

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 6 September 2022 in Council Offices, Ballyronan Road, Magherafelt and by virtual means

Members Present Councillor Mallaghan, Chair
Councillors Bell, Black, Brown*, Clarke, Colvin, Corry, Cuthbertson, Glasgow, Martin*, McFlynn, McKinney, D McPeake, S McPeake, Quinn*

Officers in Attendance Dr Boomer, Service Director of Planning (SD: PI)
Mr Bowman, Head of Strategic Planning (HSP)
Ms Doyle, Head of Local Planning (HLP)
Mr Marrion, Senior Planning Officer (SPO)
Mr McClean, Senior Planning Officer (SPO)
Ms McKinless, Senior Planning Officer (SPO)
Ms Scott, Council Solicitor
Mr Stewart, Senior Planning Officer (SPO)
Miss Thompson, Democratic Services Officer

Others in Attendance Councillor Gildernew***
Councillor S McGuigan***
Councillor Molloy***

LA09/2021/1656/O

Mr Caddoo

* 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

P110/22 Notice of Recording

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

P111/22 Apologies

Councillor Robinson.

P112/22 Declarations of Interest

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

Councillor S McPeake declared an interest in agenda item 5.13 - LA09/2021/1404/F and agenda item 6.1 - LA09/2017/1349/F.

P113/22 Chair's Business

The Chair, Councillor Mallaghan congratulated Councillor Black on his recent marriage.

The Service Director of Planning referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred from tonight's meeting schedule for an office meeting / submission of further information –

Agenda Item 5.1 - LA09/2019/0941/F - New roof to improve acoustic performance at 23 Molesworth Street, Cookstown for 1 Oak Leisure. (Submission of Information)

Agenda Item 5.2 - LA09/2019/0978/LBC - Upgrade the existing roof of Lanyon Hall night club at 21-23 Molesworth Street Cookstown for 1 Oak Leisure. (Submission of Information)

Agenda Item 5.6 - LA09/2020/0757/F - Change of use from yard to smoking area with associated internal alterations to provide access at 86 Chapel Street, Cookstown for Raymond Forbes. (Submission of Information)

Agenda Item 5.8 - LA09/2021/0676/O - Relocation of approved site LA09/2018/1646/O to opposite side of road at 70m SW of 11 Motalee Road, Magherafelt for Mrs Gillian Montgomery. (Office Meeting)

Agenda Item 5.13 - LA09/2021/1404/F - Refurbishment alteration & extension of existing public house into neighbouring property & the associated change of use of ground floor hot food carry-out to public house & 1st floor apartment to office, removal of 1st floor public house space at rear to create enclosed ground floor beer garden area at 26- 30 Queen's Street, Magherafelt for H J Downey Ltd. (Office Meeting)

Agenda Item 5.14 - LA09/2021/1425/F - Dwelling and domestic garage at approx. 140m SW of 93A Ballynagarve Road, Magherafelt for Mr Darren McIvor. (Office Meeting)

Agenda Item 5.15 - LA09/2021/1568/F - Retention of shed (farm diversification development) at 95m SE of 133 Bush Road, Coalisland for Adrian McCann. (Office Meeting)

Agenda Item 5.17 – LA09/2021/1651/O - Dwelling (Revised Land Ownership Certificate) at lands W of 69 Derrylaughan Road, Coalisland, for Pamela Quinn. (Office Meeting)

Agenda Item 5.22 - LA09/2022/0137/F - New vehicular access to be paired with the existing vehicular access to at 47 Killyneill Road, Dungannon for David Moore. (Office Meeting)

Agenda Item 5.23 - Site for dwelling and garage at lands approx. 100m SW of 111 Dunnamore Road, Cookstown for Mr Noel Corey. (Office Meeting)

Agenda Item 5.24 - PPE manufacturing, production, distribution and controlled storage facility with research and development, innovation and sustainability centre with associated site works, landscaping and new vehicular access at lands opposite 80 Aughrim Road, Magherafelt for Bloc Ppe Ltd. (Office Meeting)

Agenda Item 5.28 - Retrospective application for the retention of farm dwelling at 59 Derryvaren Road, Coalisland for Mr James Campbell. (Office Meeting)

Councillor McFlynn asked for more detail in relation to agenda item 5.13 as information had not been received that this application would be a deferral.

The Chair, Councillor Mallaghan referred to the request from the objector for a deferral however it was confirmed by the officer that all objections have been considered within the report.

Councillor S McPeake stated that he had declared an interest in this application and was going to speak on it if required and sought clarification on whether the application was to be deferred.

The Chair, Councillor Mallaghan clarified that as all objections have been considered in the officer report there was no need to defer agenda item 5.13 and the application could be considered tonight.

Proposed by Councillor Bell
Seconded by Councillor Corry and

Resolved That the planning applications listed above (with the exception of agenda item 5.13) be deferred for an office meeting / submission of information as outlined.

Matters for Decision

P114/22 Planning Applications for Determination

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

LA09/2019/0941/F New roof to improve acoustic performance at 23 Molesworth Street, Cookstown for 1 Oak Leisure

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

LA09/2019/0978/LBC Upgrade the existing roof of Lanyon Hall night club at 21-23 Molesworth Street Cookstown for 1 Oak Leisure

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

LA09/2019/1271/O Dwelling in a cluster at 20m W of 6 Derry Row, Coalisland, for Patrick McGrath

Members considered previously circulated report on planning application LA09/2019/1271/O which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor Corry and

Resolved That planning application LA09/2019/1271/O be approved subject to conditions as per the officer's report.

LA09/2020/0150/F 5 no. glamping pods, amenity space and associated external works at lands 140m SW of 11 Crancussy Road, Cookstown for Paul and Damien McHugh

Application withdrawn.

LA09/2020/0667/F Housing development of 7 no. dwelling units adjacent to and immediately W of 10 Oldmill Court, Moneymore for Colm Bell

Members considered previously circulated report on planning application LA09/2020/0667/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Corry and

Resolved That planning application LA09/2020/0667/F be approved subject to conditions as per the officer's report.

LA09/2020/0757/F Change of use from yard to smoking area with associated internal alterations to provide access at 86 Chapel Street, Cookstown for Raymond Forbes

Agreed that application be deferred for submission of further information earlier in meeting.

LA09/2020/1019/F Change of use and extensions to dwelling to provide a multi purpose health and well being centre at 30 Coleraine Road, Maghera for Michael Kelly

Members considered previously circulated report on planning application LA09/2020/1019/F which had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor Corry and

Resolved That planning application LA09/2020/1019/F be approved subject to conditions as per the officer's report.

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

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

LA09/2021/0698/F Retention of and additional concrete walls and yard area at land at 9 Crubinagh Road, Dungannon, for Adrian Daly

Members considered previously circulated report and addendum on planning application LA09/2021/0698/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2021/0698/F be approved subject to conditions as per the officer's report.

LA09/2021/1018/O Dwelling and garage at 70m SE of 5A Drumlamph Lane, Castledawson for Cathal Shivers

Members considered previously circulated report on planning application LA09/2021/1018/O which had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2021/1018/O be approved subject to conditions as per the officer's report.

LA09/2021/1217/F Change of house type at 61 Clauneo Meadows, Clonoe, Dungannon for Roxborough Plant and Construction Ltd

Members considered previously circulated report on planning application LA09/2021/1217/F which had a recommendation for approval.

Proposed by Councillor Corry
Seconded by Councillor Clarke and

Resolved That planning application LA09/2021/1217/F be approved subject to conditions as per the officer's report.

LA09/2021/1290/O Dwelling & garage on a farm at lands 200m SW Of 39 Draperstown Road, Desertmartin for Anthony Bradley

Members considered previously circulated report on planning application LA09/2021/1290/O which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McKinney and

Resolved That planning application LA09/2021/1290/O be approved subject to conditions as per the officer's report.

LA09/2021/1404/F Refurbishment alteration & extension of existing public house into neighbouring property & the associated change of use of ground floor hot food carry-out to public house & 1st floor apartment to office, removal of 1st floor public house space at rear to create enclosed ground floor beer garden area at 26- 30 Queen's Street, Magherafelt for H J Downey Ltd

Members considered previously circulated report on planning application LA09/2021/1404/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Clarke and

Resolved That planning application LA09/2021/1404/F be approved subject to conditions as per the officer's report.

LA09/2021/1425/F Dwelling and domestic garage at approx. 140m SW of 93A Ballynagarve Road, Magherafelt for Mr Darren McIlvor

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

LA09/2021/1568/F Retention of shed (farm diversification development) at 95m SE of 133 Bush Road, Coalisland for Adrian McCann

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

LA09/2021/1604/O Site for a two storey dwelling at 70m SE of 43 Fallylea Lane, Fallylea, Maghera for Margaret McCrystal

Members considered previously circulated report and addendum on planning application LA09/2021/1604/O which had a recommendation for approval.

Proposed by Councillor Corry
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2021/1604/O be approved subject to conditions as per the officer's report.

LA09/2021/1651/O Dwelling (Revised Land Ownership Certificate) at lands W of 69 Derrylaughan Road, Coalisland, for Pamela Quinn

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

LA09/2021/1656/O Dwelling & detached garage at approx. 50m SE of 12 Tulnavern Road, Ballygawley, for Luke Hanna & Amy Gilmour

Mr Marrion (SPO) presented a report on planning application LA09/2021/1656/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 Caddoo to address the committee.

Mr Caddoo stated he was the agent for the application and stated that although there was a separation he highlighted policy documents and in particular page 84 of 'Building on Tradition' which shows a number of examples where there can be separation from the farm buildings but that the farm lane can still be utilised. Mr Caddoo stated to the best of his knowledge there had been no request to provide supporting evidence for the alternative site but that in his opinion this was a valid option. Mr Caddoo stated that other sites offered little to no potential to build upon due to water courses. At this point Mr Caddoo's presentation became interrupted due to connection issues.

The Service Director of Planning stated that looking at the site map there was an obvious problem with infill. The SD: PI asked what the building was closer to the junction.

Mr Caddoo stated this was a Presbyterian Church.

The SD: PI suggested that an office meeting be held in order to discuss this application further.

Councillor Cuthbertson stated he was familiar with the road and that there is the Presbyterian Church and an old mill which sells antiques also close by. Councillor Cuthbertson stated he felt there may be a case for a cluster with a focal point or that an alternative site on the farm could be identified. Councillor Cuthbertson proposed that the application be deferred for an office meeting.

Councillor Black seconded Councillor Cuthbertson's proposal.

Resolved That planning application LA09/2021/1656/O be deferred for an office meeting.

LA09/2021/1677/F Dwelling and garage at 20m N of 9 Coolshinney Road, Magherafelt for Kyle McElhatton

Members considered previously circulated report on planning application LA09/2021/1677/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Black and

Resolved That planning application LA09/2021/1677/F be approved subject to conditions as per the officer's report.

LA09/2021/1772/O Dwelling, domestic garage and associated works at lands approx. 30m S of 29 Tullyglush Road, Ballygawley for Mr Liam Farrell

The Service Director of Planning highlighted that there had been a request by the agent to speak to the Committee on the application and that there was then a later request for deferral. The SD: PI stated he was content to accommodate an office meeting for the application.

Proposed by Councillor McKinney
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2021/1772/O be deferred for an office meeting.

LA09/2022/0042/F Replacement dwelling and garage at land approx. 100m NW of 12 Lisnagleer Road, Dungannon for Derek Montgomery

Members considered previously circulated report on planning application LA09/2022/0042/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Glasgow and

Resolved That planning application LA09/2022/0042/F be approved subject to conditions as per the officer's report.

LA09/2022/0137/F New vehicular access to be paired with the existing vehicular access to at 47 Killyneill Road, Dungannon for David Moore

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

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

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

LA09/2022/0269/O PPE manufacturing, production, distribution and controlled storage facility with research and development, innovation and sustainability centre with associated site works, landscaping and new vehicular access at lands opposite 80 Aughtim Road, Magherafelt for Bloc Ppe Ltd

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

LA09/2022/0278/F Alterations, refurbishment & extension of existing vacant stone structure to the rear, to provide new residential flats & office accommodation at the rear of 31 Union Street, Cookstown for Bell Contracts

Members considered previously circulated report on planning application LA09/2022/0278/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Clarke and

Resolved That planning application LA09/2022/0278/F be approved subject to conditions as per the officer's report.

LA09/2022/0283/F Replacement dwelling & new dwelling (LA09/2020/0899/O) at 71 Anneeter Road, Coagh, Cookstown for Mr Charles Mallon

The Chair, Councillor Mallaghan highlighted that there was a request to speak and a further request for the application to be deferred.

Proposed by Councillor Bell
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2022/0283/F be deferred for an office meeting.

LA09/2022/0396/F Replacement dwelling and garage at 12 McKenna's Lane, Bellaghy, for William McCorry

Members considered previously circulated report on planning application LA09/2022/0396/F which had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor Bell and

Resolved That planning application LA09/2022/0396/F be approved subject to conditions as per the officer's report.

LA09/2022/0437/F Retrospective application for the retention of farm dwelling at 59 Derryvaren Road, Coalisland for Mr James Campbell

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

LA09/2022/0547/RM Dwelling and garage on a farm at 100m S of 1 Eglis Road, Dungannon for Darren Simpson

Members considered previously circulated report on planning application LA09/2022/0547/RM which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Glasgow and

Resolved That planning application LA09/2022/0547/RM be approved subject to conditions as per the officer's report.

LA09/2022/1110/F Vary conditions 3, 37,38 and 39 of LA09/2016/1307/F (Construction of proposed motorsport racetrack to include: ancillary buildings (pit garages/hospitality/media centre/press area; medical centre; shower block; creche; mission hall; and restaurant area & spectator gallery); associated car parking; landscaping; acoustic banking; sound barriers; associated site works; relocated recycling area; internal loop road; and public link road between Dungannon Road and Derry Road with access points on Derry Road (2No.) and Dungannon Road (1No.) at Clay Pits, Dungannon Road, Coalisland) at Clay Pits, Dungannon Road, Coalisland, for Barrack Hill Quarries

The Service Director of Planning referred to the officer report and highlighted that as an objection had been received on the application it therefore had to come before Committee. The SD: PI referred to the previous date of permission and the date of tonight's meeting and the potential for the previous permission to have lapsed and it was advised that legal opinion had been sought on whether the Committee could take a decision on the application. The SD: PI advised of legislation regarding interpretation of dates and stated that the date on the permission is not counted. As a result, the Committee does have the ability to determine the application tonight and highlighted that all required consultations have already taken place. The SD: PI highlighted the officer report which recommended partial approval and partial approval of the application.

Councillor Cuthbertson asked if the date on a permission certificate is not counted what date is taken into consideration.

The SD: PI advised it is the date the decision is made.

Councillor Cuthbertson asked would the date the decision is made not be before the date of a permission certificate.

The SD: PI stated that, in this case, when the original application was brought to Committee and agreed to be approved, the detail and wording of the conditions of approval were left to himself to determine. When the process of finalising the conditions of approval was complete the date of approval was the date the decision notice was issued. The SD: PI stated that if the Committee makes a decision on this application tonight then this can be the date of the decision however this has to be held for five days before issuing due to call in procedures.

Councillor Glasgow stated he understood the comments of the SD: PI and that the application had been approved subject to conditions being finalised and that the date of approval is being taken as the date those conditions were finalised and issued.

The SD: PI stated there are a lot of grey areas in planning and that the Committee can only take a decision based on the information before them and the law to date. The SD: PI stated that legal opinion was requested in respect of the application and that the advice received was clear. Due to an Interpretation Act five years can be taken from the date of the previous decision and that he was content a decision could be taken on the application tonight.

Proposed by Councillor Clarke
Seconded by Councillor Mallaghan and

Resolved That planning application LA09/2022/1110/F be partially refused and partially approved. Variation of condition 3 should be refused. Conditions 37, 38 and 39 should be allowed to be varied to wording as per appendix 1 of officer report.

LA09/2017/1349/F Animal isolation and farm machinery storage shed (amended plans) at Approx. 120m SE of 37 Rocktown Lane, Knockloughrim for Mr Stephen Scullion

Members considered previously circulated report on planning application LA09/2017/1349/F which had a recommendation for approval.

Councillor McKinney highlighted that this application has been in the system a long time and that Councillor Gildernew had also been in attendance at the site meeting.

Proposed by Councillor D McPeake
Seconded by Councillor McKinney and

Resolved That planning application LA09/2017/1349/F be approved subject to conditions as per the officer's report.

LA09/2021/0455/F Change of house type on sites 24 to 66 at 40m NE of Currans Brae and 120m NW of 92 Gorestown Road, Moy for MDK Construction

Members considered previously circulated report on planning application LA09/2021/0455/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor Mallaghan and

Resolved That planning application LA09/2021/0455/F be approved subject to conditions as per the officer's report.

LA09/2021/0734/RM 2 dwellings and garages at lands between 61 and 65 Kilnacart Road, Dungannon, for Mr Thomas Cassidy

Members considered previously circulated report on planning application LA09/2021/0734/RM which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2021/0734/RM be approved subject to conditions as per the officer's report.

LA09/2021/1038/F Change of use from domestic garage & store to living accommodation at the rear of 155 Moore Street, Aughnacloy for Bernie Corley

Application withdrawn.

LA09/2021/1182/F Retention of farm and factory shop and associated works at approx. 70m NE of 70 Drumgrannon Road, Dungannon for George Troughton

Mr Marrion (SPO) presented a report on planning application LA09/2021/1182/F advising that it was recommended for refusal.

Councillor McKinney referred to the reference that if the committee were minded to approve the application then restrictions could be added as to the items which are sold in the shop and asked what view the applicant had on this.

The SD: PI advised that the applicant had already used their opportunity to speak to the Committee previously and that there had also been an office meeting to discuss the application. The SD: PI stated that if a farm shop operates and only sells goods from the farm then planning permission is not required however what exists in this instance is a shop that sells a few goods from the farm but also a number of other products brought in from other places. The SD: PI highlighted the objection from Roads Service in relation to vehicles coming off/going on to a protected route and also objections from neighbours in relation to road safety. He stated that the Committee is determining if expansion on to a protected route should be permitted. The SD: PI stated that if the application is refused then the applicant has right of appeal and urged Members to be cautious in justifying why the application has been allowed on to a protected route.

Councillor McKinney stated that it appeared from the comments of the SD: PI that the choice of selling a reduced range of produce is not on the applicant's agenda. The Councillor highlighted that accidents happening were out of the control of Members.

Councillor Cuthbertson stated that he had been to the site visit and that the footprint of the shop is not large or overbearing. The Councillor stated there was probably no farm shop in the country that was not selling produce from locations other than that farm. Councillor Cuthbertson referred to the report and the objector's reference to counting 189 vehicles and that there was no other information to refute this. The Councillor felt that if the applicant was asked to produce a road traffic survey this would have to have been done by an accredited company and that it was unfair just to accept the 189 vehicle count. Councillor Cuthbertson highlighted a previous decision to allow an entrance onto the A4 out of a field which there was no established development on. In this case there is established development on the

lane of a farm unit and house and that refusing the application will not do away with traffic coming out onto the road. Councillor Cuthbertson stated that the last fatalities on the road were on a Sunday morning further along this stretch of road and that he was not aware of any accidents occurring from vehicles entering or exiting the site. The Councillor referred to Roads Services objection which he felt is a standard response but highlighted that they have never set out what they are going to do to improve this section of the road. Councillor Cuthbertson felt that in the current economic climate, any business and employment should be encouraged and proposed that the application be approved.

The Chair, Councillor Mallaghan felt that the Committee should err on the side of caution in relation to road safety, particularly when advice has been received from a professional organisation. The Chair asked the agent that if an office meeting was granted could there be some negotiation in relation to the items being sold in the shop.

The SD: PI stated that discussion on the range of goods being sold in the shop had already taken place and that he had explained that the building did not cause issue and if they sold goods from the farm and anything else was de minimus then he was content that no planning permission would be required. The SD: PI stated that the applicant was given the opportunity to reduce the range of goods but that they decided they did not want to do this. He highlighted again that if the application is refused then there is the option of appeal for the applicant.

The Chair, Councillor Mallaghan stated he got the sense of the Committee that road safety is taken seriously particularly when advice is provided. The Chair stated there may be opportunity to find some sort of compromise if another office meeting was accommodated and the applicant and agent had time to consider the matter further in the interim.

Councillor McKinney proposed that a further office meeting be held and asked what view the agent had.

The SD: PI stated that if the application is approved with conditions you automatically prove that there is intensification. If there is a farm shop selling goods from the farm then there is no need for planning permission but if the applicant wants to sell a wider range of goods then the application should be refused and the applicant can go to the Planning Appeals Commission. The SD: PI asked if the applicant would be willing to withdraw the application and just run a farm shop.

Ms Curtin (agent) asked what the definition of a farm shop is and sought clarity on the items that could be sold therein.

The SD: PI stated that a farm shop sells items that are produced on the farm and that if the applicant wants to adhere to this then there is no issue. The SD: PI stated that at the site visit what was witnessed for sale were not all items that had been produced on the farm.

Ms Curtin agreed that the goods currently for sale in the shop are goods which are produced from all over and that the site meeting had been appreciated. Ms Curtin stated that from the site meeting it was not her or the applicant's understanding that

there was the option to reduce the items being sold but rather that additional information was to be submitted and that they were to await the outcome of that response. Ms Curtin stated that the applicant was not being stubborn in that they did not want to comply with what is being suggested and that another meeting would be beneficial to clarify what items could be acceptable.

The SD: PI stated that the definition of a farm shop is what he had outlined earlier and that the building could be approved as ancillary to the farm but once a shop which sells other goods not produced on the farm has been approved there are issues with intensification and road safety.

Councillor Black stated he appreciated that extensive conversations had already occurred but that based on tonight's conversation a further meeting may not do any harm and seconded Councillor McKinney's proposal to defer the application.

Councillor Glasgow stated that the applicant has had the opportunity to hear the discussion tonight and that time should be allowed to consider this and decide on how they wanted to move forward.

Councillor Colvin asked was the application submitted or did officers find out about it.

The SD: PI stated he was aware there was an enforcement case.

Councillor Colvin stated it appeared that the people involved in the project did not take into account planning at the time the farm shop was set up.

The Chair, Councillor Mallaghan stated there were a number of ways to look at the application and that as it stands tonight the SD: PI has given his firm stance but that it is the will of Members to look at the application again and that a proposal has been made and seconded to hold an office meeting.

Councillor Cuthbertson referred to his earlier proposal to approve the application.

The SD: PI stated that officers cannot be imposed by the Committee what they recommend and that the Committee can make its own decisions. He stated that officers are obliged to advise the Committee to the best of their ability. The SD: PI stated he had set his position which is, as stands, if the application is refused the building would have to come down. The SD: PI stated he did not have issue with the building nor did he have issue with goods being sold which are produced on the farm. The SD: PI asked if the applicant wanted to revise the application to retention of the building for sale of goods from the farm. In that instance he did not foresee a big issue.

Councillor Cuthbertson stated his proposal to approve the application is the most straightforward. The Councillor stated that if it is permissible to have a shop to sell goods from the farm he did not see how other products would cause a major influx of traffic onto the site. Councillor Cuthbertson stated he would withdraw his proposal if another office meeting was being accommodated. The Councillor asked if the application was to be refused tonight would an enforcement case then be opened again and that this would then have to come back to Committee.

The SD: PI stated that if the application was refused there would be an enforcement case as an enforcement case already exists. The SD: PI reminded Members that enforcement matters are discussed in confidential business.

The Chair, Councillor Mallaghan referred to earlier proposal which was seconded to defer the application for an office meeting and asked if there were any other proposals.

No other proposals were made.

Resolved That planning application LA09/2021/1182/F be deferred for an office meeting.

Councillor Cuthbertson left the meeting at 8.05 pm.

LA09/2021/1272/F Single storey dwelling with single detached garage adjacent to main house and surrounding landscaping at S of 101A Cavankeeran Road Pomeroy for Mrs Arlene Phelan

Ms Doyle (HLP) presented a report and highlighted addendum on planning application LA09/2021/1272/F advising that it was recommended for refusal.

Councillor McKinney stated he had been unable to attend the site meeting but that he had looked at the site himself and felt that a dwelling could be accommodated at the location.

The Chair, Councillor Mallaghan stated he had attended the site meeting along with Councillor Wilson and he felt that given the plot sizes of the houses in that area this application would be ok and once built and landscaping is done there would not be an opportunity for two further sites. The Chair stated that given the circumstances and location of the site he did not feel there would be any impact on the rural character of the area. Councillor Mallaghan proposed that the application be approved.

Councillor Clarke stated he had not been at the site meeting but was familiar with the area and would second Councillor Mallaghan's proposal.

The Service Director of Planning stated his understanding is that there are the requisite number of buildings but that the officer's concern is that the gap is too far and that more than two houses could be accommodated. The SD: PI stated that an officer can give a view along with what policy says and the tests that should be met. In this case, the tests state that it should be a small gap site with 3 buildings either side, however it does not say what the size of the gap should be or how it should be measured or what the distances should be. The SD: PI stated that the key test is does it fit between the buildings in such a way so as not to change rural character. The SD: PI stated that Members view of this application is that the required number of buildings are there and the site is located up a laneway and that no one will see the development. In this instance, there can be disagreement between officers and Members and it would be reasonable for Members to take their view.

Resolved That planning application LA09/2021/1272/F be approved subject to conditions.

LA09/2021/1729/F Dwelling & garage (Farm Dwelling) at approx. 40M S of 44A Sherrigrim Road, Stewartstown for Mr A Kelso

Members considered previously circulated report on planning application LA09/2021/1729/F which had a recommendation for approval.

Proposed by Councillor Black
Seconded by Councillor McKinney and

Resolved That planning application LA09/2021/1729/F be approved subject to conditions as per the officer's report.

Matters for Information

P115/22 Minutes of Planning Committee held on 2 August 2022

Members noted minutes of Planning Committee held on 2 August 2022.

Councillor Glasgow left the meeting at 8.08 pm

Live broadcast ended at 8.08 pm

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor McFlynn
Seconded by Councillor D McPeake 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 P116/22 to P119/22.

Matters for Decision

P116/22 Receive Enforcement Report

Matters for Information

P117/22 Confidential Minutes of Planning Committee held on 2 August 2022

P118/22 Enforcement Cases Opened

P119/22 Enforcement Cases Closed

P120/22 Duration of Meeting

The meeting was called for 7 pm and concluded at 8.27 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.



ADDENDUM TO PLANNING COMMITTEE AGENDA

FOR PLANNING COMMITTEE MEETING ON: 6 September 2022

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

Chairs Business –

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
5.4	Application has been withdrawn	Members to note
5.8	Email received from objector's planning consultant	Members to note
5.9	Email received from objector	Members to note
5.13	Email from applicant in support of application	Members to note
5.16	Map showing siting proposed by case officer	Members to note
5.24	Deferral requested by Agent	Members to agree deferral request
6.4	Application has been withdrawn	Members to note
6.6	Letter of support from Councillor Wilson	Members to note

Closed Business –