

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 7 September 2021 in Council Offices, Ballyronan Road, Magherafelt and by virtual means

Members Present	Councillor Black, Chair
	Councillors Bell, Clarke, Colvin*, Corry, Cuthbertson, Glasgow, Mallaghan, McFlynn, McKinney, D McPeake, S McPeake, Quinn, Robinson
Officers in Attendance	Dr Boomer, Planning Manager Mr Bowman, Head of Development Management Ms Donnelly, Council Solicitor Ms Doyle, Senior Planning Officer Mr Marrion, Senior Planning Officer Mr McClean, Senior Planning Officer Ms McCullagh, Senior Planning Officer Miss Thompson, Democratic Services Officer
Others in Attendance	Councillor Gildernew***
	LA09/2021/0635/O Mr Gourley* LA09/2021/0734/RM Mr McCann Ms McCann LA09/2017/1366/F Mr Rogers* Ms McIlvar

* 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 7.27 pm

P117/21 Apologies

Councillors Brown and Hughes.

P118/21 Declarations of Interest

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

Councillor McFlynn declared an interest in agenda item 8 - Receive report on request for review of TPO Decision.

Councillor D McPeake declared an interest in agenda item 5.14 - LA09/2021/0116/O - Dwelling & garage at lands E of 91 Creagh Road, Castledawson, for Ciaran Devlin.

P119/21 Chair's Business

The Planning Manager referred to recently held DEA meetings to discuss settlements and in particular the Cookstown DEA meeting in which only one Member could attend on the day. The Planning Manager asked if Members would like a further Cookstown DEA meeting to be held.

Proposed by Councillor Mallaghan
Seconded by Councillor Glasgow and

Resolved That a further Cookstown DEA meeting be scheduled to discuss settlements.

The Planning Manager drew attention to the addendum and the appeal decision regarding conditions for Creagh Concrete Quarry at Pomeroy. The Planning Manager stated that in the past there has been little to no restoration following quarrying activities and he felt there could be better governance on this matter. The Planning Manager stated that more recently, particularly in Scotland, when such applications have come forward conditions have been applied which would require the developer to take out some form of assurance in that if they went bust there would be a fund to undertake an appropriate level of restoration. In this instance, the Planning Manager stated that Creagh Concrete lodged an appeal regarding the conditions set and that they won their appeal. The Planning Manager stated that the Commissioner advises that the options are for standard conditions in which restoration will be sought against the landowner which the Planning Manager felt is of little use if the landowner has gone bust. The alternative option is to seek planning agreements, however the Planning Manager stated these can be costly and cause delays to an application. The Planning Manager stated that Creagh Concrete have won the appeal on this case and this did not give him any concern. Unfortunately, it now meant planning agreements would have to be pursued in some cases.

The Planning Manager referred to previous discussion in relation to holding an additional planning meeting and that a date was set in place for 28 September. The Planning Manager stated that when applications are advertised, dates of planning committees are also advertised in order to give prior warnings to applicants to check the Council website as to what is on the agenda for a meeting and that this caused a difficulty in trying to arrange an additional meeting. The Planning Manager stated it would be in order to hold an additional planning committee to discuss items which are not in the public domain ie. Local Development Plan or for overspill from one meeting to the next but not for new application items. The Planning Manager stated he felt the meeting scheduled for 28 September would no longer be required but that it may be wise to hold a further date for overspill however it would not be known if a further date would be required until after the planning meeting on 5 October.

In response to question from Councillor Mallaghan relating to the planning appeal by Creagh Concrete the Planning Manager advised that the planning application for Creagh Concrete had now been approved. The Planning Manager stated that Council were seeking better governance and were not trying to prevent development and that the standard conditions were applied to the approval by the PAC.

The Planning Manager 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 4.1 – LA09/2019/0179/F - Variation of condition 12 of M/2011/0126/F (opening hours condition) at lands 70m S of 177 Annagher Road, Coalisland for DMAC Engineering.

Agenda Item 4.2 – LA09/2019/0822/F - Shed over existing storage tank at lands 48m SE of 130 Coolreaghs Road, Cookstown for Mr Ronnie Smith.

Agenda Item 4.4 – LA09/2019/1548/O - 4 Detached dwellings and garages, accessed through Riverside Gardens, at lands approx. 80m S of Hughes Furniture, Bellshill Road, Castledawson, for Hughes Furniture.

Agenda Item 4.16 – LA09/2021/0539/O - Site for dwelling & garage 180m NE of 83 Moneysharvan Road, Maghera, for Mrs Bridget Church.

Agenda Item 4.18 - LA09/2021/0690/O - 2 dwellings adjoining and NE of 100 Trewmount Road, Killyman, for Briege O'Donnell.

Agenda Item 4.20 - LA09/2021/0739/F - Dwelling & Garage/Store 150m NE of 230 Coalisland Road, Gortin, Dungannon, for Mr Cathal Keogh.

Councillor S McPeake asked that agenda item 4.21 - LA09/2021/0822/O - Infill site of dwelling & domestic garage at 60m S of 88 Gulladuff Hill, Magherafelt, for Dan McCrystal also be deferred for an office meeting as the applicant had not yet engaged an architect.

Proposed by Councillor Mallaghan
Seconded by Councillor Clarke and

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

The Planning Manager advised that agenda item 4.6 - LA09/2020/0516/F - Amendment of house location (previously approved in M/2008/0722/RM) and new access at 36 Lisgallon Road, Dungannon, for Farasha Properties Ltd had been withdrawn.

Matters for Decision

P120/21 Planning Applications for Determination

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

LA09/2019/0179/F Variation of condition 12 of M/2011/0126/F (opening hours condition) at lands 70m S of 177 Annagher Road, Coalisland for DMAC Engineering

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

LA09/2019/0822/F Shed over existing storage tank at lands 48m SE of 130 Coolreaghs Road, Cookstown for Mr Ronnie Smith

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

LA09/2019/1300/F Amendment to the overall turbine tip heights (consented under LA09/2015/0460/F and K/2015/0066/F) and varying of planning condition from 25 years to 35 years at Murley Wind Farm in the townlands of Killygordan, Tattanafinnell, Edgegole and Cole Glen Forest near Fivemiletown for Renewable Energy System Limited

Members considered previously circulated report on planning application LA09/2019/1300/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Robinson and

Resolved That planning application LA09/2019/1300/F be approved subject to conditions as per the officer's report.

LA09/2019/1548/O 4 Detached dwellings and garages, accessed through Riverside Gardens, at lands approx. 80m S of Hughes Furniture, Bellshill Road, Castledawson, for Hughes Furniture

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

LA09/2019/1667/O 2 dwellings and garages with new access, at land adjacent to 95 Mullaghmore Road, Dungannon, for Ms C Cuskeran

Members considered previously circulated report on planning application LA09/2019/1667/O which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor S McPeake and

Resolved That planning application LA09/2019/1667/O be approved subject to conditions as per the officer's report.

LA09/2020/0516/F Amendment of house location (previously approved in M/2008/0722/RM) and new access at 36 Lisgallon Road, Dungannon, for Farasha Properties Ltd

Application withdrawn.

LA09/2020/0537/F Housing development (40 units) with associated carparking and landscaping, at Killymeal House and adjacent lands, Killymeal Road, Dungannon for J & V Construction

Members considered previously circulated report on planning application LA09/2020/0537/F which had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2020/0537/F be approved subject to conditions as per the officer's report.

LA09/2020/0759/F Housing development consisting of 8 dwellings with associated access, roads, landscaping and provision of temporary treatment plant (Amended Plan) at lands adjacent to 121 Ruskey Road, The Loup, for Mr McVey

Members considered previously circulated report on planning application LA09/2020/0759/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Clarke and

Resolved That planning application LA09/2020/0759/F be approved subject to conditions as per the officer's report.

LA09/2020/0832/F Application to vary Condition 16 of H/2010/0009/F to change the operational lifetime of the wind farm from 25 years to 30 years at Crocandun approx. 450m WSW of junction of Cullion Road and Drumard Road Draperstown for Brookfield Renewable

Members considered previously circulated report on planning application LA09/2020/0832/F which had a recommendation for approval.

Proposed by Councillor Robinson
Seconded by Councillor McKinney and

Resolved That planning application LA09/2020/0832/F be approved subject to conditions as per the officer's report.

LA09/2020/0949/F Extension of existing confectionery warehouse, additional car-parking and external hardstanding / loading / unloading area at 58 Old English Road, Dungannon, for Northern Confectioners Ltd

Members considered previously circulated report on planning application LA09/2020/0949/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Glasgow and

Resolved That planning application LA09/2020/0949/F be approved subject to conditions as per the officer's report.

LA09/2021/0077/F Alternative acoustic noise barrier (to approved LA09/2016/0543/F) at 100 Gortgonis Road, Coalisland for Toubcal Limited

Members considered previously circulated report on planning application LA09/2021/0077/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Glasgow and

Resolved That planning application LA09/2021/0077/F be approved subject to conditions as per the officer's report.

LA09/2021/0226/F Extension and alterations to existing clubhouse for additional changing facilities, bar/function area, kitchen, toilets, storage and viewing gallery at 7 Meadowbank Road, Magherafelt, for Rainey Old Boys RFC

Members considered previously circulated report on planning application LA09/2021/0226/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor D McPeake and

Resolved That planning application LA09/2021/0226/F be approved subject to conditions as per the officer's report.

LA09/2021/0387/F Renewal of change of house type from 3 detached dwellings (approved under I/2014/0081/F) to 6 semi detached dwellings at 15, 15A and 16 St Jeans Cottages Cookstown for Hoover Investments Ltd

Members considered previously circulated report on planning application LA09/2021/0387/F which had a recommendation for approval.

Proposed by Councillor Glasgow
Seconded by Councillor Robinson and

Resolved That planning application LA09/2021/0387/F be approved subject to conditions as per the officer's report.

LA09/2021/0462/F Housing development and associated works at lands immediately SW of 44 Dungannon Road, Moy, for P D Construction Ltd

Mr Marrion (SPO) presented a report on planning application LA09/2021/0462/F advising that it was recommended for approval. Mr Marrion drew attention to the addendum which advised of late objection and additional condition to be considered.

Councillor Colvin asked what happens if the developer proceeds to erect the houses before the drainage system is put in place.

The Planning Manager stated that planning is directed to use conditions if it enables development and this is the starting principle. If there is development outside of the conditions there are two courses of action namely a breach of condition notice which could be used for minor breaches or service of an enforcement notice with the further option of a stop notice for a breach such as commencing works prior to having proper infrastructure in place. If an enforcement notice is breached then an applicant can be summonsed and prosecuted. The Planning Manager stated the officer's condition is worded in such a way so as to have infrastructure in place prior to commencement of the development rather than prior to occupation of dwellings.

Councillor Colvin stated that on the face of it it all sounded good but that he had concerns that the houses will be built and bought before infrastructure is in place and the occupiers will be left to deal with the matter. The Councillor stated there are examples of where this has happened before and that this issue needs to be considered at a higher level.

Councillor Bell stated that the objector has legitimate concerns and that he would like reassurance from the officer that they are content with the conditions being proposed and that the drainage system will be adopted and maintained after the site is handed over.

Mr Marrion advised that officers consulted with DFI Rivers and that they advised that the systems will be adopted by NI Water via an Article 161 Agreement. Mr Marrion stated that those matters were outside of planning legislation and all planning can do is to put forward to the developer that they have certain obligations to adhere to before development commences.

Councillor Bell asked for the views of the Planning Manager on the concerns raised and that the developer won't be able to get away without putting infrastructure in place.

The Planning Manager stated that planning cannot prevent someone from not doing something they were supposed to do but that it can enforce against breaches and

that whilst Mid Ulster takes less enforcement complaints than any other council in NI it has taken action against more people than any other authority in NI. In this instance the matter relates to drainage and the Planning Manager advised he was not an expert in this regard nor were his staff. The Planning Manager advised that Rivers Agency had been consulted on the application and that they are not unduly concerned however a permission is needed and that the condition is stating that the permission should be in place before building commences. The Planning Manager stated that the condition is not standard and he could not guarantee it would not be appealed however he felt that it is right to put the condition in place.

The Chair, Councillor Black stated he accepted the comments of Councillors Bell and Colvin and that the Planning Manager has outlined a way of striking a balance.

Proposed by Councillor Robinson
Seconded by Councillor S McPeake and

Resolved That planning application LA09/2021/0462/F be approved subject to conditions as per the officer's report and the additional condition outlined in the addendum.

LA09/2021/0478/F Dwelling (amended plans) at 20m SE of 30 Moneyneany Road, Moneyneany, for Mr F McCloskey

Members considered previously circulated report on planning application LA09/2021/0478/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Corry and

Resolved That planning application LA09/2021/0478/F be approved subject to conditions as per the officer's report.

LA09/2021/0539/O Site for dwelling & garage 180m NE of 83 Moneysharvan Road, Maghera, for Mrs Bridget Church

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

LA09/2021/0635/O Dwelling & domestic garage at land immediately N of 43 Tullyglush Road & between 43 & 51a Tullyglush Road, Ballygawley, for Gerard Quinn

Mr Marrion (SPO) presented a report on planning application LA09/2021/0635/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 Gourley to address the committee.

Mr Gourley attempted to address the committee remotely but Members were unable to hear what he was saying.

The Planning Manager stated that as there was a technical problem and the committee could not hear what Mr Gourley was saying he would offer an office meeting in this instance. The Planning Manager asked Mr Gourley if he would accept an office meeting.

Mr Gourley indicated that he would accept an office meeting.

Resolved That planning application LA09/2021/0635/O be deferred for an office meeting.

LA09/2021/0690/O 2 dwellings adjoining and NE of 100 Trewmount Road, Killyman, for Briega O'Donnell

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

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

Mr Marrion (SPO) presented a report on planning application LA09/2021/0734/RM 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 McCann to address the committee.

Mr McCann stated he lived at 65 Kilnacart Road and that his neighbour at 61 Kilnacart Road has no soakaway from his tank with the result of effluent arriving outside his house. Mr McCann referred to the application for two more houses within the site boundary with no soakaway. Mr McCann also stated that the developer will be unable to access grounds as these are all family owned. Mr McCann asked who will be responsible when effluent arrives at his back door again and stated that his grandson had fell off his bike into the effluent which was not acceptable. Mr McCann referred to pumping machines and that he felt by pumping water up a hill it will only run down again. Mr McCann stated he was not objecting to development but that it was a basic civil right not to have to walk through other people's sewerage.

Ms McCann stated that this application has an in depth history and has been refused numerous time previously and this needs to be taken into consideration. Ms McCann stated the objection was on the grounds of health and safety and that there is an ongoing issue with effluent which will only be exacerbated by having two more dwellings.

Mr McCann stated that his neighbour's septic tank is piped halfway into the proposed site and then piped into the public sewer. When this blocks and overflows the effluent comes down the hill to his back door.

The Planning Manager asked when planning approval was granted for the application.

Mr Marrion advised that planning approval was granted by committee decision in July 2018 as infill.

The Planning Manager asked regarding the history of the site as previous refusals had been referred to.

Mr Marrion advised that there were previous refusals on the site which had been considered under previous policy context.

The Planning Manager stated that planning policy changed with the introduction of PPS21 and in some instances, such as infill, it made it easier to get planning permission. The Planning Manager advised that the planning permission was there and had to be honoured, that said, the objections in terms of provision of a septic tank were reasonable.

The Planning Manager asked if Water Service and Environmental Health had been consulted on the application.

Mr Marrion advised that the only consultation was with Roads Service in relation to access.

The Planning Manager stated he felt the other bodies should be consulted given the previous problems incurred in the area. The Planning Manager stated that planning does not regulate septic tanks and the upkeep of these is ultimately the responsibility of the individual concerned, Environmental Health could regulate if there were smells and NIEA could regulate if there was unauthorised discharge. The Planning Manager suggested that the application be deferred in order to consult with Environmental Health and NIEA.

Councillor Bell proposed that the application be deferred for consultation with the relevant bodies.

Councillor Cuthbertson seconded Councillor Bell's proposal as he felt now is the time to try to sort out the issues.

Councillor Bell asked if there could be a quick turnaround on getting responses to the consultations.

The Planning Manager stated that every effort will be made to get a quick turnaround. The Planning Manager stated that if there is discharge consent Building Control often ask for this and if they have a copy of the discharge consent then the question in that regard is answered but it would be better to conduct all consultations in order to be sure.

Councillor Colvin stated that Building Control's responsibility stops at the septic tank and that any problems beyond this will involve other bodies such as NIEA and Environmental Health.

The Chair, Councillor Black stated that the principle of development is there but it is important to look into the concerns which have been raised and that the consultations will allow this to happen.

Resolved That planning application LA09/2021/0734/RM be deferred for consultation with Environmental Health and NIEA.

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

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

LA09/2021/0822/O Infill site of dwelling & domestic garage at 60m S of 88 Gulladuff Hill, Magherafelt, for Dan McCrystal

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

LA09/2017/0319/F Relocation of 2 chimney stacks (approved M/2011/0126/F); retention of 4 further chimney stacks at 70m S of 177 Annagher Road, Dungannon for DMAC Engineering

Members considered previously circulated report on planning application LA09/2017/0319/F which had a recommendation for approval.

The Planning Manager advised that a late objection addressed to the Chief Executive was received from Mr Hughes who had spoken against the application at a previous meeting and that the late objection was asking for a deferral and investigation. The Planning Manager stated he took the view that the application has been investigated as it was brought to committee and deferred, that meetings with Environmental Health and DMAC took place and a report was completed in relation to odour. The Planning Manager stated that Environmental Health have accepted the report based on the proper operation of the equipment. The Planning Manager stated that a site meeting had also taken place. The Planning Manager stated that it is up to DMAC to ensure the proper operation of the extraction system and if they fail in this then it becomes a matter for Environmental Health but that all planning tests have been met. The Planning Manager referred to the request for deferral but that he felt all investigations had been exhausted.

Councillor S McPeake proposed the officer recommendation.

Councillor Colvin seconded Councillor S McPeake's proposal.

Councillor Glasgow felt the site meeting was very beneficial and that on the day of the visit the site was a fully functioning operation so Members were able to get a good idea of how things worked on a day to day basis.

The Chair, Councillor Black stated the site meeting had been a good opportunity to look at the site first hand and that, as outlined by the Planning Manager, proper consideration has been given to the concerns raised.

Resolved That planning application LA09/2017/0319/F be approved subject to conditions as per the officer's report.

LA09/2017/1366/F Residential Development for 52 units at 20 Dungannon Road, Cookstown for McKernan Construction Ltd

Councillor Mallaghan declared an interest in this application and withdrew to the public gallery.

Ms Doyle (SPO) presented a report on planning application LA09/2017/1366/F advising that it was recommended for approval, the officer also drew attention to the addendum which set out a further condition of approval which had been omitted from the officer report.

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

Mr Rogers advised he was acting on behalf of Mr Anderson whose address is 15 Dungannon Road, Cookstown which is opposite the entrance to the application site. Mr Rogers advised that there had been an objection to this application since its inception in 2017 and that the last representation was made in December 2020. Mr Rogers advised that his client holds planning permission for 20 apartments at 15 Dungannon Road, Cookstown and that the permission has commenced within appropriate time limits and is protected by virtue of completing pre start conditions, entrance being formed from Dungannon Road and undertaking significant construction works on part of the building itself. In forming the entrance, Mr Rogers advised that a right hand turning lane was installed which is 15m long and allows 3 cars to safely queue, it was advised that this application seeks to reduce this to 6m and that the objection continues to be one of safe access. Mr Rogers stated he did not consider it to be reasonable to alter the existing approved entrance from 15m to 6m and felt that when TransportNI made their assessment they were not aware that the existing entrance permission was protected and that there is a live and lawful planning permission. Mr Rogers stated that the proposal significantly compromises the safety of the access and the economic viability of their site.

The Planning Manager asked if Mr Rogers was aware that the access and turning lane which exists on the ground has a certificate of lawful of development and that the planning appeal granted this.

Mr Rogers stated he was aware.

The Planning Manager asked if Mr Rogers had a certificate of lawful development.

Mr Rogers stated he did not.

The Planning Manager stated he could not verify if development had started as there was no certificate of lawful development and that this could have been obtained if the client had chosen to.

The Planning Manager asked the planning officer if the certificate of lawful development showed access to the other site.

Ms Doyle advised that the drawing submitted showed three right turn lanes – (1) To the applicant site (2) To Mr McGurk's site (3) To Mr Anderson's site.

The Planning Manager asked Mr Rogers why this application should be refused when, as stated, the other application had been started and there was an access in place.

Mr Rogers stated it was because it was felt the access was unsafe.

The Planning Manager stated that Roads Service have confirmed that the access is safe and that the matter has been given full consideration.

Ms McIlvar stated that in terms of roads issues she felt the Planning Manager had covered these. Ms McIlvar advised that the applicant has two certificates of lawful development in place which certify that the pre commencement works required for the 2012 permission were in place in time and the roadworks were commenced in time. Ms McIlvar stated that the planning appeal also worked out in favour of the applicant as there is also a certificate of lawful development for the right turning lanes. Ms McIlvar referred to comments relating to Roads Service not being aware of the application and highlighted that this application has been in the system for four years and that Roads Service have been consulted on numerous occasions throughout that period and there was no way there had been any oversight in that regard. Ms McIlvar stated that no statutory consultees had any objection to the application and urged Members to accept the recommendation to approve the application.

The Planning Manager stated that the issue of road safety was at play and that there was a view that an access was unsafe. The Planning Manager stated that Roads Service had granted a departure from standards on the piece of road in question and that this process is complex and lengthy.

The Planning Manager referred to comments relating to pre commencement conditions and that these had been met. The Planning Manager stated these had been met, however, in terms of the old permission a visibility splay had been interfered with because a totem pole had been put up which would question whether the original planning permission could be implemented. The Planning Manager stated that Roads Service accept that there is adequate visibility for this site due to the number of dwellings being reduced. The Planning Manager also referred to the argument as to whether a lawful start had been made but stated that this was not a key material consideration in this as it is clear a planning permission had been granted in the past and whether that planning permission could have been implemented is questionable. The Planning Manager stated that the application site is on white land, all technicalities have been overcome and the application has been widely consulted on and that there was no reason that the application could not go forward on its own merits.

Councillor Bell stated that having read the officer report and listened to the debate he would be happy to propose the recommendation.

Councillor Clarke seconded Councillor Bell's proposal.

Councillor McFlynn stated that as the application has been in the system for four years she had no doubt that all consultations have been undertaken and that she would be happy to support the proposal to approve.

Resolved That planning application LA09/2017/1366/F be approved subject to conditions as per the officer's report and condition outlined in addendum.

Councillor Mallaghan rejoined the meeting.

LA09/2018/1648/F Retention of open-sided storage building at Blackpark Road, Toomebridge, for Creagh Concrete Products Ltd

The Planning Manager advised that a late representation had been received in respect of this application.

Mr Marrion (SPO) outlined the late objection as per addendum. Mr Marrion stated that the objection does not change the considerations within the officer report as the same issues have been raised. It was advised however that there may still be another representative to come forward but highlighted that the application was subject to press notification.

The Planning Manager stated that the issue relating to the application relates to land ownership and it is not the role of planning to decide who owns land. The Planning Manager stated the application was deferred for a long period in order to investigate the submission of land ownership certificates and this was undertaken by the Council Solicitor. The Planning Manager stated that the advice given was that what had been done to date was procedurally correct. The Planning Manager stated that the law is there to protect ownership rights.

The Planning Manager stated that the development has occurred and from a planning point of view there is no objection to this. The Planning Manager stated that it is up to the Committee as to how it moves forward, that the application could be approved, deferred, or another decision taken. The Planning Manager stated that if there was a challenge then Council would have to defend its position.

Proposed by Councillor McKinney
Seconded by Councillor Mallaghan and

Resolved That planning application LA09/2018/1648/F be approved subject to conditions as per the officer's report.

LA09/2019/0787/O Site for a dwelling and garage at 40m SW of 44 Moyagoney Road, Portglenone, for Mr Paul Madden

Members considered previously circulated report on planning application LA09/2019/0787/O which had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor McKinney and

Resolved That planning application LA09/2019/0787/O be approved subject to conditions as per the officer's report.

LA09/2019/1305/F 8 No. two storey apartments within 2 blocks at 63 Thomas Street, Dungannon, for Farasha Properties Ltd

Members considered previously circulated report on planning application LA09/2019/1305/F which had a recommendation for approval.

Councillor Cuthbertson stated that when this application was previously presented he had requested a site meeting and that he had since attended the site meeting. Councillor Cuthbertson stated he still felt there would not be enough parking for eight apartments and that there should be two car park spaces per apartment. The Councillor felt that if this application was in a city centre occupiers would have access to buses and trains but that there was not the same provision in Dungannon. Councillor Cuthbertson also highlighted that if someone with a disability moved into one of the apartments then parking spaces would have to be redrawn in order to give proper spacing and thereby reducing the number of parking spaces further. Councillor Cuthbertson stated that on street parking in the area is limited to one hour.

Councillor Mallaghan stated he had also attended the site meeting and felt the Committee needed to be careful as approval had already been given by Roads Service for what was previously put forward. The Councillor stated that the Planning Committee sought to negotiate with the developer in order to achieve the best living conditions on site and that as a result the developer had included additional car parking spaces. Councillor Mallaghan felt that to push any further the developer would be within their rights to accuse the Committee of unnecessarily holding up their development.

The Planning Manager stated that when it comes to on site parking, planning are the determining authority and that Roads Service advise in relation to road safety.

Mr Marrion referred to the parking standards which planning have to adhere to which states that for a two bedroom apartment the number of car parking spaces per dwelling is 1.5 units therefore this application is in compliance with guidance as there are 8 apartments with 12 car parking spaces being provided.

Councillor Cuthbertson referred to Roads Service being consulted in relation to access onto the road and asked if they are also consulted on the site itself as he did not envisage the road on the site being adopted in the future.

Mr Marrion advised that there is a statutory responsibility to consult with Roads Service when a new access is being created to a public road or when there is likely to be intensification of access to the public road. Mr Marrion advised that Roads Service were consulted on this application and they came back with no objection.

The Planning Manager asked if there was a private streets determination.

Mr Marrion advised that there was not a private streets determination for this development.

The Planning Manager stated that as there is no private streets determination the assumption has to be the road on site will remain private. The Planning Manager stated that Roads Service can make comment on car parking but the decision is for the Planning Committee to take. The Planning Manager stated that if the application was refused and this was challenged he would have to prove that the Committee acted reasonably.

Councillor Cuthbertson stated he would not go against the recommendation but felt that, as discussed earlier, this was another example of the department having a policy which suits a city centre but not a rural town in Mid Ulster.

The Planning Manager stated he would agree with this.

The Chair, Councillor Black stated that the points raised by Councillor Cuthbertson were valid and it was good to get clarification on these.

Proposed by Councillor Corry
Seconded by Councillor Bell and

Resolved That planning application LA09/2019/1305/F be approved subject to conditions as per the officer's report.

LA09/2019/1432/O Site for dwelling and domestic garage at approx. 100m NW of 84 Loup Road, Moneymore, for Mr Michael O'Boyle

Members considered previously circulated report on planning application LA09/2019/1432/O which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Clarke and

Resolved That planning application LA09/2019/1432/O be approved subject to conditions as per the officer's report.

LA09/2020/0452/F Replacement dwelling and garage (amended description) at 20 Reaskcor Road, Dungannon, for Mr & Mrs G Burrows

Members considered previously circulated report on planning application LA09/2020/0452/F which had a recommendation for approval.

Proposed by Councillor Robinson
Seconded by Councillor McKinney and

Resolved That planning application LA09/2020/0452/F be approved subject to conditions as per the officer's report.

Councillor Robinson left the meeting at 9.15 pm

**LA09/2020/0657/O Dwelling between 66 & 66a Derryoghill Road, Dungannon,
for Eugene Daly**

Members considered previously circulated report on planning application LA09/2020/0657/O which had a recommendation for approval.

Councillor Cuthbertson asked if this application had been compared against the new planning guidance as it had been an infill site which was being refused originally.

Mr Marrion (SPO) stated that the application had originally been submitted and considered under infill policy, was recommended for refusal and then deferred. Mr Marrion stated that additional information was then submitted and a farming case was put forward however the application did not meet all the criteria under that policy. Mr Marrion advised that when the application was considered under clustering it met all criteria apart from having a focal point. Mr Marrion stated that the report recommends that an exception is made in this case based on the fact that the proposal will not impact on the character of the area nor the amenity of neighbouring dwellings and does have the appearance of a cluster. Mr Marrion stated that the Planning Advice Note recognises that there may be reasons for not meeting all policy tests and if that is the case these should be set out clearly. Mr Marrion stated that the report sets out all of the officer's considerations and reasons why an exception can be made in this case.

The Planning Manager stated that officers work in accordance with policy but that it is recognised that policy does not have to be followed slavishly in all instances as there may be reasons as to why a departure can be made. In this instance, the Planning Manager stated that for the reasons set out, a departure and exception from policy is recommended. The Planning Manager stated that the departure is minor in this case in order for an exception to be made but the important thing is that the reasons for the exception are cited.

Councillor Cuthbertson stated that whilst his question had been answered there were a number of policies this application had not met.

The Planning Manager stated that in planning, everything can be challenged.

Proposed by Councillor Bell
Seconded by Councillor Clarke and

Resolved That planning application LA09/2020/0657/O be approved subject to conditions as per the officer's report.

**LA09/2020/0707/F Dwelling and garage 20m E of 15 Lisgorgan Lane, Maghera,
for William Drennan**

Members considered previously circulated report on planning application LA09/2020/0707/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2020/0707/F be approved subject to conditions as per the officer's report.

LA09/2020/0840/F Dwelling and garage (infill site) adjacent to 55 and opposite 59 Coole Road, Bogside Aughamullan, Coalisland, for Fionntan Cullen & Niamh Carberry

Members considered previously circulated report on planning application LA09/2020/0840/F which had a recommendation for approval.

Proposed by Councillor Quinn
Seconded by Councillor Clarke and

Resolved That planning application LA09/2020/0840/F be approved subject to conditions as per the officer's report.

LA09/2020/1337/O Dwelling and garage at 10m W of 45 Drumenny Road, Ballinderry, for Gavin Mc Geehan

Members considered previously circulated report on planning application LA09/2020/1337/O which had a recommendation for approval.

Proposed by Councillor Bell
Seconded by Councillor D McPeake and

Resolved That planning application LA09/2020/1337/O be approved subject to conditions as per the officer's report.

LA09/2020/1549/F Football stand to cover existing stepped terrace at 108 Killyliss Road, Eglish, Dungannon for Eglish GAC

Councillor Clarke proposed the officer recommendation to approve.

Councillor Corry seconded Councillor Clarke's proposal.

Councillor Cuthbertson asked if the concerns of the objectors had been addressed.

The Planning Manager stated that the objectors were still objecting on this application.

The Head of Development Management presented a report on planning application LA09/2020/1549/F advising that it was recommended for approval.

Councillor McKinney stated he had been at the site meeting and would not be supporting the application as there was a lot of anti social behaviour whereby people were running through private back gardens. The Councillor also referred to the breakdown in communication between residents and the club and felt there was a lot going on with this application that he could not support at this time and that should a vote be taken tonight he asked that his concerns were noted.

Councillor S McPeake stated that he had been to the site meeting which he felt had been useful, that a number of residents had also been in attendance and had received a good hearing. The Councillor stated that he felt the design of the stand will not be detrimental to neighbouring properties and that in relation to the anti social behaviour there is an onus on landowners to ensure that their property is secured in order to prevent unwanted access. Councillor S McPeake stated he would be supportive of the application.

Councillor Colvin stated he felt the club were quite dismissive of the concerns of residents and that he did not want to be included in supporting the application.

The Planning Manager stated that it had been previously put forward that practically all the residents were objecting to this application and asked, from the experience of the site meeting, if it seemed that way or was it only one or two who were objecting.

The Head of Development Management stated that there were a number of residents who attended the site meeting and all contributed to the discussions on the day. The officer advised that most of the correspondence has been led by one or two individuals from the residents group but that he felt that the views were wide ranging from a number of properties on the day of the site meeting.

The Planning Manager stated that if the application is refused it does not cure any of the concerns the residents have in that noise will continue to be more open and access will still be gained through back gardens. The Planning Manager stated that the frequency of use for club games did not seem too arduous. The Planning Manager stated he did not feel the development will result in harm and in fact the situation might be improved.

Councillor Glasgow stated that he had been to the site meeting and that he felt there had been quite a large number of residents also in attendance. The Councillor stated that, in his own opinion, to put up a stand which is covered will make the residents a prisoner in their own back gardens. Councillor Glasgow stated he felt there was still merit in the alternative site and that this was discussed and explored at the site meeting. Councillor Glasgow stated he felt there was nothing to solve the ongoing problems but that to approve the proposal will only make matters worse.

Councillor D McPeake stated that he had been to the site visit and that whilst there are issues on the ground he did not feel the proposed stand will make any difference and he would therefore be supportive of the application.

Councillor McFlynn stated she had been unable to attend the site meeting but having listened to the residents when they addressed the Committee she would still have concerns and stated she didn't know whether she could fully support the recommendation to approve the application.

The Planning Manager stated he had not been to the site but that the key test in refusing an application is would it result in harm to those whose interests are of acknowledged importance. The Planning Manager stated there are clearly a number of residents whose interests are of acknowledged importance but that in relation to harm opinions had been provided from planning officers and Environmental Health

who state the application will not lead to further harm. The Planning Manager stated that the application is open to Members determination.

The Chair, Councillor Black stated that he also had concerns in relation to the application but that there is a balancing act. The Chair stated that residents have had the opportunity to raise their concerns and that officers have taken advice from consultees. The Chair stated that there is a terrace already in place and that Environmental Health have stated that a stand may help to shelter some of the noise. The Chair stated that whilst he had concerns he felt they had been adequately dealt with in so far as possible.

Councillor Bell asked for a recorded vote.

For –

Councillors Black, Bell, Clarke, Corry, Mallaghan, D McPeake, S McPeake, Quinn (8)

Against –

Councillors Colvin, Cuthbertson, Glasgow, McKinney (4)

Abstained –

Councillor McFlynn (1)

Resolved That planning application LA09/2020/1549/F be approved subject to conditions as per the officer's report.

LA09/2021/0053/F Change of house type (approved I/2008/0439/F) at approx. 120m E of 24 Muntober Road, Cookstown, Mr Daniel Ward

Members considered previously circulated report on planning application LA09/2021/0053/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2021/0053/F be approved subject to conditions as per the officer's report.

LA09/2021/0116/O Dwelling & garage at lands E of 91 Creagh Road, Castledawson, for Ciaran Devlin

Members considered previously circulated report on planning application LA09/2021/0116/O which had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor Corry and

Resolved That planning application LA09/2021/0116/O be approved subject to conditions as per the officer's report.

**LA09/2021/0381/F Change of house type at approx. 110m S.W. of 125
Killycolpy Road, Ardboe, for Mr R O'Neill and Ms L Donnelly**

Members considered previously circulated report on planning application LA09/2021/0381/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor McKinney and

Resolved That planning application LA09/2021/0381/F be approved subject to conditions as per the officer's report.

Councillor Glasgow left the meeting at 9.35 pm.

P121/21 Receive report on application LA10/2021/0806/F

Mr Marrion (SPO) presented previously circulated report which sought agreement in relation to Mid Ulster District Council's response to consultation on a planning application that Fermanagh and Omagh District Council are considering.

Councillor Cuthbertson stated it was his understanding that the dwellings on the other side of the road opposite the entrance to the factory are in Mid Ulster area. The Councillor also highlighted that there are two accesses into the factory, the original access which goes onto a minor road which then accesses the protected route, and which he felt would be the better route for the factory to be operating from rather than directly on to the relatively new access which is used. The Councillor stated that in order to protect road users and residents on the opposite side of the road the opinion should be to recommend that the rear access is used.

The Planning Manager stated that the fact that there is a rear access and that this should be used should be included in the response but it is hard to see how this could be regulated. The Planning Manager stated that this application is in Fermanagh and Omagh area but that it is reasonable for this Committee to give its observations.

Councillor Cuthbertson stated that while he recognised that this Council are not the decision makers on this application it is the response he would make on the consultation in order to protect the residents of Mid Ulster.

The Planning Manager stated the spirit of Councillor Cuthbertson's comments could be reflected within the response in that traffic should be directed to use the rear access.

Councillor Cuthbertson asked if Mid Ulster Environmental Health should be consulted in relation to noise impact on residents in Mid Ulster area.

Mr Marrion advised that Environmental Health in Mid Ulster have been consulted and that the closest residents are in the Fermanagh and Omagh District Council area. Mr Marrion advised that the closest residents in Mid Ulster live across the road from the factory and that this road in itself can generate a lot of noise.

Councillor S McPeake stated that he would be uncomfortable taking a decision without having a site visit.

Councillor Clarke stated that there is a crest in the road around the entrance to the factory and therefore there are not long views of traffic. The Councillor stated he also felt a site visit would be useful.

The Planning Manager stated that the Committee are not being asked to make a decision on the application but to give comment on it. The Planning Manager stated that if there are concerns these should be raised but that does not include saying whether the application should be approved or refused. The Planning Manager stated that a comment can be included within the response outlining the concerns in relation to road safety and use of a protected route and that this Council would trust that Fermanagh and Omagh District Council will work with Roads Service to ensure that those concerns are addressed.

Councillor S McPeake stated he was happy enough if the above comments were added to the response.

The Planning Manager stated that the concerns should be as definitive as possible and reflected in the right spirit.

Councillor Colvin stated that Council has been asked for its opinion on the application which is what it would be offering by adding commentary to the draft response as outlined by the Planning Manager.

The Planning Manager suggested that the following could be added to the response - "That Mid Ulster Council has noted that there is opportunity to provide access from another route other than the protected route ie. rear access to the factory and has also noted that there could be visibility issues associated with the access onto the protected route. Mid Ulster Council would trust that Fermanagh and Omagh District Council will work in conjunction with Roads Service to adequately address these concerns in order to facilitate this development."

Councillor Cuthbertson stated he would be content with this being added to the response and highlighted that there was another consultation a number of months ago in relation to electricity storage and that the same issues were raised as the two sites are beside each other.

Proposed by Councillor S McPeake
Seconded by Councillor Cuthbertson and

Resolved That Mid Ulster District Council respond to the consultation on planning application LA10/2021/0806/F as follows –
(1) Mid Ulster Council has noted that there is opportunity to provide access from another route other than the protected route ie. rear access to the factory and has also noted that there could be visibility issues associated with the access onto the protected route. Mid Ulster Council would trust that Fermanagh and Omagh District

- Council will work in conjunction with DFI Roads to adequately address these concerns in order to facilitate this development.
- (2) Fermanagh and Omagh District Council in consultation with DFI Roads may wish to consider upgrading the access into the proposed site.
 - (3) Mid Ulster District Council have no concerns in relation to long term visual impacts of this development provided a robust and properly detailed landscaping scheme and maintenance proposals are agreed prior to commencement of development and properly conditioned for implementation.

Matters for Information

P122/21 Minutes of Planning Committee held on 3 August 2021

Members noted minutes of Planning Committee held on 3 August 2021.

Councillors Clarke and Cuthbertson left the meeting at 9.48 pm.

Live broadcast ended at 9.48 pm.

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Bell
Seconded by Councillor S 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 P123/21 to P128/21.

Matters for Decision

P123/21 Receive report on request for review of TPO Decision
P124/21 Receive Enforcement Report

Matters for Information

P125/21 Confidential Minutes of Planning Committee held on 3 August 2021
P126/21 Enforcement Case Live List
P127/21 Enforcement Cases Opened
P128/21 Enforcement Cases Closed

P129/21 Duration of Meeting

The meeting was called for 7 pm and concluded at 10.05 pm.

Chair _____

Date _____

Annex A – Introductory Remarks from the Chairperson

Good evening and welcome to the meeting of Mid Ulster District Council's Planning Committee in the Chamber, Magherafelt and virtually.

I specifically welcome the public watching us through the Live Broadcast feed. The Live Broadcast will run for the period of our Open Business but will end just before we move into Confidential Business. I will let you know before this happens.

Just some housekeeping before we commence. Can I remind you:-

- If you have joined the meeting remotely please keep your audio on mute unless invited to speak and then turn it off when finished speaking
- Keep your video on at all times, unless you have bandwidth or internet connection issues, where you are advised to try turning your video off
- If you wish to speak please raise your hand in the meeting or on screen and keep raised until observed by an Officer or myself
- Should we need to take a vote this evening, I will ask each member to confirm whether you are for or against the proposal or abstaining from voting
- For members attending remotely, note that by voting on any application, you are confirming that you were in attendance for the duration of, and that you heard and saw all relevant information in connection with the application you vote on
- When invited to speak please introduce yourself by name to the meeting. When finished please put your audio to mute
- For any member attending remotely, if you declare an interest in an item, please turn off your video and keep your audio on mute for the duration of the item
- An Addendum was emailed to all Committee Members at 5pm today. There is also a hard copy on each desk in the Chamber. Can all members attending remotely please confirm that they received the Addendum and that have had sufficient time to review it?
- If referring to a specific report please reference the report, page or slide being referred to so everyone has a clear understanding
- For members of the public that are exercising a right to speak by remote means, please ensure that you are able to hear and be heard by councillors, officers and any others requesting speaking rights on the particular application. If this isn't the case you must advise the Chair immediately. Please note that once your application has been decided, you will be removed from the meeting. If you wish to view the rest of the meeting, please join the live link.
- Can I remind the public and press that taking photographs of proceedings or the use of any other means to enable persons not present to see or hear any

proceedings (whether now or later), or making a contemporaneous oral report of any of the proceedings are all prohibited acts.

Thank you and we will now move to the first item on the agenda - apologies and then roll call of all other Members in attendance.



ADDENDUM TO PLANNING COMMITTEE AGENDA

FOR PLANNING COMMITTEE MEETING ON: 7 September 2021

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

Chairs Business

Receive appeal decision 2020/A0006 against conditions for Creagh Concrete, Quarry at Pomeroy.

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
4.14	<p>Late objection received Members to consider attaching an additional condition:</p> <p>Prior to the commencement of the development hereby approved, the developer shall provide a copy of an Article 161 Agreement with NI Water to show they will adopt and maintain the drainage system associated with the development.</p> <p>Reason: To prevent flooding and to ensure the drainage system is maintained.</p>	DFI Rivers and EHO have commented on the objection.
4.17	Photographs and Map included	Members to note for discussion of this item
5.1	Late correspondence received	Members to note.

5.2	<p>A condition was omitted from the case officer report and should be included should planning permission be granted. It should read as follows:</p> <p>“A stage 4 Safety Audit shall be carried out at the Right Turning Lane, 20 Dungannon Road, this should be completed to the approval of DFi Roads Authority in accordance with the Design Manual for Roads and Bridges, Standard GG119. Any recommendations/remedial works should be carried out prior to the erection of the dwellings hereby permitted. Reason: In the interest of road safety”.</p>	Members to note.
5.3	Late objection received	Members to note