

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Monday 9 January 2017 in the Council Offices, Ballyronan Road, Magherafelt

Members Present Councillor Clarke, Chair

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

Officers in Attendance Mr Bowman, Head of Development Management
Mr Marrion, Senior Planning Officer
Mr McCrystal, Senior Planning Officer
Ms McCullagh, Senior Planning Officer
Ms McEvoy, Head of Development Plan & Enforcement
Karen Doyle, Senior Planning Officer
Ms McNally, Council Solicitor
Ms Grogan, Committee Services Officer

Others in Attendance

Applicant Speakers

M/2014/0512/O	John Warke
LA09/2015/0091/F	Gavin McGill – Clyde Shanks
LA09/2015/0536/F	Thomas Bell – Clyde Shanks
LA09/2015/0536/F	Ryan Dougan – Vision Design
LA09/2015/1085/F	Kevin Loughran – Applicant
LA09/2015/1085/F	Gavin Rolston – Clyde Shanks
LA09/2015/1085/F	Mr Loughrey, (for Objector-Mr Connolly)
LA09/2016/0549/F	Hayley Dallas – Ross Planning
LA09/2016/0769/F	Andy Stephens – Matrix Planning
LA09/2016/1437/F	Andrew Heasley – JUNO Planning
Wind Farm Corlacky Rd, Swatragh	– Fiona Stevens, RES
Wind Farm Corlacky Rd, Swatragh	– Garth McGimpsey, RES
Wind Farm Corlacky Rd, Swatragh	– Shanti McAllister, Design

The meeting commenced at 7.00 pm

P001/17 Apologies

Dr Chris Boomer, Planning Manager.

P002/17 Declarations of Interest

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

P003/17 Chair's Business

None.

P004/17 Confirm Minutes of the Planning Committee Meeting held on Tuesday 6 December 2016

Proposed by Councillor Bateson
Seconded by Councillor McKinney and

Resolved That the minutes of the meeting of the Planning Committee held on Tuesday 6 December 2016, (P185/16 – P191/16 & P196/16), were considered and, subject to the foregoing, signed as accurate and correct.

Matters for Decision

P005/17 Planning Applications for Determination

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

M/2014/0039/F Expansion to existing general engineering works to include additional workshop offices, toilets and storage and associated site works at 170m NW of 185 Killadroy Road, Eskra for Mr David Gill

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 M/2014/0039/F be approved subject to conditions as per the officer's report.

M/2014/0512/O Service station to include fuel provision, café, shop, tourist information, toilets, picnic area, parking, car wash and provision for park and share at lands bounded by the A4 Annaghilla Road, A5 Tullyvar Road and Tullybryan Road, Ballygawley for Alison Warke

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

Proposed by Councillor Reid
Seconded by Councillor McAleer and

Resolved That planning application M/2014/0512/O be approved subject to conditions as per the officer's report.

LA09/2015/0036/F Filling Station, shop with off-licence, canopy, car wash, valet store and associated site works 40m S of Grange Park, Ballygawley for PDDC Developments

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

Councillor Gildernew enquired if this application and the one previous were linked as it was his understanding that there should be a 12 mile radius between filling stations and rest stops.

Mr Marrion (SPO) advised that this is usually the case but as this was a green field site area with urban development these applications were submitted by two different applicants and approved. The location and the proximity of the site is also outside the settlement limits.

Proposed by Councillor Gildernew
Seconded by Councillor McAleer and

Resolved That planning application LA09/2015/0036/F be approved subject to conditions as per the officer's report.

LA09/2015/0091/F Part retrospective and part additional peat extraction at Moybog, Cavanoneill Road, Pomeroy for McDon Peat

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

Proposed by Councillor Bateson
Seconded by Councillor McPeake and

Resolved That planning application LA09/2015/0091/F be approved subject to conditions as per the officer's report.

LA09/2015/0241/F 20 two storey dwellings with associated car parking and landscaping at Killymeal House and adjacent lands at Killymeal Road, Dungannon for J & V Construction

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 LA09/2015/0241/F be approved subject to conditions as per the officer's report.

LA09/2015/0536/F Mixed use scheme comprising 11 apartments, 4 retail units (including retention with minor alterations to 39 Rainey Street façade and extension/alteration of existing rear return), amenity space, pedestrian link/pend and ancillary site works at lands at 39-41 Rainey Street, Magherafelt for Genmark Developments Ltd

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

Proposed by Councillor McPeake
Seconded by Councillor McKinney

Resolved That planning application LA09/2015/0536/F be approved subject to conditions as per the officer's report.

LA09/2015/0782/F Change of use to storage and distribution unit (Class B4) at site 60m N of 52 Ballymoghgan Road, Magherafelt for Cloane Properties Ltd

Councillor McPeake declared an interest in this application.

Mr McGarvey (SPO) presented a report on planning application LA09/2015/0782/F advising that it was recommended for refusal.

Councillor Reid enquired if there was any way of getting an entrance onto the site as it was a shame to see such a huge building going to waste. He said that in his opinion there would have been a number of cars entering the premises anyway.

Mr McGarvey (SPO) advised that in the past there would have only been a collection of private cars only.

Councillor McPeake advised that the Architect had contacted him today asking for the application to be deferred for an office meeting until visibility splays are resolved and felt that through negotiations progress could be made.

The Head of Development Management advised that it was clear that this shed, despite its size, was only granted permission for domestic use, and the key Policy conflict would be the intended use of the site. He said that access could be investigated again.

Councillor Cuthbertson said that there was a culture of erecting buildings without planning permission and their factual use.

Councillor Bell said that consideration should be given to deferring the application for an office meeting due to economic possibilities within the area.

Proposed by Councillor Mallaghan
Seconded by Councillor Bell and

To defer the application for an office meeting

Proposed by Councillor Cuthbertson
Seconded by Councillor Reid and

To accept the officer's recommendation to refuse the application.

Councillor Reid asked for clarification on how clear Council Policy was on the different type of uses and if the application was deferred, would the Council be legally obligated to pass or go against.

The Head of Development Management said that going down the way of distribution would be going against PPS4 for a shed of this size and for this use for only 2

employees. The fact that the potential employment being created here in only 2 jobs reinforces the presumption against storage and distribution uses in the open countryside.

Councillor Bateson felt that each application should be considered on their own merit and not blamed for illegality.

Councillor Mallaghan's proposal was put to the vote:

FOR: 9
AGAINST: 6

Councillor Cuthbertson's recommendation was put to the vote:

FOR: 6
AGAINST 9

Resolved: That application LA09/2015/0782/F be deferred for an office meeting until a valid nature of use comes forward and to investigate issues surrounding access.

LA09/2015/0864/RM Dwelling adjacent to 19 Crawfordsburn Drive, Maghera for Mr and Mrs T McFalone

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

Proposed by Councillor Kearney
Seconded by Councillor Bateson and

Resolved That planning application LA09/2015/0864/RM be approved subject to conditions as per the officer's report.

LA09/2015/0875/F Dwelling and garage on a farm at 15m S of 82 Ballyronan Road, Magherafelt for Bernadette Mulholland

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

Proposed by Councillor Bateson
Seconded by Councillor McKinney and

Resolved That planning application LA09/2015/0875/F be approved subject to conditions as per the officer's report.

LA09/2015/1085/F Single wind turbine, hub height 24m, rotor diameter 17m with new access track at approx.107m N of 155 Drum Road, Cookstown for JJ Loughran

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

Ms McCullagh (SPO) presented report to members on single turbine with hub height 24m, rotor diameter 17m and a maximum blade height of 32.5m, new access track from

existing factory yard to turbine and other ancillary works (reduced scheme, revised plans, shadowflicker report, Noise Impact Scheme).

The Chair, Councillor Clarke advised that a request to speak on this application had been received and invited Mr Loughry, on behalf of the objector (Mr Connolly) to address the committee.

Mr McLoughrey, advised that the objector had a number of issues which were outlined in the case officer's report, especially with regards to the visual amenity from 156 Drum Road, Cookstown. He felt that the Objector has the right to stress and clarify the points which they do not agree with and their reasons to do so before the Planning Committee make a decision.

Mr Loughrey advised that there was a similar application for a wind turbine at this exact site, it was refused and this was upheld by the PAC and that the decision for this turbine has not been given enough consideration by the case officer. If approved, this turbine would be harmful to the Connolly family, as the turbine blade would be visible to the family home on a daily basis which was totally unacceptable. The Connolly family would face the turbine each way they would turn, from opening the curtains in the morning, to playing in the garden, to going and coming from school. The PAC has suggested relocating the turbine and this has not been given enough consideration by the applicant as the turbine would still be visible to the Connolly family on a daily basis which would have a detrimental effect on their everyday life. Mr Loughrey stated that the objector stressed that it wasn't about the height of the turbine but about the visibility of it from their family home.

The Chair, Councillor Clarke advised that a request to speak on this application had been received and invited Mr Loughran (applicant) to address the committee.

Mr Loughran advised that his company had fully addressed the objector's claims and abided by any restrictions which were placed upon them. He said that his family ran a successful business which was established by his father in 1967 and employ well over 60 people. He said that when they previously applied for the wind turbine in 2015 it had been refused and now a new application has been made with a turbine height of just 24m. He said that sustainability in efficiency would be crucial to the successful running of the business.

Councillor Mallaghan advised that he had a number of concerns regarding this application. He referred to the legislation which was in place for applying for a similar application within a 2 year timeframe. He said that he acknowledged that there was a difference in height from the previous application, but felt the consistency would need to be kept as last month the Planning Department approved a 10m change in Broughderg wind turbine and this month it was totally different. He said that he would like a legal opinion on whether this application would be valid or not.

The Council Solicitor confirmed that as she understood Councillor Mallaghan's query, it wasn't a question of the validity of the application, but rather there was a power within the legislation for the Council to decline to determine a subsequent application and referred to the letter within Appendix 1 of the Report within the papers.

Councillor Mallaghan advised that this was not a decision made by the Council rather than an opinion by a Case Officer.

The Head of Development Plan said that the need to assess the amended noise reports for subsequent alterations to win turbines and to carry out consultations had increasingly led to a view that such changes should normally be dealt with via a revised planning application.

Councillor Mallaghan said that a NNC was carried out in September 2016 and nowhere in the report does it say that it's the decision of the officers.

The Chair, Councillor Clarke advised that this document states that it's the decision of the Council and it seems that it wasn't the remit of Councillors to be given that power.

The Council Solicitor advised that due to this type of situation it would appear to be reasonable for an officer to take a view on whether a subsequent application was the same or subsequently the same.

Councillor Mallaghan stressed that the decision was the professional opinion of an officer not the opinion of the Council.

The Chair, Councillor Clarke said that members were concerned whether this was a valid application or not and clarification was needed.

Councillor Cuthbertson advised that each week a list of valid applications are emailed to members which indicated which have been accepted by officers and it's an opportunity for members to make any comments before consideration. He advised that two members spoke against the application previously asked for a legal opinion on whether this should not be the case tonight.

Councillor Mallaghan felt if the point was clarified properly then this would answer Councillor Cuthbertson's question and if this is the same application then declaration would need to be made.

The Chair, Councillor Clarke advised that declaration wouldn't be needed if it was a different application.

The Council Solicitor said that advice and guidance could be offered in relation to whether there might be an actual or perceived conflict of interest but ultimately it was up to each member to take their own view on declarations of interest and the extent of such interest that might exist.

Councillor McKinney said that in his opinion this was a new application and as the two or three members who declared an interest in the previous application didn't do so this time they must be of the same opinion.

Proposed by Councillor McKinney
Seconded by Councillor Cuthbertson and

To approve the application subject to the conditions as per the officer's report.

Councillor Glasgow advised that he knew the area quite well and that JJ Loughran was a high employer and would welcome renewable energy in the area and would be more than happy to support the application.

Councillor Robinson felt that if the application meets all criteria then the application should be approved.

Councillor Mallaghan said that he acknowledged that this was a successful business in the district and in the past 4 turbines were passed in the vicinity of their business. He said that the issue here is that a family home is located here and it was important for planning members who live in country to make a decision on how they would feel if their family life was disrupted by having this wind turbine at their front door and would propose to refuse the application on that basis.

Proposed by Councillor Mallaghan
Seconded by Councillor Bell

To refuse the application

Councillor Mallaghan's proposal was put to the vote:

FOR: 6 – Councillors Bateson, Bell, Gildernew, Mallaghan, McEldowney, and McPeake
AGAINST: 9 – Councillors Cuthbertson, Glasgow, Kearney, McAleer, McKinney, Mullen, Reid, Robinson and J Shiels

Councillor Cuthbertson's proposal was put to the vote:

FOR: 9 – Councillors Cuthbertson, Glasgow, Kearney, McAleer, McKinney, Mullen, Reid, Robinson and J Shiels
AGAINST: 6 – Councillors Bateson, Bell, Gildernew, Mallaghan, McEldowney, and McPeake

Resolved That planning application LA09/2015/1085/F be approved subject to conditions as per the officer's report.

LA09/2016/0549/F 20m high telecommunications mast carrying 3 antennae and 2 radio dishes and associated works including 3 equipment cabinets and site compound, at land 78m SE of 6 Main Street, Bellaghy for Telefonica UK Ltd

Proposed by Councillor McKinney
Seconded by Councillor McPeake and

Resolved That planning application LA09/2016/0549/F be approved subject to conditions as per the officer's report.

LA09/2016/0769/F Ancillary car parking for existing retail unit and petrol filling station, (with proposed access from Highfield Crescent) adjacent to and immediately SW of 3 Highfield Crescent, Magherafelt for Mr Kenny Bradley

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 LA09/2016/0769/F be approved subject to conditions as per the officer's report.

Councillor Bateson enquired about access at Highfield Crescent and said that he would be concerned about how this may impact on the residents as it was within distance of the residential area and wondered why this wasn't taken into consideration.

Ms Doyle (SPO) said that this shouldn't have an impact on the residential area of Highfield Crescent as the proposed parking conditions are for deliveries, customer and staff parking only.

LA09/2016/0829/O Replacement dwelling and detached garage (existing building to be retained and incorporated as garage/store) at 86 Moneyneaney Road, Draperstown for Michael McGlone

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

Proposed by Councillor McPeake
Seconded by Councillor McElDowney and

Resolved That planning application LA09/2016/0829/O be approved subject to conditions as per the officer's report.

LA09/2016/0860/F Retention of part change of use of 2 rooms in existing dwelling to provide child care facilities at 30 Dixon Court, Coalisland for Grainne Scullion

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

Proposed by Councillor Reid
Seconded by Councillor Gildernew and

Resolved That planning application LA09/2016/0860/F be approved subject to conditions as per the officer's report.

LA09/2016/1078/F Change of use from class A1 shops to gymnasium to include replacement of side entrance door, small café area and associated internal plan alterations at 77 -79 Chapel Street, Cookstown for Wilko Ltd

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

Proposed by Councillor Reid
Seconded by Councillor Bell and

Resolved That planning application LA09/2016/1078/F be approved subject to conditions as per the officer's report.

LA09/2016/1168/F Alteration and extension to dwelling at 45 Keerin Road, Broughderg for Sean Clarke

The Chair, Councillor Clarke declared an interest in the above application and vacated the Chair.

The Deputy Chair, Councillor J Shiels took the Chair.

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 LA09/2016/1168/F be approved subject to conditions as per the officer's report.

The Chair, Councillor Clarke returned to the Chair.

LA09/2016/1188/F Double garage and store at 77 Cooke Crescent, Cookstown for Darren Patterson

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

Proposed by Councillor Glasgow
Seconded by Councillor Reid and

Resolved That planning application LA09/2016/1188/F be approved subject to conditions as per the officer's report.

LA09/2016/1203/O Dwelling and garage adjacent to 47 Mullaghnemoyah Road, Portglenone for Mr Sean Convery

Ms Doyle (SPO) presented a report on planning application LA09/2016/1203/O advising that it recommended for refusal.

The Chair, Councillor Clarke advised that a request to speak on the application had been received by Mr Cassidy but he wasn't in attendance to address the committee.

Councillor Kearney enquired if there was ever an office meeting held in the past on this application.

The Head of Development Plan said that there wasn't but that the importance here was the visual breaks, many breaks are in the countryside and it's important to retain visible breaks between dwellings.

Proposed by Councillor Reid
Seconded by Councillor Robinson and

Resolved That planning application LA09/2016/1203/O be refused.

LA09/2016/1291/A Free standing sign with LED electronic display at 58-66 Church Street, Cookstown for Dun Leisure Ltd

Ms Doyle (SPO) presented a report on planning application LA09/2016/1203/O advising that it recommended for refusal.

Councillor McKinney left the meeting at 8.17 and returned at 8.20 pm.

Councillor Bell asked that this application be deferred for an office meeting to try and negotiate a way around concerns and relocation. He said that in order to clarify matters, further discussion was needed as an issue with a similar sign which was 500m down the road was resolved.

Ms McCullagh (SPO) advised that she has been made aware that the applicant would like to see a way forward and find a resolution.

Proposed by Councillor McPeake
Seconded by Councillor Bateson

To defer for an office meeting.

Councillor McKinney stated his opposition to this application as he said a similar scenario was raised regarding a sign in Tobermore last month.

Councillor Bell said that this was a totally different scenario as there were many other concerns regarding Tobermore as it was on a roundabout.

Councillor McEldowney left the meeting at left at 8.21 pm.

Councillor McPeake's proposal was put to the vote:

FOR: 8
AGAINST: 6

Resolved That planning application LA09/2016/1291/A be deferred for an office meeting.

Councillor McEldowney returned to the meeting at 8.24 pm.

**LA09/2016/1437/F 33kv electricity sub-station with entrance via existing laneway
at site 740m NE of 18 Shantavny Scotch, Ballygawley for Tyrone
Wind Energy**

The Chair, Councillor Clarke declared an interest in the above application and vacated the Chair.

The Deputy Chair, Councillor J Shiels took chair.

Mr Marrion (SPO) advised that this application was due to be put on the agenda last month but was put back until this month and was updated due to a typo error in the address.

Councillor Cuthbertson declared an interest in this application.

Councillor Cuthbertson raised concern about the whole situation and how conflicting information was being received as the committee were previously advised that no development had taken place on the site and now the case officer has indicated that work had taken place two days after the application was received. He further raised concern that it was now most evident that work was ongoing from June or July as foundations had already been made. When consultation was submitted on 12 December, 7 days later approval was granted. He said he was concerned as this was a very quick turnaround for all agencies to make a decision.

Councillor Cuthbertson withdrew to the public gallery while discussions took place.

Councillor Clarke also raised concern as he too was unaware of the situation. He said that when he first enquired about the commencement of work he was told it hadn't started yet and now it was apparent that it had. He said that there was a need for clear and transparent information to be relayed back to members as the committee wouldn't be comfortable making a decision to proceed before an application for permission was sought.

He said that the developer had decided to build in a different place before applying for permission, with no standard entrance. He stated that there was a need to follow the same procedures for all.

The Head of Development Management said that there was a misunderstanding regarding this application in relation to whether a site visit had taken place. A decision had been made that it wasn't necessary to have revisited the site a matter of months after the first site visit and due to the minor relocation of the building within the red line. He said the site has now been revisited by the SPTO and that TransportNI and Environmental Health were asked to comment and these have now been returned and there was no other reason to hold it for another month as all information has been received.

The Deputy Chair, Councillor J Shiels advised that a request to speak on the application had been received by Mr Heasley and asked him to address the committee.

Mr Heasley advised that the substation had to be relocated and that work had commenced on the 12 October as there was a deadline date of December 2016 so there was an onus to push along.

Councillor Gildernew said that although taking Councillor Clarke's comments into account, he didn't see anything to really hold the application up.

Proposed by Councillor Gildernew
Seconded by Councillor McPeake

Resolved That planning application LA09/2016/1437/F be approved subject to conditions as per the officer's report.

Councillor Reid said that taking everything into account he felt that it was unfair to hold this particular case to ransom as there were other numerous buildings being built before planning permission was sought.

Councillor Cuthbertson returned to the meeting.

THE Chair, Councillor Clarke returned to the Chair.

LA09/2015/0512/F Reconfiguration of internal layout within existing shed; extension of existing service centre for agricultural vehicles/machinery and new access at 149c Drumbolg Road, Upperlands for Andrew Armstrong

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

Proposed by Councillor McKinney
Seconded by Councillor Robinson and

Resolved That planning application LA09/2015/0512/F be approved subject to conditions as per the officer's report.

LA09/2015/0620/F Extension, alteration and change of use from residential dwelling house to 4 self-contained apartments at 25 Charlemont Street, Moy for Seyloran Properties Ltd

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

Proposed by Gildernew
Seconded by Councillor Reid and

Resolved That planning application LA09/2015/0620/F be approved subject to conditions as per the officer's report.

LA09/2016/0100/F Retrospective application for change of use of part of domestic garage to store and display for home based catalogue sales business, to the rear of 11A Strawmore Road, Draperstown for Mrs D Boyle.

The Chair, Councillor Clarke advised that application LA09/2016/0100/F had now been withdrawn.

Resolved That planning application LA09/2016/0100/F be withdrawn.

P006/17 Consultation response on application for a Wind Farm at Corlackey Road, Swatragh

The Head of Development Management presented report on Mid Ulster Council's response to a consultation request from DFI for a second windfarm at lands approx. 3km west of Swatragh accessed off the Corlackey Road - Ref LA09/2016/0232/F

He advised that the report was to provide the basis of a consultation response to the Department of Infrastructure on the proposed windfarm application.

The Chair, Councillor Clarke advised that a request to speak on this consultation had been received and invited Fiona Stevens to address the committee.

Ms Stevens advised the committee that they were disappointed that the Department for Infrastructure's opinion to refuse the application had been received just before Christmas and felt that it was a very hasty decision as there was no consultation. She said that no letters of objection were received and would now have to approach PAC for appeal. She said that the Windfarm meets all the requirements and that there was a very limited visual appearance and that the site is further surrounded by vegetation.

Councillor McPeake said that he would find it difficult to make a decision tonight given the amount of information and photographs that was circulated. He said that it would be very important for the committee to come to the right decision as there were a terrible blight of wrongly sighted turbines across the country and members are always arguing for a community benefit policy to be achieved. He said that a site visit may be beneficial and that it was encouraging that no objections were received but that there was still a lot of questions to be answered.

Councillor McEldowney raised concern about the Department of Infrastructure issuing a refusal letter before consultation taking place.

The Head of Development Management said that it wasn't possible to get a response in time, so the Department took the decision to refuse the application themselves. He said that the Council was only being asked for its opinion in the capacity of being a consultee in the process and that the Department or PAC would have the final decision on this regionally significant application.

Councillor Glasgow said that it may be worth considering writing to the Department of Infrastructure highlighting the disappointment held by the Council at their lack of input and that in future to make sure that decisions are given to members beforehand.

The Chair, Councillor Clarke advised that there was an opportunity to ask the PAC to investigate. He said that although this wasn't normal procedure, it's what's regionally significant and what usually takes place.

Councillor McPeake felt that the Council should not accept the recommendation of refusing the application as he wasn't confident enough given the fact that there were no objections and that it was too big of a decision to have a negative opinion.

The Chair, Councillor Clarke feels that there will be an opportunity at a later stage to make representation after PAC.

Councillor Reid suggested deferring the application for a month until after a site meeting takes place.

Councillor Bateson said that no decision should be taken tonight as the consultation process hasn't been adhered to properly by the Department of Infrastructure as they have made a decision without the input of the Council.

The Council Solicitor said that the report which came to committee was very detailed especially considering the Council was a consultee and not decision maker in the application and that any documentation that the Department for Infrastructure considers is usually available for viewing by appointment or online. She added that there was secondary legislation which dealt with a consultee's duty to respond and the timeframe, however, she could not recall the detail.

Ms Stevens asked the Committee if it would be possible to write to the Minister for Infrastructure asking to overturn his decision.

Councillor Bell said that he would be unsure how plausible that would be.

The Chair, Councillor Clarke advised that the committee needs to make a decision.

Councillor Reid said that he was disappointed and felt that it was unreasonable that no consultation was made by the Council before the Department of Infrastructure issued a letter of refusal.

Councillor Bateson proposed that the Council send a letter to the Minister of Infrastructure requesting that he defer the decision.

Proposed by Councillor Bateson
Seconded by Councillor Gildernew and

Resolved: That the Council write to the Minister of Infrastructure asking that he defer the decision of refusal.

Councillor McPeake said as this was a major application the Committees decision for a site meeting should be sought.

P007/17 Consultation response on underground gas pipeline application from DoE – LA8/2016/1328/F

Ms McCullagh (SPO) presented report to provide members with a report which will provide the basis of a consultation response to Department of Infrastructure.

Councillor Glasgow asked that TransportNI be asked to leave the road back to its original standard as it's usually after a month the road begins to sink. He said that it would be an ideal opportunity to have it properly overseen by an engineer.

The Council Solicitor said that this is usually related to the Public Realm Scheme and may be hard to justify and feels it should be raised through another forum.

Ms McCullagh said that she would liaise with the Department of Infrastructure to seek a four week extension.

Proposed by Councillor Mallaghan
Seconded by Councillor Gildernew and

Resolved: That Mid Ulster District Council ask the Department of Infrastructure for a four week extension for their response.

P008/17 Consultation response on review of Permitted Development rights for mineral exploration

The Head of Development Plan & Enforcement presented report to provide members with a response to the Department of Infrastructure consultation regarding proposed amendments to Part 16 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015 which deals with the Permitted Development rights associated with mineral exploration.

The Head of Development Management left the meeting at 9.16 pm.

Proposed by Councillor Reid
Seconded by Councillor Bateson and

Resolved: That approval be given to response being issued to the Department for Infrastructure in line with the contents of the paper.

P009/17 Confirmation of Tree Preservation Order at Mullagh Road, Maghera

The Head of Development Plan & Enforcement presented report recommending the confirmation of a Tree Preservation Order (TPO) on a Tree (horse chestnut) at 5 Mullagh Road, Maghera which is the subject of a current provisional TPO.

Proposed by Councillor Gildernew
Seconded by Councillor Kearney and

Resolved: That approval be given to the provisional TPO being confirmed without modification and noting the contents of the report.

CONFIDENTIAL BUSINESS

Proposed by Councillor Mallaghan
Seconded by Councillor Reid and

Resolved That items P010/17 to P0112/17 be taken as confidential business.

P0113/17 Duration of Meeting

The meeting was called for 7.00pm and ended at 9.40 pm.

Chair _____

Date _____