

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 7 November 2023 in Council Offices, Circular Road, Dungannon and by virtual means

Members Present

Councillor S McPeake, Chair

Councillors Black (5.09 pm), J Buchanan, Carney, Clarke, Cuthbertson*, Graham, Mallaghan, Martin*, McConnell* (5.27 pm), McElvogue, McFlynn*, D McPeake, Robinson, Varsani*

Officers in Attendance

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

Others in Attendance

Councillor Bell***

LA09/2022/1336/O	Mr McLean
LA09/2023/0411/O	Mr Cassidy***
LA09/2020/0729/F	Ms Trainor***
LA09/2021/1672/F	Mr Cassidy***
LA09/2022/1504/O	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 5.00 pm

P114/23 Notice of Recording

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

P115/23 Apologies

Councillor Kerr.

P116/23 Declarations of Interest

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

Councillor McElvogue declared an interest in agenda item 6.8 – LA09/2022/0437/F.

P117/23 Chair's Business

The Service Director of Planning (SD: PI) advised that the Head of Local Planning and Head of Strategic Planning would lead the Planning Committee in December as he would be on leave.

The SD: PI referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred from tonight's meeting schedule for further information to be submitted / an office meeting –

Agenda Item 5.1 – LA09/2022/0112/O - Dwelling and garage at 60m S of 29 Lisnagowan Road, Feroy, Dungannon for Mr Derek Montgomery.

Agenda Item 5.4 – LA09/2022/1118/F - Single storey dwelling at 120 Killymeal Road, Killymeal House, Dungannon for J and V Construction.

Agenda Item 5.11 – LA09/2023/0402/F - 3 detached dwellings adjacent to 7 Desertmartin Road, Moneymore for Mr Marie and Sean Corr.

Agenda Item 5.13 – LA09/2023/0422/O - Site for a 2 storey dwelling and domestic garage on a farm at lands approx. 215m E of 5 Rarogan Road, Augher for Pat McAleer.

Agenda Item 5.14 – 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.

Agenda Item 5.20 – LA09/2023/0703/O - Replacement dwelling and garage at 65m NW of 115 Auhrim Road, Magherafelt for Seamus O'Kane.

Agenda Item 5.23 - LA09/2023/0752/F - LA09/2020/0318/RM Proposed domestic bungalow with domestic garage. Condition No. 2. Proposed to be changed to: 'The vehicular access shall be improved and maintained in accordance with drawing 2318/A01. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter'. Background and justification set out by transport consultants letter attached with application. at 63B Anneeter Road, Coagh, Cookstown for Mr Oliver Conlon.

Proposed by Councillor Clarke
Seconded by Councillor Mallaghan and

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

Matters for Decision

P118/23 Planning Applications for Determination

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

LA09/2022/0112/O Dwelling & garage at 60m S of 29 Lisnagowan Road, Feroy, Dungannon for Mr Derek Montgomery

Agreed that application be deferred for further information to be submitted earlier in meeting.

LA09/2022/0499/RM 2 No. 1.5 storey detached dwellings to the rear of 11 Adair Gardens, Cookstown for R and F Developments

Members considered previously circulated report on planning application LA09/2022/0499/RM which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor Mallaghan and

Resolved That planning application LA09/2022/0499/RM be approved subject to conditions as per the officer's report.

LA09/2022/0606/F Housing development of 6 detached houses, 18 semi detached houses, associated site works and foul water pumping station adjacent/E of 88 Roughan Road and 48 Drumreagh Road, Newmills, Dungannon for Firtree Developments (Ni) Ltd

Members considered previously circulated report on planning application LA09/2022/0606/F which had a recommendation for approval.

Proposed by Councillor Mallaghan
Seconded by Councillor Clarke and

Resolved That planning application LA09/2022/0606/F be approved subject to conditions as per the officer's report.

LA09/2022/1118/F Single storey dwelling at 120 Killymeal Road, Killymeal House, Dungannon for J and V Construction

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

LA09/2022/1336/O

**Replacement dwelling and garage at land approx.
100m W of 12 Foygh Road, Dungannon, (access off
Drumreany Road) for Mr Roger McLean**

Mr Marrion (SPO) presented a report on planning application LA09/2022/1336/O advising that it was recommended for approval.

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

Mr McLean stated he objected to the proposed application as he was a second generation farmer of this complex site. Mr McLean stated he had an extensive poultry unit which he had built up over the last 21 years. Mr McLean referred to the officer report and highlighted that NIEA and Environmental Health have both indicated that the proposed site is unsuitable for a dwelling however he did accept that the report recommends approval based on the criteria for a replacement dwelling but questioned at what cost to his lifelong business. Mr McLean stated that if the application were to be approved and residents move in, complaints would likely follow to the Environmental Health department regarding odour, this is the same department who have stated the site is unsuitable for a dwelling. Mr McLean stated that these complaints could have the potential to finish his business and questioned who would compensate him for his loss of earnings. Mr McLean stated that intensive poultry farming requires a permit from NIEA and that potential residents making complaints about odour will be contacting NIEA who also state the site is unsuitable for a dwelling. Mr McLean stated that NIEA have the power to withdraw a permit and close his chicken houses. Mr McLean stated that if a farmer wants to build a new chicken farm it has to be built 150m plus away from a dwelling and felt it is only fair that a dwelling should be built 150m plus away from a chicken farm and at the very least outside the boundaries of an odour management plan. Mr McLean stated that the proposal is 15m away from the back of one of his chicken houses. Mr McLean stated that an alternative site has been suggested and that a slight movement would eliminate flood risk. Mr McLean stated that a site visit would highlight all the points he had raised and that he would also welcome an office meeting. Mr McLean stated he did not want to prevent a site being approved but that he had to protect his own livelihood. Mr McLean stated that whilst he was representing his own case tonight he felt this issue is something that needs to be addressed at a legislative level going forward.

Councillor Black entered that meeting at 5.09 pm during the above presentation.

The Service Director of Planning (SD: PI) stated it did not go amiss that the applicant's surname is McLean and that his surname is McLean and asked what the background is.

Mr McLean stated that the site is complex, that his grandfather bought the farm in 1960 and that his father farmed it until 2002. At that time the farm was signed over, mapped out and split in two between himself and his brother. Mr McLean stated that the chicken houses were built by himself.

The SD: PI asked when the house was last lived in.

Mr McLean stated he was not aware if it was ever lived in.

The SD: PI asked what it was last used for and Mr McLean replied a pig house.

The SD: PI stated that this case concerned him and that whilst it is not the role of the Planning Committee to arbitrate over family disputes there were some issues which did not fit right. The SD: PI stated that it is reasonable for the Committee to accept that the building has the characteristics of a dwelling and could grant approval to the application. The SD: PI stated that there is a lot of land belonging to the applicant and that it is possible to get a suitable distance away from the neighbouring farm and outside the flood plain which would allow someone to build a dwelling. The SD: PI stated it did not seem logical to build a house so close to chicken houses. The SD: PI stated that the applicant would be entitled to a replacement dwelling but that they would not be entitled to put it in situ of the existing building. The SD: PI stated that if the building is used for agricultural use then someone could not move into it as it is at the moment and if they did want to move in as is they would have to apply for planning permission for change of use. The SD: PI stated he understood the objector's arguments and did not need to meet with them further and suggested that the application be deferred to meet with the applicant.

The Chair, Councillor S McPeake stated that the proposal is very close to the chicken houses and that if there were other sites available he felt there should be some barrier between the two.

Councillor Mallaghan proposed that the application be deferred.

Councillor Clarke seconded Councillor Mallaghan's proposal.

Councillor Cuthbertson stated it did seem a strange place for a dwelling and was happy with the approach being proposed.

Resolved That planning application LA09/2022/1336/O be deferred for an office meeting with the applicant.

LA09/2022/1370/O Dwelling at lands to the rear of 42, 44 and 46 Killyman Street, Moy adjacent to and immediately S of 50 Killyman Street for Mr Dermot MacNeice

Members considered previously circulated report on planning application LA09/2022/1370/O which had a recommendation for approval.

Proposed by Councillor Carney
Seconded by Councillor McElvogue and

Resolved That planning application LA09/2022/1370/O be approved subject to conditions as per the officer's report.

LA09/2022/1670/F **Residential development of 44 units; (8 detached and 36 semidetached dwelling units) with associated landscaping / open space; waste water pumping station; parking; and roads and access onto Annaghmore Road and associated works at lands immediately N of St Patrick's Primary School, 10 Annaghmore Road, Coalisland for Mr Declan McCloskey**

Members considered previously circulated report on planning application LA09/2022/1670/F which had a recommendation for approval.

Proposed by Councillor Carney
Seconded by Councillor McElvogue and

Resolved That planning application LA09/2022/1670/F be approved subject to conditions as per the officer's report.

LA09/2023/0163/O **Replacement dwelling with retention of the existing dwelling for agricultural storage at 50m S of 5 Beaghbeg Road, Cookstown for Benny McAleer**

Members considered previously circulated report on planning application LA09/2023/0163/O which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor D McPeake and

Resolved That planning application LA09/2023/0163/O be approved subject to conditions as per the officer's report.

LA09/2023/0369/F **Amendment of access location and visibility splay requirement adjacent to 4 Whitebridge Road, Ballygawley for Mr Eamon Cassidy**

Members considered previously circulated report on planning application LA09/2023/0369/F which had a recommendation for approval.

Proposed by Councillor McElvogue
Seconded by Councillor Clarke and

Resolved That planning application LA09/2023/0369/F be approved subject to conditions as per the officer's report.

LA09/2023/0397/O **Site for a dwelling and domestic garage approx. 35m N of 2 Motalee Lane, Desertmartin at approx. 35m N of 2 Motalee Lane, Desertmartin for Mr Michael Gribbin**

Members considered previously circulated report on planning application LA09/2023/0397/O which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2023/0397/O be approved subject to conditions as per the officer's report.

LA09/2023/0402/F **3 detached dwellings adjacent to 7 Desertmartin Road, Moneymore for Mr Marie and Sean Corr**

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

LA09/2023/0411/O **Site for a dwelling and domestic garage approx. 40m N of 19a Ballyronan Road, Toome for Mr Matt Murphy**

Mr McKinless (SPO) presented a report on planning application LA09/2023/0411/O advising that it was recommended for refusal.

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

Mr Cassidy stated that the proposal has been applied for under cluster and that the case officer is content there is cluster development, a suitable degree of integration, that there is development on two sides and it is located outside of a farm. Mr Cassidy stated that the one area of contention relates to a focal point and that he felt that the cluster in question has three focal points. Mr Cassidy stated the site is located at Hurls Corner which he stated is a well known landmark and has been described as such in recent press coverage. Mr Cassidy stated that there are also a number of old airfield buildings which exist at this location that were used by the US Air Force during World War 2. The second focal point is the Parochial House and community hall to the North of the site which adjoins the cluster. The third focal point is Newbridge picnic area to the East of the site which is a Council facility regularly frequented by fishermen and families. Mr Cassidy stated that the Planning Appeals Commission and Mid Ulster Council have adopted an approach in that if the application meets 5 of the 6 points and there is no demonstrable harm then it should be approved. Mr Cassidy stated that consultees have no concerns with the application and asked the Committee to reconsider the recommendation.

The Service Director of Planning (SD: PI) stated that policy does not say an application should meet 5 of 6 requirements and that in cases where the Planning Appeals Commission have accepted 5 of 6 requirements they could have been judicially reviewed. The SD: PI stated that an exception can be made to policy if there is good reason and asked Members with local knowledge if Hurls Corner is something people could identify.

The Chair, Councillor S McPeake stated he lived about 4 miles away from the site and did know the area as Hurls Corner and highlighted the addendum which included the press clipping.

Councillor D McPeake stated that there was not a person in Newbridge or Ballymaguigan who did not know the area as Hurls Corner.

The SD: PI stated that policy states that a focal point should be a crossroads or community facility but that in his view a focal point should be something which gives an area an identity and makes it different. The SD: PI stated that if the area is known as Hurls Corner there is a ribbon of development to be seen and that he felt the proposal will read as a single development associated with the focal point based on the arguments put forward tonight.

Councillor D McPeake reiterated that the area is known as Hurls Corner and that the community centre is also used for funeral teas and birthday parties. Councillor D McPeake proposed that the recommendation to refuse the application be overturned and that the application be approved.

The SD: PI stated that rather than overturn he would be prepared to change the recommendation for the application to an approval.

Councillor D McPeake proposed the recommendation.

Councillor Clarke seconded Councillor D McPeake's proposal.

The SD: PI suggested that the proposal be conditioned to 6m ridge height to keep it in character with existing development.

Resolved That planning application LA09/2023/0411/O be approved with 6m ridge height.

LA09/2023/0422/O **Site for a 2 storey dwelling and domestic garage on a farm at lands approx. 215m E of 5 Rarogan Road, Augher for Pat McAleer**

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

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**

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

LA09/2023/0552/F **Residential development comprising 2 semi detached dwellings and 2 detached dwellings (4 units in total) with private access road and car parking (amended plans) adjacent to and immediately NW of 48 Main Street, Coagh, Cookstown for Nigel Hagan**

Members considered previously circulated report on planning application LA09/2023/0552/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Black and

Resolved That planning application LA09/2023/0552/F be approved subject to conditions as per the officer's report.

LA09/2023/0612/F **1 no. two storey detached dwelling with garage at land adjacent and E of 146C Drumagarner Road, Kilrea for Mr Niall Dallatt**

Members considered previously circulated report on planning application LA09/2023/0612/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor S McPeake and

Resolved That planning application LA09/2023/0612/F be approved subject to conditions as per the officer's report.

LA09/2023/0650/RM **Dwelling and detached garage at lands 85m SW of 16 Megargy Road, Magherafelt for Declan Donnelly**

Members considered previously circulated report on planning application LA09/2023/0650/RM which had a recommendation for approval.

Proposed by Councillor D McPeake
Seconded by Councillor Clarke and

Resolved That planning application LA09/2023/0650/RM be approved subject to conditions as per the officer's report.

LA09/2023/0690/O **Site for new dwelling in infill site between 42 and 42A Tamnaskeeney Road, Cookstown for Richard McAllister**

Members considered previously circulated report on planning application LA09/2023/0690/O which had a recommendation for approval.

Proposed by Councillor J Buchanan
Seconded by Councillor Robinson and

Resolved That planning application LA09/2023/0690/O be approved subject to conditions as per the officer's report.

LA09/2023/0694/F **Farm machinery/feed store with handling facilities (no animal housing) at 140m SE of 49 Slate Quarry Road, Pomeroy for Mr John and Brian Lagan**

Members considered previously circulated report on planning application LA09/2023/0694/F which had a recommendation for approval.

Proposed by Councillor Mallaghan
Seconded by Councillor Clarke and

Resolved That planning application LA09/2023/0694/F be approved subject to conditions as per the officer's report.

LA09/2023/0703/O **Replacement dwelling and garage at 65m NW of 115 Aughrim Road, Magherafelt for Seamus O'Kane**

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

LA09/2023/0704/O **Dwelling & garage at 40m NE of 74 Moneyhaw Road, Drummullan, Moneymore for Mr Keith Bell**

Members considered previously circulated report on planning application LA09/2023/0704/O which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Clarke and

Resolved That planning application LA09/2023/0704/O be approved subject to conditions as per the officer's report.

LA09/2023/0735/RM **Site for dwelling on a farm at 250m NE of 19 Derrylattinee Road, Dungannon for Mr Caolan Gildernew**

Members considered previously circulated report on planning application LA09/2023/0735/RM which had a recommendation for approval.

Proposed by Councillor Carney
Seconded by Councillor Varsani and

Resolved That planning application LA09/2023/0735/RM be approved subject to conditions as per the officer's report.

LA09/2023/0752/F **LA09/2020/0318/RM Proposed domestic bungalow with domestic garage. Condition No. 2. Proposed to be changed to: 'The vehicular access shall be improved and maintained in accordance with drawing 2318/A01. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter'. Background and justification set out by transport consultants letter attached with application. at 63B Anneeter Road, Coagh, Cookstown for Mr Oliver Conlon**

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

LA09/2023/0857/RM **Replacement dwelling & garage at approx. 80m SE of 19 Shivey Road, Cookstown for Mr John Causey**

Members considered previously circulated report on planning application LA09/2023/0857/RM which had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor Buchanan and

Resolved That planning application LA09/2023/0857/RM be approved subject to conditions as per the officer's report.

LA09/2023/0878/F **Alterations and extension to existing dwelling and new shed for hobby room and garden store purposes at 5 Page's Lane, Draperstown for Mr Bosco Tohill**

Members considered previously circulated report on planning application LA09/2023/0878/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor D McPeake and

Resolved That planning application LA09/2023/0878/F be approved subject to conditions as per the officer's report.

LA09/2018/1056/F **Additional 5.5m wide vehicular access, 2no 2m wide footpaths interlinked into existing footpath network including associated right turning lane to The Olde Fairways Residential Development adjacent to 90 Colebrooke Road, Fivemiletown, (in substitution to approved under M/2008/0501/F) for Rahoran Limited**

Members considered previously circulated report on planning application LA09/2018/1056/F which had a recommendation for approval.

Proposed by Councillor Robinson
Seconded by Councillor McConnell and

Resolved That planning application LA09/2018/1056/F be approved subject to conditions as per the officer's report.

LA09/2020/0729/F **Site for 5 detached dwellings and garages (inclusion of footpath along public road) (additional plans received re footpath provision) at 40m W of 16 Annaghmore Road, Coalisland for Mr Conor Tennyson**

Mr Marrion (SPO) presented a report on planning application LA09/2020/0729/F advising that it was recommended for approval.

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

Ms Trainor stated she wanted to express the anxiety, stress and frustration that this application had cost over the past 3 years. Ms Trainor stated that as a homeowner who has invested life savings into a property it is felt necessary to defend the integrity of their home and potential impacts on their lands. Ms Trainor stated that

guidance has been sought from solicitors, architects and those familiar with planning in order to protect their property and that the time associated with this has been a significant and unwanted stress. Ms Trainor stated that they have been inconvenienced by time and costs by something initiated by a developer rather than something chosen by them. Ms Trainor stated that the planning process should be transparent, accessible and supportive of homeowners who are not benefitting from a proposal and not be an additional source of stress and financial strain. Ms Trainor spoke of concerns regarding lack of communication and consultation from the developer and felt it is unprofessional and inconsiderate of a developer not to meet with the homeowner given the significant impact the proposal has on their property and land. Ms Trainor referred to the report which states there is no statutory requirement for public consultation prior to submitting an application and felt that this highlights limitations. Ms Trainor stated that whilst the developer may not be legally obliged to engage with a homeowner it was felt it is a matter of common courtesy and responsible development practice to do so. Ms Trainor stated that the developers absence from the meeting in September 2022 further highlights a lack of respect for their concerns. Ms Trainor stated that the developer seemed to be confident that he has control of adequate lands to put the footpath in place as per the plans and to carry out road widening and to construct the footpath and kerbing without damaging any property. Ms Trainor stated that the developer does not have any control of the verge or hedge line in front of no.109 as the land registry map shows that they own it. Ms Trainor outlined that DfI do not state that any private land is required for the footpath but neither do they say it is required and that proposed plans are going by the word of the developer only. Ms Trainor stated that they have been advised by a solicitor that should a developer encroach on a boundary line it will require permission from them and that removal of any hedge will require consent and that should a developer attempt to do this they have the right to apply for an injunction. Ms Trainor asked for a site meeting with all parties in order to provide clarity on details and measurements.

The Service Director of Planning (SD: PI) asked what certificate of ownership had been submitted.

Mr Marrion advised that Certificate A has been completed.

The SD: PI referred to the site plan and the blue line which is the proposed footpath. The SD: PI stated that the blue line goes across the frontage of the objectors property and that they have provided a portfolio map of no.109 and that this would suggest the Certificate is not right.

Mr Marrion stated that he had checked with DfI and that they have stated they do not require a private streets determination for this as they are of the view that they own and control the verge.

The SD: PI stated that case law would have established that where a fence has been erected and there is a verge between that and road then it is presumed that the verge belongs to the Roads Service. In this instance it is clear that the verge has been given over to Roads Service and a certificate would not be required however in order to construct the footpath it is likely to have some implications for the hedgerow. The SD: PI suggested that the application be deferred in order to take measurements of proposed footpath on site, in relation to the ownership question the

SD: PI stated that there is a dispute between the parties and that the objector has had the opportunity to object to the application and that a valid point had been raised in that a developer cannot take down a hedgerow which does not belong to them.

Councillor Clarke asked when the footpath would be constructed if there is a minimum width the road should be.

Mr Marrion advised that officers have consulted with Roads Service on the application and that they have raised no concerns. Mr Marrion also highlighted that the report notes measurements taken on site.

The SD: PI stated that if measurements have been taken on site and that Roads Service have raised no concern then anything else is a civil dispute.

Ms Trainor referred to point 1 and the measurement of 1.4m to the middle of the hedge and asked why the middle of the hedge was being taken into consideration as that would be their property.

Discussion ensued regarding various measurements.

Councillor Carney proposed a site visit in order to give the residents a better idea of what is being proposed.

The SD: PI stated this would be a reasonable approach.

Councillor D McPeake seconded Councillor Carney's proposal.

Resolved That planning application LA09/2020/0729/F be deferred for a site visit.

**LA09/2021/1149/F Access at 11A Strawmore Lane, Doon, Draperstown
for E Kelly Esq**

Members considered previously circulated report on planning application LA09/2021/1149/F which had a recommendation for approval.

Proposed by Councillor D McPeake
Seconded by Councillor Clarke and

Resolved That planning application LA09/2021/1149/F be approved subject to conditions as per the officer's report.

**LA09/2021/1672/F Change of house type and relocation of dwelling and
domestic garage from that approved M/2013/0414/F
and domestic garage at approx. 100m N of 34 Ferry
Road, Coalisland, Dungannon for R Patrick and Mrs
Lisa Trainor**

Mr Marrion (SPO) presented a report on planning application LA09/2021/1672/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 stated that the site is set 500m back from the Ferry Road and that there is only one view of the site, from a 50m stretch of the Ferry Road from its junction with the Reenaderry Road and is only seen from there as some hedging has recently been removed. Mr Cassidy stated that the proposal will have minimal impact and highlighted that much larger houses have been approved and constructed adjacent to the site. Mr Cassidy stated that the applicant has offered to provide a landscaping scheme which can be conditioned to be provided before any development starts on site. Mr Cassidy suggested that a site visit would be a good opportunity for Members to see how far the site is from the road and how little it can be viewed.

Councillor Carney proposed a site visit as she regularly travels that road and would agree with the comments that there are a number of new, larger houses in the locality.

Councillor D McPeake seconded Councillor Carney's proposal.

Resolved That planning application LA09/2021/1672/F be deferred for a site visit.

LA09/2022/0063/O Replacement dwelling and domestic garage adjacent to 16 Roshure Road, Desertmartin, Magherafelt for Mr Rodney McKnight

The Head of Local Planning (HLP) presented a report on planning application LA09/2022/0063/O advising that it was recommended for refusal.

Councillor Black stated he was unable to go to the site visit but that he was familiar with the site and that he felt there were characteristics that were in keeping with what would be a dwelling particularly around the windows and toilet. The Councillor referred to the report that there was inconclusive evidence but that he would be of the opinion that the building was a dwelling at one point in time and that he would be uncomfortable with refusing the application as he would argue there are characteristics resembling a dwelling.

The Service Director of Planning (SD: PI) referred to the report which stated that the photographs did not show what originally was there and asked what that meant.

The HLP advised that the Griffiths Valuation Map of 1859 shows a house, offices and land. The HLP advised that the site is located up a lane and that there is a two storey dwelling there along with a number of outbuildings and sheds along with a yard and off this yard is the building in question. The HLP stated that there is already a dwelling on the site with no planning history to say if that was a replacement at any time but that she was not convinced that the house that was there in 1859 is the same as what is pertaining to be the house now. The HLP stated that the building has windows and doors but no chimney.

The SD: PI stated that the photos are inconclusive and that the test is not that you have to prove it was a dwelling but rather it has the characteristics of a dwelling. The SD: PI stated that there is no chimney in situ but that this could have fallen down and

that this poses the question that if a dwelling was to be put on site would there be any concerns.

The HLP advised there would be no concerns in relation to integration or prominence as it would not be seen from the road.

The SD: PI stated that it is reasonable for Members to take their own position on the application.

Councillor Mallaghan stated that he attended the site visit and stated that it looked clear to him that the building in question could have been a labourers cottage. Councillor Mallaghan proposed that the application be approved.

The Chair, Councillor S McPeake stated he had also been to the site visit and whilst he took the point that you could not definitively say that it was a dwelling he felt there were enough characteristics to say it was a dwelling at some point. Councillor S McPeake stated he did not feel the proposal would cause any harm.

Councillor McFlynn stated she had been to the site visit and whilst it may be inconclusive she felt the structure was solid with window and door lintels and that a chimney could have been situated in the part of building that has collapsed. The Councillor stated she was content to approve that application.

Councillor Black seconded Councillor Mallaghan's proposal.

In terms of conditions, it was felt a two storey dwelling would not be visible.

Resolved That planning application LA09/2022/0063/O be approved.

LA09/2022/0121/F **Retention of farm machinery and animal feed store at 55m N of 199 Glen Road, Maghera for Mr John O'Kane**

Members considered previously circulated report on planning application LA09/2022/0121/F which had a recommendation for approval.

Proposed by Councillor D McPeake
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2022/0121/F be approved subject to conditions as per the officer's report.

LA09/2022/0249/O **Dwelling & domestic garage on a farm at land adjacent to & immediately S of 14 Tychaney Road, Ballygawley for Jenna Robinson**

Members considered previously circulated report on planning application LA09/2022/0249/O which had a recommendation for approval.

Proposed by Councillor Buchanan
Seconded by Councillor Black and

Resolved That planning application LA09/2022/0249/O be approved subject to conditions as per the officer's report.

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

Mr Marrion (SPO) referred to addendum and that additional information had been submitted which requires further consideration. Mr Marrion stated that the applicant is now making a better case in terms of the flooding issue which will require further consultation with DfI and that receipts have also been submitted to support an active farming case.

Councillor Mallaghan proposed that the application be deferred.

Councillor D McPeake seconded Councillor Mallaghan's proposal.

Resolved That planning application LA09/2022/0437/F be deferred to consider additional information submitted.

LA09/2022/1065/O Dwelling and Garage at 50m S of 37 Moor Road, Coalisland for Niall and Mary Kilpatrick

Members considered previously circulated report on planning application LA09/2022/1065/O which had a recommendation for approval.

Proposed by Councillor Carney
Seconded by Councillor McElvogue and

Resolved That planning application LA09/2022/1065/O be approved subject to conditions as per the officer's report.

LA09/2022/1277/F Infill dwelling and detached double garage at lands approx. 7m E off 20 Ballymacpeake Road, Portglenone for Mr Feargus Quinn

Application withdrawn.

LA09/2022/1408/O Infill dwelling and domestic garage at 70m NE of 107 Drummerr Lane, Coalisland for Mr John Mc Cabe

Members considered previously circulated report on planning application LA09/2022/1408/O which had a recommendation for approval.

Proposed by Councillor Carney
Seconded by Councillor McElvogue and

Resolved That planning application LA09/2022/1408/O be approved subject to conditions as per the officer's report.

LA09/2022/1419/O

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

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

The Service Director of Planning (SD: PI) stated that the site appeared to be urban and if it was urban it could fail policy in terms of protection of open space.

Councillor S McPeake stated he had been on the site visit and that the strip of land was very narrow and that the proposal was not typical of what you would get in this part of the countryside.

Councillor Black referred to consultations with Environmental Health and that it was disappointing that there has been no response. The Councillor felt that Environmental Health would be best placed to advise on the impact of the proposal and that he would feel uncomfortable moving to a decision on the application before comments from Environmental Health were received.

The SD: PI stated that the proposal is out of character with existing dwellings and that the reason officers were consulting with Environmental Health was not because of impact on neighbours but because it may be an unsuitable site for occupiers due to noise from road. The SD: PI stated that he felt the site was unsuitable for a house but that the developer wants to capitalise on what was left over in the original development. The SD: PI stated that the applicant will have right of a planning appeal and suggested that Members follow the officer recommendation.

Councillor Black stated he appreciated the comments in relation to consultation with Environmental Health and he was not disagreeing with what had been said but felt that if it was considered necessary to consult with them in the first place it would be appropriate to wait on their response.

The SD: PI stated that he felt the argument on the application related to the impact on the character of the area and the impact on existing residents.

Councillor McFlynn stated she had been to the site visit and that the site in question is a very narrow strip of land and that she did not know how a house would fit on it. Councillor McFlynn proposed the officer recommendation.

The Chair, Councillor S McPeake stated he had been to the site visit and took the same view and would second Councillor McFlynn's proposal.

Ms McKinless referred to earlier comment in relation to open space policy and asked if this should be added to the reasons for refusal.

The SD: PI asked that the meeting return to this item as he would like time to consider PPS8.

Mr Marrion (SPO) presented a report on planning application LA09/2022/1504/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 he would address each of the points of concern in turn, firstly that the site is not associated with a focal point. Mr Cassidy advised that the site sits at a crossroads and is adjacent to a Church and garage and felt that there are three focal points in the vicinity. The second concern related to the site not being bounded on two sides by development. Mr Cassidy advised that the site is bounded to the South by a number of agricultural buildings, a garage, a Church and a house and that to the North it is bounded by agricultural buildings. All buildings are long term features and have been in the locality a number of years. The third concern related to there not being a suitable degree of integration. Mr Cassidy advised that the boundary to the South is a mature hedge which will remain intact and that the northern boundary is defined by trees planted 3-4 years ago and that none of these trees will be removed by development. Mr Cassidy stated that the site is below the road and fairly flat and that the land behind and in front of it rises steeply in both directions and provides a backdrop where any development will not break the skyline. Mr Cassidy referred to the report which states there is no visual linkage with the Church from the site and would disagree with this and advised that he had supplied photographs to show the linkage. Mr Cassidy felt that a site visit would give Members the opportunity to see for themselves the visual linkage and also see the crossroads and development on two sides.

Councillor Mallaghan stated that he lived not far from the site and felt there is strong evidence in terms of a focal point given the proximity of the Church, garages and crossroads. The Councillor stated that where the application seems to fail is in relation to development on both sides but given that the site is triangular with a road on two sides he felt this will be hard to meet but could appreciate the officers concern in terms of integration however he did feel that if there was an appropriate planting plan for the application it would help. Councillor Mallaghan stated that the site reads well with the Church and did not feel that a dwelling at the location would have any detrimental impact on character. The Councillor stated he had no issue with a site visit and whilst the proposal was not meeting policy entirely he felt there were grounds for an exception to be made. Councillor Mallaghan stated that there are no objections to the proposal and that he would be minded to propose the approval of the application.

The Service Director of Planning (SD: PI) felt that it would be better to hold a site visit in the first instance.

Councillor Mallaghan stated he would change his proposal to defer the application for a site visit.

Councillor McElvogue seconded Councillor Mallaghan's proposal.

Resolved That planning application LA09/2022/1504/O be deferred for a site visit.

LA09/2022/1561/O Site for dwelling & domestic garage at approx. 30m S of 26 Grillagh Hill, Maghera for Mr Malachy Scullin

Ms McKinless (SPO) presented a report on planning application LA09/2022/1561/O advising that it was recommended for refusal.

Councillor Robinson asked what the basis of the objection was.

Ms McKinless advised that an objection was submitted which related to surface water flooding and the impact this would have on their property. Ms McKinless stated that the applicant was asked to submit a drainage assessment but that none was put forward.

The Chair, Councillor S McPeake asked for any further comments or proposals.

No further comments were made.

The Service Director of Planning (SD: PI) stated that it may be useful that when Standing Orders and Planning Protocol are next being considered that an additional point be included that when there are no objections to a proposal that it is just accepted as problems can arise when no one wants to go down on record as proposing to refuse an application.

The Chair, Councillor S McPeake stated there had been no site visit in relation to this application.

The SD: PI stated that the key issue for this application relates to flooding and drainage and that it was his view to protect the people that are already there.

The Chair, Councillor S McPeake asked for a proposal on how to move forward.

In the absence of any proposals the SD: PI suggested that the application be referred back to him and he would make a delegated decision.

Agreed.

Resolved That planning application LA09/2022/1561/O be referred to the Service Director of Planning to make a delegated decision.

LA09/2022/1686/O Dwelling and garage at 61 Ballynakilly Road, Coalisland for Mr Terry McCann

Members considered previously circulated report on planning application LA09/2022/1686/O which had a recommendation for approval.

Proposed by Councillor Carney
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2022/1686/O be approved subject to conditions as per the officer's report.

**Continuation of
LA09/2022/1419/O**

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

The Service Director of Planning (SD: PI) stated that there is a presumption that the Protection of Open Space Policy is in urban areas but that on reading the policy it does not preclude that it can be open space in the countryside. The SD: PI stated that it would appear the land in question was left over for a reason and has been left as an open space and whilst the site is in the countryside it has very urban characteristics and that he felt policy PSOS1 – Protection of Open Space could be applied and added to the reasons for refusal.

Proposed by Councillor McFlynn
Seconded by Councillor S McPeake and

Resolved That planning application LA09/2022/1419/O be refused on the grounds stated in the officer's report to include PSOS1 – Protection of Open Space.

**Continuation of
LA09/2022/1561/O**

Site for dwelling & domestic garage at approx. 30m S of 26 Grillagh Hill, Maghera for Mr Malachy Scullin

Councillor Clarke referred to the agreement to refer this item back to Service Director of Planning to take a delegated decision. The Councillor stated that there was no reason not to follow the recommendation and in that case he would propose to accept the officer recommendation.

Councillor D McPeake seconded Councillor Clarke's proposal.

Resolved That planning application LA09/2022/1561/O be refused on the grounds stated in the officer's report.

The Service Director of Planning (SD: PI) thanked for the Members for taking a decision on the application as the provision to defer for delegated decision is not stated within Standing Orders. The SD: PI reflected that if an application is put before Committee it is important that the Committee take a decision even though this may sometimes be difficult. The SD: PI stated that if someone does not like a decision they have right of planning appeal.

P119/23 Receive Dfl Consultation on Review of LDP Regulations

Ms McAllister (SPO) presented previously circulated report which sought approval to make a submission with respect to a Dfl review of Local Development Plan Regulations, including experiences, recommendations, and supporting evidence for any proposed changes.

Proposed by Councillor S McPeake
Seconded by Councillor Mallaghan and

Resolved To agree the response as summarised in the report and detailed within Annex 1 of the report and that this be submitted to Sandra Adams, Local Government Lead, as requested by Dfl.

P120/23 Receive Report on Planning Customer Survey

Ms McAllister (SPO) presented previously circulated report which sought agreement that a survey by questionnaire distributed to agents would be an appropriate method to obtain qualitative and quantitative feedback regarding the operations of the Planning Department with emphasis on Development Management and the new planning IT system.

The Chair, Councillor S McPeake asked if all agents will get the survey.

Ms McAllister advised that contact details are held for agents who have submitted a planning application since June 2022 when the new system was introduced and that approximately 140 agents have been identified and will be sent the survey. In addition, the link to the survey will be put onto the Council website so that any other agents who wish to participate in the survey can do so.

The Chair, Councillor S McPeake stated he looked forward to the feedback. Councillor S McPeake stated that he had received a number of positive comments on the new system but that one issue raised by an agent related to the paying mechanism and that they felt the applicant should pay for an application rather than the agent.

Ms McKinless stated that there is mandatory online payment when a form is completed on the Council website but that there is a procedure in place if an agent is submitting a major application or an application which has a fee of £5000 or more. In such cases it was advised there is an offline link to a P1 form which is emailed to the agent so there is a mechanism to submit applications via alternative payment. Ms McKinless stated that when the forms were being developed it was decided to make online payment mandatory for the majority of applications but that there is another process which could be reviewed.

P121/23 Receive Planning Performance Report

The Service Director of Planning (SD: PI) presented previously circulated report which outlined progress being made in achieving the Planning Service Business Plan Objectives for 2023/4.

The Chair, Councillor S McPeake wished those representing Council well at the forthcoming National Planning Awards Ceremony.

Councillor Mallaghan stated that there is a great dynamic within the planning team and that there are good relationships between Members and officers. The Councillor stated that the planning portal is a good example of how the planning team had the freedom to do new things because they had the support of Members. The Councillor

highlighted that this is the 5th award the planning team have put themselves forward to and that this shows confidence that the team are prepared to enter even if they do not win. The Councillor also commented that restructuring can be difficult but that it is worth doing. Councillor Mallaghan referred to the customer survey previously discussed and felt that 32 questions may be a bit long, the Councillor stated he appreciated the survey is simple in that the responses are options but felt that it may be worth reviewing to see if some questions could be combined. Councillor Mallaghan proposed the recommendation in relation to the previous report on the planning customer survey and also the recommendation for this report that Council is represented at the forthcoming National Planning Awards Ceremony.

Councillor Carney seconded Councillor Mallaghan's proposals.

Resolved That the Planning Department issue a customer survey to agents to aid service improvement and that the Service Director of Planning be delegated authority to make final changes to the draft Customer Survey Questionnaire as attached at appendix to report.

Resolved That Council send the Deputy Chair of Council and the IT project team leader to represent Council at the forthcoming National Planning Awards Ceremony in London. The Planning Committee also commends the hard work and diligence of the Human Resource partners in delivering the restructuring and further integration of the Planning Department within Council.

Matters for Information

P122/23 Minutes of Planning Committee held on 3 October 2023

Members noted previously circulated minutes of Planning Committee held on 3 October 2023.

Live broadcast ended at 7.14 pm.

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Clarke
Seconded by Councillor Carney 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 P123/23 to P126/23.

Matters for Decision

P123/23 Receive Report on Dfl Letter in relation to LDP

Matters for Information

P124/23 Confidential Minutes of Planning Committee held on 3
October 2023

P125/23 Enforcement Cases Opened

P126/23 Enforcement Cases Closed

P127/23 Duration of Meeting

The meeting was called for 5 pm and concluded at 7.43 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: 7 November 2023

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

Chairs Business –

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
5.5	Late objection	Issues already addressed in the report
5.12	Newspaper Clippings Refusal reason amended	Members to note
6.4	Submission	Members to note already taken into account
6.8	Receipts and levels provided	Members to note
6.12	Additional information for consideration	Members to note
6.13	Additional information to address issues	Members to note