

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 7 May 2024 in Council Offices, Circular Road, Dungannon

Members Present

Councillor S McPeake, Chair

Councillors Black (5.20 pm), J Buchanan, Clarke, Cuthbertson, Graham, Kerr, Mallaghan, McConnell, McElvogue, McFlynn, D McPeake, Robinson, Varsani

Officers in Attendance

Mr Bowman, Head of Strategic Planning (HSP)
Ms Donnelly, Council Solicitor
Ms Doyle, Head of Local Planning (HLP)
Ms McCullagh, Senior Planning Officer (SPO)
Mr McClean, Senior Planning Officer (SPO)
Ms McKinless, Senior Planning Officer (SPO)
Mr Brown, ICT
Ms Grogan, Committee and Member Services Officer

Others in Attendance

LA09/2023/0775/F – Jim Maneely
LA09/2023/0775/F – Eamonn Loughrey
LA09/2019/1482/F – Hayley Wilson
Shane Carr
LA09/2023/0683/O – Eamon Cushnahan
LA09/2023/0466/O – Damian McMurray

The meeting commenced at 5.00 pm.

P061/24 Notice of Recording

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

P062/24 Apologies

Councillors Carney and Martin.

P063/24 Declarations of Interest

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

P064/24 Chair's Business

Mr Bowman, Head of Strategic Planning (HSP) said that members would be aware of DfI's consultation regarding the A29 Cookstown bypass which was discussed at full Council with a corporate line being taken on it. The HSP advised that Planning

Department were also written to directly in a parallel way and wished to get members agreement to feed some comments back into the overall corporate response. There were no issues for local planning and welcomed the delivery of the road, but what will be caveated into the response will be some comments around making sure that habitat, heritage, flood risk and other potential impacts are considered. Also welcomed will be planting and landscaping proposals to assist the integration of the road line and in consulting with Environmental Health Department, were pleased to see that noise from road traffic, construction and contaminated land air quality are all factored into the environmental statement. Comments will be added in the ensure that lighting with the road line does not impact on anybody's enjoyment of the residential property along the road line.

The HSP said if members were agreeable that he would feed this back as a response to the corporate view.

Councillor Cuthbertson enquired if this would be a separate view from the full Council as he recalled Councillor Brown raising issues in relation to build up of traffic going into Moneymore and if Council would highlight this. The member said that he was unsure whether this was a planning issue or a corporate issue.

The HSP advised that he had noted this already on the draft that he had seen from full Council and intended to add this point across.

Agreed.

The Head of Local Planning (HLP) advised that the following application has been withdrawn from tonight's meeting schedule - Agenda Item 5.2 – LA09/2020/1679/F – Change of house type from approved 6 semi-detached dwellings under M/2005/0066/F to 1 block of 4 town houses, 1 block of 5 town houses at lands immediately W of 21 Fintona Road, Clogher for Newpark Homes Ltd.

The Head of Local Planning 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 5.7 – LA09/2023/0365/F – Farm storage shed at 200m W of 24 Reenaderry Road, Coalisland for Mr John Duffy

Agenda Item 5.9 – LA09/2023/0659/O – Infill site for dwelling and garage at lands approx. 50m N of 152 Moneymore Road, Magherafelt for Ms Dorothy Bradley

Agenda Item 5.11 – LA09/2023/0975/O – Farm dwelling and garage at approx. 260m SW of 31 Loves Road, Magherafelt for Mr Seamus Donnelly

Agenda Item 5.12 – LA09/2023/1199/O – Dwelling and garage at site 45m W of 1 Tullynure Road, Lissan, Cookstown for Mr Henry McCracken

Agenda Item 5.14 – LA09/2023/1331/F – Retention of timber handrail and perspex roof canopy over rear porch at 24 Parkmore Heights, Magherafelt for Rafal Zakonek and M Reniewich

Agenda Item 5.17 – LA09/2024/0176/O – Dwelling and garage at 40 SW of 11 Lough Road, Magherafelt for Mr Peter Cassidy

Proposed by Councillor Kerr
Seconded by Councillor McElvogue and

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

Matters for Decision

P065/24 Planning Applications for Determination

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

LA09/2018/1643/F Residential development of 42 units (30 semi-detached and 12 detached), a new access/right turn lane from Coolshinney Road, open space/private amenity space, landscaping and ancillary site works at lands 100m SW of 13 Coolshinney Road and 20m N of 2 Thornhill, Magherafelt for Mullaghboy Construction Ltd

Members considered previously circulated report on planning application LA09/2018/1643/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2018/1643/F be approved subject to conditions as per the officer's report.

LA09/2020/1679/F Change of house type from approved 6 semi-detached dwellings under M/2005/0066/F to 1 block of 5 town houses at lands immediately W of 21 Fintona Road, Clogher for Newpark Homes Ltd

Application withdrawn earlier in the meeting.

LA09/2022/1045/F Housing development of 52 units comprising of 48 two storey semi-detached and 4 two storey detached dwellings adjacent to 25A Ballyneill Road, Ballyronan for Bell Contracts

Members considered previously circulated report on planning application LA09/2022/1045/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Clarke and

Resolved That planning application LA09/2022/1045/F be approved subject to conditions as per the officer's report.

LA09/2022/1238/F **Housing development of 19 two storey dwellings and associated site works (16 semi-detached and 3 detached) at lands immediately W of NW of 10 Altmore View, Cappagh for Damian Donnelly**

Members considered previously circulated report on planning application LA09/2022/1238/F which had a recommendation for approval.

Proposed by Councillor Kerr
Seconded by Councillor Varsani and

Resolved That planning application LA09/2022/1238/F be approved subject to conditions as per the officer's report.

LA09/2022/1765/F **Northerly phased lateral extension to the existing sand and gravel pit at Murnells with restoration to Woodland Planting and Grassland Habitats at lands at Murnells Sand and Gravel Pit, N of 46 Murnells Road, Pomeroy and W of 56 Cavanoneill Road, Pomeroy for Ms Catherine Keenan**

Members considered previously circulated report on planning application LA09/2022/1765/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McConnell and

Resolved That planning application LA09/2022/1765/F be approved subject to conditions as per the officer's report.

LA09/2023/0355/F **Two storey dwelling and garage at lands 75m S of 16 Ballyheifer Road, Magherafelt for Mr and Mrs Jarlath and Oonagh Conway**

Members considered previously circulated report on planning application LA09/2023/0355/F which had a recommendation for approval.

Proposed by Councillor D McPeake
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2023/0355/F be approved subject to conditions as per the officer's report.

LA09/2023/0365/F **Farm storage shed at 200m W of 24 Reenaderry Road, Coalisland for John Duffy**

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

LA09/2023/0390/O **Site for dwelling and garage on a farm at approx. 250m SW of 24 Rarogan Road, Garvaghy, Ballygawley for Mr Patrick J & E O'Hagan**

Members considered previously circulated report on planning application LA09/2023/0390/O which had a recommendation for approval.

Proposed by Councillor McConnell
Seconded by Councillor McElvogue and

Resolved That planning application LA09/2023/0390/O be approved subject to conditions as per the officer's report.

LA09/2023/0659/O **Infill site for dwelling and garage at lands approx. 50m N of 152 Moneymore Road, Magherafelt for Mrs Dorothy Bradley**

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

LA09/2023/0775/F **Supermarket and petrol forecourt, additional three retail units with associated car parking, underground fuel tanks and free-standing forecourt canopy. Public realm landscaping fronting Church Street. Servicing to the three retail units via Loran Way. Alteration works to new site access via Fountain Road, previously approved under LA09/2017/1083/F at lands at 2-10 Church Street/Fountain Road, Cookstown for TJ Hamilton**

Members considered previously circulated report on planning application LA09/2023/0775/F which had a recommendation for approval.

Councillor Clarke advised that he wished to raise a point regarding this application. The member said that this proposal faces onto Fountain Road, which had been raised before and possibly overlooked at that time. Fountain Road joining Church Street has a set of traffic lights and two lanes of traffic going out of the junction, with most of the traffic emerging from the left-hand lane going towards Dungannon, the centre lane would not be as busy as traffic go straight ahead or turning right. The member said that he uses the road regularly and found that when there was a build-up of traffic, the left-hand lane gets a filter early but the traffic in the centre lane can block anyone getting into the left-hand lane. The member suggested if there was an extension of a few vehicle lengths permitted onto the inside lane it would relieve a lot of build-up of traffic.

The Chair said that it would be useful for members to hear what the roads report was advising on it.

Ms McCullagh (SPO) said that she was able to get the latest response from DfI Roads who did not offer any objections subject to conditions that were in accordance with the fallback position which was still live from the 2017 application which proposed the access from the Fountain Road as well. The SPO advised that she had checked the case officer's report and all the conditions on that were on the 2017 application. An additional one had been added that roads have recommended regarding retail or other operations happening which is all noted on the report under

the Private Streets also.

Councillor Clarke said that it was unfortunate that there wasn't the opportunity to extend by a few vehicles lengths to relieve the traffic build up on that stretch of road. The member felt that if this remains the same the situation will not change.

Proposed by Councillor Cuthbertson
Seconded by Councillor Varsani and

Resolved That planning application LA09/2023/0775/F be approved subject to conditions as per the officer's report.

LA09/2023/0975/O **Farm dwelling and garage at approx. 260m SW of 31 Loves Road, Magherafelt for Mr Seamus Donnelly**

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

LA09/2023/1199/O **Dwelling and garage at Site 45m W of 1 Tullynure Road, Lissan, Cookstown for Henry McCracken**

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

LA09/2023/1311/F **Dwelling and domestic garage (change of house type and garage approved I/2006/0008/RM including relocation of garage within extended curtilage) at site opposite 64 Feegarron Road, Cookstown for Mr & Mrs Alan & Claire Boyle**

Members considered previously circulated report on planning application LA09/2023/1311/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor S McPeake and

Resolved That planning application LA09/2023/1311/F be approved subject to conditions as per the officer's report.

LA09/2023/1331/F **Retention of timber handrail and perspex roof canopy over rear porch at 24 Parkmore Heights, Magherafelt for Rafal Zakonek and M Reniewich**

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

LA09/2024/0067/O **Site for single dwelling and garage at lands approx. 60m SW of 21 Corvanaghan Road, Cookstown for Ms Joanne McGurk**

Ms McKinless (SPO) presented a report on planning application LA09/2024/0067/O advising that it was recommended for refusal.

Ms McKinless (SPO) advised that the application was submitted by the applicant and no agent involved.

The Chair said that it would be useful to defer the application for an office meeting to allow the applicant a chance as they had already paid their fees and had got to this stage. The Chair felt as there was no agent involved the committee should do this justice and allow the applicant to avail of an agent and provide the opportunity to come to an office meeting.

Councillor Clarke advised that he was also going to suggest this and would be happy to second the Chair's proposal.

Proposed by Councillor S McPeake
Seconded by Councillor Clarke and

Resolved That planning application LA09/2024/0067/O be deferred for an office meeting.

LA09/2024/0154/F **Alterations and ground floor extension to rear of existing dwelling at 61 Killyneil Road, Dungannon for Dr Roy Peak**

Members considered previously circulated report on planning application LA09/2024/0154/F which had a recommendation for approval.

Councillor Cuthbertson advised that he had been copied into two pieces of correspondence in relation to this matter. One for an objection regarding a window facing out the back from the objector where he had been refused a rear facing window on his property previously some years ago. The member stated that he was copied into further correspondence from the objector advising that there had been a condition included to put in an obscure window, but the objector felt that the best scenario would be for a roof-light rather than obscure glass due to the window being opened. The member was unsure if any conversation has taken place with the agent or applicant where this could be agreeable rather than putting the other condition on. The member said that he had seen the correspondence from the complainant who advised that he was refused a rear-facing window when he was building his house, but as this application was for a renovation it seemed different. The member stated that these two houses were always there and because the objector built a new house, he was refused the opportunity for a rear-facing window.

The Chair advised that every situation was different and what may seem similar to an objector doesn't necessarily be that way. He said that it would be useful for Mr Marrion (SPO) to comment on the windows and privacy aspect in relation to this application.

Councillor Cuthbertson stated that the two houses were back-to-back.

Mr Marrion (SPO) advised that this was for an extension to the dwelling to the gable wall of the property and a window in the gable itself. The SPO provided members with an overhead view of the property outlining the cable projection to the rear where the window is upstairs, the objector is requesting that roof-lights be put into the side

opposed to the window at the rear. The SPO outlined the objector's property and separation distances between the two sites which was significant even for being in a rural area. Having looked at that and the condition proposed to introduce obscure glazing for the window, officers felt that this would be enough to prevent any undesirable and unacceptable overlooking of the objector's property.

Proposed by Councillor Varsani
Seconded by Councillor Mallaghan and

Resolved That planning application LA09/2024/0154/F be approved subject to conditions as per the officer's report.

LA09/2024/0176/O Dwelling and garage at 40m SW of 11 Lough Road, Magherafelt for Mr Peter Cassidy

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

Councillor Black entered the meeting at 5.20 pm.

LA09/2024/0216/O Site for single storey dwelling and garage at approx. 20m N of 229 Coalisland Road, Mullaghmarget, Edendork for Ms S Casey

Mr Marrion (SPO) presented a report on planning application LA09/2024/0216/O advising that it was recommended for refusal.

Councillor Varsani advised that she had taken a close look at the details on this application and felt that it was quite an unusual one in that there had been no objections, it was in a cluster, doesn't have any road access problems except perhaps the actual entrance needing a bit more visibility and was the same as most of the other houses on the same road. The member felt that this application could benefit from an office meeting and was also aware that it was stated that no noise impact statement has been carried out yet due to it being beside an industrial site and felt that this should not be held against residents. The member suggested that any issues could be explored through an office meeting.

Proposed by Councillor Varsani
Seconded by Councillor S McPeake and

Resolved That planning application LA09/2024/0216/O be deferred for an office meeting.

LA09/2019/1482/F Retention of workshop at approx. 70m W of Unit 10, Station Road Industrial Estate, Station Road, Magherafelt for Four Dee (NI) Ltd

Members considered previously circulated report on planning application LA09/2019/1482/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor D McPeake

Resolved That planning application LA09/2019/1482/F be approved subject to conditions as per the officer's report.

LA09/2023/0466/O Dwelling and garage at land approx. 150m N of 30 Killyfaddy Road, Magherafelt for Mr Arron McMurray

The Chair advised that the above application will be heard in confidential business due to personal circumstances.

LA09/2023/0467/O Dwelling and domestic garage in a gap site at land adjacent and NE of 70 Glenhoy Road, Ballygawley for Mr Sean O'Neill

Members considered previously circulated report on planning application LA09/2023/0467/O which had a recommendation for approval.

Proposed by Councillor McElvogue
Seconded by Councillor McConnell and

Resolved That planning application LA09/2023/0467/O be approved subject to conditions as per the officer's report.

LA09/2023/0683/O Dwelling at an existing cluster adjacent to and SW of 150A Washingbay Road, Coalisland for Mr Patrick Brady

Members considered previously circulated report on planning application LA09/2023/0683/O which had a recommendation for approval.

Proposed by Councillor Kerr
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2023/0683/O be approved subject to conditions as per the officer's report.

P066/24 Receive Report on Property Certificate Charges

Ms Doyle (HLP) presented previously circulated report to seek approval for the implementation of agreed revised charges for Regional Property Certificates (RPC) processed by the Planning Department.

Proposed by Councillor Mallaghan
Seconded by Councillor Varsani and

Resolved That the administrative charge of £84 be applied immediately following consultation with The Law Society.

P067/24 Receive Dalradian Update Report

Mr Bowman (HSP) presented previously circulated report which was to seek members agreement on the content of the Council's proposed statement of case further to previous submission to the Planning Appeals Commission (PAC) in relation to the upcoming Dalradian Mine project Local Public Enquiries due to be held on 10th September 2024 (LA10/2017/1249/F).

The HSP advised members that he has just seen from PAC's website that they have appeared to suspend the hearings yet again with no date now, when originally aiming for an enquiry in September and were preparing a statement of case for the deadline of 31st May.

The HSP stated that the purpose of the paper was to provide an update position to reflect the fact that we were aiming for 31st May submission. He said that there were a few other things that he wished to seek members agreement in relation taking forward our statement of case. Council had resolved and have made their position publicly known already and part of the discussion at the time was that it went into the Dark Skies and Stone Circles. When preparing the evidence Officers had been looking at things like that and was to seek members agreement that this be fleshed out a bit more in terms of potential impacts that this could have on the Dark Skies Park and Stone Circles. Also, at the time of the last report Fermanagh and Omagh's Draft Plan Strategy had not got to independent examination, it has now got through that stage and has since been adopted and now able to update our line in terms of that plan.

The HSP sought members agreement to add the additional points to the Statement of Case in preparing the evidence and forward in due course when that arises in the future.

The Chair said that the report has now been updated to reflect the additional changes in the circumstances since the original response, objecting to the proposal and hoping to include the protection of the Dark Skies and Stone Circles areas which wasn't as prevalent at that time. Also to agree to include further comments from Fermanagh and Omagh based on their approved Draft Plan Strategy.

The HSP agreed or effectively for this Council to reflect the now more advanced stage that the Fermanagh and Omagh plan is since 2021 when it hadn't been to independent examination.

Councillor Clarke felt that this would be very important as things have moved on a lot due to our ASAI's having grown and extra townlands within Mid Ulster. He advised that Omagh has included the ASAI's as it is a huge area and includes a lot of features including the Stone Circles and Dark Skies. The member stated that this was more of an important site now than at any stage.

The HSP said that as part of a wider discussion around Heritage or Archaeological Heritage this would be looked at along with comments that HED have also provided. He said that there was a significant amount of material online but would certainly take those points on board. The HSP stated that these were somewhat covered within the first resolution from the last time to consider the impacts generally on the

AONB in terms of visual impact, but these will be factored into the consideration also.

Councillor Kerr said that he had been following the public enquiry and was aware that it has been suspended in September. The member queried if the public enquiry does go ahead what representation does Mid Ulster intend to use and asked if Council have any experts to outline our very rigorous opposition to the proposed gold mine. He was aware of other public authorities coming out publicly against it and asked if it would be worth exploring having a joint effort in any legal fees to show that there was a united front as it was a very important public enquiry as it affects many authorities. The member said he was aware that there were major health implications for residents living in Mid Ulster Council area if the gold mine was to go ahead.

The HSP advised that Council does not have any particular experts in that field, Officers would be representing the Council in relation to what we have agreed to pursue so far with a lot around that being visual impact and things that Officers can form a fairly solid view on anyway. For areas like the Dark Skies and other areas, it may be worthwhile having a think about a bit more expert opinion on that since there is now time to do so. He was aware of the difficulty for Environmental Health Officers to comment on light pollution as it was not an area of expertise for them and felt that there was merit in looking on what could be drawn on and happy to explore this further now that we don't have to meet the deadline of 31st May. The HSP said that he would be happy to explore the area on expertise around light pollution which may help.

The Chair adding on from Councillor Kerr's comments said that previously as a Council we said that if and when the inquiry came about, we would look at supporting the other Councils in possibly jointly procuring in bringing in advice or specialisms at that stage. He said that it would do no harm in looking at that resolution and determining the appropriate time for doing so and was his understanding that was the decision taken at that time.

Councillor Kerr said that he welcomed the HSP's comments but wished to raise major negative factors of the application in relation to health implications. If people's life expectancy is being lowered, then this should be one of the more stronger fields of experts that Council should be exploring as no-one should be at risk because of this application.

The Chair enquired if it was known when the public enquiry would resume again.

The HSP advised that it does not indicate when it would resume again and updated the committee on PAC's statement:

"that the commission to suspend arrangements for the current enquiry timetable in the circumstances and once the commission is in receipt of a valid direction from DAERA in relation to the expected abstraction and impoundment licence applications together with all of the relevant papers in respect of those applications, it will move to set directions and new dates for the submission of statements of case".

The HSP said that this was very open ended and unsure how long this was going to be.

Councillor Cuthbertson said that he would urge caution on comments made in relation to engaging legal teams and experts as this could run this Council into a lot of expense as this was not our decision and would not be making it. This Council has a Planning team of Officers within our remit who have a proven track record in relation to planning skills and policies and did not think that we need to be engaging or wasting money on outside advice when we have a team of Officers who know the planning system and provide advice on policy.

The Chair said that he would differ with the member's opinion and the way of dealing with this would be going back to see where Council stands as he believed that there was a record of committee taking the decision of when specialist advice was required that we would look at assistance from them various fields. There was a proposal came forward at the time that Mid Ulster and Fermanagh & Omagh come together in a joint procurement venture and decision was taken that we would hold back to see what was happening. Given the complexities, the different areas of specialisms and reports, we certainly do not have the capabilities within our staff for what was going to be required. The Chair felt that it was important to keep an eye on things and employ those services as and when required.

Proposed by Councillor Clarke
Seconded by Councillor S McPeake and

Resolved To agree that those additional issues of concern referenced in the minutes of the 2nd August 2021 meeting, and at Paragraph 3.2 within this report, along with the more advanced stage of the Fermanagh and Omagh Council plan, are to be included and reflected in the Council's evidence to the Inquiry further to the Council's initial submission.

P068/24 Update on Findings of Survey Carried Out on Preferred Start Time for Planning Committee

Ms Doyle (HLP) presented previously circulated report to provide Members with and update on the findings of the survey carried out on preferred start time for Planning Committee.

The Chair thanked the HLP and her team for carrying out the survey which was done very speedily with Councillors and staff.

Proposed by Councillor S McPeake
Seconded by Councillor Black and

Resolved That following review of the start time of the Planning Committee, commencement of meeting be changed to 6pm in line with the overall majority of Members and Officers commencing next month.

Matters for Information

P069/24 Minutes of Planning Committee held on 9 April 2024

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

P070/24 Receive Appeal Decision – Iniscarn Road, Moneymore

Members noted update from Planning Appeals Commission following a decision by the Planning Committee to refuse planning permission for the proposed development.

P071/24 Receive Planning Service Plan 2024/25

Members noted Planning Department Service Plan for the period 2024-2025.

Live broadcast ended at 5.42 pm.

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Kerr
Seconded by Councillor Mallaghan and

Resolved In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P072/24 to P075/24.

Matters for Decision

P072/24 Receive Enforcement Notice

Matters for Information

P073/24 Confidential Minutes of Planning Committee held on 9 April 2024

P074/24 Enforcement Cases Opened

P075/24 Enforcement Cases Closed

P076/24 Any Other Business

P077/24 Duration of Meeting

The meeting was called for 5 pm and concluded at 6.50 pm.

Chair _____

Date _____

Annex A – Introductory Remarks from the Chairperson

Good evening and welcome to the Council's [Planning, Policy & Resources /Environment/ Development] Committee in the Chamber, [Cookstown /Dungannon/Magherafelt].

I specifically welcome the public watching us through the Live Broadcast. The Live Broadcast as aforesaid, 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.

I would remind the public and press that taking photographs of proceedings or using any means to enable anyone not present to see or hear proceedings, or making a simultaneous oral report of the proceedings are not permitted.

Thank you and we will now move to the agenda.