

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 1 August 2023 in Council Offices, Circular Road, Dungannon and by virtual means

Members Present

Councillor S McPeake, Chair

Councillors Black*, J Buchanan, Carney*, Clarke, Cuthbertson, Graham, Kerr*, Mallaghan, McConnell, McElvogue, McFlynn, D McPeake*, Robinson, Varsani

Officers in Attendance

Dr Boomer, Service Director of Planning (SD: PI)
Ms Donnelly, Council Solicitor
Mr Marrion, Senior Planning Officer (SPO)
Mr McClean, Senior Planning Officer (SPO)**
Ms McCullagh, Senior Planning Officer (SPO)**
Ms McKinless, Senior Planning Officer (SPO)
Mr O'Hagan, Head of ICT
Mrs Grogan, Committee and Member Services Officer

Others in Attendance

LA09/2019/0179/F	Chris Cassidy***
LA09/2019/0179/F	Martin Grainger***
LA09/2022/0314/F	Carol Gourley
LA09/2022/0194/F	Tracey Kelly***
LA09/2022/0314/F	Maeve Conway***
LA09/2022/0624/F	Frankie Mc Grath***
LA09/2022/0624/F	Declan Diamond***
LA09/2022/0624/F	Lisa Shannon***
LA09/2022/1106/F	Carol Gourley
LA09/2022/1419/O	Karson Tong***
LA09/2022/0624/F	Gordon Noble, Dfl***

* Denotes members and members of the public present in remote attendance

** Denotes Officers present by remote means

*** Denotes others present by remote means

The meeting commenced at 7.00 pm.

P079/23 Notice of Recording

Members noted that the meeting would be webcast for live and subsequent broadcast on the Council's You Tube site.

P080/23 Apologies

Councillor Martin

Ms Doyle, Head of Local Planning (HLP)

P081/23 Declarations of Interest

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

P082/23 Chair's Business

Dr Boomer, Service Director of Planning (SD: PI) wished to draw members attention to performance and advised that last year was very difficult due to a large backlog of applications due to Covid and the added difficulty of implementing the new IT system. Even though this was the year that our performance was poorest and not at the level we wished to achieve, it was still around the level where other authorities were hitting which was around 20-21 weeks per application. Clearly there is a huge push at the moment as a result of the Audit Office investigation looking into planning in trying to improve performance and with a lot of things, the best way to do this is to start at home. He said that although these were not the official figures, he was pleased to see that from a ropey start in April, where on average it was taking 19 weeks to determine an application, that figure is now down to an average of 13 weeks in May and June 14.8 weeks, with our target being 15 weeks. He stated that it was getting back to the levels in which we should be at and although we may wish to be the top authority which is prepared to spend extra time addressing concerns on an application, it is good to be in the top 3 or 4 or certainly the top half in relation to processing times.

The SD: PI said that from what he could see, which was more promising than last month, we issued about 50% more applications which were received which meant that the total number is going down. This is tricky at the moment as summer time is when staff and consultees go on holidays, but if we can keep up this that level of performance, he hoped by Christmas that the backlog would be cleared and we would be back to our usual performing ways.

The SD: PI said that it was worth noting that this was not just for local applications and quite good to see this year receiving 3 major applications and got out 7 decisions on the largest ones. In terms of enforcement, we have also been hitting our targets as we had a huge backlog of enforcement cases due to Covid as it was difficult to investigate and go to places, but we are starting to get through twice as many cases, than ones which were being opened. The SD: PI said that he was hopeful that staff will continue to keep this up and anticipated being back fighting fit by the end of this year.

The SD: PI referred to agenda for determination and sought approval to have the following applications withdrawn and deferred from tonight's meeting schedule for an office meeting –

LA09/2023/0025/F – Retention of agricultural shed to store machinery adjacent to 26A Brookmount Road, Ballinderry Bridge, Cookstown for Francis Rocks

LA09/2023/0170/O – Site for new replacement dwelling to the rear of and approx. 30m E of 87 Kinrush Road, Cookstown for Maurice McKenna

Resolved That the planning applications listed above be deferred for office meetings.

The SD: PI referred to Agenda Item 6.3 – LA09/2022/0194/F – 2 Agricultural sheds for machinery and feed storage, including photo voltaic panels on southern facing roofs at approx. 40m SW of 14 Bancran Road, Draperstown for Mr D Hegarty – he advised that an objector had requested a deferral and in the past he does not normally recommend a deferral from the objector but rather that they be given the opportunity to present their views to the Planning Committee as they are the decision makers. The SD: PI said that this would be something he would be recommending this evening.

Matters for Decision

P083/23 Planning Applications for Determination

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

LA09/2022/0528/RM Dwelling & garage at 20m S of No. 2 Kinturk Road, Moortown for Colm Hagan

Members considered previously circulated report on planning application LA09/2022/0528/RM which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Clarke and

Resolved That planning application LA09/2022/0528/RM be approved subject to conditions as per the officer's report.

LA09/2022/1400/O Housing Development at lands opposite 56 Castlecaulfield Road, Donaghmore for Trustees of Donaghmore Parish

Members considered previously circulated report on planning application LA09/2022/1400/O which had a recommendation for approval.

Proposed by Councillor Varsani
Seconded by Councillor McElvogue and

Resolved That planning application LA09/2022/1400/O be approved subject to conditions as per the officer's report.

LA09/2022/1470/F Compost manufacturing facility unit at 10A Ferry Road, Coalisland for Evergreen Horticulture

Mr Marrion (SPO) presented previously circulated report on planning application LA09/2022/1470/F which had a recommendation for approval.

Proposed by Councillor Carney
Seconded by Councillor Kerr

To accept the recommendation for approval.

Councillor Cuthbertson advised that he had received correspondence from an objector last week regarding this application. The member had replied back to him to make him aware that he could request speaking rights by 12 noon on Friday. The objector came back to say that this was not suitable, the member then advised the objector to send the information directly to the SD: PI as he had a number of objections and enquired if the SD: PI had received the correspondence.

The SD: PI advised that he was not aware of receiving any correspondence relating to this application.

Mr Marrion (SPO) advised that the application was before the committee because there were objections received on it.

The Chair enquired if Mr Marrion (SPO) was content that the objections received to date have been fully considered.

Mr Marrion (SPO) said that nothing had been received recently and nothing new from 22 June 2023.

The SD: PI said it was important to consider what was being said and felt that the member was not breaking any rules by reading out the email.

The member advised that he would email a copy of the letter so the SD: PI could read it.

The SD: PI asked that this matter be deferred to later in the meeting until he had an opportunity to read the email.

The committee returned to the discussion at 9.11 pm.

The SD: PI advised that the key area of dispute was in relation to Roads Service and they have responded by saying they feel that it's acceptable. The objector felt that it was incorrect as they had to endure the Ferry Road being blocked on a continuous basis and people taking risks having to pass rows of lorries to get past in an area where they were parked illegally on the main road. The SD: PI advised that the objectors feel that this road is not capable for the use it's getting due to the recent matter of sink holes a little further up. The objectors are requesting that the issue of transport is brought up and request that it be investigated further and that an independent transport assessment is completed. The SD: PI stated that he did not have a strong view on this but would say that Roads Service is providing us with a professional assessment and not working on behalf of the developer or objector.

In response to a query, Mr Marrion (SPO) advised that nothing new has been raised as vehicle movements have already been addressed within the report.

Proposed by Councillor Mallaghan
Seconded by Councillor McConnell and

Resolved That planning application LA09/2022/1470/F be approved subject to conditions as per the officer's report.

LA09/2022/1475/F The application forms part of the overall Clogher Active Travel scheme being developed by MUDC & DFI. The scheme will link existing footpaths on the Station Road and the Ballymagowan Road to create a link around the area. This application contains the formalisation of 2 existing entrances along this section being changed into vehicle entrances as part of the works. D01 & DO1A – Change of an existing pedestrian entrance into a vehicle entrance D02 & D02A – Change of an existing field entrance gate into vehicle & commercial vehicle entrance for HGV's/timber lorries to access the existing timber yard business at 2 Properties Entrance Formalisations – One at 47 Station Road, Clogher and the other at 57A Station Road for Mid Ulster District Council

All members present declared an interest in the above application as related to Mid Ulster District Council.

Members considered previously circulated report on planning application LA09/2022/1475/F which had a recommendation for approval.

The Service Director of Planning (SD: PI) said that it had been brought to his attention that landscaping should be included as a condition and asked the SPO to update members present on that condition.

Mr Marrion (SPO) advised that this was in relation to the landscaping which was to be provided. He stated that existing landscaping was to be removed to provide a footpath and new landscaping being proposed which was detailed on one of the landscape drawings with the application. The condition is that the landscaping be provided in accordance with the details on the approved drawing within vertical planting season following commencement hereby approved.

Proposed by Councillor McConnell
Seconded by Councillor Robinson and

Resolved That planning application LA09/2022/1475/F be approved with subject to conditions as per the officer's report including landscaping.

LA09/2023/0025/F Retention of agricultural shed to store machinery adjacent to 26A Brookmount Road, Ballinderry Bridge, Cookstown for Francis Rocks

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

LA09/2023/0066/RM Two storey dwelling & detached garage at 70m SE of 43 Fallylea Lane, Maghera for Mr Michael & Leanne Warnock & McCrystal

Members considered previously circulated report on planning application LA09/2023/0066/RM which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Clarke and

Resolved That planning application LA09/2023/0066/RM be approved subject to conditions as per the officer's report.

LA09/2023/0087/O Dwelling and detached domestic garage at site approx. 50m E of 90 Screeby Road, Fivemiletown for Mr Ian & Gillian Browne

Proposed by Councillor Robinson
Seconded by Councillor McConnell and

Resolved That planning application LA09/2023/0087/O be approved subject to conditions as per the officer's report.

LA09/2023/0170/O Site for new replacement dwelling to the rear of and approx. 30m E of 87 Kinrush Road, Cookstown for Maurice McKenna

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

LA09/2019/0179/F To continue use of the land and factory without complying with condition 12 of M/2011/0126/F seeking variation of opening hours condition Monday – Friday from 6am – 8pm (Clarification of Operations to be carried out before and after 7am) at lands 70m S of 177 Annagher Road, Coalisland for Dmac Engineering

Mr Marrion (SPO) presented a report on planning application LA09/2019/0179/F advising that it was recommended for refusal. The SPO referred members to previously circulated addendum regarding correspondence related to DMAC Engineering.

The Service Director of Planning (SD: PI) advised that this was quite a tricky and unusual issue as he had been listening very carefully to what was being said. He

referred to Environmental Health investigations which occurred last year and the notion of allowing this unvetted would be very foolish as it was not really a debate on whether we encourage economic activity verses neighbouring amenity, what the debate is about is whether one can mitigate against the adverse effects on neighbours in order to allow the activity.

The SD: PI said that he was highly conscious that Mr Cassidy and Mr Grainger had requested to address the committee, but they had already used their Request to Speak on previous occasions but could very much guess what they would be saying. In addressing the two agents, the SD: PI referred back to the last time discussion took place on this application, it was deferred because he wished to explore in greater depth on whether a condition could be used similar to that used for Creagh Concrete which has not resulted in further problems as far as he was aware since mitigation. The sort of condition talked about would be something to the effect that if this was being allowed, replacing the condition would be made to say that between 6am - 8am the activity at the site shall be restricted to cleaning and prepping of machines and that no loading, unloading or operating of machinery take place either at the building or onsite, over this period workshop doors remain closed apart from allowing pedestrian access.

The SD: PI enquired if this would be a condition in which Mr Cassidy would be agreeable to.

Mr Cassidy advised that this was pretty much the condition he had suggested but the only change would be from 6am – 7am, not 6am – 8am. In response to a query Mr Cassidy advised that 7am is stated on the condition at the moment which he was very happy with.

Mr Marrion (SPO) read out condition no. 12 which is on the permission at the moment:

The development hereby permitted shall not remain open for business prior to 07:00 hrs nor after 20:00hrs Monday to Friday, 08:00 hrs to 14:00 hrs on Saturdays nor at any time on a Sunday.

Mr Cassidy stated that the factory does not open Saturday at all or a Friday.

The SD: PI said that he was highly conscious that members would try and find a way forward but was also highly conscious that Environmental Health have come back with their concerns in recognition of the level of objections. He said that he was not convinced that Environmental Health have considered the use of that condition and asked members to refer this back so Officers can pose this question directly to Environmental Health and ask them if they feel that this condition is unacceptable then to provide us with the empirical evidence on that.

Proposed by Councillor Mallaghan
Seconded by Councillor Varsani and

Resolved That planning application LA09/2019/0179/F be deferred for further consideration. Consultation with Environmental Health to take place on proposed condition.

LA09/2021/1083/F Two storey with lower ground floor replacement dwelling and associated courtyard domestic garages and outbuildings at 9 Mackenny Road, Cookstown for Mrs Wilma Brownlee

Members considered previously circulated report on planning application LA09/2021/1083/F which had a recommendation for approval.

Proposed by Councillor Mallaghan
Seconded by Councillor Clarke and

Resolved That planning application LA09/2021/1083/F be approved subject to conditions as per the officer's report.

LA09/2022/0194/F 2 Agricultural sheds for machinery and feed storage, including photo voltaic panels on southern facing roofs at approx. 40m SW of 14 Bancran Road, Draperstown for Mr D Hegarty

Ms McKinless (SPO) presented previously circulated report on planning application LA09/2022/0194/F which had a recommendation for approval.

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

Councillor Mallaghan left the meeting at 7.31 pm and returned at 7.34 pm.

Ms Kelly thanked the committee for allowing her the opportunity to voice her concerns on behalf of her family regarding this proposal. She advised that her family have lived at their house for over 40 years and are used to normal farming activities with many farmers living with their sheds and garages close to them and if this proposal goes ahead, they will have to live with ongoing third-party farming activities on their doorstep. She advised that they did not want to stand in the way of progress but why does this proposal have to be located so close to her family home when clearly there are other lands available further away from her home. Ms Kelly advised that Environmental Health are limited in their response as they can only comment on the proposal in front of them, but it was clear to see from their response that they are in agreement as they actually say "*given the proximity of this proposal there is a potential for residential amenity to be adversely impacted due to the activities associated with the business, in light of this Environmental Health department recommends in order to retain quality residential amenity and not place restrictions on farming activity, that a suitable separation distance is provided. It's difficult to be restrictive in the distance applied in this department's view, a minimum separation distance of 75m should be applied*". Ms Kelly wished to stress to members that they are using the words "residential amenity" to be adversely impacted due to activities associated with the business and due to the potential for odour and noise pollution, Environmental Health cannot support this application given the current separation

distance. Ms Kelly said that these are the experts in their field and does not think that they would make these comments lightly. A lot of this has been made a suggestion about applying the conditions, the proposed will be used for machinery and field crop storage purposes only and shall be no storage of slurry, manure, silage within the curtilage of the proposed development somehow makes the proposal acceptable and asked how this could be when it is located 30m from her family home. She stated that farming was a 24/7 activity and weather dependent it goes into the night and indeed throughout the night and this could result in third-party activities going on all hours and just have to find this acceptable as Planning has deemed to approve this proposal. She asked how this could be right when there are other proportions of land available to the applicant to situate these sheds and yard. Ms Kelly said that this proposal no matter where located was going to create noise and nuisance but as a family they are asking why it has to be located so close to their family home when this farm has nothing to do with them and in fact it was closer to their family home than to the applicant's and asked how this could be justified. The case officer mentioned double skin insulated panels being used on the shed to help absorb any sound, Ms Kelly advised that no evidence has been found to show how much sound it would absorb and this may be beneficial for the shed located at the recommended 75m away, but the shed that is 30m away from their family home it won't, also this cannot be the fact for the proposed yard, you cannot put double insulated panels on it. The proposed drawing is showing the yard to be only 50m away from the family home when the recommended 75m from Environmental Health. Ms Kelly also noted that within the case officer's report the applicant intends to store crops namely barley, wheat, oats and willows and it was her opinion that once these crops be brought into harvest the need to reduce the moisture content is carried out by mechanical means and enquired if this required the need for a blower and extract system to be installed resulting in noise and nuisance and enquired if this had been clarified with the applicant.

In conclusion, Ms Kelly said that she would appreciate if the committee would take into consideration the affect this proposal will have on her family life and also Environmental Health's comments as they are the experts and do not support this proposal. She cannot see how putting these suggested minimal conditions on this application will make any difference. Ms Kelly said that she would appreciate if the committee would take time to consider all her points regarding the detrimental impact this would have on her family life and felt that an office meeting would have been beneficial to set out their concerns on this proposal and would still be open to this option or even a site visit.

The Service Director of Planning (SD: PI) felt that the objector had put across her view very eloquently and when he looked at the existing farm holding and the fact that there was a laneway going down the road, it does pose the question, why not put those buildings behind the group of existing buildings and existing house. The SD: PI did have some sympathy with what's being said but equally that whilst a condition can be attached to it, it's always hard to regulate what's going on and whether it would be nuisance or not. The SD: PI felt that the best thing that could occur is that something could be accommodated in such a way that this could be used for a range of farming activities as needs arrive. However, he also understood i.e. the farmer needs the building for tractors and had argument that although he only

owned 50 acres or something similar, that he had a lot of farm equipment and needed the buildings to store it.

The SD: PI said that rather than an office meeting, and whilst he wouldn't suggest this normally straight away, he wouldn't see any harm in members having a look to see if they were content with the position as shown or possibly deciding it may be better in a different position. He felt that due to the arguments it may be beneficial for Ms Doyle, Head of Local Planning (HLP) to also have a look at it.

The Chair felt that this would be a useful proposal and although the recent drawing was helpful, felt that nothing beats being out on site.

Councillor McFlynn sought legal advice on where the Council stands on this as the recommendation states that the agricultural sheds should not be closer than 75m and enquired if this was the case here where it was too close.

The SD: PI stated that the 75m was a general rule of thumb, rather than a regulation as it normally felt that a normal agricultural building if 75m away should be ok as there would be enough to disperse the smells, but obviously if talking about something more intensive, a much bigger distance may be required. Environmental Health has provided 2 approaches to this, on one hand they are saying it should be 75m, but if it was just farm machinery that would be ok. He advised that the SPO was out and looked at the site and it was her opinion that the land levels with those conditions were ok and he trusted her view. The SD: PI said that in his own mind there should be a conclusion to keep everyone happy here and best way in his opinion would be for members to go and have a look for themselves and make that informed decision.

Councillor Black said that he had listened intently to what the objector had said about not being against the application in principle and felt that it was important for members to have a look at this proposal and make a final decision.

Proposed by Councillor S McPeake
Seconded by Councillor Mallaghan and

Resolved That planning application LA09/2022/0194/F be deferred for a members' site visit.

LA09/2022/0314/F Retention of 2 additional fun farm buildings with the reconfiguration of parking and turning areas (approved LA09/2017/1704/F) and the utilisation of the existing access lane, with improvements to the existing access, to serve the business (lane approved under LA09/2017/1704/F not to be built) at 250m NE of 260 Drum Road, Cookstown for Martin McDonald

Councillor Mallaghan declared an interest in the above application.

Councillor Clarke declared an interest in the above application.

Ms McKinless (SPO) presented previously circulated report for planning application LA09/2022/0314/F which had a recommendation for approval. She referred to previously circulated addendum which included correspondence from Mr Keith Buchanan MLA.

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

Ms Conway advised the committee she was representing her family which has used this lane to access their farmlands for over 30 years. As stated within the planning report, the laneway which is a single track also provides access to a former sand and gravel pit which appears to be redundant in addition to third party farmlands, there are no passing bays on the laneway and this is bounded by mature trees to the southeast on a standing mature woodland former landfill site to the northwest. Currently the sand and gravel pit is active with lorries transporting products and farmlands heavy machinery with no passing bays on the laneway. Within the report it states that there is an expectation that the quarry and the fun-farm liaise to ensure satisfactory arrangements are in place, how can this committee satisfy itself that the expectation between the quarry operator and fun-farm operator liaise to ensure satisfactory arrangements are in place. Safety is not an expectation; it is a requirement as there is no physical room for this traffic to meet above the possible 20m section if at all provided as it was a single-track lane. Environmental Health report focused on access to the quarry by visitors etc and not traffic on the laneway. As stated within the report the access works which were required under LA09/2017/1704/F included the widening of the first 20m to a width of 8m as per condition has not been provided. Ms Conway enquired if this Council was content that this amount of traffic, agricultural, industrial and pleasure which all share this laneway including visitor attraction entering and existing onto a shared site one track laneway. The DfI report clearly and rightly indicates they are concerned to, from the laneway onto the public road, but the laneway is causing serious access issues to their lands and businesses, DfI will have limited concerns over private laneway safety that will lay with this committee. It is concerning that a safe access route to this visitor attraction:

- a) not built under LA09/2017/1704/F with no enforcement carried out
- b) that this application in part is to remove that degree of safety to this site

Ms Conway stated as the enforcing authority as both planning and visitor attractions both Environmental Health and this committee will share the responsibility if this decision is made and can they satisfy themselves that the applicant has a legal right of way up the lane in question, never mind alter the lane and under whose ownership. She suggested that the committee visit the site and satisfy themselves that there are no issues concerning safety that will come back on this committee.

The Chair advised that a request to speak in support of the application had been received and invited Ms Gourley to address the committee.

Ms Gourley advised that as previously stated by the SPO McDonald's fun-farm has been approved, established and operated for a few years and bringing much needed

tourism to the Mid Ulster area. Admittedly, the negative condition of the 2017 approval for access improvements were not carried out prior to operations beginning but following receipt of enforcement notice last summer, these works have now been completed to the satisfaction to both the Enforcement team and DfI Roads. In terms of who actually owns the lane which was critical, Ms Gourley advised that at the centre of this dispute Mid Ulster Council has been supplied with maps showing that the lane was jointly owned by Mid Ulster Council and Dan McDonald (applicant's father) neither of the objectors own any part of the lane, Dan McDonald bought this farm ground in 1970's and actively farmed it since, his son Martin started the fun-farm business as a farm diversification project. Note, owners of the quarry to the rear of the fun-farm site have only a right-of-way along the lane, no other party is permitted to use the lane, agricultural traffic should not be on the lane. The farmlands that the farmer accesses were bought without access being in place 10 years ago and not 30 years ago and had asked the applicant for confirmation of this. The applicant Mr McDonald alleges that the quarry no longer benefits from planning permission and this matter has been raised with Mid Ulster Council's Enforcement team and was his belief that excavation taking place is doing so outside the approved boundary and is digging down 20m more than what was previously approved. The late objection which arrived this morning from Mr Keith Buchanan MLA raises concerns with regards to safety along the lane with heavy traffic from the quarry for visiting traffic to the fun-farm, if the quarry is unauthorised, then lorries should not be on the lane. Ms Gourley felt that Planning should not concern themselves regarding land titles, nor protect the interest of one landowner against the other, this is clearly a civil, personal dispute between two neighbouring landowners, a civil matter to be resolved by legal advisors, it does not fall under the remit of Planning nor Mid Ulster Planning Committee. Deferring this application again for a site visit is negatory as a site visit would be entirely pointless as people were unlikely to be onsite at the exact time when the fun-farm is open, people visiting and quarry traffic coming up and down the lane. DfI are the accompanying authority, and they have no issues of safety and delaying it tonight will only drag this case out for another few months with no sign of agreement being reached between parties. Ms Gourley advised that the application meets policy, full consideration has been given to the relevant matters and urged members tonight to agree to this approval and let a decision be issued to allow this fun-farm to bring welcome tourism to the Mid Ulster area.

The Service Director of Planning (SD: PI) enquired why the applicant did not build the access the way it was originally approved.

Ms Gourley said that first and foremost it was a financial issue and for anyone visiting the fun-farm, including herself and her children, the applicant doesn't ask for an entry fee, it's a small-scale business and nothing like the large fun-farm businesses you see across Northern Ireland and the only profit the applicant makes is selling ice-cream to the kids. The expense of creating a new laneway and also the fact they part own the lane, is within his right to use the lane.

The SD: PI said that whilst listening to the objector, the notion of passing bays was presented and to provide a couple of those could be done quite easily by throwing down a few stones and asked if there was anything to prevent the applicant from doing this.

Ms Gourley stated that she had forwarded on photographs today to the SPO showing a large grass verge along the laneway where a car can pull in and park easily if a lorry was emerging from the quarry and this could be indicated on the drawings.

The SD: PI felt that this would be a very good idea. He said that he had listened to the objector and ultimately this had been raised by her and asked why this has not been done. The SD: PI said if this could be accommodated that this would make sense for everyone concerned as it was evident that clearly there was a dispute taking place between the parties and he did not intend standing in the middle on whether to take enforcement action against this person or that person and the only thing that he does know is that it won't work well for anybody. He said the best thing to do here is to try and accommodate everyone including the Council as we are interested in everybody's safety.

The SD: PI requested that there be revised drawings showing passing bays and these only need hardcore or gravel.

Ms Gourley said that the request could be accommodated and asked would it be possible not to delay a decision being reached tonight.

The SD: PI said that in his opinion that nothing would be lost in delaying the decision as it wasn't a case of an enforcement notice being used in preventing the fun-farm from operating and was a logical way of resolving the matter.

The Chair advised if this was as straight forward as the SD: PI alluded to, drawings being provided to the Officers that clearly shows the implementation of passing bays, created and constructed within the width of the lane both sides and if that satisfies the Officers then an approval could be issued.

Councillor Black advised that he had listened intently to what all parties has said and in his own head has tried to sort the wheat from the chaff so to speak, there has been a lot of comments made and would agree some of those are civil issues and obviously isn't something that we need to take on board from a Planning perspective. However, he felt there were a couple of things that needs to be looked at here, reference made to no safety concerns relating to Dfl and there has 20m provided here, but obviously lane would be much further up to get the vehicles to their destination. There was a comment made that Council are the body responsible for visitor attractions and does put an onus on us as a committee to make sure there are no other things that we need to be concerned with. The member felt that the SD: PI made a reasonable suggestion in relation to passing bays which might alleviate some of these problems but felt that it would be valuable for us as a committee to look at this in person to make sure that a solution put forward for passing bays does resolve the issue. The member felt that this would provide members with an opportunity to satisfy ourselves as a committee that there was nothing else we needed to be taking on board here due to the safety concerns which have been raised which might come back and cause concerns at a later date. The member felt that it would be important to look at this in conjunction with the revised plan provided and proposed that a members' site visit be arranged to give us time to do that.

The Chair said that whilst he appreciated what the member had stated, he also was listening attentively to Ms Gourley in support of the application, and she convinced him that being onsite wasn't actually going to benefit us much as it was an civil matter regarding the ownership of the laneway and reiterated his suggestion if the drawing could be provided and satisfy the planning officers that passing bays can be accommodated within the lane, then this was sufficient for him for an approval and doesn't have to come back to committee for decision.

Councillor Mallaghan said that he had already declared an interest in the application and wished to explain to the committee why. He advised that he had met all parties within this dispute in a roll to try and bring it to some sort of conclusion. He said that there was no doubt that a fun-farm in Kildress would be a great thing and has over this last number of years built up a good bit of tourism infrastructure in the Kildress area with Davagh and everything else and the more attractions we bring in the better which means people can stay longer and do more. The member advised that there were also other people trying to work on this lane and make a living like everyone else and the issue here is that if the lane was no longer blocked in the future, all these objections would fall away immediately, and this was really the issue here. He felt it was time to draw a line in the sand and if McDonalds would agree to let other people use the laneway, he felt that all these objections could be withdrawn, and everyone could move on and live happily ever after. He said that his Grandfather used to have a saying "*you will have your neighbours when you won't have your friends*" and this would be a big advantage here if everyone could work on their relationship a bit better to try and work with each other, work together, look out for each other, do business together to try and move this forward. The longer this goes on for all parties, the more expensive and difficult it is going to get and everyone should give good consideration at this stage to burying the hatchet to resolve the matter.

Councillor Cuthbertson seconded Councillor Black's proposal.

Councillor Cuthbertson referred to the laneway where it was said that Mid Ulster District Council had a role in this and enquired if the applicant had to consult with the other owner in relation to altering or widening the lane, constructing bays or would there be a role for Mid Ulster Council to be consulted on.

The SD: PI said that he would take the view as this was private and and we have a request to declare it as a public public right-of-way, but it is private land therefore any dispute on the access is a private matter between the parties concerned. In relation to the issue of safety, we know from Roads Service they adopt a cautious approach to a protected route and thus they have not considered lightly. Roads Service would only be concerned if a private laneway impacted on the main road, which in this case they are satisfied. The Council still has a duty of care to consider safety of those on the laneway and it's crystal clear from the objector that they would be content if there were passing bays implemented which can be seen as a logical way of resolving this dispute.

The Chair advised that he put forward his proposal to agree the recommendation with the conditions attached but no seconder has been reached.

He stated that there was another counterproposal to carry out a members' site visit and would leave up to members to make the decision.

The SD: PI said members may feel there was a benefit to having a site visit, but he wouldn't be continually encouraging them to arrange site visits as this Council has a lot of deferred applications, equally said that when there is a dispute between parties which is fairly strong, it makes good sense to have a look at things as this will be on record.

Ms Gourley advised that she could have the amended drawings submitted before members carry out their site visit.

Resolved That planning application LA09/2022/0314/F be deferred for a Members site visit. Agent to submit additional information.

LA09/2022/0624/F Section 54 application for approval LA09/2017/0487/F to remove the requirement of road widening & provision of an additional footpath along the entire frontage of the development as safe access on both approaches to the development have now been provided in accordance with the approved stamped drawings at Clonoe O'Rahilly GFC, 93 Washingbay Road, Coalisland for Clonoe O'Rahilly GFC

Members considered previously circulated report on planning application LA09/2022/0624/F which had a recommendation for approval.

Proposed by Councillor Carney
Seconded by Councillor Kerr

To accept the recommendation.

The Chair advised that Mr Gordon Noble from Dfl was in attendance and invited him to address the committee.

Mr Noble advised that the footway was approved as part of the original application in 2017 and this application was to remove that condition from that. From Dfl's point of view they are consistent to the approach they are taking from this, the baseline of the footway across the frontage was agreed through the applicant's planning consultant and through the Planning committee with subsequent conditions. He said that it was standard practice for Dfl when any application comes forward that they look for consistency of getting frontage development across here. In this particular case in the development of this site there is intensification of use whenever the site is being developed, this gives Dfl a reason to ask for these infrastructure upgrades which are then required from this. The site as developed will be extra footpath and extra users. Even though Mid Ulster District Council Active Travel Scheme had already provided an access to the eastern side for the village out, Dfl are still of the opinion the footway across the actual frontage to join the two western and eastern accesses

should be conditioned to be part of the overall development. It wasn't Dfl Roads who created the need for this footway, it was the development that created the need for it. In terms of development management practice note, there is 6 conditions which should be met:

- Necessary
- Relevant to Planning
- Relevant to the development to be permitted
- Enforceable
- Precise
- Reasonable in all other respects

Dfl's main aim is to travel by a sustainable mode which they were moving towards to try and reduce the dependency on cars to get to various sites. In keeping with the general principle 5 of PPS13 Transport and Land where applicants are required to bear the cost of the transport infrastructure in regard to their development. Due to multi use development this is relevant Dfl Roads have no objections to the vehicular access to the site, the only issue they have is that a continuous footpath should be provided along the south side of the Washingbay Road for the convenience and safety of pedestrians.

Mr Noble said that he would like the committee to take on board their responsibility when they were making their decision as they were potential asking pedestrians to cross the road twice to get across the road to use the opposite footway and then cross back again which would not be a safe method of travel for pedestrians or cyclists.

In summary Dfl Roads position is that the road linkage across the frontage should be continued to be included as granted in 2017 application and would suggest that Section 54 is not approved at this point and time.

Councillor Cuthbertson said that it may be useful to hear from the Case Officer in relation to how the decision was made to recommend the application for approval when going against the recommendation from Dfl Roads on safety concerns.

Mr Marrion (SPO) referred to what Mr Noble alluded to and stated that his application relates to the condition for the need for a continuous footpath link along the south side of Washingbay Road in association with planning permission granted for facilities at the site. The SPO took members through the overhead map of the site indicating access and pedestrian access points. The applicants have advised that they have provided access for pedestrians who would be accessing the site which has been done in a safe manner including widening the footpath and setting the wall back to the east side of the site as well as crossing points on the Washingbay Road. On the west side of the site, they have provided pedestrian access as well as crossing points on the Washingbay Road which provides linkages to the continuous footpath on that side of the road. Mr Marrion (SPO) agreed with what Mr Noble stated, that this had been completed as part of the Active Travel Scheme and as far as the applicant's aware this has been agreed with Dfl as part of that scheme. Dfl Roads have advised that they are not content with this, and they have requested the footpath be provided in its entirety across the frontage. Dfl Roads have rolled back on their request on the full standard of the footpath, they

said that they will accept this standard, but they would require details to be able to approve those. The SPO said that Mr Noble alluded to their 6 tests for planning conditions as set out within the report and in this case he didn't think it was necessary for this development as the applicant has provided access for pedestrians from the two desire lines either side of it, anyone from the west would be coming from the opposite side anyway and then crossing the road to access the site from the west and anyone coming from the village to the east will be coming towards the access into the site. The SPO said that it would be logical to provide a footpath link across the frontage of the site here whether or not it is necessary is the question that needs to be asked and stated that there was no further development to the west which is zoned within the settlement limits, there is nothing else within the direction that would be a significant traffic generator for pedestrian traffic which would require anything to be put across the frontage. Mr Marrion (SPO) referred to overhead map advising that there is a hard verge towards the village, surfaced over as part of the road improvements along Washingbay Road and the other side of that is a verge which goes up to the access point, which is there already. Mr Noble alluded to any future developers being held to ransom, the SPO advised that there was ground there and was up to those developers to come forward at any point in the future to provide those. Mr Marrion (SPO) advised that this was his reasoning for not requesting that and although he can see DfI Roads Service point and position that it would be desirable to have that and logical also, but this really comes down to not being necessary for this development.

The SD: PI enquired if the Club were time locked into when the works needs to be completed.

Mr Marrion (SPO) advised that the condition at the moment is a pre-commencement condition, planning permission was granted for this in August 2018, co pre-commencement condition must be met before the end of August this year or else the planning permission will not have commenced on time and would have to be reconsidered.

The SD: PI enquired if this would be consequence for the Club if they are drawing down funding for this work.

Mr Marrion (SPO) said as far as he was aware the Club were applying for funding; they have advised that they are ready to start and the only thing that is preventing them from starting is that the pre-commencement condition hasn't been met.

The SD: PI suggested that a compromise might be that the Club be required to put the pavement in along their part frontage but not all of the frontage.

Mr Noble said that this would be something that could be considered as reasonable if the Club put in the 2m wide footway across their own frontage.

The SD: PI advised that this was how planning treat most private developers, they would deal with their own site.

Councillor Mallaghan advised that Mr Noble made reference within his remarks about intensification and whilst these would be improvements at the Club, it would

remain the same size, same number of members, same number of users but only better facilities. The member stated that within his own Club, they had spent a lot of money developing the site, but there was going to be the same number of users each week, each month and would like to get a bit of background on this.

Mr Noble in replying to member's query advised that when a facility is upgraded there may be the same number of users, but this would intensify as they would be using the facilities more frequently when there is a better gym and better training facilities.

Mr Noble in response to the SD: PI's query advised that DfI Roads would still like to see some kind of pedestrian linkage footway along the access from the west to the east as the desired line isn't always through the actual site along the front. Consideration could be given for the Club constructing a footway along the area in which they own and whatever width available along the grass verge along the two private dwellings and full access when you go to the other point controlled by the Club again. Mr Noble said that he was aware of these being pre-commencement conditions and was also aware how useful this would be to the village, so there could be an option to change this into a pre-operation condition which would help the Club to draw down the funding.

Councillor Clarke said that by listening to this debate he thought of a different situation that he was aware of. He referred to a local very busy community village where there is a 30m stretch of footpath which has never been put in place by DfI themselves and continuously on Roads Service's forward planning and never done. If DfI haven't got the money to do 30m, he felt it was a bit oppressive to ask a Club to do that on land that they don't actually own.

Councillor Quinn said that this issue has been ongoing for years and sitting here tonight listening to a lot of talk about compromise, the Club have already compromised on this. This restriction was placed quite a number of years ago, the Club for years have been trying to get it removed because it was stopping them from getting money and investment into what will be a fantastic facility for the local area. The Club reached a compromise where they knocked down part of the wall, they were then helped by the Council to form part of a footpath to essentially create two entrances into this site, second entrance was for most of the traffic flow and footfall coming from, they put the money in and was led to believe that this would be enough and now tonight DfI are saying that it's not enough and wanting more of a footpath being built that they have already funded, through private land that the Club doesn't own. The member stated that this would be a footpath that people would not be using because people will be using the brand-new entrance which will be designed for pedestrians. This will be a state-of-the-art facility for the community and this footpath is the only thing that is holding them back. It is a struggle to get money and although he understands DfI Roads objections, the Club has done everything that has been required of them and it's ridiculous as there are smaller footpaths in the country that DfI have not funded for.

Councillor Carney advised that this has been developed through Active Travel and is more than sufficient to ensure safe access for traffic coming from the east and west of the Club as set out in the case officer's drawings. The ground required comes

across two private properties and requires them to give substantial parts of their front gardens and this footpath will only service those two homes which does not benefit anyone as there is two access points which pedestrians can safely use. The member felt what was being asked here tonight would be an unnecessary burden for the Club who have been raising the funds for a new development and given the currently circumstances with the cost of living and budget crisis it's an ask for the Club as it will not add to their development.

Councillor Kerr stated that the proposal has been recommended for approval and should proceed. The member felt that any further delay of the development would be to the detriment of Clonoe GAA Club and if this was approved here tonight there would be no further delay to O'Rahilly Club's plans for development as he was aware of them having several projects which currently, they were working on which was going to cause a lot of finance. The member felt that best way to proceed tonight was to approve the recommendation so not to further delay progress being made and does not believe suggestion made by Dfl regarding the footway will have much of a footfall for local residents as the infrastructure is already in place to deal with pedestrians and traffic which is sufficient.

Councillor Cuthbertson said that a member had made reference about a delay on this proposal and felt that we should not be taking the blame as the original application was halfway between 2017 and approved early 2018. This application to remove the condition of approval was only submitted in 2022 and felt that Council hasn't delayed anything for 5 years. The committee seen fit in 2018 to approve the application with this condition on it on the advice of Dfl Roads at the time and felt that it would be totally unwise to cast adrift what Mr Noble is saying and felt there was room for negotiation on it as it was mentioned earlier that there was potential for agreement to not insist on the full standard which would probably be a narrower footpath. The member referred to the case officer's update on access points but he was not familiar with the location and felt that the committee could not determine where a child is going to cross the road and it good to see that there were no accidents to date but going forward if we totally cast aside what Dfl are saying on a safety issue and something happens down the road, he felt that people would be pointing the finger of blame on us. The member felt that the two parties should sit down and reach a compromise, whether it be a footpath in front of the development or to a lesser standard but felt there was a need to have some sort of an agreement.

The SD: PI said that it was quite clear that most members sitting around the table here tonight feel that it would be unreasonable to stop the development.

Councillor Mallaghan stated that this was not a counterproposal as such but sought more clarification on the issue. The member referred to the time issue and said if this was not going to be sorted out tonight then it would expire this month and this would cause great expense for the Club in one regard. He referred to the intensification again for a second time as he felt there would be no intensification of use at this site because anyone who was a member of a GAA Club will know, you could built the Taj Mahal at your club and still have difficulty getting new members coming in as there was a certain threshold of people to join a club. The member advised that he looked at the maps and there is a footway on the opposite side of the road and made a crossing point on the Coalisland side and the new Active Travel

scheme, a brand-new entrance at the Clonoe side. The member said that this facility was very well catered for in terms of pedestrians walking to and from their club, in fact there were other places around the country having this sitting outside their premises would be more than happy with it. He said that he would always take DfI concerns into consideration but in these circumstances, there are private properties that sit in between and felt it was generally wholly unnecessary to put this in place and would guarantee that no-one steps foot on it which proves how unnecessary it would be. The member felt that whilst it is important to take good consideration of everything which committee has been told here, it was his opinion that the people who are going to access this club on foot are very well catered for as the provision is already there.

The SD: PI said from what he was drawing from what was said was agreeing to his option of putting in some sort of footway at a later date and felt that what was being said was the most sensible way to proceed along the frontage.

Councillor Mallaghan proposed to accept the recommendation for approval tonight.

Mr Noble in response to SD: PI enquired when the committee talks about protecting the line does that mean that there would be sufficient space left for the Department or someone else to provide a 2m footway in the future or are we still talking about the Club constructing a 2m wide footway along their ground or something standard across the two private houses.

The SD: PI would suggest getting a drawing shaded and between Mr Noble and the case officer to identify the area protected so there is no obstruction.

The SD: PI felt that there was control here as people on the other side of the road will go to the GAA Club and no evidence that this is a road hazard to date and in his view that this area is protected.

The Chair advised that a request to speak in support of the application had been received and invited Mr Declan Diamond to address the committee.

Mr Diamond advised that he was the agent supporting the Club on traffic and transport matters through the application. He stated that he wished to clarify a few points. Firstly, comment around the original approval and was correct to say that the condition was applied at the original time but the ground conditions have changed since that time as pointed out by others as the Active Travel Scheme was implemented prior to the original approval and the pedestrian approvals put in place after that approval. A standardised footway has been built, tactile paving has been provided, pedestrian guard rails have been installed which would safeguard that element of safety of children running onto the road, speed bumps provided along the Washingbay Road to reduce traffic speeds, which has improved accessibility for walking and wheeling trips. DfI's position is that the removal of planning conditions would mean a safe means of access, but they fail to recognise that a safe access has been achieved with the recent improvement works. He asked members to note that these improvement works have created a safer means of access and the proposal put forward by the Department advising that they would access a

substandard less than 2m footway and the question he would raise is how would a substandard safer than what was currently on the ground.

In response to a query, Mr Noble advised that the scheme which was implemented through Mid Ulster Council for the Active Travel Scheme was actually funded by DfI and this was where the two access points came from and asked if the SD: PI was enquiring if he thought it was dangerous.

The SD: PI said that he was asking if the Active Travel Scheme made getting to that Club safe.

Mr Noble agreed that it did make it safer.

Councillor Clarke seconded Councillor Mallaghan's proposal.

Councillor Kerr said that as far as he was aware there were a few more speakers in attendance here tonight who were also in favour of the application and asked that they also be given an opportunity to address the committee.

The Chair advised that the total time of 3 minutes speaking on the application by the agents had been used.

Councillor Kerr said that he would like to hear the other speakers to help him make his mind up.

The Chair said that he would allow 1 minute only as time had already been exceeded discussing this case.

The Chair welcomed to the committee Ms Lisa Shannon and invited her to address the committee.

Ms Shannon said that her company were the planning consultants for the applicant and wanted to fully endorse the case officer's recommendation to approve the application as it was both key to the planning history and the recent infrastructure improvements in the area are key considerations. She said that there were a number of subsequent planning approvals on the site which confirms development on the original approval can proceed without the need for any additional onsite infrastructure improvements. In regard to intensification, the non-material change was a much lesser scheme than what was previously granted in terms of parking spaces and recreational area. She said that it was felt unnecessary to provide the full footpath link which has been agreed by planning officers, pedestrians have already been provided for with safe pedestrian access from both directions due to those recent infrastructure improvements. She agreed with comments made previously on it being unfair for a voluntary organisation being required to undertake these works with no additional benefit to the works already undertaken.

Councillor Mallaghan confirmed that his proposal was to accept the condition as it was and that the wording in it covers what exactly with Dr Boomer had alluded to in terms of protecting the line as it has to be dealt with when the drawings come back at a later date.

The Chair asked if the original proposers, Councillor Carney and Councillor Kerr if they were happy to agree to Councillor Mallaghan's proposal.

Councillor Carney and Councillor Kerr both agreed.

Councillor Cuthbertson stated that he wished to put it on record that he was not happy to go against DfI Roads Service advice in this instance.

Proposed by Councillor Mallaghan
Seconded by Councillor Clarke and

Resolved That planning application LA09/2021/0624/F be approved subject to conditions as per the officer's report.

LA09/2022/1106/F Replacement Dwelling and Carport at 5 Greenvale, Cookstown for Mr Odran McCracken

Members considered previously circulated report on planning application LA09/2022/1106/F which had a recommendation for approval.

Proposed by Councillor Mallaghan
Seconded by Councillor Clarke and

Resolved That planning application LA09/2022/1106/F be approved subject to conditions as per the officer's report.

LA09/2022/1288/O Replacement dwelling as a result of a fire damaged house at 15 Finulagh Road, Castlecaulfield for Ryan McGurk

Members considered previously circulated report on planning application LA09/2022/1288/O which had a recommendation for approval.

Proposed by Councillor McElvogue
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2022/1288/O be approved subject to conditions as per the officer's report.

LA09/2022/1419/O Single detached Bungalow with associated external private amenity space and garage at lands to the W of 4,5,6 & 7 Riverdale Drive, Cookstown for Mr Sammy Lyle

Ms McKinless (SPO) presented a report on planning application LA09/2022/1419/O advising that it was recommended for refusal.

Councillor Clarke left the meeting at 9.04 pm and returned at 9.06 pm.

The Chair advised that a request to speak in support of the application had been received and invited Mr Tong to address the committee.

Mr Tong thanked the committee in allowing him the opportunity to be here tonight. He said that he had received the case officer's report and wished to look into the reasons for refusal. He referred to CTY2A and CTY13 of PPS 21 and said that the reason that this was here because it appears to be a very restricted site but if members look at the fenced off area of 75m sq. was put out there because within the Creating Places recommendations was twice the size of the recommended requirement for that scheme, but when members look at the overhead map of shaded green area which was all within the applicant's ownership, this could be extended if required. The other reason given was the proximity to the main Dungannon Road. Since the writing of the report the condition between the site and road itself has actually been improved by DfI Roads for new cycle and footpath way and this has created a natural buffer zone between the road and site itself. There is a precedent of a dwelling in a very similar condition at Westland Road South where amenity space was bounded by two roads at an actual roundabout with the site area being less on this proposal here which had actually been granted approval in June 2018. He concluded by saying that all the dwellings in the cul-de-sac were individual with different garden sizes and would welcome a further site meeting.

Councillor Black said that by listening to what both the case officer and the agent alluded to it may be worthwhile having a site visit for members to determine for themselves.

Proposed by Councillor Black
Seconded by Councillor S McPeake and

Resolved That planning application LA09/2022/1419/O be deferred for a members site visit.

Councillor Mallaghan left the meeting at 9.10 pm and returned at 9.14 pm.

Councillor McElvogue left the meeting at 9.11 pm and returned at 9.14 pm.

P084/23 Receive Report on DfI Notice of Opinion on LA03/2021/0940/F.

The Service Director of Planning (SD: PI) presented previously circulated report to advise members of DfI's Notice of Opinion to approve an application which seeks the non-compliance with conditions number 07 and condition number 12 of planning approval LA03/2021/0940/F.

DfI have invited any requests for an opportunity to appear before and be heard by the Planning Appeals Commission, or a person appointed by the Department for the purpose of a hearing, in writing, within 8 weeks from the date of service of the Notice.

Councillor Clarke said the first thing he has been made aware of in relation to nighttime working and various species which may be affected by it that RSPB have not been consulted. The member found it remiss of any application of all important aspects of nature and not something to be pushed to the side. There are concerns, NED has concerns as this is a major change to an approval which has been granted

with two conditions attached and now asking for them to be removed. The member stated that these two conditions were very important as we all know how important Lough Neagh and its environs is to the bird population, the diving ducks etc. the area where this work is carried out is where there is a lot of activity so much so that no active survey has been done, because it cannot be done, they are aware of quite a number of species which operate within that area in the night-time. He said he had read through the document and the amount of palaver, 66 pages and quite a number of these pages is totally irrelevant as it wasn't about what the conditions area, it was stated that it was a small area, and this is totally irrelevant if it is having a serious impact on the population of wildlife which survives in that area. He said that although it is a small area of Lough Neagh it is still a large area, its stated about the importance of a shore, this wouldn't be there without a Lough and felt that there was a lot of nonsense put forward. The member said that he has went through the report and this was typical of what happens, an application is made and granted in this sort of field conditions and the first thing you do is try and remove the conditions, but these conditions are put in for a reason and those reasons have not changed since then. The member referred to item 6.20 where there is a reference to a Tourism Opportunity Zones (TOZs) – Washingbay, Mountjoy, Traad Point and the Battery but only in relation to the shore and felt that without the Lough there would be no shore. Traad Point is property belonging to this Council which is hoped to be the subject of enhancement in the near future and very close to this site. The member felt that this Council shouldn't be taking a flippant attitude to this proposal to remove 2 of the conditions.

Councillor Varsani felt that there were a number of considerations in this regard. Firstly, sand removal from the Lough was taking place for some 70 years without the proper permissions and it was her belief that this was before 2017. The industries were forced to make an application which was good and proper, we are not talking about banning sand extraction at this point and was important to remember that this was in context in what was quite a long and protracted series and process of trying to find out what should and should not be going on on the Lough. The member said that it was her understanding that there was an exhaustive previous procedure leading up to permission being granted, however it was her understanding that there have been 46 potential planning breaches in relation to sand and gravel extraction from Lough Neagh in the two years preceding now. There is an onus on ourselves to proceed with caution, the precautionary principle which has been upheld by the court of appeal says we cannot move forward with processes or development if we are now sure about the harm that they may do. Within the report and as previously pointed out by Councillor Clarke there is a lot of discussion within the report, but some is flannel. If you read about what they are saying about the bird surveys, they note the inability to differentiate birds much beyond a 100m range, she asked does birds not fly and what is this supposed to tell us and seems to indicate that there is not enough information at hand. In other words, if experts don't know, how are we suppose to know. Further to this, there has been numerous warnings from across the globe and her locally about the ramped up industrialised extraction of sand, particularly from Lough Neagh and other places across the world. Fisher folk report serious depletion of one's plentiful stock in the Lough, particularly in the areas where this extraction is taking place, in fact the reference they make, the Lough Neagh Fisherman's Cooperative Society call the areas "dead zones", and this is what is being currently talked about. We also know that monitoring reports which have been

requested have been withheld as they are deemed commercially sensitive, so information out there that we do not have our hands on. As previously stated, no Stormont department or any other agency currently carries out regular surveys of the Lough bed, an expert from Newcastle University, Dr Chris Hackney did some research on the scarring at the beds where the dredging has taken place, there are now scars up to 56ft or 17m noted and previously it used to be 13ft deep which is now considerably larger. Permission has been granted for sand extraction and not saying to rescind that, what we are saying is that we need to be extremely careful and when there is so many different elements that are unknown, then there is a need to work on the precautionary principle. The member stated that one of the current objectors has said that negation of the previously exhausted considerations amounts to salami slicing and would find it very hard to disagree with that, where permission is granted, it's disregarded, and they ask for different permissions and would be important to proceed with the upmost caution.

Councillor McFlynn concurred with all the sentiments previously made as Lough Neagh is very precious to us and the people of Doss as mentioned within this report, which is on the outskirts of Toome and also Traad Point down at Ballymaguigan. The member advised that there was a bird nature reserve at the site where a local group has been enhanced and wish to retain it the way it is. She referred to the blue/green algae which has appeared right around the Lough and has now travelled down the North Coast to Portrush and Castlerock. The member said if we were going to allow pollution to happen to the Lough, it was going to take 20 to 30 years to bring it back to the way it was before. Approval is there is allow a certain amount of time for the dredgers to go in and should be taken very seriously that they are trying to remove those conditions to dredge all night and continue to pollute the Lough and drive wildlife away. A recent visit to the Fisherman's Cooperative in Toome Eel Fishery, traders and fishermen have indicated that the eel catch is not as good as it used to be, and the pollen fish is also depleting. The member said it saddened her just because industry states that we should align more dredging that we should allow it and felt that it was wrong to continue to destroy the environment of Lough Neagh. She felt that it would be important to make a note to contest this threat in anyway, then the Council should do that.

The SD: PI said that his knowledge of the ecology of Lough Neagh is very weak and would very much welcome the view which has been put by members. He felt the starting point was the precautionary principle as it was a conservation nature reserve of importance. Clearly members have identified concerns that the evidence base has not been adequately in order to inform the decision. Furthermore, the SD: PI knows that this permission may exist but there are unauthorised extractions outside of that i.e. the planning agreement and the supervision of the Lough has not been adequate to stop pirate extraction.

The SD: PI said all that this committee wants is a thorough examination of the issues and suggested writing a very quick holding response to say that we are greatly concerned given the precautionary principle that in applying conditions, that they were applied be necessary based on the evidence provided, we are not satisfied that enough information has been gathered in order to justify this change and would be an erosion of the actual permission given. As a result of this Mid Ulster District Council feels that a public enquiry needs to be held in order to examine the evidence

base. The SD: PI also suggested setting up a member working group to work with Mr Bowman to look further at what the cases and issues are as he wouldn't want to write anything without having any substance.

Councillor Clarke proposed the suggestion made by the SD: PI and wished to say a few things above and beyond what has already been said. The member said that SES (Shared Environmental Services) identify disturbance by barges in the hours of darkness to several species of diving duck wintering on Lough Neagh. He referred to point 6.37, NED has also raised concerns due to the large aggregation of three diving duck species regular occur in proximity to four of the onshore processing sites and the extraction area itself. The member stated that concerns has been raised and the first ultimate one was a body which should have been consulted with was RSPB which were unaware of it and felt that we need to move forward on that basis.

The SD: PI said that he would liaise with Mr Bowman (Head of Strategic Planning – HSP) to convene a meeting to get assistance from Councillors Clarke, Varsani, McFlynn and any other Councillor who may wish to be involved.

Councillor Kerr said that some of the previous members had spoken very articulately and would strongly oppose the removing of any condition as protecting the Lough was very important. The Lough provides a great benefit to the Mid Ulster community as a whole and the recent emerging of algae which is causing great concern for humans, pets and wildlife as it was dangerous and damaging. He felt that the suggestion made would be very worthwhile for members of the Planning committee to try and fact-find and articulate an argument to force the applicants to come up with better answers as all the information needs to be provided to local representatives and the public who has a great interest in the preservation of the Lough.

The Chair felt that Councillor Kerr put forward a very articulate comment which reminded him of once discussing wind turbines and birds with the Permanent Secretary, with the Minister being very dismissive of the impact on bird life and not one example of where a protected species has been killed by flying into a wind turbine. The SD: PI took the Minister to one side and advise him that the reason for that is because the area was a habitat for protected species but if a massive turbine is implemented on the habitat, this would be like a massive scarecrow and therefore the birds will not come and degrade our species in our environment. He felt that sometimes common sense goes out the window as people be looking for the wrong thing.

The SD: PI asked if Councillor Kerr would be interested in being involved the the working group.

Councillor Kerr advised that he would be very interested in being involved.

The Chair advised that it may be worthwhile inviting all the Planning Committee members but wanted to thank those members that spoke in great detail as it was obvious they had went through the report, read it and spoke to other outside agencies, found faults and brought their findings back to committee and were indebted to those members who spent that time in doing this as Council would be

richer and better off for that. He said that when the holding statement and the voice that there should be a public enquiry but when we can inform ourselves and information made towards that or make the argument more detailed, we will have that discussion through a work, task and finish group on this issue.

Proposed by Councillor Clarke
Seconded by Councillor Kerr and

Resolved Agreed that:

- (a) A working group be set up with Planning Committee members and Mr Bowman (Head of Strategic Planning) on concerns relating to the possible removal of pre-approved conditions relating to Lough Neagh.
- (b) Dr Boomer write to Dfl with a holding response summarising the general concerns, request an examination and inviting the Department to address our concerns.

Matters for Information

P085/23 Minutes of Planning Committee Meeting held on 4 July 2023

Members noted minutes of Planning Committee held on 4 July 2023.

Councillor Cuthbertson referred to item P071/23 and where it was resolved “*to progress the decision of the Planning Committee to have a start time of 5pm for its Committee meetings going forward*”. The member said that this also got a hearing at the full Council meeting in July, the Chief Executive did say that if there was consensus or general agreement in the Planning Committee that they would have the authority to do that. Regrettably, at last month's Planning Committee or full Council meeting, members were not furnished with the results of the survey that took place last month, but since that he had found out the results for their preferred time:

- 7pm – 4 committee members in favour
- 6pm – 5 committee members in favour
- 5pm – 7 committee members in favour

Councillor Cuthbertson stated that the way it was presented alluded to the majority of members being in favour of a 5pm start time, whilst in fact it was only 43% of members that was in favour and not the general consensus of the committee. The member felt that this committee was somehow misled on this and should be put on hold and revisited again. He felt that the next meeting in September should remain at a 7pm start time until this is resolved.

The Chair said that he disagreed with the member as the majority view was for a 5pm start time. He said that we were not going to get a view accurately balanced given the numbers of this committee and that was why the survey was carried out to see what the majority wanted, the majority was 7 which was nearly 50% and felt that time was being wasted on this and this matter was not being opened up again and that was his final decision.

Councillor Cuthbertson stated that the figures were not presented to neither of the two meetings.

Councillor Robinson concurred with Councillor Cuthbertson in that the figures were not presented to either of the two meetings. He advised that it was stated at the full Council meeting that the majority had voted for 5pm, this was untrue as the majority did not vote for 5pm, there were 9 members who voted for the other two times.

Councillor Mallaghan advised that the 9 members did not vote for the other two times, 4 voted for 7pm, 5 voted for 6pm and 7 voted for 5pm, so therefore most members voted for 5pm. The member stated that this was proposed and seconded and went through our minutes which was adopted at the full Council meeting in July, so the decision has already been made.

The Chair advised that he also had indicated that this could be reviewed after 3 or 4 months and in his view the meeting should have been enacted tonight but it was unsure whether the issue had to go to the P&R committee or not. The survey was carried out and the majority of the respondents replied and in his view 7 is more than 4 or 5 and this is the way it is.

Councillor Black said that he respected the Chair's position to have the final say but felt that Councillor Cuthbertson had made a valid point as it wasn't the majority of the committee that voted for the 5pm start time and whether it be now or at a future date, he felt the easiest way to resolve this is rather than have three options, that we have two options, then it would be clear to see what the majority of the committee vote for. The member felt that the outcome of 43% isn't entirely accurate on the general consensus of the committee and lean towards to having it reviewed, but if this direction of travel is not being considered, felt that it should be narrowed down to two options in the future to avoid this happening again.

The Chair in conclusion on this matter advised that today there was a note issued from PCSP with four preferred times for a start time for meetings and when a clear preferred option has been made, would members be requested to do it again for a second time to facilitate the other two or three. He stated that the decision has been made which can be reviewed at a later date.

Councillor Cuthbertson proposed to make a vote again.

Councillor Mallaghan advised that a decision has been made by committee and cannot be reviewed for 6 months which was evident within the standing orders.

The Chair concluded the discussion closed.

Live broadcast ended at 9.50 pm.

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Clarke
Seconded by Councillor Mallaghan 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 P086/23 to P088/23.

Matters for Decision

Matters for Information

P086/23 Confidential Minutes of Planning Committee held on 4 July 2023

P087/23 Enforcement Cases Opened

P088/23 Enforcement Cases Closed

P089/23 Duration of Meeting

The meeting was called for 7 pm and concluded at 9.52 pm.

Chair _____

Date _____

Annex A – Introductory Remarks from the Chairperson

Good evening and welcome to the meeting of Mid Ulster District Council's Planning Committee in the Chamber, Magherafelt and virtually.

I specifically welcome the public watching us through the Live Broadcast feed. The Live Broadcast will run for the period of our Open Business but will end just before we move into Confidential Business. I will let you know before this happens.

Just some housekeeping before we commence. Can I remind you:-

- If you have joined the meeting remotely please keep your audio on mute unless invited to speak and then turn it off when finished speaking
- Keep your video on at all times, unless you have bandwidth or internet connection issues, where you are advised to try turning your video off
- If you wish to speak please raise your hand in the meeting or on screen and keep raised until observed by an Officer or myself
- Should we need to take a vote this evening, I will ask each member to confirm whether you are for or against the proposal or abstaining from voting.
- For members attending remotely, note that by voting on any application, you are confirming that you were in attendance for the duration of, and that you heard and saw all relevant information in connection with the application you vote on
- When invited to speak please introduce yourself by name to the meeting. When finished please put your audio to mute.
- For any member attending remotely, if you declare an interest in an item, please turn off your video and keep your audio on mute for the duration of the item.
- An Addendum was emailed to all Committee Members at 5pm today. There is also a hard copy on each desk in the Chamber. Can all members attending remotely please confirm that they received the Addendum and that have had sufficient time to review it?
- If referring to a specific report please reference the report, page or slide being referred to so everyone has a clear understanding
- For members of the public that are exercising a right to speak by remote means, please ensure that you are able to hear and be heard by councillors, officers and any others requesting speaking rights on the particular application. If this isn't the case you must advise the Chair immediately. Please note that once your application has been decided, you will be removed from the meeting. If you wish to view the rest of the meeting, please join the live link.

- Can I remind the public and press that taking photographs of proceedings or the use of any other means to enable persons not present to see or hear any proceedings (whether now or later), or making a contemporaneous oral report of any of the proceedings are all prohibited acts.

Thank you and we will now move to the first item on the agenda - apologies and then roll call of all other Members in attendance.

ADDENDUM TO PLANNING COMMITTEE AGENDA

FOR PLANNING COMMITTEE MEETING ON: 1 August 2023

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

Chairs Business –

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
5.5	Additional agricultural information	Members to note
6.1	Letters of support for Francie Molloy MP and Keith Buchanan MLA, decision for Creagh Concrete	Members to note
6.4	Correspondence from Keith Buchanan MLA	Members to note
6.8	Correspondence from Francie Molloy MP	Members to note