

**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 5 September 2023 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, McFlynn (5.16 pm), D McPeake\*, Robinson (5.05 pm), Varsani

**Officers in Attendance**

Dr Boomer, Service Director of Planning (SD: PI)  
Ms Donnelly, Council Solicitor  
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)\*\*  
Miss Thompson, Democratic Services Officer

**Others in Attendance**

Councillors Bell\*\*\* and Milne\*\*\*

LA09/2022/1131/F	Mr Ross***
LA09/2023/0478/RM	Mr Close***
	Mr Finlay
LA09/2021/1531/O	Mr Cassidy***
LA09/2022/0230/O	Mr Cassidy***
LA09/2022/1697/O	Mr Cassidy***
LA09/2022/1761/F	Mr Cassidy***

\* 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 5.01 pm

**P090/23 Notice of Recording**

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

**P091/23 Apologies**

None.

## **P092/23      Declarations of Interest**

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

Councillor Buchanan declared an interested in agenda item 5.19 – LA09/2023/0661/F.

Councillor Kerr declared an interest in agenda item 5.18 – LA09/2023/0618/RM.

## **P093/23      Chair's Business**

The Service Director of Planning (SD: PI) drew Members attention to an appeal decision as circulated with addendum in relation to canteen and first aid facilities, adjacent to 18 Cookstown Road Dungannon. The SD: PI highlighted that the appeal failed in line with Council decision on the application.

*Councillor Robinson entered the meeting at 5.05 pm and Councillor Black entered the meeting at 5.06 pm.*

The SD: PI referred to late request for speaking in relation to agenda item 5.10 - LA09/2023/0118/O and stated that he had been speaking to the agent prior to the meeting and offered an office meeting in relation to the application.

The SD: PI also 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 –

Agenda Item 5.8 – LA09/2022/1458/F - Farm Dwelling & Garage at approx 30m S of 4 Killyneese Road, Castledawson for Mr B McKenna

Agenda Item 5.11 – LA09/2023/0206/O - Dwelling and Garage at 30m S of 15 Craigs Road, Cookstown for Mrs Marissa McTeague.

Agenda Item 5.12 – LA09/2023/0268/O - Dwelling and Garage at lands 40m N of 182 Brackaville Road, Coalisland for Mr James Girvin.

Agenda Item 5.13 – LA09/2023/0405/O - Farm dwelling & domestic garage at lands 170m S of 82 Bancran Road, Draperstown for Aidan Coyle.

Agenda Item 5.16 - LA09/2023/0580/F - Removal of Conditions 7 & 8 of approved LA09/2023/0022/O at 25m NW of 56 Cavey Road, Ballygawley for Mr Niall McCartan.

The Chair, Councillor S McPeake referred to agenda item 5.4 - LA09/2022/1098/O and that there is no agent noted for the application. The Chair advised that a Councillor had spoken to him today regarding this application and that the applicant hopes to engage an architect for a deferral meeting if it was granted and asked that this be added to the list.

Proposed by Councillor Varsani  
Seconded by Councillor McConnell and

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

### **Matters for Decision**

#### **P094/23 Planning Applications for Determination**

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

**LA09/2018/1504/F Free range hen house (layers) Max 16000 birds with 2 meal bins and litter shed at lands 95m SW of 50 Loughans Road, Goland, Ballygawley for Mr Finbarr Boyle & Ms Roisin McClean**

Members considered previously circulated report on planning application LA09/2018/1504/F which had a recommendation for approval.

Mr Marrion (SPO) highlighted that the conditions for approval which were omitted from the planning papers were included within the addendum.

Proposed by Councillor Robinson  
Seconded by Councillor McElvogue and

**Resolved** That planning application LA09/2018/1504/F be approved subject to conditions as per the addendum.

**LA09/2021/1511/F Windrow composting facility (recycling of specified green waste for the purpose of producing saleable compost) at 650m NE of 51 Creagh Road, Toomebridge for John Kealey**

Members considered previously circulated report on planning application LA09/2021/1511/F which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2021/1511/F be approved subject to conditions as per the officer's report.

**LA09/2022/0257/F**                      **Retrospective extension to farmyard & change of use and extension to farm pen structures to provide storage of construction and decorative stone for sale and distribution at 100m SW of 170 Orritor Road, Cookstown for Thomas Gourley**

Members considered previously circulated report on planning application LA09/2022/0257/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor Mallaghan and

**Resolved**     That planning application LA09/2022/0257/F be approved subject to conditions as per the officer's report.

**LA09/2022/1098/O**                      **Dwelling & detached double garage at Aneeter Beg, 50m S of 90 Aneeter Road, Moortown, Coagh for Miss Rachael Devlin**

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

**LA09/2022/1099/O**                      **Infill dwelling at lands between 29 and 31 Moneysallin Road, Kilrea for Donal Madden**

Members considered previously circulated report on planning application LA09/2022/1099/O which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor Clarke and

**Resolved**     That planning application LA09/2022/1099/O be approved subject to conditions as per the officer's report.

**LA09/2022/1131/F**                      **Farm diversification scheme to include farm shop, milk vending machine and associated ancillary works at 85m SE of Knockaconny House, 37 Sandholes Road, Cookstown for IT RS Mayne**

The Head of Local Planning (HLP) presented a report on planning application LA09/2022/1131/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 Ross to address the committee.

Mr Ross stated that farming is an essential way of life in this country but that it is also a tough business and that farming families are under many pressures. Mr Ross stated that diversification is an important way to sustain farming and rural communities and that there is a policy in place to encourage farm diversification. Mr Ross stated that a diversification scheme needs to focus on the existing attributes of a farm and in this case an important strength is location and it was advised that the farm is beside a large industrial area and busy road. Mr Ross stated that the

temporary hot food sales at the roadside has been popular and is tied in with the farm business. Mr Ross also referred to the increased desire to get fresh produce direct from a farm and there is opportunity for farm shops around the countryside, he stated however that this is also not an easy business and that such facilities need to be both accessible and visible. Mr Ross stated that health and safety is also a big issue and that, in this case, this is a busy dairy farm and it would not be appropriate to encourage visitors into the midst of the farmyard. Mr Ross referred to the planning report and that Members were being asked to consider if the shop will integrate with the farmyard, he stated that the farm is immediately beside the cement factory and that the farm houses and yard sit on a slightly elevated area of a land about 100m from the road. It was advised that the application site is on lower land at the roadside and that it is essential for this farm business to be at the roadside. In terms of integration, Mr Ross stated that the key views from the roadside are the most important consideration and that undoubtedly there is a strong visual linkage when seen from the roadside and that the farm shop which is of a modest scale will read together with the farm buildings and that overall it is felt the proposal will integrate well as there is a backdrop of the farm buildings on the crest of the hill. Mr Ross encouraged Members to support this farm diversification scheme.

The Service Director of Planning (SD: PI) referred to the existing permission which was for a temporary building that had been approved during Covid and asked when the permission ran out for that building.

*Councillor McFlynn entered the meeting at 7.16 pm.*

Mr Ross stated this was correct and was a determining factor at the time that application was considered.

The Head of Local Planning (HLP) advised that the temporary permission expires on 9 June 2024.

The SD: PI stated that the application makes no reference to the temporary nature of the permission and that the building is shown as if it was permanent. The SD: PI stated that an argument was put but no evidence was submitted that the application could not go next to the dairy herd but stated this was not true and referred to example of ice cream parlour which opened right next to where the dairy herd is and that this example integrates well. The SD: PI stated that more evidence was needed as to why the application cannot integrate.

The HLP advised that there is a supporting statement which advises that all buildings on the farm are currently used.

The SD: PI asked if anything had been received DAERA Veterinary Service.

The HLP advised that information was not requested.

The SD: PI stated at the moment there was no evidence to support why the application can't integrate within the farm. The SD: PI stated that the way the application has been presented is not the solution but that he felt there could be a solution and suggested that an office meeting be held to discuss the application further.

Mr Ross stated that, for clarification, there are instances where a business can operate in the farmyard but that in this case due to the character of the farmyard there are a number of old and small buildings and the area is very tight and difficult to manoeuvre around.

The SD: PI stated that those matters could be looked at and that he had suggested an office meeting be held to explore the application.

Councillor Black asked if a site meeting would be beneficial to look at some of the points raised by the agent.

The SD: PI stated that the purpose of the office meeting would be to discuss why the application cannot go next to the existing buildings and it would be wisest to have this in the first instance and that a site meeting could be considered later in the process if required.

Proposed by Councillor Black  
Seconded by Councillor S McPeake and

**Resolved** That planning application LA09/2022/1131/F be deferred for an office meeting.

**LA09/2022/1290/F**                      **Change of use from milk processing plant to indoor play area with associated car parking at Unit E1, Fivemiletown Creamery, 14 Ballylurgan Road, Fivemiletown for Barrie McWhinney**

Members considered previously circulated report on planning application LA09/2022/1290/F which had a recommendation for approval.

Proposed by Councillor Robinson  
Seconded by Councillor McConnell and

**Resolved** That planning application LA09/2022/1290/F be approved subject to conditions as per the officer's report.

**LA09/2022/1458/F**                      **Farm Dwelling & Garage at approx 30m S of 4 Killyneese Road, Castledawson for Mr B McKenna**

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

**LA09/2022/1776/F**                      **Replacement dwelling and associated site works at lands 70m SW of 54 Sixtowns Road, Draperstown for Mr & Mrs Michael & Maria McAlister**

Members considered previously circulated report on planning application LA09/2022/1776/F which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2022/1776/F be approved subject to conditions as per the officer's report.

**LA09/2023/0118/O**                    **Site for dwelling and domestic garage at lands approx 60m NW of 61 Sherrigrim Road, Stewartstown, Dungannon for Mr Miller Glendinning**

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

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

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

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

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

**LA09/2023/0405/O**                    **Farm dwelling & domestic garage at lands 170m S of 82 Bancran Road, Draperstown for Aidan Coyle**

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

**LA09/2023/0478/RM**                    **Dwelling and garage at 60m NW of 55 Annaghmore Road, Castledawson for Alvin McMullan Esq**

The Head of Local Planning (HLP) presented a report on planning application LA09/2023/0478/RM advising that it was recommended for approval.

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

Mr Close stated that his objection to this application was based on opinion that the previous outline approval granted was not valid, specifically when presented to Committee for consideration the application had not followed the appropriate procedures as laid out in Section 8 of the Planning Order 2015 which details the requirement for notification of neighbours. During the planning process for the outline application Mr Close stated he was in contact with the planning officer at that time and advised him on 1 March 2023 that he had not notified the occupants of 55a Annaghmore Road, who were now living in situ having previously advised him in 2022 that the site was missing from the plans. Mr Close stated that the plan was then subsequently updated by the agent to include the site of 55a which was under construction at the time but that in March he had advised that the building was occupied. Mr Close stated that Development Notice 14 provides practical guidance on the serving of Neighbourhood Notice and that the document highlights the importance of notification of supplementary evidence such as that which was received in February 2023 pertaining to the application and that as all neighbours did not receive notification he suggested that the Planning Committee's decision had not followed due process.

Mr Close stated that the application under consideration tonight is made possible due to the construction of 55a under a planning application in 2015 as it set a precedent and allowed clustering amongst other things however the permission of 55a was granted only when the Planning Committee overturned the recommendation of the planning officer to refuse the application. Mr Close stated that planners at the time noted that rural character was being eroded and there was no visual link to a community focal point among other issues. At the meeting of the Planning Committee on 6 November 2018, Mr Close stated that the agent for the application stated that the property was for a son to live beside his parents and it would not intrude on other buildings and consequently the Planning Committee overturned the recommendation to refuse the application. Mr Close stated that the site was subsequently placed on the open market. Mr Close stated that the decision to grant permission against the recommendation of the planning officer as suburbanisation had commenced was something foreseen by the planning officer in 2014 when they refused another application within the same field and that in their view they had felt it was reasonable to assume that it was the applicants intention to set a precedent for the erection of further dwellings to the rear of the two previously approved, Mr Close stated that this has come to pass and the erosion of the rural character is almost complete. Mr Close requested that the Planning Committee see that process has not been followed regarding Neighbour Notification and that the previous approval is flawed.

The Service Director of Planning (SD: PI) asked did Mr Close object to the outline application in 2018.

Mr Close stated he did not object as he was not a resident in the area at the time.

The SD: PI asked when the outline application was granted.

The Head of Local Planning (HLP) advised that the outline application was granted in April 2023.

The SD: PI referred to the reference to 2018.

Mr Close stated that his reference to 2018 related to another site which was passed on the same piece of land which was recommended for refusal by the planning officer at the time and overturned to the Planning Committee and it was the construction of this application which became the basis for this application.

The SD: PI stated that whether Members overturned a recommendation or not the 2018 application was approved and he was unaware of it being challenged within the three months therefore the permission stands and that the house is built. The SD: PI stated that in April 2023 the outline permission was granted and that the objection related to Mr Close not being consulted.

Mr Close stated that he, along with a number of other neighbouring properties, objected to the outline application. Mr Close stated at that time he flagged that all neighbours had not been notified of the application.

The SD: PI stated that in relation to the outline application Mr Close objected and this was considered. In relation to Neighbour Notification he highlighted that the outline



application was approved in April 2023 and that it was now September which is outside of the Judicial Review period and therefore the decision would stand even if there was an error. The SD: PI asked if there were occupiers of the property adjacent who were not notified.

The HLP advised that she had discussed the outline application which was approved with the case officer and that they were content that the dwelling was under construction but was not occupied at the time of their site visit.

Mr Close stated that he spoke to the planning officer in March 2023 following updated information being received from the agent and that he advised again that there had not been notification to 55a which was now occupied at that time.

The SD: PI stated that when the consultation was conducted there were no occupants of 55a and that no challenge was received from 55a therefore the decision is made and the only way to revisit it is to revoke the application and that given what had been said tonight he felt there is no reason to do so.

Mr Finlay stated he was happy with the recommendation to approve the application and in view of what he had heard from the objector it should be noted he was objecting on behalf of 55a which is the new house which is just completed. Mr Finlay stated that when the outline application was submitted the dwelling at 55a was not occupied and he could provide evidence from the builder and residents in relation to this. Mr Finlay stated he had no issue with the outline application as granted and the planning recommendation before Members tonight.

The SD: PI asked if the occupier of 55a has ever raised an objection.

Mr Finlay stated that no objection to either application had been made.

Mr Close stated he wanted to correct a point raised by Mr Finlay in that at no point had he objected on behalf of 55a and that at no point had his correspondence been anything other than the address where he lives. Mr Close stated he does not claim to speak for 55a and does not object on their behalf but that he was merely observing that notification had not been sent to all. Mr Close stated that at the time the outline application was submitted 55a was not occupied but as this application progressed and additional information came to light the house did become occupied and planning officers were made aware of this. Mr Close reiterated that he did not claim to be 55a, speak on their behalf or reside there.

The SD: PI stated that legally occupiers need to be consulted and that there is a claim that at the consultation stage the dwelling at 55a was not occupied but became occupied just before a decision on the outline application was taken. The SD: PI stated that the only person prejudiced is the occupier of 55a.

Mr Finlay stated that the occupants of 55a are happy with the prospect of neighbours.

The SD: PI asked if the occupiers of 55a had been notified of this application.

The HLP stated that 55 and 53a had been consulted but she did not see 55a as being consulted.

The SD: PI stated that the outline planning permission appears to be legal and the timeframe for challenge has passed. The SD: PI stated that if 55a is now occupied and is adjacent to the application they should receive notification and therefore suggested that the application be deferred to ensure notification takes place.

Mr Finlay stated that when the Reserved Matters application was submitted 55a was not in occupation but has been subsequently occupied. Mr Finlay advised that the Completion Certificate from Building Control has not yet been issued so the dwelling is technically not complete.

The SD: PI stated that if the dwelling at 55a is now occupied then Neighbour Notification should be received by the occupiers.

Proposed by Councillor S McPeake  
Seconded by Councillor Kerr and

**Resolved** That planning application LA09/2023/0478/RM be deferred for Neighbour Notification of 55a Annaghmore Road, Castledawson.

**LA09/2023/0573/F**                    **Retention of existing playing field with proposed spectator's stand and floodlighting at Mullaghmoyle Park, Mullaghmoyle Road, Stewartstown for Mr Paddy Parks**

Members considered previously circulated report on planning application LA09/2023/0573/F which had a recommendation for approval.

Proposed by Councillor Kerr  
Seconded by Councillor Carney and

**Resolved** That planning application LA09/2023/0573/F be approved subject to conditions as per the officer's report.

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

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

**LA09/2023/0592/F**                    **Off-site replacement dwelling and garage at Adjacent and South of No 5 Legane Road, Aughnacloy for Mr & Mrs Chris Potter**

Mr Marrion (SPO) presented a report on planning application LA09/2023/0592/F advising that it was recommended for refusal.

Councillor Cuthbertson asked when the last contact was with the applicant in relation to providing and amended plans.

Mr Marrion advised that the applicants were asked to revise their plans on 27 June and came back to state that they wanted the application considered based on what was submitted.

The SD: PI suggested that the application be held for one month and that officers write to the applicant to state that the application was brought before Committee tonight and it was noted that it does not meet policy and that a further opportunity was being given to submit amended plans.

Proposed by Councillor Cuthbertson  
Seconded by Councillor Black and

**Resolved** That planning application LA09/2023/0592/F be deferred for one month for submission of amended plans.

**LA09/2023/0618/RM**      **Dwelling and garage at land at Tullaghmore Road, Roughan Road Cross Roads opposite and 30m S of 57 Tullaghmore Road, Dungannon for Mr and Mrs Jamie Allen**

Members considered previously circulated report on planning application LA09/2023/0618/RM which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2023/0618/RM be approved subject to conditions as per the officer's report.

**LA09/2023/0661/F**      **Replacement dwelling and garage at 10 Drummond Road, Cookstown for Mr Jonathan Buchanan**

Members considered previously circulated report on planning application LA09/2023/0661/F which had a recommendation for approval.

Proposed by Councillor Cuthbertson  
Seconded by Councillor Black and

**Resolved** That planning application LA09/2023/0661/F be approved subject to conditions as per the officer's report.

**LA09/2021/0934/O**      **Dwelling & garage at approx 130m W of 16 Carncose Road, Moneymore for Gregory McGovern**

Application withdrawn.

The Head of Local Planning (HLP) presented a report on planning application LA09/2021/1531/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 the applicant has a herd number and has been active since 2017, a current herd list has been submitted along with receipts showing activity on the ground. Mr Cassidy referred to the building on site which has been referred to as a temporary structure and referred to Google Earth imagery which shows the building on site prior to 2017. It was advised that the building itself is made up of BT poles and is clad in tin and timber, inside there is a cattle crush and gates and is not moveable and has been in situ for the five years required. Mr Cassidy stated that there are buildings on the Ruskey Road which are inside the settlement limits and the natural rounding off is the Ruskey Road itself and not this field as you could not differentiate where the settlement limits of The Loup are. Mr Cassidy referred to similar site at Orritor where the application site was adjacent to the settlement limits and the Planning Committee decided that whilst that site was on the development limits, it was more rounding off. Mr Cassidy stated that the three matters have been given consideration and that there is merit to approve the application.

The Service Director of Planning (SD: PI) stated that to be rounding off you need to have the buildings of the settlement limits against it and that this particular site is divorced from settlement limits of The Loup so is clearly not rounding off. The SD: PI asked if there is a map which shows the farm and its buildings.

The Head of Local Planning (HLP) advised that the farm is just slightly larger than the red line shown to Members on the powerpoint and extends the full length of the field to the North and South. The HLP advised that the structure is roughly to the middle of the field at the back.

The SD: PI asked if DAERA had provided a farm classification.

The HLP stated that DAERA have advised that a business id was given in 2017, it is a category 3 business meaning it does not claim any payments and that lands are not being claimed by the farm business.

The SD: PI stated it appears to be what is known as a hobby farm. The SD: PI referred to the shelter on the site and asked if it has any recognition in terms of planning.

The HLP advised there was no Certificate of Lawfulness for the shelter.

The SD: PI asked if the shelter was one building or a number of buildings.

The HLP advised that it is one shelter with a dividing tin wall and an open frontage.

The SD: PI stated it is accepted that farmers can put up shelters which can be moved around and are not buildings on the farm as such. The SD: PI questioned if the application was worthy of treating as an exception and felt that if this was a fully working farm then it may be possible to make an exception but that as this is a hobby farm he did not feel it was suffice to make an exception particularly as what they are referring to as a building on the farm is not recognised by planning.

Mr Cassidy stated that the ground has been in the McVey family ownership for generations and has not just been bought. He also clarified that it is not a hobby farm as there are cattle and have been for a number of years. The structure is not moveable.

The SD: PI asked how big the farm is.

The HLP advised that the farm is 0.43 hectares. The HLP referred to the herd number which was allocated in 2017 and that this has been confirmed however the supporting information submitted with the speaking request only goes back to 2020 and that there are no receipts on file as referred to by Mr Cassidy.

The SD: PI stated there was no reason to dispute that there may have previously been a bigger farm but that you cannot simply subdivide. In terms of the land area of the farm he did not believe this could provide for a herd of cattle.

Councillor McFlynn stated she lived close to this site and passed it regularly and that she believed rural character could be maintained if the house was positioned close to hedge at the entrance of the field rather than further up the field. Councillor McFlynn asked that consideration also be given to the fact that Mr McVey's two sons live just over the hedge and if this could be considered as linkages to the farm. Councillor McFlynn stated she had also seen cattle using the shelter in the field at times.

The SD: PI stated that the fundamental question is does the application meet the policy and that the Councillor has alluded to something that the Committee have not been told yet which is that the field has been sectioned off from a bigger farm of the McVey family and he assumed that the McVey family have already got a house for one of the sons.

Mr Cassidy referred to a map shown which shows the totality of the land at that time. Mr Cassidy stated that the land has not been subdivided and that there is no other land and the two sites referred to by Councillor McFlynn were purchased.

The HLP advised that the date on the map shown is 1 April 2018. The HLP advised that the farm business was established in 2017 but that there is no information to show that it is currently active, there are no payments being made by DAERA and officers did not have the receipts being referred to by Mr Cassidy.

The Chair, Councillor S McPeake proposed that a site meeting be held along with getting clarity on the maps and imagery.

The SD: PI stated that if this was a fully operational farm which had the buildings it could probably be accepted, the issue is the point of principle.

The Chair, Councillor S McPeake asked if it is the six year rule or the absence of more information as he was unsure what is being asked.

The HLP advised that criteria A of CTY10 requires that a farm is currently active and established for six years. The HLP stated there was information in terms of a herd number however she had not witnessed any cattle on the site yesterday and was not convinced that criteria A of the policy is being met. The HLP stated that she was also not convinced in there being a group of buildings on the farm and therefore criteria C of the policy is not being met.

Councillor Clarke stated that the size of the piece of ground being referred to would not support a herd of cattle but that there are plenty of people who are farming land which they don't own and who is to say there is not other land being rented in this case. Councillor Clarke seconded Councillor S McPeake's proposal.

The SD: PI asked if there was any land being taken in conacre by the applicant.

Mr Cassidy stated it was his understanding that there is land being taken in conacre not far from the site.

The SD: PI asked why this information was not provided.

Mr Cassidy stated he was dealing with the land the applicant owned.

Councillor McFlynn stated that the applicant is from a farming background that a herd number was established in 2017 and there is evidence of cattle from 2020. The Councillor felt that the site is just within the settlement of The Loup and that the application would not take away from rural character.

The HLP stated that the site is outside the settlement limit as shown on the map to Members.

The SD: PI asked if the applicant owns the whole field up to the settlement limit and that they have picked a site in the middle of the field or if this was two fields.

The HLP advised that this is one field and that the portion of the field between the application site and the settlement limits had been put in blue land by the agent and had been excluded because it would have caused issues with CTY15.

The SD: PI suggested that the application be deferred for submission of further information in relation to ownership of lands and what land is taken in conacre and evidence of same.

Proposed by Councillor S McPeake  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2021/1531/O be deferred for submission of additional information.

**LA09/2021/1568/F                      Retention of shed and yard for the manufacturing and sales of hydraulic hoses and other ancillary farm machinery products (farm diversification development) (amended description) at 95m SE of 133 Bush Road, Coalisland for Adrian McCann**

Members considered previously circulated report on planning application LA09/2021/1568/F which had a recommendation for approval.

Proposed by Councillor Carney  
Seconded by Councillor McFlynn and

**Resolved**     That planning application LA09/2021/1568/F be approved subject to conditions as per the officer's report.

**LA09/2021/1651/O                      Dwelling (revised land ownership certificate) at lands to the W of 69 Derrylaughan Road, Coalisland, Dungannon for Pamela Quinn**

Members considered previously circulated report on planning application LA09/2021/1651/O which had a recommendation for approval.

Proposed by Councillor Carney  
Seconded by Councillor Kerr and

**Resolved**     That planning application LA09/2021/1651/O be approved subject to conditions as per the officer's report.

**LA09/2022/0230/O                      Site for dwelling and garage at lands approx. 30m SE of 99 Mullaghboy Road, Bellaghy for Mr Hugh Glackin**

The Head of Local Planning (HLP) presented a report on planning application LA09/2022/0230/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 this application was submitted by Hugh Glackin and that the previous application was submitted by Hugh's mother and is an important consideration. The application submitted by Hugh's mother was recommended for approval and all documentation supporting farm activity were submitted at the time. Mr Cassidy advised that Mrs Glackin died and that her application was withdrawn, the farm business id was also closed. Mr Cassidy highlighted that when a farm business owner dies the farm business id dies with them and the new number was issued to Mrs Glackin's son Hugh in October 2022. Mr Glackin submitted his application on the same site as what was previously submitted along with the same receipts to show activity over the past six years. Mr Cassidy stated that the farm has been in the Glackin ownership for generations and that the applicant currently lives in Castledawson with no ground around his current house. Mr Cassidy stated that the buildings around the farm were left to the applicant's brother and that there are no buildings on the applicant's farm. Mr Cassidy stated that this was an unusual

case and that policy refers to exceptional cases which he felt this is. With regard to siting, Mr Cassidy referred to application considered by Antrim and Newtownabbey Council which was a similar scenario and that they felt that application was within the spirit of the policy and added no weight to ribboning. Mr Cassidy stated this was a unique case and that it would be unfair to refuse this application.

The SD: PI asked if there was any reason not to believe the land had been transferred to the son, the applicant.

The Head of Local Planning (HLP) stated there were no concerns in that regard that she was aware of and that the maps submitted with the mother's application area identical to the maps for this application.

The SD: PI stated that if the applicant was asked to provide a solicitor's letter stating that the land had been inherited by the applicant this should be able to be provided and it would therefore be reasonable to allow an exception to the six year rule. The SD: PI asked if there were two houses next to the site and another building being used commercially.

The HLP advised that the commercial building is being used by an electric business.

The SD: PI asked who is running the electric business.

Mr Cassidy stated it would be a nephew of the applicant. Mr Cassidy stated that the map should not include these buildings within the blue line.

The SD: PI stated that it is very important that the information being assessed is correct and that if the Planning Committee make a decision based on incorrect information then the decision can be quashed. The SD: PI stated that in addition to the solicitor's letter an updated map should also be provided which represents what the farm is. The SD: PI asked who lives in the two houses.

Mr Cassidy advised that the applicant's brother and nephew live in the two houses.

The SD: PI stated he had provided a way forward for the application.

Proposed by Councillor S McPeake  
Seconded by Councillor Varsani and

**Resolved** That planning application LA09/2022/0230/O be deferred to allow for submission of further information.

**LA09/2022/0651/F**                    **Change of house type and garage with all associated landscaping and site works (substitution for M/2013/0341/F & LA09/2015/0595/F at lands approx. 70m SW of 6 Goland Road, Ballygawley for Darragh McAnenly & Caoimhe Glass**

Members considered previously circulated report on planning application LA09/2022/0651/F which had a recommendation for approval.



Proposed by Councillor McConnell  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/0651/F be approved subject to conditions as per the officer's report.

**LA09/2022/0689/O Dwelling on a farm at Proposed site 350m W of 5 Corick Road, Clogher for Mr Edwin Boyd**

Members considered previously circulated report on planning application LA09/2022/0689/O which had a recommendation for approval.

Proposed by Councillor Robinson  
Seconded by Councillor McElvogue and

**Resolved** That planning application LA09/2022/0689/O be approved subject to conditions as per the officer's report.

**LA09/2022/1697/O Dwelling and garage at 60m NE of 11 Creagh Hill, Castledawson for Mrs Anne McGrogan**

The Head of Local Planning (HLP) presented a report on planning application LA09/2022/1697/O advising that it was recommended for refusal.

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

Mr Cassidy stated that this application is situated outside of a farm, consists of at least four dwellings, that there is a focal point and a cluster of development. The two points of contention relate to the degree of integration and whether it is bounded on two sides by development. Mr Cassidy stated that the site avails of two mature boundaries, one abutting the roadway and one abutting the neighbouring house and that these will be retained if an approval is allowed. Mr Cassidy stated that the site is approximately 1m below the road and is of a low profile and that both measures will provide a suitable degree of integration. In terms of the site being bounded by development on both sides Mr Cassidy stated it is important to look at the approval on the adjacent site which is under construction and is development on one side and that there is development to the front of the site. Mr Cassidy stated that planning appeals and this Council have been clear in relation to clustering and that if five of the tests are being met it is acceptable and in this case five if not six of the tests are being met and that he felt it is a good opportunity to approve and round off development.

The Service Director of Planning (SD: PI) stated that the policy is clear and sets out that the six tests need to be met however there may sometimes be a reason to treat something as an exception. The SD: PI stated this does not mean that meeting five of the six tests is ok as this would be rewriting policy and if a decision was made on that basis it could be quashed. The SD: PI stated that in this case there are clearly a number of buildings and asked if there is a focal point.

The Head of Local Planning (HLP) advised that there is a focal point which is slightly removed from the application site namely the Thatch Inn.

The SD: PI asked if that focal point is part of the cluster and when pointed out on the map he felt that it would be and could be taken as a single entity. The SD: PI referred to the permission on the adjacent side and asked if this is being built.

The HLP advised she had visited the site today and that foundations have been laid.

The SD: PI stated that the way be policy works is that the building has to be there and not just a permission. The SD: PI asked if it looked like the building work is going to continue on that site.

The HLP stated that it appeared building works would continue on the site.

The SD: PI suggested it would be reasonable to defer this application for two months to allow building work on the adjacent site to continue and he would then be happy with the argument that there was development on two sides.

Proposed by Councillor S McPeake  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/1697/O be deferred for two months.

**LA09/2022/1761/F Sites for 2 dwellings and domestic garages at 90m NW of 28 Mawillian Road, Moneymore for Mr Paddy Campbell**

The Head of Local Planning (HLP) presented a report on planning application LA09/2022/1761/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 Cassidy to address the committee.

Mr Cassidy referred to planning appeal for building in Swatragh which was half the size of the building considered in this application.

The SD: PI stated that the building Mr Cassidy was referring to had a planning permission and that it was recognised as a building. On the case referred to no issue was taken with change to rural character so the planning appeal commissioner allowed it. The SD: PI stated there are lots of other cases where similar structures have not been accepted as being a building. The SD: PI asked if the structure under consideration for this application has a Certificate of Lawful Development or a planning permission.

Mr Cassidy stated that the building that is there was asked by DARD to be constructed because the applicant needed a herd number. Mr Cassidy stated there are records from seven years ago of DARD going out to inspect the structure and that it had been requested by them that a concrete floor be put into the structure seven years ago. Mr Cassidy stated that policy does not ask for visual linkage but

rather that it visually links or has a common frontage. Mr Cassidy stated that the building has a common frontage and it bookends the two buildings under construction. Mr Cassidy stated that the gap only has room for two buildings and therefore meets policy. Mr Cassidy stated that he felt this is a good opportunity to put two houses into a gap site and asked Members to approve the application.

The SD: PI stated there are two tests – one is the structure a building recognised by planning and the other would it change rural character and on looking at the woodland next to the structure it would strike him that the rural character would not change. The SD: PI asked if the planning officer had raised any concern in relation to rural character.

The HLP advised that the planning officer felt that the proposal would be contrary to policy CTY14 in that the dwellings, if permitted, would add to a ribbon of development and would result in a detrimental change to rural character of the countryside.

The Chair, Councillor S McPeake felt that the interpretation of rural character can be different things to different people and that a site meeting on this application would be useful.

The SD: PI stated that this would be a reasonable way forward but it would also require planning permission or Certificate of Lawful Development for the structure.

Proposed by Councillor Clarke  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/1761/F be deferred for a site meeting and submission of Certificate of Lawful Development.

**LA09/2023/0076/O**                      **Infill dwelling and garage at land between 6 and 15  
Dungororan Road, Dungannon for Miss Jessica  
Brown**

Members considered previously circulated report on planning application LA09/2023/0076/O which had a recommendation for approval.

Proposed by Councillor Varsani  
Seconded by Councillor McElvogue and

**Resolved** That planning application LA09/2023/0076/O be approved subject to conditions as per the officer's report.

**LA09/2023/0232/O**                      **Site for dwelling between 139 and 143 Drumagarner  
Road, Kilrea for Mr Brian McCloskey**

Members considered previously circulated report on planning application LA09/2023/0232/O which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2023/0232/O be approved subject to conditions as per the officer's report.

**P095/23 Receive Report on DAERA Ammonia Call for Evidence**

The Service Director of Planning (SD: PI) presented previously circulated report which sought Members approval in relation to response to DAERA that will contribute to the development and delivery of a scientifically robust Operational Protocol to protect the natural environment and ensure sustainable development for consideration by an incoming Minister and future Executive.

The Chair, Councillor S McPeake stated that he felt the response has been encapsulated well and that the tone is right in that DAERA and other regulatory bodies need to step up to the mark on such a technical issue.

Councillor Clarke stated that everyone is in a situation where there are targets and guidance set out and that the two agencies involved in this matter are not taking responsibility for what they are responsible for. The Councillor stated that NIEA and DAERA are the responsible bodies and they know what the targets and guidelines are and that he believed that the matter should be left with them and not Council.

Proposed by Councillor Clarke  
Seconded by Councillor Kerr and

**Resolved** That the suggested response to the Call for Evidence is agreed as set out in the report and that the Service Director of Planning is delegated to finalise the wording of the response for submission.

**Matters for Information**

**P096/23 Minutes of Planning Committee held on 1 August 2023**

Proposed by Councillor Varsani  
Seconded by Councillor McFlynn and

**Resolved** To note the minutes of Planning Committee held on 1 August 2023.

*Councillor Cuthbertson left the meeting at 7.04 pm.*

*Live broadcast ended at 7.04 pm.*

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

**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 P097/23 to P100/23.

**Matters for Information**

- P097/23 Confidential Minutes of Planning Committee held on 1 August 2023
- P098/23 Enforcement Live Case List
- P099/23 Enforcement Cases Opened
- P100/23 Enforcement Cases Closed

**P101/23 Duration of Meeting**

The meeting was called for 5 pm and concluded at 7.05 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, 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: 5 September 2023**

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

**Chairs Business –**

**PAC Decision – Barry O’Neill, canteen and first aid facilities, adjacent to 18 Cookstown Road Dungannon**

<b>ITEM</b>	<b>INFORMATION RECEIVED</b>	<b>ACTION REQUIRED</b>
5.1	Conditions to be attached to the decision	Members to note
6.5	Further information about the farm	Members to be advised about the assessment of the additional information
6.9	Further information submitted	Members to be advised about the assessment of the additional information



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<b>Appeal Reference:</b>	2021/A0212
<b>Appeal by:</b>	Mr Barry O'Neill.
<b>Appeal against:</b>	The refusal of full planning permission.
<b>Proposed Development:</b>	Retention of building to provide communal site canteen, locker room and first aid facilities.
<b>Location:</b>	Land adjacent to 18 Cookstown Road, Dungannon.
<b>Planning Authority:</b>	Comhairle Ceantair Lár Uladh - Mid Ulster District Council.
<b>Application Reference:</b>	LA09/2019/1183/F
<b>Procedure:</b>	Written representations with Commissioner's site visit on 9 <sup>th</sup> August 2023
<b>Decision by:</b>	Commissioner Damien Hannon dated 5 <sup>th</sup> September 2023.

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this case are whether the proposal is acceptable in principle in the countryside and its impact on road safety.
3. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22<sup>nd</sup> February 2019. However, as the Strategy is unadopted and in draft form, its provisions, while material considerations, do not outweigh those of the statutory [Dungannon and South Tyrone Area Plan 2010 \(DSTAP\)](#). The appeal site is designated in DSTAP as lying within the Dungannon Green Belt. However, the more recently published Planning Policy Statement 21 - Sustainable Development in the Countryside (PPS 21) states that its policies take precedence over DSTAP green belt policies. Therefore, apart from the above countryside designation, DSTAP contains no policies or provisions material to consideration of this appeal.
4. No conflict arises between the relevant provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS), and those of relevant extant regional policy. Consequently, the policy context is provided by PPS 21, Planning Policy Statement 4 - Planning and Economic Development (PPS 4) and Planning Policy Statement 3 - Access, Movement and Parking (as Clarified and amended) (PPS 3). Relevant guidance is also contained in Development Control Advice Note15 (2nd Edition)- Vehicular Access Standards August 1999 (DCAN 15).

5. The appeal site accommodates a single storey building and yard and occupies the northeastern third of a triangular shaped industrial estate measuring 90m x 150m. It has a frontage of approximately 120m onto the A29 Cookstown Road which is identified as a protected route in Annex B of PPS 3. The industrial estate is accessed from the A29 and comprises an open yard and 19 single storey units of various dimensions. While I was not provided with the exact dimensions of all the existing buildings, I estimate from the submitted location map that, excluding the appeal building, the units within the estate have a combined floorspace of more than 2,000m<sup>2</sup>. The industrial estate has a substantial history encompassing enforcement action as well as applications for planning consent and lawful development certificates. Nonetheless it is common case that the complex constitutes an established economic development use for the purposes of PPS 4.
6. Policy CTY 1 of PPS 21 sets out a range of types of development which in principle are acceptable in the countryside, including industry and business uses in accordance with PPS 4. It is proposed to retain a building of 16m in length, 7.5m in width and 5.6m in height. The single storey building is of industrial design and composition and has three large window apertures in its front elevation which, on inspection, were secured with closed roller shutters. The building is internally partitioned to provide a communal site canteen, locker room and first aid facilities. The appeal proposal therefore embodies the expansion of an established economic development use for the purposes of PPS 4. Policy PED 2 of PPS 4 states that proposals for the expansion of an existing economic development use in the countryside that accord with Policy PED 3 will be permitted. However, Policy PED 9 of PPS 4, which is entitled 'General Criteria for Economic Development' also states that proposals for economic development use must meet seven additional criteria.
7. Policy PED 3 requires that proposals meet several listed criteria relating to matters including rural character, integration, scale, and design. It also states that proposals for expansion will normally be expected to be accommodated through the reuse or extension of existing buildings on site. This, however, is not an absolute requirement and there would be practical difficulties in providing the facilities through the reuse or extension of existing buildings on site. Furthermore, the building presents visually as an extension to the existing group. and I agree with the Council's assessment that the proposal is for a relatively small building in the overall context of the surrounding development and does not raise any concerns in respect of Policy PED 3. The proposal would cause no harm to rural character or the appearance of the local area and would involve no major increase in the site area of the enterprise. In these circumstances the proposed development would constitute the expansion of an established economic development use in the countryside in compliance with policies PED 2 and PED 3 of PPS 4.
8. The only Policy PED 9 criteria at issue is criterion (g) which reads 'the existing road network can safely handle any extra vehicular traffic the proposal will generate, or suitable developer led improvements are proposed to overcome any road problems identified'. The appellant stated that the proposed canteen, locker room and first aid facilities would provide essential modern communal welfare amenities that would enable employees of the whole complex to take breaks, congregate and store personal items. I agree that a restriction limiting the use of the facilities to employees of the industrial estate could be secured by condition in the event of planning permission being granted. The appellant further argued that

the provision of the on-site facilities would lead to a reduction in vehicular trips as employees would not have to leave the complex to avail of such services. This assertion was not challenged by the Council, and I conclude that as the submitted evidence does not demonstrate that the proposal would give rise to any extra vehicular traffic, the proposal meets criterion (g). I further conclude that the proposal is acceptable in principle in the countryside as the expansion of an established economic development use in accordance with PPS 4 and consequently Policy CTY 1 of PPS21.

9. The Council argued that the proposal would have a detrimental impact on road safety as the existing access arrangements were inadequate, and the required visibility splays could not be provided. The Consequential Amendment to Policy AMP 3 Access to Protected Routes (Consequential Revision) is attached as Annex 1 to PPS 21 and provides policy on development proposals involving access onto a protected route outside a settlement limit, such as the appeal proposal. A requirement of the consequential revision is that access arrangements be in accordance with the Department's published guidance i.e., DCAN 15.
10. There was dispute between the parties as to the degree to which the estate was occupied as well as the commercial nature of its tenants. At the time of my visit, the estate appeared notably inactive with some units visibly vacant. Nonetheless, I judge that an estate with economic development floorspace exceeding 2,000m<sup>2</sup> would generate more than 60 vehicle movements per day thus requiring an 'X' distance of 4.5m in accordance with DCAN 15. Furthermore, the Department for Infrastructure, whose remit includes assessment of the 85%ile speed of vehicles on the road, have visited the site and advised that a 'Y' distance of 120m is required along the A29 to the north. My own follow-on surveys would accord with this analysis. Given the 60mph speed limit on the road and in the absence of persuasive evidence or survey material establishing the contrary, I conclude that a 'Y' distance of 120m is required in accordance with DCAN 15.
11. The required visibility splays are not available to the north and the appellant did not express any intention or ability to provide them in the future. Furthermore, given the alignment and topography to the road to the north, provision of required splays would necessitate a considerable engineering operation, the feasibility of which, based on the submitted evidence, remains uncertain. In these circumstances and given that the appeal development is in situ, I do not consider it reasonable to require provision of the northern splay through a negative condition.
12. Although the development has been found acceptable in principle, the Council's objection on grounds of road safety and conflict with policy AMP 3 is well founded. Its reason for refusal as it relates to the issue of road safety and conflict with Policy AMP 3 is sustained and is determining in this case.

This decision is based on the 1:2500 and 1:50 scale Proposed Layout Plans, Section, Elevations & Location Map received by the Council on 9<sup>th</sup> September 2019 and numbered 01 by them.

**COMMISSIONER DAMIEN HANNON**





#### Condition 1

The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

#### Condition 2

Prior to commencement of the development hereby permitted, visibility splays of 2.4m x 80m and any forward sight distance shall be provided in accordance with Drawing No.03A bearing the date stamp 17/12/18, or as may otherwise be agreed in writing with the Council. The area within the visibility splays shall be cleared of all obstructions to a height of 250mm above the adjacent carriage and be permanently retained clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

#### Condition 3

The width of the vehicular access to be (6.0m) for the first (20.0m), including (10.0m) radii and shall be provided in accordance with Drawing No. 03A , bearing the date stamp 17/12/18, prior to the commencement of any other works or other development hereby permitted.

REASON: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road user.

#### Condition 4

The poultry shed hereby approved is to be used for 'free range' methods only. If any alternative method of poultry farming i.e. not free range, was to take place an odour impact assessment would be required

Reason; In the interests of protecting neighbouring amenity.

#### Condition 5

No development activity, including ground preparation or vegetation clearance, shall take place until a protection zone, clearly marked with posts joined with hazard warning tape, has been provided at a radius of 25 metres as shown on Drawing No. 02D, date stamped 9 March 2021. No works, vegetation clearance, disturbance by machinery, dumping or storage of materials shall take place within the protection zone(s) without the consent of the Planning Authority/unless an appropriate Wildlife Licence has been obtained from NIEA. The protection zone shall be retained and maintained until all construction activity has been completed on site.

Reason; In the interests of natural heritage protection.

#### Condition 6

Applicant shall not deviate from the Litter Disposal Agreements (dated 29/9/20 and uploaded to the planning portal 9/1/20) without the prior written consent of the council.

Reason: To ensure the project is not likely to have a significant effect on any European site.

## Supporting Notes

6.5. LA09/2022/0230/O Site for dwelling and garage at lands approx. 30m SE of 99 Mullaghboy Road, Bellaghy for Mr Hugh Glackin

Members, this application is submitted by Hugh Glackin for a house on the farm. A previous application (LA09/2021/1583/O) is an important consideration.

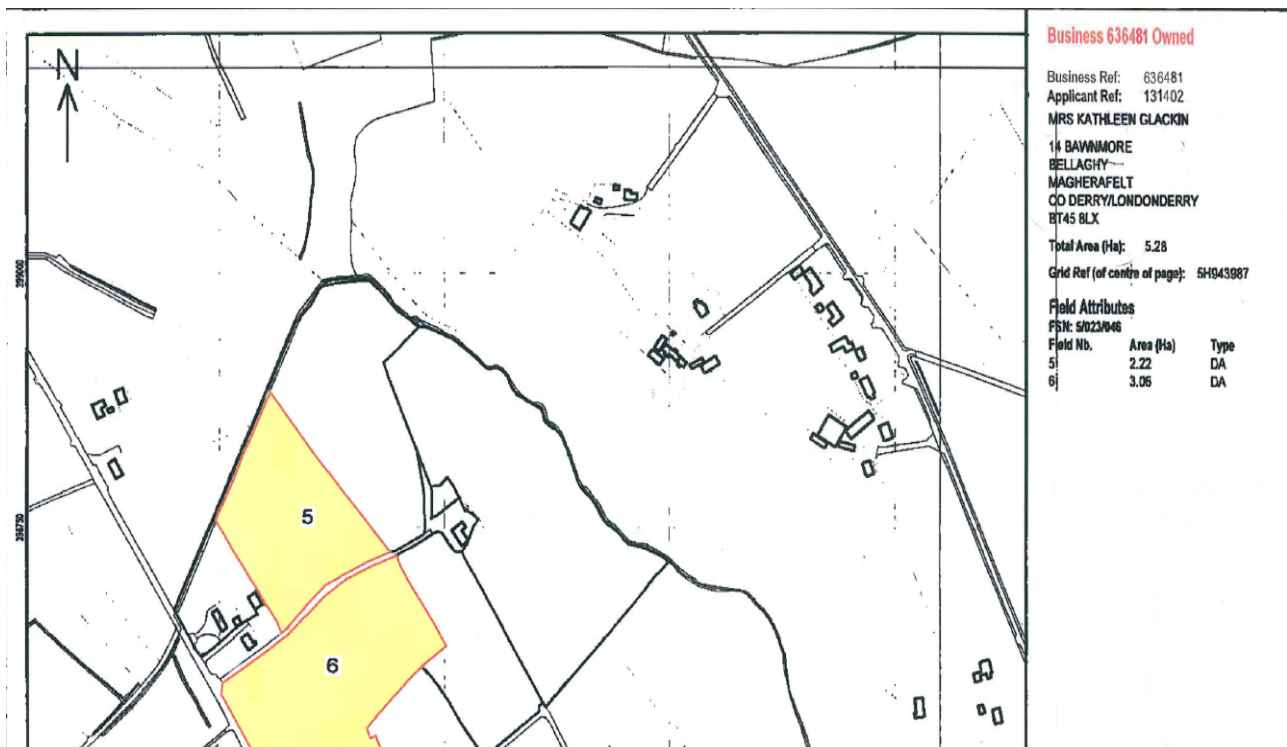
LA09/2021/1583/O had been submitted by the applicants mother on the site adjacent to this current application. All the farm numbers and information to support its activity had been submitted.

As detailed below this was recommended for approval but unfortunately Mrs Glackin died just before it was issued.

As members are aware when a farm business owner dies their farm business number dies with them. DARD subsequently issue a new number to whoever is taking over the farm.

In this case it is her son Hugh who has taken over. DARD issued Hugh a new number in October 2022.

The land has been in the Glackin family ownership for generations



Farm map for Kathleen Glackin



## Planning – Application Summary

LA09/2021/1583/O | Proposed farm dwelling and Garage | Approx 50M East Of 99 Mullaghboy Road Bellaghy

 Save search

<b>Details</b>	Comments	Constraints	Documents (19)	Related Cases (15)	Map
<b>Summary</b>	Further Information	Contacts	Important Dates		
Reference	LA09/2021/1583/O				
Alternative Reference	PA0946674				
Application Received	Tue 02 Nov 2021				
Application Validated	Tue 02 Nov 2021				
Address	Approx 50M East Of 99 Mullaghboy Road Bellaghy				
Proposal	Proposed farm dwelling and Garage				
Status	Withdrawn				
Decision	Permission Granted				
Decision Issued Date	Wed 02 Feb 2022				
Appeal Status	Unknown				
Appeal Decision	Not Applicable				
There are 19 documents associated with this application.					

Previous farm map for Mrs Kathleen Glackin

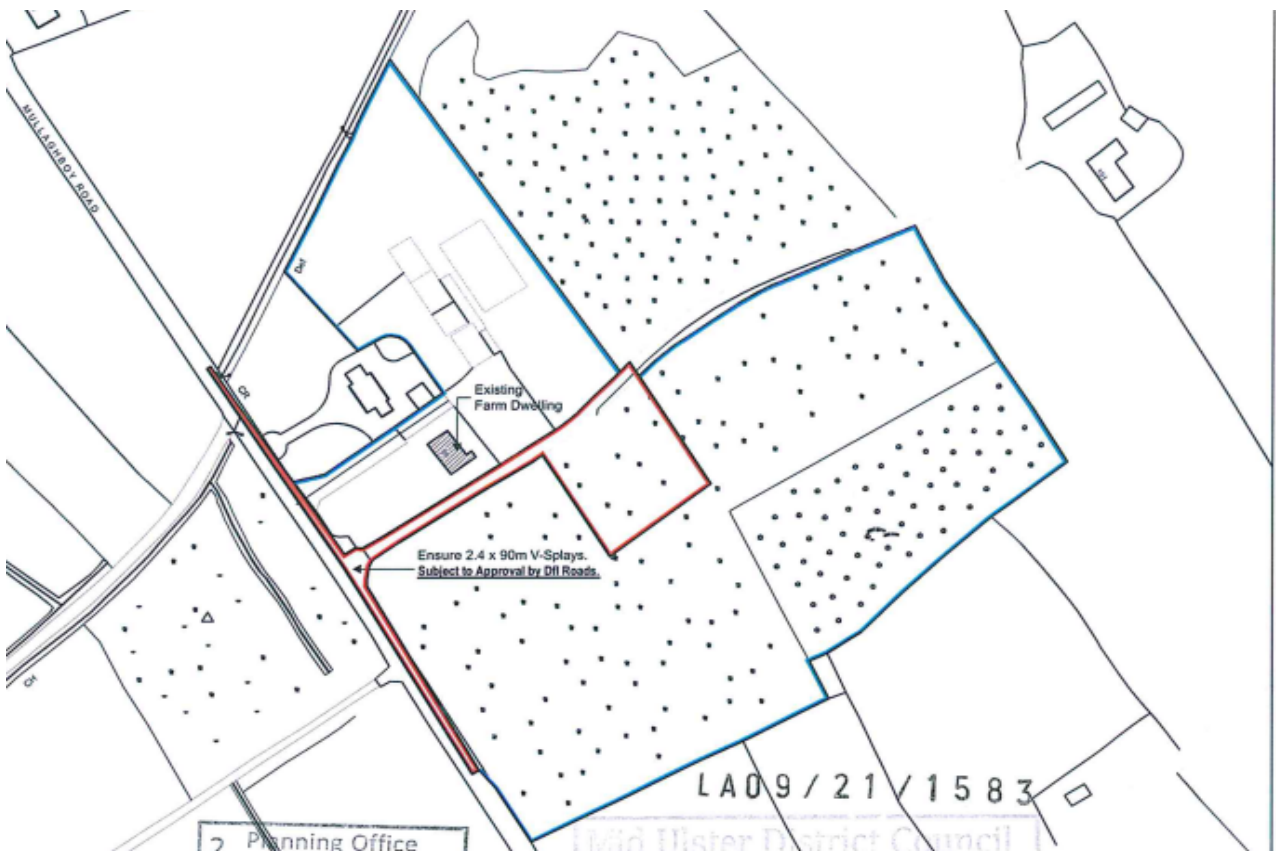
## Planning – Application Details

LA09/2021/1583/O | Proposed farm dwelling and Garage | Approx 50M East Of 99 Mullaghboy Road Bellaghy

 Save search

<b>Details</b>	Comments	Constraints	Documents (19)	Related Cases (15)	Map
Summary	<b>Further Information</b>	Contacts	Important Dates		
Application Type	Outline				
Decision	Permission Granted				
Actual Decision Level	Recommendation				
Expected Decision Level	Delegated Decision				
Case Officer	Peter Henry				
Parish	Moyola				
Ward	Bellaghy				
District Reference	Not Applicable				
Applicant Name	Kathleen Glackin				
Agent Name	Cmi Planners Ltd				
Agent Company Name	Cmi Planners Ltd				
Agent Address	38B Airfield Road Toomebridge BT41 3SG				
Environmental Assessment Requested	No				

Previous application by Mrs Kathleen Glackin with recommendation to approve.



Previous location map for Kathleen Glackin

Presently Hugh lives within the settlement limits of Castledawson, 4 miles from the land. There is no land surrounding his hose at this location.



Appliants current address in Castledawson

The proposed site is adjacent to Hughs brother home and his nephews business. These buildings are no longer part of the farm grouping and the house should it be approved will be the first building on Hugh;s holding.

Policy states the new building is visually linked or sited to cluster with an established group of buildings on the farm but does allow for an exception if an alternative site elsewhere on the farm is applied for.

In this case Hugh has plans to provide seed potatoes to a local merchant, something that has been done previously by his mother and has obtained a flock number to keep sheep. A contract is in place with a local merchant. Hugh has verifiable plans in place to grow the business and the addition of a house on the lands will enable this to happen.

Council's second reason for refusal relates to the location which they state would extend a ribbon of development along this section of the Mullaghboy Road.

It should be noted how Antrim and Newtownabbey Council has determined similar applications for farm houses. LA03/2015/0306/0 is for a new dwelling at 36 Old wood Road in Randalstown.

Page 5 of the case officer's report (LA03/2015/0306/O) states "Although the build up of linear development in the immediate area will lead to a detrimental change in rural character, greater determining weight is being given to the policy objectives of consolidating and grouping new development with established buildings.

It is clear Council give greater weight to the spirit of the policy which in this case will see the building set back into the cluster and will be seen as a grouping with a strong backdrop.

We consider the site meets the criteria for a dwelling on a farm and ask members to reconsider the application.

### Site Selection

Paragraph 6.69 of the SPPS sets out that the policy approach to development in the countryside must be to cluster, consolidate and group new development with existing buildings. It is stated this sustainable approach will mitigate the potential adverse impacts from the cumulative effect of one-off, sporadic development upon rural amenity and landscape character.

The test applied for dwellings on farms at para 6.73 of the SPPS is that the proposed dwelling must be visually linked or sited to cluster with an established group of buildings on the farm holding.

CTY10 of PPS21 sets out at Criterion 'C' that the new building must be visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. The policy test goes on to set out that the proposed site must also meet the requirements of CTY13 (a-f), CTY14 and CTY16.

It is considered that the site selected is both visually linked and sited to cluster with an established group of buildings on the farm thereby complying with policy.

Although the build-up of linear development in the immediate area will lead to a detrimental change in rural character, greater determining weight is being given to the policy objective of consolidating and grouping new development with established buildings.

### Other Matters

As an agricultural field cut out the site is physically undefined on the land at its northern and western boundaries. The site is exposed when approaching the site in a southerly direction. It is considered appropriate to require by condition these boundaries be planted out with a native species hedgerow and trees allowed to grow onto a minimum height of 2 metres and planted within the first planting season following commencement of development. This is in order for the proposal to be in keeping with the rural area.

### CONCLUSION

The following is a summary of the reasons for recommending the granting of planning permission;

- The principle of development can be established on these lands for residential development
- No issues of residential amenity will arise relevant to the relationship between existing dwellings and the proposal.
- There are no objections from any consultees or interested third parties.

### RECOMMENDATION – GRANT PLANNING PERMISSION

LA09/2022/1761/F Sites for 2 dwellings and domestic garages at 90m NW of 28 Mawillian Road, Moneymore for Mr Paddy Campbell

### Council Concerns

Council accept there are two houses which form the SouthEast boundary of the site. On the North Western boundary there is a small agricultural shed which we contend bookends the development and creates a gap for a maximum of two houses.

Councils position is that the agricultural structure cannot be considered as part of the assessment stating its scale along with its siting does not create any visual linkage with the dwellings at numbers 26 and 28 in order to be considered a substantial and built up frontage.

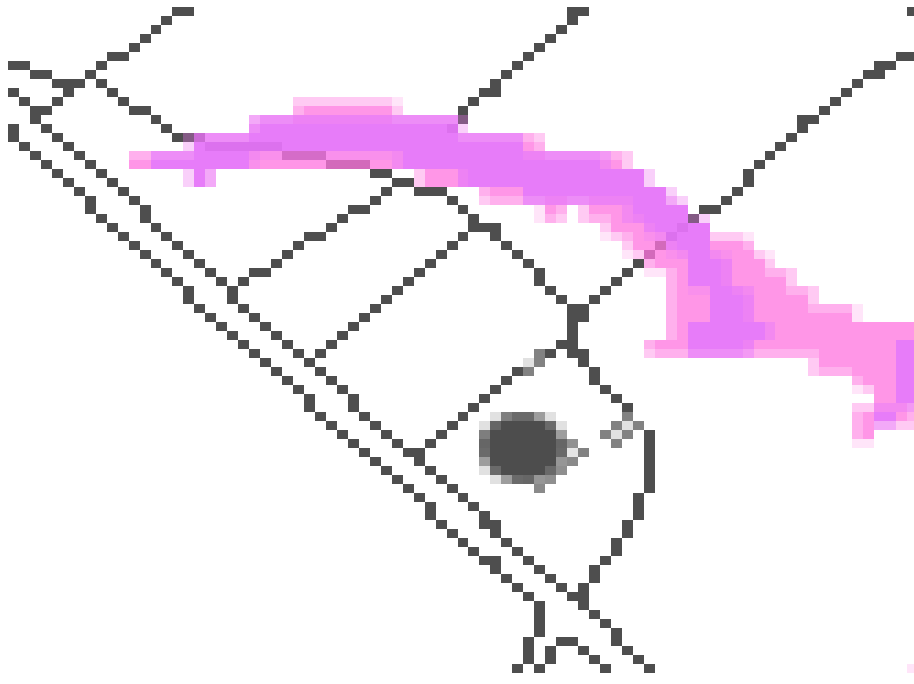
Firstly it is important to determine if the small structure can be considered a building acceptable to policy.

The structure was built here nearly 7 years ago at the request of DARD for shelter for the animals. The exact same structure was considered at Planning Appeal (copy attached) for an infill dwelling in Swatragh.

In that appeal Mid Ulster Council and Planning Appeals both accepted a shed made from tin and having a concrete base was a building acceptable for policy. If this has now been accepted by both parties it can be assumed the structure on-site is a building that meets policy.

The policy itself does not require a visual linkage as suggested by Council, rather policy requires a common frontage OR that they are visually linked. In this case all the building share a common frontage so this element fulfils policy requirements.

The only outstanding issue is flooding. Below is the flood map for the area, with our sites situated Northwest of the black dot. Whilst there is surface water flooding to the rear boundary of the site it does not impact on any area where the houses are to be built thus flooding here is not a consideration.



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<b>Appeal Reference:</b>	2015/A0215.
<b>Appeal by:</b>	Mr Richard Dempster.
<b>Appeal against:</b>	The refusal of outline planning permission.
<b>Proposed Development:</b>	Dwelling and Garage.
<b>Location:</b>	35m South of 10 Ballynian Lane, Swatragh.
<b>Planning Authority:</b>	Mid Ulster District Council.
<b>Application Reference:</b>	H/2014/0438/O.
<b>Procedure:</b>	Written representations.
<b>Decision by:</b>	Commissioner J B Martin dated 7 June 2016.

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## Decision

1. The appeal is allowed and outline planning permission is granted subject to the conditions set out below.

## Reasoning

2. The main issues in the appeal are whether the proposal represents a small gap site / infill opportunity or is ribbon development; the degree to which it would be integrated into its surroundings and its impact on rural character. The respective operational policy context for these issues is set by the CTY Policies 8, 14 and 13 of Planning Policy Statement (PPS) 21 '*Sustainable Development in the Countryside*'.
3. Policy CTY 1 of PPS 21 states that planning permission will be granted for an individual dwelling in accordance with Policy CTY 8. CTY 8 in turn states that permission will be refused for a building which creates or adds to a ribbon of development, but continues that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 No. houses within an otherwise substantial and continuously built up frontage - provided this respects the existing road frontage development pattern in terms of size, siting and plot size and meets other planning and environmental criteria. A substantial and continuously built up frontage is defined in the policy as one that includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.
4. With reference to the appellant's 1/1250 scale 'concept plan' - immediately north of the appeal site is an unbroken line of 4 buildings along the east facing frontage of Ballynian Lane comprising (in order) 2 agricultural buildings and 2 single storey dwellings. Approximately 15m beyond the site's eastern boundary is what the Council describe as a 'sheep shelter' (the appellant – an agricultural building). Standing on a concrete base, it measures approximately 6m by 4m and is

constructed of a wooden frame clad in corrugated metal and with a mono pitch sloping roof.

5. The Council accept the 'shelter' for planning purposes constitutes a building. While it states the building was enlarged and its concrete base added during the course of the planning application, it has not challenged the legal status of the building or indicated any intention to take action to seek its removal. The basis of the Council's refusal of the appeal proposal as a small gap site under Policy CTY 8 is founded on its view that the shelter building does not visually read with the other buildings north of the appeal site and as a result the frontage is not substantial or continuously built up. The appellant however has pointed to the Commission's decision in appeal 2013/A0248, where the Commission interpreted Policy CTY 8 as not requiring visual linkage of all the buildings along a road frontage. The Council's evidence contains no new arguments to warrant a reassessment of the Commission's interpretation of this particular issue. The aforementioned existing development along the eastern side of Ballynian Lane amounts to a substantial and continuously built up frontage as defined in CTY 8, and the gap which includes the appeal site is sufficient only to accommodate up to a maximum of 2 houses.
6. The proposed development would clearly not reflect in any meaningful way the 'shelter' on its eastern side. However that is equally the situation with the existing development along the common road frontage, and the Council has not argued the appeal proposal would fail to respect that existing development in terms of the planning and environmental requirements set out in the headline text to CTY 8. All in all the appeal proposal fulfils the requirements of Policy CTY 8 for an small gap site. The Council's 2<sup>nd</sup> reason for refusal is therefore not sustained, and it follows that the 1<sup>st</sup> reason based on CTY 1 and the 4<sup>th</sup> reason based on ribbon development and change in rural character (Policy CTY 14) are also not sustained.
7. In terms of integration, Policy CTY 13 sets out a number of circumstances (a) to (g), where a new building in the countryside will be unacceptable. The Council's 3<sup>rd</sup> reason for refusal is based on circumstance (a), (b) and (c) – namely prominence; a lack of natural boundaries and enclosure for the proposed dwelling and reliance on new panting to achieve satisfactory integration. My consideration takes into account the appellant's concept plan and the Council's suggested condition to restrict the ridge height to a maximum of 5.7m.
8. Views of the dwelling would be over short distances along Ballynian Lane. They would be restricted by vegetation to the south of the 'shelter' - and by vegetation and the agricultural buildings along the northern site boundary, combined with the appreciable changes in vertical and horizontal alignment of the road as it passes the site downhill from north to south. The site also rises from the road to the north and the vegetated northern boundary and agricultural buildings beyond would provide an immediate backdrop. While the eastern site boundary is undefined, the eastern boundary of the 'host field' lies only 20m away and is well defined by hedging, averaging out at approximately 3m in height. The dwelling would be open to view along its site boundary with Ballynian Lane, however in the aforementioned context it would be satisfactorily integrated into its surroundings and would not be prominent. The 3<sup>rd</sup> reason for refusal is therefore not sustained.



9. The suggested height condition is necessary to ensure satisfactory integration and as the site slopes upwards from south to north, underbuilding across the whole footprint of the dwelling should be restricted to no more than 0.5m. The Council's suggested condition to control the angle of roof pitch is unnecessary. While not referred to in the Council's suggested conditions the proposed development includes the creation of a vehicular access, and appropriate visibility splays should also be provided in the interests of road safety. Given the road width of approximately 3.6m - likely traffic speed around the bends in the road approaching the proposed site access from both sides, and taking into account the guidance in Development Control Advice Note 15 – '*Vehicular Access Standards*' - I judge that visibility splays of 2m by 45m in both directions should be provided at the proposed access. New planting along the eastern site boundary should also be provided.

### **Conditions**

- (1) Except as expressly provided for by Conditions 2, 3 and 4 the following reserved matters shall be as approved by the Council - the siting, design and external appearance of the dwelling and garage and the means of access thereto.
- (2) No development shall take place until there has been submitted to and approved by the Council a landscaping scheme showing trees and hedgerows to be planted within the site and along its eastern boundary. The scheme of planting as finally approved shall be carried out during the first planting season after the dwelling is occupied. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.
- (3) The ridge height of the dwelling shall not exceed 5.7m above finished floor level and the depth of underbuilding shall not exceed 0.5 metres at any point across the footprint of the dwelling.
- (4) Visibility splays of 2m by 45m at the proposed access shall be laid out in both directions before the dwelling is occupied and thereafter shall be permanently retained.
- (5) Application for approval of the reserved matters shall be made to the Council before the expiration of 3 years from the date of this decision.
- (6) The development shall be begun before the expiration of 5 years from the date of this permission or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

This decision is based on the 1/2500 scale site location map and the 1/1250 scale concept plan numbered respectively by the Council as drawings 01 and 02.

**COMMISSIONER J B MARTIN**

**2015-A0215**

**List of Documents**

Planning Authority - Mid Ulster District Council

Statement of Case

Appellant

Statement of Case