

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 9 January 2024 in Council Offices, Circular Road, Dungannon and by virtual means

Members Present

Councillor S McPeake, Chair

Councillors Black*, J Buchanan, Carney, Clarke, Cuthbertson*, Graham, Kerr, Martin*, McConnell, 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 McKinless, Senior Planning Officer
Ms McCullagh, Senior Planning Officer (SPO)**
Mr McClean, Senior Planning Officer (SPO)**
Ms Mhic Iomhair, Planning Officer (PO)
Ms Carson, Trainee Planning Officer (TP)
Mr Brown, IT Support
Mrs Grogan, Committee and Member Services Officer

Others in Attendance

LA09/2021/1475/F - Philip Marshall
LA09/2022/1202/F - Christopher Quinn***
LA09/2023/0012/O - Philip Marshall
LA09/2023/0640/F - Chris Cassidy***
LA09/2023/0930/F - Robyn Nicholl and Tom Stokes
LA09/2023/0405/O - Christopher Quinn***

* 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 5.05 pm.

P001/24 Notice of Recording

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

P002/24 Apologies

Councillor Mallaghan.

P003/24 Declarations of Interest

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

Councillor S McPeake declared an interest in LA09/2023/0772/F – Change of house type from previously approved LA09/2021/1098/F and garage at approx. 180m SE of Broagh Road, Knockloughrim for Mr Aidan O'Mahony and Ms Clodagh McPeake. The member advised that the planning application related to his daughter.

P004/24 Chair's Business

The Service Director of Planning (SD: PI) said that he wished to raise a few issues. He referred to matter which has been debated quite a few times in relation to Environmental Governance and their dealing of farm waste. The SD: PI advised that concerns in relation to whether adequate Environmental Governance has been carried out by DAERA or NIEA when it comes to the transportation and spreading of chicken manure. He said that members may recall over this past 3 years issues in relation to what the appropriate guidance should be, with a consultation currently taking place on what a trigger would be for an assessment, or an existing guidance at 1 or 0.1 units of ammonium nitrates. Members may recall that there was a move by Shared Environmental Service to change guidance when it did not fall under their authority as this is a matter for NIEA. A challenge by Farmers Union resulted in the Shared Environmental Service removing NIEA has now been challenged for not providing local authorities adequate support and by just relying on out of date guidance. The SD: PI stated that the Office of Environmental Protection issued a Pre-Action Protocol on the matter. This was settled without the need for court action when NIEA agreed to provide consultation responses on each planning application for intensive animal housing based on the locations and merits of the application. The SD: PI said that this was a line that this Council takes, and he welcomed the change by NIEA although he felt that this was a case of slow learning given Mid Ulster had advocated this approach for some time.

The SD: PI referred to the planning statistics and advised that the regional half yearly report was not available which showed where Mid Ulster stood in relation to other local authorities for the period September – April, it showed that Mid Ulster had received 511 applications, which represented third highest in Northern Ireland which was good as many other authorities had a significant fall in applications and was 50% more than neighbouring Councils of Fermanagh & Omagh, Antrim & Newtownabbey, Mid & East Antrim and Derry & Strabane. The SD: PI advised that planning had determined more applications than had been received, reducing the backlog. by 20% from 1062 to 839 In contrast if we look at our neighbouring Councils, six of the other Councils in Northern Ireland had their backlog increased despite the number of applications they were receiving going down. The SD: PI said that although this was good news, everything was not perfect as our average processing time was 16.7 weeks compared to the regional target of 15 weeks and felt that there was an onus on Mid Ulster to be better, but if compared to the regional average, it was sitting at 19.2 weeks we were better than more than half of the other Councils.

The SD: PI said that he wished to present a paper to the next Planning Committee on where we currently are and a few of the things which may be of concern for the future that may need to be addressed if proper progress was to be made. He said that it should come as no surprise that Mid Ulster had the highest approval rate, which may be down to having a lot of our applications deferred.

The SD: PI referred to the types of applications as last year everyone was talking about going into recession and Mid Ulster received the greatest number of applications in terms of commercial, civic and industrial which shows our strength in motoring the economy.

In relation to Enforcement, there was a backlog due to Covid and the lack of Officers coupled with other things. Strange things happened during lockdown as complaints increased on unauthorised developments in people's own areas, there was an increase in the number of cases, with 84 cases being received and 116 closed, which was good news clearing backlog.

The Chair said that this was all good news and going in the right direction. He said that he was looking forward to the paper which was to be presented next month on how we can improve further on the planning system.

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 for an office meeting/further consideration/withdrawn –

Agenda Item 5.5 – LA09/2023/0005/F – Dwelling and detached domestic garage at approx. 55m NE of 72 Finulagh Road, Dungannon for Michael Doran

Agenda Item 5.6 - LA09/2023/0012/O Dwelling and garage on a farm at approx. 120m W of 27 Tycanny Road, Garvaghy, Dungannon for Neville Robinson

Agenda Item 5.12 – LA09/2023/0786/F – Demolition of 1-2 William Street, retention of No.s 5-7 William Street, the erection of 14 no. residential units, including 8 no. two storey townhouses and 6 no. assisted living bungalow dwellings, car parking, alterations to an existing access, the creation of a community riverside biodiversity greenway, community open space area and all associated site works for Ballyscullion Property Investments Ltd

Agenda Item 5.14 - LA09/2023/0943/O – Site for dwelling and garage at 90m NE of 6 Anneeter Road, Moortown for Christine Toner

Agenda Item 6.2 – LA09/2020/1380/F – Retention of dwelling adjacent & 100m E of 18 Shantavny Road, Garvaghy, Ballygawley for Ciaran Owens

Agenda Item 6.3 – LA09/2020/1423/F – 1 no. two-bedroom apartment and 2 no. one-bedroom apartments at 28m NE of 30 Augher Road, Clogher for RMS Civils

Agenda Item 6.12 – LA09/2023/0405/O – Farm dwelling & domestic garage at lands 170m S of 82 Bancran Road, Draperstown for Aidan Coyle

Agenda Item 6.13 – LA09/2023/0592/F – Off-site replacement dwelling and garage adjacent and S of 5 Legane Road, Aughnacloy for Mr & Mrs Chris Potter

Proposed by Councillor Kerr
Seconded by Councillor Clarke and

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

Matters for Decision

P005/24 Planning Applications for Determination

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

LA09/2021/1435/F Housing development of 37 dwellings (7 detached & 30 semi-detached) using existing access to main road with associated landscaping at lands to the SE of Cove Close & Ashleigh Park, Ballyronan, Magherafelt for Canavan Construction Ltd

Members considered previously circulated report on planning application LA09/2021/1435/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor Varsani and

Resolved That planning application LA09/2021/1435/F be approved subject to conditions as per the officer's report.

LA09/2021/1475/F Free range poultry shed with 2 feed bins, a storage shed and associated site works (Poultry shed to contain 8000 free range egg laying hens) at Land Approx. 100m NW of 9 Soarn Road, Stewartstown for Mr Jeremy Baird

Members considered previously circulated report on planning application LA09/2021/1475/F which had a recommendation for approval.

The Strategic Director of Planning (SD: PI) said that he took the liberty of taking this application back to committee rather than a decision going out on it. He said that the reason was due to earlier discussion regarding NIEA changing its line on each and every application being considered on its own merits. The Officer's report suggested that there were particular lines and policies on things which we never sat down and agreed and wanted to make sure that there were no sweeping statements within the report which could be misconstrued, and proper line being put forward. The SD: PI advised that he seen nothing wrong with the consideration which was presented the

last time to committee, this was an approval and the key issue related to a condition. This was chicken litter which was going across the border to be dealt with by an anaerobic digester in Kildare and suggestion made that if destination of the chicken litter was to change then basically another submission would have to be made for Officers to access it. He felt that our concerns could be understood in that firstly, NIEA grant licences for the transport and storage of such things and if they were not happy with the destination, they have the ability to deal with it. Secondly, if the litter was no longer to be transported there and be spread on farms in Northern Ireland, then it would strike him that DAERA would have a responsibility and would be very important that these Government Departments take on these responsibilities. The SD: PI referred to another issue which would really concern him, the notion of jurisdictions, here we are in Northern Ireland and somehow staking our regulation towards the Republic of Ireland which where this was going, they are an independent state and also have the responsibilities under exactly the same European legislation and would find it exceptionally paternalistic for us to decide that we need to intervene in their affairs.

The SD: PI advised that Officers did consult and no objection was received. He said that members needed to bear in mind that this was the thought regarding this application, there may be another application come forward with a different situation and different set of considerations and would say to members that this needs to be considered at that time, not a policy, but more in line with reasonings for the planning application.

Proposed by Councillor Cuthbertson
Seconded by Councillor J Buchanan and

Resolved That planning application LA09/2021/1475/F be approved subject to conditions as per the officer's report.

LA09/2022/1202/F Detached dwelling at 20m E of 8 Park Avenue, Cookstown for Mr Kieran Leadon

Members considered previously circulated report on planning application LA09/2022/1202/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor Varsani and

Resolved That planning application LA09/2022/1202/F be approved subject to conditions as per the officer's report.

LA09/2022/1489/O Residential development - maximum 210 units at 15m NE of 67a Donaghmore Road, Dungannon access onto Greers Road, Donaghmore Road and Quarry Lane (approved under M/2014/0572/O) at 15m NE of 67A Donaghmore Road, Dungannon for D Mallon, E Herron and R Donnelly

Members considered previously circulated report on planning application LA09/2022/1489/O which had a recommendation for approval.

Councillor Varsani advised that there were previous applications approved over the past two decades and was great to see that this is ready and should be for approval. The member hoped that this would progress and not be held as long again for the sake of people who need homes and the whole process.

Proposed by Councillor Varsani
Seconded by Councillor S McPeake and

Resolved That planning application LA09/2022/1489/O be approved subject to conditions as per the officer's report.

LA09/2023/0005/F Dwelling and detached domestic garage at approx. 55m NE of 72 Finulagh Road, Dungannon for Michael Doran

Agreed that application be deferred for further consideration earlier in the meeting.

LA09/2023/0012/O Dwelling and garage on a farm at approx. 120m W of 27 Tycanny Road, Garvaghy, Dungannon for Neville Robinson

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

LA09/2023/0208/F Function room building in substitution of previously approved marquee function room under planning reference LA09/2018/0526/F at 38 Trewmount Road, Laghey Corner, Killyman for Paul & Emma Quinn

Members considered previously circulated report on planning application LA09/2023/0208/F which had a recommendation for approval.

Councillor Cuthbertson said that it would be useful to have some background information regarding this application and although he was aware that there were no objections made from third parties, there had been an objection received from HED and felt that it would be beneficial to get some clarity before moving on.

Mr Marrion (SPO) provided members with an overview of the application.

Proposed by Councillor Carney
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2023/0208/F be approved subject to conditions as per the officer's report.

LA09/2023/0586/F Car parking and designated pedestrian crossing for the sole use of Tobermore Concrete Products Limited at approx. 100m NE of 2 Lisnamuck Road, Tobermore Concrete Products Limited

Members considered previously circulated report on planning application LA09/2023/0586/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor S McPeake and

Resolved That planning application LA09/2023/0586/F be approved subject to conditions as per the officer's report.

LA09/2023/0590/F Extension of the Tobermore offices to accommodate the growing numbers of staff for the following years at 2 Lisnamuck Road, Tobermore for Tobermore Concrete Products Ltd

Members considered previously circulated report on planning application LA09/2023/0590/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2023/0590/F be approved subject to conditions as per the officer's report.

LA09/2023/0640/F Farm dwelling and garage approx. 140m S of 130 Coolreaghs Road, Cookstown for K Black

Ms McKinless presented previously circulated report on planning application LA09/2023/0640/F which was recommended for an approval.

The Chair advised that requests to speak had been received, one in favour and one against.

The Chair invited Mr Ross to address the committee.

Ms McKinless (SPO) advised that the person speaking against the application was supposed to be at the meeting in person tonight but has not turned up. The SPO advised that she had been in touch with the agent this morning and he was aware of the venue and time of the meeting tonight.

The Strategic Director of Planning (SD: PI) advised members that as the agent representing the objector has not shown up, there should be no reason why this application be delayed any further as there was no opportunity to listen to the objector's case.

The Chair advised that as the agent for the objector hadn't attended the meeting tonight, retrospectively the decision has been made to proceed with the recommendation.

Mr Cassidy who was speaking in favour of the application said that he was happy to proceed to the recommendation.

Proposed by Councillor Clarke

Seconded by Councillor J Buchanan and

Resolved That planning application LA09/2023/0640/F be approved subject to conditions as per the officer's report.

LA09/2023/0772/F Change of House Type from previously approved LA09/2021/1098/F and garage at approx 180m SE of 28 Broagh Road, Knockloughrim for Aidan O'Mahony and Clodagh McPeake

The Chair, Councillor S McPeake withdrew from the meeting due to declaration of interest earlier in the meeting regarding this application.

The Vice-Chair, Councillor Black took the Chair.

Members considered previously circulated report on planning application LA09/2023/0772/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor D McPeake and

Resolved That planning application LA09/2023/0772/F be approved subject to conditions as per the officer's report.

Councillor McPeake returned to the Chair.

LA09/2023/0786/F Demolition of 1-3 William Street, the erection of 14 no residential units, including 8no. two storey townhouses and 6 no. bungalow dwellings, car parking, alterations to an existing access, the creation of a community riverside biodiversity greenway, community open space area and all associated site works (amended description) at lands at and to the SE of 1-7 William Street, Bellaghy for Ballyscullion Property Investments Ltd

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

LA09/2023/0930/F Application under Section 54 of the Planning Act (Northern Ireland) 2011 to vary condition 17 of planning permission ref: LA09/2022/0600/F - erection of a battery energy storage system facility 100MW (BESS) and associated 33KV transformers, including 2 switch houses with control rooms lighting and closed-circuit television (CCTV) columns, new site boundary fencing and landscaping proposals, use of existing access and ancillary development works, including underground cabling route linking the site to Tamnamore main substation to the W at lands immediately East of Tamnamore Substation and Circa 260m SW of 167 Ballynakilly Road, Coalisland, for Heron Storage Ltd

Mr Marrion (SPO) presented previously circulated report on planning application LA09/2023/0930/F which had a recommendation for approval.

Councillor Varsani said that she wished to speak on this particular application. The member said that she understood that there have been amendments from previous applications and also the consultation response from the Fire Service included in tonight's documentation as a late addendum and all of that seems to be in order. The member advised that she wished to seek some reassurance on behalf of the nearby residents that all measures have been taken to make sure that any noise or humming or any other issues have been and will be monitored for the future.

The Strategic Director of Planning (SD: PI) stated that this was a good point raised by the Member as there was a growing misconception that planning permission is allowed, similar to chicken litter, noise etc. and planning looks after it thereafter. If there was a nuisance which had occurred, the normal route would be involving Environmental Health Department, but felt that this was a good question as there could be a situation of a humming noise from an electricity line. There could be an instance of a humming noise but may not be necessarily refused due to the fact that it being an annoyance to one person and not being noticed by others. There has been nothing raised at Officer level to say that there is a concern, but if there was a situation that there were sparks, noise and loud bangs etc. it would not be planning that would step in but Environmental Health. One of the things that would concern him which would be addressed in the paper being brought to the next committee meeting, would be the increasing tendency to see if planning were using conditions on things to sort out everything for the future which would be of a concern as planning wouldn't have the adequate expertise on things.

Proposed by Councillor Varsani
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2023/0930/F be approved subject to conditions as per the officer's report.

LA09/2023/0943/O Site for dwelling and garage at 90m NE of 6 Anneeter Road, Moortown for Christine Toner

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

LA09/2023/0981/O 2no. semi-detached dwellings with car parking and rear amenity space to be booked ended by the main A505 roadway within an existing cluster of development at lands directly adjacent and S of 1 Oakland Villas, Drum Road, Cookstown for Mr Ryan Glasgow

Members considered previously circulated report on planning application LA09/2023/0981/O which had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor J Buchanan and

Resolved That planning application LA09/2023/0981/O be approved subject to conditions as per the officer's report.

LA09/2020/0896/O Infill dwelling and garage at 20m W of 6 Five Mile Straight, Draperstown for Joe McWilliams

Members considered previously circulated report on planning application LA09/2020/0896/O which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor D McPeake and

Resolved That planning application LA09/2020/0896/O be approved subject to conditions as per the officer's report.

LA09/2020/1380/F Retention of dwelling adjacent & 100m E of 18 Shantavny Road, Garvaghy for Ciaran Owens

Agreed that application be deferred for further consideration earlier in the meeting.

LA09/2020/1423/F 1no. two-bedroom apartment and 2no. one-bedroom apartments at 28m NE of 30 Augher Road, Clogher for RMS Civils

Agreed that application be withdrawn earlier in the meeting.

LA09/2021/0719/F Farm dwelling and garage at approx. 25m E of 25 Creagh Hill Road, Toomebridge for Brendan Mulholland

Ms Doyle (HLP) presented a report on planning application LA09/2021/0719/F advising that it was recommended for refusal.

Councillor Cuthbertson said that by listening to the report that it was clear that the application does not meet policy and proposed to accept the recommendation.

The Chair said that although the case officer raised some valid points regarding the distance from site, advised that he had attended the site meeting and felt that the position below the road adjacent to other housing wasn't have been a bad site. He said that he did take on board HLP's point regarding the distance from the cluster but did feel that the site did sit below the road.

The Strategic Director of Planning (SD: PI) advised that the problem is not whether it integrates, but the judgement of it being a cluster and whether it meets the policy, there is always some leeway but perhaps not as much as people think. All of the policies for development in the countryside are under the umbrella of CTY1 and this tells us that you can get approval if you meet those, and if you don't you have to demonstrate that this is essential. The policy test of the cluster says that it has to be identifiable identity and although there may be focal points within the area, but if not in that cluster you can take it which is one of the reasons why we have dispersed

rural communities and certain areas in the rural countryside which are recognised and a special policy for those areas. The SD: PI said that he understood the frustration of members but would ask them to trust the Officer's recommendation.

Proposed by Councillor Cuthbertson
Seconded by Councillor Graham and

Resolved That planning application LA09/2021/0719/F be refused.

LA09/2021/1106/O Single storey dwelling & garage (sight lines added) at approx. 60m NW of 45 Lisnastrane Road, Coalisland for Niall O'Neill

Members considered previously circulated report on planning application LA09/2021/1106/O which had a recommendation for approval.

Proposed by Councillor Carney
Seconded by Councillor Kerr and

Resolved That planning application LA09/2021/1106/O be approved subject to conditions as per the officer's report.

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

Members considered previously circulated report on planning application LA09/2022/0112/O which had a recommendation for approval.

Proposed by Councillor J Buchanan
Seconded by Councillor Robinson and

Resolved That planning application LA09/2022/0112/O be approved subject to conditions as per the officer's report.

LA09/2022/0201/O Single storey dwelling adjacent to 64 Reaskmore Road, Reaskmore, Dungannon for Kieran MC Gartland

Members considered previously circulated report on planning application LA09/2022/0201/O which had a recommendation for approval.

Proposed by Councillor Varsani
Seconded by Councillor McElvogue and

Resolved That planning application LA09/2022/0201/O be approved subject to conditions as per the officer's report.

LA09/2022/0670/F Dwelling and garage on a farm at 151m N of 36 Keady Road, Swatragh for Declan McNicholl

Members considered previously circulated report on planning application LA09/2022/0670/F which had a recommendation for approval.

Proposed by Councillor D McPeake
Seconded by Councillor Clarke and

Resolved That planning application LA09/2022/0670/F be approved subject to conditions as per the officer's report.

LA09/2022/1413/O Site for a dwelling and garage on a farm at 90m N of 2A Brackaghreilly Road, Maghera for Thomas Convery

Members considered previously circulated report on planning application LA09/2022/1413/O which had a recommendation for approval.

Proposed by Councillor D McPeake
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2022/1413/O be approved subject to conditions as per the officer's report.

LA09/2022/1743/O Dwelling and garage at approx. 30m W of 5 Carrydarragh Road, Moneymore for Randall Crooks

Members considered previously circulated report on planning application LA09/2022/1743/O which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Clarke and

Resolved That planning application LA09/2022/1743/O be approved subject to conditions as per the officer's report.

LA09/2022/1777/O 2 storey dwelling and detached garage on a farm adjacent to and S of 14 Tullylinton Road, Dungannon for R Hopper

Members considered previously circulated report on planning application LA09/2022/1777/O which had a recommendation for approval.

Proposed by Councillor Varsani
Seconded by Councillor McElvogue and

Resolved That planning application LA09/2022/1777/O be approved subject to conditions as per the officer's report.

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

Ms McKinless (SPO) presented a report on planning application LA09/2023/0405/O advising that it was recommended for refusal.

The Strategic Director of Planning (SD: PI) said that these were quite difficult applications and was aware that the agent Mr Quinn was in attendance to provide his summary in favour of the application but suggested it may be helpful for him to hear what he had to say first.

The SD: PI advised that the first real concern was that there was only one building there and by looking at it asked if there was any reason why it looks like a quite an old building but could safely say that there was one building at the location. This was very frustrating for members as it looks like it's not a bad site to go next to that building from what the SPO was saying, but we also know of legal cases, one affecting a Belfast authority and one affecting ourselves and you cannot turn around and say "that's harsh, that building is good enough" you have to have a very good reason why only one was being accepted. Policy states you need buildings in the plural and are onto that awful fallback position where you don't meet what the policy says, you are then down to a test why this is essential. The SD: PI felt that it was useful to bring this to the fore primarily as it gives the person representing the chance to say something in response.

The Chair advised that a request to speak in support of the application had been received and invited Mr Quinn to address the committee.

Mr Quinn thanked the SD: PI for the advice and said that he had some notes written down but felt that Ms McKinless (SPO) had covered most of them. He wished to reinforce that it is the applicant's intention to develop the farm site as it is at the minute and intention to erect a 30x60 ft dry bedding and machinery shed on the site. He said that it would be greatly appreciated if time was allocated to submit a planning application in which they were in the process of preparing for submission and hopefully mean that the application would be viewed more favourably.

Mr Quinn advised that they would be open to a pre-commencement condition if it was possible to be put on the application that the development of the dwelling could not be done until a group of buildings had been established at the site and the applicant is happy to accept that if there was a possibility or a mechanism to get the application over the line. He also stated that the applicant would be open to a site meeting if it was deemed necessary.

The SD: PI referred to the proposed building and asked Mr Quinn where he was proposing it should go.

Mr Quinn advised that the building was proposed to be erected adjacent to the existing livestock shed.

The SD: PI enquired if the applicant was ready to submit that as a planning application.

Mr Quinn advised that this could be prioritised and anticipated having this submitted by the end of the month if possible.

The SD: PI felt that there was a problem which the applicant may face in that the policy when applying for a farm building it is supposed to be going next to buildings on the farm, but by listening to the debate he felt it would be reasonable to allow a couple of months to submit the planning application for assessment without any commitment one way or another to the outcome of either the application or this.

The Chair enquired if it was not the case that the first farm building up is permitted development for any subsequent buildings.

The SD: PI said that there is permitted development where you go next to existing buildings on the farm where you demonstrate that there is a need for it.

The Chair said that it was his understanding that you only need permission for the first one providing there was so many metres from the road neighbouring properties.

Mr Marrion (SPO) presented policy on Planning General Permission on Permitted Development Class A – (Development Not Permitted) part A1(c) *the nearest part of any building or structure so erected or extended is more than 75m from the nearest part of a group of principle farm buildings*. The SPO advised that buildings related to the plural.

The SD: PI doesn't necessarily mean to say that there is only one group of principal buildings on a farm but didn't think that it meets the permitted developments regulations. He felt that it may still be reasonable to allow the opportunity to make that application.

Councillor Clarke felt that this was a good way forward and by looking at the farm maps, it looks to be a scattered farm with fields in different places. The proposed site seems to be in the location of the largest part of the farm, a bigger area than any other part of the fields and would propose to what has been discussed and move forward on that basis.

Councillor Cuthbertson said that he was happy enough for it to wait but sought clarification on whether the application would be sufficient, or would it have to be approved and the shed actually built, or could it be taken into consideration that it may never be erected.

The SD: PI advised that the policy is what is written which is clear. We have the ability to give consideration to other factors which are material, but what we cannot do is write policy of the tops of our heads and only assess what is put before us. The SD: PI said for example it could be stated one building and there could be a couple of small buildings which qualifies, but there could be a massive building and then claim it didn't qualify and whilst you could take into consideration the size of the structure, but in this instance what he was basically saying was if there was a proper operational requirement to put a building there and a proper operational requirement in relation to the farmhouse being built where that group is to be, then consideration can be given to that. What he wouldn't be doing would be giving what the consideration outcome would be as it would be pre-exempt what the judgement of the application would be as it would be making policy here.

Councillor Cuthbertson said that he was content with the clarification given as he remembered before discussion taking place on an infill site, where there was permission for other sites and consideration was not permitted to be given as they were not built.

Proposed by Councillor Clarke
Seconded by Councillor S McPeake and

Resolved That planning application LA09/2023/0405/O be held pending the submission of a planning application for a new farm building.

LA09/2023/0592/F Off-site replacement dwelling and garage adjacent and S of 5 Legane Road, Aughnacloy for Mr & Mrs Chris Potter

Agreed that application be deferred for further consideration earlier in the meeting.

Matters for Information

P006/24 Minutes of Planning Committee Meeting held on 5 December 2023

Members noted previously circulated minutes of Planning Committee held on 5 December 2023.

P007/24 Receive Appeal Decision

Members noted update regarding dismissal of appeal for 6 dwellings approximately 90m east of 96 Davagh Road by Planning Appeals Commission following a decision by the Planning Committee to refuse planning permission for the proposed development.

The Chair wished to state his personal point of view and the appreciation of the committee in the work Ms Doyle and Ms McKinless carried out in defending our position on this as it wasn't an easy decision at the time, but we all listened attentively, and he believed the decision which had been taken were vindicated by the PAC. The Chair wished to place on record our thanks to the Officers for carrying out the diligent work on behalf of the Committee and on behalf of the Council in defending it.

Councillor Clarke agreed that this was a difficult decision for Planning Committee to take at that time, we talked long and hard about it and discussed it at length, a decision was taken which was vindicated when it was taken to planning appeal. The member on his own behalf as a member of the Planning Committee wished to congratulate this Committee on their original decision and evidently with hindsight now of planning appeal decision, which was also a wise decision. The member wished to place on record his thanks to the Planning officials who carried out the work on defending the case and being very successful.

The SD: PI said that it was always important to recognise that our Planning Officers are professionals and remember saying to them before the appeal, not to be concerned regardless of whatever if there may be a difference on the Committee's view and what an Officer's view may be, but were there to represent the Committee and the Council, which is to be expected from a professional.

The Chair said that it would be interesting to see sometime the PAC different ratios in terms of ourselves and all other cases in which were taken.

The SD: PI advised that he wasn't aware of any stats, but we have the lowest number of planning appeals in Northern Ireland, given our high approval rate there were cases brought where appeals have been upheld, however these were few and far between. If an appeal was upheld, it would change our interpretation of policy, then Officers would advise Committee on the interpretation of policies of Planning Appeals and Commission in this way. What we are most active in is Enforcement, not always but sometimes, that when an Enforcement Notice is served, we get a planning appeal and from memory only a couple cases were lost because new information had been submitted in which we Planning didn't have in the first instance. The SD: PI would say to Planning Committee to not put too much interpretation on this as people always have the right to planning appeal. It is much easier to make a planning appeal than put a case forward, due to the fact that something is appeal and it's contested, this can only be done in courts which is very intimidating and could end up very expensive.

Live broadcast ended at 6.20 pm.

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Kerr

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 items P008/24 to P012/24.

Matters for Decision

P008/24 Receive Report on Modification of a Planning Approval

Matters for Information

P009/24 Confidential Minutes of Planning Committee held on 5 December 2023

P010/24 Enforcement Cases Opened

P011/24 Enforcement Cases Closed
P012/24 Any Other Business

P013/24 Duration of Meeting

The meeting was called for 5 pm and concluded at 6.35 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, Dungannon 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.

