

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 7 March 2023 in Council Offices, Ballyronan Road, Magherafelt and by virtual means

Members Present

Councillor Mallaghan, Chair

Councillors Bell, Black*, Brown, Clarke, Colvin*, Corry, Cuthbertson, Glasgow, Martin*, McFlynn, McKinney, D McPeake, S McPeake, Quinn*, Robinson

Officers in Attendance

Dr Boomer, Service Director of Planning (SD: PI)
Ms Doyle, Head of Local Planning (HLP)
Ms Donnelly, Council Solicitor
Mr Marrion, Senior Planning Officer (SPO)
Ms McKinless, Senior Planning Officer (SPO)
Mr McClean, Senior Planning Officer (SPO)**
Mrs Grogan, Committee and Member Services Officer

Others in Attendance

Councillor Gildernew***
Councillor S McGuigan****

LA09/2020/0771/F	Liam Currie***
LA09/2020/1372/F	Kevin Loughran***
LA09/2020/1529/F	Kevin Loughran***
LA09/2021/0233/F	Oonagh Given***
LA09/2021/0233/F	Chris Tinsley***
LA09/2022/0476/F	Helen Hamill
LA09/2022/0689/O	Nicholson Boyd***
LA09/2022/1451/O	Ryan Dougan
LA09/2022/1625/F	Ryan Dougan
LA09/2020/1380/F	Toirlach Gourley
LA09/2021/1547/F	Chris Tinsley

* Denotes members and members of the public present in remote attendance

** Denotes Officers present by remote means

*** Denotes others present by remote means

The meeting commenced at 7.00 pm

P023/23 Notice of Recording

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

P024/23 Apologies

None.

P025/23 Declarations of Interest

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

P026/23 Chair's Business

The Service Director of Planning (SD: PI) wished to bring to members attention matters which were raised in the press across Northern Ireland and all the local papers regarding the new planning portal causing a lot of problems and complaints. The SD: PI stated that he noticed that quite a lot of the Councils had indicated that they were building up quite a large backlog because they were unable to process applications. He sympathised with the other Councils as this Council also went through the same process launching our own new planning system which also included quite a backlog. The committee may recall earlier in the year where it was stated that it may be difficult to meet performance targets this incoming year in terms of the time it took to process planning applications as the priority needed to be keeping planning applications moving forward and cases which are being held so Officers can become more efficient.

The SD: PI thought it would be useful to bring members attention up until September, planning was still increasing the number of applications which were being held, but could see from October onwards, Officers were not able to get out the door more applications than what was being received. However, we can see that this is now changing i.e. January 73 applications received with 135 decisions being sent out; December 85 applications received and 118 decisions issued. We received 973 applications to date but have made and got out the door 1043 decisions. If this momentum is kept going and come the new financial year, would envisage being back to our best again. He referred to the timeframe for local applications being processed and advised that this was now approximately 21 weeks.

The SD: PI advised that in terms of major applications it was very interesting as Mid Ulster continues to buck the trend and what was supposed to be a downturn, we have received a huge number of major applications and from the year to date we have received 16. To date 10 major applications have been out the door which is good as it shows there is still investment taking place and this Council is responding to this investment. He stated that there were issues relating to enforcement, primarily due to the fact that there was only one Officer working on these at the time, which caused delays and quite a backlog of enforcement cases. With all these things it was down to resources which needed to be sorted out and was pleased to inform members that there has been an increase of 3 new members of staff which was RJ McAleer, Ellen Gilbert and Daniel O'Neill. These members of staff have been brought in as it was part of Mid Ulster Council's strategy to bring in people straight from college or school and train them up the Mid Ulster way of doing things and obviously these are all graduate trainees which were at the start of their career and

moved around and hoped over the years, they prove to be an excellent asset for Mid Ulster.

The SD: PI in referring to an excellent asset, was pleased to announce that Roisin McAllister which is an officer within Development Plan has received a doctorate which demonstrated the expertise within planning department.

The Chair passed on his congratulations on behalf of the Planning Committee to Ms McAllister on her recent achievement.

The Chair, Councillor Mallaghan referred to the below applications which were on the agenda for determination and sought approval to have the following applications withdrawn and deferred from tonight's meeting schedule for an office meeting –

Agenda Item 5.1 – LA09/2020/0771/F – Retention of spray workshop, mobile office building, generator, concrete retaining wall and extension of curtilage at 73 Derryvale Road, Coalisland

Agenda Item 5.2 – LA09/2020/1313/F – Change of use from disused Convent and National School of 15 apartments at St Brigid's Convent & National School, Convent Road, Cookstown

Agenda Item 5.3 – LA09/2020/1318/LBC – Change of use from disused Convent & National School to apartments. Existing structures to be retained & restored at St Brigid's Convent & National School, Convent Road, Cookstown

Agenda Item 5.9 – LA09/2022/0126/O - Industrial Unit at 20m N of Unit 5K Shivers Business Park, 21 Hillhead Road, Toomebridge

Agenda Item 5.10 – LA09/2022/0476/F – Agricultural building above existing tank/slatted floor (to be retained) and associated site works at lands approx. 15m NW of 29 Thornhill Road, Dungannon

Agenda Item 5.12 – LA09/2022/0654/O – Dwelling and garage at lands 40m SW of 50 Battery Road, Coagh

Agenda Item 5.13 – LA09/2022/0670/F – Dwelling and garage on a farm at 151m N of 36 Keady Road, Swatragh

Agenda Item 5.15 – LA09/2022/0687/O - Dwelling on a farm adjacent to 28 Syerla Road, Dungannon (*Withdrawn*)

Agenda Item 5.16 – LA09/2022/0689/O – Dwelling on a farm at 350m W of 5 Corick Road, Clogher

Agenda Item 5.17 – LA09/2022/0714/O – Dwelling and domestic garage at 120m SW of 119 Mullaghboy Road, Bellaghy

Agenda Item 5.18 – LA09/2022/1065/O – Dwelling and garage at 50m S of 37 Moor Road, Coalisland

Agenda Item 5.19 – LA09/2022/1095/F – Relocation of previously approved dwelling and domestic double garage at approx. 75m NW of 42 Drummurrer Lane, Coalisland

Agenda Item 5.24 – LA09/2022/1571/F – Dwelling on a farm with detached domestic garage at site 150m NW of 10 Fallylea Lane, Maghera

Agenda Item 5.25 – LA09/2022/1582/O – Dwelling and garage on a farm at 60m NE of 28 Cloughfin Road, Killeenan, Cookstown

Agenda Item 5.27 – Dwelling at lands approx. 30m W of 1 Tobin Drive, Moortown
(*Withdrawn*)

The Chair brought to members attention two deferrals below which were received late and advised that there did seem to be some sort of confusion regarding the submission of the forms. He said that the benefit of the doubt would be given on this occasion, but would liaise with Agent to make sure that the proper process was followed in the future:

Agenda Item 5.14 – LA09/2022/0681/O – Dwelling on infill site at lands between 31 and 35 Reclain Road, Galbally Dungannon

Agenda Item 5.20 – LA09/2022/1288/O – Dwelling (infill gap site) at 15 Finulagh Road, Castlecaulfield

Proposed by Councillor Bell
Seconded by Councillor Corry and

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

Matters for Decision

P027/23 Planning Applications for Determination

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

LA09/2020/0771/F Retention of spray workshop, mobile office building, generator, concrete retaining wall and extension of curtilage at 73 Derryvale Road, Coalisland for Stephen Halligan and Sons

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

LA09/2020/1313/F Change of use from disused convent and national school to 15 apartments at St Brigid's Convent & National School, Convent Road, Cookstown for Fr. L Boyle

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

LA09/2020/1318/LBC Change of use from disused convent & national school to apartments. Existing structures to be retained & restored at St Brigid's Convent & National School, Convent Road, Cookstown for Fr. L Boyle

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

LA09/2020/1372/F Stockpile storage of aggregate on a temporary basis at 25 Crancussy Road, Evishacrancussy Road, Cookstown for Core Aggregates

Members considered previously circulated report on planning application LA09/2020/1372/F which had a recommendation for approval.

Proposed by Councillor Glasgow
Seconded by Councillor Bell and

Resolved That planning application LA09/2020/1372/F be approved subject to conditions as per the officer's reports.

LA09/2020/1529/F Application to vary condition No 11. of approval I/1977/0072 at Core Aggregates, 25 Crancussy Road, Cookstown for Core Aggregates

Members considered previously circulated report on planning application LA09/2020/1529/F which had a recommendation for approval.

Proposed by Councillor Glasgow
Seconded by Councillor Bell and

Resolved That planning application LA09/2020/1529/F be approved subject to conditions as per the officer's reports.

LA09/2021/0233/F Winning and working of minerals (Psammite and overlaying sand and gravel) to include a North Easterly lateral extension and deepening from existing, permitted floor level with restoration to biodiverse habitats at lands at Corvanaghan Quarry, 29 Corvanaghan Road, Cookstown for P Keenan Quarries

The Service Director of Planning (SD: PI) said that before Mr Bowman (SPO) provided his summary of the application, he wished to provide an update to committee which would save a lot of debate going backwards and forwards between both parties.

The SD: PI advised that there was an issue which centred around the address where it reads 29 Corvanaghan Road, there is also a residential property which is also 29 Corvanaghan Road and a claim being made that this is wrongly advertised. The Quarry has also an address of 29 Corvanaghan Road and Officers has carried out a series of checks on the website and also with Building Control who also have both

recorded as No. 29 and would be his understanding that it would be reasonable for this application to move forward as it stands. If it was proven that one was No. 27 or No.29, in this case it would not prejudice the determination of the application due to the fact of objector at No. 29 raising these issues and clearly aware of the application. The SD: PI felt that rather than rehearsing this debate as legal advice has already been taken on other things in the past, although would appreciate that there was a dispute, also felt that if the committee were minded, they could determine this application tonight.

Mr Bowman presented previously circulated report on planning application LA09/2021/0233/F which had a recommendation for approval. He wished to clarify that 8 letters of objection had been received and also referred to circulated addendum where a late letter of objection had been received from Mr Oliver McKenna regarding late night noise coming from the quarry.

The Chair advised that a request to speak against the application had been received and invited Ms Given to address the committee.

Ms Given thanked members for allowing her the opportunity to address the committee tonight. She advised that she was in attendance tonight to represent Mr Oliver McKenna and his concerns regarding the impact this proposal would have on his farm and on the recently approved replacement dwelling. She felt that the application was invalid and could be subject to judicial review if the committee proceeds with the Planner's recommendation.

Ms Given advised that the proposal included screening bunds up to the boundary of Mr McKenna's farmlands and was difficult to see how these bunds could be constructed and maintained without trespass on his land. If there was no prospect of the applicant accessing third party lands in order to maintain or build those bunds, then condition 3 cannot be complied with and believed that the solution would be for the red line to be pulled back, therefore allowing access by the developer and no interference with Mr McKenna's farming operations. As for the replacement dwelling, planning permission was granted subject to a siting condition in order to protect it against the existing quarry and if this was the case, surely it would allow to extend the quarry towards the replacement dwelling would equally undermine residential amenity. Ms Given referred to blasting guidelines where it states that a separation distance would not be less than 100m between blasting operations and neighbouring properties is acceptable. She advised that the neighbouring dwelling is within 100m with an area identified where removal of Psammite, removed via drill and blast was an attempt to limit where blasting may occur in use by a planning condition, in her view was unreasonable and the most appropriate solution would be to amend the scheme.

Ms Given referred to the validity of the application and advised that the site location was given as 29 Corvanaghan Road and if the committee looked at the overhead map there was a property labelled as No. 29 which was clearly not part of the land to be developed and in fact was 200m away. No. 29 is owned and occupied as a domestic dwelling and not related to the quarry and is identified by a sign on the ground as No. 29 in directing members of the public and not just the owner of the property, to an address which is well outside the application boundary, resulting in

the description the proposal as misleading. The pre application consultation process was also invalid for the same reasons and rather to defend the inaccurate description of the location, felt that Council should return it to the applicant and if Council proceeds to approve the decision it could be open to judicial review. Ms Given said that she would be happy to take any questions that the committee may have.

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

Mr Tinsley advised that he was a planning consultant with Quarryplan who were the planning agents for P Keenan. In terms of the issues in which Ms Given has raised especially the number of validity issues, felt that a number of these had been covered and addressed in terms of the PAN process by Mr Bowman (SPO) and Dr Boomer (SD: PI). He referred to the screening bunds as previously discussed by Mr Bowman (SPO) and stated that this was a private issue and that the bunds had been designed by Quarry Design Ltd who had assessed whether they were technically viable to build and agreed that they were technically viable.

Mr Tinsley stated that P Keenan were the main contractor for DfI Roads for asphalt resurfacing in Mid Ulster and recently carried out a major resurfacing scheme on the Cookstown dual carriageway. The proposed development would sustain secure employment for staff employed at the quarry and for the road surfacing teams. It would also ensure that the existing asphalt quarry would continue to serve the needs of DfI Roads by having a central location within Mid Ulster. He felt that all of the procedural and planning matters has been fully covered within the committee report but would be happy to answer any queries in which committee may have.

The Service Director of Planning (SD: PI) wished to clarify some points and felt that members were well aware of his points in relation to No. 29.

Mr Tinsley confirmed to SD: PI that his client's address was No. 29.

The SD: PI said from the outset there seemed to be two addresses being No. 29 and that Building Control which administers addresses seemed to verify this.

Mr Bowman (SPO) said that the advice that he had within his report was that Building Control did come back after some contact with the occupant of No. 29 (dwelling) and having investigated the issue it would appear that this may be correct with the quarry being No. 27 not No. 29. In referring to a Building Control application being made in 1998 for a replacement roof, the address of the dwelling was given as No. 29 and this is also the number that Land & Property Services hold for the dwelling and refer to No. 27 as the quarry. He said that this is depending on where you seek the information and if you look at Royal Mail's website today it stated the postal address of the quarry, which is the legislative requirement and at the time of him writing his report, was given as No. 29 Corvanaghan Road. He advised that different sources provided different messages.

In response to query from SD: PI, Ms Given advised that she was not representing the resident at No. 29 and was only representing Mr Oliver McKenna which lived at No. 15 Corvanaghan Road.

The SD: PI enquired if Ms Given's client had the opportunity to make representation.

Ms Given advised that her client previously made representation and that was why she was in attendance tonight.

The SD: PI said he wanted to make sure that the client was able to make representation. He said that he was also aware that the person at No. 29 is also aware of the application and felt that there was no prejudice.

The SD: PI referred to Condition 3 which was raised by the objector and enquired if the bunds could be built on the site without going on his land.

Mr Tinsley agreed that this could be accommodated.

The SD: PI enquired if Condition 3 was negative and whether this required this to be done before the extension of blasting takes place.

Mr Bowman (SPO) advised that Condition 3 in its entirety reads:

All works as shown and referred to on Drawing No 03/2 date stamped 27th Aug 2021 shall be completed in accordance with this plan including the erection of all advanced screening bunds where identified along the perimeter of the proposed extraction.

Reason: In the interests of visual and neighbouring amenity.

The SD: PI said his feeling on the reasons from all parties is that the objector is saying that they have to come on his land and obviously it would be an onus on the committee to take this into account. He stated that the developer is saying that they did not need to go on the objector's land, and it was not his job to verify one way or another. The Director agreed that the Condition was negative and even if the developer needed to go on the objector's land during construction, then the objector would hold the right to refuse access, the result of that because of the negative Condition would be that the expansion of the quarry could not take place as it was negative by nature.

The SD: PI referred to the blasting in the 100m zone where it was alleged that there was a permission and taking into account Health & Safety concerns being adhered to during planning approval.

Mr Bowman (SPO) referred to his presentation and advised that HSENI was specifically consulted with on his application and also the replacement dwelling. He wished to make it clear again in relation to the quarry, HSENI's opening comment is that they had no objections to the application. HSENI was asked to comment on the replacement dwelling and was aware of the location, they indicated that if the application was approved by Mid Ulster District Council i.e. replacement dwelling

application, then they would request that a Condition was applied to the approval for application LA09/2021/0233/F that no blasting takes places within 100m of the replacement dwelling once it has been constructed and occupied. Mr Bowman (SPO) said that in his view he would see the Condition as reasonable and enforceable.

The SD: PI said that continuing on from Mr Bowman's comments, it would suggest that the Condition comes into play on occupation of the dwelling.

Mr Bowman (SPO) confirmed that it finishes by stating "*within 100m of the dwelling once it has been constructed and is occupied*".

The SD: PI stated that the last time the debate related to this house on whether it was replaceable, where discussions ensued, and different views aired. The view which was put to the applicant was had the existing dwelling been abandoned i.e. was there anything to stop the person actually moving into the house and the answer to that concluded that someone could move into that house with works carried out internally. The SD: PI felt that it would be very important that the Condition is absolute, that there be no blasting within 100m of the dwelling site or the existing dwelling.

The SD: PI suggested that the Condition be changed to make it absolute in itself and not relate to occupation.

Councillor Martin wanted to clarify that she had been contacted in relation to the No. 29 issue and asked if this was something she would need to declare an interest in to keep herself right.

The SD: PI said that members face this all the time and was certain that members had been contacted at some time by an applicant or an objector. Whether a member has an interest depends on what has been done while they were contacted, for instance if someone makes contact and the member states that they will raise at planning committee on their behalf, then it is perceived that representation is being made on the applicant's/objector's behalf which would indicate the best way forward would be to declare an interest and not to get involved in voting. If a member is a member of the planning committee it may be suggested that it be referred to a different member to raise the issue, this then results in the planning member having no interest. He advised that it was up to each individual member to decide for themselves whether they have an interest or not.

Councillor Martin advised that she had sent an email on behalf of the complainant but did not go into specifics or anything but felt that in the interest of transparency would be better to declare it.

Councillor Martin declared an interest in LA09/2021/0233/F.

Councillor McKinney said that he would be happy to propose the officer's recommendation of approval, but to include the extra Condition suggested by Dr Boomer.

Councillor Clarke agreed with the additional Condition suggested by Dr Boomer as it was worthwhile and was his understanding that the house is there and could be renovated.

Councillor Clarke referred to the two No. 29's and felt that this confusion needed to be cleared up and stated that there were two dwellings within in district beside each other with no house numbers for them, Land & Property unaware of any information about them even though they pay rates. Building Control has no records and in this instance, we have the same number for two different sites – one a dwelling and the other a quarry. He felt that this issue needed to be resolved as a matter of urgency and enquired if you head North of No. 29 the numbers increase i.e. No. 31 etc. and when you head South the numbers decrease, which would suggest that the quarry has a lower site number. The member felt that this needed to be investigated as there seemed to be not good will between the parties involved and not a good outcome.

The SD: PI stated that advice from Building Control was to involve both parties and they would sort it out, but it could be the case that both parties could be fighting over the same number i.e. No. 29. He said that it struck him that it would be in the best interest of both parties to have separate numbers, particularly if you were running a business as controversial financial information could go elsewhere to the other address of the same number. The SD: PI would be confident that Building Control would assist in accommodating the situation if both parties were willing to come to some sort of agreement.

Councillor Clarke enquired who would have the authority to decide the site number.

Ms Doyle (SPO) advised that she received a complaint that she was currently dealing with at the moment which she had researched. The complainant has indicated that they have went to Land & Property Services, postal address of dwelling is No. 27 and postal address of the quarry is No. 29, but the rates for No. 27 are the rates for No. 29 and vice-versa, so Land & Property Services have indicated that their hands were tied. The complainant went to Royal Mail and they have indicated that their hands were tied also as they cannot change the address. The complainant has contacted Building Control and it was her understanding that the applicant has been approached by a member of the Building Control team enquiring whether they would be willing to change their business address from No. 29 to No. 27 and the applicant has come back to say that they were unwilling to do that as there was a financial consideration. Ms Doyle (SPO) advised for the number to change, the Council does have the authority to rename a road and renumber the properties, but it was her understanding for that to happen 50% of the residents along the road has to make the request to Council and 100% of the residents has to agree on the renaming of the road and what that name would be. She said that this was not straight forward and a long-drawn-out process and if it was a requirement to have 100% of the residents to rename the road, she felt that this would be very tricky.

Councillor Clarke stated that there would be no requirement to change the road name.

The SD: PI said as a Planning Officer he was not going to resolve whose address was what as he did not have that authority. He felt that the key question in his mind was the identification of the address, in terms of advertising it was referred to Corvanaghan Quarry.

Councillor Brown seconded the recommendation to include the amendment.

Proposed by Councillor McKinney
Seconded by Councillor Brown and

Resolved That planning application LA09/2021/0233/F be approved subject to conditions as per the officer's reports.

LA09/2021/1758/O Extension of existing sporting, social and educational facilities to create an enhanced recreational hub and lifelong centre of learning to include new vehicular access, additional car-parking, extended green space and associated ancillary works at lands adjacent and E of Galbally Pearses GAA grounds and community centre 36 Lurgylea Road, Galbally, Dungannon for Galbally Pearses GAC and Galbally Youth

Members considered previously circulated report on planning application LA09/2021/1758/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Clarke and

Resolved That planning application LA09/2021/1758/F be approved subject to conditions as per the officer's reports.

LA09/2021/1791/F Retrospective application for the retention of 4 containers for storage purposes, a covered area and the retention of the extended site curtilage at 20m SW of 137 Lissacclare Road, Stewartstown for Mr Sean Campbell

Members considered previously circulated report on planning application LA09/2021/1791/F which had a recommendation for approval.

Proposed by Councillor Quinn
Seconded by Councillor McKinney and

Resolved That planning application LA09/2021/1791/F be approved subject to conditions as per the officer's reports.

Councillor Glasgow left the meeting at 7.53 pm.

LA09/2022/0126/O Industrial Unit at 20m N of Unit 5K Shivers Business Park, 21 Hillhead Road, Toomebridge for James Alexander

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

LA09/2022/0476/F Agricultural building above existing tank/ slatted floor (to be retained) and associated site works at lands approx. 15m NW of 29 Thornhill Road, Dungannon for Cyril Montgomery

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

LA09/2022/0612/F Erection of 32 business/storage units, required car parking and commercial spaces and associated site works at Kilcronagh Business Park, Cookstown, for Coleman Construction

Members considered previously circulated report on planning application LA09/2022/0612/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McKinney and

Resolved That planning application LA09/2022/0612/F be approved subject to conditions as per the officer's reports.

LA09/2022/0654/O Dwelling and garage at lands 40m SW of 50 Battery Road, Coagh for Joanne Devlin

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

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

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

LA09/2022/0681/O Dwelling on infill site at lands between 31 and 35 Reclaim Road, Galbally, Dungannon for Plunkett McCrory

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

LA09/2022/0687/O Dwelling on a farm adjacent to 28 Syerla Road, Dungannon, for Andrew Haydock

Withdrawn.

LA09/2022/0689/O Dwelling on a farm at 350m W of 5 Corick Road, Clogher, for Mr Edwin Boyd

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

LA09/2022/0714/O Dwelling and domestic garage at 120m SW of 119 Mullaghboy Road, Bellaghy, for Mr Peter Doherty

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

LA09/2022/1065/O Dwelling and garage at 50m S of 37 Moor Road, Coalisland for Niall and Mary Kilpatrick

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

LA09/2022/1095/F Relocation of previously approved dwelling and domestic double garage at approx. 75m NW of 42 Drummurrer Lane, Coalisland, for Mr Declan McShane

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

LA09/2022/1288/O Dwelling (infill gap site) at 15 Finulagh Road, Castlecaulfield for Ryan McGurk

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

LA09/2022/1340/O Site for dwelling and garage between 65 & 67 (adjacent and NE of 67) Killygullib Road, Swatragh for Mr Damien McAtamney

Members considered previously circulated report on planning application LA09/2022/1340/O which had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor Corry and

Resolved That planning application LA09/2022/1340/O be approved subject to conditions as per the officer's reports.

LA09/2022/1451/O Dwelling & garage at 1 Sycamore Drive, Maghera, for Mrs Claire Patterson

Members considered previously circulated report on planning application LA09/2022/1451/O which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Brown and

Resolved That planning application LA09/2022/1451/O be approved subject to conditions as per the officer's reports.

Councillor Glasgow returned to the meeting at 7.55 pm.

LA09/2022/1513/O Portal framed storage facility for Agricultural and Engineering Machinery at land 80m SE of 100 Trewmount Road, Killyman, Dungannon for Mrs Briege O'Donnell

Mr Marrion (SPO) presented a report on planning application LA09/2022/1513/O advising that it was recommended for refusal.

Proposed by Councillor Cuthbertson
Seconded by Councillor Brown and

Resolved That planning application LA09/2022/1513/O be refused.

LA09/2022/1571/F Dwelling on farm with detached domestic garage at site 150m NW of 10 Fallylea Lane, Maghera for S Kelly

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

LA09/2022/1582/O Dwelling and garage on a farm. at 60m NE of 28 Cloughfin Road, Killeenan, Cookstown for Mr Patrick Hegarty

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

LA09/2022/1625/F Alteration to previously approved egress point (LA09/2018/0777/F) to include for access to existing factory. at 116 Deerpark Road, Toomebridge, for Neil Savage

Ms McKinless (SPO) presented previously circulated report on planning application LA09/2022/1625/F which had a recommendation for approval.

The Chair referred to the previously circulated addendum where a letter of concern has been submitted from Mr Danny Quinn, Principal of Anahorish Primary School.

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

Mr Dougan said that he welcomed the recommendation and summary by the Officer and said that he was mindful not to labour the relevant matters and keen to set out the following points.

The recommendation before committee this evening was for the alteration to previously approved egress point for SDC Trailers Ltd, who were a major employer in the area and currently employ approximately 400 people on the Deerpark Road site. The application presented was to alterations to 2018 permission which is still valid, access was previously approved in 2018 as an exit only but the proposal before committee tonight is also used to enter the site, the access is for HGV traffic only, retaining the original site access for cars. As stated by the Officer, the driver for this change is the relocation of the A6, changing the approach to the site along Deerpark Road where previously the dominate direction was "right in – left out" which is now vice-versa "right out – left in". DfI the sole consultee responded on 14 February with no objections to the proposals. Objections have been noted from the school adjacent to the site and would comment as follows: The proposal will effectively reduce the HGV traffic passing by the school as the dominant routes for the HGV will be via the A6 bypass. He said that no representation was submitted from the school to the 2018 application and the objection states that the school has

plans for a new entrance. Any proposal by the school in this nature will require planning permission and will be subject to a separate assessment independent of this application. The objections states that the proposed layout intends to use splays which encroach upon the school's entrance, this is factually incorrect and misleading as the splays were in the 2018 permission which is consistent and wholly contained on the roadside verge. In conclusion the key consultee of DfI Roads have no objection to the proposal and would respectfully request that members support the recommendation in front of them this evening.

Councillor McFlynn stated that this was a very busy road and enquired if Anahorish school entrance was opposite to SDC.

Mr Dougan advised that the proposed entrance was on the same side as Anahorish school. He said that the key driver here is that traffic from the new A6 bypass when it approaches the current entrance, it has to pull out to the far side of the carriageway to turn in and the proposal is 12m wide which allows HGV vehicles to turn into the site without opposing onto the carriageway, there has been quite a few near misses to the entrance to the site and this is obviously where the applicant wishes to apply a much safer entrance. Mr Dougan said that it was their view that this will promote HGV's not passing by the school and understands that although the A6 bypass has been in existence for some time, the HGV's continue to pass by the school because they are entering the existing access from the opposing carriageway making it easier to turn right, whereas if they were coming into the new entrance, it would be clearly much wider and make it much easier to turn in and that is the rationale for the proposal.

Councillor McFlynn sought clarification on whether the exit and entrance enters through the same site in and out.

Mr Dougan confirmed that this would be the case.

Councillor McFlynn enquired if this application merited a site visit.

The SD: PI said he understood the concerns around the safety of school children as this is the key issue but was conscious and would agree that there were things that appear obvious, but expert advice has been taken in relation to this matter from the Roads authority.

Ms McKinless drew members attention to the initial consultation where DfI Roads had come back and asked for a Transport Assessment Form to be submitted which was submitted by the applicant. Their concluding comment was that they do not offer an objection to the proposal.

The SD: PI stated that a lot more consideration has been given to the proposal in what some members may think and does not really think a site visit would be beneficial. He was conscious that the school has raised their concerns which has been outlined on their letter of concern within circulated addendum.

Councillor McFlynn said that her main concern would be the safety of the children and if access was deemed safe that she would be happy to support the recommendation.

The Chair said that it may be beneficial at this stage to defer the application for an office meeting with DfI Roads, Agent and representatives of Anahorish Primary School to try and reach a positive outcome.

The SD: PI agreed that an office meeting would be best way forward to avoid conflict between the parties.

Proposed by Councillor McFlynn
Seconded by Councillor McKinney and

Resolved That planning application LA09/2022/1625/F be deferred for an office meeting with deferred for an office meeting with DfI Roads Rep, Applicant, Agent and Principal from Anahorish Primary School.

LA09/2022/1690/O Dwelling at lands approx. 30m W of 1 Tobin Drive, Moortown for Smallwood Contracts Ltd

Withdrawn.

LA09/2022/1760/F Beechland Drive:- an upgrade pf existing access paths to the existing playpark and carpark and adjoining housing developments. The creation of a pocket park coupled with new seating and picnic areas will enhance the area. Small decrease in parking spaces in order to enhance the green area, existing parking areas will be resurfaced and whitelining. Beechland Park: - extension of carparking and upgrade of existing parking to include for whitelining. Existing grass area will be upgraded with improved drainage and creation of a new walking trail with seating and planters for community use at The Sites in Clady at Beechland Drive & Beechland Park, for Mr Johnny McNeill

All members present declared an interest in planning application LA09/2022/1760/F as it was related to Mid Ulster District Council.

Members considered previously circulated report on planning application LA09/2022/1760/F which had a recommendation for approval.

Proposed by Councillor D McPeake
Seconded by Councillor McKinney and

Resolved That planning application LA09/2022/1760/F be approved subject to conditions as per the officer's reports.

LA09/2022/1771/O Site for dwelling and garage in a cluster at 50m N of 146A Killycolpy Road, Stewartstown, for Sean Muldoon

Members considered previously circulated report on planning application LA09/2022/1771/O which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Corry and

Resolved That planning application LA09/2022/1771/O be approved subject to conditions as per the officer's reports.

LA09/2023/0037/F Single storey rear extension to dwelling. at 32 Claggan Lane, Cookstown, for Mr Niall Convery

Members considered previously circulated report on planning application LA09/2023/0037/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Clarke and

Resolved That planning application LA09/2023/0037/F be approved subject to conditions as per the officer's reports.

LA09/2017/1333/O Trout hatchery farm managers dwelling and domestic garage at site adjacent to 91 Glengomna Road, Draperstown for Mr Alan McKeown

Members considered previously circulated report on planning application LA09/2017/1333/O which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Corry and

Resolved That planning application LA09/2017/1333/O be approved subject to conditions as per the officer's reports.

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

Mr Marrion (SPO) presented a report on planning application LA09/2020/1380/F advising that it was recommended for refusal.

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

Mr Gourley advised that there has been delay caused by legal issues relating to probate and registration of the farm in the applicant's name which was beyond the applicant's control. The applicant has been trying to progress the matter as best he can. However, he has encountered delays in relation to the registration of the farm in his name and that he wished to update committee on the current situation.

The applicant has relayed that the solicitor has advised that the completion of the registration of the farm into his name is imminent. There has been considerable delay in processing this application as the applicant's grandfather (Francis) had bequeathed the farm in his will to the applicant's father (James) and it passed to James upon the death of Francis approximately sixty years ago. However, James did not register the lands in his name, although he did bequeath the farm in his will to his son, the applicant and it passed to the applicant upon the death of his father approximately forty years ago. The terms of James' will was that the applicant's mother would continue to enjoy and benefit from occupancy of the property until her death. Although the applicant's mother passed away approximately 25 years ago the applicant did not register the farm into his name. When the issue was highlighted by Planning Department, he immediately set about rectifying the situation, but has encountered a number of difficulties to date.

Firstly, the solicitor his grandfather and father had been dealing with had passed away and the business had been passed to another solicitor. This created difficulties in establishing the whereabouts of the records relating to the farm ownership and it took considerable time to collate these records due the passage of time since the applicant's grandfather had passed away.

Secondly, not all of the records relating to the ownership of the farm could be traced, specifically the applicant's father's will. As a result, an application had to be made to get a copy of the will from the Public Records Office NI which took some time to obtain.

Thirdly, it was realised upon obtaining the will of applicant's father that it stipulated that the applicant's mother would enjoy and benefit from occupancy of the property until her death. Before the farm could be registered in the applicant's name it had to be demonstrated that the applicant's mother had passed away. As a result, a copy of the death certificate for the applicant's mother had to be obtained from the General Register Office NI which also took time to obtain.

As a result of the difficulties encountered above, it has taken considerable time to progress the application to have the lands registered in the applicant's name.

In relation to justification for the dwelling under Policy CTY 10 I had collated additional invoices in relation to the farming activities in relation to the applicant's active farm business to substantiate the work carried out in relation to the farming activities. It was hoped to submit all of this information at one time in an up-to-date format with a comprehensive supporting statement addressing all of the issues arising together, including the resolution of farm ownership concerns. Therefore, was awaiting confirmation from the applicant's solicitor that the registration of the farm had been completed. Unfortunately for the reasons set out above, this has taken much longer than expected.

Mr Gourley advised that he had contacted the applicant's solicitor and requested that they send you a letter detailing the situation and the delays that have arisen. That letter should be with officers today. All supporting information can be submitted which has been collated to date if that would assist in the request for deferral of the application.

The SD: PI said that when a presentation is made by the Agent, there is a degree of complexity which provides him with no comfort what-so-ever that this would be resolved quickly. He said that it struck him that there was land brought through complexity, inheritance, probate and Land Registry is not going to resolve this because the bottom line is that Land Registry is not needed as it would be registered land and considered on that basis. He said that this was a debate that Mid Ulster District Council needed to have around June time as planning was coming down with deferred applications. Applications are coming in and all the relevant information is not there, resulting in deferrals after deferrals and at the moment there is approx. 270 deferred applications sitting. The SD: PI suggested a different approach and to withdraw the application, get it all sorted it out then resubmit an application again.

Mr Gourley said that he could fully understand the frustration here and fully agreed with Dr Boomer about deferrals and that the last thing Officers needed to see was files keeping emerging time and time again but felt that this was almost at the point of getting this issue resolved as all the relevant information has been submitted and possibly with an extension of another few months to get it resolved.

Councillor McKinney left the meeting at 8.20 pm.

Councillor Brown agreed with Mr Gourley that it would be beneficial to defer the application for a further 2 months and if all the relevant information has not been received by the deadline that a hard decision must be made then.

Councillor S McPeake enquired if the refusal reasons were solely down to the ownership of the application or was there other outstanding issues that would make it a recommendation for refusal anyhow. He felt if it all hinged on getting to the process where Mr Gourley wanted to then he would have some sympathy with that, but if there were other mitigating factors which was going to hold it up, then that would be a different matter and made it more complex.

The SD: PI said that the reality was that Officers could not acquire the information to make an assessment on the planning application, so there is no way of telling whether it would be approved or refused.

The SD: PI enquired from Mr Gourley if the application has been made with Land Registry.

Mr Gourley confirmed that the application has been made and it was his understanding that it was made approximately six months ago.

The SD: PI suspected that there was a backlog with Land Registry and could be working up to a year behind schedule. He said that he did not object to holding the application but was not content with the notion on what was occurring here where Agents are repeatedly making applications and expect Planners to hold on their books indefinitely. The SD: PI said that he would agree in this instance to hold the application but would suggest that when come June and elections are out of the way, that a workshop be set up for members on a way forward in relation to applications otherwise the process is going to jam up and would mean that those applications

which were relatively straight forward never got seen to as Officers were continually going around in circles.

Councillor McKinney returned to the meeting at 8.24 pm.

Councillor Corry said that it is stated within the report that Historic Environmental Division (HED) is concerned as this application is contrary to Policy BH 1 of PPS6 – Planning, Archaeology and the Built Heritage as it would have an unacceptable adverse impact upon the integrity of the setting of the adjacent Scheduled Monument.

In response to a query Mr Gourley had advised that there has been consultation with HED to relocating the modular dwelling.

The SD: PI advised that this would be a different planning application.

Mr Gourley said that he had submitted a layout previously regarding this. He confirmed that they were proposing to relocate the dwelling some distance away.

The SD: PI enquired how long the building had been up and what the application was for.

Mr Gourley advised that the building had been up 7 to 8 years at this stage.

Mr Marrion (SPO) advised the application was for a retention of the dwelling.

Councillor Cuthbertson enquired if this application was on the back of an enforcement notice on the Live Case List in front of members tonight.

The SD: PI said that this was his thinking also and was wondering what the real story was here.

The Chair advised that there has been already a proposal which was seconded put forward to hold the application for 2 months until all the relevant information was forthcoming and if the deadline is not met then a definite decision be made.

The SD: PI said that Mid Ulster Council always wanted to give everyone an opportunity to do things properly and it's clear that the applicant in this had not done this but would be happy to defer the application to try and join up the pieces in this instance.

Proposed by Councillor Brown
Seconded by Councillor Clarke and

Resolved That planning application LA09/2020/1380/F be deferred for 2 months for submission of additional information.

LA09/2021/0800/F Conversion of 2 existing terrace houses to 4 apartments with existing Boyne Row streetscape being unaltered 2 existing on street parking spaces to be reused with an

**additional 3 private parking spaces to the rear along with
shared private amenity space at 8-9 Boyne Row,
Castledawson for John Donnelly**

Members considered previously circulated report on planning application LA09/2021/0800/F which had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor D McPeake and

Resolved That planning application LA09/2021/0800/F be approved subject to conditions as per the officer's reports.

LA09/2021/0910/O Dwelling in an infill site at land 200m SW of 211 Ardboe Road, Moortown for Patrick Quinn

Mr Marrion (SPO) presented a report on planning application LA09/2021/0910/O advising that it was recommended for refusal.

The Chair said that it was his understanding that whilst looking at this before that footings of foundations do not count as infill.

Mr Marrion (SPO) agreed that infill policy stipulates that it must be buildings.

Councillor S McPeake said that he was a bit confused regarding settlement limits and it was his understanding that anything within the green line was the settlement limits which could not be used as an infill opportunity. Then, the SPO laboured on the fact there was footings and although took on the point it had to be buildings, referred to the fact if a building was there and another building beside it within the settlement limits, does this exclude it.

The SD: PI said that it was his understanding that there was a statement to the effect that you would not include it where it is taking the settlement limit.

Councillor S McPeake advised that this has been used before as an exception.

Mr Marrion updated members on the policy which indicated:

This Planning Policy Statement, PPS21 sets out planning policies for development in the countryside. For the purpose of this document the countryside is defined as land lying outside of settlement limits as identified in development plans. The provisions of this document will apply to all areas of Northern Ireland's countryside.

Councillor McFlynn enquired if there was any merit on arranging a site visit.

The SD: PI would take the view that if someone is disputing this that they always have an opportunity to go to planning appeal. He said that it was important that a decision be made.

Proposed by Councillor Mallaghan
Seconded by Councillor Cuthbertson and

Resolved That planning application LA09/2021/0910/O be refused.

LA09/2021/1547/F Winning & Working of Minerals (sand & gravel) across phases 1 to 3 only and over a temporary period of 7 years and 6 months. A new access to Knockmany Road, Internal Haul Road and landscaped earth berms, with progressive restoration to agriculture at a lower level (re-advertisement) at lands E & W of 53 Knockmany Road, Augher for Campbell Contracts Ltd

Members considered previously circulated report on planning application LA09/2021/1547/F which had a recommendation for approval.

Proposed by Councillor Glasgow
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2021/1547/F be approved subject to conditions as per the officer's reports.

LA09/2021/1615/F Replacement storage shed at rear of 245 Washingbay Road, Aughamullan, Coalisland for Mr Colin McCluskey

Members considered previously circulated report on planning application LA09/2021/1615/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor Corry and

Resolved That planning application LA09/2021/1615/F be approved subject to conditions as per the officer's reports.

LA09/2022/0285/O Dwelling on a farm adjacent and W of 81 Drumflugh Rd, Benburb, Dungannon for Stephen McKenna

Members considered previously circulated report on planning application LA09/2022/0285/O which had a recommendation for approval.

Proposed by Councillor Glasgow
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2022/0285/O be approved subject to conditions as per the officer's reports.

LA09/2022/0414/F Dwelling and domestic garage at 65m NE of 37 Liskittle Road, Tullagh Beg, Stewartstown for Mr Stephen Rodgers

Members considered previously circulated report on planning application LA09/2022/0414/F which had a recommendation for approval.

Proposed by Councillor Colvin
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2022/0414/F be approved subject to conditions as per the officer's reports.

LA09/2022/0686/O Dwelling at lands immediately W and adjacent to 115 Clonavaddy Road, Galbally, Dungannon for Blaine Nugent

Members considered previously circulated report on planning application LA09/2022/0686/O which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Corry and

Resolved That planning application LA09/2022/0686/O be approved subject to conditions as per the officer's reports.

LA09/2022/1112/F Replacement dwelling with attached garage and carport at 39 Drumaspil Road, Drumaspil, Dungannon, for Mr Lee McFarland

Members considered previously circulated report on planning application LA09/2022/1112/F which had a recommendation for approval.

Proposed by Councillor Glasgow
Seconded by Councillor McKinney and

Resolved That planning application LA09/2022/1112/F be approved subject to conditions as per the officer's reports.

Matters for Information

P028/23 Minutes of Planning Committee held on 7 February 2023

Members noted minutes of Planning Committee held on 7 February 2023.

Councillor D McPeake left at 8.40 pm.

P029/23 Receive Report on Northern Ireland Heritage Stakeholder Group Membership

Members noted update on Department for Communities, Historic Environment Division's request to reaffirm membership to the Historic Environment Stakeholder Group.

Live broadcast ended 8.41 pm.

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor McKinney
Seconded by Councillor Brown 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 P030/23 to P033/23.

Matters for Information

P030/23	Confidential Minutes of Planning Committee held on 7 February 2023
P031/23	Enforcement Cases Opened
P032/23	Enforcement Cases Closed
P033/23	Enforcement Live Case List

P034/23 Duration of Meeting

The meeting was called for 7 pm and concluded at 9.15 pm.

Chair _____

Date _____

Annex A – Introductory Remarks from the Chairperson

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

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

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

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

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

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