

**Minutes of Meeting of Planning Committee Mid Ulster District Council held on Tuesday 7 November 2017 in Council Offices, Ballyronan Road, Magherafelt**

**Members Present**

Councillor Mallaghan, Chair

Councillors Bateson, Bell, Clarke, Cuthbertson, Gildernew, Glasgow (7.12 pm), Kearney, McAleer (7.01 pm), McEldowney, McKinney, McPeake, Reid, Robinson, J Shiels

**Officers in Attendance**

Dr Boomer, Planning Manager  
Mr Bowman, Head of Development Management  
Ms Doyle, Senior Planning Officer  
Mr Marrion, Senior Planning Officer  
Ms McEvoy, Head of Development Plan & Enforcement  
Ms McKearney, Senior Planning Officer  
Ms McNally, Council Solicitor  
Ms Grogan, Committee Services Officer

**Others in Attendance**

**Applicant Speakers**

I/2014/0413/F	Margaret McCrory – Objector
I/2014/0413/F	Seamus Canavan – Canavan
Assoc.	
	Imelda Barry – Brookfield
Renewables	
	Aidan Sweeney – Island
Renewables	
	Aidan Pender – CHL Consulting
	Audrey Gahan/Chris Long – Gahan & Long
Archaeologists	
LA09/2016/1406/F	Dermot Monaghan – MBA Planning
LA09/2017/0057/F	Thomas Bell – Clyde Shanks
	Declan O'Neill – Applicant
LA09/2017/0058/LBC	Thomas Bell – Clyde Shanks
	Declan O'Neill – Applicant
LA09/2017/0624/O	Chris Cassidy – CMI Planners
LA09/2017/0629/O	Chris Cassidy – CMI Planners
LA09/2017/0727/O	Chris Cassidy – CMI Planners
LA09/2016/1556/O	Martin Kearney – Newline

Architects

Councillor B McGuigan

The meeting commenced at 7 pm

**P151/17 Apologies**

Councillor Mullen.

*Councillor McAleer entered the meeting at 7.01 pm.*

#### **P152/17      Declarations of Interest**

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

*Councillor McEldowney declared an interest in LA09/2017/0624 as she lives on the same road as the proposed application and her house is part of the cluster.*

*Councillor Reid declared an interest in LA09/2016/1605/F.*

*Councillor Cuthbertson declared an interest in LA09/2016/1571/F.*

*Councillor McPeake declared an interest in the following applications:  
LA09/2017/0057/F, LA09/2017/0058/LBC, LA09/2017/0727/O, LA09/2015/0932/F,  
LA09/2016/1371/O, LA09/2016/1556/O, LA09/2017/0380/O*

#### **P153/17      Chair's Business**

The Chair, Councillor Mallaghan passed on his thanks to Councillor Robinson, Deputy Chair who took the Chair in his absence at the last meeting.

The Planning Manager advised that a request had been received seeking to defer application LA09/2016/1406/F until further proposals were brought forward. He said that it would be inappropriate at this time not to give the applicants the opportunity of doing so.

Proposed by Councillor J Shiels  
Seconded by Councillor Kearney

**Resolved:** That application LA09/2016/1406/F be deferred until further proposals were brought forward.

#### **P154/17      Receive Planning Applications**

The Planning Manager advised on the following applications which were on the agenda for determination:

<b>I/2014/0413/F</b>	<b>Wind farm comprising 5 wind turbines with a maximum blade to tip height of 126.5m and ancillary works at Beltonanean, Ballynosollus, Beleevena-More and Ballynagilly townlands Cookstown for Beltonanean Renewable Energy Ltd</b>
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The Head of Development Plan presented a report on planning application I/2014/0413/F advising that it was recommended for refusal.

He referred to circulated addendum which stated that the proposal was contrary to the Cookstown Area Plan, the SPPS and Policy RE1 of Planning Policy Statement 18 – Renewable Energy in that the development would, if permitted, have an unacceptable impact on the visual amenity and landscape character of the area, which is located within the Sperrin's AONB, by reason of the scale and siting of the turbines and the sensitivity of the landscape, and also due to the cumulative impact of existing turbines, those which have permissions and those that are currently the subject of valid but undetermined applications, and that the proposed socio-economic benefits offered in support of the application do not outweigh the unacceptable impact of the proposal on this AONB.

The Planning Manager stated that the Agent had requested a pre-determination hearing for the application, but it was felt that the views of all those who have interest in the application could be adequately expressed within normal planning committee arrangements given also that the proposal was now reduced and the views of the local community have been considered with the recommendation to refuse the application.

All relevant issues have been considered, including objections, applicant's submission of a reduced scheme, and history surrounding the site. A refusal has been recommended for the reasons given in the Case Officer's report.

The Planning Manager advised that on Monday he had received a legal representation on behalf of the applicant relating to comments made by the Tourism Officer regarding this application and the implications it would have on the Dark Skies Project. The Tourism Officer stated that the funding received from MUDC to develop the Dark Skies Project and proposals approved would have a detrimental impact on the proposal. The Planning Manager read the representation and that it argued that it would be improper of the Planning Department to favour one economic project against another, i.e. the wind turbine versus the dark sky project. The Planning Manager also advised that the reasons given for refusal did not refer to the Dark Skies Project. He also advised that whilst in relation to another application the Planning Appeals Commission had not sustain a reason for refusal based on the impact on Beaghmore stone circles as tourism asset this did not mean that the impact on the heritage asset of Beaghmore was no longer a consideration. He said that in such incidents that it was quite right for members to consider whether the economic and environmental benefits of the proposal were outweighed by other environmental and economic dis-benefits.

*Councillor Glasgow entered meeting at 7.12 pm.*

The Chair advised that a request to speak in favour of the recommendation for refusal was received from Ms Margaret McCrory and invited her to address the committee.

The Chair enquired if members were happy to proceed with the application presented tonight or arrange another date after the hearing.

Proposed by Councillor Bell

Seconded by Councillor Bateson and

**Resolved:** To proceed with the presented application in front of the committee tonight.

Ms McCrory advised that she was speaking tonight on behalf of residents of Beltonanean and advised that they were concerned about the impact on their lives and livelihood that the wind turbines would have. She stated that the windfarm would be adjacent to the archaeologically sited Beaghmore Circles, Davagh Forest and the backdrop to the Sperrin Mountains which all attract huge numbers of tourists and native bird and animal species.

She said that although the above are all major factors, consideration has to be given to the potential noise pollution and environmental impact, which is claimed by the Renewable Company that it would be delivered in a responsible and compliant manner. A large number of families were against the proposal due to the constant noise and anticipated sleep disturbance coming from the wind turbines.

Concerns which have been raised:

- 1) Mountains would not be in their beautiful setting
- 2) Erected wind turbines would increase noise pollution
- 3) Erected turbines would have visual amenity, intrusion and over dominance
- 4) Shadow flicker
- 5) Natural habitat being disturbed
- 6) Detrimental effect on the widely publicised Dark Skies Project which received significant funding
- 7) Lottery Grant funding for the area
- 8) Planning permission for similar wind turbines refused at last month's Planning meeting and hope that the same outcome would be awarded to this application

The Chair advised that a request to speak against the recommendation of refusal was received and invited Mr Canavan from Canavan Associates to address the committee.

Mr Canavan advised that he was in attendance tonight as an agent for the applicant and said that he wished to clarify that:

- The proposal was now for 5 turbines and not 6 turbines as referred at times in the planners report; and
- That the 3 adjacent now all refused/lapsed wind turbines should have been discounted from referred cumulative impacts in the report.

He said that the wind farm was in accordance with government policy and would have a positive net benefit for the NI Economy and Environment. The NI Renewable Energy Target of 40% by 2020 was a minimum target and was not being presently met with confirmed latest figures of 27.1 percent.

Mr Canavan outlined the Windfarm benefits as detailed:

- Powering approximately 11,000 homes annually
- Economic spending on local businesses throughout the lifetime and construction of the wind farm (to £4.62 million NI £1.35 million local)
- Direct and Indirect employment
- Rates paid to the local council – estimated £100,000+ annually
- A Voluntary Community Benefit scheme – almost £60,000 annually

He referred to each of the following reasons outlined by the Planning Department for refusal:

- 1) Sperrin AONB and Policy PPS2 NH6** and advised that wind farms were not prohibited within AONBs with several having planning consent in recent years. He said that the proposed development was:
  - Located on the southwest outlying slopes close to the edge of the Sperrin AONB (an area of 456sq. miles)
  - The main body of the High Sperrins lies to the north and northeast of Beltonanean away from the site
  - The site area was not pristine nor a wilderness
  - Is nestled between commercial forestry blocks on two sides it was in a human altered landscape with nearby sizable commercial quarrying

The Crockdun and Brackagh Wind Farms are within the same Landscape Character Area.

## **2) Residential Amenity:**

### **(a) Dwelling at No. 17 Beltonanean Road:**

- Is now 757m to the closest turbine and more than the 500m minimum required by PPS18
- Commercial polytunnels, a detached outbuilding and other structures in the approach to this property and upslope of the rear elevation of the dwelling
- Views would be obscured by these intervening structures and upward slope
- This should not necessarily be considered a domestic garden area

### **(b) Dwelling at No. 8 Beltonanean Road:**

- Now 1.1km (previously 745m distance) from the nearest turbine as 1 turbine was deleted
- At this distance visual overbearance would not be significant
- There are large concrete tanks and post and wire fencing immediately behind the dwelling and at higher level in the viewing direction

## **3) Tourism, AONB & Beaghmore Stone Circles Complex:**

- Tourism was not sustained in wind farm appeals as a refusal reason
- No actual evidence was produced that the tourist value of the area would be compromised
- Tourism NI (and Forest Service) have no objection to the proposal

- Wind farm development and the achievement of “Dark Skies” status are not mutually exclusive. Turbines not high enough and viewing locations in Dark Skies areas vary. There were wind farm sites at official “Dark Skies” areas e.g.
  - Galloway International Dark Skies Forest Park (with a 68 turbine wind farm on its perimeter) as managed by Forestry Commission Scotland views the presence of the wind farm as generating no impact on the visitor experience
  - Ballycroy National & Dark Sky Park in Co. Mayo also has the nearby Oweninney Wind Farm of: 61 turbines on a 5,000 HA site.
- Aviation lighting would be infra-red and would not be “always on” with other radar technical solutions also available and can be conditioned.

The Planning Manager stated a large amount of information was previously circulated to members for their consideration before the meeting.

#### **4) Archaeology – Beaghmore Stone Circle Complex**

- Our Archaeologists concluded that there would only be a negligible impact on the critical functional views from the Beaghmore Stone Circle Complex (critical northeast vista)
- Those tourists attracted to the Beaghmore Stone Circles would be a niche tourism market segment; and the proposed wind farm would not detract from their appreciation or experience of the monument
- The complex is not a major tourism asset in an economic sense. The road network in the local area impedes coach tour access and it is a niche attraction with no ongoing visitor surveys.

Mr Canavan concluded that there were significant environmental and economic benefits associated with this both RE and planning policy compliant proposal that have considerable planning weight. Over 27 years of life of the project, Local District Council would have the opportunity of benefits estimated:

- Community Benefits: £1.6m
- MUDC Rates Estimate: £2.9m

Councillor Cuthbertson enquired why there was a wide area consulted, as far as Aughnacloy and Carrickfergus.

The Head of Development Management advised that the application drew wide attention from further afield and with a result all these people had to be consulted.

The Planning Manager agreed that the Planning Department wrote to individuals who had objected to an application if the application was altered.

The Chair invited Councillor Glasgow to address the committee.

Councillor Glasgow referred to photograph no.3 and advised that he wasn't aware of the shear impact the wind turbines would have on dwellings and raised concern regarding the detrimental effect they would have on Orritor Presbyterian Church and

said that he would be fully supportive of the recommendation of refusal and agreed what all with what the objectors were saying.

Proposed by Councillor Bell  
Seconded by Councillor Bateson and

**Resolved:** That planning application I/2014/0413/F be recommended for refusal.

**LA09/2015/0829/DCA Demolition of premises at 4-36 Perry Street, Dungannon for Castlehill Community Regeneration Group**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Cuthbertson  
Seconded by Councillor Gildernew and

**Resolved:** That planning application LA09/2015/0829/DCA be recommended for approval.

**LA09/2015/0835/F Mixed use development (residential and retail) at 4-36 Perry Street, Dungannon for Castlehill Community Regeneration Group**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Cuthbertson  
Seconded by Councillor Gildernew and

**Resolved:** That planning application LA09/2015/0835/F be recommended for approval.

**LA09/2016/0978/O Dwelling and garage 45m NW of 275 Mountjoy Road, Stewartstown for Mr Richard Walker**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Reid  
Seconded by Councillor McKinney and

**Resolved:** That planning application LA09/2016/0978/O be recommended for approval.

**LA09/2016/1281/F Campsite with 4 Glamping Cabins, ancillary facilities cabin, on site sewerage treatment and access roadway, 200m NE of 36 Slaughtneil Road, Maghera for Ciaran and Bronagh McEldowney**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Shields  
Seconded by Councillor Kearney and

**Resolved:** That planning application LA09/2016/1281/F be recommended for approval.

**LA09/2016/1406/F Additional car parking and associated site works at lands 60m SE of The Ponderosa Bar and Restaurant, 974 Glenshane Road, Dungiven for Mr Karl McErlean**

Proposed by Councillor Kearney  
Seconded by Councillor J Shiels

**Resolved:** That planning application LA09/2016/1406/F be deferred until the next meeting and if no progress, bring back to committee for decision.

**LA09/2016/1571/F 8 dwellings (2 complex needs and 6 general dwellings) with new access road and footpath at lands at Roskeen Road, Moygashel, Dungannon for Apex Housing Association**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Gildernew  
Seconded by Councillor McAleer and

**Resolved:** That planning application LA09/2016/1571/F be recommended for approval.

**LA09/2016/1605/F Observatory visit hub, 5 glamping pods, amenities compound and associated external works at Davagh Forest Park, Davagh Road, Omagh for Mid Ulster District Council**

Application listed for approval subject to conditions as per the officer's report.

*All members declared an interest in Davagh Forest Park for Mid Ulster District Council.*

Councillor Clarke abstained from this application due to being involved with the project.

The Planning Manager said that normally that it wasn't common practice to develop on peatland as it was in short supply across the world, but felt that an exception should be made for Davagh Forest as the application was accompanied by a long term management plan for a large peatland area. He said that the management plan which was for 25 years would help conserve and improve the peatland habitats. Mr Chris Perry, a Forest Technologist was in favour for the mitigation for the management of the peatlands as it would be properly regulated and was happy for the Council to take the lead on this.



Councillor Clarke said that very important points were raised by the Planning Manager as the landscape partnership had a 20 hectares blanket area. He said that in the late seventies the carpark was located at the peak of Davagh and now this is covered by trees growing around it. He said that the public forestry and high ground in Davagh could be turned into blanket bog again as it was evident from the map how beneficial it would be to restore the area for viewing again.

Proposed by Councillor McAleer  
Seconded by Councillor McKinney and

**Resolved:** That planning application LA09/2016/1605/F be recommended for approval.

**LA09/2016/1642/O Dwelling and garage at land between 151 and 151a  
Fivemilestraight, Fallagloon, Maghera for Maura McKenna**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McPeake  
Seconded by Councillor Bell and

**Resolved:** That planning application LA09/2016/1642/O be recommended for approval.

**LA09/2016/17498RM Dwelling and garage 100m NW of St Paul's Church, 79  
Killeeshill Road, Dungannon for Arleen Watt**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McAleer  
Seconded by Councillor Gildernew and

**Resolved:** That planning application LA09/2016/1748/RM be recommended for approval.

**LA09/2016/1755/F Replacement toilet/changing block and relocation of lorry  
wash at 23 Ballymacombs Road, Portglenone, for Peter and  
Brendan Donnelly**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Bell  
Seconded by Councillor McPeake and

**Resolved:** That planning application LA09/2016/1755/F be recommended for approval.

**LA09/2017/0026/F Demolition of existing pavilion and construction of a new  
community building at Kildress Wolfe Tone's Grounds, 46**

**Loughdoo Road, Kildress, Pomeroy for Kildress Wolfe  
Tone's GAA**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Clarke  
Seconded by Councillor McAleer and

**Resolved:** That planning application LA09/2017/0026/F be recommended for approval.

**LA09/2017//0057/F Mixed use scheme including the retention and refurbishment of existing listed buildings comprising 29 apartments, 2 retail units, office, community/cultural unit (class D1), amenity space, bin refuge area, parking, bicycle stands, pelican crossing and ancillary site works. Lands at and to the rear of 43-49 Rainey Street, Magherafelt for Market Yard (NI) Ltd**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Bell  
Seconded by Councillor Bateson and

**Resolved:** That planning application LA09/2017/0057/F be recommended for approval.

**LA09/2017/0058/LBC Mixed use scheme including the retention and refurbishment of existing listed buildings comprising 29 apartments, 2 retail units, office, community/cultural unit (class D1), amenity space, bin refuge area, parking, bicycle stands, pelican crossing and ancillary site works. Lands at and to the rear of 43-49 Rainey Street, Magherafelt for Market Yard (NI) Ltd**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Kearney  
Seconded by Councillor Bell and

**Resolved:** That planning application LA09/2017/0058/LBC be recommended for approval.

**LA09/2017/0405/F Side extension at the Washingbay Centre, 92 Ballybeg Road, Aughamullan for Jackie Corr**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Bateson  
Seconded by Councillor Clarke and

**Resolved:** That planning application LA09/2017/0405/F be recommended for approval.

**LA09/2017/0572/F Extension to existing Kindercraft Business to provide storage at 23 Ballymacombs Road, Portglenone for Kindercraft**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McKinney  
Seconded by Councillor J Shiels and

**Resolved:** That planning application LA09/2017/0572/F be recommended for approval.

**LA09/2017/0587/F 2 infill dwellings at land between 60 and 66 Kilnacart Road, Dungannon for Paul McCann**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Gildernew  
Seconded by Councillor McAleer and

**Resolved:** That planning application LA09/2017/0587/F be recommended for approval.

**LA09/2017/0624/O Dwelling and garage 70m SE of 7 Gortinure Road, Maghera for Kirsty and Michael McEldowney**

Ms Doyle presented a report on planning application LA09/2017/0405/ advising that it was recommended for refusal.

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

The Planning Manager said that he wanted to commend Mr Cassidy as he took on board what was said at the last meeting and put a lot of work into providing relevant information for the committee and that it would be beneficial if other agents would follow suit.

Mr Cassidy stated that the Strategic Planning Policy paragraph 3.8 states that the guiding principle for planning authorities in determining applications was that sustainable development should be permitted unless the proposed development would cause demonstrateable harm to interests of acknowledged importance.

Policy CTY 2a States that planning permission would be granted for a dwelling at an existing cluster of development provided all of six stated criteria are met. The Planning Authority raise objections that the cluster was not associated with a focal

point. Policy does not fully define what a focal point is but it implies a public meeting point with a visual or physical relationship with the site.

He said that the site was located 70m South East of 7 Gortinure Road, Maghera in a town land known as Glebe. The town land has an abundance of historic monuments as detailed in the Carntogher History Trail. The proposed site is approx. 90m from an ancient monument denoted on the trail as Gortinure Old Church. The Church which was now in ruins includes a burial ground, but research shows historically there was a church, burial grounds and a school in the vicinity of the site as denoted on the Griffins Valuation Map of 1859. Originally an older Church associated with St Ciaran and after the Plantation of Ulster occupied the site. By the last 1700s, it was decided to build the Church closer to the centre of the parish, in what became known as the Glebe (or Church-land) which also comprised the town-land of Gortinure. The Board of First Fruits (an institution that governed the funding of churches and rectories) donated £600 in the period 1808-10 towards the Church and accompanying rectory situated about 200 yards away. In the Ordnance Survey Memoirs of the 1820s, the Church was described as 'a plain edifice without Church or Tower', although it would seem likely that a tower was added sometime in the next decade or so – as was a large stained-glass window, the aperture of which can still be seen. By the late 1850s, the Church seems to have served its purpose and a new building was erected in Swatragh, which still stands by the Corlecky River. The stained-glass window from the Gortinure Church was removed and set into the new Church. The old Gortinure Church had a number of graves, which would have extended down to the Gortinure Road.

Mr Cassidy stated that the Case Officer denotes in their report that 'The Church was largely derelict and overgrown making access to the grounds difficult' and referred to the photos presented and said that he would beg to differ with this opinion. Excess to the site was quite easy and indeed there was an annual walk (excess 150 participants) run by the Carntogher Historical Society that passes this site as it was part of the 'WalkNI' route which also has the Drumnaph Nature Reserve walk which is 0.4 mile away from the site/focal point. The area around the Church is extremely well maintained, the majority of the Church walls are intact and there was a gate into the site. The graveyard would have frequent visitors as it contains the grave of Sam Scales. A legend attaches to one Sam Scales was that if an unwary wanderer happened to walk over his grave and that Sam's bony hands would emerge to drag them to perdition, although it was not known whether anyone actually suffered this fate.

He said that a second legend associated with this Church relates to a Rector who, around the time of the famine took it into his head that the Church walls were not quite on the square and needed to be moved slightly so as to form a more perfect situation. Accordingly, he enlisted his team of bemused parishioners one Sunday morning who, under his enthusiastic guidance, put their shoulders to the east wing and pushed mightily. Legend has it, urged by the Rector they moved the wall until their captain was content the wall had moved a vital couple of inches.

The site has a strong visual linkage with adjacent plots and would consolidate the cluster. It would not intrude into the surrounding countryside as there was development around the site ensuring any development would not significantly alter the character of the area. The departments approach to clustering is also at odds

with other Councils and the Planning Appeal Commission who in appeals 2016/A0095, 2012/A00120, 2010/A0202 along with Council references LA08/2015/0056/F and LA07/20156/0135 found that not meeting the policy in its entirety was not fatal but rather recognised that the overall thrust of this policy was to consolidate development.

Mr Cassidy concluded that in this case the nature of the cluster it was considered that no demonstrateable harm would be caused and would respectfully request that this application be reconsidered for approval.

The Planning Manager said that he would be in disagreement with Mr Cassidy regarding approvals and appeals. He said that MUDC had the highest approval rate and lowest appeal rates and if an application goes to the Planning Appeal, and it was upheld we have to learn from that. He said that the ruined Church could be a focal point, but by looking at the maps the site ~~it~~ looks somewhat divorced from the church.

Councillor J Shiels said that he knew the area well and in terms of the Church, it has been a focal point as it has a community facility and a religious focal point for the area and that 90m wasn't far away. He referred to the criteria set out and felt that if the application met 4 out of the 5 points then that this should be reconsidered for an approval. He said that he found it hard to justify refusing the application on the grounds of one corner protruding.

Councillor Bateson said that the site at least merits a site meeting for members to decide for themselves.

The Planning Manager advised that the committee were fortunate enough to receive all the relevant information required from Mr Cassidy and that a decision should be made tonight.

Proposed by Councillor J Shiels  
Seconded by Councillor Gildernew and

**Resolved:** That planning application LA09/2017/0624/O be recommended for approval.

Proposed by Councillor Bell  
Seconded by Councillor Gildernew and

**Resolved:** That the planning manager apply appropriate conditions to ensure that the dwelling was in character with the locality and access was safe.

**LA09/2017/0629/O Off site replacement dwelling at lands 70m W of 47 Bellshill Road, Castledawson for George McMillin**

Ms Doyle presented a report on planning application LA09/2017/0629/O advising that it was recommended for refusal.

She advised that an additional reason for refusal was recommended by DfI Roads:

*“The proposed development is contrary to PPS 3 in that the red line of the site does not connect to the existing public road network and access therefore cannot be achieved”.*

*Councillor McEldowney left the meeting at 7.40 pm and returned at 7.43 pm.*

The Planning Manager said that he felt that this could be replaced but that it may have to go somewhere else.

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

Chris Cassidy said that the current location of the dwelling was affected by the new road development to the north and that the land had been vested for gravel extraction thus the application for an off-site replacement. The proposed new location was currently an agricultural field and the dwelling was proposed to be sited in the corner of this.

He said that Transport NI were asked to comment and responded on 8<sup>th</sup> June 2017 stating that they were unable to give a determination at present on this application as the proposed new road shown on the proposal does not yet exist and the final line of this new road was subject to change. He said that he would dispute this as the final road layout was fully agreed, the lands were vested and the Planning Application agreed. He said that he had met with the Transport NI team on site and they have digitally set out the final road position. This position is shown on the plan overlaid of the site and was attached for submission. It should be noted that this was a slip road which the house would be taken off and not the major new A6.

Mr Cassidy referred to the integration and said that the site was bounded by very modest agricultural hedges. Mature hedging abuts two of the boundaries and was currently in excess of 3-4 metres in height.

Road Service in their environment impact assessment for the A6 road conceded that the land adjacent to the site would experience some loss of hedgerows and agreed as part of their Planning Application to plant trees in the area between the property boundaries and the south link. This additional planting would again further help to integrate the property.

He referred to concern raised by the Council *“A dwelling sited within the proposed off site location would be a prominent feature in the skyline”*. He said that no viewpoints have been identified by Council but can be accessed from the new road looking towards the site. As depicted from the submitted photograph there are no views of the site. Contours of the land render the site invisible and this was reinforced as none of the existing dwellings adjacent to site were visible in the photograph.

He said that the applicant had a dairy herd of cattle and had already suffered considerable hardship with the vesting of his land which now splits his farm in two. The submitted site was chosen as the new road layout had rendered this field on his farm unusable for farming purposes. Any alternative site on his lands would further diminish his useable land and add further hardship.

He said that whilst it was acknowledged that new planting would be required to help integrate the scheme, this could be conditioned accordingly, as can any restrictions on size, location and road access details. He stated that the applicant was willing to undertake a condition that the reserved matters application would not be made until the new road was complete thus ensuring all detailed design matters could be dealt with in an informed way.

Mr Cassidy concluded by saying that he believed that this was a fairly unique application with a similar one unlikely to come before this Council again and would respectfully ask the Committee to reconsider for approval.

In response to Councillor Bell's query on whether foliage and trees would make a difference to the proposed site, Ms Doyle advised that this was not the only reason for refusal.

Proposed by Councillor Reid

To defer the application for an office meeting as he felt that this application was close to being resolved, and said that it may not be this site, but there was an opportunity to resolve the matter when there was planting of trees.

The Planning Manager advised that the Case Officer gave a view and that the applicant was fully aware that there was an opportunity for an alternative site, but that there were a lot of deliberations to be considered and that it was up to this committee to determine this.

Councillor Bateson enquired if the reason for refusal was no access onto the A6, but access via slip road, he said that this was a very unique situation and was very rare to have the applicant's land sliced in this matter. He felt that this kind of scenario would more than likely never be brought before the planning committee again and that members should consider approving the application.

The Planning Manager agreed and advised that he though he may have met the applicant and that they were very worried about the loss of land. He said that there was an onus on DfI Roads to compensate landowners for the loss of land and this was dealt with separately to. He said that road safety and integration issues, need consideration.

Proposed by Councillor McKinney

To approve the application on the grounds of its uniqueness, trees and available land in the area. He said that this kind of application was unlikely to be brought before the committee again and therefore he would be happy to recommend it for approval.

Councillor Clarke referred to the existing building and enquired if this was going to disappear and if so then a dwelling has to be replaced somewhere.

Councillor McPeake felt that this application should merit an office meeting as it would be very harsh leaving the meeting tonight for a refusal and would advocate

approving it but would like it considered for an office meeting if approval wasn't granted tonight.

The Chair, proposed that a site meeting be held so members can decide for themselves what was the best option.

Councillors McPeake and McKinney withdrew their proposals.

Councillor McKinney asked that the site at Brough Road be also looked at.

Proposed by Councillor Mallaghan  
Seconded by Councillor McKinney and

**Resolved:** That a site meeting be held for application LA09/2017/0629/O and investigate site at Brough Road.

**LA09/2017/0697/F 7 Business Units (uses classes B1 and B2), in curtilage car parking and vehicle turning areas at 237 Trewmount Road, Moy for Thomas Fanthorpe**

Application listed for approval subject to conditions as per the officer's report.

Mr Marrion advised that additional landscaping scheme had been provided and proposed condition 6 to be amended to require the landscaping to be carried out in accordance with the proposed scheme within the first planting following commencement of the development.

Proposed by Councillor Reid  
Seconded by Councillor Gildernew and

**Resolved:** That planning application LA09/2017/0697/F be recommended for approval.

**LA09/2017/0727/O Dwelling and garage/store 30m ESE of 22 Ford Road, Clady, Portglenone for Stefan Lynn**

Ms Doyle presented a report on planning application LA09/2017/0727/O advising that it was recommended for refusal.

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

Mr Cassidy advised that the Strategic Planning Policy paragraph 3.8 stated that the guiding principle for planning authorities in determining planning applications was that sustainable development should be permitted unless the proposed development would cause demonstrable harm to interests of acknowledged importance.

Policy CTY 2a states that planning permission would be granted for a dwelling at an existing cluster of development provided all of six stated criteria are met. The Planning Authority was content a cluster of development exists but raise objections



that the cluster was not associated with a focal point. Policy does not fully define what a focal point was but it implies a public meeting with a visual or physical relationship with the site.

The site is located 50m South East of the Clady River, where two means of crossing the river, one a “ford” and the other a footbridge. Beside the footbridge are the old flax mill, mill race and weir which represent local industrial heritage. The Clady River corridor and associated vegetation acts as a wildlife corridor and the footbridge provides attractive place where members of the public gather to view this.

He said that the site had a strong visual linkage with the River, the footbridge and the Ford. It would not intrude into the surrounding countryside and any development would not significantly alter the character of the area. The departments approach to clustering was also at odds with the other Councils and the Planning Appeal Commission who in appeals 2016/A0095, 2012/A00120, 2010/A202 along with Council References LA08/2015/0056/F and LA07/2015/0135 found that not meeting the policy in its entirety was not fatal but rather recognised that the overall thrust of this policy was to consolidate development.

Mr Cassidy said that the Case Officer states that: *“The site is only bound by development along one side (western boundary). As a result the proposed site is unable to be absorbed into the existing cluster through rounding off and consolidation and would visually intrude into the open countryside”*.

He said that the site was enclosed by and reads with the 8 existing buildings, all fronting the road. The site marked red on the map had development to the west and north thus fulfilling this element of policy. The site and the development enclosing it read as a visual in the landscape.

Mr Cassidy concluded that given the nature of the cluster, it was considered that no demonstrateable harm would be caused and would respectfully request this application be reconsidered for approval.

Councillor McPeake advised that he had declared an interest in this application at the beginning of the meeting but wanted to lend his support. He said that he agreed with Mr Cassidy regarding the cluster and that it’s not every day there are focal points at a crossroads and a ford itself within a village. He said that the village of Innishrush was important as it was where Mr Lynn’s fiancée was from and that it was great site for the occupant as it was near her parents and his parents. He said that cars were able to drive over the river and as this was the only piece of land that was given to Mr Lynn for a site, that the committee look upon the application favourably.

Councillor McPeake returned to the gallery.

Councillor Kearney said that he knew the area well and stated that the footbridge (or “footstick”) crossed over the Clady River just outside Innishrush, which took walkers over the river alongside the ford on Ford Road. He said that it was a meeting point for people and was clearly indicated as a cul-de-sac and would be fully supportive of approving the application.

The Planning Manager referred to the footbridge and agreed that it could be taken as a focal point. He said that this rather than a cluster this could be seen as an urban sprawl and asked members to give careful consideration to the application.

Councillor Reid said that by listening to everyone's comments that he would agree with the focal point and as this was the only site available to the applicant, that he would be happy to consider it for approval, but would have concerns about flooding. He felt that as the site was at the dead-end of the road, in a cul-de-sac and was isolated away from the main road and a lot of foliage that he would be happy to approve it as other sites had been passed with a lot less of an argument, but only on the grounds of a no comeback clause.

The Planning Manager advised Councillor Reid that a comeback could never be guaranteed. He said that all the relevant information was in front of members tonight for consideration and that a recommendation should be deliberated, but would ask members to take all facts into consideration before doing so.

Councillor Bell said that he would concur with members comments and referred to the possibly of urban sprawl and advised that the river could stop this in the north and would look to urban, suburban style already.

Councillor Bateson agreed with Councillor Bell and stated that this wouldn't change the character of the area and met the criteria.

Proposed by Councillor Kearney  
Seconded by Councillor Reid and

**Resolved:** That planning application LA09/2017/0727/O be recommended for approval.

Proposed by Councillor Bell  
Seconded by Councillor Reid and

**Resolved:** That the following condition be applied to the application:  
Single storey dwelling with a 6m ridge and landscaping.

**LA09/2017/0793/F Dwelling and garage adjacent to 2 Killycurragh Road, Orritor, Cookstown for Thomas and Lynne Dripps**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Glasgow  
Seconded by Councillor McKinney and

**Resolved:** That planning application LA09/2017/0793/F be recommended for approval.

**LA09/2017/0830/F Widening of existing access to and retention of extension at Holy Family Primary School carpark at access road immediately SE of Magherafelt Parish Centre, 100m NE of**

**King Street, Magherafelt for Very Reverend Father John Gates**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McKinney  
Seconded by Councillor Bateson and

**Resolved:** That planning application LA09/2017/0830/F be recommended for approval.

**LA09/2017/0950/O Infill dwelling and garage adjacent to 11 and 37m W of 11 Roughan Road, Stewartstown for Declan Amour**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Reid  
Seconded by Councillor Gildernew and

**Resolved:** That planning application LA09/2017/0950/O be recommended for approval.

**LA09/2017/0951/O Infill dwelling and garage adjacent to 7 and 35m W of 7 Roughan Road, Stewartstown for Declan Amour**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Reid  
Seconded by Councillor Gildernew and

**Resolved:** That planning application LA09/2017/0951/O be recommended for approval.

**LA09/2017/1057/F Replacement dwelling at 37 Barrack Street, Dungannon for Farasha Properties Ltd**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McAleer  
Seconded by Councillor Gildernew and

**Resolved:** That planning application LA09/2017/1057/F be recommended for approval.

**LA09/2017/1085/F Change of use to restaurant and hot food takeaway at 33 William Street, Cookstown for REA Developments Ltd**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McKinney

Seconded by Councillor Kearney and

**Resolved:** That planning application LA09/2017/1085/F be recommended for approval.

**LA09/2017/1103/O Dwelling and detached garage between 57 and 63 Cadian Road, Mullaghlonefield, Dungannon for Seamus Rodgers**

Mr Marrion presented a report on planning application LA09/2017/1103/O advising that it was recommended for refusal.

*Councillors Glasgow and Reid left the meeting at 8.17 pm.*

Councillor Gildernew advised that he had received a phone call requesting a deferral of the application so that the applicants could attend an office meeting. The Chair said that on this occasion that he would agree to the request.

Proposed by Councillor McKinney  
Seconded by Councillor Kearney and

**Resolved:** That planning application LA09/2017/1130/O be recommended for an office meeting.

**LA09/2015/0932/F Change of use of lands and office from window glazing business to car sales and car hire at 155a Creagh Road, Castledawson for Ben McCormack**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McKinney  
Seconded by Councillor Bateson and

**Resolved:** That planning application LA09/2015/0932/F be recommended for approval.

**LA09/2016/1371/O Infill site 50m N of 63 Deerpark Road, Leitrim, Castledawson for Mr Norman Leslie**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McKinney  
Seconded by Councillor J Shiels and

**Resolved:** That planning application LA09/2016/1371/O be recommended for approval.

**LA09/2016/1556/O Infill dwelling site between 33 and 33b Tobermore Road, Draperstown for Teresa McNally**

Ms Doyle presented a report on planning application LA09/2016/1556/O advising that it was now recommended for approval.

She said that a revised plan had been received and was satisfied that a 2 storey dwelling would not have a detrimental impact on neighbouring amenity.

Proposed by Councillor McKinney  
Seconded by Councillor Clarke and

**Resolved:** That planning application LA09/2016/1556/O be recommended for approval.

**LA09/2017/0380/O Site for dwelling 80m S of 41 Gortnaskey Road, Draperstown for Oonagh Barrett**

The Head of Development Plan presented a report on planning application LA09/2017/0380/O advising that it was recommended for refusal.

Proposed by Councillor McKinney  
Seconded by Councillor Bateson

**Resolved:** That planning application LA09/2017/0380/O be recommended for refusal.

**LA09/2017/0538/O Two storey dwelling and garage 65m S of 61 Deerpark Road, Leitrim, Castledawson for Mr Norman Leslie**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McKinney  
Seconded by Councillor Gildernew and

**Resolved:** That planning application LA09/2017/0538/O be recommended for approval.

**LA09/2017/0598/O Dwelling and garage/store approx. 175m W of 6 Tonaght Road, Draperstown for Sean McGlade**

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McKinney  
Seconded by Councillor Gildernew and

**Resolved:** That planning application LA09/2017/0598/O be recommended for approval.

*Meeting recessed at 8.40 pm and recommenced at 9 pm.*

**P155/17      Review of the Protocol for the Operation of the Planning Committee**

The Planning Manager presented previously circulated report to seek agreement to the amendments to the Protocol for the Operation of the Planning Committee in order to reduce the time spent at the Planning Committee.

*Councillor Bell left the meeting at 9.01 pm.*

The Chair proposed to set this back until members had an opportunity to be made aware of the protocol.

Proposed by Councillor Mallaghan  
Seconded by Councillor Kinney and

**Resolved:** That approval be given to putting this back for one month.

**P156/17      Updated Planning Officer Authorisation List**

The Planning manager referred to circulated addendum and sought Members approval for Mrs Roisin McAllister to be authorised to sign decisions and Orders on behalf of the Council in accordance with its Schemes of Delegation.

Proposed Councillor McKinney  
Seconded by Councillor McPeake and

**Resolved:** That Mrs Roisin McAllister be nominated as an authorised officer.

**Matters for Information**

**P157/17      Minutes of Planning Committee held on Tuesday 3 October 2017**

Members noted minutes of Planning Committee held on Tuesday 3 October 2017.

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

Proposed by Councillor McKinney  
Seconded by Councillor 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 P158/17 to P165/17

**Matters for Decision**

P158/17	Receive Report on Consultation from Department for the Economy
P159/17	Receive Enforcement Listed Building Report
P160/17	Receive 2 no. Enforcement Cases

Matters for Information

P161/17	Confidential Minutes of Planning Committee held on Tuesday 3 October 2017
P162/17	Report on Areas of Significant Archaeological Interest (ASAI)
P163/17	Enforcement Case Liveload
P164/17	Enforcement Cases Opened
P165/17	Enforcement Cases Closed

**P166/17      Duration of Meeting**

The meeting commenced at 7 pm and concluded at 21.40 pm.

CHAIR \_\_\_\_\_

DATE \_\_\_\_\_