

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 6 October 2015 in Council Offices, Ballyronan Road, Magherafelt

Members Present

Councillor Kearney, Chair

Councillors Bateson, Bell, Clarke, Cuthbertson, Gildernew, Glasgow, Mallaghan, McAleer, McEldowney, McKinney, McPeake, Mullen, Robinson, J Shields

Officers in Attendance

Dr Boomer, Planning Manager
Mr Bowman, Head of Development Management
Ms Doyle, Senior Planning Officer
Mr Marrion, Senior Planning Officer
Ms McCullagh, Senior Planning Officer
Ms McNally, Solicitor
Miss Thompson, Committee Services/ Senior Admin Officer

Others in Attendance

Councillors Gillespie, B McGuigan, McLean, Molloy, Monteith, J O'Neill and M Quinn

Applicant Speakers

M/2013/0430/F	Ms Patterson
	Ms Muldoon
M/2015/0126/F	Mr Currie
M/2015/0145/F	Mr Kelly
M/2015/0165/O	Mr Kelly
LA09/2015/0087/O	Ms Jobling
H/2014/0356/F	Mr Cassidy
H/2014/0438/O	Ms Jobling

The meeting commenced at 7.05 pm.

P111/15 Apologies

Councillor Reid.

P112/15 Declarations of Interest

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

Councillor Cuthbertson declared an interest in application M/2013/0430/F.

Councillors Clarke and Mallaghan declared an interest in application I/2015/0111/F.

Councillor McPeake declared an interest in application H/2014/0356/F.

P113/15 Receive and Confirm Minutes of the Planning Committee Meeting held on Tuesday 1 September 2015

Proposed by Councillor Bell
Seconded by Councillor Clarke and

Resolved That the minutes of the meeting of the Planning Committee held on Tuesday 1 September 2015, (P97/15 – P105/15 & P107/15), were considered and signed as accurate and correct.

Councillor McAleer requested that, due to the lengthy nature of this meeting, a comfort break be taken at 9.00 pm.

Proposed by Councillor McAleer
Seconded by Councillor Mallaghan and

Resolved That the meeting recess for a comfort break at 9.00 pm.

Matters for Decision

P114/15 Planning Applications for Determination

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

M/2013/0430/F Change of use from existing dwelling to 4 apartments at 10 and 10a Circular Road, Dungannon for Mr Robert Carson

Mr Marrion (SPO) presented a report on planning application M/2013/0430/F advising that it is recommended for refusal.

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

Ms Patterson stated that concerned residents of Circular Road were happy with the officers recommendation to refuse this application. It was felt that if the proposed development were to go ahead it would change the character of the area and would be of significant detriment particularly in relation to additional traffic movements which, due to the nature of the road, would be dangerous. Ms Patterson also commented that local residents feel that this property was not, and never had been two dwellings.

Ms Muldoon advised that this application was previously brought before Dungannon & South Tyrone Borough Council once as a refusal and then as an approval but was subsequently withdrawn due to number of objections raised. In reference to parking issues, Ms Muldoon felt there is no intensification of use as the proposal provides four car parking spaces, which is within the remit as there are two dwellings.

The Planning Manager queried why the proposal stated change of use from existing dwelling as a singular and not two dwellings as claimed to be. He advised that there was no official planning status that there are two dwellings and claimed that sufficient time had passed to submit a certificate of lawful development. He also advised that regardless of whether there was one or two dwellings the change to four was an intensification.

The Planning Manager advised that as Roads Service had raised concern regarding intensification, increased traffic movements and road safety on Circular Road, and that as there was insufficient contrary evidence, in his view the Council should take on board the comments of Roads Service.

Councillor Glasgow asked if improvements were made to access and visibility splays if this would help the proposal move to approval.

Mr Marrion (SPO) advised that this had been investigated and that to get the adequate visibility splays would require use of gardens of houses on either side of proposed property and this was not a feasible option.

Proposed by Councillor Mallaghan
Seconded by Councillor Mullen and

Resolved That planning application M/2013/0430/F be refused on grounds stated in the officer's report.

**M/2015/0126/F Conversion from shops/offices to 3 flats at 9, 10 and 11
Feeney's Lane (Thomas Street car park), Dungannon for
Mervyn Gregg**

Mr Marrion (SPO) presented a report on planning application M/2015/0126/F advising that it is recommended for refusal.

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

Mr Currie advised that the building under proposal was last occupied 3-4 years ago and that the surrounding area has a high commercial vacancy rate. In relation to open space, Mr Currie advised that the proposed development is close to open space areas, and that with regard to parking, there is spare capacity in nearby car parks, the proposed development will also be close to the town centre and transport links.

The Planning Manager advised that description of proposal should be amended from flats to townhouses.

Mr Currie was in agreement with this.

Councillor Cuthbertson felt that the applicant in this case is finding difficulty in getting a commercial use for the properties under proposal and that as there are other flats

and townhouses in the area he requested a deferral to take another look at the issues relating to this application.

The Planning Manager stated that he would be unable to change the situation relating to this application and to defer the application would not assist. However based on the arguments presented by Mr Currie and Councillor Cuthbertson it would be reasonable for Members to take a different view from the officer and he did not foresee any prejudice on Members making a decision on the application before them.

Proposed by Councillor Cuthbertson
Seconded by Councillor McKinney and

Resolved That planning application M/2015/0126/F be approved with appropriate conditions applied.

Councillor Mallaghan felt that consideration needs to be given to the lack of amenity when setting conditions for this approval.

Members voted on Councillor Cuthbertson's proposal –

For 14

The Chair declared Councillor Cuthbertson's proposal carried.

**M/2015/0145/F Agricultural building and improved agricultural access
100m SE of 11 Dungorman Road, Bernagh, Dungannon for
Joseph Kelly**

Mr Marrion (SPO) presented a report on planning application M/2015/0145/F advising that it is 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 requested an office meeting to further discuss the application.

The Planning Manager reviewed the application with Mr Kelly and asked if he would consider moving the location of the proposed shed.

Mr Kelly stated he would be reluctant to move the location of the shed.

The Planning Manager suggested that this application be withdrawn and office meeting arranged to discuss issues with a view to a new application being made.

Mr Kelly agreed to this course of action.

Resolved That planning application M/2015/0145/F be withdrawn. Office meeting to be arranged.

**M/2015/0165/O Two dwellings between 33 and 35 Cookstown Road,
Dungannon for Raymond McCann**

Mr Marrion (SPO) presented a report on planning application M/2015/0165/O advising that it is 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 felt that no consideration had been given to dwellings at nos 36, 37 and 39 Cookstown Road and that the proposed site fulfils CTY8 when viewed from Cookstown Road. Mr Kelly did not feel there is a stipulation that the lineage of dwellings had to be continuous and concluded by stating that the proposed development will not change the character of the area.

Councillor Gildernew stated that there has been little development in the surrounding area in recent times and that the proposal is well set back from the road.

The Planning Manager stated that it would be difficult to treat this application as infill however there may be some scope under CTY2A which deals with a single dwelling in a cluster. The Planning Manager asked Mr Kelly if the client would be prepared to explore dealing with this application under policy CTY2A.

Mr Kelly advised that his client would be prepared to explore this matter further.

Proposed by Councillor Gildernew
Seconded by Councillor Robinson and

Resolved That planning application M/2015/0165/O be deferred for an office meeting.

**LA09/2015/0087/O Infill single storey dwelling 20m N of 43A Belagherty Road,
Ballyronan for Lisa McCloskey**

Ms Doyle (SPO) presented a report on planning application LA09/2015/0087/O advising that it is recommended for refusal.

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

Ms Jobling advised that there is a case of need due to personal circumstance regarding this application.

The Planning Manager requested that this item be suspended until he had an opportunity to discuss circumstances of application with Ms Jobling privately.

Resolved That planning application LA09/2015/0087/O be suspended until the Planning Manager had spoken to agent. This item to be reconvened at a later stage of tonight's meeting.

**H/2014/0356/F Fun farm, animal pens and associated parking at 45m NE of
47 Magherafelt Road, Castledawson for Mr Adrian Cudden**

Ms Doyle (SPO) presented a report on planning application H/2014/0356/F advising that it is 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 referred to other development in the area and that this proposal is appropriate to its location and would be no detriment to neighbouring properties. Mr Cassidy advised that the farm is active and established and meets criteria in terms of farm diversification.

In response to the Planning Manager's question regarding who will run the facility Mr Cassidy advised that it will be the applicant. When asked if the applicant would accept a condition that it is only the applicant that can run the facility Mr Cassidy replied that condition would be acceptable. The Planning Manager also asked if all existing farm buildings are fully utilised to which Mr Cassidy advised they were.

Councillor Bateson asked why the Planning Manager had put such an emphasis on who would run the proposed facility. He commented that farm diversification proposals would not normally conflict with the rural character of the area and that the KFC located close by the proposed site is definitely not in keeping with rural character.

The Planning Manager advised that the nature of farm diversification should be to help the farmer stay on their farm by generating another income stream, the reason he questioned Mr Cassidy on this was that if it was intended that another party would run the facility then a scheme of farm diversification would not be accepted.

Councillor Mallaghan felt that the proposal seemed appropriate in terms of farm diversification and referred to the need to consider the tourism angle, as the proposal is located close to the Heaney Centre, and ensuring there are a variety of activities in an area for all visitors.

In response to Councillor McKinney's question Ms Doyle (SPO) advised that the size of the farm is 10.35 hectares. Councillor McKinney felt that this farm probably does need some sort of diversification to make it viable and that there are no other similar facilities in the nearby area.

The Planning Manager accepted Members views on what constitutes farm diversification but felt there are some aspects of the proposal that require further clarity.

Proposed by Councillor J Shiels
Seconded by Councillor McAleer and

Resolved That planning application H/2014/0356/F be deferred for an office meeting.

H/2014/0438/O Dwelling and garage S of 10 Ballynian Lane, Swatragh for Richard Dempster

Ms Doyle (SPO) presented a report on planning application H/2014/0438/O advising that it is recommended for refusal.

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

Ms Jobling felt that the critical point of this application was whether there is visual linkage between the buildings, she stated that the proposal is fully consistent with policy and that there is visual linkage between buildings at the proposed location.

Councillor B McGuigan concurred with Ms Jobling's comments, he advised that the proposed site has good boundaries and that the ground level of the site is at its lowest point.

The Planning Manager asked Ms Jobling if the applicant would consider withdrawing this application.

Ms Jobling advised that the applicant will move to appeal if the application is not approved.

Proposed by Councillor J Shiels
Seconded by Councillor Cuthbertson

That planning application H/2014/0438/O be refused on grounds stated in the officer's report.

Councillor Clarke highlighted the problem with policy and that the ten year rule does not fit in rural areas. The Councillor felt that this issue needs to be addressed by Council.

The Planning Manager advised that the application needs to be considered under existing policy and that any change to policy would need to be brought forward through the development plan. He commented that Council is giving the benefit of the doubt to applicants whilst ensuring credibility and maintaining control.

Councillor B McGuigan referred to appeal costs for applicant.

Councillor Bell commented that Council seems to be shutting the door on rural dwellings.

Councillor McAleer felt that the applicant needs to consider the Planning Manager's suggestion of withdrawing the application.

The Planning Manager advised Members that if the applicant moves to appeal and wins their case then this gives Council the opportunity to change their practices in future.

Members voted on Councillor J Shiels proposal –

For 8

The Chair declared Councillor J Shiels proposal carried.

The meeting recessed at 9.05 pm and recommenced at 9.20 pm.

**LA09/2015/0087/O Infill single storey dwelling 20m N of 43A Belagherty Road,
Ballyronan for Lisa McCloskey**

Item reconvened from earlier in meeting.

The Planning Manager advised he was now aware of personal circumstances relating to this application and would support deferring the application to explore whether a possible exception could be made.

Proposed by Councillor McKinney
Seconded by Councillor Gildernew and

Resolved That planning application LA09/2015/0087/O be deferred for an office meeting.

The Planning Manager apologised to Ms Jobling who had mistakenly taken an earlier conversation to mean that she would not be given opportunity to present a case on this application and made it clear that it had not been his intention to cause upset.

Members considered the remaining planning applications as per agenda.

**I/2013/0311/F 50kw wind turbine with a max height of 32m at 230m W of
131 Drumenny Road, Ardboe for Kate Quinn**

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

Councillor Robinson asked if there had been some misunderstanding as to why the applicant had not submitted the further information required.

Ms McCullagh advised that the applicant would be aware of the process and had been reminded on several occasions of the need to submit information.

Proposed by Councillor J Shiels
Seconded by Councillor Bell and

Resolved That planning application I/2013/0311/F be refused on grounds stated in the officer's report.

**I/2013/0325/F Regularisation of existing washing plant site at
Magheraglass sand and gravel pit 270m N of 65
Knockaleery Road, Magheraglass for Creagh Concrete
Products Ltd**

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

Proposed by Councillor Mallaghan
Seconded by Councillor J Shiels and

Resolved That planning application I/2013/0325/F be approved subject to
conditions as per the officers report.

**H/2014/0241/F Extension to existing Brockaghboy Windfarm comprising 4
wind turbines, associated transformers, permanent
anemometer mast, new site access tracks, gates,
substation, site control room, electrical cabling, temporary
site compound, new site entrance, road improvement works
and all other associated works at land approx. 1.76km S of
Dowlins Bridge, Drumbane Road, Garvagh for
Brockaghboy2 Wind Farm Ltd**

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

Councillor Robinson referred to earlier decision regarding single wind turbine which
was refused and stated that he would find it difficult to now approve a wind farm.

The Planning Manager advised there are a number of factors which require
consideration with regard to single wind turbines and stated that wind farms make a
significant contribution to electricity supply.

In response to Councillor Glasgow's question Ms Doyle (SPO) advised that the
electricity supply generated by this application will feed into the grid.

Proposed by Councillor Bateson
Seconded by Councillor McPeake and

Resolved That planning application H/2014/0241/F be approved subject to
conditions as per the officers report.

**M/2014/0392/F Retention of change of use from redundant agricultural
building to a timber engineering (joinery) workshop at 36
Rossmore Road, Dungannon for Glenfort Timber
Engineering Ltd**

**M/2014/0401/F Retention of office and ancillary accommodation at timber
engineering (joinery) workshop at 36 Rossmore Road,
Dungannon for Glenfort Timber Engineering Ltd**

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

Proposed by Councillor Mallaghan
Seconded by Councillor Bell and

Resolved That planning applications M/2014/0392/F and M/2014/0401/F be approved subject to conditions as per the officers report.

H/2014/0426/F Alterations to change existing shop unit into a dwelling at 2 Barrack Road, Ballymaguigan for Mr and Mrs Young

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

Proposed by Councillor McKinney
Seconded by Councillor Bell and

Resolved That planning application H/2014/0426/F be approved subject to conditions as per the officers report.

H/2015/0002/F Change of access to previously approved under H/2013/0347/RM at lands 120m SE of 27 Glenomna Road, Draperstown for Mr Martin Bradley

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

Councillor McPeake requested an office meeting in relation to this application and referred to a similar application which was granted. The Councillor also stated that the proposed new access will only require around half of the 130m hedge removal suggested in the officers report.

The Planning Manager agreed to further discuss the application.

Proposed by Councillor McKinney
Seconded by Councillor McAleer and

Resolved That planning application H/2015/0002/F be deferred for office meeting.

Councillor Cuthbertson asked why the existing lane could not be used as access.

Councillor McPeake advised that it was not possible to get adequate visibility splays without gaining control of third party land and this was not a feasible option.

I/2015/0111/F Retention of timberframe business and erection of ancillary office (superseding approval I/2010/0018/F & I/2010/0019/F) at lands opposite and to the rear of 79 Dunnamore Road, Cookstown for Leadon Timberframe and D McAleer

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

Proposed by Councillor McAleer
Seconded by Councillor Robinson and

Resolved That planning application I/2015/0111/F be approved subject to conditions as per the officers report.

LA09/2015/0104/F Dwelling and garage of rural character at 250m SE of 5 Glenquilly Road, Moneymore for Mr Robert Carmichael

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

Ms Doyle (SPO) highlighted that there appeared to be some confusion regarding a further application being submitted prior to the original application lapsing. She advised that the agent for the application stated that the application under consideration was submitted within the timeframe but was sent to previous office used by planners in Ballymena. Ms Doyle advised that investigations indicated that the application was not received at Ballymena offices and confirmed that this application was only received by Mid Ulster Council on 21 April 2015, six weeks after original application lapsed.

Councillor Mallaghan declared an interest in this application and requested to speak on it.

Councillor Mallaghan requested an office meeting in relation to this application due to the confusion regarding submission of application as stated above.

Proposed by Councillor J Shiels
Seconded by Councillor McKinney and

Resolved That planning application LA09/2015/0104/F be deferred for an office meeting.

LA09/2015/0138/O Dwelling on a gap site adjacent to 82 Lurgylea Road Galbally for Mr Shayne Tierney

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

Ms Doyle (SPO) advised that since issue of report further information had been received in relation to this application and suggested an office meeting be called.

Proposed by Councillor Gildernew
Seconded by Councillor Clarke and

Resolved That planning application LA09/2015/0138/O be deferred for an office meeting.

Councillor Clarke commented that PPS14 had eliminated the renewal of approvals as previous to PPS14 applications could be renewed within a 5 year period.

LA09/2015/0412/F Retention of 2 existing sheds and extension of domestic curtilage. Shed 1 domestic and agricultural storage; shed 2 domestic garage at 15 Drumaspil Road, Dungannon for Mr Robin Burke

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

Proposed by Councillor Robinson
Seconded by Councillor McKinney and

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

LA09/2015/0463/O Dwelling and garage opposite 20 Killary Lane, Stewartstown for Seamus Carrow

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

Councillor Bell requested an office meeting for this application stating that the agent has additional information to provide but is currently out of the country and unable to attend tonight's meeting.

Proposed by Councillor Bateson
Seconded by Councillor Clarke and

Resolved That planning application LA09/2015/0463/O be deferred for an office meeting.

LA09/2015/0475/O Gap site for dwelling and double domestic garage between 22 and 22A Cloghog Road, Cookstown for Messrs Brian and Lesley McGlaughlin

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

Proposed by Councillor Bateson
Seconded by Councillor Mallaghan and

Resolved That planning application LA09/2015/0475/O be refused on grounds stated in the officer's report.

LA09/2015/0636/F Public realm improvements comprising: resurfacing of existing footways with natural stone; granite kerb; landscape proposals comprising semi-mature planting; raised planters and shrub planting; new street furniture – seating, litter bins and cycle racks, new feature lighting columns; plinth for future artwork; formalisation of existing on-street parking arrangements and surface treatment to carriageways at lands adjacent to Broad Street, Market Street, The Diamond, Queen Street and Rainey Street in Magherafelt for Mid Ulster District Council

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

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

Proposed by Councillor Bell
Seconded by Councillor Clarke and

Resolved That planning application LA09/2015/0636/F be approved subject to conditions as per the officers report.

LA09/2015/0652/O Replacement dwelling at 130m NW of 78 Aughrim Road, Castledawson for Eric Watterson

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

Ms Doyle (SPO) advised that since issue of report an amended scheme had been submitted and suggested that this application be deferred to further consider the additional information provided.

Proposed by Councillor Cuthbertson
Seconded by Councillor Robinson and

Resolved That planning application LA09/2015/0652/O be deferred to consider additional information provided.

LA09/2015/0688/O Replacement dwelling at 150m SE of 12 Motalee Lane, Magherafelt for Mr G McCullagh

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

Councillor Bell requested an office meeting for this application stating that the map provided by officers within report was misleading.

(Councillor Mullen left the meeting at 10.05 pm)

Members were shown further photographs of building in question and were of the opinion that it would have been a dwelling at some stage in the past.

The Planning Manager advised that a condition of approval would have to be that the replacement dwelling be sited “in situ” of the current building.

Proposed by Councillor Clarke
Seconded by Councillor McPeake and

Resolved That planning application LA09/2015/0688/O be approved under condition that replacement dwelling is sited “in situ” of the current building.

H/2014/0077/F Farm dwelling and garage approx.200m E of 5 Ballynian Lane, Swatragh for Mr T Quinn

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

Proposed by Councillor J Shiels
Seconded by Councillor Cuthbertson and

Resolved That planning application H/2014/0077/F be refused on grounds stated in the officer’s report.

M/2014/0566/O Housing development between Annagole Park and Lisnahull Park, Dungannon for Glengannon Inns Ltd

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

Proposed by Councillor Gildernew
Seconded by Councillor Bateson and

Resolved That planning application M/2014/0566/O be approved subject to conditions as per the officers report.

P115/15 Wind Turbine Working Group

The Chair, Councillor Kearney stated that, as agreed at the Planning Committee meeting on 16 June 2015, consideration be given to producing guidance with regard to wind turbine applications. Representation was sought to sit on a working group which will look at preparation of guidance for wind turbine applications.

Proposed by Councillor Mallaghan
Seconded by Councillor Bell

That representation of working group be made up by d’hondt.

Proposed by Councillor Cuthbertson
Seconded by Councillor J Shiels

That representation of working group be made up of one from each party.

Councillor McPeake stated that d'hondt had been the principle used by Council for nominating to committees etc and for continuity should also be used in this instance.

Members voted on Councillor Mallaghan's proposal –

For	8
Against	5

The Chair declared Councillor Mallaghan's proposal carried and sought nominations to the working group.

It was felt that the Chair and Vice Chair of the Planning Committee should sit on the working group. Representation to the working group to be made up as follows –

Sinn Féin – Councillors Bell and Clarke

SDLP - Councillor Kearney

UUP - Councillor Glasgow

DUP - Councillor Robinson

Matters for Information

P116/15 Report of Delegated Decisions Issued in August 2015

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

P117/15 Appeal Decisions Received

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

The Planning Manager advised that the three cases presented were legacy applications which had reached a determination under Department guidelines and gone forward for appeal on that basis.

Members noted the content of the report detailing recent decisions by Planning Appeals Commission.

CONFIDENTIAL BUSINESS

Proposed by Councillor Mallaghan
Seconded by Councillor J Shiels and

Resolved That items P118/15 and P119/15 be taken as confidential business.

P120/15 Duration of Meeting

The meeting was called for 7.00pm and ended at 10.47 pm.

Chair _____

Date _____