

**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 5 December 2017 in Council Offices, Ballyronan Road, Magherafelt**

**Members Present**

Councillor Mallaghan, Chair

Councillors Bateson, Bell, Clarke, Cuthbertson, Gildernew, Glasgow, Kearney, McAleer, McEldowney, McKinney (8.05 pm), McPeake, Mullen (7.16 pm), Reid (7.04 pm), Robinson, J Shiels (7.22 pm)

**Officers in Attendance**

Dr Boomer, Planning Manager  
Mr Bowman, Head of Development Management  
Ms Doyle, Senior Planning Officer  
Mr Marrion, Senior Planning Officer  
Ms McAllister, Senior Planning Officer  
Ms McKearney, Senior Planning Officer  
Ms McNally, Council Solicitor  
Miss Thompson, Committee Services Officer

**Others in Attendance**

**Applicant Speakers**

LA09/2016/1015/F	Ms Fowley
	Mr Ross
LA09/2017/0899/F	Mr McNulty
	Mr Cushnahan
LA09/2017/0945/O	Mr O'Neill
LA09/2017/1035/O	Mr Diamond
LA09/2017/1112/O	Mr Cassidy
H/2014/0399/F	Mr Carr

The meeting commenced at 7.01 pm

**P173/17 Apologies**

None.

**P174/17 Declarations of Interest**

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

Councillor Glasgow declared an interest in planning application LA09/2017/0498/F and requested to speak on behalf of the applicant.

Councillor McPeake declared an interest in planning applications LA09/2016/1684/O, LA09/2017/0074/O and LA09/2017/0422/O.

## **P175/17 Chair's Business**

The Planning Manager referred to the planning team stating that the original three teams which reflected the three legacy council areas had been reorganised into two teams – 'Northern' and 'Southern'.

*Councillor Reid entered the meeting at 7.04 pm.*

## **Matters for Decision**

### **P176/17 Planning Applications for Determination**

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

#### **LA09/2016/0419/F Retention of extension to existing workshop unit at 135m NE of 11 Derryvale Park, Derry Road, Coalisland for Pat O'Neill**

Members considered report on planning application LA09/2016/0419/F which was recommended for approval.

Proposed by Councillor Gildernew  
Seconded by Councillor Reid and

**Resolved** That planning application LA09/2016/0419/F be approved subject to conditions as per the officer's report.

#### **LA09/2016/1015/F Reorganisation of general industrial site including retention and extension of the existing metal fabrication shed; construction of 2 sheds for spraying and storage of metal, acoustic walls, landscaping and associated works at lands at 51 and 55 Knockanroe Road, Cookstown for Reid Engineering Ltd**

The Head of Development Management presented a report on planning application LA09/2016/1015/F advising that it was recommended for refusal.

*Councillor Mullen entered the meeting at 7.16 pm during presentation of the above report.*

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

Ms Fowley supported the recommendation to refuse this application stating it would have a negative impact and would create a build up of development and industrialise the area if approved. Ms Fowley also made the following comments –

- Application would significantly increase the site and its operations which the site does not have capacity to absorb.
- Neighbouring residents should be protected by planning policy – Already five live enforcement cases for this site.
- No exceptional circumstances for proposal – land owned at Kilcronagh Industrial Estate which would be more suitable for this type of business.
- P1 form advises business only employs six with no plans to increase employment.
- Similar applications also refused by planning department and planning appeals.

Ms Fowley finished by urging the committee to uphold the officer's recommendation to refuse the application.

*Councillor J Shiels entered the meeting at 7.22 pm during Ms Fowley's address.*

Mr Ross, as agent for the application, stated that this was a complicated case and that work had been ongoing on the masterplan for some time with the aim of dealing with the site in a comprehensive way. Mr Ross also made the following comments –

- The application will protect the site and the business.
- Acoustic wall has improved situation but is not complete solution as is masterplan.
- Masterplan was discussed with planning department prior to submission with plans to move everything inside sheds, to relocate further away from neighbouring dwellings and to landscape area.
- All statutory consultees content with application.
- Concerns of Head of Development Management regarding the amount of development.
- Policy PED3 and PED 9 have been met.

Mr Ross referred to plans for a reduced scheme and asked the committee to defer the application to further consider this reduced scheme.

Councillor Bateson stated the need for balance with this type of development in a rural location but felt that the balance had been exceeded in favour of the applicant with this application.

Councillor Cuthbertson stated that the main issues of the application related to activity outside and asked what the sole aim of the application was.

Mr Ross advised that the application was brought forward as it was felt the best solution was to get as much inside sheds as possible and that this floor space should be moved further away from nearby housing. Mr Ross advised that the reduced scheme will not accommodate everything inside but is the bare minimum.

Councillor Cuthbertson proposed that the application be deferred.

The Planning Manager felt that the application should be discussed further as he was keen to hear the views of Members.

Councillor Kearney referred to the five cases of alleged non compliance, the height of the sheds and proposed flues. Councillor Kearney felt that the scale and nature of the application would be detrimental to rural character and proposed the officer recommendation to refuse the application.

Councillor McAleer seconded Councillor Kearney's proposal.

Councillor Clarke stated that the application site was on a hilltop location and would be obtrusive in the countryside. The Councillor felt there was nothing the Committee could do but accept the officer's recommendation.

In response to Councillor Glasgow's question regarding the acoustic wall the Planning Manager advised that there was a wall in place but is the subject of enforcement which will be dealt with at another meeting. The Planning Manager stated that this should not prejudice Members consideration of this application.

Councillor Glasgow referred to the two proposed sheds and asked if the argument of moving everything inside is strengthened, in terms of visual amenity the Councillor asked if further landscaping would help.

The Planning Manager advised that he did not feel the tests for major expansion had been met.

Councillor Cuthbertson stated he had heard nothing new in the objections put forward tonight and that if the Committee had saw fit to approve application put forward in June he questioned what had changed. Councillor Cuthbertson stated that the business was providing jobs in the area and that if this application helped to sustain these jobs then further consideration should be given. Councillor Cuthbertson proposed that the application be deferred.

Councillor Reid stated that this was a long established business and is an important asset to Mid Ulster, the Councillor felt that the applicant had worked with planners during the planning process. Councillor Reid stated that he had not been approached in relation to this application and did not need to declare an interest, he felt that it would be wrong to refuse the application and seconded Councillor Cuthbertson's proposal for a deferral.

Councillor Robinson stated he had went to the site meeting and that the saw was a particular problem, the Councillor felt that if the saw was moved inside it would be beneficial. Councillor Robinson advised that no matter what decision was made the business would remain at its current site and that steps should be taken to accommodate all sides.

The Planning Manager stated that sometimes parties become so divided that he cannot mediate a solution, he felt that Members had made a wise decision in June with the approval given to the retention of the shed and full account had been taken of residential amenity. However, this application represented a major expansion of the site and the industrial activity. He confirmed that in discussions with the applicant's agent in terms of amenity there were advantages if activities which

currently took place in the yard area-could be accommodated inside but that Members should remember that the site is changing from a residential site to an industrial site and the application had not met the policy tests for this expansion.

The Chair, Councillor Mallaghan expressed the concern of officers that Councillor Reid may have a conflict of interest in respect of this application.

Councillor Reid reiterated that he had not been approached in respect of this application and had no declaration of interest to make.

Members voted on Councillor Kearney's proposal to accept the officer recommendation to refuse the application –

For – 9

Against – 4

Members voted on Councillor Cuthbertson's proposal to defer the application –

For – 4

Against – 9

**Resolved** That planning application LA09/2016/1015/F be refused on grounds stated in the officer's report.

**LA09/2017/0102/F Building for ancillary storage use at 127 Ballynakilly Road, Coalisland for Eurosprings Ltd**

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

Proposed by Councillor Bateson

Seconded by Councillor J Shiels and

**Resolved** That planning application LA09/2017/0102/F be approved subject to conditions as per the officer's report.

**LA09/2017/0498/F Extension to garage to provide commercial machinery store at 100m NE of 29 Fegarron Road, Cookstown for Granville Carson**

Ms McAllister (SPO) presented a report on planning application LA09/2017/0498/F advising that it was recommended for refusal.

The Chair advised the committee that requests to speak on the application had been received, it was noted that Mr Lamont was not in attendance to address the committee.

Councillor Glasgow advised that the applicant is an agricultural worker and the purpose of the application is to store machinery. The Councillor referred to the high value of this machinery and in order to try to deter rural crime the aim is to get the machinery inside. The Councillor also advised that because the machinery is

currently stored outside insurance premiums are high. The Councillor advised that the purpose of the third access is to keep traffic away from the house as there are times when young children are outside. Councillor Glasgow advised that the applicant is a sole trader who works for the agricultural trade and sought approval of the application.

The Planning Manager asked who owned the third party land and if the applicant's son was a farmer.

Councillor Glasgow advised he was unsure of the answer to either question but stated that this was a genuine application and that machinery would get stolen sooner or later.

*Councillor Glasgow withdrew to the public gallery.*

Councillor Clarke stated he knew where the site was and that this would be a genuine application. Councillor Clarke stated he understood the arguments being made and proposed that the application be deferred for an office meeting.

Councillor Bell seconded Councillor Clarke's proposal.

**Resolved** That planning application LA09/2017/0498/F be deferred for an office meeting.

*Councillor Glasgow rejoined the meeting at 8.05 pm.*

*Councillor McKinney entered the meeting at 8.05 pm.*

**LA09/2017/0801/F First floor extension to side of dwelling at 24 Ashveigh, Benburb for Mr Chris Coleman**

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

Proposed by Councillor Gildernew  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2017/0801/F be approved subject to conditions as per the officer's report.

**LA09/2017/0809/F Infill site between 280 and 282a Hillhead Road, Knockloughrim for Loughdoyle Construction Ltd**

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

Proposed by Councillor Bateson  
Seconded by Councillor McPeake and

**Resolved** That planning application LA09/2017/0809/F be approved subject to conditions as per the officer's report.

**LA09/2017/0844/F Stable to house pony at 44 Moyagoney Road, Portglenone for Mr and Mrs Madden**

The Planning Manager advised of further documentation received in respect of this application and suggested that the application be deferred for an office meeting.

Proposed by Councillor Bell  
Seconded by Councillor Kearney and

**Resolved** That planning application LA09/2017/0844/F be deferred for an office meeting.

**LA09/2017/0891/F Extension to existing multi storey car parking facility to provide 212 additional car parking spaces over 2 additional levels to include associated alterations/extension to existing lobbies/elevators at Meadowlane Shopping Centre, Moneymore Road, Magherafelt for Castlefarm Properties Ltd**

**H/2015/0068/F Change of use from basement carparking to supermarket unit to include new mall and amended service yard at existing Meadow Lane Shopping Centre, Moneymore Road, Magherafelt for Castlefarm Properties**

The Head of Development Management (SPO) presented reports on planning applications LA09/2017/0891/F and H/2015/0068/F advising that they were recommended for approval. Members were also directed to Appendix 1 which included the draft 'Terms of Agreement' that would be incorporated in to a Section 76 Planning Agreement and which are associated with planning application H/2015/0068/F.

The Council Solicitor advised that if the Committee was minded to approve these applications it would be an approval in principle and subject to the Planning Agreement being approved/sealed by Council.

Proposed by Councillor Clarke  
Seconded by Councillor Bateson and

**Resolved** That planning applications LA09/2017/0891/F and H/2015/0068/F be approved in principle subject to conditions as per the officer's report and subject to a Planning Agreement being agreed and executed by Council.

The Planning Manager congratulated officers and agents working on these applications as they had managed to work through planning issues and come to an agreement.

**LA09/2017/0899/F Cattle handling and cattle isolation facilities and hard standing areas for a hobby farm at lands to the front of and**

**NE of 102 and 104 Ballygawley Road and S of 101  
Ballygawley Road, Glenadush for Bernard McAleer**

Mr Marrion (SPO) presented a report on planning application LA09/2017/0899/F advising that it was recommended for refusal.

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

Mr McNulty stated that the application was for a new agricultural building which will be located in close proximity to existing dwellings and that he had plans for a future additional retirement dwelling. Mr McNulty made the following comments –

- No provision for slurry tank made in plans
- No provision for how noise and smell will be dealt with
- Applicant has no farming history
- Entrance to site will make three lanes coming out onto road adjacent to dangerous corner
- Fishery already brings a lot of traffic on this road
- Applicant untruthful regarding draining water into sheugh – There is no sheugh
- Question over who the farmer is
- Building could be used for other purposes

Mr Cushnahan felt that this type of application was rare and should be accommodated, he continued with the following comments –

- There is no provision in planning policy for new farm holdings
- Applicant wants to establish a small farm holding (9 cattle and 5 sheep) to pass to the next generation
- Plans include external cattle crush, pens and storage for machinery – These are required to be in place before securing a farm business id
- No intention of increasing farming activities as this would require a further planning application
- Consideration would be given to relocating further away from dwellings
- Roads Service content
- Environmental Health content if application limited to what proposed
- No flooding on the site

Councillor Gildernew advised that Members could not take into consideration Mr McNulty's plans for future retirement dwelling and that the application needed to be decided upon based on the information before them. Councillor Gildernew referred to the need to have facilities in place before a business id will be granted and proposed that the application be deferred for an office meeting.

Councillor Cuthbertson stated he had sympathy for the farmer/landowner and questioned where else they could build a shed to house stock. Councillor Cuthbertson seconded Councillor Gildernew's proposal.

Councillor Robinson advised that adequate facilities are needed to ensure a farm operates safely and that further consideration should be given to the application.

Councillor Reid advised that a farmer cannot have livestock until a handling pen and crush are in place therefore the planning application needs to come before getting a business id.

The Chair, Councillor Mallaghan referred to the offer to resolve some concerns by relocating the proposal.

The Planning Manager stated that Members cannot make a decision on the basis of suspicion, he referred to the need for an active and established farm and that policy cannot be set aside.

**Resolved** That planning application LA09/2017/0899/F be deferred for an office meeting.

*Councillor Cuthbertson left the meeting at 8.33 pm.*

**LA09/2017/0945/O Dwelling on infill site replacing existing stables at land between 23 and 25 Annaghmore Road, Coalisland for Mr Declan O'Neill**

Mr Marrion (SPO) presented a report on planning application LA09/2017/0945/O advising that it was recommended for refusal. Mr Marrion also drew attention to Appendix 1 which advised that planning permission has been granted for a site for a dwelling beside the proposed site, however no buildings have been erected on the approved site for consideration against the infill policy.

The Chair advised the committee that a request to speak on the application had been received and invited O'Neill to address the committee.

Mr O'Neill advised that policy CTY8 allows for infill for up to two houses on a continuous frontage. He advised that within the frontage regarding this application there are two gap sites of which one is already approved. Mr O'Neill advised that the proposal will retain existing vegetation and asked that the application be approved as policy was being met.

In response to Councillor Clarke's comments regarding maps Mr Marrion advised that officers only became aware of the approved site today and this was highlighted in Appendix 1.

Councillor Gildernew felt that the proposal was ideal as an infill site.

Councillor McPeake felt there was enough built up frontage and the site represented an infill site.

Mr Marrion explained the map and why it was felt the application did not meet policy.

The Planning Manager stated he could see where there were arguments for and against the proposal but explained that there was ribboning on the road and there was policy in place to protect rural character.

Councillor Bateson felt this was a borderline case with limited future development potential. Councillor Bateson proposed that the application be approved.

Councillor Reid questioned why maps were still showing buildings which are claimed to be demolished.

Mr Marrion advised that this was the most recent map and that the architect had advised the building had been demolished in the last year.

Councillor Gildernew referred to the application already approved and questioned the difference approving this application would make. Councillor Gildernew seconded Councillor Bateson's proposal.

Councillor Mullen declared an interest in this application.

**Resolved** That planning application LA09/2017/0945/O be approved subject to conditions in relation to height of dwelling.

**LA09/2017/1018/F Erection of drive through restaurant (change of siting from planning permission H/2014/0358); alterations to car park of Forbes retail store (approved under H/2014/0354/F); new access road to Lidl and Forbes sites from Castledawson Road; landscaping and associated site works at former Forbes Furniture retail building at Station Road Industrial Estate and lands to the immediate South of it bounded by Station Road Industrial Estate, Magherafelt for Patsy Forbes**

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

Members were advised of Appendix 1 in relation to this application which provided conditions of approval which had been omitted from the officer's report.

Proposed by Councillor Kearney  
Seconded by Councillor McPeake and

**Resolved** That planning application LA09/2017/1018/F be approved subject to conditions as per Appendix 1 circulated.

**LA09/2017/1035/O Infill site for dwellings and garages 90m SE of 2 Scribe Road, Bellaghy for Mr David Mulholland**

Ms McAllister (SPO) presented a report on planning application LA09/2017/1035/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 Diamond to address the committee.

Mr Diamond advised that when travelling north to south there is line of frontage from Scribe Road to Tamlaghduff Road which should be acceptable. Mr Diamond referred to the shape of the site, being triangular, and that it was not as big as it looked.

Councillor McPeake felt that Scribe Road was not really in a rural setting and asked for clarification on gap widths.

Ms McAllister advised that the proposal site measures 80m with adjoining land having a frontage of 60m, properties to the north of the site have frontages measuring between 20m and 40m. Ms McAllister advised that taking this into consideration the proposal site could accommodate at least three dwellings.

The Planning Manager advised that if this site is approved as infill this could open opportunities for further infill sites along the Scribe Road and referred to the duty to protect rural character.

In response to Councillor Clarke's question Ms McAllister advised that she did not believe that the landowner of the proposal site and the owner of no.2 Scribe Road were the same person.

Councillor Clarke referred to the irregular shape of the site and stated he did not know why it couldn't be squared off.

The Planning Manager asked Members to think about what directive is being given if the application is approved and felt there was a distinct risk of rural character being eroded.

Councillor Gildernew felt that the shape of the site was deceiving and that there was no development on the other side of the road.

Councillor J Shiels felt the application was too much on too big a site, he felt that rural character would be changed and proposed that the application be refused as per officer's recommendation.

Councillor McKinney felt that the size of sites needed further consideration due to the amount of vehicles around dwellings nowadays. The Councillor felt that there was a portion of the site where it went in a point was useless and stated he did not have issue with the size of the proposed site.

Councillor McPeake did not feel the proposal would make a material difference, that it respected the rural character of the area and would have no detrimental impact. Councillor McPeake proposed that the application be approved.

Councillor Bell seconded Councillor McPeake's proposal to approve the application.

Councillor Reid seconded Councillor Shiels' proposal to refuse the application. Members voted on Councillor McPeake's proposal to approve the application –

For – 12

Against - 2

**Resolved** That planning application LA09/2017/1035/O be approved, delegated authority to be given to Planning Manager to set conditions

**LA09/2017/1062/F New entrance to dwelling at 33 Gulladuff Road, Maghera for D Crossett**

Ms McAllister (SPO) presented a report on planning application LA09/2017/1062/F advising that it was recommended for refusal.

Councillor Clarke asked if the current entrance was coming out onto a road or laneway.

Ms McAllister advised that the current access comes out onto a laneway which provides access to Beagh Terrace.

It was highlighted that the application proposes an access onto a protected route.

Councillor Glasgow asked if there was a stipulation regarding the number of cars that can use the existing access.

The Planning Manager stated that there should be no more than a 5% increase in traffic which would constitute traffic for 20 houses.

Councillor Gildernew stated the because the access was proposing to come out onto a protected route this would cause serious problems for Council if there was an accident at a later date.

Councillor J Shiels felt that the reason the application had been made was because it was a small area for making turns in a vehicle.

Councillor Reid proposed the officer recommendation to refuse the application.

The Planning Manager advised that the purpose of protected routes was to keep accesses to a minimum.

Councillor Bateson seconded Councillor Reid's proposal to refuse the application.

**Resolved** That planning application LA09/2017/1062/F be refused on grounds stated in the officer's report.

**LA09/2017/1112/O Dwelling and garage approximately 60m WSW of 5 Cloane Lane, Draperstown for Danny Grant**

Ms McAlister (SPO) presented a report on planning application LA09/2017/1112/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 Cassidy to address the committee.

Mr Cassidy advised that issues relating to this application related to the siting of farm buildings and whether they are visually linked with the established farm group. Mr Cassidy advised that the proposal site adjoins two animal shelters which are owned by the applicant. Mr Cassidy also made the following comments –

- The shelters are constructed as buildings based on previous Council/Planning Appeals decision
- The shelters are legal based on imagery taken in June 2011
- The shelters are representative of a group of buildings based on previous Planning Appeal Decision
- Whilst the proposal will not be sited beside the main group of farm buildings it will be sited beside an established group of buildings – as per previous Planning Appeal Decision

The Planning Manager referred to the argument put forward that the buildings were legitimate and stated that a certificate of lawfulness would be required. The Planning Manager asked if information had been submitted to establish that the buildings were lawful.

Ms McAllister advised that no information had been submitted to state that the buildings were lawful.

The Planning Manager asked if the applicant would like the opportunity to submit a certificate of lawfulness in respect of the buildings.

Mr Cassidy advised he would like the opportunity to do so.

Proposed by Councillor Mallaghan  
Seconded by Councillor McPeake and

**Resolved** That planning application LA09/2017/1112/O be deferred for an office meeting.

Councillor McKinney felt it was amiss that the relevant information had not been submitted prior to the meeting and that a decision could then have been made on the application tonight.

**LA09/2017/1176/F Alterations and extension to dwelling at 44 Mullaghboy Glen, Magherafelt for Thomas and Siobhan Hampsey**

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

Proposed by Councillor Glasgow  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2017/1176/F be approved subject to conditions as per the officer's report.

**LA09/2017/1240/F Single storey extension to rear of dwelling, car port structure and covered walkway linked to existing garage; new split level summer house and associated stores;**

**conversion of existing garage to home gym at Forthill Cottage, 98 Old English Road, Dungannon for Mr and Mrs Dobson**

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

Proposed by Councillor Reid  
Seconded by Councillor J Shiels and

**Resolved** That planning application LA09/2017/1240/F be approved subject to conditions as per the officer's report.

**LA09/2017/1249/F Change of house type and detached garage as previously approved under M/2005/0066/F, at Site 1, at land immediately W of 21 Fintona Road, Clogher for Lynden Keys**

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 LA09/2017/1249/F be approved subject to conditions as per the officer's report.

**LA09/2017/1345/F Change of use from beauty/hair salon to education and training facility at 118-120 Main Street, Maghera for Charlene Wilson**

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

Proposed by Councillor McEldowney  
Seconded by Councillor Kearney and

**Resolved** That planning application LA09/2017/1345/F be approved subject to conditions as per the officer's report.

**LA09/2017/1439/F Replace existing ball stop with new 4m high ball stop fencing to goal end, Drumgose Road, Benburb for Benburb and District Community Association**

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

The Chair, Councillor Mallaghan advised of the need for Members to declare an interest in this application as the proposal was on Council owned land.

*Councillors Bateson, Bell, Clarke, Cuthbertson, Gildernew, Glasgow, Kearney, Mallaghan, McAleer, McEldowney, McKinney, McPeake, Mullen, Reid, Robinson and J Shiels declared an interest in this application.*

Proposed by Councillor Gildernew  
Seconded by Councillor Reid and

**Resolved** That planning application LA09/2017/1439/F be approved subject to conditions as per the officer's report.

**H/2015/0068/F Change of use from basement carparking to supermarket unit to include new mall and amended service yard at existing Meadow Lane Shopping Centre, Moneymore Road, Magherafelt for Castlefarm Properties**

Application dealt with earlier in meeting.

**LA09/2016/0797/F Retrospective change of use to car sales yard (including front garden changing to hardstanding car display area) and tyre/alloy wheels sales at 53 and 53a Ballyronan Road, Magherafelt for Top Gear NI**

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

*Councillor Bell declared an interest in this application.*

Proposed by Councillor McKinney  
Seconded by Councillor J Shiels and

**Resolved** That planning application LA09/2016/0797/F be approved subject to conditions as per the officer's report.

**LA09/2016/1684/O Expansion of existing care home facility to provide 4 individual care units and a new dwelling and garage at lands immediately SW of 19 Rocktown Lane, Knockloughrim for Mr C Maynes**

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

Proposed by Councillor Bateson  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2016/1684/O be approved subject to conditions as per the officer's report.

**LA09/2017/0074/O Dwelling at site adjacent to 61a Brough Road, Castledawson for Mary Scullion**

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

Proposed by Councillor Bateson  
Seconded by Councillor McAleer and

**Resolved** That planning application LA09/2017/0074/O be approved subject to conditions as per the officer's report.

**LA09/2017/0422/O Site for dwelling and garage 150m NW of 107 Bancran Road, Draperstown for Stephen Donnelly**

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

Proposed by Councillor McEldowney  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2017/0422/O be approved subject to conditions as per the officer's report.

*Councillor Reid left the meeting at 9.24 pm.*

**H/2014/0399/F Pig fattening shed with feed bin (to contain 900 pork pigs) at land off Cahore Road approximately 100m East of 11A Tonaght Road, Draperstown for Michael McErlean**

The Head of Development Management presented a report on planning application H/2014/0399/F advising that it was recommended for refusal.

*Councillor Reid rejoined the meeting at 9.27 pm during presentation of the above report.*

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

Mr Carr advised that he had been involved in many applications for pig and poultry sites and that the main issue with this application related to odour. Mr Carr advised that normal pig feed is a low protein diet, he stated that the application complied with best practice and guidelines in relation to odour for pig sites and referred to similar applications in neighbouring Councils which had been approved. Mr Carr stated that the proposal will be adjacent to the applicant's home and would be run efficiently.

The Planning Manager asked if the applicant's house is at a higher level than the proposal and that of the neighbour's house.

Mr Carr advised that the applicant's house is at a higher level than the proposal and the neighbour's house is at a lower level than the proposal.

The Planning Manager asked how it is known what foodstuffs are being consumed.

Mr Carr advised that feedstuffs are logged when delivered and that this information is available to view.

The Head of Development Management felt that one of the applications passed by a neighbouring Council was not like for like with this application as the closest neighbour was 150m away.

Mr Carr felt that the applications were similar in that lower emissions were relied on through a low protein diet.

Councillor Clarke felt that the applicant's dwelling would not be subject to odour due to prevailing winds and the siting of the proposal. The nearest neighbouring dwelling would be affected to a greater degree due to its siting.

Councillor Bateson referred to regulations on pig feed and stated that these regulations did not seem to be having the desired effect as the odour coming from pig houses on some occasions was unbearable.

Councillor Robinson advised that modern pig houses were totally different to older houses in terms of the amount of odour being emitted. The Councillor also referred to the need to produce documentation on what foodstuffs are being consumed and felt that there was nowhere else the proposal could be located only in the country.

Councillor McKinney agreed that modern pig houses were different and that there had been no smell or noise coming from the pig houses visited on site visit. Councillor McKinney further advised that he lives close to a pig unit and has no issues with smell coming from that and he would not have any difficulty with this application.

The Chair, Councillor Mallaghan advised that he had been on site visit and that whilst there was little odour until standing close by the unit there was still some odour.

Councillor Gildernew asked if the proposal could be sited elsewhere.

The Planning Manager advised that the offer of re-siting the proposal had been turned down by the applicant. The Planning Manager advised that the proposal came down to neighbouring residential amenity and that based on the information put forward Members should make a decision.

In response to Councillor Reid's questions the Head of Development Management confirmed that other possible sites were offered and refused and that there was a management plan with regard to manure.

Councillor Bateson advised that his earlier comments were based on his own experience. He stated he was unable to make the site visit undertaken to other similar pig sheds.

Councillor Gildernew felt that as the applicant did not accept the offer of discussing alternative sites Members had no choice but to refuse the application.

The Planning Manager referred to the applicant's right of appeal should the application be refused.

Councillor Glasgow advised he lived on a poultry farm and that complaints were common in respect of same. The Councillor stated that if the operator of a unit did not have proper documentation in place in relation to animal foodstuffs then accreditation would be refused. Councillor Glasgow advised he had seen old and new type pig houses and would have no difficulty in proposing approval of the application.

Councillor McKinney asked if there was any merit in deferring the application to further consider re-siting of proposal.

The Planning Manager advised that a new application would be required. He further stated that he would be uncomfortable in going against the advice of Environmental Health and suggested that Members follow the recommendation of the planning officer as there was mechanism of appeal.

Councillor Clarke stated he was a farmer himself and was sympathetic to farming issues but that the Committee had received advice which it would be foolish to go against.

Councillor Kearney proposed the recommendation to refuse the application.

Councillor Clarke seconded Councillor Kearney's proposal.

Councillor Reid seconded Councillor Glasgow's proposal.

Councillor Bell felt it was bizarre that the applicant had been given the opportunity to re-site their application but did not accept this offer.

Councillor McEldowney stated that Councillor Reid had been out of the room for part of the officer's presentation and could not second Councillor Glasgow's proposal.

Councillor McKinney seconded Councillor Glasgow's proposal.

Members voted on Councillor Clarke's proposal to refuse planning application H/2014/0399/F –

For – 10  
Against – 4

**Resolved** That planning application H/2014/0399/F be refused on grounds stated in the officer's report.

*Meeting recessed at 9.56 pm and recommenced at 22.16 pm.  
Councillors Gildernew, McAleer and Mullen did not return to the meeting.*

## **P177/17                      Receive invitation from Dalradian Gold Ltd**

The Planning Manager presented previously circulated report which detailed invitation from Dalradian Gold Ltd for Councillors and Officers to visit sites in Omagh and Curraghinalt in relation to mineral exploration and to discuss their planning application for an underground gold mine.

The Chair, Councillor Mallaghan felt that Councillors/Officers should not take up the invitation and that due process should be followed and that when Council is formally approached by the Department in relation to the application it should engage at that stage.

Councillor McPeake agreed with the comments of the Chair and felt that there would be ample opportunity to engage in the process at a later stage.

*Councillors Glasgow and Reid rejoined the meeting at 10.20 pm.*

Councillor J Shiels understood there were differences of opinion with regard to the planning application and mineral extraction but felt that Council should accept the invitation to visit sites and engage in discussion with Dalradian.

Councillor Clarke referred to Sperrins Conference which took place in September and the outcomes of that conference which were positive in respect of the future of the Sperrins. Councillor Clarke felt that the planning application submitted by Dalradian was totally out of sync with what had been discussed at the conference.

Councillor Bateson felt that the invitation was tantamount to the Committee being lobbied and that the Committee would have a conflict of interest in respect of the planning application submitted if it accepted the invitation.

The Planning Manager advised that there was no question that the purpose of the invitation was to lobby Council but there was a difference in that Council would not be determining the planning application submitted. The Planning Manager felt it would not be inappropriate for officers to undertake visit to site and increase their knowledge.

Councillor Kearney stated he had no objection to officers accepting invitation and providing update to Councillors at a later stage.

Councillor McKinney felt that officers should accept invitation but not the committee.

Councillor Reid felt there would be prejudice and that Council should have something formal on paper in respect of these type of invitations first.

Councillor Bateson stated that officers may increase their knowledge base but it would not be an objective view.

The Chair, Councillor Mallaghan proposed that Council wait until it is formally consulted before engaging in discussions in relation to the application.

Councillor Bateson seconded Councillor Mallaghan's proposal.

**Resolved** That it be recommended that Council do not accept the invitation of Dalradian and that Council wait until it is formally consulted by the Department before engaging in discussion in relation to the application.

## **Matters for Information**

**P178/17 Minutes of Planning Committee held on Tuesday 7 November 2017**

Members noted minutes of Planning Committee held on Tuesday 7 November 2017.

**P179/17**      **A consultation request has been received from Dfl on a Planning Application for the extraction, transportation and working of sand and gravel from Lough Neagh (LA09/2017/0310/F) as the Department has received ‘Further Environmental Information – Supplementary Information for Shadow HRA including Air Quality Report’**

Noted.

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

Proposed by Councillor J Shiels  
Seconded by Councillor Bell 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 P180/17 to P188/17.

#### **Matters for Decision**

P180/17      Receive report on the Scheme of Delegation  
P181/17      Receive TPO Report  
P182/17      Receive Enforcement Report

#### **Matters for Information**

P183/17      Confidential Minutes of Special Planning Committee held on Tuesday 17 October 2017  
P184/17      Confidential Minutes of Special Planning Committee held on Thursday 2 November 2017  
P185/17      Confidential Minutes of Planning Committee held on Tuesday 7 November 2017  
P186/17      Enforcement Case Liveload  
P187/17      Enforcement Cases Opened  
P188/17      Enforcement Cases Closed

### **P189/17      Duration of Meeting**

The meeting was called for 7.00 pm and ended at 10.41 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_

**Appendix 1**

## **ADDENDUM TO PLANNING COMMITTEE AGENDA**

**FOR PLANNING COMMITTEE MEETING ON : 5 December 2017**

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

<b>ITEM</b>	<b>INFORMATION RECEIVED</b>	<b>ACTION REQUIRED</b>
4.4	Letter of support received 19.10.2017 from Councillor Glasgow.	Members to Note.
4.8	'Terms of Agreement' attached for car parking decks at Meadowlane	Members to Note.
4.10	Planning permission LA09/2016/1204/O has been granted for a site for a dwelling beside this site.	Members to note, no buildings have been erected on the approved site for consideration against the infill policy
4.11	Conditions were not listed in the case officer report	Members to note the conditions circulated with the Addendum.

*Draft for Mid Ulster Council Comment*

**Planning Act (Northern Ireland) 2011  
Section 76 Planning Agreement**

**Proposed Heads of Terms between Mid Ulster Council and Castlefarm Properties**

**Application H/2015/0068**

The following sets out the broad Heads of Terms between Mid Ulster Council and Castlefarm Properties (applicant and owner of Meadowlane Shopping Centre). The Heads of Terms are proposed to form the basis of a Planning Agreement between Mid Ulster Council and Castlefarm Properties to be drafted in conjunction with an application for two additional decks of car parking at Meadowlane Shopping Centre.

The agreement and the planning application for the deck car park combined would provide the agreed solution to allow the grant of application H/2015/0068 (i.e. provision of a supermarket) without additional car parking being provided at the commencement and occupation of the development.

The agreed terms are:

1. The agreement is concerned solely with the operation of the supermarket and the provision of car parking at Meadowlane.
2. The agreement will last for a period of 5 years from the opening of the supermarket.
3. Mid Ulster Council can require the delivery of the deck car park, in whole or in part at any time during the period of 5 years.
4. To assist Mid Ulster Council to understand need for the deck car park, following opening of the supermarket, Castlefarm Properties will supply Mid Ulster Council with quarterly survey results of car parking utilisation rates.
5. The survey of the car park will be undertaken in accordance with a methodology provided by Mid Ulster Council. Verification of results can be undertaken by Mid Ulster Council in a manner to be agreed.
6. Where survey results as shown verified by the Transport NI and the Council show Meadowlane Car Park to:
  - a. exceed an 80% of occupancy rate on more than one day per week between the hours of 11.00 am and 17.00m during two successive quarters , Castlefarm Properties will provide one extra deck of car parking (identified as Deck.....on approved plan date stamped)
  - b. exceed an 90% of occupancy rate on more than one day per week between the hours of 11.00 am and 17.00m during two successive quarters for one day per week Castlefarm Properties will provide two extra decks of car parking. (identified as Deck Nos.....on approved plan date stamped)
  - c. If an additional deck is provided as required by point (a) above and over the proceeding period use of the car park exceeds 80% of occupancy rate on more than

one day per week between the hours of 11.00 am and 17.00m during two successive quarters , Castlefarm Properties will provide the second deck of car parking (identified as Deck.....on approved plans date stamped)

7. The time period for commencing development of the car park shall be 1 year from the date of the council making the request and it shall be fully operational with 18 months of the date of the request.

## Item 4.11

### Conditions for LA09/2017/1018/F

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

2. The vehicular access, including visibility splays of 4.5m x 90m in both directions, shall be provided in accordance with Drawing No. 09 bearing the date stamp 10 November 2017, prior to the occupation of any other works or other development hereby permitted.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

3. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway before the development hereby permitted is occupied and such splays shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interest of road safety and the convenience of road users.

4. The gradient of the access shall not exceed 8% (1 in 12.5) over the first 10m outside the road boundary. Where the vehicular access crosses a footway or verge, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road user.

5. The development hereby permitted shall not become operational) until the existing access onto the Castledawson Road has been permanently closed and the carriageway / footway / verge properly reinstated to DfI Roads satisfaction.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

6. No retail operations in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved Drawing No 09 bearing the date stamp 10 November 2017 to provide 163 no. spaces for parking within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

Reason: To ensure that adequate provision has been made for parking, servicing and traffic circulation within the site.

7. The development hereby approved shall not become operational until the road works indicated on Drawing No 09 bearing the date stamp 10 November 2017 have been completed to the satisfaction of DfI Roads, in accordance with approved plans to be

submitted when an application is made for a licence to carry out the works on the Castledawson Road.

Reason: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the site are carried out prior to the development becoming operational.

8. No development shall commence until a suitable site investigation and risk assessment methodology is submitted and agreed with Mid Ulster District Council. This shall be implemented in order to suitable characterise the land by determining the extent, scale and nature of any contamination and in accordance with the Model Procedures for the Management of Land Contamination (CLR 11) and British Standard BS 10175, 2011 "Investigation of potentially contaminated sites Code of Practice" in order that unacceptable risks to health are identified and evaluated.

Reason: Protection of health and environmental receptors to ensure the site is suitable for use.

9. A remediation strategy (if required as a result of the site investigation/risk assessment under Condition 8 identifying unacceptable risks) shall be submitted and agreed with Mid Ulster District Council. The development hereby permitted shall not be occupied until the remediation objectives and measures as detailed and agreed in the detailed remediation have been implemented and carried out in accordance with its terms. Prior to commencement of the remediation scheme, the Council must be given two weeks written notification to enable its representatives to visit the site during the works on-site as deemed necessary.

Reason: Protection of health and environmental receptors to ensure the site is suitable for use.

10. In the event that previously unknown contamination is encountered at any time when carrying out the approved development that was not previously identified or falling outside the scheme of the approved remediation strategy (submitted as per Condition 9), Mid Ulster District Council shall be notified immediately and works shall cease pending submission and agreement of a written report detailing the proposed investigation, risk assessment and remediation scheme to the Council. This new contamination shall be fully investigated and a risk assessment undertaken in accordance with the Model Procedures for the Management of Land Contamination (CLR 11) and British Standard BS 10175, 2011 "Investigation of potentially contaminated sites Code of Practice". In the event of unacceptable risks being identified and where remediation is necessary, a remediation strategy shall be submitted for prior approval with the Council. Development works shall not resume until the approved remediation strategy has been implemented and carried out in accordance with its terms.

Reason: Protection of health and environmental receptors to ensure the site is suitable for use.

11. Following completion of remedial measures implemented under approved remediation strategy (required under conditions 9 and 10 as necessary), and prior to occupation of the development, a written verification report shall be submitted for prior approval to Mid Ulster District Council. The verification report shall be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR 11). The verification report shall present suitable evidence that all the remediation and

monitoring works have been undertaken and shall demonstrate the effectiveness of the works in managing and remediating all the risks and achieving the remedial objectives.

Reason: Protection of health and environmental receptors to ensure the site is suitable for use.