to the interim standing orders and options therein as previously set out by the Council Solicitor. The Planning Manager stated that officers at present did not know whether the objector could not join the meeting because of a technical difficulty or that they were choosing not to speak and that this type of occurrence will require further thought and discussion between himself and the Council Solicitor for future. The Planning Manager felt that in this instance it would not be wise to put the Council in a position where it could be challenged.

The Council Solicitor noted that the meeting could be adjourned for a short period to establish whether contact can be made with the objector.

Councillor McKinney proposed that the meeting adjourn for 5 minutes.

Councillor Black seconded Councillor McKinney's proposal.

**Resolved** That the meeting be adjourned in order to try to make contact with the objector.

The meeting adjourned at 8.55 pm.

The meeting recommenced at 9.13 pm.

The Chair, Councillor Glasgow advised that the objector was attempting to dial in to the meeting and asked for Members continued patience.

Councillor McKinney asked if the meeting could proceed further with other items and return to the application.

The Planning Manager suggested that the next item that should be taken was the revised statement of Community Development.

Councillor Cuthbertson proposed that the meeting continue.

Councillor McKinney seconded Councillor Cuthbertson's proposal.

**Resolved** That the meeting continue with the next item of business and that the meeting return to planning application LA09/2020/0111/F later.

## **P043/20      Receive Revised Statement of Community Development**

The Planning Manager presented previously circulated report which provided a revised Statement of Community Involvement (SCI) for the main planning functions undertaken by Mid Ulster District Council.

Proposed by Councillor Bell  
Seconded by Councillor Colvin and

**Resolved**      That it be recommended to agree that the revised Statement of Community Involvement as set out at appendix to report be submitted to the Department for their agreement.

Councillor S McPeake rejoined the meeting and took the Chair.

## **Matters for Information**

### **P044/20      Minutes of Planning Committee held on 3 March 2020**

Members noted minutes of Planning Committee held on 3 March 2020.

The Council Solicitor stated that the remaining items on the agenda are to be taken under confidential business and that planning application LA09/2020/0111/F was still under suspension. The Council Solicitor stated that contact was currently being made with the objector but that a decision should be taken on how to proceed with this application before moving into confidential business.

The Chair, Councillor S McPeake asked if the meeting could move into confidential business to deal with the remaining items and then return to the application again later.

The Planning Manager stated that would be problematic as the live feed would have to be cut and then brought back for the application.

Councillor Cuthbertson stated that there appeared to be technical difficulties and asked if it would be in order to defer the application until the July meeting.

The Planning Manager stated that may happen but that officers were putting in a lot of effort to contact the objector and he felt they should be given a few more minutes to see if the situation can be resolved.

Meeting adjourned at 9.22 pm and recommenced at 9.27 pm.

Councillor S McPeake vacated the Chair for the following item and withdrew from the meeting.

Councillor Glasgow took the Chair.

## **Matters for Decision**

### **LA09/2020/0111/F Single storey rear extension and single storey side carport at 10 Ballyheifer Road, Magherafelt for Shauna Wright**

The Chair, Councillor Glasgow confirmed with the objector that they could hear what was being said in the room.

Ms Hancock advised that she could hear.

Ms McCullagh (SPO) presented previously circulated report on planning application LA09/2020/0111/F which had a recommendation for approval.

The Chair advised the committee that requests to speak on the application had been received and invited Ms Hancock to address the committee in the first instance.

Ms Hancock advised that in 2011 her father had passed away and she did not object to the application made at that time as it was the last thing on her mind. Ms Hancock advised that she sent a letter to the applicant on 27 October stating that she was to be informed of any further intentions to adapt the property however the applicant went ahead and submitted an application on 22 January without her knowledge. Ms Hancock advised that the plans submitted state Mr and Mrs Wright who are her parents and are both dead and further to this, the application gives her own name. Ms Hancock stated she was not informed of this nor did she agree to it. Ms Hancock confirmed her objections to the application and stated she did not want the development to go ahead.

The Planning Manager asked Ms Hancock when she first became aware of the application.

Ms Hancock advised that she first became aware of the application on 6 February by her solicitor.

The Chair, Councillor Glasgow invited Ms Wright to address the committee.

Ms Wright stated that Ms Hancock had been made aware of the proposed adaptations in 2016 and that she had documentation supporting this. Ms Wright stated that she felt the objections being raised were not a planning matter and it was not about who was wrong or right, Ms Wright advised that the application had been made in order to adapt her 8 year old sons home in order for him to exist. Ms Wright explained that her son had Duchenne Muscular Dystrophy (DMD) which is a life limiting condition and that his mobility was decreasing on a daily basis.

The Planning Manager stated that Ms Wright was providing information which would normally be considered under confidential business and that he was aware of the live broadcast.

Ms Wright stated she gave her consent to proceed in open business.

Ms Wright stated that her son relies more and more everyday on his electric wheelchair, that he has muscle wastage, deterioration of the heart and lungs, has cataracts of the eyes and takes eleven medications a day in order to stay alive. Ms Wright stated that her son cannot get washed in his own home, cannot move around safely and that there is currently not the room for the equipment he needs and will need in the future. Ms Wright stated that there could be no more delays as her son gets weaker everyday and that he deserved to feel safe in his own home.

The Planning Manager stated that this was a difficult case, made more difficult due to the issues between families. The Planning Manager stated that anyone who has ownership should be made aware of the application as it gives them the right to object and provides them with the opportunity to put their affairs in order. The Planning Manager stated that planning does not confer title and that planning decisions can be taken when the applicant is not the owner. The Planning Manager stated that the objector has known about the application for the requisite period of 21 days before a decision being taken on it and that this is important as the objector can choose to make their own application or take their own civil proceedings with regards to the issue of ownership. In this case planning permission goes with the land.

The Planning Manager stated that the objector had not raised any planning reason to refuse the application such as amenity which is what the Planning Committee would normally consider and it was his view that the objector and applicant needed to get together and resolve their dispute. He stated that from a planning point of view it would be safe to move ahead and take a decision on the application.

The Council Solicitor referred to the issue raised in relation to the name on the certificate and name on the application and stated that as the objector is aware of the application and has had an opportunity to make representations then there is no prejudice to the objector and the purpose of the certificate has been fulfilled.

Councillor McKinney stated that the remit of the Planning Committee was to make a planning decision based on planning grounds and not to decide who owns what. Councillor McKinney proposed the officer recommendation.

Councillor McFlynn stated that the committee could not make decisions on ownership of land/property and that the planning officer had recommended the approval of the application. Councillor McFlynn seconded Councillor McKinney's proposal.

Councillor Mallaghan stated that it was a difficult situation but that he would support the officer recommendation.

Councillor Black agreed with the comments already made and that it was not the job of the Planning Committee to sort out civil matters, the Councillor stated it was unfair on the person suffering to have to suffer further and that he would support the officer recommendation.

**Resolved** That planning application LA09/2020/0111/F be approved subject to conditions as per the officer's report.

The Chair, Councillor Glasgow confirmed with Ms Hancock that she had heard the discussion and the decision taken.

Councillor S McPeake rejoined the Committee and took the Chair.

Live broadcast ended at 9.47 pm.

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

Proposed by Councillor Brown  
Seconded by Councillor Quinn 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 P045/20 to P049/20.

#### **Matters for Information**

P045/20	Peat Extraction
P046/20	Confidential Minutes of Planning Committee held on 3 March 2020
P047/20	Enforcement Live Case List
P048/20	Enforcement Cases Opened
P049/20	Enforcement Cases Closed

#### **P050/20 Duration of Meeting**

The meeting was called for 7 pm and concluded at 10.00 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_