

**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 1 November 2022 in Council Offices, Ballyronan Road, Magherafelt and by virtual means**

<b>Members Present</b>	Councillor Mallaghan, Chair	
	Councillors Brown, Clarke, Colvin*, Corry, Cuthbertson, Glasgow, Martin*, McFlynn, McKinney, D McPeake, S McPeake, Quinn*, Robinson*	
<b>Officers in Attendance</b>	Dr Boomer, Service Director of Planning (SD: PI) Mr Bowman, Head of Strategic Planning (HSP) Ms Doyle, Head of Local Planning (HLP) Mr Marrion, Senior Planning Officer (SPO) Ms McKinless, Senior Planning Officer (SPO) Ms Scott, Council Solicitor Miss Thompson, Democratic Services Officer	
<b>Others in Attendance</b>	Councillor Gildernew*** Councillor S McGuigan*** Councillor Molloy***	
	LA09/2022/0280/F	Mr Moran
	LA09/2021/1678/F	Ms Gourley
		Councillor Molloy
	LA09/2022/0186/O	Ms Gourley

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

\*\* Denotes Officers present by remote means

\*\*\* Denotes others present by remote means

The meeting commenced at 7.00 pm

**P133/22 Notice of Recording**

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

**P134/22 Apologies**

Councillors Bell and Black.

**P135/22 Declarations of Interest**

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

## **P136/22      Chair's Business**

The Chair, Councillor Mallaghan referred to correspondence within addendum from Cork City Council regarding motion adopted by that Council in relation to prospecting licences and supporting the approach taken by this Council, and other Councils, in relation to same. Councillor Mallaghan asked the Chair of Council to respond to Cork City Council thanking them for their comments.

Councillor Corry stated she was delighted that Cork City Council recognised the work this Council is doing and agreed to send correspondence.

The Service Director of Planning referred to addendum and letter from PAC regarding Public Enquiry into A5 Road Scheme. The SD: PI advised that it was not the intention for officers to attend the enquiry but was bringing the matter to the attention of Councillors.

The Service Director of Planning referred to addendum and appeal decision regarding Dungannon Clay Pigeon Club. The SD: PI stated he was not overly concerned regarding the appeal decision itself but more so regarding the award of costs which was given. The SD: PI stated the award of costs was given because an officer hadn't specified every date which the clay pigeon club had stated in their report and missed a document. The SD: PI stated this was concerning in that if this happened again it could give an award of costs against Council.

Councillor Cuthbertson asked if there was currently a live application for Dungannon Clay Pigeon Club, if there was how long it had been in the system and if it had of been brought forward sooner would the appeal have happened.

The Head of Local Planning advised there was currently a live application for Ulster Clay Pigeon Association for proposed retention of clay pigeon club facility on Tierlughan Road, Aughnacloy.

Councillor Cuthbertson asked if that application was submitted when the CLEUD was refused.

The HLP advised that the live application was received in September 2021.

The SD: PI advised that this would have been after the appeal had been lodged.

Councillor Cuthbertson asked if the live application was still needed.

The SD: PI stated he was unsure as officers would have to contrast the application against what the CLEUD states to see if they match. The SD: PI stated that the level of detail which needs to be gone through can slow everything down but if it is not done there is a chance of legal challenge.

The Service Director of Planning drew attention to correspondence included in addendum from DAERA which advised that it had published a revised statement of public participation – October 2022 in relation to its Marine Plan for Northern Ireland.

The Service Director of Planning referred to addendum and report therein in relation to consultation regarding amendments to a wind farm approved in Co. Monaghan. The SD: PI advised that the amendments did not give cause for concern and did not feel there was anything to raise objection to and that Council would respond to the consultation in that way.

## **Matters for Decision**

### **P137/22      Planning Applications for Determination**

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

#### **LA09/2019/0643/F    Assembly building at Terex, Farlough Road Plant, 32 Farlough Road, Dungannon for Terex**

The Chair, Councillor Mallaghan advised that a late objection letter had been received as per addendum. Further to this Councillor Mallaghan advised that he had also received correspondence today from another objector who wished to address the committee but was currently unwell and had asked that the application be deferred. The Chair stated he had asked the officer to go back over the points of objection which the person wanted to speak about to ascertain if these concerns had been considered and it had been advised that all objections had been taken into account. The Chair stated it was not within his gift to defer an application on his own and that this needed to be a committee decision. The Chair asked that officer to provide an update on the application.

Ms Doyle (HLP) presented report on planning application LA09/2019/0643/F advising that it was recommended for approval and provided update in relation objections raised.

The Chair, Councillor Mallaghan stated that a request had been received to speak for the application but that the person was not in attendance tonight.

*Councillor Quinn declared an interest in the application as an employee of Terex.*

Councillor Colvin referred to report from environmental health which was inconclusive and did not state that there would not be a noise issue. The Councillor stated he would like to see this revisited before proceeding any further and proposed that the application be deferred until a further report is obtained from environmental health regarding noise. Councillor Colvin stated that residents need to be satisfied that there will be no noise nuisance and that he did not think enforcement could be relied on as a means of regulating such an issue.

The Service Director of Planning advised that environmental health are not saying there isn't a noise issue its that the business already exists and already has an impact on amenity and therefore the option of doing nothing keeps the situation as is. The SD: PI advised that environmental health have indicated that if the application was approved the situation would be better than what it is at the moment.

The Head of Local Planning pointed out where the new development will be in conjunction with where objectors live. The HLP advised that the objector living at no.40 has questioned external storage but pointed out that this application does not deal with that issue and there is an ongoing enforcement case into that matter.

Councillor Corry seconded the proposal to defer the application in order to clarify the issues raised in objection.

The Chair, Councillor Mallaghan stated that the application had been submitted in 2019 and asked if deferral would cause any issues.

The Head of Local Planning advised there have been a number of meetings to try to address noise issues and that if the situation were to remain as it is now there would be no improvement. If the application were to be approved it would offer some improvement but still not to the satisfaction of local residents because it has been identified as an adverse impact on residential amenity.

Councillor Cuthbertson proposed the officer recommendation to approve the application.

Councillor McKinney seconded Councillor Cuthbertson's proposal.

Councillor Corry stated she would withdraw her seconding of Councillor Colvin's proposal if approving the application offered the best improvement achievable.

Councillor Colvin stated that given the information provided that the application will better the situation for the residents and that there would be ongoing monitoring he would withdraw his proposal to defer.

**Resolved** That planning application LA09/2019/0643/F be approved subject to conditions as per the officer's report.

The Chair, Councillor Mallaghan 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 5.3 - LA09/2021/1083/F - Two storey with lower ground floor replacement dwelling and associated courtyard domestic garages and outbuildings at 9 Mackenny Road, Cookstown.

Agenda Item 5.5 – LA09/2021/1615/F - Replacement storage shed at rear of 245 Washingbay Road, Aughamullan, Coalisland.

Agenda Item 5.9 – LA09/2022/0285/O - Dwelling on a farm adjacent and W of 81 Drumflugh Rd, Benburb, Dungannon.

Agenda Item 5.13 – LA09/2022/0541/F - Farm shed at 210m E of 91 Ballynakilly Road, Coalisland.

Agenda Item 5.16 – LA09/2022/0641/F - Boundary wall/fence at 29 Glengomna Road, Draperstown.

Agenda Item 5.17 – LA09/2022/0651/F - Change of house type and garage with all associated landscaping and site works (substitution approved M/2013/0341/F & subsequently LA09/2015/0595/F) at lands approx. 70m SW of 6 Goland Road, Ballygawley.

Agenda Item 5.18 – LA09/2022/0686/O - Dwelling at lands immediately W and adjacent to 115 Clonavaddy Road, Galbally, Dungannon.

Agenda Item 5.20 – LA09/2022/1226/O - Site for dwelling and domestic garage at 100m S of 25a, Cloane Road, Draperstown, at the Junction of Cloane Road and Cloane Lane.

Agenda Item 5.21 – LA09/2022/1230/O - Site for dwelling and domestic garage at 155M S of 25a Cloane Road, Draperstown.

Proposed by Councillor Clarke  
Seconded by Councillor S McPeake and

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

**LA09/2020/1021/O Site for small business park to include light & general industrial use/assembly/storage/business (20,000sq ft total), with parking, turning, loading, new access, boundary treatments & site works including landscaped buffer. Enterprise to be contained within 4 no. buildings approximately 5000 sq ft each. (Revised description) adjacent to Eurosprings, 127 Ballynakilly Road, Coalisland for Eurosprings Ltd**

Members considered previously circulated report on planning application LA09/2020/1021/O which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2020/1021/O be approved subject to conditions as per the officer's report.

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

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

**LA09/2021/1521/F    6 no dwellings (change of house type) from 2 blocks of 3 townhouses to 2 semi-detached & 2 detached house (plot no's 22, 23, 24, 25, 26 & 27) at lands 72m NW of 21 Lurgyroe Glen, Kilmasally Road, Dungannon for Roxborough Plant & Construction Ltd**

Members considered previously circulated report on planning application LA09/2021/1521/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor McKinney and

**Resolved**    That planning application LA09/2021/1521/F be approved subject to conditions as per the officer's report.

**LA09/2021/1615/F    Replacement storage shed at rear of 245 Washingbay Road, Aughamullan, Coalisland for Mr Colin McCluskey**

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

**LA09/2021/1694/O    Curates two storey dwelling with domestic garage and within curtilage vehicular parking at land adjoining 13 Loy Street, Cookstown for Mr William Stewart**

Members considered previously circulated report on planning application LA09/2021/1694/O which had a recommendation for approval.

Proposed by Councillor Brown  
Seconded by Councillor McFlynn and

**Resolved**    That planning application LA09/2021/1694/O be approved subject to conditions as per the officer's report.

**LA09/2021/1763/F    Garage/workshop/stores with portal frame structure at 100m S of 8 Lurganagoose Road, Knockloghrim for McLean Transport**

Members considered previously circulated report on planning application LA09/2021/1763/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor S McPeake and

**Resolved**    That planning application LA09/2021/1763/F be approved subject to conditions as per the officer's report.

**LA09/2022/0280/F    2 infill dwellings & garages between 53B & 55 Ranaghan Road, Maghera for Mr Paddy Corbett**

Ms McKinless (SPO) presented a report on planning application LA09/2022/0280/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 Mr Moran to address the committee.

Mr Moran thanked the Committee for the opportunity to raise concerns regarding the proposed development and stated he was confident that the western section required 2.4m by 70m visibility splay does encroach onto his property as identified on land registry title deeds. Mr Moran advised that he had discussed the matter with Land Registry who confirm same and that although the agent for the application has submitted confirmation regarding this matter he did not accept that the agent's letter is factually correct. Mr Moran questioned whether planning can confirm receipt of any revised drawings illustrating that the visibility splay is achievable as they have stated without the involvement of third party lands. Mr Moran asked that DfI review their recommendation and that a detailed site survey be carried out to establish the proposed visibility splays on site and only once this is done should they make their decision on this matter. Mr Moran referred to the case officer report and that access will be conditioned and the onus will be on the applicant to ensure they have relevant ownership to develop the access. Mr Moran asked if the applicant cannot comply to this condition and access cannot be developed did this mean that Council has granted an application without a legally approved access to the public road and does this contravene with planning policies. Mr Moran stated that the application will not help to maintain the rural character of the area and pointed out that at no point along this stretch of road is there a minimum of four dwellings plus a fifth approved but that the case officer has referred to housing at Noonevale which is a line of ten plus houses. Mr Moran advised that Noonevale is 1.9 miles away from the proposed site and 0.25 miles from the settlement boundary of Maghera therefore he could not see the relevance of that area to this case. Mr Moran stated he had no objection to any lawful planning decision which may be granted as long as the proposal does not have any impact on his property or jeopardise his privacy and would ask that this is taken into consideration

The Service Director Planning asked where Mr Moran lived.

Mr Moran advised he lived at 55 Ranaghan Road.

The SD: PI asked if Mr Moran had his visibility splays in place.

Mr Moran stated that the house had been there since 1979 and that visibility splays were in place.

Councillor S McPeake asked if there was any more detail in relation to the visibility splay and referred to the objectors comments that he was confident that he had Land Registry maps which could confirm that a visibility splay cannot be achieved. Councillor S McPeake stated that Land Registry was one thing but that there can be confusion in that a person may think their entitlements reach to the edge of the road but that this may not be the case as Roads Service maintain the verge. The Councillor stated that such issues can be thrashed out at civil proceedings.

The Sd: PI stated that Land Registry can show one thing but that when a boundary is put up, such as a wall, Courts have tended to take the view that a person has given up the land between the boundary and the road. If a fence was then put up which blocked the visibility splay then a person could be liable to enforcement as the

visibility to an access has been disrupted. The SD: PI stated that the objector has indicated that he has adequate visibility therefore it would be reasonable to assume that someone coming out from the junctions of the proposal would have adequate visibility. The SD: PI stated he did not know what the land entitlement is in this case and that planning does not adjudicate over such things. The SD: PI stated that the way around the issue is to put a condition on a permission that development should not commence until access and visibility has been done in accordance with the plans. The SD: PI referred to the concerns raised regarding privacy and asked if there were any windows on the side gable facing the objector and if these windows would result in an impact.

Ms McKinless advised that there was a bedroom window on the upper floor and on the ground floor there were two windows in a sun room along with a kitchen window and living room window.

The Sd: PI asked if there is a defined boundary.

Ms McKinless advised that there is a proposed hedgerow and wire and post fence.

The SD: PI stated that the committee could defer the application to seek that the windows in the gable be removed or that the windows on the upper floor of that side of the house have obscure glass fitted.

The SD: PI referred to the proposal being within an AONB and stated that the design of the house is modest. The SD: PI advised there is a dispersed pattern with gaps along the road and that the Committee have previously accepted gaps of that nature.

Councillor Cuthbertson asked where the third house road frontage was.

Ms McKinless stated that it is three buildings and that the garage to the side of one the dwellings provides the third building.

Councillor Cuthbertson felt it would be difficult to say that building had road frontage.

The SD: PI advised that is the way applications have been determined to date based on a planning appeal decision.

Councillor McFlynn asked if there was a hedge at the front of the site.

The SD: PI advised a hedge was in place.

Councillor McFlynn asked if there was a laneway between the objector and the applicant site.

Ms McKinless advised there is an informal laneway for agricultural use.

Councillor McFlynn asked what ridge height is proposed for the two dwellings.

Ms McKinless advised that a ridge height of 6.4m is proposed.



Councillor McFlynn asked if the proposal could be sited differently so that the windows would not overlook the objectors property.

The SD: PI advised that the houses are sited to keep the properties broadly in line with neighbouring properties. The SD: PI stated he felt the use of obscure glass on upper floor side windows would be adequate.

Councillor McFlynn asked if visibility splays could be remedied if the hedge is stepped back.

The SD: PI stated that in a lot of cases the hedge is requested to be removed and replanted behind visibility splays.

Councillor McFlynn proposed to approve the application.

Councillor S McPeake seconded Councillor McFlynn's proposal.

**Resolved** That planning application LA09/2022/0280/F be approved subject to conditions as per the officer's report and that upper floor windows on the proposed dwelling neighbouring no.55 should have obscure glass.

**LA09/2022/0285/O Dwelling on a farm adjacent and W of 81 Drumflugh Rd, Benburb, Dungannon for Stephen McKenna**

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

**LA09/2022/0331/F Change of house type (application H/2009/0446/F) at 7C Ballymoghlan Lane, Magherafelt for Camilla Brown**

Members considered previously circulated report on planning application LA09/2022/0331/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2022/0331/F be approved subject to conditions as per the officer's report.

**LA09/2022/0370/RM Replacement dwelling and detached domestic garage at 120m SE of 47 Annaghmakeown Road, Dungannon for Mr Simon Duggan**

Members considered previously circulated report on planning application LA09/2022/0370/RM which had a recommendation for approval.

Proposed by Councillor Glasgow  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2022/0370/RM be approved subject to conditions as per the officer's report.

**LA09/2022/0450/F    Change of use to the first and second floors from storage space to one 3bedroom duplex apartment unit at 47 Market Square, Dungannon for Seamus Quinn**

Members considered previously circulated report on planning application LA09/2022/0450/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Corry and

**Resolved**    That planning application LA09/2022/0450/F be approved subject to conditions as per the officer's report.

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

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

**LA09/2022/0563/O    Two storey dwelling and detached double garage at 60m SE of 148C Washingbay Road, Clonoe, Coalisland for Philip Brady**

Mr Marrion (SPO) presented a report on planning application LA09/2022/0563/O advising that it was recommended for refusal.

Proposed by Councillor Cuthbertson  
Seconded by Councillor Mallaghan and

**Resolved**    That planning application LA09/2022/0563/O be refused on grounds stated in the officer's report.

**LA09/2022/0592/F    Domestic store for the storage and maintenance of fishing boats with extension to curtilage at rear of 77 Back Lower Road, Killycolpy, Dungannon for Oliver Teague**

Members considered previously circulated report on planning application LA09/2022/0592/F which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor McFlynn and

**Resolved**    That planning application LA09/2022/0592/F be approved subject to conditions as per the officer's report.

**LA09/2022/0641/F    Boundary wall/fence at 29 Glengomna Road, Draperstown for Barry O'Kane**

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

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

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

**LA09/2022/0686/O** Dwelling at lands immediately W and adjacent to 115 Clonavaddy Road, Galbally, Dungannon for Blaine Nugent

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

**LA09/2022/0727/F** Change of use from a dwelling to nail bar and beauty parlour with alterations to the front windows and retention of parking to the basement and rear at 45B Coagh Street, Cookstown for Mr Colin Thompson

Members considered previously circulated report on planning application LA09/2022/0727/F which had a recommendation for approval.

Proposed by Councillor Glasgow  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/0727/F be approved subject to conditions as per the officer's report.

**LA09/2022/1226/O** Site for dwelling and domestic garage at 100m S of 25a, Cloane Road, Draperstown, at the Junction of Cloane Road and Cloane Lane for Mr Mark Quinn

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

**LA09/2022/1230/O** Site for dwelling and domestic garage at 155M S of 25a Cloane Road, Draperstown for Mr Mark Quinn

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

**LA09/2022/1369/A** 2 No Outdoor LED Video Wall at The Burnavon Arts and Culture Centre Burn Rd, Cookstown for Mid Ulster District Council

*Councillors Brown, Clarke, Colvin, Corry, Cuthbertson, Glasgow, Mallaghan, Martin, McFlynn, McKinney, D McPeake, S McPeake, Quinn, Robinson declared an interest in the application.*

Members considered previously circulated report on planning application LA09/2022/1369/A which had a recommendation for approval.

Proposed by Councillor Brown  
Seconded by Councillor Mallaghan and

**Resolved** That planning application LA09/2022/1369/A be approved subject to conditions as per the officer's report.

**LA09/2018/0566/F 6 dwellings and associated access road at approx. 90m E of 96 Davagh Road, Omagh for M Conway**

Ms Doyle (HLP) presented a report on planning application LA09/2018/0566/F advising that it was recommended for approval.

The Chair, Councillor Mallaghan asked if the focal point has to be that which is identified within the plan or can it be any focal point within the dispersed rural community (DRC).

The SD: PI advised that what the plan says has to be chronologically looked at along with other policies. In this case, the Cookstown Area Plan was adopted in 2004 but PPS21 came out in 2010 and as this was brought in by the Department was given the greatest weight. Magherafelt Area Plan was adopted after 2010. The SD: PI advised that a focal point could be identified if there is a crossroads or facility. The SD: PI advised that the point of a DRC is that the settlement itself is dispersed.

Councillor Colvin stated he felt it would be useful for Members to have some more guidance on focal points in the future. Councillor Colvin stated he would not vote on this application as a member of the Historic Monuments Council. The Councillor asked if there needs to be focal point in relation to the application.

The SD: PI advised that there does need to be a focal point particularly in relation to this DRC. The SD: PI advised that a dispersed rural community sets aside build up but tests of integration still need to be met.

Councillor Clarke stated he would have difficulty with this application and that he is part of the group who campaigned for a DRC. Councillor Clarke stated the DRC was campaigned for because the area is within an AONB and area of significant archaeology and there was no way that farmers sons/daughters could have obtained planning permission for a dwelling in that area and that the DRC was seen as a way of getting planning permission somewhere within the area. Councillor Clarke stated the campaign was successful and has not been used up until now. Councillor Clarke referred to page 181 of the Cookstown Area Plan in which it states that St Marys Church and the post office form a locally significant focal point on Broughderg Road. The Councillor stated at that time, as now, Our Lady of the Wayside Church was there along with the building across the road. Councillor Clarke stated that the site is very prominent at over 700ft and very exposed. Councillor Clarke referred to page 71 of Cookstown Area Plan which states that particular attention will be paid to applications which can be viewed from Beaghmore Stone Circles and other critical viewpoints. The Councillor stated that the application site looks across towards Beaghmore Stone Circles and that there are numerous other critical viewpoints within the area. Councillor Clarke also highlighted that the area is of archaeological significance, some which were not known about when the application was submitted and one which may even be of more significance than Beaghmore Stone Circles. Councillor Clarke stated that this area was too sensitive for such development and that this area was also within the Dark Skies. Councillor Clarke stated that the application will change the whole appearance of the area, that it is not known what

the application is for as there is no demand for more dwellings in the area and indeed there are another three sites within half a mile which have been started but not completed. Councillor Clarke did not feel the application was for tourism purposes as the site is not within a tourism opportunity zone. Councillor Clarke referred to page 22 of Cookstown Area Plan which stated that a Dispersed Rural Community is designated at this location to accommodate the need for limited local housing in recognition of its existing community facilities. Councillor Clarke stated that the application has been in the system for four years and that local people thought it would never get through.

The SD: PI stated that the problem is that the PPS takes the weight above the area plan and it is difficult to say that the focal point identified is not a focal point even if it is not the right focal point. The SD: PI stated that a development needs to integrate and not harm rural character and agreed that the proposed site is exposed however he felt that to refuse the application based on focal point would be a struggle and that there could be a better argument in terms of integration.

Councillor McKinney stated that if the number of houses proposed are built there is an entitlement to street lighting. The Councillor stated that the site is in close proximity to Davagh and the Dark Skies and felt such development in this area would be out of character.

The SD: PI stated that if a view is taken that the application would be harmful to the area it would be a reasonable argument. The SD: PI stated that this DRC is past its sell by date and if the community feel that development should be restricted to the focal point which is where the former St Marys Church and post office are then the most sensible approach going forward for the next plan would be to put a settlement limit around it.

Councillor Glasgow stated he felt the application would tip the balance of the characteristic of the area. The Councillor referred to the consultees on the application and given the close proximity of the Dark Skies and Davagh he asked should Council not have also been consulted. The Councillor recalled previous occasion where a member of Council staff from within the tourism department spoke against a light on top of a wind turbine due to its proximity to the Dark Skies.

The SD: PI stated there was some guidance in relation to Dark Skies but that this only really covered the area within the Dark Skies Park and did not extend to this location. The SD: PI stated he felt it would be difficult to refuse the application on the grounds of Dark Skies but that he believed there was a justified reason that it doesn't meet the requirements of the DRC because the site is open and exposed and would harm the rural area if Members chose to go that way.

Councillor McFlynn stated that she had attended the site meeting and that on driving to the location she found there were no houses on the left hand side of this stretch of road and that houses on the right were few. The Councillor stated that if this was an application for one or two houses it could maybe be found acceptable but not for six houses the size of which are not known nor what the purpose of the dwellings are. Councillor McFlynn stated she felt that application would take away from the character of the area and also take away from the Dark Skies area.

Councillor S McPeake stated he would support what has been said in relation to the inappropriateness of the application but that policy had to be dealt with and that he felt that policy is not met because the site does not integrate. Councillor S McPeake proposed that the application is refused on the basis that it does not integrate.

Councillor Corry seconded Councillor S McPeake's proposal, the Councillor stated that the area is very exposed and needs to be protected and that six houses would not integrate and would be out of character.

The SD: PI stated that the application was being refused because of its impact on the rural character and lack of integration. The SD: PI requested that Members allow him to consider and finalise the wording for the refusal.

Agreed.

**Resolved** That planning application LA09/2018/0566/F be refused – wording for refusal to be finalised by Service Director of Planning.

**LA09/2020/0343/F 2 detached dwellings & 2 semi-detached dwellings at 62 Glen Road, Maghera for Danny McMaster**

Members considered previously circulated report on planning application LA09/2020/0343/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2020/0343/F be approved subject to conditions as per the officer's report.

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

The Service Director of Planning advised that additional information had been submitted and requested that the application be deferred to allow time for officers to consider this information.

Proposed by Councillor S McPeake  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2020/1046/F be deferred for one month to allow time to consider additional information submitted.

**LA09/2021/0288/O Site for dwelling & garage at 30m S of 174A Ardboe Road, Cookstown for James Devlin**

Application withdrawn.

**LA09/2021/0739/F Dwelling & Garage/Store at 150m NE of 230 Coalisland Road, Gortin, Dungannon for Mr Cathal Keogh**

Ms Doyle (HLP) presented a report on planning application LA09/2021/0739/F advising that it was recommended for refusal.

Councillor S McPeake stated he felt there is a strong boundary and referred to the laneway. The Councillor stated he did not believe there would be any further development on the laneway as it is shared and given the difficulty of obtaining a mortgage. Councillor S McPeake stated he did not feel the application would make much difference in the area and there would be little harm in extending curtilage of site and referred to the huge cost to the applicant in moving power lines.

Councillor McFlynn asked if there was an application already passed at the site.

The HLP advised that outline planning permission has been obtained for a site within the field and there was no descent from the applicant in relation to the site approved at that stage.

Councillor Colvin stated he was at the site meeting and that there is position within the limit and that it was his understanding that if the application was within the limit it would be ok but that the applicant now wants to take the application outside the limit. The Councillor felt the officer recommendation was reasonable and proposed that the application be refused.

Councillor S McPeake suggested that if the view of the meeting is to refuse an alternative would be to give the applicant the opportunity to revise their plans and move the proposal to the original location rather than to refuse the application. Councillor S McPeake proposed that the application be deferred for one month to allow for submission of amended drawings.

Councillor McFlynn asked if another drawing was required.

The SD: PI stated that the original application was for outline permission which allowed for siting. It was advised that a full application had now been submitted. The SD: PI stated that the proposal to give a month for amended drawings to be submitted was reasonable.

Councillor Colvin stated that the proposal to defer the application for one month to allow the applicant to move the proposal within the settlement boundary is reasonable and would second Councillor S McPeake's proposal.

Councillor McKinney stated that it is not usual for a deferral to be deferred further and that this should be highlighted.

**Resolved** That planning application LA09/2021/0739/F be deferred for submission of amended drawings.

**LA09/2021/1208/O Dwelling & domestic garage on a farm at land approx. 55m S of 60 Annaghilla Road, Augher for Jeff & Laura Fitzsimmons**

Members considered previously circulated report on planning application LA09/2021/1208/O which had a recommendation for approval.

Proposed by Councillor Cuthbertson  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2021/1208/O be approved subject to conditions as per the officer's report.

**LA09/2021/1283/O Off-site replacement dwelling and garage at 50m NW of 26 Annaginney Road, Dungannon for George McIvor**

Members considered previously circulated report on planning application LA09/2021/1283/O which had a recommendation for approval.

Proposed by Councillor Cuthbertson  
Seconded by Councillor Glasgow and

**Resolved** That planning application LA09/2021/1283/O be approved subject to conditions as per the officer's report.

**LA09/2021/1598/O Dwelling, garage & associated site works at 80m SW of 129 Benburb Road, Dungannon for Mr Norman McKenzie**

Members considered previously circulated report on planning application LA09/2021/1598/O which had a recommendation for approval.

Proposed by Councillor Cuthbertson  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2021/1598/O be approved subject to conditions as per the officer's report.

**LA09/2021/1641/F Conversion of existing store to dwelling at approx. 30m N of 6 Ruskey Road, Coagh for Mr Jim McIntyre**

Members considered previously circulated report on planning application LA09/2021/1641/F which had a recommendation for approval.

Proposed by Councillor Brown  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2021/1641/F be approved subject to conditions as per the officer's report.



**LA09/2021/1678/F Two storey dwelling and attached garage at S of 179  
Coash Road, Killyman, Dungannon for Stephen McAliskey**

Mr Marrion (SPO) presented a report on planning application LA09/2021/1678/F advising that it was recommended for refusal.

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

Ms Gourley advised that there have been several revisions to this proposal since it was first submitted in December 2021. It was advised that the dwelling originally stood at 8.9 metres which everyone acknowledged was out of keeping with neighbouring bungalows and in June 2022 she was asked to assist to bring this application to a favourable conclusion. Ms Gourley stated she advised the applicants to reconsider the height following which plans were submitted with a 7.5m ridge height followed later in July 2022 with plans to reduce the height to 7m with a ground floor level dropped by 0.4m. Ms Gourley stated that an office meeting was held in August but that regrettably the latest 7m ridge height drawings were not available for discussion. It was agreed that an officer would look again at the site and come back and in September it was advised that only a single storey dwelling would be acceptable and as a result the applicants asked that the application be brought to Committee for decision. Ms Gourley stated that the deferred report still refers to a ridge height of 7.5m with no reference to the drawings submitted in July proposing a 7m ridge height. Ms Gourley referred to drawings previously circulated to Members and referred to policy CTY8 which allows for the development of a gap site providing it respects the existing settlement pattern, she stated the policy does not state that the proposal has to duplicate the adjacent properties but rather compliment them. Ms Gourley asked Members if a dwelling with a ridge height of 7m would respect and compliment the properties on either side of the site. Ms Gourley stated that the test was not to replicate but rather respect and felt that a stronger policy test is being implied in this instance than needed and that there was no reason why the proposal should be reduced to a single storey as suggested. Ms Gourley agreed that the original plans were out of keeping with the adjacent bungalows but that the applicants have come a long way in meeting officers concerns. Ms Gourley stated that whilst the latest plans with a 7m ridge height will not replicate the single storey houses which are adjacent it is felt that the application complies with policy.

The SD: PI asked if the dwelling is to be built of retaining structures.

Ms Gourley stated that to the best of her knowledge it would not be.

The SD: PI stated that the drawings show the dwelling dug into the landscape and would therefore require a lot of retaining structure.

The Chair, Councillor Mallaghan invited Councillor Molloy to speak on the application.

Councillor Molloy stated he would support the application and had been involved in previous office meeting and that the applicant has done significant work to amend their plans from what was originally proposed. The Councillor stated he was aware

of other developments in neighbouring areas where a two storey dwelling has replaced a bungalow and is between two bungalows. Councillor Molloy stated that the applicant is a professional who is returning to the area to settle back into the community and that he felt the proposal will blend into the area.

The Chair, Councillor Mallaghan stated that the principle of development has been met and that the difficulty was in relation to ridge height of the dwelling.

The SD: PI stated that Members can see from the drawing where the land level is and that the proposal is sitting at least 2m below the land level.

Ms Gourley stated she had sought clarity on this from the architect and that he had confirmed the land level would drop 0.4m.

The SD: PI stated he did not accept the drawing was accurate and based on the information provided the application is invalid as the drawing provided is not the house that will be built. The SD: PI suggested Members give the agent the opportunity to sort out the issues raised.

Councillor Clarke proposed that the application be deferred for one month to allow for submission of amended drawings.

Councillor Quinn stated that he knew the area and that the houses on either side are slightly elevated. The Councillor stated that the application passes policy for infill and that from the drawings it does not look like the proposal will come above the neighbouring properties. Councillor Quinn stated he was also aware of bungalows being replaced by two storey dwellings in neighbouring areas and asked if there was a case in which this proposal could be set further back in order to develop it into the area more. Councillor Quinn stated he would be inclined to approve the application but that he would second Councillor Clarke's proposal to defer to allow for amended drawings.

The Chair, Councillor Mallaghan stated he felt this would also be a good opportunity for a site visit.

Councillor Glasgow stated he would second a proposal for a site visit.

Ms Gourley stated that figure 1 within the report shows the levels.

The SD: PI stated that the architect has shown a finished floor level on the bungalows in relation to the land level and then has put the proposal about 1.5m below the land level. The architect has advised the agent that the land level would drop by 0.4m but the SD: PI felt that the facts being presented do not add up. The SD: PI advised that the Committee are allowing for the application to be deferred in order for amended drawings to be submitted and that it is important for Members to have before them what the clear position is.

**Resolved** That planning application LA09/2021/1678/F be deferred for one month for submission of amended drawings. Site visit to also be arranged.

**LA09/2022/0186/O Dwelling & garage at 25m SW of 12A Gortnahurk Road, Draperstown for Marie Scullin**

The Chair, Councillor Mallaghan advised that this application would be taken in confidential business due to medical details being referenced.

**LA09/2022/0272/F Dwelling at lands approx. 100m E of 10 Tralee Road, Coagh for Mr Brian Devlin**

Members considered previously circulated report on planning application LA09/2022/0272/F which had a recommendation for approval.

Proposed by Councillor S McPeake  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/0272/F be approved subject to conditions as per the officer's report.

**LA09/2022/0442/RM Single storey dwelling with garage between 255 & 259 Orritor Road, Orritor, Cookstown (entering off Church Road) for Mr Serghei & Mrs Tanya Hamchecici**

Members considered previously circulated report on planning application LA09/2022/0442/RM which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor Mallaghan and

**Resolved** That planning application LA09/2022/0442/RM be approved subject to conditions as per the officer's report.

**Matters for Information**

**P138/22 Minutes of Planning Committee held on 4 October 2022**

Members noted minutes of Planning Committee held on 4 October 2022.

*Live broadcast ended at 8.47 pm.*

*Councillor Cuthbertson left the meeting at 8.47 pm.*

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

Proposed by Councillor Brown  
Seconded by Councillor Clarke 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 item P137/22 (part of) and items P139/22 to P142/22.

**Matters for Decision**

P137/22      Planning Applications for Determination  
P139/22      Local Development Plan Update

**Matters for Information**

P140/22      Confidential Minutes of Planning Committee held on 4  
                    October 2022  
P141/22      Enforcement Cases Opened  
P142/22      Enforcement Cases Closed

**P143/22      Duration of Meeting**

The meeting was called for 7 pm and concluded at 9.27 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.



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## **ADDENDUM TO PLANNING COMMITTEE AGENDA**

**FOR PLANNING COMMITTEE MEETING ON: 1 November 2022**

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

### **Chairs Business –**

- Letter from PAC - Re Public Enquiry into A5 Road Scheme
- Appeal Decision - Tirlugan Clay Pigeon Facility
- Correspondence from DAERA Marine Plan for Northern Ireland - Revised Statement of Public Participation - October 2022
- Monaghan County Council Consultation on Windfarm
- Letter from Cork City Council

<b>ITEM</b>	<b>INFORMATION RECEIVED</b>	<b>ACTION REQUIRED</b>
5.1	Letter of objection	Members to note
5.16	Structural Report	Members to note
6.1	Archaeological conditions from Historic Environment Division	Members to note
6.3	Additional information submitted for consideration	Members to agree to defer
6.4	Letter to withdraw application	Note withdrawn