

**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 6 February 2024 in Council Offices, Circular Road, Dungannon and by virtual means**

**Members Present**

Councillor S McPeake, Chair

Councillors Black (5.06 pm), J Buchanan\*, Carney\*, Clarke, Cuthbertson, Graham\*, Kerr, Mallaghan, Martin\*, McConnell, McElvogue, D McPeake\*, Robinson, Varsani

**Officers in Attendance**

Dr Boomer, Service Director of Planning (SD: PI)  
Mr Bowman, Head of Strategic Planning (HSP)\*\*  
Ms Doyle, Head of Local Planning (HLP)  
Mr Marrion, Senior Planning Officer (SPO)  
Ms McCullagh, Senior Planning Officer (SPO)  
Mr McClean, Senior Planning Officer (SPO)  
Ms McKinless, Senior Planning Officer (SPO)  
Ms Scott, Council Solicitor  
Miss Thompson, Committee and Member Services Officer

**Others in Attendance**

LA09/2021/0480/F	Mr Cassidy***
LA09/2021/0676/O	Mr Cassidy***
LA09/2022/0234/O	Mr Cassidy***
LA09/2022/0437/F	Mr Cassidy***
	Mr Molloy MP***
LA09/2023/0105/O	Mr Cassidy***
LA09/2023/0268/O	Mr Cassidy***
	Mr Morgan***
LA09/2023/0328/F	Councillor McNamee*

Councillors Bell\* and Burton\*

\* 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 5.02 pm

**P014/24 Notice of Recording**

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

**P015/24 Apologies**

Councillor McFlynn.

The Chair, Councillor S McPeake extended the condolences of the Planning Committee to Councillor McFlynn following the recent passing of her mother.

#### **P016/24      Declarations of Interest**

The Chair, Councillor S McPeake reminded members of their responsibility with regard to declarations of interest.

Councillor McElvogue declared an interest in agenda item 6.8 – LA09/2022/0541/F.

The Chair, Councillor S McPeake declared an interest in agenda item 6.4 – LA09/2021/0676/O.

#### **P017/24      Chair's Business**

The Service Director of Planning (SD: PI) referred to addendum circulated and the public consultation on the review of Planning Development Management Regulations. It was advised the consultation proposes changes in three areas as follows –

- A review of the classes of development to ensure they reflect current and future development trends and that the associated thresholds take a balanced approach to community consultation in planning applications for major development.
- Proposals to make pre-determination hearings discretionary for Councils which will help focus resources and reduce delays in issuing planning decisions for some planning applications; and
- Proposals to introduce online/digital methods into the pre-application community consultation (PACC) process, to enhance accessibility and encourage participation in the planning process by a broader range of people.

The SD: PI advised that the consultation closes on 3 March 2024 prior to the next Planning Committee and if Members were content he would propose submitting comments on the consultation as follows –

- Support a review of the classes of development as it is felt that it is onerous for sports clubs to go through a community consultation when a new sports pitch is being proposed.
- Support the proposal to make pre-determination hearings discretionary for Councils.
- Support proposals to introduce online/digital methods into the pre-application community consultation process.

**Resolved**      That the Service Director of Planning submit comments to the public consultation on the review of Planning Development Management Regulations as outlined above.

The Service Director of Planning (SD: PI) referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred from tonight's meeting schedule for an office meeting/consideration of additional information –

Agenda Item 5.8 - LA09/2022/1117/F - Retention of shed ancillary to existing business and domestic dwelling and associated works, including extension of domestic and commercial curtilage, landscaping works, garden wall estate fencing and widening of access at 14 Tullydraw Road, Dungannon for Paul McCaul.

Agenda Item 5.11 - LA09/2023/0290/O - Dwelling and garage at lands approximately 93m NE of 19 Coal Pit Road, Dungannon for Mr & Mrs Peter and Carmel McBrien.

Agenda Item 5.12 - LA09/2023/0304/F - Retrospective Farm Diversification Agricultural Storage Shed / Office / Car Valet / Showroom at 47 Crancussy Road, Cookstown for Mr Karl Heron.

Agenda Item 5.14 - LA09/2023/0425/F - Farm building at 200m SW of 31 Camaghy Road South, Galbally, Dungannon for Mr Seamus McGlinchey.

Agenda Item 5.15 - LA09/2023/0426/F - Farm shed to replace existing farm buildings for storage of farm machinery and fodder at 78 Moneygran Road, Kilrea for Mr Damian Shields.

Agenda Item 5.20 – LA09/2023/0652/O - Dwelling on a Farm at Site at 150m W of 18A Ballynacross Road, Maghera for Mr David Fulton.

Agenda Item 5.22 - LA09/2023/0790/F - Garage at 73 Favour Royal Road, Aghnacloy for Mr Stuart Henderson.

Agenda Item 5.23 - LA09/2023/0874/F - Farm shed at lands approx 53m E of 17A Corvanaghan Road, Cookstown for Mr Charles Quinn.

Agenda Item 5.25 - LA09/2023/0906/O - Dwelling and domestic garage at 20m S of 3 Coal Pit Road, Dungannon for Mr Shaun Kelly.

Agenda Item 5.26 - LA09/2023/0916/F - Off site replacement dwelling and garage at 180m W of 16 Carnose Road, Cranny, Moneymore for Mr Gregory McGovern.

Agenda Item 5.27 - LA09/2023/1064/O - Dwelling and garage at lands opposite 20 Moor Road, Corr, Dungannon for Mr Sean O'Brien.

Agenda Item 5.28 - LA09/2023/1070/O - Dwelling and garage adjacent to 59 and 24m SE of 55 Killary Lane, Killary, Stewartstown, Dungannon for Mr Brian Corr.

Agenda Item 5.29 - LA09/2023/1071/O - Dwelling and garage at approx 50m NE of 2 Cullenramer Road, Dungannon for Mr Michael Walls.

Agenda Item 5.31 - LA09/2023/1159/F - 2no. Infill dwellings and domestic garages at 50m W of 56 Tobermore Road, Draperstown for Mr Adrian McIvor.

Agenda Item 5.32 - LA09/2023/1286/F - Extension and alterations to dwelling at 22 Ballynagowan Road, Stewartstown for Mr and Mrs Enda and Nuala Devlin.

Agenda Item 5.33 - LA09/2023/1296/F - Car port and first floor extension to side of dwelling at 22 Ferny Ridge, Castlecaulfield for Gareth Hetherington.

Agenda Item 5.34 - LA09/2023/1297/F - Temporary planning permission for the retention of a mobile caravan unit for living accommodation at Site 50m W of 10 Aghnahoe Road, Killeeshill, Dungannon for Trevor Hurst.

Councillor Clarke stated there appeared to be some sort of conflict in numbering between the items listed on the agenda between 5.32 and 5.34 and the reports for those applications.

The SD: PI stated he understood the Councillors comments but highlighted that those three applications are all being recommended for deferral.

Proposed by Councillor Kerr  
Seconded by Councillor Clarke and

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

## **Matters for Decision**

### **P018/24 Planning Applications for Determination**

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

**LA09/2018/0873/LBC**      **Alteration and extension of existing listed building (The Corner House) to include; demolition of ancillary unlisted spaces to the rear of the building, internal alterations and fit out to provide office and meeting space, original ground floor windows to be reinstated and provision of three storey rear extension to provide office and meeting space, canteen and pedestrian link to adjoining premises at 6-8 St Patrick's Street, Draperstown, Magherafelt for Heron Brothers Ltd**

Members considered previously circulated report on planning application LA09/2018/0873/LBC which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor Varsani and

**Resolved** That planning application LA09/2018/0873/LBC be approved subject to conditions as per the officer's report.

**LA09/2018/0887/F**                    **Alterations and extensions of existing listed building (the Corner House) to include: demolition of ancillary unlisted spaces to the rear of the building, internal alterations and fit out to provide office and meeting space, original ground floor windows to be reinstated and provision of three storey rear extension to provide office and meeting space, canteen and pedestrian link to adjoining premises at 6-8 St Patricks Street, Draperstown, Magherafelt for Heron Brothers Ltd**

Members considered previously circulated report on planning application LA09/2018/0887/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor S McPeake and

**Resolved**     That planning application LA09/2018/0887/F be approved subject to conditions as per the officer's report.

**LA09/2019/0331/F**                    **4 span portal framed building to be used for sub-assembly and research/design formation of concrete areas throughout remainder of the site for storage and access and upgrade top parking and associated works (amended description) at Unit 3 Granville Road, Dungannon for McCloskey International Ltd**

Members considered previously circulated report on planning application LA09/2019/0331/F which had a recommendation for approval.

Proposed by Councillor Varsani  
Seconded by Councillor Kerr and

**Resolved**     That planning application LA09/2019/0331/F be approved subject to conditions as per the officer's report.

**LA09/2019/0854/F**                    **New spur road from Greers Road to lands approved (M/2014/0572/O) for outline residential development for maximum of 210 units with access onto Greers Road, Donaghmore Road and Quarry Lane. The right of way road will also provide access to the existing car park (Amended Description) at lands 37m W of 6 Union Place, Dungannon for The Mallon Family**

The Service Director of Planning (SD: PI) asked that this application be taken off the agenda due to an error in certification of land ownership as submitted to the Department meaning that the application cannot be determined at present.

Proposed by Councillor Kerr  
Seconded by Councillor Varsani and

**Resolved** That planning application LA09/2019/0854/F be deferred for clarification of ownership.

**LA09/2019/1011/O                      Housing development at lands to the E & NE of 89 Loup Road, Loup, Moneymore for Mr K Scullion**

Members considered previously circulated report on planning application LA09/2019/1011/O which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor McConnell and

**Resolved** That planning application LA09/2019/1011/O be approved subject to conditions as per the officer's report.

**LA09/2021/0837/F                      Assembly factory buildings and increased hardstanding to the rear of existing manufacturing premises on existing site at 200 Annagher Road, Coalisland, Dungannon for McGrath Engineering Ltd**

Members considered previously circulated report on planning application LA09/2021/0837/F which had a recommendation for approval.

Proposed by Councillor Kerr  
Seconded by Councillor Carney and

**Resolved** That planning application LA09/2021/0837/F be approved subject to conditions as per the officer's report.

**LA09/2022/0607/F                      Housing development consisting of 12 dwellings, 10 semi detached and 2 detached including access road at site immediately E of Ashbrook Nursing Home, 50 Moor Road, Coalisland for D M Investments**

Members considered previously circulated report on planning application LA09/2022/0607/F which had a recommendation for approval.

Proposed by Councillor Kerr  
Seconded by Councillor Carney and

**Resolved** That planning application LA09/2022/0607/F be approved subject to conditions as per the officer's report.

**LA09/2022/1117/F                      Retention of shed ancillary to existing business and domestic dwelling and associated works, including extension of domestic and commercial curtilage, landscaping works, garden wall estate fencing and widening of access at 14 Tullydraw Road, Dungannon for Paul McCaul**

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

**LA09/2022/1638/F**            **Alteration and extension to existing supermarket including change of use. Additional change of use to provide new off licence with first floor store at 53, 55, 57 and 59 Church Street, Cookstown for Mr Pearse Kelly**

Members considered previously circulated report on planning application LA09/2022/1638/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor S McPeake and

**Resolved**    That planning application LA09/2022/1638/F be approved subject to conditions as per the officer's report.

**LA09/2022/1728/F**            **Widening of an established business access to facilitate safe access for HGV vehicles to the Moy Park Hatchery at 16 Main Street, Donaghmore for Mr Michael Quail**

Members considered previously circulated report on planning application LA09/2022/1728/F which had a recommendation for approval.

Proposed by Councillor Varsani  
Seconded by Councillor McConnell and

**Resolved**    That planning application LA09/2022/1728/F be approved subject to conditions as per the officer's report.

**LA09/2023/0290/O**            **Dwelling and garage at lands approximately 93m NE of 19 Coal Pit Road, Dungannon for Mr & Mrs Peter and Carmel McBrien**

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

**LA09/2023/0304/F**            **Retrospective Farm Diversification Agricultural Storage Shed / Office / Car Valet / Showroom at 47 Crancussy Road, Cookstown for Mr Karl Heron**

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

**LA09/2023/0356/F**            **Veterinary Clinic and animal rehabilitation centre, access, landscaping and ancillary site works at lands S of 165 Aughrim Road, Toome for Taurus Hold Co Ltd.**

Members considered previously circulated report on planning application LA09/2023/0356/F which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2023/0356/F be approved subject to conditions as per the officer's report.

**LA09/2023/0425/F**                    **Farm building at 200m SW of 31 Camaghy Road South, Galbally, Dungannon for Mr Seamus McGlinchey**

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

**LA09/2023/0426/F**                    **Farm shed to replace existing farm buildings for storage of farm machinery and fodder at 78 Moneygran Road, Kilrea for Mr Damian Shields**

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

**LA09/2023/0509/O**                    **Site for dwelling and garage at 30m SE of 35 Kilrea Road, Upperlands for Mr Darren McGuckin**

Members considered previously circulated report on planning application LA09/2023/0509/O which had a recommendation for approval.

Proposed by Councillor S McPeake  
Seconded by Councillor Black and

**Resolved** That planning application LA09/2023/0509/O be approved subject to conditions as per the officer's report.

**LA09/2023/0518/O**                    **Site for dwelling and garage at 40m N of 24 Killywoolaghan Road, Ardboe for Christopher Scullion**

Members considered previously circulated report on planning application LA09/2023/0518/O which had a recommendation for approval.

Proposed by Councillor Kerr  
Seconded by Councillor McConnell and

**Resolved** That planning application LA09/2023/0518/O be approved subject to conditions as per the officer's report.

**LA09/2023/0595/F**                    **Conversion of rear yard to beer garden to Public House at The Cosy Corner Bar, 68 Gulladuff Road, Gulladuff for Seamus Boyle**

Members considered previously circulated report on planning application LA09/2023/0595/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor S McPeake and



**Resolved** That planning application LA09/2023/0595/F be approved subject to conditions as per the officer's report.

**LA09/2023/0635/F**                    **Industrial unit and site office in existing industrial park at lands immediately N of Junction of Pomeroy Road & Kilcronagh Road, Cookstown for Mr PJ McGee**

Members considered previously circulated report on planning application LA09/2023/0635/F which had a recommendation for approval.

Proposed by Councillor Mallaghan  
Seconded by Councillor McElvogue and

**Resolved** That planning application LA09/2023/0635/F be approved subject to conditions as per the officer's report.

**LA09/2023/0652/O**                    **Dwelling on a Farm at Site at 150m W of 18A Ballynacross Road, Maghera for Mr David Fulton**

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

**LA09/2023/0733/RM**                    **Dwelling between 66 and 66A Derryoghill Road, Dungannon for Jacinta Hughes**

Members considered previously circulated report on planning application LA09/2023/0733/RM which had a recommendation for approval.

Proposed by Councillor Varsani  
Seconded by Councillor Kerr and

**Resolved** That planning application LA09/2023/0733/RM be approved subject to conditions as per the officer's report.

**LA09/2023/0790/F**                    **Garage at 73 Favour Royal Road, Aughnacloy for Mr Stuart Henderson**

Agreed that application be deferred to consider further information submitted.

**LA09/2023/0874/F**                    **Farm shed at lands approx. 53m E of 17A Corvanaghan Road, Cookstown for Mr Charles Quinn**

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

**LA09/2023/0899/F**                    **Replacement of existing wind turbine as approved (H/2011/0329/F) with a new wind turbine to a hub height of 53m and a rotar diameter of 52m along with associated development at lands approx. 320m SE of 6 Brackaghlislea Road, Draperstown for Mr Austin Kelly**

Members considered previously circulated report on planning application LA09/2023/0899/F which had a recommendation for approval.

Proposed by Councillor S McPeake  
Seconded by Councillor Cuthbertson and

**Resolved**     That planning application LA09/2023/0899/F be approved subject to conditions as per the officer's report.

**LA09/2023/0906/O**                    **Dwelling and domestic garage at 20m S of 3 Coal Pit Road, Dungannon for Mr Shaun Kelly**

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

**LA09/2023/0916/F**                    **Off site replacement dwelling and garage at 180m W of 16 Carncoose Road, Cranny, Moneymore for Mr Gregory McGovern**

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

**LA09/2023/1064/O**                    **Dwelling and garage at lands opposite 20 Moor Road, Corr, Dungannon for Mr Sean O'Brien**

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

**LA09/2023/1070/O**                    **Dwelling and garage adjacent to 59 and 24m SE of 55 Killary Lane, Killary, Stewartstown, Dungannon for Mr Brian Corr**

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

**LA09/2023/1071/O**                    **Dwelling and garage at approx. 50m NE of 2 C Cullenramer Road, Dungannon for Mr Michael Walls**

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

**LA09/2023/1114/F**                    **Office extension and alterations to existing offices at 30 Farlough Road, Dungannon for Mr Darragh Cullen**

Members considered previously circulated report on planning application LA09/2023/1114/F which had a recommendation for approval.

Proposed by Councillor Varsani  
Seconded by Councillor Mallaghan and

**Resolved** That planning application LA09/2023/1114/F be approved subject to conditions as per the officer's report.

**LA09/2023/1159/F**                    **2no. Infill dwellings and domestic garages at 50m W of 56 Tobermore Road, Draperstown for Mr Adrian McIvor**

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

**LA09/2023/1286/F**                    **Extension and alterations to dwelling at 22 Ballynagowan Road, Stewartstown for Mr and Mrs Enda and Nuala Devlin**

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

**LA09/2023/1296/F**                    **Car port and first floor extension to side of dwelling at 22 Ferny Ridge, Castlecaulfield for Gareth Hetherington**

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

**LA09/2023/1297/F**                    **Temporary planning permission for the retention of a mobile caravan unit for living accommodation at Site 50m W of 10 Aghnahoe Road, Killeeshill, Dungannon for Trevor Hurst**

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

**LA09/2020/1046/F**                    **Retention of and relocation of partially constructed farm shed for farm machinery storage, and animal shelter and amendments to the design of approved LA09/2017/0977/F at 40m NE of 28A Toomog, Galbally, Dungannon for Noel McElduff**

Members considered previously circulated report on planning application LA09/2020/1046/F which had a recommendation for approval.

Proposed by Councillor McConnell  
Seconded by Councillor McElvogue and

**Resolved** That planning application LA09/2020/1046/F be approved subject to conditions as per the officer's report.

**LA09/2021/0317/O**                    **Infill dwelling & garage between 23 & 27A Macknagh Lane, Upperlands, Maghera for Mr Paddy McEldowney**

The Head of Local Planning (HLP) presented a report on planning application LA09/2021/0317/O advising that it was recommended for refusal.

Councillor Clarke referred to the confusion over boundaries and ownership and stated that he felt this has been clarified and that there has been confirmation and proof that would meet the concerns.

The Chair, Councillor S McPeake stated he had been at the site meeting and that the concerns related to road frontage and that aerial images had been provided to support the curtilage being in place for over 5 years.

The HLP stated that there is no certificate of lawfulness to extend the curtilage of no. 27a and that the frontage of this dwelling fronts onto a private lane and there is only one dwelling on this private lane.

The Service Director of Planning (SD: PI) asked if the part of land which has been brought into the curtilage looks like a garden area.

The HLP advised that the area is being kept as a biodiversity area and that there are trees which would look to be associated with the dwelling. The HLP referred to the information and images submitted by the agent which show that the land has been used as part of the curtilage of no.27a for in excess of five years.

The SD: PI stated that if Members are satisfied that the evidence provided is reasonable then the area could be read as part of the curtilage of the dwelling.

The Chair, Councillor S McPeake stated that the photographs being shown tonight were not sufficient and having been to the site and having received the additional photographs from the agent it is clear to him that the curtilage comes out to the road.

The SD: PI stated that the key test is the nature of the gap and asked if there are three buildings.

The HLP stated that there is a dwelling and garage to the south of the site however the garage is partially set behind the dwelling therefore it is arguable whether it has a frontage to the road.

The SD: PI stated that if it can be read as two buildings from the road then it could be accepted. The SD: PI asked if the site is only big enough to accommodate two dwellings and from looking at the land take in the vicinity he felt it is clear that no more than two houses could be accommodated. The SD: PI stated that he felt there is good argument that the application can meet policy.

The Chair, Councillor S McPeake stated that from his memory of the site visit the concerns related to the authenticity of the curtilage and that he felt the images supplied show that the curtilage has been extended in excess of five years and comes out to the road.

Councillor Clarke stated that given the images provided he felt that it would be reasonable to approve the application. Councillor Clarke proposed that the application be approved.

Councillor Mallaghan seconded Councillor Clarke's proposal.

The HLP referred to conditions and did not believe a height restriction is necessary.

**Resolved** That planning application LA09/2021/0317/O be approved subject to conditions.

**LA09/2021/0480/F Dwelling and domestic garage within existing cluster at 75m W of 11 Grange Road, Cookstown for Mr Paddy Donnelly**

The Service Director of Planning (SD: PI) asked that this application be deferred for further consideration.

**Resolved** That planning application LA09/2021/0480/F be deferred for further consideration.

*The Chair, Councillor S McPeake vacated the Chair and withdrew from the meeting. Councillor Black took the Chair.*

**LA09/2021/0676/O Relocation of approved site LA09/2018/1646/O to opposite side of road at 70m SW of 11 Motalee Road, Magherafelt for Mrs Gillian Montgomery**

Ms McKinless (SPO) presented a report on planning application LA09/2021/0676/O advising that it was recommended for refusal.

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

Mr Cassidy stated that the officer report now lists two refusal reasons one being added from the original report that the farm is not active. Mr Cassidy stated he was unaware he had to show any activity on the farm and stated he would like a month deferral in order to make the necessary submissions to show that the farm is active and that a deferral would also allow time to address the issues on the planning appeal.

The Service Director of Planning (SD: PI) stated that this site has been to appeal and has been dismissed because it is creating a ribbon and that the grounds for refusal of the application include this. The SD: PI stated it does not get superceded because of a farm case and that nobody is going to lose a house as this farm has the ability to accommodate a dwelling outside of the ribbon. The SD: PI questioned why the applicant should be put to further expense and delay and stated that Members are in a difficult position in that the matter has already been considered by planning appeals and determined.

Councillor Clarke stated that there are no maps or drawings within the officer report for this application on what the Committee is being asked to decide upon and felt that this information should always be provided so that Members can have a visual interpretation on what is there.

The SD: PI accepted it was bad practice if the maps have not been included within the officer report but highlighted that anyone can call up the application and view the

details and that the debate in relation to this application is not related to where the site is. The SD: PI stated that this site has been rehearsed before and has ended up at planning appeal who have dismissed the appeal on grounds of ribboning and change to rural character. The SD: PI advised Members to follow the decision of the Planning Appeals Commission and that if the applicant is dissatisfied then they can go back to planning appeal. The SD: PI stated that if there was a situation of a judicial review Council would inevitably lose because it went against a planning appeals decision and highlighted that the applicant is not going to lose because they have already got a site approved.

The Chair, Councillor Black stated there seems to be some confusion on what evidence is required and that part of the request for deferral related to addressing the issues regarding the planning appeal decision. Councillor Black asked if there was any benefit in allowing the month deferral in order to address those issues.

The SD: PI asked how long the application has been deferred.

Ms McKinless advised that the deferred office meeting took place in September 2022 and at that stage the applicant was asked to submit a stronger farm case. It was advised that the original outline approval remains live until 25 March 2024 so if another deferral is granted then it is running tight to the expiry of the original farm case.

The SD: PI stated that the substantive issue in relation to this application is the siting and the ribboning and suggested that the farm case reason for refusal be dropped and to just go forward with the siting reason for refusal.

The Chair, Councillor Black stated that although a one month deferral would leave things tight it may be worth doing.

Councillor Kerr referred to the agents comments in relation to the inconsistent views of officers.

The SD: PI asked if the agent had been made aware that this site had been refused before.

Ms McKinless stated that details of the planning appeal decision were discussed at the office meeting.

The SD: PI stated that the agent is out of line in saying he has been given inconsistent information in this case as there are records of him being told. The SD: PI stated it is always easy to defer things but that the situation would be the same in a month's time only it would be worse because the applicant would have been given false hope in that if they spend more money then they would get a different result. The SD: PI stated that he is prepared to remove the farm issue from the refusal reasons and if the applicant wants to go back to planning appeal then the issue contested will relate to the previous planning appeal decision. The SD: PI stated that to approve the application would put Members at serious risk and it is giving a false impression to the applicant.

Councillor Clarke proposed to accept the recommendation.

Councillor Mallaghan seconded Councillor Clarke's proposal.

**Resolved** That planning application LA09/2021/0676/O be refused on grounds stated in the officer's report removing refusal reason related to farm case.

*Councillor S McPeake rejoined the meeting and retook the Chair.*

**LA09/2021/1657/F**                    **General purpose storage unit & associated works in association with an established business at 25m NE of 9 Farlough Road, Dungannon for Terramac Fabrication Ltd**

Application Withdrawn.

**LA09/2022/0234/O**                    **Site for dwelling and garage at lands approx. 100m SW of 111 Dunnamore Road, Cookstown for Mr Noel Corey**

Ms McKinless (SPO) presented a report on planning application LA09/2022/0234/O advising that it was recommended for refusal.

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

Mr Cassidy stated that evidence had been submitted to establish if there is an active farm and that this includes a DAERA client ID and flock number created on the 23 November 1999. Receipts were also submitted covering the years 2017-2022 which Council has accepted as indicating that the applicant may have been doing enough works to constitute activity on his land. Mr Cassidy advised that a conacre agreement has also been submitted which indicates that the applicant is leasing a parcel of land immediately adjacent to his home and that additionally the applicant owns a cash crop of woodland which is adjacent to the proposed site. Mr Cassidy stated that additional evidence has also been submitted which includes soil sampling on his lands carried out by DAERA and forestry deforestation details. Mr Cassidy stated that the applicant has demonstrated a level of activity which meets the policy test. Mr Cassidy stated that the second reason for refusal relates to no buildings at the desired location and that this scenario was examined under the Lamont Judicial Review Decision. Mr Cassidy stated that lawyers for Lamont argued that Planning Service had not properly interpreted and applied the relevant provisions in that the proposed dwelling did not link or cluster with a group of established buildings on the farm. It was advised that Mr Justice Treacy acknowledged that case law does not require Planning Service to slavishly follow the policy designed to achieve a broader social and environmental goal but contends that the desired results cannot be ignored. Mr Cassidy stated that as the proposed development fell squarely within cty10 the questions Mr Justice Treacy asked were:

- (a) Did the Planning Service have regard to the policy?
- (b) Did the Planning Service give clear reasons for departing from the policy?
- (c) Did the Planning Service understand the policy?

In the Lamont decision it was found they had not and planning permission was quashed. Mr Cassidy stated that in this case the applicants land is several hundred

metres from his house and garage and that there is no space around his home for a new dwelling. Mr Cassidy stated that the Lamont decision is clear that if the three questions have been considered then consideration can be given to a site where no buildings exist. Mr Cassidy stated that in the words of Mr Justice Treacy, Council do not have to slavishly follow policy and that the Committee can give clear reasons for departing from policy and felt that the officer recommendation should be re-examined.

The Service Director of Planning (SD: PI) stated that buildings on a farm cannot be as easily put aside as the agent says but that there can be reasons they can be overcome. The SD: PI asked if officers are satisfied that there is a farm.

Ms McKinless stated that some receipts and evidence have been provided to indicate that the land is being kept in good agricultural condition. It was advised that the applicant only applied and was granted a Category 3 business number in October 2020.

The SD: PI asked how long the applicant has owned the land.

Ms McKinless advised that a screen shot of a client ID and a flock number dated 1999 were provided along with photographs of a herdbook and tags.

The SD: PI asked if these were in the applicant's name.

Ms McKinless advised that the photographs of the herdbook and tags could not be linked directly to the applicant.

Ms McKinless stated that the main reason for refusal is that there are no verifiable plans to expand or no health and safety reasons for siting beside the buildings but that she did acknowledge that the applicant has no land at the two farm buildings. Ms McKinless stated that the other reason for refusal was that officers are not convinced that there is an established farm business.

The SD: PI stated that officers need to be satisfied that there is an established farm and that further evidence of this is required and if clarified this could be resolved. The SD: PI suggested that the application be deferred in order for the farm business to be substantiated.

**Resolved** That planning application LA09/2022/0234/O be deferred in order for the farm business to be substantiated.

**LA09/2022/0437/F**                      **Farm dwelling at 59 Derryvaren Road, Coalisland for Mr James Campbell**

Mr Marrion (SPO) presented a report on planning application LA09/2022/0437/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 Molloy MP to address the committee in the first instance.



Mr Molloy MP stated he wanted to support the application on the basis that there has been a building on this site for some time and that the level of the ground at the site now is level with the road and the adjacent house. Mr Molloy stated he did not feel the danger of flooding is relevant because of the ground levels and the fact that this is solid ground. Mr Molloy stated that the site is close to the Lough and that a lot of the land in vicinity would flood but highlighted that the road is on a similar level and that this protects the site along with the neighbouring house. Mr Molloy stated that the family have lived in the area for years and that he felt that the land surrounding the site will stand up to the test.

Mr Cassidy stated that the only refusal reason relates to the flood plain and felt that it is interesting to note that Rivers Agency are not recommending refusal of this application. Mr Cassidy stated that in their latest consultation reply dated 23 November 2023 Rivers Agency accept a portion of the application site is above the predicted flood level of 13.97m and highlighted that it is within this area that the new house is proposed and will be sited. Mr Cassidy stated that the levels within the site have remained constant since 2011 and that this can be seen from the fence line in the pictures submitted. Mr Cassidy stated that the site has never flooded and that images provided by Rivers Agency show the worst level of flooding on the site and whilst water comes up to the rear of the site it does not encroach on to where the house is to be built. Mr Cassidy felt that this application could be approved with conditions that all development is situated above the predicted 100 year flood level.

The Service Director of Planning (SD: PI) asked what response has been received from Rivers Agency.

Mr Marrion advised that the Rivers Agency comment relates to the Ordnance Datum level which is 13.97 as being their predicted flooding level.

The SD: PI asked if this is the level taking into account global warming.

Mr Marrion advised this is the level Rivers Agency are predicting and have commented that part of the site is above the 13.97 level.

The SD: PI stated that the policy refers to once in 100 years fluvial flood plain and if this is applied there is land left which the proposal could be sited on.

Councillor Clarke stated that Rivers Agency have indicated that the 1 in 100 year predicted flood level is 13.97m and that they accept that the finished floor level is 14.76m and that this allows for a freeboard of more than 600mm. The Councillor stated that Rivers Agency ask for 300-600mm. Councillor Clarke felt that the application should be approved.

The SD: PI stated he understood the argument but wanted to go through the application methodically as flooding will become a more prevalent issue going forward. The SD: PI stated that there isn't a test in relation to climate change within policy and given the state of current policy the applicant can meet the policy requirements for the reasons outlined by Councillor Clarke. The SD: PI stated that he felt this policy will change in the future to include climate change and gives food for thought on how things will develop. The SD: PI stated that in this case, the only

issue is the flood plain and that he felt it was reasonable to approve the application on the arguments put forward.

The Chair, Councillor S McPeake stated that the applicant is from the area and knows the situation better and did not feel they would want to invest and build on a site which is going to be problematic.

The SD: PI suggested condition be applied that no buildings be erected in the area shaded blue on the map and that the land should not be changed in the area shaded blue to ensure that water is not displaced. Landscape and access conditions to also be applied.

Proposed by Councillor Clarke  
Seconded by Councillor Kerr and

**Resolved** That planning application LA09/2022/0437/F be approved subject to conditions.

**LA09/2022/0541/F**                      **Farm shed for the storage of hay at 210m E of 91 Ballynakilly Road, Coalisland for Mr Gavin Quinn**

Mr Marrion (SPO) advised that additional information had been submitted on this application which officers need time to consider. That being the case, a deferral of the application was requested.

Proposed by Councillor S McPeake  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2022/0541/F be deferred to consider additional information submitted.

**LA09/2022/1095/F**                      **Relocation of previously approved dwelling and domestic double garage due to ground conditions at approx. 75m NW of 42 Cloghogmoss Road, Coalisland for Mr Declan McShane**

Members considered previously circulated report on planning application LA09/2022/1095/F which had a recommendation for approval.

Proposed by Councillor Varsani  
Seconded by Councillor Kerr and

**Resolved** That planning application LA09/2022/1095/F be approved subject to conditions as per the officer's report.

**LA09/2022/1582/O**                      **Dwelling and garage on a farm at 60m NE of 28 Cloughfin Road, Killeenan, Cookstown for Mr Patrick Hegarty**

Application withdrawn.

**LA09/2023/0105/O**

**Site for dwelling and domestic garage at 60m E of 32 Drummuck Road, Maghera for Grainne and Tommy Quigley**

Ms McKinless (SPO) presented a report on planning application LA09/2023/0105/O advising that it was recommended for refusal.

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

Mr Cassidy advised that DAERA have been consulted and have confirmed the farm business ID, which has an address at 19 Tullynure Road, Lissan and has been established for more than six years and that single farm payments have been claimed in each of the last six years. It was advised that Council are satisfied that there is an active and established farm. Mr Cassidy stated that the applicants have a holding at Lissan and that the land at Gulladuff is an outlying farm some 14 miles from their home. Mr Cassidy stated that the Gulladuff lands extend to 25 acres and were once owned by Grainne's family. These lands originally owned by Grainne's parents were purchased and show a clear intent by the applicants to expand their holding and it was advised that it is the intention that their son will live there and look after the holding. Mr Cassidy also advised that Grainne's parents house is 200m from these lands. Mr Cassidy referred to the officer report which states that the applicant was provided an opportunity to submit plans for agriculture buildings at this location but to date these have not been received and stated whilst this is correct it should be noted that the applicants avail of the farm sheds at Grainne's brothers house and that these sheds are approximately 200m away from the site. Mr Cassidy stated there is currently no need for any additional sheds as it is intended to establish the home first and build the farm around it. Mr Cassidy stated that the issue of no buildings at the desired location was examined under the Lamont Judicial Review which was discussed earlier and in this case the applicant's land is 14 miles away from their home main farm grouping. Mr Cassidy stated there is a clear intention to expand and extend the farm and felt that the Lamont decision is clear and for these reasons he asked Members to reconsider the recommendation.

The Service Director of Planning (SD: PI) asked what is 200m from the proposed site.

Mr Cassidy advised that the applicant's mothers farm is situated 200m from the site which is now run by her son, the applicant's brother. Mr Cassidy advised that the applicants avail of the sheds around the home house.

The SD: PI asked if the farm close to the proposal site is the applicants.

Ms McKinless advised that the applicants are the Quigleys and that their farm is situated at Lissan. The application site is at Gulladuff and it is her understanding that the applicant's mother has a farm 200m from the proposed site and that the applicants avail of those farm buildings.

The SD: PI read out part of policy cty10 and felt it can be read two ways. It expressly advises that an exception can be made to allow a building away from farm buildings where it is impractical to build next to those buildings because of health or plans to

expand the farm buildings and there are no other buildings on the farm or out farm. Given the policy is silent on what happens where there are no buildings on the farm his interpretation is that this section of the policy implies that where there are no other sites available at any group of buildings on the farm or out farm then permission could be granted.

Councillor Clarke stated he had no contact with the applicants in relation to this case although he did know them. The Councillor stated that it seemed to him that the applicants bought the 25 acres at Gulladuff, which he felt is a substantial enough size, with the intention of setting up a business for their son, this land at Gulladuff is a fair distance from the home farm which is 14 miles away. Councillor Clarke referred to the farm buildings close by which are owned by the applicant's mother but are utilised by them and the question of what should come first, the farm buildings or a dwelling. The Councillor felt that this application needed to be looked at closely.

The SD: PI stated he would agree with the comments but that at the office meeting it was put to officers that the farm at Lissan and the farm close to the proposed site was the same farm and that Members are now being advised that these are two distinct farms and that while someone else's farm buildings are being used, they are not buildings on the applicant's farm. The SD: PI asked if there was any reason to contest that being the situation.

Ms McKinless advised there was not.

The SD: PI stated that on considering the policy he felt that there was an opportunity to approve this application based on Councillor Clarke's argument.

Ms McKinless advised there was also a city ribboning reason for refusal on the application as well.

The SD: PI stated he took the view that this proposal did not read as a ribbon resulting as a change rural character and is not sited to provide another gap between that and the other two sites it wouldn't lead to further expansion.

Councillor Clarke stated that taking all into consideration he would propose the application be approved.

Councillor Kerr seconded Councillor Clarke's proposal.

The SD: PI stated that siting conditions should be applied along with tree retention requirements.

**Resolved** That planning application LA09/2023/0105/O be approved subject to conditions.

**LA09/2023/0206/O Dwelling and Garage at 30m S of 15 Craigs Road,  
Cookstown for Mrs Marissa McTeague**

Ms McKinless (SPO) presented a report on planning application LA09/2023/0206/O advising that it was recommended for refusal.

Councillor Clarke referred to roadside frontage and that the pattern in this case is set back from the road. The Councillor asked if the land between each of the current dwellings in the ownership of the occupiers of the dwellings.

The Service Director of Planning (SD: PI) stated the given the photograph shows a field of sheep it would be difficult to argue that the field is in the curtilage of the dwellings therefore there is no road frontage.

Proposed by Councillor S McPeake  
Seconded by Councillor Varsani and

**Resolved** That planning application LA09/2023/0206/O be refused on grounds stated in the officer's report.

**LA09/2023/0268/O Dwelling and Garage at lands 40m N of 182  
Brackville Road, Coalisland for Mr James Girvin**

Mr Marrion (SPO) presented a report on planning application LA09/2023/0268/O advising that it was recommended for refusal.

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

Mr Cassidy stated that this application is recommended for refusal for two reasons, the first reason being that there is an appreciable distance between the proposed new building and the established group of buildings on the farm. Mr Cassidy referred to a previous approval in Dungannon which has striking similarities to this application – that it was on the opposite side of the road and over 70 metres from the main group of farm buildings. Mr Cassidy referenced the officer report for that application which stated that there was a visual linkage between the area of land on the opposite side of the road and the farm buildings albeit marginal and that the case officer found the preferred location acceptable. Mr Cassidy referred to the current application and photographs submitted which the proposed site and farm buildings in one view and that there is a strong visual linkage and that the application therefore meets the element of linkage within policy. Mr Cassidy stated that the second reason for refusal is that other development opportunities have been sold off from the farm within 10 years from the date of application and that planning permission for a dwelling on a farm was approved within the last 10 years. Mr Cassidy advised that planning permission for a house on the farm was obtained in 2010 with the designed house approved in 2015 and renewed in 2018. Mr Cassidy stated that the renewal of all these applications was done within the timeframe of the 2010 approval still being live. Mr Cassidy stated that the site is still under the same owner as the farm business and has not been sold or transferred and despite extensive searches he could find no history of any refusal ever being recorded in Mid Ulster or any other Council areas nor a PAC decision where the ten year rule has commenced from the date of a renewed application as in this case. Mr Cassidy stated the recommendation is not within the spirit of the policy and is unfair to the applicant and asked that Members reconsider the application.

Mr Morgan stated that the location of the site on his grandfather's farm was carefully chosen as it is 60 metres from the main farm grouping. The site allows for a strong

visual linkage with the existing buildings and is also far enough away so as not to interfere with the day to day running of the farm. Mr Morgan stated that the previous site approved in 2010 for his uncle remains in his ownership and has not been transferred or sold, Mr Morgan stated that the land has been in his family for generations. Mr Morgan stated that the site is well enclosed with mature trees to aid integration and if approved the site is where he and his family would hope to build their forever home.

The Service Director of Planning (SD: PI) asked when the planning permission was renewed.

Mr Marrion advised that it was renewed 24 September 2018.

The SD: PI stated that legally that is a planning permission in itself and asked when the renewal was granted was it based on being a house on a farm.

Mr Marrion stated it was.

The SD: PI stated that the bottom line is that a policy permission has been granted within ten years and therefore the ten year rule applies.

Councillor Kerr stated he did not believe the renewal should count and as it has been over ten years from the original application and that he felt that this application should be looked at favourably.

The SD: PI suggested that the application be deferred for legal opinion in relation to the question of the renewal.

Councillor Mallaghan stated he did not think the Committee had come across this situation before and agreed it would be important to get legal opinion.

The Head of Local Planning (HLP) referenced the General Development Procedure Order which refers to a renewal as an application.

The SD: PI stated that he felt the legal opinion was necessary to provide Members with a direction on what decision to take.

Councillor Clarke asked if this is one of the outworkings of pps14.

The SD: PI advised that it wasn't. The SD: PI stated that the Development Plan sets out to try to cure some of the anomalies which exist and that he just wanted to make sure the Committee have a legal opinion behind them as this situation will likely arise again at some stage in the future.

Councillor Varsani stated she agreed with the comments and that legal opinion should be obtained as to whether the Committee can approve this application. The Councillor referred to the details submitted by the agent in relation to a similar site which was approved in 2017 and stated that she felt there are strong similarities between the two applications which are worth further consideration.

Proposed by Councillor Mallaghan  
Seconded by Councillor Varsani and

**Resolved** That planning application LA09/2023/0268/O be deferred to obtain legal opinion.

**LA09/2023/0328/F                      Renewal of approved planning application (extension to rear and side of dwelling to accommodate siting area and bedroom) at 5 Coolmount Drive, Cookstown for Emma McAleer**

Ms McKinless (SPO) presented a report on planning application LA09/2023/0328/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 Councillor McNamee to address the committee.

Councillor McNamee advised that Ms McAleer was not the original applicant in 2017. In 2018 Ms McAleer became aware that 5 Coolmount Drive was available to buy and had a live application to extend the property. Ms McAleer agreed to purchase this property subject to planning approval for the extension being granted. It was advised that planning approval was granted at that time and Ms McAleer bought the property. Councillor McNamee stated that for various reasons, including Covid, the extension works did not commence and the applicant therefore applied for the renewal of the application within the statutory timeframe and this was brought to Committee in June 2023 with a recommendation to approve the application. Following the meeting in June a site visit was undertaken and the outworkings of this has resulted in a recommendation to refuse the application which Councillor McNamee stated is a complete u turn on previous decisions taken. Councillor McNamee stated that initially the original proposal was found unacceptable because it would create overshadowing and loss of light, potentially impacting nos. 4 and 10 Coolmount Drive. Further to this, it was advised that amended plans were submitted which significantly changed the height and footprint of the proposal and this was given approval in 2018. Councillor McNamee read from the officers report at that time which stated they were content with what was being proposed and by reducing the height and footprint of the proposal it will have less impact on the adjoining properties and introduce a more integrated and better proportioned design and that the proposal does not affect the privacy or amenity of neighbouring residents. Councillor McNamee stated that the application before Members tonight is the exact same application which was approved in 2018 and was also recommended for approval in 2023. Councillor McNamee stated that it is clear the concerns of residents were taken into consideration in 2018 and that the officer in their own words stated that the amended plans addressed the issues of concern. Councillor McNamee stated he felt it was wrong of officers to ask the applicant to submit new plans and referred to the stress and anxiety caused to the applicant and her family. Councillor McNamee stated that if Members refuse this application it would place the applicant in negative equity which he felt is morally wrong and a complete u turn from decision taken in 2018. Councillor McNamee urged Members to uphold the original decision taken in 2018 and approve the application.

The Service Director of Planning (SD: PI) stated that under normal circumstances a lot of weight could be given to the previous approval but highlighted that consultations did not take place with neighbouring properties at the time of the original application. The SD: PI stated that some Members have visited the site and that Members should consider the objector's viewpoint and whether they would be content with the proposal.

Councillor Black stated this is an unusual situation and recalled having concerns the last time the application was presented on the amenity of neighbours and that he would continue to have those concerns. The Councillor stated that at the time of the original application process was not followed correctly nor was the objector given the opportunity to object at that point in time. Councillor Black stated he did have sympathy with the applicant but the reality is that process was not followed the first time and he felt there is the potential to have significant impact on the neighbours amenity. The Councillor noted that the applicant was given the opportunity to amend their proposal but that this was not taken. Councillor Black stated that he felt the reasons for refusal were correct and would therefore propose the officer recommendation to refuse the application.

Councillor Mallaghan stated he had looked back on the planning portal to see the nature of the objections raised in 2018 and it does appear they were taken into consideration at that time. The Councillor stated that when an objection is made to an application this gives a greater sense of consideration for the officer involved but in this circumstance nothing has changed since 2018 when all comments were taken into account. Councillor Mallaghan stated that the applicant would have had an expectation to gain an approval in these circumstances and is often the case when living in a town you can expect to be living beside buildings such as the one under consideration. Councillor Mallaghan referred to the comments made in which the applicant was contacted and advised that the application was going to be refused and that they should reapply and reconsider and he would like to hear more on this. Councillor Mallaghan stated that taking everything into consideration and given the history of the application he would propose that the application be approved.

Ms McKinless read email sent to applicant which outlined that following the site visit and subsequent internal group discussions about the proposal it was considered that the proposed extension cannot be recommended for approval as it stands. Whilst the current application was submitted as an in time renewal it was advised that there has been a material change in circumstance brought to officers attention ie. Neighbours which should have been notified were not. Under the current application all relevant neighbours have now been notified and some have raised objections, which following the site visit, hold some weight in the assessment of the application. The email stated that it is not unreasonable to assume that if neighbour notification at the time of the original application these same concerns would have been raised. The email stated that it was considered the proposed extension will have a negative impact on adjacent residential amenity and in order to address this the applicant was given the opportunity to reduce the scheme to single storey in its entirety and that a full set of drawings would need to be submitted to reflect this amendment. The email also outlined that as the application was submitted as an in time renewal there is the option to change the description of the proposal as the 2018 approval has now expired without a material start having been made to keep it live. It was further advised that an additional planning fee would also be required as it would have be



processed as a full domestic extension. The email concluded by asking the applicant how they wished to proceed.

The SD: PI stated that what the officer had done is contact the applicant to advise that the application will be recommended for refusal unless they wish to make changes to the proposal. The SD: PI stated this is a case which Members can decide based on their own view.

The Chair, Councillor S McPeake stated he had attended the site visit and whilst there is not a huge gap between the two houses he was touched that the proposed design of the extension means there is no overlooking which is a big compromise. Councillor S McPeake agreed that houses can be closely built together in urban areas and that he did have some sympathy for the applicant albeit that is not a material consideration.

Councillor Graham seconded Councillor Black's proposal to refuse the application. The Councillor stated that if she lived in no. 4 or 10 she would not want a double height wall coming against her fence whether there were windows or not. Councillor Graham stated that everyone has different ideas and mistakes were made with the original application and that whilst she had sympathy with the current applicant Members needed to consider the information in front of them.

The SD: PI stated that because planning approval was granted the recourse of that would have been Judicial Review. The SD: PI stated that the application was not judicially reviewed so therefore the planning application stood and could have been started therefore it must be a material consideration. The SD: PI stated that Members have the ability to take a different decision because neighbour notification did not take place on the original application. The SD: PI asked Members to go to the most basic test and take their own view on whether there is an unacceptable detrimental effect on neighbouring amenity.

The Chair, Councillor S McPeake referred to drawing which was brought to site visit which indicated that there no adverse effect by the sun and light into the neighbouring property.

Ms McKinless stated there was a technical drawing in relation to loss of light but highlighted that the recommendation within the report relates to overbearing and overdominance and not loss of light.

Councillor Black asked if loss of light should be considered.

The SD: PI explained that light comes from two sources – sunlight and daylight, and highlighted on the map the movement of the sun in relation to the properties. The SD: PI advised that the proposal would not have an impact on daylight but that there would be some limited impact in relation to overshadowing and it was up to Members to decide whether this is adverse enough to refuse the application.

Councillor Varsani seconded Councillor Mallaghan's proposal to approve the application.

*Councillors Cuthbertson and McElvogue had left the meeting.*

Members voted on Councillor Black's proposal –

For – 4

Against – 8

Abstained – 1

Members voted on Councillor Mallaghan's proposal –

For – 8

Against – 4

Abstained - 1

**Resolved** That planning application LA09/2023/0328/F be approved subject to conditions.

**LA09/2023/0580/F**                      **Removal of Conditions 7 & 8 from approved  
LA09/2023/0022/O at 25m NW of 56 Cavey Road,  
Ballygawley for Mr Niall McCartan**

Members considered previously circulated report on planning application LA09/2023/0580/F which had a recommendation for approval.

Proposed by Councillor McConnell  
Seconded by Councillor Varsani and

**Resolved** That planning application LA09/2023/0580/F be approved subject to conditions as per the officer's report.

**P019/24**                      **Receive Report on Response to the Northern Ireland Public  
Service's Ombudsman Report "Strengthening Our Roots"**

Ms McCullagh (SPO) presented previously circulated report which outlined the NIPSO report on tree protection in the Northern Ireland Planning Service. Members considered the response to each recommendation contained therein as set out at Appendix B of report.

Proposed by Councillor S McPeake  
Seconded by Councillor Kerr and

**Resolved** To respond to the NIPSO report as set out at Appendix B of report.

### **Matters for Information**

**P020/24**                      **Minutes of Planning Committee held on 9 January 2024**

Members noted previously circulated minutes of Planning Committee held on 9 January 2024.

## **P021/24      Receive Report on Findings from the Planning Customer Survey**

The Head of Strategic Planning (HSP) presented previously circulated report which outlined the results from recent Planning Customer Survey.

The Chair, Councillor S McPeake stated it was a bold move to go out and ask for feedback and that the responses received show a high level of satisfaction. Councillor S McPeake stated that the feedback has raised some issues which can be looked at further such as the payment system but that overall the feedback highlights what we all know and that a lot of organisations would like as high satisfaction rates for their service.

Councillor Mallaghan stated this was a good piece of work and it is good to get an understanding of where we are in terms of what people think and the fact that the survey was anonymous people could be as blunt as they wanted. The Councillor stated his appreciation of staff who were involved in putting the survey together.

Councillor Clarke stated he agreed with the comments made and realised the pressure on officers but to go through the process of preparing the survey and receiving the responses is worthwhile and gives something to work with going forward. The Councillor stated his appreciation for the work being done.

The Service Director of Planning (SD: PI) stated that the survey was undertaken to get an understanding of what future improvements are needed and that the responses provided suggestions which officers can consider. The SD: PI stated that as the service goes forward it will look towards continuous improvement and will always have to adapt but that what makes Mid Ulster different from other Councils is that it takes care of its own destiny as much as it can and that the new computer system is an example of this. The SD: PI stated that this Council will have the ability to make improvements to the computer system as time goes on which other Councils won't have the freedom to do.

*Live broadcast ended at 8.04 pm.*

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

Proposed by Councillor Kerr  
Seconded by Councillor Black 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 P022/24 to P024/24.

### **Matters for Information**

P022/24	Confidential Minutes of Planning Committee held on 9 January 2024
P023/24	Enforcement Cases Opened
P024/24	Enforcement Cases Closed

**P025/24      Duration of Meeting**

The meeting was called for 5 pm and concluded at 8.05 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, Dungannon 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: 06 February 2024**

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

### **Chairs Business – Public Consultation on Review of Planning Development Management Regulations**

<b>ITEM</b>	<b>INFORMATION RECEIVED</b>	<b>ACTION REQUIRED</b>
5.27	Refusal Reasons did not pull through on report.	Members to note reasons for refusal Reason 1 Contrary to CTY 1 - Development in the Countryside in PPS 21 as there is no overriding reason why the proposed development is essential and could not be located within a settlement. Reason 2 Contrary to CTY 10 - Dwellings on farms in PPS 21 in that the development does not cluster or visually link with the established group of buildings on the farm. No demonstrable health and safety reasons or verifiable plans to expand the farm business have been provided. Reason 3 A lack of information has been provided to demonstrate if there is an active and established farm at the application site.

5.29	Refusal Reasons did not pull through on report.	<p>Members to note reasons for refusal</p> <p>Reason 1          Contrary to CTY 1 - Development in the Countryside in PPS 21 as there is no overriding reason why the proposed development is essential and could not be located within a settlement.</p> <p>Reason 2          Contrary to CTY 2a - New Dwellings in Existing Clusters in PPS 21 in that the application site is not at a crossroads or associated with a focal point.</p>
6.4	Deferred Office Meeting Note (Sept 2022)	Members to note request for CTY10 farm case asked for at this time
6.6	Additional Farm Evidence	Members to Note
6.10	Email withdrawing application	Members to Note