

**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 7 February 2017 in Council Offices, Ballyronan Road, Magherafelt**

**Members Present**

Councillor Clarke, Chair

Councillors Bateson, Bell, Cuthbertson, Glasgow, Kearney, Mallaghan, McAleer, McEldowney, McKinney, McPeake, Mullen, Reid, Robinson, J Shiels (7.04pm)

**Officers in Attendance**

Mr Tohill, Chief Executive  
Dr Boomer, Planning Manager  
Mr Bowman, Head of Development Management  
Ms Doyle, Senior Planning Officer  
Mr Marrion, Senior Planning Officer  
Mr McCrystal, Senior Planning Officer  
Ms McCullagh, Senior Planning Officer  
Ms McEvoy, Head of Development Plan & Enforcement  
Ms McKearney, Senior Planning Officer  
Nora Largy, Council Solicitor  
Una Mullen, Council Solicitor  
Miss Thompson, Committee Services Officer

**Others in Attendance**

**Applicant Speakers**

I/2014/0399/F	Mr Ward
	Mr Ross
LA09/2015/1239/F	Ms Jobling
LA09/2016/0848/O	Mr Cassidy
LA09/2016/0997/F	Mr Cassidy
LA09/2016/1032/O	Councillor S McGuigan
	Mr Gourley
LA09/2016/1034/F	Councillor D Molloy
	Ms Muldoon
LA09/2016/1583/O	Mr Cassidy
LA09/2016/1599/O	Mr Cassidy
LA09/2016/1739/A	Mr Cassidy

The meeting commenced at 7.03 pm

**P014/17      Apologies**

None.

**P015/17      Declarations of Interest**

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

Councillor Glasgow declared an interest in planning application I/2014/0399/F and requested speaking rights for this application.

## **P016/17      Chair's Business**

*Councillor J Shiels entered the meeting at 7.04 pm*

The Planning Manager advised that as the Council Solicitor was now on maternity leave arrangements had been put in place with Belfast City Council to provide legal advice at planning committee meetings and welcomed Nora Largy and Una Mullen to tonight's meeting.

The Planning Manager referred to recently received consultation from Planning Appeals Commission in relation to examination of Local Development Plans. The Planning Manager advised that he had a couple of concerns in relation to the consultation with regard to the following –

Soundness – Planning Commission suggests that onus should be on objectors to say why soundness had not been met. The Planning Manager suggested that Council reply stating that this is not made so onerous as to rule out valid representations because the person making the representation does not understand the tests in relation to soundness.

Representations from Agents – The Planning Manager suggested that the Council should advise that unjustified representations such as those which object to every policy or proposal in a plan and/or every other representation should be ruled out on the grounds of soundness.

The Planning Manager advised that as the timeline for response to this consultation was before the next Planning Committee meeting he requested that the committee delegate power to himself to reply to the consultation with the comments as above.

The Chief Executive advised that the consultation response should be brought to February Council meeting.

Proposed by Councillor Mallaghan  
Seconded by Councillor McPeake and

**Resolved**      That Council submit response to Planning Appeals Commission consultation highlighting the concerns in relation to soundness and representations prior to deadline. This item to be brought to February Council meeting and should Members then decide to withdraw the Council response it can do so.

Councillor McPeake asked if there was any update in relation to concerns he had raised at a previous meeting in relation to untimely response times from Roads Service.

The Planning Manager advised that he had met with the Divisional Roads Manager in the past week and had raised the concerns in relation to response times to

consultations particularly over the summer months and reminded Roads Service of their statutory duty. The Planning Manager advised that the Divisional Roads Manager recognised that there had been issues in relation to response times over the summer period and that assurances were given that Roads Service were endeavouring to make their response within 21 days and that in 70% of cases they were doing so. It was hoped that any backlog to responses should be cleared within the next week.

**P017/17      Confirm Minutes of the Planning Committee Meeting held on Monday 9 January 2017**

Proposed by Councillor Reid  
Seconded by Councillor Kearney and

**Resolved**      That the minutes of the meeting of the Planning Committee held on Monday 9 January 2017, (P001/17 – P009/17 & P013/17), were considered and, subject to the foregoing, signed as accurate and correct.

**Matters for Decision**

**P018/17      Planning Applications for Determination**

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

**I/2014/0399/F      Wind turbine, blade to tip height of 92.5m, to compliment approval I/2010/0211, at Beltonanean Mountain, Cookstown for Mr Graham Bell**

Ms McCullagh (SPO) presented a report on planning application I/2014/0399/F advising that it is recommended for refusal.

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

Mr Ward stated that he lived at 8 Beltonanean Road with his wife and family and that the rear of his property, which is the main living area, would face the direction of the wind turbine. Mr Ward questioned the effect this turbine would have on his family and the amenity of their property. Mr Ward commented that Beltonanean Mountain was one of the last mountains in the area not to have a wind turbine situated.

Mr Ward referred to previous application for a wind turbine at a nearby location which went to appeal and advised of site visit made by Planning Appeals Commission. Mr Ward advised that the appeal made in relation to the previous application was subsequently dismissed and referenced the impact that application would have on his property.

Mr Ward expressed his concern on the effect the granting of this wind turbine and any further wind turbines would have and felt there would be a generational impact as families would move away from the area. Mr Ward appealed to Members to refuse this application for the sake of his family.

Mr Ross, agent for the applicant stated that he felt the reasons for refusal were weak and advised that the proposed location for the turbine was a farmed hill and was not a highly sensitive area. Mr Ross advised that the proposed turbine would indeed be located to the rear of 8 Beltonanean Road but would be some 860m from the property and stated that there was already an approval for a turbine which is closer to the same property. Mr Ross stated that he felt it was unreasonable to refuse the application based on amenity and that consultees had not reported any issues. Mr Ross advised that the applicant had made a fair application which was for green energy.

Councillor Glasgow advised he was speaking on behalf of the applicant and that he would be in support of the application. Councillor Glasgow referred to Beltonanean Mountain as a farming mountain and not a tourist area and questioned the amount of money Beltonanean Mountain attracts as a tourist location. Councillor Glasgow stated he understood the concern of objectors but felt that the application would blend into the mountain and would create valuable green energy. The Councillor also reminded Members that consultees had not objected to the application.

*Councillor Glasgow withdrew to the public gallery.*

Councillor Mallaghan stated that it was incumbent upon Council to protect the Sperrins and referred to the remarks made that the ground is used for farming. Councillor Mallaghan advised he would expect this in an AONB and would propose the officers recommendation to refuse the application.

Councillor Cuthbertson asked if this application was being jeopardised because there was an additional wind farm application.

The Planning Manager advised that this application was not being refused because of another application but that it was important for Members to be aware of other applications which the officer had highlighted in their report. The Planning Manager advised that Members should not give determining weight to an undetermined application and should not assume it will be approved.

Councillor Cuthbertson advised that the reason he made the comment was because there was a perception that it was easier to get a wind farm approved than a single turbine.

Councillor Bell seconded Councillor Mallaghan's proposal to refuse the application.

Councillor Reid asked if wind farms and single turbines were considered under different policies. The Councillor also asked when the area was declared an AONB when there was a wind turbine which had already been approved.

The Planning Manager advised that the Sperrins were declared an AONB in 1968.

Councillor Reid asked that being the case, why a turbine had already been approved.

Ms McCullagh advised that SPPS had been introduced since last approved application.

The Planning Manager advised that wind farms and single turbines were both considered within the same policy, he stated that while there may be a perception that it was easier to get a wind farm approved this was not a reality. The Planning Manager advised that every application would be considered on its own merits.

Councillor Reid asked why NIEA had come back with no objections when they would be the body responsible for AONBs.

The Planning Manager advised that Council determine the outcome of an application, not NIEA, he stated that in relation to natural heritage, NIEA had looked at the impact of the application on wildlife and were satisfied that there would be no detrimental effects on upper Ballinderry River.

Councillor McKinney proposed the approval of the application.

The Planning Manager asked Councillor McKinney if he appreciated the height of the proposed turbine.

Councillor McKinney advised that he did appreciate the height of the turbine and referred to the proximity and overlooking some houses have to each other within towns.

Councillor McElDowney questioned why the applicant needed a second turbine.

Councillor Robinson seconded Councillor McKinney's proposal.

Members voted on Councillor Mallaghan's proposal to refuse the application –

For – 9

Against - 5

**Resolved** That planning application I/2014/0399/F be refused on grounds stated in the officer's report.

*Councillor Glasgow left the meeting at 7.45 pm*

**M/2014/0596/F      Erection of single wind turbine and associated cabinets  
435m NE of 14 Culkeeran Road, Moy for Mr Adrian  
McMullan**

The Chair, Councillor Clarke asked Members to note addendum to planning agenda in relation to this application which read –

The description of the development should read 'Erection of single wind turbine and associated cabinets.'

The revised proposal has been re-screened against Planning EIA Regulations (NI) 2015.

The following condition should be attached to any permission 'One turbine only shall be erected within the area of the site identified in red on drawing No 01 Rev 1 24 Nov 2016. Reason: This turbine is in substitution for M/2012/0432/F and is not for an additional turbine.'

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

Proposed by Councillor J Shiels  
Seconded by Councillor Kearney and

**Resolved** That planning application M/2014/0596/F be approved subject to conditions as per the officer's report and as listed above.

**M/2014/0599/F Substitution of single wind turbine approved under planning permission M/2011/0465/F with a single wind turbine measuring 40m to hub with 27m blade length, including associated electricity cabinets 262m SW of 39 Culkeeran Road, Moy for Mr Brian McLean**

The Chair, Councillor Clarke asked Members to note addendum to planning agenda in relation to this application which read –

The description of the development should read 'Substitution of single wind turbine approved under planning permission M/2011/0465/F with a single wind turbine measuring 40m to hub with 27m blade length, including associated electricity cabinets.'

The revised proposal has been re-screened against the Planning EIA Regulations (NI) 2015.

Application listed for refusal on grounds listed in officer's report.

Proposed by Councillor Mallaghan  
Seconded by Councillor McKinney and

**Resolved** That planning application M/2014/0599/F be refused on grounds stated in the officer's report.

**LA09/2015/1092/F Dwelling approx. 30m W of Castledawson Open Farm, 46 Leitrim Road, Castledawson for Mr Martin McMullen**

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

Proposed by Councillor Bateson  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2015/1092/F be approved subject to conditions as per the officer's report.

**LA09/2015/1239/F Variation of condition 6 of previous approval (H/2007/0546/F) to vary the hours of operation to Mon-Fri 5am to 10 pm and Sat 5am to 3pm at Blackpark Road, Toomebridge for Creagh Concrete Products Ltd**

*Councillor Glasgow rejoined the meeting at 7.50 pm*

Mr McCrystal (SPO) presented a report on planning application LA09/2015/1239/F advising that it is recommended for refusal.

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

Ms Jobling asked the committee to approve this application as it would mean operatives could remove moulds from dry pre cast concrete in the morning and carry out quality control checks in the evening, meaning the company could work at maximum efficiency. Ms Jobling understood that the company had brought about the breach of conditions but had lodged this application to remedy the situation, she advised that the company had worked hard to rebuild itself following the downturn in the building trade and spoke in relation to the numerous contracts the company had won and the clear economic need for the variation in hours to guarantee jobs and any future contracts. Ms Jobling stated that the variation in hours would not affect local residents.

It was noted that Councillor Bell had not been present in the meeting for the entire presentation of this application and could therefore not take part in any debate/vote relating to it.

Councillor Mallaghan referred to the evidence provided in relation to contracts awarded and guarantee of jobs which had only come to light tonight. The Councillor felt that there were only a small number of objections and if the application was not granted it would have a detrimental effect on the company by not being able to deliver on contracts and provide security of employment.

Councillor Reid felt that given the evidence which had come to light he would propose the approval of the application.

Councillor Bateson stated he would second Councillor Reid's proposal to approve the application and was surprised more objections had not been received given that the application site was located within a built up area. Councillor Bateson felt that an economic case of need had been put forward in relation to the viability of the company.

Councillor McKinney declared an interest in this application and requested to speak on it.

Councillor McKinney stated that he believed that the statements made by the agent in relation to the application and the future viability of the company to be true.

*Councillor McKinney withdrew to the public gallery.*

The Planning Manager advised that the application was before Members tonight as the company had wanted a decision to be made on it. The Planning Manager stated that the pertinent issues of the application related to noise and disturbance and he felt that the conditions suggested by Environmental Health were not sufficient enough. The Planning Manager suggested that the application be deferred for noise assessments to be carried out and allow for Council to specify what noise levels are acceptable as part of conditions.

The Chair, Councillor Clarke asked Members if they were prepared to defer the application.

Councillor McPeake stated he would propose that the application be deferred but had concerns that other issues were being brought into consideration.

Councillor Reid asked what time delay would be involved in a deferral.

Councillor Mallaghan stated he thought the conditions in relation to noise could be attached to an approval of the application.

The Planning Manager advised that the applicant was currently in breach of a condition notice and that Council could move to Court at any moment. The Planning Manager suggested that Councillors could give an instruction not to move to Court during deferral.

The applicant advised Members of a meeting taking place the next day in regard to the award of a further contract on which a decision on the variation of hours would depend.

Councillor Mallaghan expressed concern that deferral of the application would create additional problems and that it appeared to be the general feeling amongst Members that the variation of hours should be allowed.

Councillor Glasgow stated he would not support the deferral of this application.

Councillor McAleer asked for clarification in relation to conditions cited by Environmental Health.

The Planning Manager advised that the conditions cited by Environmental Health did not meet legal requirements and therefore would not be enforceable. The Planning Manager reminded Members that the applicant had broken the conditions of their previous approval and again suggested that this application be deferred to enable a solution to be found regarding noise that was both workable and enforceable. The Planning Manager further suggested that during this deferral it would not be expedient for Council to push forward regarding enforcement of breach.



Councillor Mallaghan commented that this could not be the only business within Mid Ulster that starts operations at 5am and is in close proximity to residential property.

Councillor Reid stated that his previous proposal was to approve the application outright but would amend this to allow for conditions in relation to noise to be attached.

The Planning Manager stated that the argument in relation to jobs being lost was erroneous.

Council Solicitor advised that the solution offered by the Planning Manager would allow the business to continue operating as it is at the moment as no action would be taken on breach of condition during deferral meaning there was no urgency in Members taking a decision tonight. The Solicitor urged caution to Members in making a decision that could become subject to challenge.

Councillor Glasgow stated that one of the objectors listed was a business and did not feel a variation of hours would have any detrimental effect on the business. The Councillor also highlighted that none of the objectors had requested to speak on the application nor were in attendance tonight and felt that the only way to overcome the breach of conditions was to approve the application.

The Planning Manager advised that if the Council was challenged by a third party he would not be able to give evidence to state that there were no issues in relation to noise given both a condition had been breached and that a noise abatement order was served by Council.

In response to the Chair's question the Council Solicitor advised she was aware of previous cases of Councillors being surcharged.

Councillor McKinney referred to the success of the company and the manner in which it had built itself up again in recent years.

The Planning Manager stated he understood the feeling of Members that the company was an important business in the area but asked for the chance to seek resolution in relation to noise issues.

Councillor Bateson felt that it appeared the company was being penalised.

*Councillor J Shiels left the meeting at 8.30 pm*

The Chair, Councillor Clarke clarified that if the application is deferred the company could still continue its business as is at the moment as enforcement would not be expedited until a resolution was sought in relation to noise conditions.

Councillor McPeake stated he would propose this but would prefer that the application is dealt with on its own merit.

The Planning Manager advised that as there was a noise issue outstanding then appropriate consideration needed to be given to noise issues for this application.

Councillor Robinson stated that on listening to the legal opinion given tonight he would propose the deferral of the application. The Councillor stated that whilst he realised the importance of the company it was important to do what is right legally.

Councillor McPeake stated that he would reluctantly agree that the application needed to be considered as a whole package.

Councillor Reid asked how long the deferral would take.

The Planning Manager advised that the matter could be resolved in two months and that during this time no further enforcement action would be taken.

Councillor McPeake proposed that the application be deferred for further consideration of noise issues however he was cautious of links being made to other areas of the business.

Councillor Bateson seconded Councillor McPeake's proposal.

Councillor Robinson agreed with the proposal.

**Resolved** That planning application LA09/2015/1239/F be deferred to consider Environmental Health conditions relating to noise. No further enforcement action to be taken whilst this is being resolved.

Councillor Reid asked why the application had come before Members tonight when there appeared to be numerous issues outstanding.

Councillor Mallaghan stated that he wanted to record his concern at the manner in which this application had been brought before Members and felt the whole process had been badly handled.

Councillors Reid and Glasgow agreed with the comments made by Councillor Mallaghan.

The Planning Manager advised that the only reason the application was brought before Members tonight was because the company had pushed for it to be put on the schedule.

*Ms Mullen – Solicitor left the meeting at 8.50 pm*

**LA09/2016/0420/F Change of house type to supersede previously approved under H/2006/0806/RM, at approx. 40m E of 16 Rocktown Lane, Knockloughrim for Miranda McManus**

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

Proposed by Councillor Mallaghan  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2016/0420/F be approved subject to conditions as per the officer's report.

**LA09/2016/0634/O Replacement of existing filling station, shop and car wash an incorporation of mixed use units at 132 Drum Road, Cookstown for Mr Seamus Molloy**

Ms McCullagh (SPO) presented a report on planning application LA09/2016/0634/O advising that it is recommended for refusal.

Councillor Mallaghan proposed that the application be deferred for an office meeting.

Councillor Glasgow seconded Councillor Mallaghan's proposal.

**Resolved** That planning application LA09/2016/0634/O be deferred for an office meeting.

**LA09/2016/0730/F Residential development of 120 dwellings (30 detached and 90 semi-detached), associated road accesses, provision of amenity space and associated site works at development lands at 14 Moneymore Road; adjacent and SW of Oakvale Manor; adjacent and NE of Thornhill Avenue between Coolshinney Road and Moneymore Road, Magherafelt for the Johnston family**

The Chair, Councillor Clarke asked Members to note addendum to planning agenda in relation to this application which advised that an additional letter of objection had been received since the planning report had been issued.

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

Proposed by Councillor Reid  
Seconded by Councillor Kearney and

**Resolved** That planning application LA09/2016/0730/F be approved subject to conditions as per the officer's report.

**LA09/2016/0848/O Dwelling and garage at 24m N of Five Mile Straight, Bracaghreilly for Mr Colm Lynn**

Mr McCrystal (SPO) presented a report on planning application LA09/2016/0848/O advising that it is 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 advised that the planning department had accepted that the proposal would lie within a cluster but did not accept that it could be associated with a focal point. Mr Cassidy referred to precedent set by other Councils and Planning Appeals Commission who have taken decisions to the contrary. Mr Cassidy advised that the

site is bounded by development to the north and south and requested that the application be deferred.

Councillor Reid proposed that the application be deferred as there appeared to be issues in relation to the ownership of a laneway.

The Planning Manager advised that the laneway issues had been resolved and provided clarification in relation to policy CTY2a.

*Councillor McKinney rejoined the meeting at 9.06 pm*

Councillor Cuthbertson proposed the officers recommendation to refuse the application.

Councillor McPeake seconded Councillor Reid's proposal to defer the application.

Councillor Cuthbertson did not get a seconder for his proposal.

Members voted on Councillor Reid's proposal to defer the application –

For – 9

**Resolved** That planning application LA09/2016/0848/O be deferred for an office meeting.

**LA09/2016/0905/O Dwelling on a farm at 28 Meenanea Road, Cookstown for Seamus Loughran**

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

Proposed by Councillor Mallaghan  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2016/0905/O be approved subject to conditions as per the officer's report.

**LA09/2016/0997/F Relocation of existing approved storage shed and extension of site curtilage for the storage of plant machinery and building materials, 50m E of 47 Ballymoyle Road, Coagh for Mr Martin Loughran**

Ms Doyle (SPO) presented a report on planning application LA09/2016/0997/F advising that it is 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 the yard and shed are approved for commercial use and advised that the applicant operates a civil engineering business which had continually grown over the years. Mr Cassidy stated that the previously approved

shed had not been built and was now intended to be relocated to allow for the storage of machinery and requested that the application be deferred for office meeting.

Councillor Glasgow felt that as the application was to relocate a shed that was needed to store equipment then he would be happy to approve the application.

The Planning Manager felt that an office meeting was required to ascertain why the shed needs to be relocated outside of the established curtilage.

Councillor Cuthbertson proposed that the application be deferred for an office meeting.

Councillor Bateson seconded Councillor Cuthbertson's proposal.

**Resolved** That planning application LA09/2016/0997/F be deferred for an office meeting.

**LA09/2016/1032/O Erection of dwelling and domestic garage on a farm at land approx. 80m E of 27 Ashfield Road, Ballyscally, Clogher for Mr Dermot McElroy**

Mr Marrion (SPO) presented a report on planning application LA09/2016/1032/O advising that it is recommended for refusal.

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

Councillor McGuigan stated that the outcome of the application appeared to depend on how a group of buildings were defined. Councillor McGuigan felt that the applicant had proven that there were an existing group of buildings that could be associated with this application and that a precedent would not be set. Councillor McGuigan stated that approval of this application would ensure that families could continue to live together within a rural community.

In response to Councillor McPeake's question Mr Marrion advised that evidence of when the sheds were built was only received on receipt of request for speaking rights.

The Planning Manager advised that the balance of probability was that the sheds referred to were erected within the timeframe stated in the affidavit submitted. The Planning Manager also referred to judicial review which had been taken on an application in the past and was made based on no reasonable grounds for an exception to policy being made. The Planning Manager also explained difficulties in obtaining a mortgage for a dwelling on a shared laneway.

The Planning Manager asked Mr Gourley to explain the exception in relation to the laneway.

Mr Gourley advised that policy states that, where practicable, a laneway should be obtained from an existing lane but that it did not state it must. Mr Gourley also spoke in relation to the need to move away from a shared laneway for mortgage reasons.

The Planning Manager asked if there were benefits in locating the dwelling as proposed and not further up the lane.

Mr Gourley advised that that proposed site was the best site and was well integrated.

Councillor McKinney spoke of the health and safety issues related to the farm laneways and proposed the approval of the application.

The Planning Manager clarified that it was the view of the committee to approve the application for the following reasons – that the buildings are established, that the site has environmental benefits in relation to its high degree of integration subject to road safety concerns being met and provided vegetation is kept.

Councillor Bell seconded Councillor McKinney's proposal.

The Planning Manager stated that the following conditions should be applied to the approval of the application as follows –

- Retention of vegetation
- Siting of proposal as indicated
- Access and visibility splays
- Curtilage

The Planning Manager referred to Members reliance on planning appeal decisions when focus should be on planning policy.

**Resolved** That planning application LA09/2016/1032/O be approved with conditions in relation to retention of vegetation, access and visibility splays and curtilage to be attached. Siting of dwelling to also be as indicated.

**LA09/2016/1034/F Retrospective application for change of house type from previously approved 2 storey dwelling (M/2014/0295) to 2 semi detached units within the same curtilage at 75 Killyliss Road, Dungannon for Mr G McCann**

Mr Marrion (SPO) presented a report on planning application LA09/2016/1034/F advising that it is recommended for refusal.

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

Councillor Molloy advised that the footprint of the proposal is the same as that of the single dwelling approved but that the applicant needed this approval to be changed to two dwellings for economic reasons.

Ms Muldoon advised that the previous approval was for a 4,300sqft dwelling, however due to lack of interest shown this had now been amended to two dwellings. Ms Muldoon advised that the changes to the property were minimal and that the subdivision of the property had no impact on the countryside. Ms Muldoon stated that the size and footprint of the building had been retained and that there were no environmental impacts associated with the application and that the site continued to integrate.

Councillor McKinney clarified that the two houses were no bigger than the one approved.

Ms Muldoon confirmed that the two dwellings are on the same footprint as the approval with minor amendments.

Councillor Bell stated that there was a housing shortage within Mid Ulster which this application was helping to address and on considering the application on its own merits he would propose the approval of the application.

The Planning Manager stated he did not see any policy objection from changing from one to two units and that a conversion argument could fit. The Planning Manager asked if there any environmental impacts on having the two units.

Mr Marrion advised that there was no visual impact however environmental impacts would include two families being located at the site and two septic tanks.

The Planning Manager asked if there was discharge consent for the one septic tank on site.

Ms Muldoon confirmed that discharge consent was in place and stated that she was not convinced that the environmental impact for two dwellings was any greater.

Councillor Bateson seconded Councillor Bell's proposal.

The Planning Manager stated that if sharp practice as associated with this application was to continue it could bring the Council into disrepute.

The Council Solicitor stated that the Committee should consider whether it wanted to condone sharp practice.

The Planning Manager advised that as there was no planning permission for two houses, they were unlawful, however an argument could be made in relation to conversion and on merits a building of the current size had been permitted. The Planning Manager advised that if this application went to planning appeal he did not know what its outcome would be.

Councillor Bateson felt that the Planning Committee could not be held accountable for the sharp practice of the architect.

Councillor Cuthbertson stated that if the committee refused the application the applicant still had other options available to them.

Councillor Bell stated he did not think the applicant had initially went out to seek two dwellings.

Councillor Bateson did not feel the overall impact of two dwellings would be adverse.

The Council Solicitor advised that whilst general ambiguity is in favour of development as this application was being looked at under PPS21 there should not be development unless requirements for PPS21 are met.

The Planning Manager advised that the application fails the policy test and legal advice is of the same opinion. The Planning Manager stated that he had not heard any reasoned argument why an exception should be made with this application.

Councillor Bell stated that on those grounds he would withdraw his proposal to approve the application and would now propose that the application be deferred for an office meeting.

Councillor Reid seconded Councillor Bell's proposal.

**Resolved** That planning application LA09/2016/1034/F be deferred for an office meeting.

**LA09/2016/1097/O Site for infill dwelling and garage at 30m E of 30 Leitrim Road, Castledawson for Cherith Rea**

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

Proposed by Councillor Reid  
Seconded by Councillor McPeake and

**Resolved** That planning application LA09/2016/1097/O be approved subject to conditions as per the officer's report.

**LA09/2016/1187/F Two storey rear extension to create ground floor kitchen and first floor bathroom and bedroom at 66 Main Street, Castledawson for Mr J McCullagh**

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

Proposed by Councillor Reid  
Seconded by Councillor Kearney and

**Resolved** That planning application LA09/2016/1187/F be approved subject to conditions as per the officer's report.



**LA09/2016/1258/F Erection of garage for storage of vintage cars at 11 Sandholes Road, Cookstown for Mr Raymond McElhone**

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

Proposed by Councillor Mallaghan  
Seconded by Councillor McAleer and

**Resolved** That planning application LA09/2016/1258/F be approved subject to conditions as per the officer's report.

**LA09/2016/1266/F Redevelopment of existing yard to a public car park, extension to existing footpath and the introduction of passing bays along the existing access/laneway at Pomeroy Forest, Pomeroy for Mid Ulster District Council**

Councillors Bateson, Bell, Clarke, Cuthbertson, Glasgow, Kearney, Mallaghan, McAleer, McEldowney, McKinney, McPeake, Mullen, Reid and Robinson declared an interest in this application.

Councillor Mallaghan also declared a further local interest in this application.

Proposed by Councillor McAleer  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2016/1266/F be approved subject to conditions as per the officer's report.

**LA09/2016/1271/O Site for dwelling on a farm approx. 60m SW of 7 Ballymoughan Lane, Magherafelt for Mr Robert Alexander Brown**

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

Proposed by Councillor Reid  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2016/1271/O be approved subject to conditions as per the officer's report.

**LA09/2016/1375/O Site for farm dwelling and double garage at approx. 35m NE of 23B Carrydarragh Road, Moneymore for Darren and Gail Wylie**

It was advised that this application had been withdrawn by the applicant.

**LA09/2016/1480/F Change of use from shop to fast food outlet, 40 Irish Street, Dungannon for Observer Newspapers NI Ltd**

Councillor Mullen declared an interest in this application.

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

Proposed by Councillor Mallaghan  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2016/1480/F be approved subject to conditions as per the officer's report.

**LA09/2016/1502/F Change of use from construction offices and warehouse to day nursery at 1 School Lane, Gulladuff, Magherafelt for Moyagall Nursery**

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

Proposed by Councillor McPeake  
Seconded by Councillor Kearney and

**Resolved** That planning application LA09/2016/1502/F be approved subject to conditions as per the officer's report.

*Meeting recessed at 10.14 pm and recommenced at 10.32 pm.  
Councillor Mallaghan did not return to the meeting.*

**LA09/2016/1583/O Dwelling under policy CTY2A at approx. 20m E of 50 Oaklea Road, Ballyronan, Magherafelt for Pat Young**

Councillor Bateson declared an interest in this application.

Ms Doyle (SPO) presented a report on planning application LA09/2016/1583/O advising that it is 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 advised that it was recognised this application did not meet planning policy before it was submitted however advice from the planning department stated that the application was within the spirit of the policy. Mr Cassidy stated that the neighbouring area looked like a cluster which included a focal point and did not feel given the nature of the cluster that this application would cause any harm.

Councillor McPeake felt that the Gospel Hall should carry more weight in respect of this application.

The Planning Manager stated that the arguments presented by Mr Cassidy were valid in this case. He advised that weight could be attached to the Gospel Hall and

the cross roads in terms of providing a focal point had been met. Although there was not four dwellings as required by policy an exception could be made because the site was bound on two sides and lined with other development to provide a cluster. The Planning Manager did not feel that approval of this application would change rural character.

Councillor Reid proposed that the planning application be approved.

Councillor McPeake seconded this proposal.

The Planning Manager stated that conditions in relation to height should be attached and that roads service conditions are to be met.

**Resolved** That planning application LA09/2016/1583/O be approved with conditions in relation to height of dwelling and roads service conditions being met to be attached.

**LA09/2016/1599/O Dwelling and garage approx. 20m SW of 21 Drumconnor Road, Drumconnor, Cookstown for Oliver Donaghy**

Ms McCullagh (SPO) presented a report on planning application LA09/2016/1599/O advising that it is 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 requested a deferral for this application based on previous planning appeal decisions. Mr Cassidy also had maps to show the layout of the area surrounding the site.

Proposed by Councillor McKinney  
Seconded by Councillor McAleer and

**Resolved** That planning application LA09/2016/1599/O be deferred for an office meeting.

*Councillors Bell and Mullen left the meeting at 10.44 pm*

**LA09/2016/1719/A 1 Vertical free standing sign, 2 flat panel signs and 2 flag poles at 26 Charlemont Street, Moy for Moy Autos**

Mr Marrion (SPO) presented a report on planning application LA09/2016/1719/A advising that it is recommended for refusal.

Councillor Reid asked if there was any way this application could be accommodated.

The Planning Manager expressed the need for consistency in relation to signage and referred to an application for signage at a nearby location which was dismissed at appeal.

In response to Councillor Reid's comments Mr Marrion advised there was a proliferation of signage in the area.

In response to Councillor Cuthbertson's query Mr Marrion advised that there was an enforcement case on this site.

Councillor McKinney proposed that the application be deferred for an office meeting and commented that he would have liked to have had the additional photographs shown within the planning papers.

Councillor Reid seconded Councillor McKinney's proposal.

**Resolved** That planning application LA09/2016/1719/A be deferred for an office meeting.

**LA09/2016/1739/A 2 shop signs relocated from existing positions to that proposed to accommodate new bypass road layout at 40m W and 145m E of 55 Aughrim Road, Magherafelt for Bradley Furniture**

Ms Doyle (SPO) presented a report on planning application LA09/2016/1739/A advising that it is recommended for refusal.

Mr McPeake felt this was a lawful business in the countryside and did not understand why they could not have signage the same way businesses in towns and settlements can. Councillor McPeake did not feel the signage was out of character.

The Planning Manager agreed that a business should be able to identify itself and would be happy to meet to discuss what reasonable signage is.

Mr Cassidy, agent for the application advised that photos show that the signage had been in place since 2003 and had the right to remain, Mr Cassidy further commented that the business had suffered during the roadworks to create Magherafelt bypass.

Councillor Bateson stated that the signage had been in place for at least 20 years and felt that the realignment of the road had caused the difficulty with this application.

Proposed by Councillor Reid  
Seconded by Councillor Bateson and

**Resolved** That planning application LA09/2016/1739/A be deferred for an office meeting.

*Councillor McEldowney left the meeting at 11.02 pm*

**LA09/2015/1170/F Agricultural shed for storage of farm machinery 180m SSE of 1 Tullybrae Manor, Aughnacloy for Samuel Patterson**

Mr Marrion (SPO) presented a report on planning application LA09/2015/1170/F advising that it is recommended for refusal.

Councillor Reid asked if there was any alternative site available to the applicant.

Mr Marrion advised that the proposal could be located beside existing sheds however the applicant has chosen not to do this.

Councillor Robinson advised that the applicant had sold his farm at another location and needed storage for the additional machinery. The Councillor asked if there was any way of facilitating the proposal.

The Planning Manager advised that he had met with the applicant in the past and that the applicant was aware of what he needed to do to get approval for a shed. The Planning Manager advised that the applicant had not offered any other location for the shed.

Councillor Cuthbertson advised he was aware that the applicant was only out of hospital and that this may have a bearing on why there was no representation present tonight.

The Planning Manager advised that when this application was initially brought before committee in May representation had been made at that time and that an office meeting had also been held with the applicant. The Planning Manager urged Members to make a decision of the application.

Proposed by Councillor Kearney  
Seconded by Councillor Bateson and

**Resolved** That planning application LA09/2015/1170/F be refused on grounds stated in the officer's report.

*Councillor Cuthbertson left the meeting at 11.12 pm*

**LA09/2016/0999/O Dwelling approx. 80m SW of 39 Mountjoy Road, Dungannon for Martha Dunlop**

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

Proposed by Councillor Reid  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2016/0999/O be approved subject to conditions as per the officer's report.

**P019/17 Consultation Response on Draft Environmental Impact Assessment Regulations (NI) 2017**

The Head of Development Plan and Enforcement presented previously circulated report which provided Council response to the Department for Infrastructure consultation regarding the EIA Amendment Directive and the transposition of it to The Planning (Environmental Impact Assessment) Regulations (NI) 2017.

**Resolved** That Council submit response to the Department for Infrastructure consultation in line with the content of the paper circulated.

**Matters for Information**

**P020/17 Appeal Decision**

The Head of Development Management presented previously circulated report advising Members of recent decision made by Planning Appeals Commission.

**CONFIDENTIAL BUSINESS**

Proposed by Councillor McKinney  
Seconded by Councillor Robinson and

**Resolved** That items P021/17 to P025/17 be taken as confidential business.

**P026/17 Duration of Meeting**

The meeting was called for 7.00pm and ended at 11.40 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_