

**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 5 June 2018 in Council Offices, Ballyronan Road, Magherafelt**

<b>Members Present</b>	Councillor Mallaghan, Chair  Councillors Bell, Clarke, Cuthbertson, Gildernew, Glasgow, Kearney, McAleer, McEldowney, McKinney, McPeake, Mullen (8.31 pm), Reid, Robinson, J Shiels
<b>Officers in Attendance</b>	Dr Boomer, Planning Manager Mr Bowman, Head of Development Management Ms Doyle, Senior Planning Officer Ms McKearney, Senior Planning Officer Mr Marrion, Senior Planning Officer Mr McCrystal, Senior Planning Officer Ms McNally, Council Solicitor Miss Thompson, Democratic Services Officer
<b>Others in Attendance</b>	<b>Applicant Speakers</b> LA09/2017/0936/F Mr McGill LA09/2016/0504/F Mr Arrell LA09/2017/0905/F Councillor Molloy Mr Smith LA09/2017/1244/O Mr Diamond LA09/2017/1474/O Mr Ross LA09/2017/1543/O Mr Nugent LA09/2017/0153/O Mr Henry Councillor McFlynn LA09/2018/0233/O Mr Gourley LA09/2018/0261/O Mr Marshall LA09/2015/0782/F Councillor B McGuigan

The meeting commenced at 7.05 pm

**P075/18 Apologies**

None.

**P076/18 Declarations of Interest**

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

Councillor Reid declared an interest in planning application LA09/2018/0153/O.

Councillor Glasgow declared an interest in planning application LA09/2017/0498/F.

## **P077/18 Chair's Business**

The Chair, Councillor Mallaghan reminded Members that the new Planning Protocol had been agreed and was now in effect and asked Members to keep to the Planning Protocol.

The Chair advised that in respect of the following planning applications agents and applicants had been agreeable to consider amendments that could overcome concerns. The Chair proposed the these applications be deferred for an office meeting / submission of further information –

LA09/2016/1513/F – Erection of a new store and 2 residential apartments to rear of existing premises at 2-4 Glen Road, Maghera for Mr Peter McKenna.

LA09/2016/1686/F – Community building and changing facilities for public shared space within existing fishery at lands approx. 80m NE of 41 Gorestown Road, Dungannon for Gorestown Lough Fishery Ltd.

LA09/2018/0439/F - Relocation and change of house type to previously approved application I/2014/0016/RM at SE of 34a Annaghmore Road, Coagh for John Quinn.

Proposed by Councillor J Shiels  
Seconded by Councillor Bell and

**Resolved** That planning applications LA09/2016/1513/F, LA09/2016/1686/F be deferred for an office meeting and planning application LA09/2018/0439/F be deferred for submission of additional information.

The Chair further advised that planning application LA09/2017/1644/O had been withdrawn by the applicant.

## **Matters for Decision**

### **P078/18 Pre Determination Hearing**

**LA09/2017/0936/F** **2 additional broiler poultry sheds, 4 feed bins, 2 gas tanks, biomass boiler shed and pellet bin and ancillary building; cattle shed with underground slurry tank, covered silage pit, covered yard area and general farm storage building at lands approximately 300m NW and 100m SW of 27 Terryscollop Road, Annagh, Dungannon for CAP Farms Ltd**

Mr Marrion presented previously circulated report on planning application LA09/2017/0936/ F. Mr Marrion also highlighted correspondence with NIEA in respect of the Pre-Determination Hearing and their response advising they would not be in attendance tonight.

Councillor Gildernew asked if a specific reason had been given as to why NIEA would not attend tonight's meeting.

Mr Marrion advised that there did not appear to be a willingness by NIEA to attend tonight's meeting as they stated they had not yet fully considered the application and may or may not remove their objections

Councillor Clarke stated that it appeared NIEA did not want to get involved with this application but would sit back and watch what happens.

The Chair, Councillor Mallaghan invited the agent to speak now on the application or wait until the application was being considered again later in the meeting.

Mr McGill advised he agreed with the points made in the officer's report and stated that the application has come through vigorous consideration. Mr McGill advised that a lot of work has been done in relation to ammonia levels and these impacts have been found to be acceptable. Mr McGill advised that existing cattle sheds and poultry sheds have all been considered within the application and that he would support the recommendation to approve the application.

#### **P079/18      Planning Applications for Determination**

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

##### **LA09/2016/0504/F      Erection of garages for the storage of vintage cars (retrospective) at 39 Rocktown Road, Bellaghy for Mr David Arrell**

Mr McCrystal presented a report on planning application LA09/2016/0504/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 Arrell to address the committee.

Mr Arrell stated he had been advised at the outset by enforcement to submit a planning application for the building and that this was done however a Certificate of Lawfulness should also have been submitted. When the Enforcement Notice was served Mr Arrell advised he could not withdraw the application and apply for a Certificate of Lawfulness and was advised to submit evidence that the building was finished more than five years prior to the Enforcement Notice taking effect. Mr Arrell stated that the building had been in place for more than five years and that he could provide receipts and an Affidavit proving this.

Mr Arrell also referred to concerns in relation to the size of the building but stated that this building was of a similar size to a number of original buildings which were replaced. Mr Arrell advised that this was an independent building fixed on top of an existing building, he stated that no objections had been received in relation to the application and asked that the application be approved.

Councillor Cuthbertson asked for the opinion of officers in relation to lack of objections from the neighbouring property and the receipts and legal documents proving the building had been completed more than five years prior to enforcement action.

Mr McCrystal advised that the neighbouring dwelling is not in the ownership of the applicant, is currently vacant and therefore had not been notified of the application. That being the case it is unclear whether the owner of the property is aware of the application however officers have considered the amenity of this dwelling within the report.

Mr McCrystal advised that Enforcement Notice was served on 22 March 2016 and to be lawful the building would have to have been completed five years prior. Mr McCrystal advised that receipts had been submitted for purchases/works done on 14 and 15 April 2011 which is slightly less than the required five years.

Councillor J Shiels felt there was no major difference in the size of this building to that of neighbouring sheds, the Councillor also referred to the photograph taken on 9 April 2011 in which it appeared works were substantially complete.

Councillor McAleer asked if any complaints had been received since 2011 in relation to the building.

Councillor McPeake felt the timescales in relation to this application were tight, the Councillor stated that there were no objections received in relation to the application and that the building was situated on a road which comes to a dead end and is not heavily trafficked.

Councillor Bell asked if it was possible for the applicant to provide proof that there was a substantial building originally on this site which had now been replaced with this building which has been described as being of a similar size.

Councillor McKinney stated that there was a short time period of difference between when the building is said to have been completed and enforcement period taking effect. The Councillor stated that in the seven years in between there had been no objections to the building apart from that of the Planning Department.

The Planning Manager stated it was not appropriate for Members to debate the legalities of what is or is not five years. He advised that the building is not lawful development and is in contravention of an Enforcement Notice. The Planning Manager stated that the photograph taken on 9 April 2011 seems to suggest that the ground floor building is in situ with a concrete roof on top. The Planning Manager stated that the building does impact on the neighbouring dwelling and that officers have a duty to consider amenity, he stated that no objections had been received however as the dwelling was currently vacant it was unclear whether the owner of the property was aware of the building. The Planning Manager stated that views and impact on the wider countryside area is limited.

Councillor McKinney proposed the approval of the planning application as the building is and has been in situ with no objections.

Councillor J Shiels seconded Councillor McKinney's proposal.

**Resolved** That planning application LA09/2016/0504/F be approved on the following basis –

- It was noted that the neighbouring building is vacant however no objections had been received.
- Design of building is not higher than other buildings in the area.
- Building is for domestic use – if used for business then enforcement action will be taken.
- There are limited views of the building in the area.

**LA09/2016/0708/F      Change of house design to 13 sites previously approved under applications I/2006/1070 and I/2011/0308/F at lands immediately SE of the boundary of 9, 15, and 17 Edendoit Road, Pomeroy for Altmore Developments**

Members considered previously circulated report on planning application LA09/2016/0708/F which was recommended for approval.

Proposed by Councillor Clarke  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2016/0708/F be approved subject to conditions as per the officer's report.

**LA09/2016/0834/F      Development of 16 no. semi-detached dwellings and domestic garages at lands adjacent to the Far Circular Road and Killyman Road junction, Dungannon for Donnelly Bros**

Members considered previously circulated report on planning application LA09/2016/0834/F which was recommended for approval.

Proposed by Councillor Gildernew  
Seconded by Councillor McAleer and

**Resolved** That planning application LA09/2016/0834/F be approved subject to conditions as per the officer's report.

**LA09/2016/0866/F      Removal of conditions 8 and 9 of I/1981/0218 at Tobermore Sand and Gravel Quarry, Ballybriest, Lough Fea, Cookstown for Tobermore Concrete Products Ltd**

Members considered previously circulated report on planning application LA09/2016/0866/F which was recommended for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Kearney and

**Resolved** That planning application LA09/2016/0866/F be approved subject to conditions as per the officer's report.

**LA09/2016/0887/RM** **5 no. detached dwellings and detached garages, car parking, landscaping, retaining walls and associated site works at lands to the NE of 3 Old Omagh Road, Ballygawley for Dr J Gormley**

Members considered previously circulated report on planning application LA09/2016/0887/RM which was recommended for approval.

Proposed by Councillor Bell  
Seconded by Councillor McAleer and

**Resolved** That planning application LA09/2016/0887/RM be approved subject to conditions as per the officer's report.

**LA09/2016/1060/F** **Retention of mobile home, domestic modular building, storage area and associated works at lands approx. 100m NW of 24 Findermore Road, Tullynavert, Clogher for Mr Gerry McCaughey**

Members considered previously circulated report on planning application LA09/2016/1060/F which was recommended for approval.

Proposed by Councillor Gildernew  
Seconded by Councillor McAleer and

**Resolved** That planning application LA09/2016/1060/F be approved subject to conditions as per the officer's report.

The Planning Manager stated that by approving this application there was no longer a need to consider enforcement action relating to this site later in the meeting.

**LA09/2016/1513/F** **Erection of a new store and 2 no. residential apartments to rear of existing premises at 2 – 4 Glen Road, Maghera for Mr Peter McKenna**

Application deferred for office meeting as agreed earlier in meeting.

**LA09/2016/1686/F** **Community building and changing facilities for public shared space within existing fishery at land approx. 80m NE of 41 Gorestown Road, Dungannon for Gorestown Lough Fishery Ltd**

Application deferred for office meeting as agreed earlier in meeting.

**LA09/2016/1703/O** **Change of use of waste management facility to a residential development of 8 no. units at 89 Clady Road, Portglenone for Mr Martin Henry**

Mr McCrystal presented a report on planning application LA09/2016/1703/O advising that it was recommended for refusal.

Councillor Kearney advised that the neighbouring area to the site is comprised of domestic dwellings.

The Chair, Councillor Mallaghan advised that whilst this application offered a good reuse of the site more information was needed in respect of possible contamination.

The Planning Manager stated that there were no other issues with the application other than the lack of a contamination report. On this basis the applicant therefore has a good indication of what needs to be done however this information remains outstanding.

Councillor Gildernew proposed that the application be deferred for one month to allow for submission of contamination report.

Councillor McPeake seconded Councillor Gildernew's proposal.

**Resolved** That planning application LA09/2016/1703/O be deferred for one month to allow for submission of contamination report.

**LA09/2016/1723/F      Agricultural shed (retrospective) at 50m W of 24 Dreenan Road, Gulladuff for Mark Kelly**

Members considered previously circulated report on planning application LA09/2016/1723/F which was recommended for approval.

Proposed by Councillor McPeake  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2016/1723/F be approved subject to conditions as per the officer's report.

**LA09/2017/0429/F      Wind turbine with a hub height of 40m (renewal of previous approval H/2012/0010/F) 55m SW of 3 Mulnavoo Road, Draperstown for Mr Jim Jo McCullough**

Members considered previously circulated report on planning application LA09/2017/0429/F which was recommended for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Kearney and

**Resolved** That planning application LA09/2017/0429/F be approved subject to conditions as per the officer's report.

**LA09/2017/0588/F      General engineering workshop for the manufacture of quarry plant and general engineering at 45 Craveeny Road, Ballygawley for Capital Engineering Ltd**

Members considered previously circulated report on planning application LA09/2017/0588/F which was recommended for approval.

Proposed by Councillor Robinson  
Seconded by Councillor J Shiels and

**Resolved** That planning application LA09/20167/0588/F be approved subject to conditions as per the officer's report.

**LA09/2017/0704/F Extension of existing car sales and repair yard for the turning and parking of vehicles at 16a Derganagh Road, Knockloughrim for Mr A Conway**

Ms Doyle presented a report on planning application LA09/2017/0704/F be approved subject to conditions as per the officer's report.

Councillor McKinney felt that there was a lack of consideration given to lorries turning off the Glenshane Road going to this site and that a right had turning lane should be required as part of this application.

Councillor McPeake stated that there were no right hand turning lanes on this section of the Glenshane Road and that there were other businesses in the area which did not have a right hand turn lane for access. Councillor McPeake clarified that access to the site is off the Derganagh Road not straight off the Glenshane Road.

The Chair, Councillor Mallaghan stated that DfI Roads have not responded with any concerns in relation to the application.

Councillor McKinney stated he did not understand how DfI Roads can be happy with this application given their views on previous applications considered.

The Planning Manager advised that the amount of movement to the site will be limited and is not seen as intensification of use which negates the need for a turning lane.

Councillor McEldowney stated that the site has always been used for car sales and that this application was for the extension of the yard for this business. The Councillor advised that DfI Roads have no issues with the application and on this basis she proposed the approval of the application.

Councillor Bell seconded Councillor McEldowney's proposal.

**Resolved** That planning application LA09/2017/0704/F be approved subject to conditions as per the officer's report.

**LA09/2017/0710/F Infill/gap site for 2 dwellings and garages at 25m and 50m NE of 92 Mullan Road, Coagh for Terence and Donna Maynes**

Members considered previously circulated report on planning application LA09/2017/0710/F which was recommended for approval.

Proposed by Councillor Bell  
Seconded by Councillor Reid and

**Resolved** That planning application LA09/2017/0710/F be approved subject to conditions as per the officer's report.

**LA09/2017/0780/F Petrol filling station and café with associated drive thru (sui generis) at lands at 108-114 Moneymore Road, Magherafelt for Henry Brothers Ltd**

Members considered previously circulated report on planning application LA09/2017/0780/F which was recommended for approval.

Proposed by Councillor Reid  
Seconded by Councillor J Shiels and

**Resolved** That planning application LA09/2017/0780/F be approved subject to conditions as per the officer's report.

**LA09/2017/0828/O Construction of chalet bungalow and detached garage 40m N of 64 Glenshane Road, Knockloughrim, Maghera for Mr and Mrs A Kane**

Members considered previously circulated report on planning application LA09/2017/0828/O which was recommended for approval.

Proposed by Councillor Kearney  
Seconded by Councillor J Shiels and

**Resolved** That planning application LA09/2017/0828/O be approved subject to conditions as per the officer's report.

**LA09/2017/0905/F Housing development consisting of 3 detached and 18 semi-detached dwellings, upgraded access on to Mullaghmore Road, provision of a cycle track and associated development at lands SE of Foxborough, Mullaghmore Road, Dungannon for Westland Developments (NI) Ltd**

Mr Marrion (SPO) presented a report on planning application LA09/2017/0905/F advising that it was recommended for approval.

The Chair advised that requests to speak had been received and invited Councillor Molloy to address the committee in the first instance.

Councillor Molloy stated he was happy with the proposed development but asked for clarity in relation to site 21. The Councillor stated that this dwelling will be accessed via the Foxborough development whilst the rest of the proposed development will be accessed from Mullaghmore Road, Councillor Molloy asked how this will work in reality in relation to postal numbering etc.

Mr Marrion advised that sites 20 and 21 are semi-detached dwellings which will both have dual frontage onto the Mullaghmore Road whilst site 21 will be accessed via

Foxborough. In relation to numbering of properties Mr Marrion advised that this will be dealt with by Building Control.

Mr Smith confirmed that sites 20 and 21 will be semi-detached and both will have frontage onto Mullaghmore Road which is felt will provide a cohesive appearance along the road. Mr Smith advised that access for site 21 will be via Foxborough and that numbering of the properties is a separate issue.

In response to Councillor McPeake's question Mr Marrion that in respect of this development there would be houses that front the Mullaghmore Road.

Councillor Reid felt that numbering of the proposed development and site 21 in particular would be difficult. Councillor Reid also asked if there was a communal space management plan in place for the development and asked if site 21 would contribute to this annual fee.

Mr Smith advised that there would be a management plan in place for communal space within the development and site 21 would be included in this annual charge.

Proposed by Councillor Gildernew  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2017/0905/F be approved subject to conditions as per the officer's report.

**LA09/2017/0908/F      Retention of staff car park as constructed and extension to provide additional staff parking space at 2 Moore Street, Aughnacloy for Mr Leo Daly**

Members considered previously circulated report on planning application LA09/2017/0908/F which was recommended for approval.

Proposed by Councillor Gildernew  
Seconded by Councillor McAleer and

**Resolved** That planning application LA09/2017/0908/F be approved subject to conditions as per the officer's report.

**LA09/2017/0936/F      2 additional broiler poultry sheds; 4 feed bins; 2 gas tanks; biomass boiler shed and pellet bin and ancillary building; cattle shed with underground slurry tank; covered silage pit; covered yard area and general farm storage building at lands approx. 300m NW and 100m SW of 27 Terryscollop Road, Annagh, Dungannon for CAP Farms Ltd**

The Planning Manager advised that there was an anomaly in legislation in that whenever a Pre-Determination Hearing is held the planning committee can make a preliminary recommendation to Council but that it is Council who will take the final decision. The Planning Manager noted the earlier comment during the Pre-Determination Hearing that Council is being used as an experiment and stated that Mid Ulster was perhaps the

bravest Council in progressing the application to this stage as other Councils have held back in relation to similar applications.

The Planning Manager referred to the non attendance by NIEA tonight and their statement to say they have not fully considered the application yet and that they may or may not remove their objections. The Planning Manager suggested that committee move ahead with making their preliminary determination to Council and time lock this for eight weeks to allow NIEA to consider and provide further evidence. After the eight week period if nothing is received from NIEA the application will be brought before Council for final determination.

Councillor Gildernew felt that eight weeks was a lengthy time addition to the process.

The Planning Manager stated that this application contained very complex issues and that DAERA have a right to launch a judicial review against Council. The Planning Manager felt that to time lock the determination was wise and that eight weeks would give NIEA every opportunity to set out their position.

Councillor Cuthbertson asked if the applicant would be content with a further eight week delay.

The Council Solicitor stated that if the Committee are minded to give a consultee further time to make representation then this needs to be a reasonable amount of time and that if the matter is particularly complex then eight weeks may not be sufficient. The Council Solicitor suggested that it may be prudent to defer the application.

The Planning Manager stated it was logical to give a eight week period to allow NIEA time to set out their position.

Mr McGill confirmed that the applicant would be content with allowing a further eight week period of consultation.

Councillor Robinson referred to the length of time it has taken to get the application to this stage and that further delays could make it difficult for the applicant.

The Planning Manager stated that the applicant would be foolish to commence works before three months had elapsed from determination as a judicial review could be launched.

The Chair, Councillor Mallaghan felt it was better to err on the side of caution and that an eight week period of consultation should be sufficient.

Proposed by Councillor Bell  
Seconded by Councillor Cuthbertson and

**Resolved** That based on the information presented including at the earlier Pre Determination Hearing, that this committee is of the view that Planning Application LA09/2017/0936/F be recommended for approval as it had not been demonstrated that there was a significant risk to neighbouring ASSI. However, the Committee was minded to offer NIEA a final opportunity to

demonstrate harm or otherwise. Therefore, provided no issues were raised by NIEA in the interim, it was resolved that the recommendation to approve Planning Application LA09/2017/0936/F subject to the conditions in the officer's report, be presented to the August Council for determination.

**LA09/2017/1244/O      Site for dwelling and domestic garage at 90m W of 16 Derrynoid Lane, Draperstown for Mr Brendan McCullagh**

Mr McCrystal presented a report on planning application LA09/2017/1244/O advising that it was recommended for refusal.

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

Mr Diamond advised that the applicant got a previous site passed on his farm at Dunmurry Lane with the permission of all the owners of the lane. Mr Diamond advised that permission is not forthcoming in relation to allowing another dwelling to be located on the lane and that this therefore rules out these lands as an option for the applicant.

Mr Diamond advised that the only plot of land available at the main farm was next to the farmhouse, Mr Diamond advised that this land is currently used for monitoring the welfare of animals and that the applicant would be reluctant to give up this piece of land.

Mr Diamond advised that the plot identified is the best alternative site which is located at the end of the Derrynoid Lane and best suits farming needs, does not cause ribboning and provides integration.

The Planning Manager asked if third party landowners were not giving permission because they feel an additional dwelling on the lane will hamper their farm operations.

Mr Diamond advised that the farm operations of the third parties would be hampered.

The Planning Manager suggested that the application be deferred in order for submission to be made in relation why third party landowners would not give permission for use of lane.

Proposed by Councillor Kearney  
Seconded by Councillor McKinney and

**Resolved**    That planning application LA09/2017/1244/O be deferred in order for further information to be submitted.

**LA09/2017/1274/O      Infill site for dwelling and garage approx. 20m W of 9a Ballymoghan Lane, Magherafelt for Mr T Johnston**

**LA09/2017/1275/O      Infill site for dwelling and garage approx. 20m E of 9 Ballymoghan Lane, Magherafelt for Mr T Johnston**

Members considered previously circulated reports on planning applications LA09/2017/1274/O and LA09/2017/1275/O which were recommended for approval.

Proposed by Councillor J Shiels  
Seconded by Councillor Robinson and

**Resolved** That planning applications LA09/2017/1274/O and LA09/2017/1275/O be approved subject to conditions as per the officer's report.

**LA09/2017/1474/O      Dwelling and garage at 250m SE of Churchtown Road, Cookstown for Mark Bell**

Mr McCrystal presented a report on planning application LA09/2017/1474/O advising that it was recommended for refusal.

*Councillor Mullen entered the meeting at 8.31pm during above presentation.*

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

Mr Ross advised that the applicant is a full time farmer and stated that whilst the history of the sheds cannot be proved they are in situ and should be afforded some weight when considering the application. Mr Ross advised that a forward sight line cannot be provided or achieved without third party lands. Mr Ross stated that this was a good site in every other way. Mr Ross did not feel CTY15 and SPPS had been given enough weight in determining this application and that Members could use flexibility which would not cause a precedent. Mr Ross asked the Committee to approve the application.

The Planning Manager stated that DfI Roads have confirmed they have no objection in relation to sightlines. The Planning Manager stated he would be prepared to accommodate an office meeting in relation to this application.

Councillor Clarke stated that the proposed site looked to have the characteristics of a dwelling being located there at some time. Councillor Clarke proposed that the application be deferred for an office meeting.

Councillor Cuthbertson seconded Councillor Clarke's proposal. The Councillor commented if this application would be treated differently if it was not within a settlement limit and referred to determination of a previous application which dealt with sheep sheds.

Councillor McKinney felt that sites A and B should not be considered as potential sites given their proximity to existing farm buildings.

**Resolved** That planning application LA09/2017/1474/O be deferred for an office meeting.

**LA09/2017/1543/O      Dwelling and domestic garage at site opposite 136 Aghnagar Road, Galbally, Dungannon for Margaret Donnelly**

Mr Marrion presented a report on planning application LA09/2017/1543/O advising that it was recommended for refusal.

*Councillor McKinney left the meeting at 8.41 pm during the above presentation.*

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

*Councillor McKinney rejoined the meeting at 8.43 pm during the above presentation.*

Mr Nugent stated he did not disagree with the officer's report but felt this was an exceptional case. Mr Nugent stated that the applicant had in the past worked on her father's farm which is located on difficult terrain, the applicant has since been educated and established her own business in the local community as a registered childminder of which there are only three in the vicinity. Mr Nugent advised that the applicant's father was giving her a site on which to build a home and carry on with her business as a registered childminder. Mr Nugent stated that the applicant was providing an important role in the community and that a site on the farm would not be suitable as it was most likely the applicant's business could not survive as it would be inaccessible during the winter months. Mr Nugent felt that it was important to keep farming families in the community and in this case be able to provide support to neighbouring families. Mr Nugent asked that the application be approved in order that the applicant can remain within the community and maintain her business.

Councillor McAleer stated she knew the area and that it is hard to get to in winter months. Councillor McAleer also felt that the longer term needed to be considered.

Councillor Gildernew felt this application was an exception to policy and that the neighbouring farmer had no objection to the application.

Councillor McPeake stated he would be sympathetic to the proposed location and the need to futureproof the applicant's business.

Councillor Reid proposed that an office meeting be held for the application.

The Planning Manager referred to Mr Nugent's comments that the applicant is a registered childminder and asked what Mr Nugent was saying in that respect.

Mr Nugent stated that if the applicant is forced to build at the main farm site then they would lose their business due to the inaccessibility of the site during winter months.

The Planning Manager stated that he would accommodate a meeting for this application and asked that evidence be provided which confirms the neighbouring farmer is content with the application. The Planning Manager also asked for evidence to be provided in relation to the childminding business and how a dwelling at the proposed location will link with the business.

Councillor Clarke seconded Councillor Reid's proposal to hold an office meeting.

Councillor Gildernew asked if it was protocol to ask for confirmation that the neighbouring farmer was content with the application.

The Planning Manager stated that he was asking for this information in order to make the neighbouring farmer aware that a childminding business would be located at the site.

**Resolved** That planning application LA09/2017/1543/O be deferred for an office meeting.

**LA09/2017/1639/F Micro brewery and tap room building along with ancillary storage, additional new car parking and alterations to existing road access at lands to the rear of 96 Ballymacombs Road, Bellaghy for Heaney Farmhouse Brewery Ltd**

Members considered previously circulated report on planning application LA09/2017/1639/F which was recommended for approval.

Councillor J Shiels stated that access to the proposal appeared to be restrictive for vehicles.

The Head of Development Management advised that this application was for farm diversification and therefore had to be at the farm site. He stated that there were plans to widen the laneway within the proposal. The Head of Development Management stated that DfI Roads had no issue with the application.

Councillor Cuthbertson stated that if the business is a success then the Committee could be asked to determine on an expansion of premises at the site in the future. Councillor Cuthbertson felt that such proposals should be accommodated within industrial units.

Proposed by Councillor Kearney  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2017/1639/F be approved subject to conditions as per the officer's report.

**LA09/2017/1644/O Single storey farm dwelling with attached garage and associated site works, at lands located 105m E of farm dwelling adjacent to 4 Drumane Road, Bellaghy for James Overend**

Application withdrawn by applicant.

**LA09/2017/1700/F Extension to rear of dwelling at 5 Coolmount Drive, Cookstown for Mr Brian O'Neill**

Members considered previously circulated report on planning application LA09/2017/1700/F which was recommended for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Reid and

**Resolved** That planning application LA09/2017/1700/F be approved subject to conditions as per the officer's report.

**LA09/2017/1740/F      Erection of a Church Hall adjacent to Church Building (listed) at Dungannon Road, Aughnacloy for Aughnacloy Presbyterian Church**

**LA09/2018/0049/LBC      Erection of Church Hall adjacent to Church Building (listed) at Dungannon Road, Aughnacloy, for Aughnacloy Presbyterian Church**

Mr Marrion presented reports on planning applications LA09/2017/1740/F and LA09/2018/0049/LBC advising that they were recommended for approval.

Mr Marrion advised that application for Listed Building Consent must be notified to the Department and that the full planning application should be delegated to the Planning Manager as an approval to issue with the Listed Building Consent.

The Planning Manager expressed some dismay as to how these applications had been handled by HED.

Proposed by Councillor Gildernew  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2018/0049/LBC be notified to the Department and that planning application LA09/2017/1740/F be issued as an approval subject to resolution of matters relating to the listed wall.

**LA09/2018/0020/RM      Single storey dwelling and garage 50m E of 37 Kilrea Road, Portglenone for Richard Lowry**

Members considered previously circulated report on planning application LA09/2018/0020/RM which was recommended for approval.

Proposed by Councillor McKinney  
Seconded by Councillor J Shiels and

**Resolved** That planning application LA09/2018/0020/RM be approved subject to conditions as per the officer's report.

**LA09/2018/0063/F      Clear water basin and associated infrastructure to provide a portable water storage facility for Lough Fea WTW. Decommissioning and removal of Lough Fea South clear water basin and land treatment. New vehicular access from Spawell Road at 376m N of Spawell Road, Lough Fea for NI Water**

Members considered previously circulated report on planning application LA09/2018/0063/F which was recommended for approval.

Proposed by Councillor Clarke  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2018/0063/F be approved subject to conditions as per the officer's report.

**LA09/2018/0064/O Dwelling and garage on a farm at a site SE of 29 Crewe Road, Maghera for Mr Alfie Shiels**

Members considered previously circulated report on planning application LA09/2018/0064/O which was recommended for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Kearney and

**Resolved** That planning application LA09/2018/0064/O be approved subject to conditions as per the officer's report.

**LA09/2018/0077/F Dwelling house and detached domestic garage 40m S of 30A Crossowen Road, Augher for Mr Jonathon & Mrs Lisa Winser**

Members considered previously circulated report on planning application LA09/2018/0077/F which was recommended for approval.

Proposed by Councillor Gildernew  
Seconded by Councillor McAleer and

**Resolved** That planning application LA09/2018/0077/F be approved subject to conditions as per the officer's report.

**LA09/2018/0153/O Dwelling and garage 72m NW of 21 Whitetown Road, Newmills for Mr Kenneth Reid**

*Councillor Reid declared an interest in this application and withdrew from the meeting.*

Mr Marrion presented a report on planning application LA09/2018/0153/O advising that it was recommended for refusal.

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

Mr Henry advised that the application was made due to matrimonial breakdown and that the applicant had to sell the family home. Mr Henry stated that the planning department have accepted the proposal with the only difficulty being that another site was sold off within ten years of the application. Mr Henry advised that an alternative site proposed was not viable as there was a third party dwelling located beside this site and that a verbal guarantee had been given between the applicant and the third party that nothing would be built beside this dwelling. Mr Henry stated that this was only a verbal agreement however to build on the alternative site would require sightlines from the third

party and this would not be possible. Mr Henry asked that the Committee look on the application favourably.

Councillor McFlynn stated that the applicant had no choice but to sell the family home due to personal circumstances and felt that policy CTY6 could apply in this application. Councillor McFlynn asked that Members approve the application or move to an office meeting to discuss the application further.

The Council Solicitor advised Members that they should only factor in material considerations to their decision making and that private law matters, such as private access, rights of way etc., are not material considerations for the Committee.

Councillor Bell asked for clarification on policy CTY6 and how this was an exceptional circumstance.

Mr Marrion read from policy CTY6 in which it was stated that there should be evidence that a new dwelling is required, that there are no alternative solutions and that hardship will be caused by not granting a permission. Mr Marrion felt that the policy related to cases involving medical issues and not the matters of this application.

The Planning Manager stated that personal and domestic circumstances is not prescriptive and that whilst policy is a guide it cannot cover every eventuality. The Planning Manager stated it was reasonable to take into account that the main dwelling had been sold off due to marriage breakdown but to bear in mind that a site was also sold off and permission granted in 2008. The Planning Manager stated that if the applicant waited for another year then the site granted permission in 2008 would be outside of the ten year rule. The Planning Manager also reminded Members of the Local Development Plan and that policy may change before another year passes. The Planning Manager suggested that an office meeting be held to explain the situation to the applicant and allow him to have discussions with the third party in relation to the alternative site in the interim.

Proposed by Councillor Robinson  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2018/0153/O be deferred for an office meeting.

**LA09/2018/0233/O      Dwelling and detached domestic garage approx. 60m NW of 62 Annaghmakeown Road, Dungannon for Connor McGurk**

Mr Marrion presented a report on planning application LA09/2018/0233/O advising that it was recommended for refusal.

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

*Councillor Reid rejoined the meeting during the above presentation.*

Mr Gourley stated that the application meets the first two criteria of policy CTY10. In relation to whether the proposal is visually linked or clustered to the main farm building group Mr Gourley advised that the dwelling would be visible from critical viewpoints and can be read with the existing farm buildings, from this, Mr Gourley felt that the third criteria of policy CTY10 would be met. Mr Gourley stated that the applicant wants some separation from the family farm and neighbouring poultry sheds and therefore a site at the main farm would not be suitable. Mr Gourley also advised that there were issues in relation to a flood plain which added to the main farm site being unsuitable. Mr Gourley also referred to previous approval at the proposed site but which had now expired.

The Planning Manager asked if the proposal would be visible in the landscape.

Mr Marrion stated it depended on where the site was being viewed from.

The Planning Manager stated he would accommodate an office meeting.

Proposed by Councillor McPeake  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2018/0233/O be deferred for an office meeting.

**LA09/2018/0261/O Dwelling and garage at land to rear of 45 Lissan Road, Cookstown for Mr Gary McIvor**

Mr McCrystal presented a report on planning application LA09/2018/0261/O advising that it was recommended for refusal.

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

Mr Marshall advised that he would disagree with the commentary within the officer's report which stated that the surrounding area was comprised of detached dwellings on generous sites. Mr Marshall advised that there were seven semi-detached and one detached dwelling in the surrounding area that the average area of the proposal was the same as five out of the seven dwellings in the cul de sac.

Mr Marshall stated that this was an outline application and that the design of the dwelling will be able to deal with any concerns related to amenity. Mr Marshall stated that all consultees were content with the proposal.

Councillor Bell referred to the houses to the north of the proposal site and that from the map shown there appeared to be very little space and that dwellings would be sitting on top of each other.

The Planning Manager demonstrated there was a significant difference in the space in the houses to the north and the application site.

Councillor Reid proposed that an office meeting be held for this application in which potential designs could be discussed to deal with issues of overlooking and shadowing.

The Planning Manager stated he was not opposed to an office meeting but that in order to present designs the applicant will have to incur extra expense with no guarantee of a favourable outcome.

The Chair, Councillor Mallaghan questioned what amenity there would be for the proposed dwelling and that of the neighbouring dwelling.

Councillor Robinson seconded Councillor Reid's proposal for an office meeting.

Councillor Cuthbertson felt that one of the photographs being shown was misleading from the angle it was taken.

Councillor McKinney stated that there were a number of houses in Cookstown which lacked amenity.

**Resolved** That planning application LA09/2018/0261/O be deferred for an office meeting

**LA09/2018/0279/F      Replacement dwelling and garage at land approx. 280m N of 34 Sessiagh Scott Road, Dungannon for Mr Kenneth Hazelton**

Members considered previously circulated report on planning application LA09/2018/0279/F which was recommended for approval.

Proposed by Councillor Robinson  
Seconded by Councillor Reid and

**Resolved** That planning application LA09/2018/0279/F be approved subject to conditions as per the officer's report.

**LA09/2018/0394/F      3 terrace dwellings and 2 apartments at 16 – 20 Lawford Street, Moneymore for PAD (NI) Ltd**

Members considered previously circulated report on planning application LA09/2018/0394/F which was recommended for approval.

Proposed by Councillor McKinney  
Seconded by Councillor McPeake and

**Resolved** That planning application LA09/2018/0394/F be approved subject to conditions as per the officer's report.

**LA09/2018/0424/O      Dwelling and garage at lands 20m E of 29 Gortinure Road, Maghera for Patrick Bradley**

Members considered previously circulated report on planning application LA09/2018/0424/O which was recommended for approval.

Proposed by Councillor McEldowney  
Seconded by Councillor McPeake and

**Resolved** That planning application LA09/2018/0424/O be approved subject to conditions as per the officer's report.

**LA09/2018/0439/F      Relocation and change of house type to previously approved application I/2014/0016/RM at SE of 34a Annaghmore Road, Coagh for John Quinn**

Application deferred pending submission of further information as agreed earlier in meeting.

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

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

Mr McPeake asked why visibility splays now needed to be increased and if an assessment had been carried out which dictated the requirement of 2.4 x 70m.

Mr McCrystal stated that the shed was originally approved for domestic use and that there was no requirement to increase visibility splays at that time.

Councillor McPeake asked if an impact assessment had been carried out in relation to vehicular movements.

Mr McCrystal stated that the proposal is for the use of a shed for storage and distribution, he advised that a roads access statement had been received which indicated that the maximum visibility splay which can be achieved without needing third party lands is 2.4 x 45m. Mr McCrystal stated that due to objections being received in relation to the application accessing third party lands for splays would not be viable.

Councillor Bell asked why the splays needed to be so long.

The Planning Manager stated that the length of the splay was important but that the depth was also important. The Planning Manager referred to the applicants difficulty in being able to achieve the required visibility splays which were being recommended by DfI Roads. The Planning Manager stated that the application has been in the process for a long time and the applicant is aware of what is required to be able to work towards a solution.

Councillor McKinney referred to the fact there was no representation on the application tonight and stated that DfI Roads had made the recommendation in relation to visibility splays for a reason. Councillor McKinney proposed the recommendation to refuse the application.

The Chair, Councillor Mallaghan reminded Members of the new Planning Protocol in which further representation cannot be made on a deferred application which was why no one was in attendance tonight.

In response to Councillor McPeake's question the Planning Manager stated it would be difficult to determine whether the longer sightlines would still be required if a different type of business was operating from the shed.

Councillor Bell asked if the size of vehicles delivering to the premises could be conditioned and would negate the need for longer sightlines.

The Council Solicitor stated that according to the case officer's report, access requirements are as specified in DCAN15 and that if Members were minded to go against this policy the reasons would need to be stated and evidence based.

Councillor Bell proposed an office meeting be held for the application.

The Planning Manager stated that the applicant ultimately needed a determination on the application.

The Chair, Councillor Mallaghan stated that the focus of this office meeting would be different to that held previously.

The Planning Manager stated he did not object to an office meeting being held to discuss visibility splays but that the applicant needed to be prepared to come to the meeting with solutions.

Councillor B McGuigan felt that a further office meeting would be beneficial to discuss visibility splays specifically.

The Chair, Councillor Mallaghan seconded Councillor Bell's proposal for an office meeting.

Councillor Reid stated that the applicant would have been aware that their application was on the agenda for discussion tonight and it was disappointing there was no one in attendance. Councillor Reid felt that there could be no control over the size of vehicles delivering to the premises and seconded Councillor McKinney's proposal to refuse the application.

The Chair, Councillor Mallaghan again reminded Members of Planning Protocol and that in relation to deferred applications there was no further right to speak which was why no one was in attendance tonight.

Members voted on Councillor Bell's proposal to hold an office meeting –

For – 9

Against – 5

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

For – 5

Against – 9

**Resolved** That planning application LA09/2015/0782/F be deferred for an office meeting.

**LA09/2017/0498/F Extension to existing garage to provide new machinery store at 100m NE of 29 Fegarran Road, Cookstown for Granville Carson**

Members considered previously circulated report on planning application LA09/2017/0498/F which was recommended for approval.

Proposed by Councillor Clarke

Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2017/0498/F be approved subject to conditions as per the officer's report.

**LA09/2017/0846/F Cattle welfare unit including storage for hay and meal and proposed yard area for storage at 175m SE of 66A Kilnacart Road, Dungannon for Niall McCann**

Members considered previously circulated report on planning application LA09/2017/0846/F which was recommended for approval.

Proposed by Councillor Gildernew

Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2017/0846/F be approved subject to conditions as per the officer's report.

**LA09/2017/1142/O Dwelling and garage (infill site) at approx. 5m E of 74 Kinrush Road, Ardboe for Ciara Curran**

Members considered previously circulated report on planning application LA09/2017/1142/O which was recommended for refusal.

Proposed by Councillor J Shiels

Seconded by Councillor Mallaghan and

**Resolved** That planning application LA09/2017/1142/O be refused on grounds stated in the officer's report.

**LA09/2017/1205/O      Site for farm dwelling and double domestic garage at approx. 250m N of 10 Lecumpher Road, Moneymore for Johnathon and Jayne Smyth**

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

Members considered previously circulated report on planning application LA09/2017/1205/O which was recommended for approval.

Proposed by Councillor Robinson  
Seconded by Councillor Reid and

**Resolved**    That planning application LA09/2017/1205/O be approved subject to conditions as per the officer's report.

*Councillor McKinney rejoined the meeting.*

**LA09/2017/1276/O      Dwelling and domestic garage at a gap site approx. 35m SE of 2d Drumard Lane, Draperstown for Mick and Carmel McKee**

Members considered previously circulated report on planning application LA09/2017/1276/O which was recommended for approval.

Proposed by Councillor Bell  
Seconded by Councillor Clarke and

**Resolved**    That planning application LA09/2017/1276/O be approved subject to conditions as per the officer's report.

*Councillor Gildernew left the meeting at 10.08 pm.*

#### **P080/18      Receive Marine Plan Consultation**

The Planning Manager presented previously circulated report which provided a proposed consultation response on the Draft Marine Plan for Northern Ireland.

Proposed by Councillor J Shiels  
Seconded by Councillor Clarke and

**Resolved**    That Council respond to the consultation on the Draft Marine Plan for Northern Ireland as outlined in appendix to report.

#### **Matters for Information**

#### **P081/18      Minutes of Planning Committee held on Tuesday 1 May 2018**

Members noted minutes of Planning Committee held on Tuesday 1 May 2018.

**P082/18      Correspondence from Arqiva**

The Planning Manager tabled letter from Arqiva which provided detail on the national television 700MHz spectrum clearance project and proposed works to television transmitters.

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

Proposed by Councillor J Shiels  
Seconded by Councillor Reid and

**Resolved**    In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P083/18 to P087/18.

**Matters for Decision**

P083/18    Receive Enforcement Report

**Matters for Information**

P084/18    Confidential Minutes of Planning Committee held on 1 May 2018

P085/18    Enforcement Live Case List

P086/18    Enforcement Cases Opened

P087/18    Enforcement Cases Closed

**P088/18    Duration of Meeting**

The meeting was called for 7 pm and concluded at 10.22 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_