

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 3 November 2015 in Council Offices, Ballyronan Road, Magherafelt

Members Present

Councillor Kearney, Chair

Councillors Bateson, Bell, Clarke, Cuthbertson, Gildernew, Glasgow, Mallaghan, McAleer, McKinney, McPeake, Mullen, Reid, Robinson, J Shiels

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
Ms McCullagh, Senior Planning Officer
Ms McEvoy, Head of Development Plan and Enforcement
Ms McKearney, Senior Planning Officer
Ms McNally, Solicitor
Miss Thompson, Committee Services/ Senior Admin Officer

Others in Attendance

Councillors Ashton, B McGuigan and J O'Neill

Agenda Item 3 – Elaine Kinghan, Chief Commissioner and Trevor Rue, Deputy Chief Commissioner, Planning Appeals Commission

Applicant Speakers

LA09/2015/0695/F	Ms Coyle
M/2014/0340/F	Mr McAlinden
	Mr Bell
H/2015/0010/F	Mr Cassidy

The meeting commenced at 7.05 pm.

P121/15 Apologies

Councillor McEldowney.

P122/15 Declarations of Interest

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

P123/15 Planning Appeals Commission

The Chair welcomed Ms Kinghan and Mr Rue from Planning Appeals Commission and invited them to make their presentation.

Ms Kinghan advised Members of the background to and functions of the Planning Appeals Commission, Ms Kinghan guided Members through the appeals process of the Commission and advised on how decisions are made.

Ms Kinghan informed Members as to the number of appeals decided by the Commission from 2010-2015, she advised that in terms of Mid Ulster area there were 20 appeals decided upon in the last year, 6 of these arose from enforcement cases. Ms Kinghan advised that 100% of the enforcement appeals brought within Mid Ulster area upheld the recommendation made by DoE Planning. Similarly 77% of the rest of the appeals also upheld the recommendation of DoE Planning. Ms Kinghan also advised that the Commission is now starting to deal with the first appeals coming as a result of Council decisions.

Mr Rue provided Members with guidance regarding award of costs and provided examples of unreasonable behaviour in which costs would be awarded.

As Members had no questions/comments the Chair thanked Ms Kinghan and Mr Rue for their presentation following which they withdrew from the meeting.

P124/15 Confirm Minutes of the Planning Committee (Development Plan and Enforcement) Meeting held on Tuesday 15 September 2015

Proposed by Councillor J Shiels
Seconded by Councillor Clarke and

Resolved That the minutes of the meeting of the Planning Committee (Development Plan and Enforcement) held on Tuesday 15 September 2015, (P97/15 – P104/15 & P110/15), were considered and signed as accurate and correct.

P125/15 Confirm Minutes of the Planning Committee Meeting held on Tuesday 6 October 2015

Proposed by Councillor Cuthbertson
Seconded by Councillor Robinson and

Resolved That the minutes of the meeting of the Planning Committee held on Tuesday 6 October 2015, (P111/15 – P117/15 & P120/15), were considered and signed as accurate and correct.

The Chair, Councillor Kearney advised that a comfort break would be taken at a suitable point later in the evening.

Matters for Decision

P126/15 Planning Applications for Determination

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

LA09/2015/0695/F 20m high lattice tower with 6 antennas and 2 dishes, 6 equipment cabinets and ancillary development within 2.2m high fencing and new access lane at land to the rear of 39 Carricklongfield Road, Aughnacloy for Arqiva Ltd

Mr Marrion (SPO) presented a report on planning application LA09/2015/0695/F advising that it is recommended for approval. Further to the report it was advised that Building Control documentation had now been submitted which confirms that foundations have been laid for three residential properties adjacent to the proposed development and that Members should take this into account when making a decision on this application.

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

Ms Coyle referred to the inaccuracies within the planning officers report and stated that the three planning applications had not expired but had indeed commenced, Ms Coyle advised that the proposed mast would be located adjacent to the residential sites. Ms Coyle also cited concerns related to health, noise and visual impact.

Councillor Gildernew advised that he had been prepared to support the approval of this proposal as this was a “not spot” area but taking into account information brought before Members tonight he was concerned that full consideration had not been given to the three residential properties that will be located very close to this proposal. The Councillor proposed that an office meeting be held to discuss further options related to this proposal.

Councillor McKinney seconded Councillor Gildernew's proposal.

The Planning Manager advised that as the residential sites will be in very close proximity to the proposal it would be reasonable for Members to refuse this application on grounds of visual intrusion.

Councillors Reid and Gildernew referred to the need for a telecommunications mast in the area and that the applicant be asked to consider alternative sites in the locality.

The Planning Manager advised that if an alternative site was identified it would require a new planning application to be made and that as this proposal is part of a publicly funded programme which is due to come to an end in March 2016 there is unlikely to be enough time to process a new application in that timeframe.

Councillor Mallaghan commented that the proposed infrastructure is essential to the area and felt that alternatives could be looked at within the “red line”.

Councillor Cuthbertson concurred with previous comments in that the proposal will be located too close to the residential properties but that alternative locations should be considered.

Agreed That planning application LA09/2015/0695/F be deferred for an office meeting.

M/2014/0340/F 500kw centralised anaerobic digestion (CAD) plant, combined heat and power plant (CHP) to include change of use of existing building to facilitate feedstock storage, upgrade of existing access and ancillary site works at lands immediately adjacent and S of 111 Ballynakilly Road, Coalisland for Callan Renewables

Councillor Cuthbertson referred to previous minutes in which he requested that decision would not be taken on this application until enforcement case (M/2012/0108/CA) had been resolved. The Councillor asked for the legal opinion of the Council Solicitor in relation to this.

The Planning Manager advised that the running order of the meeting is a matter for the Chair of the Committee.

The Chair, Councillor Kearney advised that he felt the best way forward at tonight's meeting would be for Members to consider the application before them (M/2014/0340/F) first.

Councillor Cuthbertson commented that he may not agree, but would accept the running order proposed by the Chair.

Councillors Cuthbertson and Reid declared an interest in this item.

Councillor Reid felt that he had been misinformed into making a declaration of interest regarding this item at meeting on 1 September 2015.

Councillor Cuthbertson asked that meeting be informed of the planning history of the site under consideration.

Councillor Mallaghan felt that if there was no further additional information regarding this application then the committee should move into discussion.

Councillor Reid asked if the site visited as part of the study trip was comparable to the proposed site.

Councillor J Shiels felt that it would be important for the meeting to be made aware of the planning history for the site and that this would be new information that had not come before the committee previously.

Councillor Mallaghan withdrew his last comment.

Councillor Robinson felt that the two sites visited as part of the study trip were not comparable.

The Planning Manager clarified to Members that it was never the intention that the two sites visited would be comparable and that the purpose of the study visit was to let Members view an operating anaerobic digester.

Proposed by Councillor J Shiels
Seconded by Councillor Robinson and

Resolved That Committee are informed of planning history related to site under consideration.

The Chair, Councillor Kearney asked Councillors Cuthbertson and Reid to withdraw to the public gallery.

Mr Marrion (SPO) presented detail of planning history related to site and in addition provided report regarding study tour and site visit. Mr Marrion also highlighted additional condition of approval which is considered necessary to attach in relation to this development.

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

Mr McAlinden welcomed the opportunity to address the meeting advising he was speaking on behalf of Ballynakelly residents. Mr McAlinden outlined the concerns of residents regarding this application –

- The application is contrary to PPS18.
- Noise from the plant and additional traffic movements will be detrimental to the area.
- Concerns regarding odour and dust from the plant.
- Industrial nature of proposal will alter the nature of the rural area.

Mr McAlinden concluded by asking the committee to take into account the concerns of local residents, that their decision will have a lasting impact on Ballynakelly and the surrounding area.

Councillor Cuthbertson referred to the case officers report which highlighted the chequered history of the site, the Councillor felt that there is no such similar site within the Mid Ulster area.

Councillor Cuthbertson referred to the study visit in which those who attended could see for themselves the proximity of the site to residential dwellings and a children's play facility and the direct affect approval of this proposal would have on the locality.

Councillor Cuthbertson felt that noise and nuisance to residents of vehicles travelling to and from this site had not been properly considered, the Councillor called on Members to recognise policy including comments by the Environment Minister regarding such applications.

Councillor Cuthbertson referred to the applicant's right of appeal, something the residents are not entitled to and called on Members to put the health and wellbeing of constituents first.

Councillor Reid felt that Members need to consider the concerns of residents, but should also be mindful of the advantages of renewable energies. The Councillor suggested that the applicant needs to find an alternative site for their proposal

Mr Bell, on behalf of the agent, considered that the proposal is not contrary to policy and that the location is ideal and within scale for the area. Mr Bell advised that the proposal will be constructed to the highest standards and reminded Members that there have been no statutory objections to the proposal. Mr Bell felt that planners consideration of this application had been robust.

Councillor J Shiels asked for clarification on whether the agent had requested to speak at the meeting.

The Planning Manager advised that the agent has right of reply to objectors.

The Planning Manager confirmed that there had been a lot of unregulated activity at this site, he advised that should the proposal be approved it will be subject to ongoing control of NIEA. The Planning Manager advised Members that the proposal will bring about an inevitable degree of nuisance and that this would be the only sound reason on which to consider refusal of the application. He asked Members to consider if the level of nuisance would be deemed unacceptable.

Councillor J Shiels asked what benefit the study visit had in helping Members come to a decision.

Councillor McPeake advised that he did not take part in the recent study visit but had visited anaerobic digesters in the past and felt that these visits were important in observing how the technology operates.

Councillor McKinney advised that he did attend the study visit and was able to experience the scale and smell of the plant. In referring to the recent study undertaken the Councillor stated that this anaerobic digester was located in the countryside with the nearest dwelling around a ¼ mile away, Councillor McKinney further commented that some of the sheds located at Ballynakelly that are to be used for storage did not appear to be fit for purpose.

Councillor Robinson stated that the degree of nuisance is unknown at the proposed site and that the proposal was not suitable in a built up area.

In response to Councillor Glasgow's question the Planning Manager advised that the enforcement case related to this application will be considered "In Committee" later in the meeting.

Councillor Glasgow asked if activity at the proposed plant would be regulated.

The Chair, Councillor Kearney advised that the proposal under consideration would be subject to licence and would be visited on a monthly basis by NIEA.

Councillor Glasgow referred to the Council's mission statement "At the heart of the Community" and felt that should the committee approve this proposal Council would effectively be putting an anaerobic digester at the heart of a community which will have a lasting impact on the residents of Ballynakelly and the surrounding area.

Councillor Bateson asked if there is any history of unregulated activity at anaerobic digester plants.

The Planning Manager advised that he was aware of enforcement action taken with regard to unregulated activity at other anaerobic digesters and that he couldn't guarantee that there would not be a breach regarding this proposal in the future but that Members cannot make a decision based on fear of the unknown.

Councillor J Shiels felt that the location of the proposal will cause a genuine nuisance and disturbance and proposed that the application (M/2014/0340/F) be refused on these grounds.

Councillor Robinson seconded the proposal of Councillor J Shiels.

In response to Councillor Reid's question regarding pollution testing the Planning Manager advised that such testing would not be within the remit of the planning department and would be undertaken by Environmental Health or NIEA.

Councillor Mallaghan stated he was not convinced of the arguments not to approve the application.

Councillor Bell referred to potential benefits the proposal would bring to the community ie. Heating and electricity.

Members voted on Councillor J Shiel's proposal –

Proposed by Councillor Glasgow
Seconded by Councillor J Shiels and

Resolved That a recorded vote be taken on Councillor J Shiel's proposal.

For – 4 (Councillors Glasgow, McKinney, J Shiels and Robinson)

Against – 8 (Councillors Bateson, Bell, Clarke, Gildernew, Mallaghan, McAleer, McPeake and Mullen)

(Councillor McKinney left the meeting at 8.43 pm)

Councillor J Shiels felt that as there was only one proposal a vote should not have been required.

The Planning Manager advised that when the Councillors motion was put to the meeting four Members voted for and eight against, as the proposal was lost a counter proposal was not required and it was reasonable to assume the application had been approved as per the officers report.

The Council Solicitor advised that the decision to take a vote was not a legal one but a matter for the Chair of the committee.

Councillor Mallaghan felt that the Chair has the mandate to control the meeting and that this was now being challenged.

The Chair, Councillor Kearney read section of planning protocol relating to overturning an officers recommendation to approve an application.

In order to clarify the matter Councillor McPeake proposed the approval of planning application M/2014/0340/F.

Councillor Mallaghan seconded Councillor McPeake's proposal.

Members voted on Councillor McPeake's proposal –

For – 8

Against – 3

Councillor Glasgow raised concerns regarding how this application and other applications in the past have been determined and the need for the Council to be fair, honest and open in its decision making.

Members considered the remaining planning applications as per agenda.

M/2013/0527/F 45 dwellings (change of house type and reduction from 50 to 45 dwellings previously approved under M/2006/2098/F) at lands to the rear of 159-163 Ballagh Road and 120m E by SE of St John's Church, Fivemiletown for Raymond Acheson

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

Proposed by Councillor McAleer
Seconded by Councillor Reid and

Resolved That planning application M/2013/0527/F be approved subject to conditions as per the officers report.

H/2014/0181/DCA Redevelopment of site for offices, coffee shop, fitness centre and car parking at 29-35 High Street, Draperstown for H&A Mechanical Services Ltd

H/2014/0183/F Redevelopment of site for offices, coffee shop, fitness centre and car parking at 29-35 High Street, Draperstown for H&A Mechanical Services Ltd

Applications listed for refusal on the grounds stated in the officer's report.

The Planning Manager advised that the architect for these applications has indicated that the scheme will be looked at again and that the existing buildings will not be demolished. The Planning Manager recommended that the applications be deferred for further consideration.

Proposed by Councillor Bell
Seconded by Councillor Clarke and

Resolved That planning applications H/2014/0181/DCA and H/2014/0183/F be deferred.

I/2014/0380/F Wind turbine on tubular tower of up to 50m (to hub height) with blades up to 65.5m (to tip height) at lands 207m E of 55 Tullaghmore Road, Stewartstown for Mr Gerard O'Neill

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

Proposed by Councillor Mallaghan
Seconded by Councillor McPeake and

Resolved That planning application I/2014/0380/F be refused on grounds stated in the officer's report.

H/2014/0421/F Installation of a landfill gas management system and flare within the boundary of existing operational landfill site at Ballymacombs Landfill Site, Ballymacombs Road, Bellaghy for Mid Ulster District Council

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

Proposed by Councillor Mallaghan
Seconded by Councillor Clarke and

Resolved That planning application H/2014/0421/F be approved subject to conditions as per the officers report.

Members present declared an interest in this application. (Councillors Bateson, Bell, Clarke, Cuthbertson, Gildernew, Glasgow, Kearney, Mallaghan, McAleer, McPeake, Mullen, Reid, Robinson, J Shiels.)

M/2014/0442/F Electricity generating wind turbine (hub height 30m, blade diameter 30m), hardstanding and 2 electrical kiosks at lands 450m SW of Cohannon House, Drumard Cross Road, Dungannon for Reforce Energy Ltd

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

Councillor Glasgow requested that this application be deferred for an office meeting to allow for submission of further information.

The Planning Manager advised that the necessary bat surveys could not be undertaken until next year due to winter hibernation of bats.

Proposed by Councillor Glasgow
Seconded by Councillor Reid and

Resolved That planning application M/2014/0442/F be deferred for one month to allow for necessary information to be submitted and brought back to committee for determination otherwise authority is delegated to the Planning Manager to refuse the application.

M/2014/0529/F Amendment to previously approved M/2007/0221/F to provide 5 storey residential development of 30 apartments at lands at 5 Park Road, Dungannon for J and V Construction

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

Proposed by Councillor Mallaghan
Seconded by Councillor Gildernew and

Resolved That planning application M/2014/0529/F be approved subject to conditions as per the officers report.

M/2015/0004/F Housing development of 41 houses at Marfield, Killyman (8 detached and 33 semi-detached) and associated site works at lands adjacent to and opposite 16 Tamnamore Road, Killyman, Dungannon for Corove Ltd

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

Proposed by Councillor Reid
Seconded by Councillor Glasgow and

Resolved That planning application M/2015/0004/F be approved subject to conditions as per the officers report.

**H/2015/0010/F Stables and tack store at approximately 70m NW of 175
Glen Road, Maghera for Mrs J Duffy**

Ms Doyle (SPO) presented a report on planning application H/2015/0010/F advising that it is recommended for refusal. Ms Doyle advised that further information had been received in relation to flood risk.

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 the committee of the need for the stables namely in case of emergency for veterinary attention, shelter in cold weather and the store of tack and fodder. Mr Cassidy felt that the concerns of Rivers Agency had now been addressed and that the land in question is held in probate which can be confirmed by a Solicitor. Mr Cassidy also questioned the need for a DARD map when the application is not considered agricultural activity.

Mr Cassidy also felt the application has no direct frontage onto the road and that a ribbon development is not being created as the closest building is 160m away.

The Planning Manager reminded agents that the Planning Act now requires the name and address of the applicant to be given on all documentation, that applications can no longer be made “care of” agent. The Planning Manager also stressed the importance of all documentation being correct. However, in order to clarify matters it was felt that it would be beneficial for the application to be deferred to allow consideration to be given to this application.

Proposed by Councillor Gildernew
Seconded by Councillor Bateson and

Resolved That planning application H/2015/0010/F be deferred.

The meeting recessed at 9.17 pm and recommenced at 9.30 pm.

**M/2015/0060/F Alterations to previously approved house types under
(M/2005/0519/F) to 22 dwellings at sites 84-90 and 67-81 at
lands to the rear of Knockmoy Park, Gortevin Terrace and
fronting Gortgonis Terrace Coalisland for J and V
Construction**

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

(Councillor Mallaghan declared an interest in this application)

Proposed by Councillor Reid
Seconded by Councillor Bateson and

Resolved That planning application M/2015/0060/F be approved subject to conditions as per the officers report.

**LA09/2015/0029/O Dwelling and garage 40m N of 23 Ballynorthland Park,
Dungannon for Philip McCarter**

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

Proposed by Councillor Cuthbertson
Seconded by Councillor Reid and

Resolved That planning application LA09/2015/0029/O be approved subject to conditions as per the officers report.

**LA09/2015/0120/F Retention of existing shed at 16 Mullaghteige Road, Bush,
Dungannon for Trevor Falloon**

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

Proposed by Councillor Gildernew
Seconded by Councillor Clarke and

Resolved That planning application LA09/2015/0120/F be approved subject to conditions as per the officers report.

**LA09/2015/0265/F Dwelling and detached garage in substitution for previously
approved dwelling at 90m NW of 15 Finglush Road, Caledon
for Mr P Ewart**

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

Proposed by Councillor Gildernew
Seconded by Councillor Bateson and

Resolved That planning application LA09/2015/0265/F be approved subject to conditions as per the officers report.

**LA09/2015/0283/F Extension to spares department at 127 Ballynakilly Road,
Coalisland for Euro Springs**

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

Proposed by Councillor Reid
Seconded by Councillor Clarke and

Resolved That planning application LA09/2015/0283/F be approved subject to conditions as per the officers report.

**LA09/2015/0339/F 2 semi-detached dwellings between 6 and 10 Martinvale
Park, Maghera for Tom Scullion**

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

Proposed by Councillor Bateson
Seconded by Councillor Mallaghan and

Resolved That planning application LA09/2015/0339/F be approved subject to conditions as per the officers report.

LA09/2015/0364/O Dwelling at lands adjacent to 57 Luney Road, Desertmartin for Adrian Walls

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

The Planning Manager advised that there had been a request to speak regarding conditions attached to the approval of this application however these issues have been resolved prior to the meeting. The Planning Manager requested that the condition in relation occupancy be amended to time lock occupancy to five years instead of in perpetuity.

Proposed by Councillor Robinson
Seconded by Councillor Mallaghan and

Resolved That planning application LA09/2015/0364/O be approved subject to conditions as per the officers report and amended condition in relation to occupancy (to time lock occupancy to five years).

LA09/2015/0412/F Retrospective application for the retention of 2 existing sheds and extension of domestic curtilage at 15 Drumaspil Road, Dungannon for Mr Robin Burke

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

Proposed by Councillor Robinson
Seconded by Councillor J Shiels and

Resolved That planning application LA09/2015/0412/F be approved subject to conditions as per the officers report.

LA09/2015/0416/F Single storey front extension for porch and sitting room; single storey rear extension for boiler, utility room and toilet; detached domestic garage and relocation of existing access to provide sight lines at 90 Ballynagarve Road, Magherafelt for Philip Doyle

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

Proposed by Councillor Clarke
Seconded by Councillor Bateson and

Resolved That planning application LA09/2015/0416/F be approved subject to conditions as per the officers report.

LA09/2015/0419/F Mobile office for Cookstown HPS approximately 130m NE of 73 Dungannon Road, Cookstown for Cookstown HPS

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

Councillor Bell asked if the reasons for refusal given by TransportNI could be overcome.

The Planning Manager advised that his department will always try to work with TransportNI to resolve issues but in this case road safety is a concern and it would be difficult to argue.

Proposed by Councillor Clarke
Seconded by Councillor Mallaghan and

Resolved That planning application LA09/2015/0419/F be refused on grounds stated in the officer's report.

LA09/2015/0569/O Dwelling at 137 Mullaghmore Road, Dungannon for E Daphne Murphy

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

Mr Marrion (SPO) confirmed that no case of need had been put forward by the applicant.

Councillor Reid proposed that this application be deferred for one month to allow for necessary information to be submitted and brought back to committee for determination otherwise authority is delegated to the Planning Manager to refuse the application.

In response to Councillor Mallaghan's question Mr Marrion advised that the applicant had been informed that their application was being presented at committee for refusal and still had not submitted the necessary information.

Proposed by Councillor Mallaghan
Seconded by Councillor Gildernew

That planning application LA09/2015/0569/O be refused.

Councillor Glasgow seconded Councillor Reid's proposal to defer the application for one month stating that this had happened for an application discussed earlier in the meeting.

Councillor Mallaghan withdrew his proposal.

Resolved That planning application LA09/2015/0569/O be deferred for one month to allow for necessary information to be submitted and brought back to committee for determination otherwise authority is delegated to the Planning Manager to refuse the application.

**LA09/2015/0612/F Retention of re-oriented modular building opposite 30
Annaghmore Road, Moortown for John and Paula Quinn**

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

The Planning Manager advised that the planning officers report did not fully consider the case of need regarding this application and recommended that the application be deferred.

Proposed by Councillor Mallaghan
Seconded by Councillor Clarke and

Resolved That planning application LA09/2015/0612/F be deferred.

**LA09/2015/0646/F Replacement of the existing community hall and internal
alterations to the existing changing, kitchen and meeting
rooms at Ballymaguigan GAA Club, Shore Road,
Magherafelt for Ballymaguigan GAA Club**

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

(Councillor Bateson declared an interest in this application).

Proposed by Councillor Clarke
Seconded by Councillor Bell and

Resolved That planning application LA09/2015/0646F be approved subject to conditions as per the officers report.

**LA09/2015/0738/F Change of use from retail premises to a café at 49 Irish
Street, Dungannon for Denise Mullen**

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

(Councillor Mullen declared an interest in this application and left the room).

Councillor Cuthbertson stated he was aware this business had been trading for the past month without planning permission and felt this sends out a wrong message to the public. The Councillor asked that this matter be fully investigated by the Chief Executive and if necessary should be handed over to the Ombudsman, Councillor Cuthbertson also asked for the opinion of the Council's Solicitor with regard to breach of code of conduct.

The Planning Manager advised that it was not uncommon for applicants to commence development prior to approval, and in doing so no criminal act would have occurred. The Planning Manager confirmed that the application had been considered correctly by officers and brought to the planning committee for determination.

Councillor Cuthbertson again advised he was aware the business has been operational for the past month and referred to the message going out to the public in relation to this matter.

Councillor McAleer questioned where Councillor Cuthbertson's information had come from.

Councillor Cuthbertson advised that anyone going past the premises would be aware that it was trading.

Councillor J Shiels advised that he was aware of Facebook pages indicating the business was operational and felt there was an obvious breach of conduct.

The Council Solicitor advised that it would not be within the vires of the Chief Executive to hand this matter over to the Ombudsman and stated that that decision would be for the Council to make.

Councillor McPeake felt that no law had been broken in relation to this application and asked that it be recorded that he did not want to be associated with the comments of Councillor Cuthbertson. Councillor McPeake proposed the approval of the application.

Councillor J Shiels advised of other businesses who have sought planning permission through the proper channels and have awaited approval before commencing trading.

Councillor Gildernew seconded Councillor McPeake's proposal.

The Planning Manager cautioned Members in that should this application be refused the applicant could lodge an appeal against the Council.

Councillor Mallaghan expressed his disbelief at the attack on the Councillor who is the applicant and felt this was a politically motivated attack.

Councillor Cuthbertson stated that his comments were not a political attack and referred back to an application determined earlier in the meeting which was for retrospective approval. The Councillor again asked the Council Solicitor to advise if the Councillor's/Applicant's actions were bringing the Planning Committee into disrepute.

The Council Solicitor directed Members to the Councillors Code of Conduct which gives advice in relation to making a complaint to the Northern Ireland Commissioner for Complaints regarding any alleged failure to comply with the Code of Conduct.

The Chief Executive also confirmed that Councillor Cuthbertson is at liberty to correspond directly with the Commissioner of Complaints regarding the issues he had raised.

Proposed by Councillor McPeake
Seconded by Councillor Gildernew and

Resolved That planning application LA09/2015/0738/F be approved subject to conditions as per the officers report.

Councillor McPeake felt that a planning workshop is required to remind Members of Planning Protocol, Scheme of Delegation and Code of Conduct.

The Planning Manager advised that the Planning Protocol is currently under review and that a workshop will be held after this review has been completed.

LA09/2015/0767/F Installation of new structural openings and windows at Council Offices, 44 Circular Road, Dungannon for Mid Ulster District Council

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

Proposed by Councillor Mallaghan
Seconded by Councillor Gildernew and

Resolved That planning application LA09/2015/0767/F be approved subject to conditions as per the officers report.

Members present declared an interest in this application. (Councillors Bateson, Bell, Clarke, Cuthbertson, Gildernew, Glasgow, Kearney, Mallaghan, McAleer, McPeake, Mullen, Reid, Robinson, J Shiels.)

Councillor Cuthbertson asked if the additional cost of the windows was contained within the cost of the contract.

The Chief Executive advised he would provide detail to Member.

M/2014/0021/F Amendment to previous application (M/2007/1244/F) to provide 13 additional apartments (overall total 19 apartments) at 11 Laureen, Moy for Colin McKee

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

(Councillor McPeake declared an interest in this application).

Proposed by Councillor Gildernew
Seconded by Councillor Bateson and

Resolved That planning application M/2014/0021/F be approved subject to conditions as per the officers report.

I/2014/0361/O Off-site replacement dwelling and garage with existing access closed and re-located at site approximately 310m SE of 66 Loup Road, Moneymore for Sean McVey

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 I/2014/0361/O be approved subject to conditions as per the officers report.

H/2015/0002/F Change of access to previously approved dwelling and garage (H/2013/0437/RM) at lands 120m SE of 27 Glengomna Road, Draperstown for Martin Bradley

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

(Councillor McPeake declared an interest in this application).

Proposed by Councillor Clarke
Seconded by Councillor Bell and

Resolved That planning application H/2015/0002/F be approved subject to conditions as per the officers report.

LA09/2015/0087/O Dwelling and garage 20m N of 43A Belagherty Road, Ballyronan for Lisa McCloskey

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

Proposed by Councillor Bell
Seconded by Councillor Clarke and

Resolved That planning application LA09/2015/0087/O be approved subject to conditions as per the officers report.

LA09/2015/0232/F Retention of existing 2 storey building (domestic garage, tool store and workshop to ground floor and storage to 1st floor) and associated site works at 10 Tamlaghtmore Road, Cookstown for Mr Mark Hamilton

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 LA09/2015/0232/F be approved subject to conditions as per the officers report.

LA09/2015/0349/F Carry-out food unit at land opposite 89 Westland Road South, Cookstown for Rea Developments Ltd

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

(Councillor Glasgow declared an interest in this application).

Proposed by Councillor Reid
Seconded by Councillor J Shiels and

Resolved That planning application LA09/2015/0349/F be approved subject to conditions as per the officers report.

(Councillor Gildernew left the meeting at 10.10 pm)

Matters for Information

P127/15 Provisional Planning Performance Statistics

The Head of Development Management referred to previously circulated report regarding provisional performance for Development Management and Enforcement for the period 1 April 2015 to 30 June 2015 and advised that the average processing times for local development applications show that it took 16 weeks to determine 50%. The target is to determine 50% within 15 weeks. The fact that Mid Ulster was one week over target for local development applications was not considered a serious concern at the moment given the level of change that has occurred within planning during the last six months.

The Planning Manager advised that this Council compares well to other Councils.

Councillor Mallaghan agreed that this has been a disruptive period for planners and was in no doubt targets will be met in the future.

The Planning Manager advised that no other Council Planning Committee had dealt with the number of applications Mid Ulster has.

Councillor Bell commended officers who have continued to do an excellent job throughout the changeover.

Councillor Cuthbertson also conveyed his thanks to the Planning Manager and his staff for the work done within the planning department.

The Chair, Councillor Kearney referred to recent event he attended in which Mid Ulster was used as a flagship for community planning. The Chair commended everyone on their huge commitment to planning and the planning committee.

Councillor Reid referred to the large planning workload and concurred with all previous comments.

P128/15 Report of Delegated Decisions Issued in September 2015

Members noted the content of the report of delegated decisions issued in September 2015.

P129/15 Enforcement Appeal Decisions Received

The Head of Development Plan and Enforcement presented previously circulated report advising Members of recent decisions by Planning Appeals Commission.

Members noted the content of the report.

CONFIDENTIAL BUSINESS

Proposed by Councillor Bell
Seconded by Councillor J Shiels and

Resolved That items P130/15 and P135/15 be taken as confidential business.

P136/15 Duration of Meeting

The meeting was called for 7.00pm and ended at 10.57 pm.

Chair _____

Date _____