

**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 5 November 2019 in Council Offices, Ballyronan Road, Magherafelt**

**Members Present**

Councillor Mallaghan, Chair

Councillors Bell, Black, Brown, Clarke, Colvin, Cuthbertson, Gildernew, Glasgow, McFlynn, McKinney, D McPeake, S McPeake, Robinson

**Officers in Attendance**

Dr Boomer, Planning Manager  
Mr Bowman, Head of Development Management  
Ms Doyle, Senior Planning Officer  
Ms McCullagh, Senior Planning Officer  
Mr Marrion, Senior Planning Officer  
Ms McNally, Council Solicitor  
Mr Stewart, Senior Planning Officer  
Miss Thompson, Democratic Services Officer

**Others in Attendance**

**Applicant Speakers**

LA09/2019/0710/O Mr Monaghan  
Mr Cassidy  
LA09/2019/0760/O Mr Cassidy  
LA09/2019/0787/O Mr Cassidy  
LA09/2016/0634/O Councillor B McGuigan

The meeting commenced at 7.02 pm

**P131/19 Apologies**

Councillors Kearney and Quinn.

**P132/19 Declarations of Interest**

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

*Councillor S McPeake declared an interest in planning application LA09/2019/0710/O.*

**P133/19 Chair's Business**

None.

## **Matters for Decision**

### **P134/19      Planning Applications for Determination**

The Chair, Councillor Mallaghan referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred from tonight's meeting schedule for an office meeting/submission of further information –

Agenda Item 4.3 – LA09/2018/1648/F – Retention of open sided storage building at Blackrock Road, Toomebridge for Creagh Concrete Products Ltd.

Agenda Item 4.4 – LA09/2019/0252/O – Farm dwelling and garage 200m NE of 51 Gulladuff Road, Magherafelt for James McPeake.

Agenda Item 4.13 – LA09/2019/1069/F – Dwelling and domestic garage approx. 100m NW of 88 Washingbay Road, Coalisland for Mr Ciaran Lynch.

Proposed by Councillor Bell  
Seconded by Councillor Clarke and

**Resolved**      That the planning applications listed above be deferred for an office meeting/submission of further information.

Councillor McKinney asked why agenda item 4.3 was now being deferred at such a late stage.

The Planning Manager drew attention to the addendum and advised that the application in question was being deferred to allow for further information to be submitted as late correspondence had been received from Solicitor which raised issues of Human Rights and land ownership statements.

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

### **LA09/2018/0462/F    Agricultural shed 95m W of 65 Drumgrannon Road, Moy for Seamus Conroy**

Members considered previously circulated report on planning application LA09/2018/0462/F which had a recommendation for approval.

Proposed by Councillor Gildernew  
Seconded by Councillor Bell and

**Resolved**      That planning application LA09/2018/0462/F be approved subject to conditions as per the officer's report.

**LA09/2018/1537/F Alterations and extension to existing dwelling to include an increase in ridge height at 18 Tamlaghduff Road, Bellaghy for Dympna McPeake**

Members considered previously circulated report on planning application LA09/2018/1537/F which had a recommendation for approval.

Proposed by Councillor S McPeake  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2018/1537/F be approved subject to conditions as per the officer's report.

**LA09/2018/1648/F Retention of open sided storage building at Blackrock Road, Toomebridge for Creagh Concrete Products Ltd**

Agreed that application be deferred to allow for submission of further information earlier in meeting.

**LA09/2019/0252/O Farm dwelling and garage 200m NE of 51 Gulladuff Road, Magherafelt for James McPeake**

Agreed that application be deferred for office meeting earlier in meeting.

**LA09/2019/0468/F 2 storey side annex extension to provide granny flat, provision of 2 no. dormer windows and new retaining wall to rear garden at 40 Coolshinney Road, Magherafelt for Claire McWilliams**

Members considered previously circulated report on planning application LA09/2019/0468/F which had a recommendation for approval. Members were advised, as per addendum, that a late objection had been received however it did not raise any new issues.

Proposed by Councillor Clarke  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2019/0468/F be approved subject to conditions as per the officer's report.

**LA09/2019/0710/O Off site replacement dwelling and domestic garage/store 70m SW of 11 Motalee Road, Magherafelt for Mrs Gillian Montgomery**

Ms McCullagh (SPO) presented a report on planning application LA09/2019/0710/O advising that it was recommended for refusal.

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

Mr Monaghan stated he was speaking on behalf of an objector and would support the recommendation to refuse this application as the proposal will be sited directly in front of

the objector's dwelling. Mr Monaghan stated that Policy CTY3 only permits "off site" development in two circumstances, those being, restricted curtilage and demonstrable benefits. Mr Monaghan advised that there is enough room to accommodate a dwelling within the existing curtilage without having to move "off site" and that no evidence of the demonstrable benefits of moving off site have been provided by the applicant. Mr Monaghan further added that the land is being split between family members and that to approve this application would set a dangerous precedent as no exceptional case had been made.

The Planning Manager asked if the objector felt their amenity would be lost.

Mr Monaghan stated that the objector would suffer from loss of outlook from their property.

The Planning Manager asked if there was a boundary between the proposed site and the objector's property.

Mr Monaghan advised that there is a hedge between the two sites.

The Planning Manager asked, in terms of planning policy, if it was felt that there was an argument in relation to amenity.

Ms McCullagh stated this had not been listed as a reason for refusal.

The Planning Manager stated that ribboning had also not been listed but could be considered.

The Chair, Councillor Mallaghan invited Mr Cassidy to address the Committee.

Mr Cassidy stated that the proposal is for an off site replacement dwelling which will be 40m from the existing dwelling. Mr Cassidy stated that the existing dwelling is within the farm complex and is surrounded by farm buildings, to the north of the existing dwelling is a large pond which is susceptible to flooding and there is an old railway line which is of historic interest. Mr Cassidy advised that there is a slurry tank within 8m of the existing dwelling and that noise has a detrimental impact at this dwelling. Mr Cassidy felt that all of the above reasons demonstrate why the proposed dwelling should be moved off site.

Mr Cassidy stated that there is no issue with build up or integration at the proposed off site location and that locating the dwelling away from the farm would be of benefit. Mr Cassidy also referred to the number of similar applications, the majority of which gain approval at planning appeal.

Councillor McKinney asked who farmed the land and it was advised that the applicant is the farmer.

The Planning Manager stated that the applicant currently has an approval for a dwelling and now also wants to replace an existing dwelling with another dwelling at an off site location. The Planning Manager commented that the applicant can't live in two dwellings.

Mr Cassidy advised that the applicant's sister had been gifted the site of the approved dwelling by the applicant and similarly the applicant's other sister will be gifted the site for this application.

Councillor McKinney asked when the last site was passed.

Ms McCullagh advised that the last site was passed within the last year, it was further advised that the 10 year rule does not apply for replacement dwellings.

The Planning Manager asked who signed the certificate of ownership to which Ms McCullagh advised that the document had been signed on behalf of the applicant.

The Planning Manager stated he could understand the objector's concerns and that he found it difficult to accept that the applicant could not build on another site within the farm. The Planning Manager stated he would also have some concern regarding the build up of dwellings on the laneway and that there was a tendency towards ribboning.

Councillor Gildernew felt there were a number of grey areas in relation to this application which should be clarified before coming to Committee.

The Chair, Councillor Mallaghan advised that the site had been visited by an officer and proposed the officer recommendation to refuse the application.

Councillor McKinney seconded Councillor Mallaghan's proposal.

The Planning Manager suggested additional reasons for refusal to include ribboning and impact on amenity.

The Chair, Councillor Mallaghan and Councillor McKinney agreed that these additional reasons be added to the resolution.

**Resolved** That planning application LA09/2019/0710/O be refused on grounds stated in the officer's report with additional reasons for refusal to include ribboning and impact on amenity.

**LA09/2019/0750/F 6 dwellings within existing Millbrook Housing Development at site 10m E of 1 Millbrook Close, Washingbay Road, Coalisland for N and R Devine**

Mr Marrion (SPO) presented a report on planning application LA09/2019/0750/F advising that it was recommended for refusal.

Councillor Clarke stated that the pictures of the site included within the papers for the meeting bear no resemblance to the photographs being shown tonight.

The Chair, Councillor Mallaghan stated that this was a complaint which had been raised on numerous occasions.

The Planning Manager stated that, going forward, pictures/drawings that were as up to date as possible would be provided.

In response to question from the Planning Manager, Mr Marrion advised that some of the site had been built upon.

Councillor Gildernew referred to the site lying within a floodplain and proposed the officer recommendation to refuse the application.

Councillor Cuthbertson referred to the loss of open space if the application were to be approved and that Members often complain that there is not enough open space with developments. Councillor Cuthbertson seconded Councillor Gildernew's proposal.

**Resolved** That planning application LA09/2019/0750/F be refused on grounds stated in the officer's report.

**LA09/2019/0760/O Site for a dwelling and domestic garage/store 65m NE of 11 Creagh Hill, Castledawson for Anne McGroggan**

Ms McCullagh (SPO) presented a report on planning application LA09/2019/0760/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 site opposite the application site was approved under the cluster policy and both sites were the same distance from the focal point of the Thatch Bar. Mr Cassidy stated that there are 10 dwellings and 2 businesses in the neighbouring area and that there is development on 2 sides of the application site, the application will have no impact on amenity and existing vegetation will be retained. Mr Cassidy stated that the applicant has accepted that the development will not extend into the countryside. Mr Cassidy stated that taking all this into consideration the application meets Policy CTY2a and should therefore be approved.

The Planning Manager stated that the policy in relation to clusters is about containment and rounding off/fitting in, that this application fails being within a cluster and is instead an add on to a cluster.

Councillor McFlynn stated that one of the reasons for refusal is that there is no boundary hedge and asked if a condition could be attached that hedging be planted.

The Planning Manager stated that the site should be able to integrate in its current state.

Councillor McKinney proposed the officer recommendation to refuse the application.

Councillor Gildernew seconded Councillor McKinney's proposal.

Councillor McFlynn proposed that the application be deferred to allow for further discussion.

The Planning Manager stated that the agent had requested an office meeting for this application but it was felt the case was clear cut and there was nothing to be gained in facilitating a meeting.

The Chair, Councillor Mallaghan asked for a seconder to Councillor McFlynn's proposal.

The proposal did not achieve a seconder.

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

For – 12

Against - 1

**Resolved** That planning application LA09/2019/0760/O be refused on grounds stated in the officer's report.

**LA09/2019/0787/O Site for dwelling and garage 40m SW of 44 Moyagoney Road, Portglenone for Mr Paul Madden**

Ms McCullagh (SPO) presented a report on planning application LA09/2019/0787/O advising that it was recommended for refusal. Members were also advised of addendum which provided amended refusal reason to that set out in officer report.

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

Mr Cassidy stated that the application was being refused as inadequate information had been provided to support a dwelling on a farm. Mr Cassidy advised that a farm business number had been supplied and DAERA have confirmed that the farm is active. Mr Cassidy advised that farm maps have been supplied and invoices for a 6 year period were also submitted which indicate ongoing upkeep of farm lands. On the basis of the information provided Mr Cassidy asked that Members reconsider the application.

The Planning Manager stated that the map submitted shows that the farm belongs to someone else. The Planning Manager stated there appeared to be some confusion with regard to the information provided and suggested that the application be deferred for an office meeting.

Councillor McKinney proposed that the application be deferred for an office meeting as the information before Members tonight was misleading.

Councillor S McPeake seconded Councillor McKinney's proposal.

**Resolved** That planning application LA09/2019/0787/O be deferred for an office meeting.

**LA09/2019/0792/F Dwelling and garage (redesign for dwelling under construction) at 250m N of 36 Tullybroom Road, Clogher for Des Shields**

Mr Marrion (SPO) presented a report on planning application LA09/2019/0792/F advising that it was recommended for refusal.

The Chair, Councillor Mallaghan stated that a late request to speak had been received to speak for the application however he was not prepared to accept this.

The Chair, Councillor Mallaghan asked what the last date of commencement was for the proposal.

The Planning Manager stated that the crucial date for commencement of the previous planning permission was 11 May 2012 and the aerial image from 24 May 2012 shows no commencement of development on the site.

In response to Councillor Gildernew, the Planning Manager stated that evidence to show the site had commenced could take the form of invoices or confirmation of inspection by Building Control.

Proposed by Councillor Colvin  
Seconded by Councillor Glasgow and

**Resolved** That planning application LA09/2019/0792/F be refused on grounds stated in the officer's report.

**LA09/2019/0895/F Conversion and reuse of existing outbuildings for residential use, with extension and internal alterations directly adjacent to 100a Claggan Lane, Cookstown for Mr and Mrs Arnold Loughrin**

Members considered previously circulated report on planning application LA09/2019/0895/F which had a recommendation for approval.

Proposed by Councillor Glasgow  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2019/0895/F be approved subject to conditions as per the officer's report.

**LA09/2019/1019/A Sign to gable wall of house at 9 Springdale, Dungannon for Sinead Hagan**

Application withdrawn.

**LA09/2019/1069/F Dwelling and domestic garage approx. 100m NW of 88 Washingbay Road, Coalisland for Mr Ciaran Lynch**

Agreed that application be deferred for office meeting earlier in meeting.

**LA09/2019/1088/F Extension of curtilage and erection of domestic store, mixed martial arts studio and all associated site works at lands immediately between 218 and 220 Ballynakilly Road, Dungannon for Moussa Jaafar**

Members considered previously circulated report on planning application LA09/2019/1088/F which had a recommendation for approval.

Mr Marrion stated that since the report had been issued a response from DfI Roads had been received in which they recommend refusal of the application, as set out in



addendum. Mr Marrion suggested that this application be deferred to allow the applicant/agent time to consider this response.

Proposed by Councillor Gildernew  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2019/1088/F be deferred to allow the applicant/agent time to consider the response from DfL Roads.

**LA09/2019/1169/O Dwelling and garage at lands between 33a and 33b Grange Road, Moy for Mr Andrew Smith**

Members considered previously circulated report on planning application LA09/2019/1169/O which had a recommendation for approval.

Mr Marrion (SPO) referred to addendum which advised of correspondence requesting that the site be enlarged and dwelling set back further. It was noted that the correspondence sets out why the application goes against policy but is not objecting. Mr Marrion advised that the concerns cited in the correspondence had been dealt with in the officer report.

Councillor Cuthbertson stated that the correspondence asks for advice on what protocol to use if they wished to object to the application being approved. The Councillor asked if anyone went back to the person on receipt of this letter being received.

Mr Marrion advised that no one went back to the person on receipt of correspondence received on 25 October but that officers had previously advised the same person of planning protocols and how they could object if that's how they wanted to proceed.

The Chair, Councillor Mallaghan advised that planning protocols and information on how to object to an application is also freely available on Council's website.

Councillor S McPeake proposed the officer recommendation to approve the application.

The Planning Manager asked how the application meets infill policy as that is what the objection seemed to be in relation to.

Mr Marrion outlined how the application will fit in with existing dwellings and road frontages. In this case the application will be sited in a line where there are currently five dwellings with roadside frontage, the application will have development on two sides and will also have road frontage of its own.

Councillor Colvin stated that he had been asked to object to the application and that this was the fourth site the applicant had submitted and sold off.

The Chair, Councillor Mallaghan asked Councillor Colvin if he was speaking on behalf of the objector.

Councillor Colvin stated he had been asked to object to the application.

The Chair, Councillor Mallaghan invited Councillor Colvin to present the case to Members.

Councillor Colvin stated that there was already a lot of development on this road and that there were currently eleven dwellings in a line. The Councillor stated that this build up of dwellings was starting to resemble the outskirts of a town rather than the countryside. Councillor Colvin stated that the objector has a lot of experience in planning matters.

*Councillor Colvin withdrew to the public gallery.*

The Council Solicitor referred to the correspondence of the 25 October which states that the person is not objecting to the application but then goes on to raise a number of points. The Council Solicitor stated she would have some concerns in terms of whether that person had been provided with sufficient opportunity to object.

The Planning Manager stated that a Councillor has spoken on behalf of the objector tonight and that they were previously advised of the process of submitting an objection.

Councillor S McPeake stated he would stick by his proposal to approve the application and that the Committee needed to be fair to the applicant as well.

The Planning Manager stated he could understand the concerns of the objector but advised that the application meets policy and that just because Members may not like policy does not mean it should be disregarded.

Councillor Bell seconded Councillor S McPeake's proposal.

Councillor Cuthbertson proposed that the application be held for one month as the objector deserved an answer to the question raised in their correspondence as to how to object should the application be recommended for approval.

Councillor Brown seconded Councillor Cuthbertson's proposal.

Members voted on Councillor S McPeake's proposal –  
For – 6

Members voted on Councillor Cuthbertson's proposal –  
For – 6

The Chair, Councillor Mallaghan used his casting vote to vote for Councillor S McPeake's proposal and declared the proposal to approve the application carried.

**Resolved** That planning application LA09/2019/1169/O be approved subject to conditions as per the officer's report.

The Chair, Councillor Mallaghan stated that everyone has the same opportunity to submit an objection and did not feel the person had been disadvantaged in this case.

The Planning Manager concurred with the Chair and stated that the objector's point had been put across tonight and that arguments had been made. The Planning Manager stated he did not think the person had been prejudiced.

Councillor Cuthbertson asked if the papers circulated around the table at meeting could be included with agenda papers or papers which are issued on the Friday prior to the meeting.

The Chair, Councillor Mallaghan stated that the papers issued on the Friday prior to the meeting deal with requests to speak or for deferral and include any supplementary documentation submitted as part of that process. Councillor Mallaghan stated that all other information/documentation is available on the Planning Portal.

The Planning Manager stated that by the 25 October reports would have already have been submitted for issue of agenda papers.

The Council Solicitor reminded Members about the importance of them considering the information contained on the Planning Portal.

*Councillor Colvin rejoined the meeting.*

**LA09/2016/0634/O Replacement of existing filling station, shop and car wash with construction of mixed use units and associated car parking and landscaping at 132 Drum Road, Cookstown for Seamus Molloy**

The Head of Development Management presented a report on planning application LA09/2016/0634/O advising that it was recommended for refusal. The Head of Development Management also drew attention to the addendum which stated that an additional reason for refusal should be attached to the application relating to Policy IC15 (Roadside Service Facilities) of the Planning Strategy for rural NI.

The Chair advised the committee that a request to speak on the application had been received and invited Councillor B McGuigan to address the committee.

Councillor B McGuigan stated that the application seeks to replace an established filling station including other facilities and uses situated on the Drum Road which is a key transport corridor. The Councillor stated that the site is out of date, appears to be ramshackle and does not meet the needs of travellers and that this outline application is an opportunity to redevelop the site, to retain jobs and create further jobs. Councillor B McGuigan stated that there were no neighbouring objections to the application and that all refusal reasons could be conditioned and that the applicant was prepared to submit surveys to achieve this. The Councillor stated that the applicant purchased the site 45 years ago and that whilst the road concerns were understood he asked the Committee to reconsider and approve this application with conditions to allow full plans to be submitted.

The Planning Manager stated that the application appears to be intensification and that if the information previously requested in relation to traffic analysis survey was submitted then it could be given further consideration. The Planning Manager stated that a clear

message needs to go out to the applicant that they need to invest and submit the survey required otherwise the application could not proceed any further.

The Chair, Councillor Mallaghan stated that he had previously spoken on the application and would therefore declare an interest and withdraw to the public gallery.

Councillor Robinson took the Chair.

Councillor S McPeake stated that he had attended the site meeting and it was clear there was a business there and that it would be a planning gain to refurbish the site. Councillor S McPeake stated he would be against refusing the application and that the applicant should be given further guidance on what is required to make the application successful.

In response to the Planning Manager, the applicant's agent Mr Cassidy, indicated that he would welcome further discussion on the application.

Councillor Clarke felt that further discussion would be useful, that in the past this would have been a busy shop and that if something could be worked out to regenerate the site he would like to see it happening.

Councillor Glasgow felt that the project should not be missed and that the applicant should be given one final opportunity to submit further information.

Councillor McKinney proposed that the application be deferred to allow for further discussion and submission of further information.

Councillor Clarke seconded Councillor McKinney's proposal.

The Planning Manager stated that the Committee's message is clear, that Mid Ulster is open for business but that all necessary information needed to be submitted in order to proceed.

The Council Solicitor stated that the onus is on an applicant to make their case and submit the necessary information. The Council Solicitor stated that if the application comes back to Committee without the required information she would have concerns about the Committee overturning the recommendation to refuse the application.

Councillor S McPeake stated that the premises is currently in disrepair and that the application offers a potential gain for industrial retail in Mid Ulster.

**Resolved** That planning application LA09/2019/0634/O be deferred to allow for the submission of further information.

*Councillor Mallaghan rejoined the meeting and retook the Chair.*

**LA09/2017/1368/F Off site replacement dwelling (amended proposal) 45m NE of 19 Ardagh Road, Coagh, Cookstown for Mr Tony Anderson**

*Councillor Bell declared an interest in this application.*

Members considered previously circulated report on planning application LA09/2017/1368/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2017/1368/F be approved subject to conditions as per the officer's report.

**LA09/2017/1705/F Retention of and completion to reinstatement of previous building for agriculture purposes at 200m SW of 107 Lisacclare Road (on the Aughagranna Road), Stewartstown for James Canavan**

Members considered previously circulated report on planning application LA09/2017/1705/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2017/1705/F be approved subject to conditions as per the officer's report.

**LA09/2018/0666/O Farm dwelling and garage approx. 40m SE of 32A Mayogall Road, Gulladuff for Mr Damon Brown**

Members considered previously circulated report on planning application LA09/2018/0666/O which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2018/0666/O be approved subject to conditions as per the officer's report.

**LA09/2018/0799/F Demolition of garage and provision of new detached dwelling adjacent to 23 Beechland Road, Magherafelt for Ashley Booth**

Members considered previously circulated report on planning application LA09/2018/0799/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2018/0799/F be approved subject to conditions as per the officer's report.

**LA09/2018/1179/F Erection of garage to replace existing storm damaged garage at 39 Rocktown Road, Bellaghy for N Ireland Wedding Cars**

Members considered previously circulated report on planning application LA09/2018/1179/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2018/1179/F be approved subject to conditions as per the officer's report.

**LA09/2019/0289/F Change of use from part ground floor bookmakers to 2no. 1 bedroom apartments and ground floor stores to 1no. 2 bedroom apartment at 11 The Diamond, Pomeroy for Patrick Keogh**

Members considered previously circulated report on planning application LA09/2019/0289/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2019/0289/F be approved subject to conditions as per the officer's report.

**LA09/2019/0385/O Dwelling and garage 20m N of 34 Waterfoot Road, Ballymaguigan, Magherafelt for Paul Johnson**

Members considered previously circulated report on planning application LA09/2019/0385/O which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2019/0385/O be approved subject to conditions as per the officer's report.

**P135/19 Receive Report on Consultation by DfC regarding listing of telephone kiosk beside 67 Dergenagh Road, Dungannon**

The Planning Manager presented previously circulated report which outlined the background to a consultation by Department for Communities, Historic Environment Division regarding their consideration to list a Telephone Kiosk at 67 Dergenagh Road, Dungannon.

Councillor Cuthbertson proposed that Council should respond to the consultation stating that it has no issue in relation to the listing of the telephone kiosk and that Department for Communities should proceed with the process of listing the kiosk at Dergenagh.

Councillor Gildernew asked if the telephone kiosk is to remain where is currently sited or be moved.

The Planning Manager stated that if the telephone kiosk is listed it would require listed building consent to be moved or to have a defibrillator installed.

The Chair, Councillor Mallaghan stated that if the telephone kiosk was listed it would make it difficult to move.

Councillor Gildernew seconded Councillor Cuthbertson's proposal.

The Council Solicitor stated that there needed to be a distinction drawn between the Committee taking a decision to issue (or not) a Building Preservation Notice and the Committee's role in this instance which is that of a consultee in relation to the DfC's decision to list (or not) the telephone kiosk. The Council Solicitor stated that the Members needed to be clear about the tests and considerations and whether there were similarities. Members need to provide sound reasons if they are taking a different approach now.

Councillor Cuthbertson stated that the two matters were different and that a Building Preservation Notice is temporary and that if a Notice had been agreed in August it would soon be running out in any case. The Councillor also stated that Department for Communities can proceed to list the telephone kiosk regardless of what this Committee thinks.

The Council Solicitor stated that Members needed to be clear what all issues they were considering to ensure consistency in decision making as similarities had been referenced.

Councillor Colvin felt that Members should be provided with options for moving forward.

The Planning Manager stated that the Head of Development Plan and Enforcement had previously provided a report which set out the condition of the phone box and age of the phone box and that it was considered worth preserving. At that time the Committee decided that the telephone kiosk was at great risk but was likely to be moved and did not proceed with a Building Preservation Notice at that time. The Planning Manager stated that he would have no objection to the telephone kiosk being listed but that the decision as to how they wished to respond to the consultation was ultimately up to Members.

Councillor Glasgow stated that at a previous meeting it was advised that a community group had adopted the telephone kiosk, the Councillor stated that the matter has continued to be brought back to various meetings of Committee/Council and felt that Council should be taken out of the loop and that Department for Communities should consult with the community group on the matter.

The Chair, Councillor Mallaghan asked if the Department for Communities were aware that a community group has an interest in the telephone kiosk.

The Planning Manager stated that Council can make Department for Communities aware of the community interest in the telephone kiosk.

Councillor Glasgow proposed that Council respond to the consultation stating it is content that the process of listing continues and advise of the community group interest in the telephone kiosk and that they should also be consulted on the matter.

Councillor McKinney seconded Councillor Glasgow's proposal.

Councillor Cuthbertson stated he had already made a proposal to the Committee.

Councillor Colvin stated that Councillor Glasgow's proposal was an amendment to Councillor Cuthbertson's proposal.

The Chair, Councillor Mallaghan asked Councillor Cuthbertson if he would accept an amended version of the proposal that the local community should also be included in any consultation.

Councillor Cuthbertson stated he was content with this.

The Chair, Councillor Mallaghan asked Councillor Glasgow if he would withdraw his proposal

Councillor Glasgow felt that consultation with the community group should be included in any proposal.

The Planning Manager suggested that Council respond to the consultation and state that there are arguments for the listing of the telephone kiosk but that this decision will be up to Department for Communities. Council will advise the Department for Communities of the community interest in the telephone kiosk and that the views of the community and community groups should be taken into consideration prior to taking a decision on whether the telephone kiosk is listed.

Members agreed with the way forward suggested by the Planning Manager.

**Resolved** That it be recommended to Council to respond to the consultation and state that there are arguments for the listing of the telephone kiosk but that this decision will be up to the Department for Communities. Council will advise the Department for Communities of the community interest in the telephone kiosk and that the views of the community and community groups should be taken into consideration prior to taking a decision on whether the telephone kiosk is listed.



## **Matters for Information**

### **P136/19 Minutes of Planning Committee held on 1 October 2019**

Members noted minutes of Planning Committee held on 1 October 2019.

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

Proposed by Councillor Brown  
Seconded by Councillor McKinney 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 P137/19 to P141/19.

### **Matters for Decision**

P137/19 Receive Enforcement Report

### **Matters for Information**

P138/19 Confidential Minutes of Planning Committee held on  
1 October 2019

P139/19 Enforcement Case Live List

P140/19 Enforcement Cases Opened

P141/19 Enforcement Cases Closed

### **P142/19 Duration of Meeting**

The meeting was called for 7 pm and concluded at 9.17 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_