

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 6 December 2022 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)
Mr Bowman, Head of Strategic Planning (HSP)
Ms Doyle, Head of Local Planning (HLP)
Mr Marrion, Senior Planning Officer (SPO)
Ms McKinless, Senior Planning Officer (SPO)
Mr McClean, Senior Planning Officer (SPO)
Ms Scott, Council Solicitor
Miss Thompson, Democratic Services Officer

Others in Attendance

Councillor Gildernew***

LA09/2021/0800/F	Mr Kearney***
LA09/2021/1423/O	Mr Tinsley
	Ms Given***
LA09/2022/0605/F	Mr Murray
	Ms Given***

* 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

P144/22 Notice of Recording

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

P145/22 Apologies

None.

P146/22 Declarations of Interest

The Chair reminded members of their responsibility with regard to declarations of interest and declared his own interest in agenda item 6.1 – LA09/2020/0850/F.

Councillor Corry declared an interest in agenda item 5.21 - LA09/2022/0605/F.

P147/22 Chair's Business

The Service Director of Planning (SD: PI) drew Members attention to the addendum circulated and referred to the following therein –

A5 Western Transport Corridor – Consultation on Supplementary Information to the Environmental Statement – The SD: PI stated that to date the planning department have not been involved with the public inquiry related to Transport Corridor and did not propose making a response to the consultation.

Northern Ireland Housing Council – Lifetime Homes – The SD: PI stated he would acknowledge the correspondence and that the planning department would welcome working with them.

Northern Ireland Housing Executive – Research on Viability Assessment – The SD: PI proposed to write back and welcome the research and that Council would be willing to participate in such research but that it was felt the remit of the research could be widened.

Planning Appeal Decision – Motorsport activities, Drumearn Road, Cookstown – The SD: PL advised that the appeal was not successful and that the Enforcement Notice was upheld, with some amendments.

Planning Appeal Decision – Builders Yard, Dungannon Road, Cookstown – The SD: PI advised that this appeal did not succeed and that the Enforcement Notice stands, with some minor amendments.

DAERA Consultation – Consultation on afforestation at Lisnahoy/Coash, Dungannon – The SD: PI advised that the project did not give cause for concern and proposed responding to the consultation as outlined in the addendum.

The Chair, Councillor Mallaghan stated that to receive such a bulk of information at 5.30 pm just prior to a planning meeting is not ideal. The Chair stated that if the information is essential for the meeting it should be included in an addendum otherwise the information could be emailed out during the month or added to the agenda for the next meeting.

The SD: PI recognised the Chair's concern but unfortunately Council had been given limited time to respond to some of the consultations. He stated the information was before Members and if there were any issues they wished to raise they could bring them to his attention and he would see how they could be addressed in any response.

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

Agenda Item 5.10 - LA09/2022/0041/F - Farm shed for storage of farm machinery adjacent to existing farm building 139 Gulladuff Road, Bellaghy.

Agenda Item 5.11 – LA09/2022/0121/F - Retention of farm machinery and animal feed store at 55m N of 199 Glen Road, Maghera.

Agenda Item 5.12 – LA09/2022/0235/F - Farm dwelling and garage to supersede LA09/2017/0867/O at approx. 65m S of 130 Coolreaghs Road, Cookstown.

Agenda Item 5.17 – LA09/2022/0380/F - Dwelling and garage between 70B and 72 Gortlenaghan Road, Dungannon.

Agenda Item 5.23 – LA09/2022/0662/O - Dwelling and domestic garage at 95m SW of 6 Moss Road, Coagh, Cookstown.

Agenda Item 5.27 – LA09/2022/1112/F - Replacement dwelling with attached garage and carport at 39 Drumaspil Road, Drumaspil, Dungannon.

Proposed by Councillor S McPeake
Seconded by Councillor McFlynn and

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

Matters for Decision

P148/22 Planning Applications for Determination

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

LA09/2020/1156/F Carpark at approx. 5m S of 30 Coleraine Road, Maghera for Walsh's Hotel

Members considered previously circulated report on planning application LA09/2020/1156/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Bell and

Resolved That planning application LA09/2020/1156/F be approved subject to conditions as per the officer's report.

LA09/2020/1211/O Residential development comprising 38 units (comprising 24 semi-detached and 14 detached) open space, private amenity space, landscaping, access onto Moneymore Road and ancillary site works at lands at 93 Moneymore Road, Magherafelt for Mrs Julie Gray and Mrs Susan Roulston

Ms McKinless (SPO) presented a report on planning application LA09/2020/1211/O advising that it was recommended for approval. Ms McKinless referred to correspondence within addendum which was submitted on behalf of the applicant of an adjacent site which is currently under consideration. The letter seeks assurance

that the outcome of the application before Members tonight will not prejudice the ability of, or act as an impediment to, the zoned site to which their client has made an application. Ms McKinless stated that this relates to the access arrangements for both sites. Ms McKinless advised that the access arrangements have been agreed by both applicants and DfI Roads and that DfI Roads have stated that this is the only position at which both access points can exist without impacting on road safety and that they are agreeable in principle with the proposed location and stagger between to two access points and that there is no flexibility for any relocation of any of the indicated accesses.

Proposed by Councillor McFlynn
Seconded by Councillor McKinney and

Resolved That planning application LA09/2020/211/O be approved subject to conditions as per the officer's report.

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 site at 8-9 Boyne Row, Castledawson for John Donnelly

Ms McKinless (SPO) presented a report on planning application LA09/2021/0800/F 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 Kearney to address the committee.

Mr Kearney advised that the properties are currently both 3 bedroom properties and that the proposal is for 4 single bedroom apartments. Mr Kearney stated that the main issue is frontage onto a public road to which the applicant has opposed any changes. Mr Kearney advised that rear access is via public road which also provides access to a Council play park, pitches and numerous houses. This road extends to Davison Villas and is maintained by DfI street lighting which provides a safe access to anyone who wishes to use the car park at the rear of the property. Mr Kearney questioned how this is any different to a private road and a new development. Mr Kearney stated that the historic fabric of the property is important and that Boyne Row is seen as a high value architectural area. Mr Kearney stated there have been limitations due to the historic build of the property and that any proposed cuts or new openings would result in major structural works to which it would be cheaper to knock the building down and rebuild it which the applicant would be against. Mr Kearney referred to anti social behaviour in the area and advised that all the Boyne Row properties have their gardens covered therefore it was felt that a dual frontage will add protection and remove the blight of anti social behaviour. Mr Kearney stated that he did not believe the rear access should be an issue and that it has been done many times on other buildings and that there is a private access road with street lighting. Mr Kearney felt that if this was a new development then accesses could be obtained from the existing road.

The Service Director of Planning (SD: PI) stated that the agent referred a number of times in their presentation to beliefs and that the committee needs to look at the facts. The SD: PI referred to the claim that in order to provide access to the upper floor of the property the front of the properties would require major works. The SD: PI stated that both properties have a staircase going to the first floor and that access could easily be provided and that this is a better arrangement as people are entering and exiting the property from the street rather than going around the back of the property. The SD: PI asked the agent if they would like the Committee to make a decision on the application tonight or would he and his client like the opportunity to defer the application in order to rethink the internal layout of the application.

Mr Kearney stated he was agreeable for the application to be deferred for an office meeting.

Councillor S McPeake stated he felt a site visit may also be beneficial in order for Members to see for themselves the rear access arrangements to the properties and proposed that a site visit be arranged.

The SD: PI stated he had no objection to Members going on a site visit and that this would be facilitated however he did not get into negotiations with applicants/agents etc at such visits.

Councillor D McPeake seconded Councillor S McPeake's proposal.

The Chair, Councillor Mallaghan stated that it was being proposed that the application be deferred for an office meeting and site meeting.

The SD: PI stated that the situation could become tricky and suggested that the office meeting be held first and depending on the outcome of this a site meeting could then be arranged. The SD: PI highlighted that Members can also attend office meetings.

Councillor S McPeake stated he was content that the office meeting be held first but that the SD: PI seemed to be ruling out a rear entrance to the property.

The SD: PI stated that a back entrance was not a sensible way forward as it can lead to disturbance and anti social behaviour and is why policy exists as to why access should be to the front of the property although there may be some occasions when this is not feasible and every application should be determined on its merits.

Councillor S McPeake stated he would still like to see layout at the back of property.

The SD: PI stated he had no issue with Members viewing the site however he believed there was a sensible solution which will not be held against the Committee in the future and is in line with how other decisions are taken. The SD: PI stated that he was not discouraging development but felt access from the front would make a better property in the future.

Resolved That planning application LA09/2021/0800/F be deferred for a site visit and office meeting.

LA09/2021/0913/F Turbine with hub height 50m, blade diameter 52m at lands approx. 575m SE of 71 Rockdale Road, Sandholes, Dungannon for Mr Thomas Kelso

Members considered previously circulated report on planning application LA09/2021/0913/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Glasgow and

Resolved That planning application LA09/2021/0913/F be approved subject to conditions as per the officer's report.

LA09/2021/1010/RM Dwelling and detached domestic garage between 12A Drumconor Road and 15 Lisnagleer Road, Lisnagleer, Dungannon for David Craig

Members considered previously circulated report on planning application LA09/2021/1010/RM which had a recommendation for approval.

Proposed by Councillor Robinson
Seconded by Councillor Brown and

Resolved That planning application LA09/2021/1010/RM be approved subject to conditions as per the officer's report.

LA09/2021/1423/O Demolition of former dwelling and outbuildings and replacement with single dwelling and garage at 150m N of 17 Corvanaghan Road, Cookstown for Oliver McKenna

Mr Marrion (SPO) presented a report on planning application LA09/2021/1423/O advising that it was recommended for approval and referred to addendum which provided photographs related to the application.

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

Mr Tinsley stated he was a planning consultant at Quarryplan and that they are planning agents for P Keenan and that he was in attendance tonight to speak on the proximity of the proposal to a quarry extension application at Corvanaghan quarry which has been submitted to Council. Mr Tinsley stated that P Keenan is the main contractor to DfI Roads for asphalt resurfacing in Mid Ulster and that Corvanaghan quarry is the primary location for the company's production of asphalt. Mr Tinsley stated that P Keenan first made DoE aware of its intentions to extend Corvanaghan quarry in 2012 when they undertook an EIA scoping exercise and that these intentions were reaffirmed to Mid Ulster Council via representation to the Local Development Plan in 2019. Mr Tinsley stated that since making representations substantial information has been gathered as required by statutory consultees and preparing the planning application and EIA. Mr Tinsley advised that the quarry extension application was submitted in February 2021 and is now at an advanced stage, it was advised that P Keenan have spent in excess of £150k in order to get to

this point. Mr Tinsley stated that the application under consideration tonight was submitted 6 months after the quarry extension application was submitted. Mr Tinsley stated that his client did not object to the principle of a replacement dwelling and that it is accepted that the application accords with planning policy however the policy does allow for alternative positioning nearby where it would be of benefit. Mr Tinsley stated that an alternative positioning of the dwelling would be more beneficial to all parties rather than on the quarry extension boundary where it is currently proposed. Mr Tinsley stated that P Keenan have invested heavily in the planning process to date and are asking for fairness in regards to the timing of the replacement dwelling application which was submitted 6 months after the quarry extension application, the siting of the replacement dwelling and its proximity to the area of rock extraction.

Ms Given stated she was supportive of the officer recommendation which is for a replacement dwelling and meets principles of policy CTY3. Ms Given stated that the application not only meets policy but has been assessed in relation to the surrounding landscape, the neighbouring quarry and natural heritage and has been found to be acceptable. In terms of the presence of the existing quarry, environmental health have stated no objection and the proposed dwelling would have no impact to the continuing operation of the quarry. Ms Given stated that this application was ready for approval in May 2022 but was not brought to Committee due to the objection received. Ms Given stated that the objection relates to due regard being taken for the undecided application for extension to the neighbouring quarry. Ms Given stated that the quarry extension application is still going through the planning process and that it should not be a determining material consideration to this application. Ms Given stated that the application tonight is ready for a decision to be taken and should not be held until the quarry extension application is decided as to do so would compromise Council's impartiality and prejudice her client. Ms Given stated that the planning team have assessed the objections raised and that the recommendation now is all the more robust. Ms Given stated that the application has been in the system for 14 months and that the client has been waiting on a decision being taken so they can proceed with reserved matters. Ms Given stated that the application is for an in curtilage dwelling and that planning have found this acceptable and there is nothing to stop Members taking a decision tonight. Ms Given stated that it is not for a third party to suggest that the applicant provide an alternative site. Ms Given stated that the application should be judged on its own merits and that in terms of fairness she did not feel it mattered what investment the quarry owners have put into their application. Ms Given stated that the quarry extension application is still under consideration and should have no impact in terms of the decision being taken tonight.

The Service Director of Planning (SD: PI) stated there seemed to be a view by both parties that they cannot take each other into consideration and he advised that this is not true. The SD: PI stated that the application for quarry extension was submitted first and is a material consideration in relation to the dwelling. Equally the dwelling is a material consideration to determining the quarry extension application. The SD: PI asked Ms Given if her client had made objection in relation to the quarry.

Ms Given advised that her client has submitted an objection but that this should not be material to the Committee taking a decision on the application before them.

The SD: PI stated it was for the Committee to decide to what extent it is a material consideration. The SD: PI asked if there was anything to stop someone moving into the dwelling as it exists currently.

Ms Given stated there would be works required to the dwelling to make it habitable.

The SD: PI asked if the dwelling has been abandoned in the legal sense.

Ms Given stated in her view abandonment was not a policy issue within CTY3 which makes no judgement on whether a dwelling is abandoned or not.

The SD: PI stated that he asked the question in a legal term and not a policy term. The SD: PI stated that abandonment is a consideration. He asked again whether the dwelling had been abandoned, and asked Ms Given to give a yes or no answer. Ms Given stated no. The SD: PI asked if the officer took the view that the dwelling, with adaptations, could be lived in.

Mr Marrion stated that if someone wanted to live in the property as exists then it could be adapted but that it may not be up to standards.

The SD: PI stated that one of the key tests of abandonment is intention. The SD: PI stated there is currently a dwelling on site and whether this is adapted or replaced it did not change the situation that someone could live there and based on the answer given it would seem the intention was not to abandon the dwelling. The SD: PI referred to consultations with HSE in relation to the quarry extension application and asked what their view is in relation to the quarry and existing dwelling.

The Head of Strategic Planning (HSP) advised that Council have consulted with HSE and that they state they have no objection to the quarry extension application. HSE were also consulted in relation to the application before Members tonight and have stated that if the Committee are minded to approve the application then they would request a condition is applied to the quarry extension in that there should be no blasting within 100m of the dwelling once constructed and occupied.

The SD: PI asked if such a condition would impact the quarry significantly.

The HSP advised that up to the gravel extraction area appeared to be 60m and there was another 20-30m to the hard rock extraction area so there would be some impact on the ability to blast within that part of the extension area of the quarry.

The SD: PI stated that the situation was complicated and there is an issue for the two parties to work out a sensible way forward between them. The SD: PI stated he was prepared to facilitate a meeting between the two parties to discuss a sensible way forward otherwise both parties will be in dispute which will end up being costly. The SD: PI asked if both parties would be willing to meet.

The Chair, Councillor Mallaghan stated that the Committee would return to this application when both parties had an answer as to whether they wanted to meet.

LA09/2021/1686/O Residential development of five dwellings, a private roadway and ancillary development at lands approx. 30m NE of 22 Littlebridge Road, Drummullan for Mr D Howard

Members considered previously circulated report on planning application LA09/2021/1686/O which had a recommendation for approval.

Councillor Bell stated there were objectors to this application in relation to over development and overlooking and asked if these objections had been considered.

Ms McKinless advised that seven objection letters were submitted in relation to this application and that the objections related to – land ownership issues, road safety issues, increase in density of homes along private laneway, dwellings would change character of rural setting and impact on natural light and privacy. Ms McKinless advised that this is an outline application and that exact details on design, layout and massing are not available. Ms McKinless advised that a concept plan was submitted which provides an indicative layout and from this it was considered that the addition of five dwellings on the site will have no detrimental impact in terms of residential amenity in terms of overlooking or loss of privacy however the final layout and design will be determined and window placement will be considered under reserved matters.

Councillor Bell stated that the report advises that the application site is within the settlement limits of Cookstown. Councillor Bell stated that the application site is outside of Drummullan but that he was not aware that there were other settlement limits outside of the village.

Ms McKinless advised that this site is located within the settlement limits of Drummullan and that there was a typo error within the report.

Proposed by Councillor McKinney
Seconded by Councillor Glasgow and

Resolved That planning application LA09/2021/1686/O be approved subject to conditions as per the officer's report.

LA09/2022/0027/F Residential development of 7 dwellings (5 detached and 2 semi-detached) with associated garden amenities and garages. (H/2009/0275/F amended description and plans) at land opposite 55-57 Sixtowns Road, Straw, Draperstown for O'Kane Developments NI Ltd

Members considered previously circulated report on planning application LA09/2022/0027/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Clarke and

Resolved That planning application LA09/2022/0027/F be approved subject to conditions as per the officer's report.

LA09/2022/0040/F Change of house type on 8 sites (approved LA09/2018/1551/F) at land E of 44 Moy Road, Mullaghnaugh, Dungannon for Mr Neil Badger F P McCann

Members considered previously circulated report on planning application LA09/2022/0040/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2022/0040/F be approved subject to conditions as per the officer's report.

LA09/2022/0041/F Farm shed for storage of farm machinery adjacent to existing farm building 139 Gulladuff Road, Bellaghy for Mr Paul McCorry

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

LA09/2022/0121/F Retention of farm machinery and animal feed store at 55m N of 199 Glen Road, Maghera for Mr John O'Kane

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

LA09/2022/0235/F Farm dwelling and garage to supersede LA09/2017/0867/O at approx. 65m S of 130 Coolreaghs Road, Cookstown for Mr K Black

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

LA09/2022/0287/LBC Conversion of existing barn outbuildings to provide living accommodation over 2 storeys at 23-23A Main Street, Caledon for John Hassard

LA09/2022/0288/F Conversion of existing barn outbuildings to provide living accommodation over 2 storeys at 23-23A Main Street, Caledon for John Hassard

Members considered previously circulated reports on planning applications LA09/2022/0287/LBC and LA09/2022/0288/F which both had a recommendation for approval.

Proposed by Councillor Robinson
Seconded by Councillor S McPeake and

Resolved That planning applications LA09/2022/0287/LBC and LA09/2022/0288/F both be approved subject to conditions as per the officer's report.

LA09/2022/0349/RM Dwelling and garage at 90m SE of 2 Scribe Road, Bellaghy for Mr Paul Scullion

LA09/2022/0355/RM Dwelling and garage at 20m SE of 2 Scribe Road, Bellaghy for Mr Paul Scullion

Members considered previously circulated reports on planning applications LA09/2022/0349/RM and LA09/2022/0355/RM which both had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor D McPeake and

Resolved That planning applications LA09/2022/0349/RM and LA09/2022/0355/RM both be approved subject to conditions as per the officer's report.

LA09/2022/0380/F Dwelling and garage between 70B and 72 Gortlenaghan Road, Dungannon for Joe Doherty and Dervla McGonnell-Doherty

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

LA09/2022/0443/F 1 storage unit at 83 Sixtowns Road, Straw, Draperstown for Pat McNamee

Members considered previously circulated report on planning application LA09/2022/0443/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McKinney and

Resolved That planning application LA09/2022/0443/F be approved subject to conditions as per the officer's report.

LA09/2022/0444/F Change of use from offices to child care facilities at Sperrin House, 43 Queens Avenue, Magherafelt for Galgorm Developments Ltd

Members considered previously circulated report on planning application LA09/2022/0444/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Robinson and

Resolved That planning application LA09/2022/0444/F be approved subject to conditions as per the officer's report.

**LA09/2022/0603/F Dwelling at 53M SE of 10 Lisgorgan Lane, Upperlands,
Maghera for William Drennan**

Members considered previously circulated report on planning application LA09/2022/0603/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Robinson and

Resolved That planning application LA09/2022/0603/F be approved subject to conditions as per the officer's report.

LA09/2022/0605/F Remove Condition No.5 of LA09/2019/0944/F to retain infill dwelling and garage between 90 and 92 Iniscarn Road, Desertmartin and new access laneway 130m west from the junction of Iniscarn Road/ Gortahurk Road, existing access onto Iniscarn Road to be permanently closed at 90A Iniscarn Road, Desertmartin for Paul Bradley

Ms Doyle (Head of Local Planning) presented a report on planning application LA09/2022/0605/F advising that it was recommended for refusal. The HLP also highlighted addendum which included some additional information.

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

Mr Murray referred to the request for deferral and stated he did not want to waste his speaking opportunity now if a deferral was going to be granted.

The Service Director of Planning stated there was a request for deferral however the reality of this situation is that there was a decision previously taken by the Committee to allow a dwelling on condition that be culverted. The SD: PI stated that the Committee can listen to the points made tonight and then take a decision on how it wants to move forward. The SD: PI advised that if Mr Murray wanted to put forward his view now was the time to do it.

Mr Murray stated it was evident that the applicant cannot meet the criteria set out in policy FLD4 and despite submitting reports also cannot demonstrate why the culvert should remain in situ. Mr Murray stated that if the culvert should be removed the applicant claims that there will be subsidence to his house as it is 7m from the culvert. Mr Murray advised that his own home was located 3m from the culvert and having lived there for 25 years he has experienced no such trouble. Mr Murray referred to the claim from the applicant that there is sewerage in the culvert and advised that a report he submitted from NIEA states that this is no longer the case. Mr Murray stated the applicant claims there is rat infestation, smell and risk of weill's disease. Mr Murray stated that the site is regularly used as a farm and activities such as liking sheep, keeping calves, poultry and having holding pens along with dogs roaming freely is where the smell emanates. Mr Murray referred to concerns raised by the applicant in relation to health and safety and a drowning hazard yet the applicant himself has constructed a tree hut and swing for his children which is located beside a fast flowing river. Mr Murray referred to the petition of support

submitted by the applicant today which he felt is irrelevant and that none of those who have signed the petition have been directly affected by the flooding. Mr Murray stated that the only thing that is clear that those having signed the petition find it acceptable that his home remains a flood risk. Mr Murray stated that the latest report submitted by Ms Given is misleading and inaccurate particularly with regards to correspondence from Dfl Rivers. Mr Murray stated that Dfl Rivers have issued a schedule 6 permission which is nothing to do with the culvert or this planning application. Mr Murray stated that Dfl Rivers are the statutory consultee with regards to planning and flood risk and that their response is clear – that this culvert does not comply with planning policy FLD4. Mr Murray stated that Ms Given's report uses words such as 'unreasonable' 'unnecessary' and 'unenforceable' and it is his belief that it is reasonable to want to live in peace in his family home and not have to worry about flooding. Mr Murray stated it is necessary for the applicant to adhere to planning policy FLD4 and that this condition is enforceable. Mr Murray stated he stood before the committee 16 months ago and agreed with what he felt was a fair compromise in that the applicant keeps his dwelling intact and that flooding issue is sorted by means of removing the culvert. Mr Murray stated that the applicant has been advised he must remove the culvert and has ignored all advice and instruction from this planning authority. Mr Murray felt it was now time to act decisively and make a clear statement of intent and that planning conditions are put in place for a reason in order to adhere to planning policy and protect his own family amenity.

Ms Given stated that the reason for refusal would be legitimate if the Council had granted a planning permission for a culvert however that was not the case as the previous planning permission was for a house, garage and access and the question is why existing pipework over a drain must be removed in order make the house, garage and access acceptable. Ms Given stated that the purpose of a planning condition is to ensure that development that might be considered unacceptable is made acceptable and that conditions should meet legal tests. Ms Given stated that it is being requested that condition 5 be removed as it is not necessary nor is it relevant to the development that is granted. Ms Given referred to the report and reference to policy FLD4 which is concerned with the modification of a watercourse and as an operation the piping of the drain would engage that policy but that is the case regardless of whether planning permission is sought for the house or not. Ms Given stated that the building of the house does not cause the pipework to be contrary to policy FLD4. Ms Given stated that the house, garage and access have been found to be acceptable under all of the relevant planning policies and the fact that a drain along the site of the property has been culverted does not make the property any less acceptable to planning. Ms Given stated it was not her view that the pipework should be removed in order for the house, garage and access to remain and that the report states that culverting is contrary to policy in its own right, not because of the construction of a dwelling and garage. Ms Given stated that the condition requiring the removal of the pipework is unnecessary and unrelated to the planning permission for the grant of the dwelling. Ms Given stated that it appears that in applying the condition Council is trying to enforce against the culvert however she did not feel this is an appropriate use of a planning condition under the Planning Act. Ms Given stated that should Council wish to enforce against development which it thinks is unauthorised then the correct route is to issue an enforcement notice. Ms Given stated she did not believe the condition is relevant to the grant of planning permission for a house, garage and access and questioned whether it

made a difference if the culvert is there or not and that the condition could be safely removed.

The SD: PI stated he was not content to offer a deferral on this application as the debate has already been had on a previous occasion. The SD: PI stated that Members would recall at that meeting that he had felt it was a bit harsh that the applicant could lose their house because of a drain when a ditch could be put in and this was felt to be a sensible solution. The SD: PI stated that that applicant did not raise issue at the meeting with putting a ditch in and that there are forums if someone is not happy with a condition and that is a planning appeal. The SD: PI stated that if someone does not meet a condition there are also forums and that is the courts. The SD: PI stated that Council made its view clear at the time and that the applicant has had ample opportunity in the intervening period to lodge a planning appeal but equally given the passage of time action could be taken against the applicant for failing to meet the condition to remove the culvert. The SD: PI stated he had heard nothing tonight which changes his view of the situation.

Councillor McFlynn stated that this matter has been discussed previously on several occasions, that it has been deferred, enforcement action has been taken and that this cant keep going on. Councillor McFlynn stated that there was a recommendation to refuse the application and that she was happy to propose the recommendation as she felt the Murray family have been through enough.

Councillor Brown seconded Councillor McFlynn's proposal.

Resolved That planning application LA09/2022/0605/F be refused on grounds stated in the officer's report.

LA09/2022/0675/F Glamping Pods (6 units), parking, landscaping and access at lands approx. 100m W of 85 Deerpark Road, Bellaghy, for Genmark Developments Ltd

Members considered previously circulated report on planning application LA09/2022/0675/F which had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor D McPeake and

Resolved That planning application LA09/2022/0675/F be approved subject to conditions as per the officer's report.

LA09/2022/0662/O Dwelling and domestic garage at 95m SW of 6 Moss Road, Coagh, Cookstown for Ryan McGuckin

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

LA09/2022/0674/F 2 storey dwelling and double garage at site approx. 30m SW of 9A Ballymoghlan Lane, Magherafelt for John Donaghy

LA09/2022/0676/F 2 storey dwelling and double garage at approx. 40m SE of 9 Ballymoghlan Lane, Magherafelt for John Donaghy

Members considered previously circulated reports on planning applications LA09/2022/0674/F and LA09/2022/0676/F which both had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn and

Resolved That planning applications LA09/2022/0674/F and LA09/2022/0676/F both be approved subject to conditions as per the officer's report.

LA09/2022/1012/F Alterations and extensions to existing offices at Sperrin House, 43 Queens Avenue, Magherafelt, for Galgorm Developments Ltd

Members considered previously circulated report on planning application LA09/2022/1012/F which had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor Mallaghan and

Resolved That planning application LA09/2022/1012/F be approved subject to conditions as per the officer's report.

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

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

LA09/2022/1183/O Site for dwelling on a farm at 250m NE of 19 Derrylattinee Road, Dungannon for Caolan Gildernew

Members considered previously circulated report on planning application LA09/2022/1183/O which had a recommendation for approval.

The Service Director of Planning advised that a late objection had been received and asked that time be allowed for further consideration of the application.

Councillor S McPeake asked what the nature of the objection is.

The SD: PI advised that the objection is contained within the addendum but stated that there could be a flaw in that in making the assessment officers have wrongly assumed that the house behind the site is related to the farm and it isn't.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2022/1183/O be withdrawn from tonight's schedule in order to further consider the application.

LA09/2022/1307/F Development of Derrynoyd Forest including upgrade of existing trail network (approx. 5km) to multi-use trails and drainage as required. Layout and increase, as necessary, car and bicycle parking, road passing points etc. Creation of a carpark for horse riding access within the main forest block. Develop an orienteering trail to include survey and map way- marking, signage, interpretation, visitor monitoring and associated furniture. Site storage at Derrynoyd Forest, Draperstown for Mr Johnny McNeill

Councillors Bell, Black, Brown, Clarke, Colvin, Corry, Cuthbertson, Glasgow, Mallaghan, Martin, McFlynn, McKinney, D McPeake, S McPeake, Quinn and Robinson declared an interest in the application.

Members considered previously circulated report on planning application LA09/2022/1307/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2022/1307/F be approved subject to conditions as per the officer's report.

LA09/2022/1308/F Development of Drumcairne Forest (total site 70 ha) will be completed in Phases. Phase 1 in the development of the site will include the restoration of two-looped way-marked trails as multi-use trails, approx. 1.5km & 3.25km, formal layout of car and bicycle parking, road passing points etc. Vegetation clearance to reveal the former features of the terrace gardens, outline of the ponds and associated surveys. Way-marking, signage, interpretation, visitor monitoring and associated furniture at Drumcairne Forest, Stewartstown, Dungannon for Mr Johnny McNeill

Councillors Bell, Black, Brown, Clarke, Colvin, Corry, Cuthbertson, Glasgow, Mallaghan, Martin, McFlynn, McKinney, D McPeake, S McPeake, Quinn and Robinson declared an interest in the application.

Members considered previously circulated report on planning application LA09/2022/1308/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2022/1308/F be approved subject to conditions as per the officer's report.

LA09/2022/1440/F Amended access arrangements to serve dwelling approved under LA09/2021/0640/F (access point onto Aughrim Road remains unchanged) at lands W of 60 Aughrim Road, Magherafelt for Mr and Mrs J McKenna

Members considered previously circulated report on planning application LA09/2022/1440/F which had a recommendation for approval.

Proposed by Councillor D McPeake
Seconded by Councillor Clarke and

Resolved That planning application LA09/2022/1440/F be approved subject to conditions as per the officer's report.

LA09/2022/1487/F Extension and alteration to dwelling at 33 Desertmartin Road, Moneymore for Mr Gregory and Miranda Stewart

Members considered previously circulated report on planning application LA09/2022/1487/F which had a recommendation for approval.

Proposed by Councillor Robinson
Seconded by Councillor Brown and

Resolved That planning application LA09/2022/1487/F be approved subject to conditions as per the officer's report.

LA09/2022/1500/F Application under Section 54 of the Planning Act (NI) 2011 to remove condition No.3 of LA09/2019/0597/O on lands to rear of 110 Bush Road, Dungannon for Silverford Property Ltd

Members considered previously circulated report on planning application LA09/2022/1500/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor S McPeake and

Resolved That planning application LA09/2022/1500/F be approved subject to conditions as per the officer's report.

**Continuation of
LA09/2021/1423/O Demolition of former dwelling and outbuildings and replacement with single dwelling and garage at 150m N of 17 Corvanaghan Road, Cookstown for Oliver McKenna**

The Chair, Councillor Mallaghan asked if both agents had opportunity speak to their clients.

Mr Tinsley thanked the Service Director of Planning for the offer but that his client was not prepared to meet the other party.

The SD: PI stated that both parties needed to be willing to meet.

Councillor Glasgow proposed the recommendation to approve the application.

Councillor McFlynn seconded Councillor Glasgow's proposal.

Resolved That planning application LA09/2021/1423/O be approved subject to conditions as per the officer's report.

The Chair, Councillor Mallaghan advised that agenda items 6.2 – LA09/2020/1630/O and 6.6 - LA09/2021/1751/O were being withdrawn from tonight's schedule in order to give further consideration to the applications.

Proposed by Councillor D McPeake
Seconded by Councillor McFlynn and

Resolved That planning applications LA09/2020/1630/O and LA09/2021/1751/O be withdrawn from tonight's agenda to allow for further consideration.

The Chair, Councillor Mallaghan referred to his earlier declaration of interest in the following application and withdrew from the Chair to the public gallery.

The Deputy Chair, Councillor Brown took the Chair.

LA09/2020/0850/F Agri food processing unit housed within a portal framed building with weighbridge, car parking, HGV turning and parking, treatment plant and concrete yard with gates entrance at 140m NE of 21 Sandholes Road, Cookstown for Wesley Hamilton

Members considered previously circulated report on planning application LA09/2020/0850/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Glasgow and

Resolved That planning application LA09/2020/0850/F be approved subject to conditions as per the officer's report.

Councillor Mallaghan retook the Chair.

LA09/2020/1630/O Farm Dwelling and Garage at 200m NE of 51 Gulladuff Road, Magherafelt for Mr Eoin Patrick Bennett

Agreed that the application be withdrawn from tonight's schedule in order to further consider the application.

LA09/2021/0507/O Site for dwelling and garage at approx. 50m NE of 73 Reenaderry Road, Derrytresk, Coalisland for Mr Thomas Hagan

Members considered previously circulated report on planning application LA09/2021/0507/O which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor D McPeake and

Resolved That planning application LA09/2021/0507/O be approved subject to conditions as per the officer's report.

LA09/2021/0885/O Site for dwelling and domestic garage at 30m W of 102 Craigadick Road, Maghera for Mrs Sharon Crooks

Members considered previously circulated report on planning application LA09/2021/0885/O which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Robinson and

Resolved That planning application LA09/2021/0885/O be approved subject to conditions as per the officer's report.

LA09/2021/1425/F Dwelling and domestic garage at approx. 140m SW of 93A Ballynagarve Road, Magherafelt for Mr Darren McIvor

Members considered previously circulated report on planning application LA09/2021/1425/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor D McPeake and

Resolved That planning application LA09/2021/1425/F be approved subject to conditions as per the officer's report.

LA09/2021/1751/O Dwelling as part of a cluster at lands SW of 46&46A and NW of 44 Annaghmore Road, Castledawson for Frances Taylor

Agreed that the application be withdrawn from tonight's schedule in order to further consider the application.

LA09/2022/0685/O 2 storey dwelling and garage at an existing cluster to rear of 68 Drumconvis Road, Coagh for Frances Harkness

Ms McKinless (SPO) presented a report on planning application LA09/2022/0685/O advising that it was recommended for refusal.

The Chair, Councillor Mallaghan felt a site visit may be appropriate for this application and proposed same.

Councillor McKinney seconded Councillor Mallaghan's proposal.

Resolved That planning application LA09/2022/0685/O be deferred for a site visit.

P149/22 Receive Report on Validation Checklist Consultation

The Head of Strategic Planning (HSP) presented previously circulated report which advised Members that DFI have initiated a consultation process on its plans to introduce Statutory 'validation checklists' with the aim of improving the quality and completeness of planning applications coming into the system.

Councillor S McPeake felt that the proposal to introduce a checklist is a good idea and that something needs to be done as it is currently too easy to submit an application and then protract the process regarding what is required however he stated that there was a need to strike a balance and not make things overly cumbersome. Councillor S McPeake proposed the response outlined in the report and appendix.

Councillor McKinney seconded Councillor S McPeake's proposal and there was a need for people to do their homework before submitting an application.

The Service Director of Planning stated that a checklist may speed things up in terms of statistics and time however it will not speed up the time from initiating a project to the time starting on site. The SD: PI stated that the checklist will give a person an idea of what money they will need to spend on assessments etc prior to paying a planning fee for the assessment of the application.

Resolved That it be recommended to Council to accept the recommended responses as indicated at paragraph 3.8 of report and as completed in the Public Consultation paper as per appendix and that a reply to this consultation is issued to the Department by the 6th January 2023 confirming this position.

Matters for Information

P150/22 Minutes of Planning Committee held on 1 November 2022

Members noted minutes of Planning Committee held on 1 November 2022.

Live broadcast ended at 8.45 pm.

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Brown
Seconded by Councillor McFlynn 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 P151/22 to P155/22.

Matters for Decision

P151/22 Receive Enforcement Report

Matters for Information

P152/22 Confidential Minutes of Planning Committee held on 1 November 2022

P153/22 Enforcement Live Case List

P154/22 Enforcement Cases Opened

P155/22 Enforcement Cases Closed

P156/22 Duration of Meeting

The meeting was called for 7 pm and concluded at 9.18 pm.

Chair _____

Date _____

Annex A – Introductory Remarks from the Chairperson

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

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

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

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

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

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



ADDENDUM TO PLANNING COMMITTEE AGENDA

FOR PLANNING COMMITTEE MEETING ON: 6 December 2022

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

- **A5 Western Transport Corridor - Consultation on Supplementary Information to the Environmental Statement**
- **Correspondence Re Lifetime Homes**
- **Response to NIHE Re Research on Viability Assessment**
- **PAC Decision – Motorsports Drumearn Road Cookstown**
- **PAC Decision – Builders Yard Dungannon Road Cookstown**
- **DAERA Consultation re Afforestation Lisahoy/Coash**

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
5.2	Correspondence about access to adjacent zoned site	Members to note
5.6	Report with photographs	Members to note
5.21	Support information from applicant	Members to note
5.28	Letter of objection	Application to be deferred for further consideration considering objection received.
6.6	Applicant proposes to amend the application for consideration of a farm dwelling case	Application is withdrawn from the December schedule for further consideration

In confidential business: Updated report on LA09/2019/0111/CA