

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 4 February 2020 in Council Offices, Ballyronan Road, Magherafelt

Members Present

Councillor Mallaghan, Chair

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

Officers in Attendance

Dr Boomer, Planning Manager
Mr Bowman, Head of Development Management
Ms Doyle, Senior Planning Officer
Ms Kiley, Barrister (Agenda Items 4.7 and 4.8)
Ms McCullagh, Senior Planning Officer
Ms McNally, Council Solicitor
Miss Thompson, Democratic Services Officer

Others in Attendance

Applicant Speakers

LA09/2019/0024/O Ms Young
LA09/2019/0025/F Mr Bell
Mr Bell
LA09/2019/0489/F Mr Lavery
LA09/2017/0897/F Mr Cassidy
LA09/2019/1008/F Mr Kelly
LA09/2019/1081/O Ms Gourley
LA09/2019/1158/O Mr Cassidy
LA09/2019/1415/F Mr Gourley
LA09/2019/0357/F Mr & Mrs Salt and Deborah Tate
Mr Turkington

The meeting commenced at 7.02 pm

P013/20 Apologies

None.

P014/20 Declarations of Interest

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

Councillor Kearney declared an interest in planning applications LA09/2019/0024/O, LA09/2019/0025/F and LA09/2016/1654/A and requested to speak on this application.

Councillor S McPeake declared an interest in planning applications LA09/2019/0024/O and LA09/2019/0025/F.

Councillor McKinney declared an interest in planning applications LA09/2019/0024/O, LA09/2019/0025/F and LA09/2018/1282/O.

P015/20 Chair's Business

The Planning Manager referred to previous discussion in relation to application regarding Benburb Gatelodge and advised that an email had been received from Historic Buildings Division on 31 January 2020 to advise that the Gatelodge has been listed as a B2 Listed Building and that Notice to this effect has been served. The Planning Manager stated that this listing will have to be taken into account going forward and he would advise the agent for the application to contact the case officer to discuss the best way forward.

The Planning Manager referred to previous discussion in relation to Clark's Mill at Upperlands and advised that further to the Committee writing to the Department in relation to its concerns regarding the scheme it was now confirmed that a public inquiry would take place.

Councillor S McPeake stated he still had concerns regarding the size of the application at Clark's Mill, the impact on the Area Plan and how it may disadvantage neighbouring settlements. The Councillor stated that the Housing Executive were unaware of the scheme and that he felt the scheme and the process did not stack up and asked what else the Committee can do to reinforce its concerns.

The Planning Manager stated that now that there is going to be a public inquiry officers will be able to go through the application in detail and probe the inquiry process. The Planning Manager felt that there were a number of questions that needed to be asked in relation to the application.

Councillor McFlynn stated she shared Councillor S McPeake's concerns and the effect the development could have on housing allocation in other areas.

Councillor Black asked that if there were assurances given that the development at Upperlands would not affect housing allocation in other areas whether this would make the proposal acceptable.

The Planning Manager stated that the District is made up of a number of settlements which have different community make ups and that there were genuine concerns in relation to the allocation of housing in other settlements if the proposal went ahead. The Planning Manager stated that he did not feel the Committee had got answers to the questions it had posed in its correspondence.

Councillor Black stated he understood what was being said but that the concerns seemed to boil down to housing allocation for other areas if the proposal went ahead. The Councillor stated that if there was an assurance that could be given that housing allocation in other areas would not be affected it would be helpful. Councillor Black stated he would like to see investment in the Upperlands area and that he would not like to see the proposal fail.

Councillor McKinney stated that Upperlands takes in a big area and is where the only Primary School is located for the area and is where investment should be. The Councillor stated there was land available across the District for housing but that this was being held to ransom by its owners.

The Planning Manager stated that Council has not said they are opposed to the development but feels there are questions to be answered in relation to the scheme. The Planning Manager reminded Members that the Committee will not make the decision relating to this application but rather the Department will make a determination on it.

Matters for Decision

P016/20 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 4.9 – LA09/2019/0232/F – 8 semi detached dwelling at land to the rear of 65-69 Oldtown Street, Cookstown for Mr Malcom Thom.

Agenda Item 4.11 – LA09/2019/0475/O – Housing Development (Phase 1) at lands opposite 2 Lisnamuck Road, Tobermore for Tobermore Concrete.

Agenda Item 4.13 – LA09/2019/0784/F – Farm shed to include feeding, shelter and storage area; underground slurry tanks and new access to be taken from Drumlamph Lane at approximately 130m SE of 9 Drumlamph Lane, Castledawson for Mr Cathal Shivers.

Agenda Item 4.16 – LA09/2019/1045/O – Dwelling and domestic garage/store at 130m NW of 27 Tirnaskea Road, Pomeroy for Mr Mick Mallon.

Agenda Item 4.18 – LA09/2019/1090/F – Isolation shed for animals and storage of machinery at approximately 165m NW of 81 Kinturk Lower Road, Lower Mullan, Cookstown for Eamonn Maynes.

Agenda Item 4.23 – LA09/2019/1220/F – Dwelling and domestic garage 35m N of 25 Annaghmore Road, Annaghmore, Coalisland.

Agenda Item 4.24 – LA09/2019/1232/O – Relocation of approved 'Off Site' replacement dwelling and domestic garage (LA09/2017/0079/O) adjacent to 103 Tirkane Road, Maghera for Diarmaid Donnelly.

Agenda Item 4.26 – LA09/2019/1376/O – Site for dwelling and garage (gap site) at 50m S of 39 Baladoogh Lane, Cookstown for Patrick McAleer.

Agenda Item 4.27 – LA09/2019/1387/O – Infill site for dwelling and domestic garage at site approximately 10m S of 11 Reenaderry Road, Coalisland for Sean Robinson.

Agenda Item 4.28 – LA09/2019/1402/O – Site for a dwelling and domestic garage approximately 50m NE of 45 Moneyneany Road, Draperstown for Mr Michael McWilliams.

Agenda Item 4.30 – LA09/2019/1465/O – Infill dwelling and detached garage at approximately 28m E of 260 Ballygawley Road, Dungannon for Mr Kevin McCaul.

Agenda Item 4.31 – LA09/2019/1466/O – Infill dwelling and detached garage at approximately 102m E of 260 Ballygawley Road, Dungannon for Mr Kevin McCaul.

In relation to agenda item 4.3 – LA09/2017/1366/F – Residential development comprising of 52 units (to supercede approved I/2006/1186/F) at 20 Dungannon Road, Cookstown for McKernan Construction – the Planning Manager advised that an amended certificate of land ownership had been received and it would be unwise to discuss this application tonight.

Councillor McKinney referred to email he had received today and that there was a decision to be taken by the Planning Appeals Commission.

The Planning Manager stated that it was correct that Planning Appeals are to determine an application but that this did not relate to tonight's application. The Planning Manager stated that the application tonight should be deferred until after the 21 day consultation period had passed in relation to the amended certificate of land ownership.

Proposed by Councillor Bell
Seconded by Councillor McKinney and

Resolved That the planning applications listed above for deferral be deferred for an office meeting/submission of further information/to consider additional information received.

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

LA09/2017/0318/F Replacement pig shed with 2 feed bins and an above ground covered slurry store at land approximately 100m NE of 13 Drumard Road, Draperstown for Stanley Hepburn

Members considered previously circulated report on planning application LA09/2017/0318/F which had a recommendation for approval. Members were also advised of addendum which set out Environmental Health conditions received on 24 January 2020 which would be added to a decision notice.

Proposed by Councillor McKinney
Seconded by Councillor Brown and

Resolved That planning application LA09/2017/0318/F be approved subject to conditions as per the officer's report and addendum.

LA09/2017/1003/F Timber drying area and store at lands approximately 140m S of 3A Glenarny Road, Drum for Michael Bell

Members considered previously circulated report on planning application LA09/2017/1003/F which had a recommendation for approval.

Proposed by Councillor Colvin
Seconded by Councillor Gildernew and

Resolved That planning application LA09/2017/1003/F be approved subject to conditions as per the officer's report.

LA09/2017/1366/F Residential development comprising of 52 units (to supercede I/2006/1186/F) at 20 Dungannon Road, Cookstown for McKernan Construction

Agreed that application be deferred to consider additional information submitted.

LA09/2017/1426/F Retention of boundary wall and the alteration of ground levels to provide concrete finish to hardcored yard at 55 Knockanroe Road, Cookstown for Reid Engineering (Cookstown) Ltd

Members considered previously circulated report on planning application LA09/2017/1426/F which had a recommendation for approval.

Proposed by Councillor Colvin
Seconded by Councillor Cuthbertson and

Resolved That planning application LA09/2017/1426/F be approved subject to conditions as per the officer's report.

LA09/2017/1653/F Lateral extension of existing quarry over 4.7 hectares to secure additional reserves at Derraghadoan Shale Quarry, Carland Road, Dungannon for Lafarge Ireland

Members considered previously circulated report on planning application LA09/2017/1653/F which had a recommendation for approval.

Proposed by Councillor Gildernew
Seconded by Councillor Clarke and

Resolved That planning application LA09/2017/1653/F be approved subject to conditions as per the officer's report.

LA09/2018/1101/F Residential housing development (32 two-storey semi-detached dwellings and 22 detached dwellings) at lands 92m S of 2 Laurel Brook, Aughrim Road, Magherafelt for F P McCann

Members considered previously circulated report on planning application LA09/2018/1101/F which had a recommendation for approval.

Proposed by Councillor Brown
Seconded by Councillor S McPeake and

Resolved That planning application LA09/2018/1101/F be approved subject to conditions as per the officer's report.

LA09/2019/0024/O Outline application to support future mixed use and enterprise centre/business units which will be subject to Reserved Matters Planning Applications submitted by purchasers of plots from Mid Ulster District Council at former Maghera High School, Tobermore Road, Maghera for Mid Ulster District Council

LA09/2019/0025/F Development of existing brown field site; new internal access road/footpaths; improved access including right hand turning lane; alteration of existing levels to provide platforms for future development; installation of utilities, installation of site fencing; clearance of undergrowth vegetation and associated site works to support future mixed use and enterprise centre/business units at former Maghera High School, Tobermore Road, Maghera for Mid Ulster District Council

Councillors Bell, Black, Brown, Clarke, Colvin, Cuthbertson, Gildernew, Glasgow, Kearney, Mallaghan, McFlynn, McKinney, D McPeake, S McPeake, Quinn, Robinson all declared an interest in this application.

Councillors Black, Kearney and S McPeake withdrew from the meeting.

The Chair, Councillor Mallaghan stated that Council recommended last month to progress discussions with interested parties regarding potential sites, however, that is not a material consideration to the applications before the Committee tonight and any decision being taken tonight would need to be on the basis of planning grounds only. The Chair further advised that Denise Kiley of counsel would be taking up the role of legal adviser to the Committee regarding these two applications.

Ms Doyle (SPO) presented reports on planning applications LA09/2019/0024/O and LA09/2019/0025/F advising that that they were recommended for approval. Members also noted addendum circulated which advised of change of drawing number to suggested condition 9 and that further objection letters had been received.

The Chair advised the committee that request to speak on the applications had been received and invited Ms Young to address the committee in the first instance.

Ms Young stated she was speaking on behalf of Maghera Park Campaign Group and wanted to thank Councillors Black, B McGuigan and Wilson for their help to date. Ms Young stated that these applications represented major development in the Maghera area and that there were great concerns regarding road congestion, the visual impact of the scheme, economy and the use of public money. Ms Young stated that there were other sites in the Maghera area which could be used for redevelopment and referred to other business units in the area which are currently vacant. Ms Young stated that the Maghera community have come together in huge numbers to object to these applications and that the site represents a once in a lifetime opportunity for shared space in the town. Ms Young stated that the provision of the Walkway and Walled Garden is some form of compensation but that the Walkway is in bad repair and the Walled Garden only has limited opening. Ms Young stated that consultation has been lacking with the scheme being brought to the public's attention in June 2017 and just 2 months later being advertised as an opportunity site. Ms Young stated that the speed with which the applications were submitted and the timing of such (On Christmas Eve) was questionable and left little time for people to respond. Ms Young asked that the applications be refused or at least deferred for 8 weeks until Council engages with the community as not everyone was informed of the amended plans.

Mr Bell stated he is the agent for Council on both applications and endorsed the view of the planning officers to approve the proposals. Mr Bell stated that the applications were submitted in December 2018 and that all statutory consultees have recommended approval of the applications, subject to conditions. Mr Bell stated that Council acquired the site, which had been vacant for over 20 years, in 2015, that the site is accessible and the proposals would not compromise traffic flow. Mr Bell stated that the proposals are a good use of the site as there is clear economic need in the area and interest has already been expressed. If approved, Mr Bell advised that some plots could be ready by the 4th quarter of 2020 and ready for business in the 1st quarter of 2021. Mr Bell stated that there has been engagement with the community and as a result of this consultation the scheme has been amended to address as many of the concerns as possible including landscaping, the removal of diseased trees and a walkway to the north of the site. Mr Bell stated the applications represented an opportunity to regenerate derelict land and boost employment in the Maghera area and asked that the Committee endorse the recommendation of the planning officer and statutory consultees.

Ms Doyle (SPO) referred to comment that there was no notification on the amended plans received and advised that as there had been almost 1300 objections received it was decided that it would not be feasible to notify everyone of the amended plans individually. Ms Doyle advised that when the amended plans were received a notice was placed on the planning portal, notice of the amended plans were notified in the press, neighbour notification was carried out and Ms Young was informed as she had taken a lead in the campaign group.

The Planning Manager stated he is a planning officer and advised that plans submitted by the Council are reviewed in the same way as any other application and

are gauged against planning policy. Similarly the role of the Planning Committee is to give due consideration to planning policy and make a determination based on this consideration. The Planning Manager referred to the issues regarding the lack of consultation and the request to defer the applications and advised that major applications such as these are subject to pre consultation which did take place for these applications.

The Planning Manager stated that the Maghera community have indicated that they would prefer the site to be developed as a park but did not think that the community should write the proposals off. The Planning Manager stated that Maghera has had investment and referred to the Walled Garden and future public realm scheme. The Planning Manager stated that there will only be a partial loss of open space with the amended plans and also referred to the Tree Preservation Order (TPO) which is on the agenda for consideration later, the Planning Manager stated that the applications were not dependent on this TPO but that the notion that Council had not given consideration to its proposals were not correct. The Planning Manager stated that notifying key figures and placing notices on planning portal and in the press was normal practice when there had been a large number of objections received.

Councillor McFlynn asked how much green space would be left if the proposals were approved.

The Planning Manager stated he was unsure of the exact size but indicated on the map how much of the site would be green space.

Councillor Glasgow referred to the advertisement placed regarding the amended plans and stated that Council only advertises in the Derry Post and Tyrone Courier. Councillor Glasgow also asked what the quality of the open space would be and whether the new pathway would provide a link to the Walled Garden.

Ms Doyle (SPO) showed maps/photographs which set out the linkages and how the site is shielded from view by a belt of trees.

The Planning Manager stated that public open space is of the highest amenity, that the site had restricted access being a former school and Council had done all the necessary surveys in relation to nature conservation interests at the site and NIEA has not raised objection. The Planning Manager also advised of investment in Maghera over recent years opening up the Walled Garden. He advised that this application resulted in the loss of some 1.4 hectares of open space subject to restricted access and that in line with this proposal a public walkway comprising of nearly a 1 hectare of public open space had been provided. He questioned whether the loss of a very small amount of open space was enough reason to bring down the economic benefits of the scheme. The Planning Manager stated that land can be zoned for industry but usually public money is required to be put in to it in order to deliver it, hence interventions by bodies such as Invest NI. The Planning Manager stated that businesses want serviced sites with access and drainage and that the Council was proposing to invest in the site to deliver this.

Councillor McKinney stated that visibility from inside the site to outside will be nil and that the proposal will not be an eyesore or distraction to passing traffic. Councillor McKinney stated that there would not be houses close to the site and there would be a gap between the site and Clarke's Hill. Councillor McKinney stated he believed there is a need for employment in the area and that Maghera is hampered for this sort of facility. Councillor McKinney stated that Council has invested in the site with proposals to redevelop it into what is before Members and that there has been interest from businesses in the site. Councillor McKinney stated he had no hesitation in proposing the applications for approval.

The Planning Manager stated that there had been residential applications approved both adjacent to and opposite the site however officers have taken this into account and consulted on this and there are no issues. The Planning Manager stated that light industry is compatible with nearby housing.

Councillor Cuthbertson referred to the plans being submitted on Christmas Eve and asked if this was an issue in relation to allowing sufficient time for consultation.

Ms Doyle (SPO) stated that plans were received on the 19 and 20 December and this was notified on the planning portal on 23 December. Ms Doyle stated that Ms Young was also advised of the amended plans on 23 December and that notice was placed in the press at the beginning of January.

The Planning Manager asked what the revisions to the application were.

Ms Doyle (SPO) stated that the amended plans were to reduce the red line and take the site out of the flood plain and reduce the amount of open space being lost.

The Planning Manager stated that the amended plans were actually reducing the impacts of the scheme. The Planning Manager referred to request to defer the applications but stated that Members had enough information before them tonight to make a decision.

Councillor Glasgow stated that he had listened to what had been said and had read the reports relating to the applications and did not have an issue regarding the re-advertisement of the amended plans. Councillor Glasgow stated that there will be benefits to the application and seconded Councillor McKinney's proposal.

Councillor Brown asked if there was anything that could be incorporated into the plans to open the green space to the public.

The Planning Manager stated this could be done but not tonight as it was for Council to decide what it wanted to pursue and any further amendment would be subject to re-consultation.

The Planning Manager advised that the Department had directed that they be notified when a recommendation is made by the Planning Committee before a final decision is made. It was advised that this direction allows the Department the opportunity to consider whether the application should be called in and if the Department is minded not to call in the application or to impose any other action on

the Council then the Planning Manager can proceed to issue the decision as per the conditions.

Resolved That the Planning Committee are minded to approve planning applications LA09/2019/0024/O and LA09/2019/0025/F subject to conditions as per the officer's report (and noting change to drawing number for condition 9 as per addendum) and that the Department be notified of this recommendation.

Councillors Black, Kearney and S McPeake rejoined the meeting.

LA09/2019/0232/F 8 semi detached dwellings at land to the rear of 65-69 Oldtown Street, Cookstown for Mr Malcolm Thom

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

LA09/2019/0467/F Refurbishment and alteration of existing workshop at 20B Station Road, Glebe Industrial Estate, Magherafelt for Coolhaven Developments Ltd

Members considered previously circulated report on planning application LA09/2019/0467/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2019/0467/F be approved subject to conditions as per the officer's report.

LA09/2019/0475/O Housing development (Phase 1) at lands opposite 2 Lisnamuck Road, Tobermore for Tobermore Concrete

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

LA09/2019/0489/F Retention of the existing curtilage (amended description and site location plan) at lands 140m S of 215 Washingbay Road, Coalisland for Evergreen Peat

LA09/2017/0897/F Part use of existing farm shed to provide internal dry storage in association with the Evergreen Peat business at 100m NW of 213 Washingbay Road, Coalisland for Jim McCuskey, Evergreen Peat

The Head of Development Management presented report on planning applications LA09/2019/0489/F and LA09/2017/0897/F advising that they were recommended for refusal.

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

Mr Lavery stated that he was pleased that both applications tonight were being proposed for refusal. Mr Lavery stated that the ongoing activity is outside of planning permission for approved farming activity and that he had supplied photographs to support this. Mr Lavery also referred to ongoing enforcement action. Mr Lavery stated that on 23 January 2020 large industrial gates were installed at the site without planning permission and were a further breach of planning processes. Mr Lavery stated that it was possible to permit an application where the scale of such does not harm the neighbouring area however it was advised that the ongoing activity is harmful to the rural area with heavy plant moving back and forward at times very early in the morning. Mr Lavery stated that to approve the application would double the size of the business at this site which would undermine rural character. Mr Lavery stated that the application is against Policy 4 of PPS21 and that no exceptional circumstances had been given as to why the proposal cannot be sited elsewhere. Mr Lavery asked that the applications be refused.

In response to the Planning Manager Mr Lavery stated he was representing an objector who lives beside the site and is impacted on the ongoing activity. Mr Lavery went on to say the applicant should not be allowed to have a site permitted for farming use and then be allowed to use for industrial purposes.

Mr Cassidy stated that Evergreen is an established business with 50 employees and has recently won a contract to supply peat to Lidl the result of which could create a further 40 jobs. Mr Cassidy stated that the approval in 2013 was for a farm shed and was used as such for a number of years until the applicant's father became ill. Mr Cassidy stated that the applications do not harm rural character and that there is only a marginal increase in the site area which Mr Cassidy stated could be conditioned. Mr Cassidy stated that there were environmental benefits of the applications as the site could be planted out. In relation to the objections raised Mr Cassidy advised there was mains electricity at the site and that there was no loose peat stored on site. Mr Cassidy also stated that the objector has also recently built 3 buildings without planning permission.

The Planning Manager referred to Mr Cassidy's comments in that conditions could be applied however he stated that conditions do not seem to mean anything to the applicant.

Mr Cassidy stated that the applications could be conditioned.

The Planning Manager stated that it is a clear observation that the site keeps morphing without the proper permissions and that it is up to the Committee to consider the information before them.

The Council Solicitor stated that on looking at the reasons for refusal she did not believe conditions would overcome these reasons nor can conditions be used as a means of trying to approve an application that does not meet policy.

The Planning Manager stated that the lorries will be nuisance in a rural area and that he was struggling to understand the argument of farm diversification.

The Head of Development Management stated he was not convinced that there was an active and established farm.

Proposed by Councillor Cuthbertson
Seconded by Councillor Brown and

Resolved That planning applications LA09/2019/0489/F and LA09/2017/0897/F be refused on grounds stated in the officer's reports.

LA09/2019/0784/F Farm shed to include feeding and shelter area, storage area and underground slurry tanks - new access to be taken from Drumlamph Lane, at approximately 130m SE of 9 Drumlamph Lane, Castledawson for Mr Cathal Shivers

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

LA09/2019/0810/F 5 tonne modular pelletizing plant for research and development use at 11 Aughnagar Road, Ballygawley (Acheson & Glover precast yard) for Brian Fox Silform Technologies

Members considered previously circulated report on planning application LA09/2019/0810/F which had a recommendation for approval.

Councillor McFlynn referred to the officer report which referred to request by NIEA for a drainage assessment but that planning did not deem this necessary and asked why it was not deemed necessary.

The Head of Development Management advised that the proposal is for a dry process which will be undertaken in an existing yard and that officers were not of the opinion that the criteria was being met for a drainage assessment to be completed.

Proposed by Councillor Gildernew
Seconded by Councillor Robinson and

Resolved That planning application LA09/2019/0810/F be approved subject to conditions as per the officer's report.

LA09/2019/1008/F Retention of dwelling under construction at 7 Tobermesson Road, Dungannon for Conor Curran

Councillor Cuthbertson declared an interest in this application.

The Head of Development Management presented a report on planning application LA09/2019/1008/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 Kelly to address the committee.

Mr Kelly stated that the outline permission in 2003 included a condition that the dwelling to be replaced should be demolished within 6 weeks of the new dwelling being occupied. Mr Kelly also referred to the Reserved Matters application in 2006 which was approved but did not include this condition. A further application in 2007 included a condition of commencement time only. Mr Kelly advised that the new dwelling has not yet been occupied, however should it be felt necessary a condition could be added to the application that the old dwelling no longer be used for human habitation.

The Head of Development Management advised that the condition to demolish the old dwelling within 6 weeks of the new dwelling being occupied did not have to be repeated on the Reserved Matters approval. The officer added that the condition suggested by the agent tonight cannot be achieved as the old dwelling is outside the red line of the site and outside of the applicant's control.

Councillor Brown stated that if the site was sold at auction and the buyer was not made aware of the conditions attached then where did this leave the applicant. Councillor Brown felt that this should be taken into consideration.

The Council Solicitor stated that it was a case of "buyer beware" and in any event was not a material consideration or relevant for the Planning Committee's decision making.

The Planning Manager stated that the applicant does not own the old dwelling and should this application be refused then the Committee could be asked to serve two enforcement notices in the future – 1. To demolish the old dwelling, 2. To move out of the new dwelling. The Planning Manager stated that he felt that if the application was to be refused it would force the two parties to sort out their issues.

Councillor Quinn asked if the owner of the dwelling to be replaced could make an application.

The Planning Manager stated that that is not what is before the committee, that the current application is just for a change of house type however the conditions cannot be changed.

Councillor Gildernew stated felt that it was up to the Committee to decide on the application and all other issues appeared to be civil matters which were nothing to do with the Planning Committee.

The Planning Manager stated that he could not see an alternative but to refuse the application.

Councillor Colvin stated that the remit of the Planning Committee is clear and that the other issues associated with this application were a legal mess. Councillor Colvin proposed that the application be refused.

Councillor Quinn asked if it was possible to defer the application to see if the issues between both parties can be worked out.

The Planning Manager stated that it appeared that the issues cannot be overcome, however if they were overcome another application could be looked at favourably. The Planning Manager also stated that the dwelling to be replaced should be stat charged and that this needed to be looked at.

The Council Solicitor stated that it appeared that the only option to grant permission would be for all relevant parties to enter into a Section 76 planning agreement, but that based on what some parties have advised in the course of the processing and consideration of this application, this did not seem to be possible.

The Chair, Councillor Mallaghan proposed that the application be deferred for 28 days in order to write to both parties to see if a resolution can be reached.

Councillor Gildernew seconded Councillor Mallaghan's proposal.

Councillor McKinney seconded Councillor Colvin's proposal.

Members voted on Councillor Mallaghan's proposal –

For – 12
Against – 3

Members voted on Councillor Colvin's proposal –

For – 3
Against – 12

Resolved That planning application LA09/2019/1008/F be deferred for 28 days to write to both parties to see if resolution to issues can be reached.

**LA09/2019/1045/O Dwelling and domestic garage/store at 130m NW of 27
Tirnaskea Road, Pomeroy for Mick Mallon**

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

**LA09/2019/1081/O Site for dwelling at 40m S of 117 Cavankeeran Road,
Pomeroy for Catherine McAleer**

Ms McCullagh (SPO) presented a report on planning application LA09/2019/1081/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 Ms Gourley to address the committee.

Ms Gourley stated that the applicant's father requires ongoing care and would benefit from his daughter, the applicant, and grand daughter living next door. Ms

Gourley stated that the application meets all criteria except for being associated with a focal point, however it was felt that the application would round off existing development without disrupting the character of the area. Ms Gourley stated that the site is enclosed and bounded on two sides. Members were further advised of three previous planning appeal decisions in which the criteria for requiring a focal point was set aside and that Mid Ulster Planning Committee had also previously approved a similar application which was not associated with a focal point. Ms Gourley felt that a precedent had been set and that this application should be treated as an exception to policy. Ms Gourley asked Members to approve the application as there would be no difference in the area by having it there.

The Planning Manager reminded Members that planning appeals decisions are not case law and are not binding. Members were also reminded that they don't have to follow policy but that if it is not being followed then good reason has to be given. The Planning Manager referred to the personal circumstances cited by the agent and stated that as this had not yet been assessed and case officers had not had the opportunity to verify this information then he would like to give time to consider the issues.

Ms Gourley stated that the planning appeal decisions were still relevant to the case.

The Chair, Councillor Mallaghan stated he was aware of the site and the family circumstances but that regardless of these issues he felt that the site provided a good opportunity to round off existing development.

Councillor S McPeake stated he also saw the development as rounding off and felt it would integrate. Councillor S McPeake proposed the approval of the application.

Councillor Gildernew stated he agreed with the comments of the Chair and Councillor S McPeake.

The Planning Manager stated that if Members were of that view then he would park the consideration of personal circumstances.

Councillor McFlynn stated that the site would round off development with no adverse effect to character. Councillor McFlynn seconded Councillor S McPeake's proposal.

The Planning Manager stated that the application did not meet Policy CTY2A in that the site is not associated with a focal point however Members were of the view that the application should be treated as an exception as it meets all other criteria and can integrate into the site without any adverse impact.

The Council Solicitor stated that this may explain one of the refusal reasons but not the other refusal reasons.

The Planning Manager stated that refusal reason 1 relates to Policy CTY1 which is a theme which runs through all policies. The Planning Manager stated that as the application was being treated as an exception on the basis of rounding off then refusal reason 1 could be set aside. The Planning Manager suggested that the application be conditioned with a 6m ridge height.

Resolved That planning application LA09/2019/1081/O be approved with condition of 6m ridge height.

LA09/2019/1090/F Isolation shed for animals and storage of machinery at approximately 165m NW of 81 Kinturk Road, Lower Mullan, Cookstown for Eamonn Maynes

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

LA09/2019/1158/O Dwelling and garage at 50m SE of 8 Scotts Road, Ballyrogully, Moneymore for Thomas McVey

Ms McCullagh (SPO) presented a report on planning application LA09/2019/1158/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 stated that this application comes on the back of two other applications for the applicant to get a house on his father's farm. Mr Cassidy advised that at a previous office meeting with planning officers several options were discussed and on the basis of advice from the Planning Manager in which Mr Cassidy stated the Planning Manager indicated and wrote on a map where a site could be achieved the applicant transferred lands and submitted the application before Members tonight. Mr Cassidy stated that the site can be visually linked with the farm and that the site is on the lowest part of a field and that little or no boundaries will be removed. Mr Cassidy referred to the separation distances between agricultural buildings and dwellings for health and safety reasons and this was a further reason why the site was chosen. Mr Cassidy again referred to the meeting which took place with planning officers and the advice given at that meeting and that the applicant had an expectation that this application would be approved.

The Planning Manager stated he had never been to this site and had no recollection of the meeting being referred to. The Planning Manager asked if there was a record taken of the meeting as he would not be happy to make a determination on the application until he had a minute of the said meeting.

Ms McCullagh stated that the case officer has no map within the file that the Planning Manager had written on.

Councillor McKinney proposed that the application be deferred until there was a clearer picture of what had occurred at the office meeting.

Councillor S McPeake stated there was some confusion and that Mr Cassidy had stated that there had been an office meeting with the Planning Manager and not a site meeting as picked up by the Planning Manager.

The Planning Manager stated he wanted to confirm what had happened at the meeting as it was not normal practice for him to write on a map and that he would

usually advise the applicant what the options were and ask them to consider these and similarly request the case officer to look at the options.

The Council Solicitor stated that unless an application is delegated to the Planning Manager it has to come before the Committee as the decision maker.

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

Councillor McFlynn referred to the previous two sites which had been refused and that this site was closer to the farm.

The Planning Manager reiterated that during an office meeting he may suggest alternative sites which the applicant can consider but would not mark where these are on a map.

Councillor McKinney stated that he expected this application to be back on next month's agenda.

Councillor McFlynn proposed a site meeting be held.

Councillor Bell seconded Councillor McFlynn's proposal.

Resolved That planning application LA09/2019/1158/O be deferred for one month and that a site meeting be held.

LA09/2019/1177/F 20m telecommunication mast for MPLS microwave link for network connectivity to Davagh Dark Skies Observatory at Davagh Forest, 650m East of Davagh Park Cottages for Mid Ulster District Council

Councillors Bell, Black, Brown, Clarke, Colvin, Cuthbertson, Gildernew, Glasgow, Kearney, Mallaghan, McFlynn, McKinney, D McPeake, S McPeake, Quinn, Robinson all declared an interest in this application.

Members considered previously circulated report on planning application LA09/2019/1177/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor Brown and

Resolved That planning application LA09/2019/1177/F be approved subject to conditions as per the officer's report.

LA09/2019/1204/O Dwelling and garage on a farm at approximately 100m NW of 12 Lisnagleer Road, Dungannon for Mr Cyril Montgomery

Members considered previously circulated report on planning application LA09/2019/1204/O which had a recommendation for approval.

Proposed by Councillor Colvin
Seconded by Councillor Gildernew and

Resolved That planning application LA09/2019/1204/O be approved subject to conditions as per the officer's report.

LA09/2019/1216/F Retrospective farm diversification scheme (change of use of an agricultural building to a paint work shop) at 325m SW of 75 Moneyhaw Road, Moneymore for Harold and Stephen Hessin

Members considered previously circulated report on planning application LA09/2019/1216/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2019/1216/F be approved subject to conditions as per the officer's report.

LA09/2019/1220/F Dwelling and domestic garage 35m N of 25 Annaghmore Road, Annaghmore, Coalisland for Ms Eithne O'Neill

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

LA09/2019/1232/O Relocation of approved 'off-site' replacement dwelling and garage (LA09/2017/0079/O) adjacent to 103 Tirkane Road, Maghera for Diarmaid Donnelly

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

LA09/2019/1341/O Single storey dwelling adjacent to 94 Reaskmore Road, Dungannon for Michaela Martin

Councillor B McGuigan stated the agent for this application had contacted him today and requested that this application be withdrawn.

The Planning Manager stated that as no decision had yet been taken on the application the applicant is at liberty to withdraw their application if they want. The Planning Manager asked that the agent send an email to the case officer to confirm that they want to withdraw the application.

LA09/2019/1376/O Site for dwelling and garage (gap site) at 50m S of 39 Baladoogh Lane, Cookstown for Patrick McAleer

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

LA09/2019/1387/O Infill site for dwelling and domestic garage at site approximately 10m S of 11 Reenaderry Road, Coalisland for Sean Robinson

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

LA09/2019/1402/O Site for dwelling and domestic garage approximately 50m NE of 45 Moneyneany Road, Draperstown for Mr Michael McWilliams

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

LA09/2019/1415/F Replacement dwelling 60m E of 5 Drumgarrell Road, Cookstown for D Conway

Ms McCullagh (SPO) presented a report on planning application LA09/2019/1415/F advising that it was recommended for refusal and highlighted addendum which stated that a letter of support had been received in relation to the application.

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

Mr Gourley stated that he believed the application met with Policy CTY3 for a replacement dwelling in that the current building exhibits the characteristics of a dwelling with the internal room arrangements of a former dwelling and that all walls were substantially intact. Mr Gourley advised that the current building had not been lived in for 60-70 years and had fallen into disrepair and in respect of the flat lean to roof it was explained that these were the repairs carried out to the roof following a storm a number of years ago. Mr Gourley advised that the applicant had bought the site on the basis that there had been a dwelling previously there and given the current building demonstrates the characteristics of a dwelling he requested that the application be approved.

Councillor McKinney stated he would support the view that the building had once been a dwelling as it appeared to have all the characteristics of such.

The Planning Manager suggested a site meeting to assess the visual of the building.

The Council Solicitor asked if there was any evidence submitted such as statements or affidavits to support a previous dwelling as there did appear to be quite contrasting information and evidence based on what was in the report which would cast doubt.

Ms McCullagh advised that some letters had been submitted.

Councillor Quinn proposed a site meeting take place.

Councillor Clarke seconded Councillor Quinn's proposal.

The Planning Manager stated that hypothesis were being put forward and stated that in the interim it would be beneficial for the agent to inspect the Tyrone Series of maps which may help to verify the situation.

Councillor Bell stated that the old stone walls would indicate an old dwelling and that there was also evidence of habitation from public records.

Councillor Glasgow stated that a site meeting would be useful to clear up Member's questions.

Councillor Gildernew urged caution on what the Committee passes.

Resolved That planning application LA09/2019/1415/F be deferred for a site meeting.

LA09/2019/1465/O Infill dwelling and detached garage at approximately 28m E of 260 Ballygawley Road, Dungannon for Mr Kevin McCaul

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

LA09/2019/1466/O Infill dwelling and detached garage at approximately 102m E of 260 Ballygawley Road, Dungannon for Mr Kevin McCaul

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

LA09/2019/1501/O Site for two storey dwelling and garage on a gap site between 19 and 21 Tirgan Road, Moneymore for Malachy McCrystal

Members considered previously circulated report on planning application LA09/2019/1501/O which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2019/1501/O be approved subject to conditions as per the officer's report.

LA09/2019/1513/O Dwelling and domestic garage opposite 70 Cullenramer Road, Lisgallon, Dungannon for James Morris

The Head of Development Management presented a report on planning application LA09/2019/1513/O advising that it was recommended for refusal.

Proposed by Councillor Mallaghan
Seconded by Councillor Gildernew and

Resolved That planning application LA09/2019/1513/O be refused on grounds stated in the officer's report.

**LA09/2019/1551/F Single storey rear extension at 48 Brough Village,
Castledawson for Paddy Henry**

Members considered previously circulated report on planning application LA09/2019/1551/F which had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor Bell and

Resolved That planning application LA09/2019/1551/F be approved subject to conditions as per the officer's report.

LA09/2019/1601/F Construction of a playpark extension with accompanying wet pour and the installation of an asphalt concrete path around the perimeter at Eglish Play Park at land to the rear (SE) of 12-16 Roan Park and NW of Eglish GAC for Mid Ulster District Council

Councillors Bell, Black, Brown, Clarke, Colvin, Cuthbertson, Gildernew, Glasgow, Kearney, Mallaghan, McFlynn, McKinney, D McPeake, S McPeake, Quinn, Robinson all declared an interest in this application.

Councillors Clarke, Gildernew, Kearney, McFlynn and S McPeake also declared an interest as Members of LAG.

Members considered previously circulated report on planning application LA09/2019/1601/F which had a recommendation for approval.

Proposed by Councillor Robinson
Seconded by Councillor Quinn and

Resolved That planning application LA09/2019/1601/F be approved subject to conditions as per the officer's report.

LA09/2019/1602/F Relocation of current goal post and ball net to allow an area for play park to be located and surrounded by a 1.2m high roll top fence and gate at existing open space between 32 and 39 Henderson Park, Stewartstown for Mid Ulster District Council

Councillors Bell, Black, Brown, Clarke, Colvin, Cuthbertson, Gildernew, Glasgow, Kearney, Mallaghan, McFlynn, McKinney, D McPeake, S McPeake, Quinn, Robinson all declared an interest in this application.

Councillors Clarke, Gildernew, Kearney, McFlynn and S McPeake also declared an interest as Members of LAG.

Members considered previously circulated report on planning application LA09/2019/1602/F which had a recommendation for approval.

Proposed by Councillor Robinson
Seconded by Councillor Quinn and

Resolved That planning application LA09/2019/1602/F be approved subject to conditions as per the officer's report.

LA09/2019/1603/F Installation of play park with accompanying wet pour and 1.2m high bow top fence around perimeter at existing open space adjacent to Castlebay Centre, 176-186 Mountjoy Road, Dungannon for Mid Ulster District Council

Councillors Bell, Black, Brown, Clarke, Colvin, Cuthbertson, Gildernew, Glasgow, Kearney, Mallaghan, McFlynn, McKinney, D McPeake, S McPeake, Quinn, Robinson all declared an interest in this application.

Councillors Clarke, Gildernew, Kearney, McFlynn and S McPeake also declared an interest as Members of LAG.

Members considered previously circulated report on planning application LA09/2019/1603/F which had a recommendation for approval.

Proposed by Councillor Robinson
Seconded by Councillor Quinn and

Resolved That planning application LA09/2019/1603/F be approved subject to conditions as per the officer's report.

LA09/2019/1604/F Installation of play park accompanying wet pour and 1m high timber fence around the perimeter at the Washingbay Centre, Ballybeg Road, Washingbay for Mid Ulster District Council

Councillors Bell, Black, Brown, Clarke, Colvin, Cuthbertson, Gildernew, Glasgow, Kearney, Mallaghan, McFlynn, McKinney, D McPeake, S McPeake, Quinn, Robinson all declared an interest in this application.

Councillors Clarke, Gildernew, Kearney, McFlynn and S McPeake also declared an interest as Members of LAG.

Members considered previously circulated report on planning application LA09/2019/1604/F which had a recommendation for approval.

Proposed by Councillor Robinson
Seconded by Councillor Quinn and

Resolved That planning application LA09/2019/1604/F be approved subject to conditions as per the officer's report.

LA09/2019/1605/F Installation of play park with accompanying wet pour, 1.2m high bow top fence and an asphalt concrete path to be installed around the perimeter at lands off Barrack Road and directly adjacent to O'Neill Park, Ballymaguigan for Mid Ulster District Council

Councillors Bell, Black, Brown, Clarke, Colvin, Cuthbertson, Gildernew, Glasgow, Kearney, Mallaghan, McFlynn, McKinney, D McPeake, S McPeake, Quinn, Robinson all declared an interest in this application.

Councillors Clarke, Gildernew, Kearney, McFlynn and S McPeake also declared an interest as Members of LAG.

Members considered previously circulated report on planning application LA09/2019/1605/F which had a recommendation for approval.

Proposed by Councillor Robinson
Seconded by Councillor Quinn and

Resolved That planning application LA09/2019/1605/F be approved subject to conditions as per the officer's report.

Councillor Gildernew left the meeting at 9.50 pm.

LA09/2016/1654/A Flat screen sign displaying moving and static images at Walshes Hotel, 53 Main Street, Maghera (sign to be displayed on the Coleraine Road side of the building) for Mr Kieran Bradley

Ms Doyle (SPO) presented a report on planning application LA09/2016/1654/A advising that it was recommended for refusal. The officer also highlighted the addendum which advised that a request for a third deferral had been received.

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

Councillor Kearney referred to report and further meeting which was to take place with DfI and advised that as this meeting had not yet taken place he requested that the application be deferred for 30 days to allow the meeting to take place.

The Planning Manager stated that officers have held off on bringing this application back to Committee for a long period of time to see if agreement can be brokered however DfI Roads still have their concerns in relation to road safety. The Planning Manager stated that should the Committee be minded to refuse the application then the applicant can proceed to Planning Appeal.

Councillor Cuthbertson stated that the application has been discussed several times with nothing new coming forward and proposed that the application be refused.

Councillor McKinney seconded Councillor Cuthbertson's proposal and stated that there had been a similar application in another town which was refused outright.

Councillor S McPeake referred to Councillor Kearney's request for a deferral and stated that whilst it may not change the outcome he would like to see the meeting with DfI Roads taking place. The Councillor felt that the sign had become part of the norm in Maghera and that it was set back well enough from the road junction.

The Planning Manager asked Members to consider the advice given and that whilst the applicant has done a lot of good in the area in terms of investment every opportunity had been given to overcome issues with the sign.

The Council Solicitor stated that in terms of a further deferral, the planning protocol states that normally only one deferral is permitted.

Councillor Bell asked if it would be possible to reduce the size/brightness of the sign.

The Planning Manager stated that an application had not been received for a reduced sign and that Members needed to consider what was before them.

Ms Doyle stated that a previous deferral had been sought on the basis of the size and brightness of the sign but that this was then taken off the table by the applicant.

Resolved That planning application LA09/2016/1654/A be refused on grounds stated in the officer's report.

LA09/2017/0897/F Part use of existing farm shed to provide internal dry storage in association with the Evergreen Peat business at 100m NW of 213 Washingbay Road, Coalisland for Jim McCuskey, Evergreen Peat

Application discussed earlier in meeting.

Councillor Clarke left the meeting at 10.02 pm.

LA09/2018/1282/O Dwelling and garage at 110m NE of Tamnymullan Lane, Maghera for Mr Robert Sufferin

Councillor McKinney declared an interest in this application and withdrew to the public gallery.

Ms McCullagh (SPO) presented a report on planning application LA09/2018/1282/O advising that it was recommended for refusal.

Councillor Colvin stated he would hold with the view of DfI Roads and felt there were alternative sites that could be used within the farm. On this basis, Councillor Colvin proposed the officer recommendation to refuse the application.

Councillor Brown seconded Councillor Colvin's proposal.

Resolved That planning application LA09/2018/1282/O be refused on grounds stated in the officer's report.

Councillor McKinney rejoined the meeting.

LA09/2019/0357/F Retention of 20 x 8ft container to house vending machines at 42 Main Road, Moygashel, Dungannon for Mr Bryan Turkington

Councillor Cuthbertson declared an interest in this application and requested to speak on it. The Councillor withdrew to the public gallery.

The Head of Development Management presented a report on planning application LA09/2019/0357/F advising that it was recommended for refusal.

The Planning Manager stated that the application was not what he perceived Moygashel to be and would not want to encourage such applications.

The Chair advised the committee that requests to speak on the application had been received and invited Mr & Mrs Salt and Deborah Tate to address the committee in the first instance.

Ms Tate referred to ongoing noise at the premises both day and night and stated that she had videos of anti social behaviour of users of the vending machines.

Mr Salt also referred to noise at night from the premises and stated that he worked shifts and that for instance tonight he would not be home until late and would have to get up again at 5am meaning he would only get a couple of hours sleep. Mr Salt also referred to ongoing anti social behaviour from users of the facility and cars driving recklessly in the village. Mr Salt stated that this had been reported to the Police on numerous occasions however no action had been taken, Mr Salt felt that it would not be until someone was killed that something would be done.

Mrs Salt referred to the letter she submitted which outlined the main nuisances caused by the facility and stated that whilst the letter had been written in August 2019 it was as current today and if anything had got worse. Mrs Salt felt that the biggest nuisance is car doors banging outside the premises and cars/lorries/tractors left running. Mrs Salt stated that her and her husband lived straight across the road from the premises as did Ms Tate and that the ongoing noise at night was doing harm to their health. Mrs Salt also referred to car horns tooting, the anti social behaviour, dangerous driving and sectarian comments shouted and asked the Committee to take this all into consideration before making a decision as she did not believe Members would want to be living beside such goings on.

Councillor Cuthbertson stated that he had been involved in the initial enforcement case in which 4 or 5 complaints had been received (not from the objectors in attendance tonight). The Councillor stated that the area is residential and did not believe this facility was in the right location.

Mr Turkington stated that he had been involved in business in Moygashel for over 50 years and advised that the vending facility was a temporary solution and that he had submitted a PAD application for a mixed use development on the site consisting of a retail unit and 12 apartments however he had been advised that there was not an adequate sewerage connection for the development. Mr Turkington stated it was not his intention to annoy residents and highlighted that there was further housing opposite the premises who had not raised any issues. Mr Turkington advised that there were a number of families in the area who use the facility and that shift workers, care workers and Police also use the machines. Mr Turkington stated that the vending machines on site were not cheap and highlighted that the Police had never been called out to anti social behaviour at the premises. Mr Turkington advised that as soon as a sewerage connection could be obtained then he would be ready to develop the retail unit and apartments.

The Planning Manager stated that the site in question was a brownfield site and that he was aware that it was only sewerage connections on greenfield sites that were being opposed. The Planning Manager asked if the applicant was willing to compromise on the opening hours of the premises.

Mr Turkington replied that the opening hours had to be viable.

The Head of Development Management advised that following consultation with Environmental Health a condition in relation to hours had been suggested from 9am to 11pm however given the concerns it was felt by the case officer that the opening hours should be from 9 am to 10 pm.

Mr Turkington stated that the extra hour was crucial for the operation of his business but that he would be prepared to close at 10 pm Monday to Thursday and at 11 pm on Friday, Saturday and Sunday as a compromise.

The Chair, Councillor Mallaghan stated that he felt there had been adequate opportunity to discuss opening/closing times and highlighted that the principles of planning had not been met with this application.

The Council Solicitor stated that there appeared to be a suggestion that the anti social behaviour, for example, is down to the vending machine units but that the applicant had appeared to suggest a different angle in relation to the lack of Police complaints in this regard. She advised members to ensure they were basing their decision making on evidence.

The Planning Manager asked what the view of the Committee was in relation to the principle of the application.

Councillor McKinney referred to comments from the applicant that the Police had not received any complaints in relation to anti social behaviour outside the premises and stated that himself along with other Members had heard other information at a recent PCSP meeting. Councillor McKinney stated that the facility was a gathering point and that the health of local residents was at risk due to the operation of this business and that the Committee needed to consider this.

The Chair, Councillor Mallaghan asked Members for an indicative vote on whether they were for or against the principle of such a facility –

For – 3

Against – 8

The Planning Manager stated that if Members were of a mind to refuse the application then they should discuss the reasons.

It was felt that the application should be refused due to negative impact on visual amenity, neighbouring amenity in terms of noise and nuisance and the hours of operation.

Proposed by Councillor Colvin

Seconded by Councillor Brown and

Resolved That planning application LA09/2019/0357/F be refused on grounds stated in the officer's report.

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

Councillor Colvin declared an interest in this application and withdrew to the public gallery.

The Head of Development Management (SPO) presented a report on planning application LA09/2019/1169/O advising that it was recommended for approval.

Proposed by Councillor S McPeake

Seconded by Councillor Kearney and

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

Councillor Colvin rejoined the meeting.

**P017/20 Receive Report on Tree Preservation Order at former Maghera
High School**

Councillors Kearney and S McPeake declared an interest in this item.

The Planning Manager presented previously circulated report which provided information on a request received by the Planning Department for a Tree Preservation Order on lands formerly Maghera High School, Tobermore Road, Maghera. The Planning Manager also drew attention to the addendum circulated which included an amended Tree Preservation Order Map A dated 27 January 2020 and asked Members to disregard the previous map circulated dated 23 January 2020.

Proposed by Councillor Brown
Seconded by Councillor Black and

Resolved That it be recommended to agree that a Full Tree Preservation Order and associated Map A (as per addendum dated 27 January 2020) be served on lands at Former Maghera High School, Tobermore Road, Maghera and that landowners be formally notified as per s.122 of the Planning Act (NI) 2011 and associated The Planning (Trees) Regulations (NI) 2015.

Matters for Information

P018/20 Minutes of Planning Committee held on 7 January 2020

Members noted minutes of Planning Committee held on 7 January 2020.

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Brown
Seconded by Councillor Glasgow 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 P019/20 to P024/20.

Matters for Information

P019/20	Confidential Minutes of Planning Committee held on 7 January 2020
P020/20	Confidential Minutes of Special Planning Committee (Local Development Plan) held on 13 January 2020
P021/20	Receive Enforcement Report
P022/20	Enforcement Cases Opened
P023/20	Enforcement Cases Closed
P024/20	Recording of Meeting

P025/20 Duration of Meeting

The meeting was called for 7 pm and concluded at 10.46 pm.

Chair _____

Date _____



ADDENDUM TO PLANNING COMMITTEE AGENDA

FOR PLANNING COMMITTEE MEETING ON: 4th Feb 2020

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

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
4.1	Env Health conditions received 24/01/2020.	Members to note. These would be added to any decision notice.
4.7	<p>Suggested condition 9 refers to the wrong drawing number and should read as follows:</p> <p>“No retained tree/hedgerow vegetation as shown on drawing no 04/1 shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree to be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Planning Authority. Any arboricultural work or tree surgery approved shall be carried out in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction”.</p> <p>Objection letters received</p>	Members to note.
4.9	Solicitor letter received relating to ownership issues.	Members to note

4.29	Letter of support received from Mr Madden.	Members to note
5.1	Request for a third deferral received directly by the Planning Department and applicant was not advised to contact Committees directly	Members to note. This will be considered in the case officer's presentation.
6.0	Amended draft Tree Preservation Order Map A dated 27.01.2020	Members to note. Please disregard previous draft Tree Preservation Order Map A dated 23.01.2020.

Item 4.1
EHO conditions



Environmental Health Department

Our Ref: GE
Planning Ref: LA09/2017/0318/F
Date: 24th January 2020

Comments on Planning Application

Proposal: Proposed 1No. replacement pig shed with 2No. feed bins and an above ground covered slurry store (pig shed to contain 8000 weaner pigs)

Location: Land approx. 100m N.E. of 13 Drumard Road Draperstown

Further to our previous comments dated 5th September 2017, we have considered the proposal along with the following documents:

- Irwin Carr Air Quality Impact Assessment dated 3rd July 2018
- Seven objection letters

The Irwin Carr air quality impact assessment considers the odour impact from the pig shed which includes 18 emission points where mechanical fans are positioned plus odour from a slurry store.

Meteorological data for Aldergrove from 2011-2015 was then used within the Aermod dispersion model to consider the overall impact of odour at the nearest residential properties. This modelling showed that predicted average odour levels for the past 5 years were below the 98th percentile of 3 o/u.

Consideration has been given to the objection letters and having reviewed the submissions, we are satisfied that odour from the proposal is unlikely to affect nearby residential amenity.

For this reason, we would ask that the following conditions be attached to any planning approval:

Conditions

1. The Total Odour Emission Rate (ou/s) shall not exceed 2,667 ou/s when measured at any of the 18 emission points.

Reason: To protect residential amenity

2. Within 4 weeks of a written request by the Council following a reasonable odour complaint from the occupant of a dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess the level of odour from the development. The Council shall then be provided with a suitable report detailing findings along with any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 4 weeks from the date of approval of the remedial report, and shall be permanently retained and

maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect residential amenity

3. The applicant should be requested to draw up an odour management control plan which sets out the measures the applicant would propose to take to minimise potential odour emission from the site.

Reason: To protect residential amenity

4. The applicant should be requested to draw up a documented Pest Control Management Plan which sets out measures the applicant would propose to take to control potential fly and rodent infestations which may arise from the site. The plan should include details on the routine monitoring for pests, the steps to be taken when identified, chemicals to be used in their treatment and records showing details of monitoring and any treatments carried out.

Reason: To protect residential amenity

Agenda Item 6 - Amended draft Tree Preservation Order Map A dated 27.01.2020




2 Planning Office
RECEIVED

27 JAN 2020

File No. TRO/2019/0001/LR09
Mid Ulster District Council



MAP A
MAP REFERRED TO IN TREE
PROTECTION ZONE DATED:
LANDS AT: FORMER HIGH SCHOOL,
TERRACE ROAD, MAGHERA
Mid Ulster District Council

Dr.Philip Blackstock <i>Independent Arboricultural Consultant</i>	26 Tullynaholmon Road Portlengone, Co. Antrim BT44 8EL Mobile: +44 (0) 7767 303 075 email: phil@blackstocktrees.co.uk Website: www.philblackstock.com	Site: Lands at Former High School, Maghera	<div>Position, number and actual crown spread of tree</div> <div>Position, number and actual crown spread of tree to be felled</div> <div>Area of Tree Protection Zone (If described as a perfect circle)</div>	
	Title: TREE CONSTRAINTS PLAN Plan indicating position, actual crown spread of trees and notional tree protection zones (based on a map produced by the client)	Client: Teague and Sally		
	Scale: 1:1500	Drawn By: Philip		