

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 6 February 2018 in Council Offices, Ballyronan Road, Magherafelt

Members Present

Councillor Robinson, Chair

Councillors Bateson, Bell, Cuthbertson, Gildernew, Glasgow (7.12 pm), Kearney, McAleer, McEldowney, McKinney (7.23 pm), McPeake, Mullen (7.30 pm), Reid

Officers in Attendance

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 McEvoy, Head of Development Plan and Enforcement
Mr McGibbon, Senior Planning Officer
Ms McKearney, Senior Planning Officer
Ms McNally, Council Solicitor
Miss Thompson, Committee Services Officer

Others in Attendance

Applicant Speakers

LA09/2016/1094/F	Mr Cassidy
LA09/2017/0387/O	Mr Cassidy
LA09/2017/1332/F	Mr Cassidy
LA09/2017/1368/F	Ross Planning
LA09/2017/1443/F	Mr Cushnahan
LA09/2017/1079/O	Mr Cassidy
LA09/2017/0810/F	Ms Muldoon

The meeting commenced at 7.04 pm

In the absence of the Chair, Councillor Mallaghan, the Vice Chair Councillor Robinson took the Chair.

P016/18 Apologies

Councillor Clarke.

P017/18 Declarations of Interest

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

Councillor McPeake declared an interest in planning applications LA09/2016/0540/F and LA09/2016/0593/LBC.

Councillor Bell declared an interest in planning application LA09/2017/1368/F.

P018/18 Chair's Business

The Planning Manager referred to addendum to agenda which included additional paper seeking approval for an officer to be authorised to sign decisions and Orders on behalf of Council in accordance with its Schemes of Delegation.

Proposed by Councillor Bell
Seconded by Councillor Gildernew and

Resolved That Mr Malachy McCrystal be authorised to sign decisions and Orders on behalf of Council in accordance with its Schemes of Delegation.

The Planning Manager again referred to addendum and advised that planning application LA09/2017/1332/F required further clarification on who will be using it. On this basis, the Planning Manager suggested that an office meeting be held in respect of this application.

Proposed by Councillor McAleer
Seconded by Councillor Kearney and

Resolved That planning application LA09/2017/1332/F be deferred for an office meeting.

Matters for Decision

P019/18 Planning Applications for Determination

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

LA09/2016/0308/F Retention of change of use of shed from agricultural to electrical storage at 26 Moneysallin Road, Kilrea for Mr J Donaghy

Members considered previously circulated report on planning application LA09/2016/0308/F which was recommended for approval. Members were also asked to note the addendum which advised that there had been notification of a change of agent in respect of this application and that Carol Gourley should now be named as the agent for this application.

Proposed by Councillor McPeake
Seconded by Councillor Kearney and

Resolved That planning application LA09/2016/0308/F be approved subject to conditions as per the officer's report.

**LA09/2016/1094/F Agricultural cattle shed adjacent to 17 Annaghboe Road,
Coalisland for Mr Dominic Ryan**

Mr Marrion (SPO) presented a report on planning application LA09/2016/1094/F advising that it was recommended for refusal.

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

Mr Cassidy advised that the application is for an isolation shed for a farm, the farm has been confirmed as active and established and will be located on land leased by the applicant.

Mr Cassidy advised that the applicant imports/exports rare breed cattle and does not have the necessary facilities at his farm holding to keep cattle in isolation. Mr Cassidy also referred to the threat of TB from surrounding farms and in order to reduce this risk a location was chosen which is away from the main farm holding. Mr Cassidy stated that DAERA have contended that the shed could be located on the main farm holding however it was advised that in this case it was not logistically possible, Members were further advised that the application site will allow the cattle to graze externally whilst in isolation.

Mr Cassidy highlighted that a herd list had been provided.

Councillor Glasgow entered the meeting at 7.12 pm during Mr Cassidy's presentation.

The Planning Manager stated that Mr Cassidy's presentation stated that rare breed cattle needed to be kept in isolation however DAERA have advised that this can be facilitated within the main farm holding. The Planning Manager also highlighted that the land on which the proposal is to be located is not owned by the applicant.

Councillor Bell asked if another location would be suitable for the proposal.

Mr Marrion advised that other locations were a possibility but would require a separate planning application.

Councillor Cuthbertson proposed that the application be refused.

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

The Planning Manager stated that the applicant had been advised that another application would be looked at favourably but had decided to proceed with the current application.

Councillor Bell asked if it was the distance between the proposal site and the farm which was the problem.

The Planning Manager advised that policy dictates that the applicant should demonstrate that other sites do not exist and will only be acceptable if shown to be

essential. The Planning Manager advised that DAERA have stated that the application is not essential and highlighted again that the applicant had been advised that an application at an alternative site would be considered.

Councillor Gildernew withdrew his proposal to defer the application.

Councillor Reid stated it was with reluctance that he would second Councillor Cuthbertson's proposal to refuse the application.

Councillor McKinney entered the meeting at 7.23 pm.

The Planning Manager stated he recognised Member's reticence to refuse the application and that policy in relation to this application was tricky.

Resolved That planning application LA09/2016/1094/F be refused on grounds stated in the officer's report.

LA09/2016/1156/F New vehicular access to existing car park with associated walling, pillars and gates at 14 Hospital Road, Magherafelt for The Trustees of Magherafelt Gospel Hall

Members considered previously circulated report on planning application LA09/2016/1156/F which was recommended for approval.

Proposed by Councillor Cuthbertson
Seconded by Councillor McKinney and

Resolved That planning application LA09/2016/1156/F be approved subject to conditions as per the officer's report.

LA09/2016/1310/F Extension to provide exercise pool (amended proposal) at 1 Gorteade Wood, Upperlands, Maghera for Mr & Mrs N Voice

Members considered previously circulated report on planning application LA09/2016/1310/F which was recommended for approval.

Proposed by Councillor Glasgow
Seconded by Councillor Reid and

Resolved That planning application LA09/2016/1310/F be approved subject to conditions as per the officer's report.

LA09/2016/1752/F Agricultural sheds for cattle/livestock 80m SE of 91 Mullan Road, Cookstown for Mr P Devlin

Members considered previously circulated report on planning application LA09/2016/1752/F which was recommended for approval.

The Planning Manager highlighted addendum which advised that a further letter of objection had been received in relation to this application which raised ownership

issues relating to site vegetation/clearance and the amount of traffic using the road which may increase should other development be approved in the future.

The Head of Development Management stated that on considering this correspondence he did not believe there would be any impact on 3rd party lands.

Councillor Bell declared an interest in this application.

Councillor McKinney referred to one of the conditions of approval which stated there should be no mixing of slurries/manure produced from this development. The Councillor stated he would like this condition removed.

The Head of Development Management advised that this condition was attached as the application is located in a sensitive area but stated he would clarify if it was needed prior to issuing approval.

Councillor Bell stated he did not want the applicant to be hamstrung going forward.

Councillor Reid also felt that the condition needed to be removed.

The Planning Manager advised that the test on the condition was that it had to be necessary, he suggested that he would take responsibility on determining whether the condition was necessary in legal terms prior to issuing approval if the committee were happy to proceed in this manner.

Councillor Mullen entered the meeting at 7.30 pm.

Proposed by Councillor Reid
Seconded by Councillor McKinney and

Resolved That planning application LA09/2016/1752/F be approved subject to conditions as per the officer's report. Planning Manager to determine whether condition 4 in relation to no mixing of slurry is necessary.

LA09/2017/0387/O 2 storey dwelling and domestic garage/store at 20m N of 33 Oldtown Road, Bellaghy for Mrs Emma McCoy

Mr McCrystal (SPO) presented a report on planning application LA09/2017/0387/O advising that it was recommended for refusal.

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

Mr Cassidy advised that the farm is owned and run by two brothers and is registered at 33 Oldtown Road, he stated that the proposal is for a lifetime home for the applicant who is a daughter of the one of the brothers.

Mr Cassidy advised that the lands owned at Ballydermot Road are under the Countryside Management Scheme and that DAERA Management Branch have advised that breaking the terms of the Scheme would incur penalties.

Mr Cassidy advised that the farm is active and established and that the proposal would only be visible from the northeast. Mr Cassidy stated that the proposal would integrate and that there would be no discernible harm in approving this application.

In response to the Planning Manager's question Mr Cassidy was unable to provide clarification on which land belonged to the father of the applicant and which belonged to the uncle of the applicant.

The Planning Manager asked if there was a reason for bringing the proposal out through the applicant's parent's gate.

Mr Cassidy advised that the reason for this was that it would bring the site out on the crest of a hill otherwise the exit of the site would be in a dip in the road, he confirmed that Roads Service were content with what had been proposed.

The Planning Manager stated he would be happy to defer the application for an office meeting to further address issues to explore whether there were reasons to treat this application as an exception to policy.

Councillor McPeake stated he would be sympathetic to the application as it is to be located beside the applicant's parents and could be visually linked.

Councillor Gildernew concurred with Councillor McPeake's remarks and stated he did not feel the proposal would lengthen the ribbon as there was already a dwelling behind the proposal site.

The Planning Manager advised that if an exception is to be made to policy decisions it would be made through the proper processes.

Proposed by Councillor Bateson
Seconded by Councillor Bell and

Resolved That planning application LA09/2017/0387/O be deferred for an office meeting.

LA09/2017/0947/F Storage unit at 15 Greers Road, Dungannon for Eugene McGonnell

Members considered previously circulated a report on planning application LA09/2017/0947/F which was recommended for approval.

Proposed by Councillor Gildernew
Seconded by Councillor McAleer and

Resolved That planning application LA09/2017/0947/F be approved subject to conditions as per the officer's report.

LA09/2017/1332/F Conversion and extension of an existing storage shed to provide an indoor swimming pool, gym and changing facility at 10m S of 62B Airfield Road, Toomebridge for Mr Sean Corr

Application agreed to be deferred earlier in meeting.

Councillor McAleer left the meeting at 7.44 pm.

LA09/2017/1368/F Dwelling on a farm 45m NE of 19 Ardagh Road, Coagh, Cookstown for Mr Tony Anderson

Mr McCrystal (SPO) presented a report on planning application LA09/2017/1368/F advising that it was recommended for refusal.

The Planning Manager suggested an office meeting be held in respect of this application.

Councillor McAleer returned to the meeting at 7.47 pm.

Mr Ross, agent for the application, advised he may have some information tonight which would negate the need for the application to be deferred.

Members were of the opinion that the requested speaking rights in respect of this application should be heard.

The Chair invited Mr Ross to address the committee.

Mr Ross advised that a planning application had been previously approved for the applicant's sister and that land was in the process of being transferred however Land Registry have confirmed that this process is not complete therefore the lands have technically not transferred and that this application could be considered under policy CTY10. Mr Ross highlighted that there were no concerns in relation to the siting and design of the application.

Proposed by Councillor Reid
Seconded by Councillor McKinney and

Resolved That planning application LA09/2017/1368/F be deferred for an office meeting.

LA09/2017/1443/F Erection of fabricated building at rear of 2 Chestnut Hill, Coalisland for Sharon Ferrity

Mr Marrion (SPO) presented a report on planning application LA09/2017/1443/F advising that it was recommended for refusal.

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

Mr Cushnahan advised that the applicant has an established business for over 15 years in Coalisland but must vacate the premises she currently rents by the end of this month. Mr Cushnahan advised that there were no other suitable premises in Coalisland and that evidence had been submitted supporting this. Mr Cushnahan stated that his applicant had tried to adhere to the town centre first approach but when this was not viable she had chosen to work from home. Mr Cushnahan felt that this proposal could be considered as being on the edge of the town centre and that threshold distances could be reconsidered.

Mr Cushnahan advised that the proposal site at Chestnut Hill is located in an area which is not only residential and that there were several businesses in the area as well as schools. Mr Cushnahan advised that Environmental Health and Roads Service have no objection to the proposal and that what was being proposed was the only viable option for his applicant. Mr Cushnahan advised that he did not want the application to be deferred but rather a decision taken tonight as premises had to be vacated by end of the month.

Councillor Cuthbertson advised he had received a telephone call in relation to this application but that he had explained his position on the Planning Committee. The Councillor stated that the proposal site did seem to be in a mixed use area and would have sympathy for the applicant.

Councillor Gildernew concurred with Councillor Cuthbertson's comments and stated that the area is used residentially but that there is also industrial use of the land. Councillor Gildernew also commented that the maps available tonight had not been available within Members document packs.

Councillor Reid felt that the map being shown to the meeting was out of date as there was also now a Nursery School in the area.

Mr Marrion advised that the map being shown was the most recent map available on Spatial NI.

Councillor Bell felt that to refuse the application would be harsh as Council is trying to support local business.

Councillor Gildernew proposed the approval of the application.

The Planning Manager recognised the mood of the meeting was to look at the application sympathetically however planning reasons for approval needed to be provided. In this instance he understood that Members were minded to approve the application because the property was on a corner plot at the entrance to the residential development in what was essentially a mixed use area characterised by the school and nursery school opposite. The site also benefitted from car parking laid out in baize along the main road. The proposed cabin would also be concealed behind a high fence and views of it would be limited.

Members were also of the view that providing that the activity was controlled and limited to home working this would have no significant detrimental impact on residential amenity.

The Planning Manager suggested that conditions could be used to ensure the premises were only operated by the occupant of the dwelling and to ensure that it did not become a separate unit. No other persons should be employed to work in the cabin.

Councillor Cuthbertson stated he would second the proposal if the applicant could comply with the conditions put forward.

Mr Cushnahan advised that his client will comply with the conditions set out.

Councillor Reid asked if there were any concerns in relation to traffic arising from the business.

The Planning Manager advised that an additional condition could be attached in that clients only be seen on a one at a time basis. The Planning Manager stated that Roads Service had no objection to the application and that the business would not generate a lot of traffic.

Councillor Reid referred to previous enforcement actions in relation to modular buildings.

The Planning Manager stated that this application was being treated as an exception and that the position of the proposal had been taken into account. The Planning Manager stated that the proposal can be controlled through use of conditions.

Councillor Kearney asked if the proposal had been attached to the dwelling if that would have been different.

The Planning Manager stated that it was permitted development because the proposal was being located behind the dwelling.

- Resolved** That planning application LA09/2017/1443/F be approved subject to conditions as follows –
- The premises should solely be used as a beautician salon and solely operated by the occupier of the adjacent dwelling. The business unit should never become a separate unit from the dwelling.
 - No additional persons other than the occupier of the dwelling shall be employed at the premises.
 - The premises should remain ancillary to the dwelling and operated as home working to ensure there are no significant adverse impacts on neighbouring residential occupiers.

LA09/2016/0540/F Replacement dwelling plus retention, renovation and extension of existing listed building to provide single unit of accommodation at 89 Tirkane Road, Maghera for Declan McKenna

Members considered previously circulated report on planning application LA09/2016/0540/F which was recommended for approval.

Proposed by Councillor Kearney
Seconded by Councillor McKinney and

Resolved That planning application LA09/2016/0540/F be approved subject to conditions as per the officer's report.

LA09/2016/0593/LBC Replacement dwelling plus retention, renovation and extension for existing listed building to provide single unit of accommodation at 89 Tirkane Road, Maghera for Declan McKenna

Members considered previously circulated report on planning application LA09/2016/0593/LBC which was recommended for approval.

The Planning Manager advised that there was still an objection from Historic Buildings in relation to this application. He stated that the application could not be approved outright tonight but that the committee could state its intention to approve the application and that this intention be forwarded to the Department.

Proposed by Councillor Gildernew
Seconded by Councillor Bateson and

Resolved That the intention to approve planning application LA09/2016/0593/LBC subject to conditions as per the officer's report be forwarded to the Department.

LA09/2017/0810/F Dwelling at Coltrim Lane, Moneymore (approx. 220m from junction with Cookstown Road) for Mark Hamilton

Ms Doyle (SPO) presented a report on planning application LA09/2017/0810/F advising that it was recommended for refusal.

The Planning Manager advised that there was a late request to speak on this application and it was at the Chair's discretion whether the request was acceptable.

The Chair stated he would accept the request to speak and invited Ms Muldoon to address the committee.

Ms Muldoon advised that there had been an approval granted in 2009 and had this been implemented it would have had more impact than what was now being proposed. Ms Muldoon stated that the site approved in 2009 had been partially started.

Ms Muldoon referred to the letter from the coach company and confirmed that there are security cameras on the premises however these often fail due to poor internet connection in the area. Ms Muldoon accepted that the applicant's current dwelling was only 300m away from premises but that vision is obscured due to hedging. It was advised that there was an office on site but that this is only manned during office hours.

The Planning Manager stated there was no Certificate of Lawful Development in relation to commencement of the previously approved site and that the need to improve security is unlikely to warrant grant of planning permission. Based on the information submitted the Planning Manager stated that the applicant may want to submit a Certificate of Lawful Development.

Ms Muldoon stated she did not want to mislead the committee and advised that only partial commencement was made to the site and no foundations were laid.

The Planning Manager stated there was planning history which can be noted but he did not believe the site could get a Certificate of Lawful Development.

Councillor McKinney asked if the lane had been started.

The Planning Manager stated that it would have to be proved that the commencement of the laneway was in connection with the dwelling.

Councillor McKinney did not feel there would be any other reason to make a laneway into this field other than for the approved dwelling.

The Planning Manager stated that's why he suggested the Certificate of Lawful Development may be a way forward and the situation may change in relation to policy for this type of development in the future through the Local Development Plan.

In response to Councillor Glasgow's question the Planning Manager advised that the previous approval was gained under different policy. He advised that if it is found that the previous approval was legally started then the fallback for the applicant would be that the previous approval could be built. The Planning Manager urged caution and stated that a Certificate of Lawful Development would help to determine this application and that the Committee had little alternative but to allow opportunity for a Certificate to be acquired.

Councillor Glasgow asked how long this would take.

The Planning Manager stated that the length of time in obtaining a Certificate can vary.

Councillor McKinney proposed that the application be deferred pending submission of Certificate of Lawful Development.

Ms Muldoon asked that the application remain live in the meantime.

Councillor Glasgow seconded Councillor McKinney's proposal to defer the application.

Resolved That planning application LA09/2017/0810/F be deferred pending submission of Certificate of Lawful Development. Application to remain live in meantime.

**LA09/2017/1079/O Site for a dwelling and domestic garage approx. 20m NE of
40 Coole Road, Aughamullan, Dungannon for Mr Lee
Canavan**

Mr Marrion (SPO) presented a report on planning application LA09/2017/1079/O advising that it was recommended for refusal.

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

Mr Cassidy advised that there was a focal point in that the site was located close to a crossroads. Mr Cassidy also felt that the application could be supported by development on 2 sides and that planning officers were dismissing these facts.

Mr Cassidy stated that the proposal will have a strong visual link with the cluster and that the officer's report has failed to state what discernible damage will be done by approving that application. Mr Cassidy advised that the proposal will be a lifetime home for the applicant and will help to ensure a vibrant rural community for the future. Mr Cassidy also referred to previous planning appeal decisions which support this application.

Councillor Reid left the meeting at 8.43 pm.

The Planning Manager referred to Mr Cassidy's comments and claims that officers were deliberately dismissing things. The Planning Manager stated that such comments were not helpful and were upsetting to officers who dealt with applications in a sympathetic manner which was clearly demonstrated by the high approval rate. In this case the application had failed the test of a cluster because there was not development on 2 sides.

Councillor Reid returned to the meeting at 8.49 pm.

Proposed by Councillor McKinney
Seconded by Councillor Glasgow and

Resolved That planning application LA09/2017/1079/O be refused on grounds stated in the officer's report.

Matters for Information

P020/18 Minutes of Planning Committee held on 8 January 2018

Members noted minutes of Planning Committee held on 8 January 2018.

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Glasgow
Seconded by Councillor Reid and

Resolved In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P021/18 to P030/18.

Matters for Decision

- P021/18 Extract of Confidential Minutes of Planning Committee held on 8 January 2018 (Item P010/18)
- P022/18 Receive report on Temporary Listing
- P023/18 Receive report on Tree Preservation Order
- P024/18 Receive consultation response to Department for Communities
- P025/18 Receive LDP Report – Renewable Energy
- P026/18 Receive LDP Report – Minerals

Matters for Information

- P027/18 Confidential Minutes of Planning Committee held on 8 January 2018 (Item P010/18 redacted)
- P028/18 Enforcement Case Liveload
- P029/18 Enforcement Cases Opened
- P030/18 Enforcement Cases Closed

P031/18 Duration of Meeting

The meeting was called for 7.00 pm and ended at 10.11 pm.

Chair _____

Date _____

ADDENDUM TO PLANNING COMMITTEE AGENDA

FOR PLANNING COMMITTEE MEETING ON: 6 Feb 2018

Additional information has been received on the following items since the agenda was issued.

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
4.1	Notification of change of agent received from Farren Architects dated 25.01.2018, advising Carol Gourley now to be named as the agent.	Members to note
4.5	Additional letter of objection received 6/2/18 raising ownership issues relating to site vegetation/ clearance and the amount of traffic using the road and which may increase should other development be approved in the future.	Members to note.
4.8	This application requires further clarification on who will be using it. Defer for an office meeting to seek clarification.	Members to agree.

1. Paper previously circulated today to members to agree officer authorisation for Mr Malachy McCrystal.

Report on	Updated Planning Officer Authorisation list.
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Reporting Officer	M.Bowman
Contact Officer	Dr Chris Boomer

Is this report restricted for confidential business?	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	x

1.0	Purpose of Report
1.1	The purpose of this report is to seek Members' approval for Mr Malachy McCrystal to be authorised to sign decisions and Orders on behalf of the Council in accordance with its Schemes of Delegation.
2.0	Background
2.1	Upon the transition of Planning Powers to the Council in April 2015 Member's previously agreed to authorise key officers, namely SPTO / Team leads, to sign decisions on the Council's behalf, in line with the agreed Schemes of Delegation.
3.0	Main Report
3.1	<p>As of the 1st Feb 2018 Mr Malachy McCrystal has been temporary promoted to fill Mrs Emma McCullagh's role as Team lead for the Cookstown Development Management Team. As such he will require to be authorised as above.</p> <p>It should be noted that signing decisions is not the same as taking decision. All decisions will be undertaken either by:</p> <p>(i) Planning Committee Or (ii) Planning Manager under the scheme of delegation.</p> <p>Where a decision is made under the scheme of delegation it will be the Planning Managers responsibility to ensure decisions are made in accordance with the policies of the Council and that the right checks and balances are in place</p>
4.0	Other Considerations n/a
4.1	<p><u>Financial & Human Resources Implications</u></p> <p>Financial: this will allow for efficient use of Officer time</p> <p>Human: internal team restructuring.</p>
4.2	<u>Equality and Good Relations Implications</u>

	<u>None</u>
4.3	<u>Risk Management Implications</u> None
5.0	Recommendation(s)
5.1	That Mr Malachy McCrystal is nominated as an authorised officer.
6.0	Documents Attached & References