

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

Members Present

Councillor Black, Chair

Councillors Bell, Brown, Clarke*, Colvin, Corry*, Cuthbertson*, Glasgow, Mallaghan (7.22 pm), Martin*, McFlynn, McKinney, D McPeake, S McPeake, Quinn*

Officers in Attendance

Dr Boomer, Service Director of Planning
Mr Bowman, Head of Development Management
Ms Donnelly, Council Solicitor
Ms Doyle, Senior Planning Officer
Mr Marrion, Senior Planning Officer
Mr McClean**, Senior Planning Officer
Mr Stewart, Senior Planning Officer
Mrs Grogan, Democratic Services Officer

Others in Attendance

Councillor N McAleer***
Councillor Milne***
Councillor Gildernew***.

LA09/2020/0839/F – Councillor D Molloy*
LA09/2020/0839/F – Conor McGirr*
LA09/2021/0015/F – Conor McGirr*
LA09/2021/0492/F – Joe Diamond*
LA09/2021/0625/F – Councillor D Molloy*
LA09/2021/1182/F – Marian Duffy
LA09/2021/1182/F – Sheila Curtin and Richard Angus*
LA09/2020/1119/O – Councillor B McGuigan*

* 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

P161/21 Apologies

Councillor Robinson.

P162/21 Declarations of Interest

Councillor Glasgow declared an interest in agenda items 5.9 - LA09/2021/0146/O and 5.11 – LA09/2021/0495/O. He advised that he would be speaking on agenda item 5.9 – LA09/2021/0146/O on behalf of the objector.

Councillor Martin declared an interest in agenda item 5.1 – LA09/2020/0446/F

Councillor S McPeake declared an interest in agenda item 5.4 – LA09/2020/111/O.

P163/21 Chair's Business

The Service Director of Planning advised that he wished to raise a few matters. Firstly, he said that members may recall at the last meeting he had indicated that he had written to Roads Service as he was concerned about the delay in them responding particularly to major planning applications and was concerned at the lack of commitment provided in the response. He said that Council were also trying to get things moving in regards to NIEA, particularly in regards to agricultural projectors. He advised that there was a problem in relation to getting NIEA to respond in relation to habitat assessments and their screening and drew members attention of the correspondence between the Shared Environment Service and DAERA, He advised that until such time as new guidance was resolved on ammonia nitrate he foresaw that delays would continue. In order to track progress on these projects a list of applications for intensive animal houses were pulled out for Dungannon and Magherafelt based team which will be monitored.

He referred to last committee meeting where members recalled the Minister withdrawing the Planning Advice Note and it was agreed that he would write back to the Minister thanking him for doing it and using the opportunity to promote Mid Ulster's Area Plan indicating the way that new policy should be brought forward and to ask what was happening to our plan as it has been submitted to the Department over 5 months old. He advised that the only response received back was that someone may be contacting him seeking clarification which hasn't been the case. He advised members that he had further written to the Department and these letters were included in the addendum. He stated that there was no other option but to sit and wait and was concerned as it was now 6 months without word on the Plan.

The Service Director of Planning referred to the public enquiry in relation to Upperlands and said that the Council's position was not to prevent development but was to ensure that any approval did not impact on the allocations for housing elsewhere in the district. He was disappointed with the response of the Department's Barrister who said Mid Ulster Council would be forced to change its allocations in order to provide for this. The Service Director of Planning said he felt was inappropriate and didn't necessarily follow what had happened in relation to other plans.

The Service Director of Planning said that before the committee goes through the normal deferrals he drew members' attention to agenda item 4.8 and 4.9 and said that late representations had been received which hadn't been considered in the report for the nature of those objections and felt that it would be appropriate to remove them from

tonight's schedule to allow Officers time to consider them and advise members appropriately at the next committee meeting.

The Service Director of Planning referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred/withdrawn from tonight's meeting schedule for an office meeting –

Agenda Item 4.1 – LA09/2019/0561/F - Change of Use from Agricultural Storage to External Storage of Raw Materials and Parking at Lands 55m SE of 72 Ballybeg Road, Coalisland for Paul McAliskey

Agenda Item 4.4 – LA09/2020/0908/O - Dwelling and Garage at 25m NE of 68 Hillhead Road, Toomebridge for Mr Damian Barton

Agenda Item 4.5 – LA09/2020/1107/F - Change of Use of Proposed Car Sales Yard at approx. 25m NW of 60A Ballyronan Road, Magherafelt for Mr Joe Bateson

Agenda Item 4.6 – LA09/2020/1630/O - Farm Dwelling and Garage 200m NE of 51 Gulladuff Road, Magherafelt for Mr Eoin Patrick Bennett

Agenda Item 4.8 – LA09/2021/0090/F - Replacement Access Laneway to Dwelling at 37 Mullybrannon Road, Dungannon for Farasha Properties Ltd (withdrawn)

Agenda Item 4.9 – LA09/2021/0091/F - Dwelling and Garage (Amended Access and Additional Landscaping) at 150m SW of 35 Mullybrannon Road, Dungannon for Farasha Properties Ltd (withdrawn)

Agenda Item 4.11 – LA09/2021/0341/F - New Site Access at 36 Granville Road, Dungannon Farasha Properties Ltd

Agenda Item 4.15 – LA09/2021/0506/F - Single storey dwelling on a farm with conversion and reuse of existing byre and upgrade of existing access 45m SE of 83 Derryloughan Road Coalisland for Christopher McCann

Agenda Item 4.16 – LA09/2021/0507/O - Site for dwelling and garage at approx 50m NE of 73 Reenaderry Road Derrytresk Coalisland for Mr Thomas Hagan

Agenda Item 4.18 – LA09/2021/0599/O - 2 Infill Detached Dwellings with Detached Garages, Shared Access onto Rogully Road and Landscaping adjacent and NW of 6 Rogully Road, Loup, Moneymore for Ashling McNicholl

Agenda Item 4.20 – LA09/2021/0625/F - Off Site Replacement Dwelling and Domestic Double Garage at approx. 126m NW of 59 Lurgaboy Lane, Dungannon for Mr Joseph Mallon

Agenda Item 4.24 – LA09/2021/1276/O – Dwelling 35m NW of 270 Killyman Road, Dungannon for Mr Paul Cranston

The Service Director of Planning drew attention to Agenda Item 4.23 – LA09/2021/1182/F – Retention of farm and factory shop and associated works approx. 70m NE of 70 Drumgrannon Road, Dungannon for George Troughton and said that he

was leaving it up to members to decide the outcome of the application when they come to that item.

Proposed by Councillor McKinney
Seconded by Councillor McFlynn and

Resolved That the planning applications listed above be deferred for an office meeting/held for further information/withdrawn from agenda as outlined.

Matters for Decision

P164/21 Planning Applications for Determination

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

LA09/2019/0561/F Change of Use from Agricultural Storage to External Storage of Raw Materials and Parking at Lands 55m SE of 72 Ballybeg Road, Coalisland for Paul McAliskey

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

LA09/2019/0872/F Replacement Dwelling and Garage 71 Stewartstown Road, Coalisland for Patrick O'Farrell

Members considered previously circulated report on planning application LA09/2019/0872/F which had a recommendation for approval.

Proposed by Councillor Colvin
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2019/0872/F be approved subject to conditions as per the officer's report.

LA09/2020/0839/F 49 Social Housing Units, Associated Site Works and Landscaping at lands 62m SW of 5 Old Eglis Road, Dungannon for Newpark Developments (NW) Ltd

Members considered previously circulated report on planning application LA09/2020/0839/F which had a recommendation for approval.

Proposed by Councillor Glasgow
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2020/0839/F be approved subject to conditions as per the officer's report.

LA09/2020/0908/O Dwelling and Garage at 25m NE of 68 Hillhead Road, Toomebridge for Mr Damian Barton

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

LA09/2020/1107/F Change of Use of Proposed Car Sales Yard at approx. 25m NW of 60A Ballyronan Road, Magherafelt for Mr Joe Bateson

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

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

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

LA09/2021/0015/F 15 No. CAT1 (active elderly) Apartments with associated Car Parking and Landscaping at Lands to the Side and Rear of 52 Ballyronan Road, Magherafelt for T and M Scullion Ltd

Members considered previously circulated report on planning application LA09/2021/0015/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Clarke and

Resolved That planning application LA09/2021/0015/F be approved subject to conditions as per the officer's report.

LA09/2021/0090/F Replacement Access Laneway to Dwelling at 37 Mullybrannon Road, Dungannon for Farasha Properties Ltd

Agreed that application be withdrawn earlier in the meeting to allow time for further consideration of objections.

LA09/2021/0091/F Dwelling and Garage (Amended Access and Additional Landscaping) at 150m SW of 35 Mullybrannon Road, Dungannon for Farasha Properties Ltd

Agreed that application be withdrawn earlier in the meeting to allow time for further consideration of objections.

LA09/2021/0193/F Single Storey Extension to Shop Relocation of Entrance, Internal Alterations to Layout and Provision for Additional Parking within the Curtilage at 125 Mullinahoe Road, Ardboe for Cathal Forbes

Members considered previously circulated report on planning application LA09/2021/0193/F which had a recommendation for approval.

Proposed by Councillor Bell
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2021/0193/F be approved subject to conditions as per the officer's report.

LA09/2021/0341/F New Site Access at 36 Granville Road, Dungannon Farasha Properties Ltd

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

LA09/2021/0348/F Retention of Use Access to Provide Alternative Access at 81a Back Lower Road, Killycolpy, Dungannon for Patrick Teague

Members considered previously circulated report on planning application LA09/2021/0348/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Clarke and

Resolved That planning application LA09/2021/0348/F be approved subject to conditions as per the officer's report.

LA09/2021/0376/F 6 Retail Units with Associated Car Parking and Ground Works at Lands approximately 45-55m NE of 40 Ballyronan Road, Magherafelt for Magherafelt Commerce Park

Ms Doyle (SPO) presented a report on planning application LA09/2021/0376/F advising that it was recommended for refusal.

Councillor Mallaghan entered the meeting at 7.22 pm.

Proposed by Councillor Brown
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2021/0376/F be refused.

LA09/2021/0492/F Alterations and Extension to Existing Mixed Use Building to Provide 2 Commercial Units and 4 Apartments at 1a Fair Hill Maghera for Declan McKenna

Members considered previously circulated report on planning application LA09/2021/0492/F which had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor Corry and

Resolved That planning application LA09/2021/0492/F be approved subject to conditions as per the officer's report.

LA09/2021/0506/F Single storey dwelling on a farm with conversion and reuse of existing byre and upgrade of existing access 45m SE of 83 Derryloughan Road Coalisland for Christopher McCann

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

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

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

LA09/2021/0523/F Retrospective change of use from yard to Beer Garden at the Flax Inn, 27 King Street, Magherafelt, for James O’Kane

Members considered previously circulated report on planning application LA09/2021/0523/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2021/0523/F be approved subject to conditions as per the officer’s report.

LA09/2021/0599/O 2 Infill Detached Dwellings with Detached Garages, Shared Access onto Rogully Road and Landscaping adjacent and NW of 6 Rogully Road, Loup, Moneymore for Ashling Mc Nicholl

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

LA09/2021/0601/F Change of Use and Extension of Domestic Garage for Dog Grooming at 22 Cloghog Road, Cookstown, for Thomas McDonald

Members considered previously circulated report on planning application LA09/2021/0601/F which had a recommendation for approval.

Proposed by Councillor Glasgow
Seconded by Councillor Bell and

Resolved That planning application LA09/2021/0601/F be approved subject to conditions as per the officer’s report.

LA09/2021/0625/F Off Site Replacement Dwelling and Domestic Double Garage at approx. 126m NW of 59 Lurgaboy Lane, Dungannon for Mr Joseph Mallon

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

LA09/2021/0930/F Retention of two storey dwelling, (change of location from LA09/2016/0321/F) at 26 Toomog Road Dungannon, for Louise & Ronan Donnelly

Members considered previously circulated report on planning application LA09/2021/0930/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Clarke and

Resolved That planning application LA09/2021/0930/F be approved subject to conditions as per the officer's report.

LA09/2021/1145/F Industrial Storage Shed at Site Adjacent to 17 Deerpark Road, Bellaghy, Magherafelt, for Seamus O'Kane

Members considered previously circulated report on planning application LA09/2021/1145/F which had a recommendation for approval.

Proposed by Councillor D McPeake
Seconded by Councillor Corry and

Resolved That planning application LA09/2021/1145/F be approved subject to conditions as per the officer's report.

LA09/2021/1182/F Retention of Farm and Factory Shop and Associated Works Approx 70m NE of 70 Drumgrannon Road, Dungannon, for George Troughton

Mr Marrion (SPO) presented a report on planning application LA09/2021/1182/F advising that it was recommended for refusal.

The Chair advised that a request to speak against the application had been received and invited Mrs Marian Duffy to address the committee.

Mrs Duffy advised that she was objecting to the retention of Grange Farm and factory shop and associated works on the grounds of health and safety. This is a notoriously bad corner, where at least eight deaths have occurred, and the situation has been exacerbated by the intensification of traffic coming and going, to Grange Farm and factory shop. From a personal perspective the Grange Farm traffic causes her to wait on this very busy main road to enter her home, regardless of direction of travel. Due to the heavy traffic from Grange Farm blocking her entrance, she was forced to wait on the main road, leading to vehicle queues and congestion on the corner endangering the safety of all road users. She frequently was obstructed from exiting her own premises by 40ft lorries, vans, cars, and other vehicles as they must move onto the main road before she can exit.

She stated that on two occasions her car had been crashed into from traffic behind whilst waiting on this corner of the Dungannon main road to enter her home, whilst waiting for this traffic to clear. As a result of the second accident her car was a total

write-off, and she sustained a long lasting injury which she was still suffering from today. Frequently members of the public have been unlawfully using the entrance to her home as a turning point, and she had been verbally abused by members of the public when stating to them that this is private property. Grange Farm admitted on one occasion that a lorry crashed into one of the pillars at the entrance to her home, this still remains unrepaired. The other pillar at the entrance has been hit by vehicles on several occasions due to high traffic volume and no right turning point. She has been unable to install gates to the entrance to her house, for fear of accidents and damage to the gates. As she owned the property on both sides of the entrance of the lane to Grange Farm, the applicant Mr Troughton, has only a right of way up the lane at this entrance point. He has already widened the entrance to the lane using part of her property which was taken by stealth. Within the last month, she was advised to define her land boundaries. She chose to do this on a Sunday, as Grange Farm shop is not open. However, within approximately three hours of placing the cones on the boundary lines, she was requested by Police, to remove the cones as it was causing obstruction to the lorries otherwise and would face a fine.

Mrs Duffy said that her principle objection on the grounds of safety is on account of the several road traffic deaths which have unfortunately occurred on this corner resulting in at least eight deaths and a paraplegic. The latest deaths occurring in 2018 when three people lost their lives. This led to MLAs and MPs visiting this notorious accident blackspot to review the health and safety aspects of this road. Numerous other severe traffic accidents have occurred on this corner, the latest occurring in June of this year (2021), causing an injury to the person involved and damage to her property. In December 2019 another accident occurred on the corner, resulting in a serious injury as well as damage to a telegraph pole causing endangerment and a high safety risk to us, until it was repaired several days later. Health and safety are of paramount importance to her, my family, friends, and neighbours. There are six semi-detached houses known locally as "Adaville Cottages" on the same corner but on the opposite side of the road to her home. They have confirmed the same view regarding this Health & Safety issue, stating they find it very difficult to enter and leave their homes safely. With the intensification of traffic from Grange Farm this is causing a greater threat to their safety. The neighbours of "Adaville" corner have campaigned for years to make this a safer corner, which has been supported by the MLA's and MP's. Unfortunately, the intensification of traffic is not only limited to 9 to 5 but continues throughout a 24-hour period. This is a health and safety hazard not only for her but for her family, friends, neighbours, and the public. They require safe access to their home without their safety being further compromised and preventing future accidents. She provided the council with photographic evidence which supports my statement here today. Further serious

The Chair advised that a request to speak in favour of the application had been received and invited Ms Curtin to address the committee.

Ms Curtin advised that Grange Farm was a family based business which provided locally farm based produce and began trading in 1987 producing and selling eggs and is located on a working poultry and beef farm. The principles of sustainable development and supporting local charities are at the heart of the company incorporating an ethos of providing quality farm-to-fork produce. In 2004 the company expanded into food processing which include the process of producing and packing of meat and vegetables including a large potato peeling and chip making line amongst

other food processing supplied directly to the shop. PPS21 is usually permissive towards farm diversification projects and there has been retailing at this farm for a long time, going back to the early days of selling eggs, potatoes and trays of chicken and throughout the years the number of customers arriving to the farm gradually expanded and the old farm-shop in the middle of the farmyard was replaced with the current proposal. She advised that Richard Agus from MRA Partnership had been instructed to address the points very recently raised by DfI Roads and was available remotely to answer any questions regarding access matters. However, given the scale of the shop, they were unconvinced intensification was actually taking place and whilst the traffic road deaths which occurred on this road are a very emotive matter, we know that the current farm-shop was not in existence at the time at any of the deaths detailed by the Objector i.e. pre 2018. Road safety issues on this road remain to be addressed by DfI Roads with or without this application and therefore to what extent is the road safety issue pertinent to this application. The committee report alluded to several outstanding pieces of information which were never requested with report raising a number of assumptions without affording the applicant the opportunity to provide the facts and in conjunctions this application for farm diversification was not consulted to DAERA. The planning act provides that in determining an application for planning permission the Council must have regard for the Local Development Plan and to any other material considerations. She felt that it was wholly unfair to bring the application to committee in circumstances where DfI Roads as statutory consultee have indicated that further information is required and premature for DfI to make any recommendation in circumstances where information was outstanding and the Planning committee will lead themselves into error if it takes the same approach. On this basis she requested that this application is deferred for a later date preferably an office meeting when all the relevant information was available for consideration and to enable a proper discussion of facts. She said that the applicants were willing to accept a negative condition of restricting the items for sale in the shop, restricting operation hours and were willing to work with DfI in terms of road improvements including contributing towards new road signage.

In response to the Strategic Director of Planning's query, Ms Curtin advised that the farm shop came into existence in 2018 and that it sold farm and factory goods, some of which were not produced or processed on the existing farm. She stated that the goods sold at the farm which came from elsewhere were sourced locally.

The Strategic Director of Planning stated that it found it difficult to see where this proposal was going as there seemed to be other issues involved and no straight answers being given.

Ms Curtin suggested that it may be more beneficial to conduct an office meeting to generate all the relevant information.

The Strategic Director of Planning felt that this may be the best outcome as there were still a lot of issues to consider i.e. has the road dangers been accelerated due to the opening of the shop or was this more of a dispute.

Mrs Duffy advised that this was a notorious dangerous corner and she had provided photographs to Council to support her evidence.

The Strategic Director of Planning stated that the purpose of his questioning was not to prove one person right or wrong but more to establish a public interest that further investigations be carried out regarding the situation and would be content to defer the application tonight provided that both parties provide further evidence. He felt that there were serious issues that needed addressing in regards to road safety, access and visibility splays and what the shop was used for and whether this can be used on a protected route. He asked members if they would be content to defer the application until further information was received and considered.

Councillor Cuthbertson stated that as a Councillor which represented the Dungannon area he may have more knowledge than other members or officers. He said that this road was troublesome for a long number of years possibly 15 years or more and may be worthwhile contacting DfI Roads requesting statistics for crash history as it would be interesting to see when they took place and at what time as it was his understanding that the last fatality took place on a weekend, possibly on a Sunday. He said that he had some knowledge of the shop which was trading here and an existing access which shows on an aerial view of a very large farm. He said that he would suspect that a lot of the lorries going in and out of the lane would be to service that farm and didn't think for the size of the shop would be increasing that and felt if the shop wasn't there he didn't think that the lorries wouldn't cease going to the site and continuing on. He said that in his experience of the shop, it wouldn't be a shop that people would be queuing to get to during the week, particularly at peak times, with the possibility of a Saturday morning being the busiest time as people would wish to buy chicken, ham or gammon would probably buy it somewhere more convenient rather than going out onto the A29. He said that he would like to see more information from DfI and if they come back blank and say that this was a dangerous corner or dangerous stretch on the A29, stated that there were a couple of corners on the A29 where DfI were long lobbied on and to continuously come back to say that this road was dangerous was not good enough and was aware that this may not be a planning material consideration, but felt that DfI needs to be forced to come back with solutions to this. He referred to the programme of works which was presented to the Environment Committee on Monday night over the next 2 to 4 years and disappointing to see that this road wasn't even on it and not considered important enough by DfI to put on their preferred programme of works. He said that whilst listening to previous speakers that this application was an ideal one for the committee to go out and see on the ground possibly at a later date and said that he would be happy to propose to support what the Strategic Director of Planning suggested.

Proposed by Councillor Cuthbertson to defer the application for an office meeting until all the relevant information was received from all parties involved.

The Strategic Director of Planning said if members so wished to hold a site meeting then there would be no issue with this and any member wishing to do so could go out with the Head of Development Management. He said that he would be willing to hold an office meeting with the parties involved if need be.

In relation to DfI, the Strategic Director of Planning advised that there were problems trying to get information from them and didn't want this application getting lost in the bureaucracy of other matters. He felt that for all parties concerned that direction was needed, whatever the outcome of the situation.

Councillor McKinney said that he would be of the same mindset and would be nice to see the operation on site to actually see what takes place as members were hearing a lot about what and what doesn't happen on the access. He felt that a site visit would give members an insight to what was actually happening and would be beneficial for the Strategic Director of Planning to hold an office meeting to get to the nitty-gritty of things at a later date and would be happy to defer the recommendation. He stated that everyone had corners in their own areas which were deemed dangerous but said that this was the makeup of Mid Ulster roads.

Councillor McKinney seconded Councillor Cuthbertson's proposal to hold a site visit and then officers hold office meeting thereafter with the particular agents involved.

The Chair referred to Councillor Cuthbertson's original proposal for an office meeting and asked if he would be prepared to amend it to include a site meeting also.

Councillor Cuthbertson agreed that he would be happy to amend his proposal to include a site meeting along with an office meeting.

Councillor Cuthbertson said he wished to clarify that he was only asking for the accident history from DfI just to see what the extent was as there was comments raised tonight that there were accidents nearly on a weekly basis on this strength of road and was good sometimes to have the factual information.

He referred to this committee permitting development on the A4 road coming into Augher which had been deferred for a year or more and whilst it hasn't commenced, it still was permitted and negotiations completed with DfI albeit it being in the past.

Councillor Glasgow said that he would be supportive of the recommendation as it would allow time for members to get an insight at a site meeting and to possibly make a correct decision.

Councillor Mallaghan and Clarke both concurred with the Strategic Director of Planning recommendation.

Councillor Colvin advised that not all accidents were recorded by the PSNI or DfI and figures could be meaningless as only fatalities and serious injuries were recorded and wouldn't be confident about relying on their statistics.

Proposed by Councillor Cuthbertson
Seconded by Councillor McKinney and

Resolved That planning application LA09/2021/1182/F be deferred for a site meeting and also an office meeting with the relevant parties to generate further information.

LA09/2021/1276/O Dwelling 35m NW of 270 Killyman Road, Dungannon, for Mr Paul Cranston

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

LA09/2021/1331/O Dwelling and Garage approx. 55m SW of 10 Castlefarm Road Stewartstown, for Mr Michael Quinn

Members considered previously circulated report on planning application LA09/2021/1331/O which had a recommendation for approval.

Proposed by Councillor Colvin
Seconded by Councillor Glasgow and

Resolved That planning application LA09/2021/1331/O be approved subject to conditions as per the officer's report.

LA09/2021/1514/F Two storey dwelling at 84 Orritor Road, Cookstown, for Bell Contracts Ltd

Ms Doyle (SPO) presented a report on planning application LA09/2021/1514/F advising that it was recommended for refusal.

Councillor Clarke said that he was aware of the site and felt that it wasn't unreasonable to ask for answers to come out onto the Forthglen entrance rather onto the Orritor Road. He said that there was a bit of an incline on the Orritor Road and already access from the adjacent house onto the Orritor Road and past that there was another entrance for two dwellings in a laneway. He said that there were already 3 premises accessing onto the Orritor Road and this application would be another which between this and Forthglen and felt that it was reasonable that this entrance could be and should be the Forthglen entrance.

The Chair said that he knew that section of road himself and believed from the report that the option was put forward to the applicant and agent to consider to come out onto the Forthglen side but this hadn't been progressed.

Councillor Brown said that by reading the report and looking at the case history enquired if there was a previous application which was still live or had it now run out. He referred to case reference LA09/2016/1326/F for 2 apartments and enquired if there was a road access granted as part of that application which was granted in June 2017.

Ms Doyle (SPO) advised that this was still a live application.

Councillor Brown said that he assumed that Roads Service had granted the access out on that application so if the 2 apartments were being done away with and having one property what was the situation.

Councillor McFlynn enquired if there was any point in deferring the application for one month to allow the applicant and agent time to reconsider.

The Strategic Director of Planning advised that time was already allocated to the applicant and agent to reconsider which they didn't act upon.

Councillor Glasgow enquired if Roads Service had come back with issues regarding road safety and concurred with Councillor Clarke's comments about coming out of the

30 mph limit and found it hard to understand why someone wouldn't want to be that little bit safer and come out at Forthglen.

The Chair said that it was his understanding that Roads Service weren't content coming out onto the Orritor Road and suggested that it be considered for it to come out at Forthglen, but didn't believe that this option had been taken forward by the agent or the applicant even though the suggestion had been made to them.

Councillor Mallaghan sought clarification on whether Roads Service's advice on this one here was that they were objecting or was it an advisory.

Ms Doyle (SPO) advised that the consultation response on the 8th November stated that *"The proposal is contrary to PPS3 Access, Movement and Parking Policy AMP2, in that it would if permitted, prejudice the safety and convenience of road users since it adds to the proliferation of accesses onto this road. An alternative access could be achieved via the adjacent housing development road as per Paragraph 7.1 DECAN 15"*.

She said that it was her understanding that the 2 apartments worked because access was taken off Forthglen, but in this current proposal if it was taken off Forthglen then they wouldn't achieve any rear amenity space which was why the applicant wanted it off the Orritor Road.

Proposed by Councillor Mallaghan
Seconded by Councillor Glasgow and

Resolved That planning application LA09/2021/1514/F be refused.

LA09/2020/0446/F Change of House Type Approved M/2006/1301/RM at Land Opposite and SW of 165 Favour Royal Road, Augher for Mr Finbarr McQuaid

Members considered previously circulated report on planning application LA09/2020/0446/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Glasgow and

Resolved That planning application LA09/2020/0446/F be approved subject to conditions as per the officer's report.

LA09/2020/0790/O Dwelling and Detached Double Garage with Storage Above at approx. 50m SW of 50 Cadian Road, Eglish for Ryan Muldoon

Members considered previously circulated report on planning application LA09/2020/0790/O which had a recommendation for approval.

Proposed by Councillor Colvin
Seconded by Councillor Glasgow and

Resolved That planning application LA09/2020/0790/O be approved subject to conditions as per the officer's report.

LA09/2020/1049/O Dwelling and Garage (amended access) at Lands to Rear of 195 Coalisland Road, Dungannon for Patrick Mallon

Members considered previously circulated report on planning application LA09/2020/1049/O which had a recommendation for approval.

Proposed by Councillor Colvin
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2020/1049/O be approved subject to conditions as per the officer's report.

LA09/2020/1110/O Site for Replacement Dwelling at Lands approx. 40m E of 40 Ballymacilcurr Road, Maghera for Declan Mc Kenna

Members considered previously circulated report on planning application LA09/2020/1110/O which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Clarke and

Resolved That planning application LA09/2020/1110/O be approved subject to conditions as per the officer's report.

LA09/2020/1115/O Site for dwelling and garage at lands NNW of 162b Washingbay Road and E of 152a Cloghog Road, Coalisland for Mr Brendan Corr

Members considered previously circulated report on planning application LA09/2020/1115/O which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Quinn and

Resolved That planning application LA09/2020/1115/O be approved subject to conditions as per the officer's report.

LA09/2020/1119/O Dwelling and Garage in a Cluster, 10m W of 44 Ballyscullion Road, Bellaghy, for Brian Milne

Ms Doyle (SPO) presented a report on planning application LA09/2020/1119/O advising that it was recommended for refusal.

Councillor Glasgow left the meeting at 8.16 pm and returned at 8.19 pm.

The Chair advised that a request to speak in favour of the application had been received and invited Councillor B McGuigan to address the committee.

Councillor B McGuigan advised that this application had been deferred in February for an office meeting and again in October for a site visit with members. He said that prior to the site visit the Council considered the application site to be located within an existing cluster consisting of four or more buildings and there were actually 12 dwellings in that cluster. Council also accepted that a dwelling here could be absorbed into the existing cluster through rounding off on a well-designed dwelling not visually intrusive into the open countryside. It was also stated that a dwelling here would not significantly alter the existing character of the area giving the existing development in the area which was evident from the overhead photos. At the site visit the issue of development and at least two sides were addressed and was now considered by Council that the site now meets the policy requirement and the site was bounded by two sides of development with the only contentious issue left was the focal point associated to the cluster. A focal point was considered as giving a place a sense of identity and somewhere that was well known to the community with a sense of presence and so keeping with the spirit of the policy, local knowledge tells us that there was a number of focal points at this location. Firstly, the cottages themselves where the workers from Ballyscullion House lived, with the cottages being on the edge of the Estate and were known locally as 'Ballyscullion Cottages' with the listed boundary wall and listed gardens of the Estate were adjacent to the cluster. Secondly, the cluster was a short distance from the main Bellaghy GAA grounds which was known as the 'third pitch'. Thirdly, to the north of the site at 54A and within the cluster is a joinery business, which was a long establish business having been there for over 40 years with business rates being paid on the property and confirmation of this had been given to the Council. Regardless, if there was a focal point or not, the site complies with the policy's broad overall intent in that it would round off and consolidate an existing cluster of development without impacting on the area's character. Council were in agreement that at least five of the six criteria are met and were numerous examples on all Councils and that the Planning Appeals Commission where the same scenario has been approved and no precedent would be set by approving this application. The site was for a young man getting married next year which lived, worked and contributes to the area and wishes to remain here. In concluding Councillor B McGuigan felt that the proposal met the requirements of Policy 2A and believed that this application should be approved.

Councillor S McPeake said that when the report came back he had expected it would be recommended for approval as it was clear at the site meeting that there were 11 to 12 houses there. He advised that he also knew the road well as his grandmother lived on the Ballyscullion Road where remnants of the older cottages were still visible and that the cluster of houses was always recognised at that location and only made sense as these were homes for workers on the nearby estates. He said that the proposed dwelling would give a rounding off effect bookending the whole development. In terms of focal points, he said that given there were three within the proximity – GAA pitch, cottages and a thriving business for years where auctions used to be held and when you look at the whole thing he was surprised that it wasn't recommended for approval based on how the site meeting had went that day. He said that the site meeting had taken place a day or two after the reconsideration of PAN by Minister Mallon and he had asked on the day if this would make a material change as previous to this the PAN was recommending that an application was deemed to reach all essential criteria for a cluster whereas Councillor B McGuigan alluded to where possibly the application doesn't meet one strong criteria as should be, does this mean that this was a negative consideration. He felt that there was strong criteria on each one of them and the cluster

element itself and did concede that if the pitch had to be next door it would've been stronger, but the fact that the cottages were historic in their own nature and the fact that there is a business there which were paying rates should be considered for approval.

The Strategic Director of Planning advised that we could not take into account the GAA club as providing a focal point because it related to the settlement of Bellaghy and was not part of the entity of this cluster. He also said he found it difficult to accept it met policy because of the issue of the focal point which in policy was defined as a cross roads or community facility. He did however feels that it was always reasonable to treat an application as an application to policy, He said that he listened carefully to Councillor B McGuigan's comments and by looking at the form at what exists was quite compact and the site benefits from development on two sides. In fact the proposal met all policy requirements apart from a focal point. It was also clear that a house here would read as part of the single entity of this established cluster of dwellings and would not lead to further development. As a result it could be seen as rounding off.

Councillor Cuthbertson said that he would struggle with this application as there was no focal point there and would have concerns and would go for the case officer's recommendation for refusal.

Proposed by Councillor Cuthbertson that application be refused.

Councillor Bell advised that he wasn't going to rehash what was already said by those who had already spoken tonight supporting that the recommendation for refusal be overturned. He said that he had sat here over the number of years and seen similar situations to this one and didn't think that another property there for where it was proposed was going to make much or any difference to a detrimental impact on the countryside. He said that he agreed with the Strategic Director of Planning on this one that it could be classed as rounding off in exceptional circumstances.

Councillor Bell proposed that the application be approved.

The Strategic Director of Planning advised that although it didn't have a focal point like a crossroads, it did have an identity.

Councillor Clarke said that he would be happy to second Councillor Bell's proposal to approve the recommendation as it was evident that there was an opportunity for rounding off and also that as the end of the settlement would be a compact end. He referred to the cottages and said most were for workers who worked at Ballyscullion Estate.

The Chair advised that there were two proposals for members to consider and said that in this instance it would need to go to a vote.

Councillor Cuthbertson said that after listening to the committee's thoughts and what they were minded to do and the guidance of what the Strategic Director of Planning said that he would be happy to withdraw his proposal and not put it to the vote.

Councillor Cuthbertson asked that it be recorded that he was not agreeing to the proposal to approve the application.

Proposed by Councillor Bell
Seconded by Councillor Clarke

Resolved That planning application LA09/2020/1119/O be approved with appropriate conditions applied.

LA09/2020/1225/O Infill Dwelling at Land Adjacent to 214 Hellhead, Castledawson, for Jim McPherson

As per circulated addendum, this application has been withdrawn by agent.

LA09/2020/1375/F Dwelling in Substitution for I/2009/0372/F and Retention of Existing Mobile Home for a Period of 3 Years at 27a Drumconvis Road, Coagh, for Mr Paine

Members considered previously circulated report on planning application LA09/2020/1375/F which had a recommendation for approval.

Proposed by Councillor Colvin
Seconded by Councillor Glasgow and

Resolved That planning application LA09/2020/1375/F be approved subject to conditions as per the officer's report

Ms Doyle (SPO) drew members' attention to circulated addendum which advised of the Agent informing Planning of his applicant's surname being misspelt. She advised that correct spelling of surname was correct on P1 form as Mrs Raymond Paine.

The Strategic Director of Planning that the spelling of the applicant's name wasn't the issue and more to do what the site was which everyone was aware off. He advised the objector presented to the previous planning committee stating their reasons for objecting to the application as they felt that this was on land they had owned. This may be the case as a strip of the site is shown on Land Registry Maps. The applicant felt it was their land as the site was inside what on the ground was the defined curtilage and it was the site as defined by the boundaries which was originally sold to the objectors. The service directed at the previous meeting had indicated that as the strip of land was under dispute could the house be kept outside of the disputed area and asked if this could be accepted and at one point it appeared that it could. Thereafter, the objectors rejected the offer and said that they would have to wait and see and since then there has been a very vociferous objection from the neighbours who fully believed that development hadn't started in time. He advised that a photograph was presented which showed trenches and foundations being dug and full of water and whilst looking at it himself he felt that it was dug before the photograph was taken and whilst he could not say with any certainty when it was dug the balance of probability was that it was in time. The objectors were also disputing the Building Control records. The Service Director indicated that he felt the key point has been missed in the argument over start dates because regardless of whether it was in time the question was whether or not it was infill development and the answer to that is yes. The other argument related to access and whether that was in place, this was a visible access as it serviced a caravan and previously benefited from approval. The objectors advised the Strategic Director of

Planning that the matter was going to be raised in Stormont by an MLA and an immediate answer needed to be given by the end of that day and in response he had asked for the hansard reference so the response could be taken into account, but no hansard reference was provided. He said that the objectors advised that a local QC in Northern Ireland Mr William Orbinson was going to represent them on their behalf as he specialised in planning. He said that an email was sent to planning inbox this morning by Diamond and Heron Solicitors seeking a deferral as William Orbinson QC wished to make his case to the Planning Committee. He said that firstly, he would bring it to the attention of the Planning Committee and it was up to members to decide to allow Mr Orbinson speak and was surprised if they wished to make representation to speak when this wasn't done long before now. Secondly, the objectors have had their say at a previous Planning Committee and asked why the rules should be put aside again because a lawyer had been quoted. The Strategic Director of Planning said that finally, the request should have went through Committees Section as it was public and dates indicated which wasn't done. He said that his own view is that this was an out of time request and just because a QC was quoted, this shouldn't generate any additional rights as a lot of time had already been given to the arguments and felt if members wished to make a determination tonight then they were entitled to do so.

Councillor Martin declared an interest in the above application due to having previous contact with people involved in the application before becoming a member of the Planning Committee.

Councillor Glasgow stated that after listening to the Strategic Director of Planning he was happy to stick to the current proposal as there been ample opportunities to come forward and was happy that a process was followed. He said that he was satisfied that the process was fulfilled to the highest degree.

Councillor Colvin agreed that he was also happy to stick to his original proposal.

Councillor Mallaghan enquired if this application was approved tonight would Mr Orbinson have an opportunity to review the decision.

The Strategic Director of Planning advised that like all these things, a pre-action protocol letter would need to be submitted to our solicitors. If it was felt that there was wrongdoing they would be invited to make their application for judicial review and if it was felt they had a case then Council would throw in the towel, but if it was felt they didn't have a case then we would defend the decision of the planning committee. He said at the moment the case as he understood was about land ownership. He could not determine who owned what. There is evidence from Land Registry that the objectors own a piece of that land but the house has been kept outside that piece of land and therefore did not prejudice the outcome of that dispute. In relation to the house, it was infill which meets the policy tests. He said that the purpose of the Serving Notice was that people could draw things to Planning's attention if it was a planning consideration and put their house in order legally.

LA09/2021/0146/O 2 storey Dwelling and Garage at Builders Yard (existing entrance to the Drum Road) at Site Between Oakland Villas and 167 Drum Road, Cookstown for Philip and Judith Mitchell

Councillor Glasgow withdrew to the public gallery.

Ms Doyle (SPO) drew members attention to planning application LA09/2021/0146/O which had a recommendation for approval. She referred to previously circulated addendum and advised that an additional objection had been received.

Councillor Clarke sought clarification on whether this was an adopted roadway.

Ms Doyle (SPO) said that she wasn't sure it was but couldn't confirm, but would make the assumption that the access to Oakland Villas was adopted but the new access wouldn't be.

Councillor Clarke said that in that instance he would be happy to propose the recommendation to approve the application.

The Chair advised that a request to speak against the proposal and in support of the objectors had been received and invited Councillor Glasgow to address the committee.

Councillor Glasgow advised that he had declared an interest in the application tonight as he had been asked to speak in support of the objectors at 1, 2, 3, & 5 Oakland Villas, Cookstown. He said that Oakland Villas comes out onto the Drum Road and there were six houses in total and wanted to emphasise that the objectors did not have any issues with the house and more to do with the proposed entrance which was coming out from 167 through Oakland Villas to the Drum Road. Everyone can identify within their own DEA's where these small estate cul-de-sacs which were previously owned by the Housing Executive and only one small bit of green areas for children and families to use and even today when he was speaking to them, he could see the childrens toys sitting outside on the roadway as the residents do not have the privilege of having a big size back garden and have to play outside their front door with traffic. He referred to his concern about the level of traffic going through and the lack of carparking spaces and where this entrance would be coming out there was currently two to three carparking spaces and when these houses were actually built they were designed for smaller cars but now there were bigger cars and larger families. He said that most families had two cars and if you took two cars over six houses, the loss of carparking spaces resulted in a massive disadvantage to the families which live there. Another consideration which needed to be addressed would be the amount of deliveries including the postman and amazon deliveries or any other deliveries which be made to dwellings, these delivery drivers area used to driving into people's yards for a quick drop off and would now have to navigate potentially six cars parked on left-hand side and children playing on a small bit of green area. He said as this was once a small quiet community was now upset, worried and concerned that there was a massive health and safety issue for their children coming down the line.

As pointed out by the Case Officer in terms of ownership, these houses were previously owned by the NIHE and most were now privately bought and enquired if a Requisite Notice been served as it was his understanding that the NIHE own the entrance into Oakland Villas. He said that whilst reading through the report he did not see a reply back from the NIHE and had they no objection as he would be quite concerned that they were sitting silent on the matter as members had previously lobbied and pleaded

with them for additional carparking spaces at this cul-de-sac. He said that he would be very disappointed if NIHE didn't respond back on this concerning matter and think that the question needed to be put to them whether they were in agreement with this proposal. He referred to the report where it was raised about the focal point of the village green and was surprised that Oakland Villas was classed as one. He emphasised that the residents of Oakland Villas were not against the house but was against the entrance into the house and asked why the applicant couldn't use the existing entrance on the right-hand side as this would keep both communities happy and keeps children and families happy with the little green space they have got.

Ms Doyle (SPO) advised that she didn't have an opportunity to look at the site but looking at Spatial NI and Google Maps, it looks like an area of green open space was dedicated to Oakland Villas.

The Strategic Director of Planning felt that this was a very important consideration and felt that more needed to be done than having a Requisite Notice. He felt that it would be more beneficial to send a consultation to the Housing Executive to provide a view about the loss of open space.

Councillor Mallaghan sought clarification on how there could be a loss of open space being affected by this application as it was his thinking that there was already access there.

Ms Doyle (SPO) stated that it was her understanding that this has not been affected by the application as the access to Oakland Villas coming off the Drum Road. She said when driving in the houses are in an L shape, access road around the corner to access the application site and on the right hand side of that access road is Oakland Villas and an area of green space. She stated that the space hasn't been affected but that the applicant had taken down some trees from the access point, but didn't believe that he removed trees from the green space area.

The Strategic Director of Planning felt that more information was needed to make sure that concerns were answered.

The Strategic Director of Planning said that by looking at the photographs he can see where there was an access into a field which wasn't very wide and looks like something has been planted and may be the cause of the upset.

The Chair alluded to previous comment regarding the loss of three carparking spaces and enquired if there was an existing access already there which this would be utilising, where was the loss of carparking spaces.

Ms Doyle (SPO) advised that Roads Service didn't object to this application on the terms of loss of carparking spaces.

She said that she was just been made aware that there was an enforcement case on this also but didn't know any information.

The Strategic Director of Planning said that there were some issues that needed addressed.

Councillor Clarke said at the beginning he sought clarification on whether this was an adopted roadway and in the interests of what has happened he said that he would be prepared to withdraw the proposal to approve subject to further investigations being carried out

Councillor Brown said that he would be happy to defer the application until all the relevant information was received from the relevant authorities.

Councillor McKinney said that it would be concerning for residents if there were unable to park their cars at their homes and was vitally important that this issue be cleared up.

Councillor McFlynn said that sometimes cul-de-sacs sit untouched for 20 years and residents may not like change and important that clarity is sought and suggested that it may be beneficial to have a site meeting.

Councillor S McPeake said that he was previously going to suggest a site meeting but going on what the Strategic Director of Planning said it may be better way on what was suggested by looking at the photographs. He said that it was clear to see that there were lots of different interests going on at the location and may cause friction. He said that moving forward it would be beneficial to have full details marking out ownership on photographs to make members more aware.

Councillor Mallaghan advised that when Housing Executive's houses were sold off to more privately owned residents, the Housing Executive took on less of a concern and interest.

Proposed by Councillor Clarke
Seconded by Councillor Brown and

Resolved That planning application LA09/2021/0146/O be deferred for one month until further clarification was received.

Councillor Glasgow returned to the committee.

LA09/2021/0224/F Dwelling 80m W of 67 Dungormon Road, Dungannon, for Mr Paul Brannigan

The Strategic Director of Planning advised that due to personal information this application would be raised in Confidential Business.

LA09/2021/0495/O Infill dwelling at lands NW of 7a Killycurragh Road, Orritor, Cookstown (with access via Craigs Road) for Maurice Freeburn

Ms Doyle (SPO) presented a report on planning application LA09/2021/0495/O advising that it was recommended for refusal.

Councillor Brown said that unfortunately some members didn't get to the site visit as they were otherwise occupied but enquired about the site which still had to be developed and asked where it was in relation to the overhead map.

Mrs Doyle (SPO) advised that it was building 4 at the visibility splays. She clarified that buildings 3 and 4 would be fronted out onto the road, with development at building three already commenced but building four not started yet.

Proposed by Councillor Mallaghan
Seconded by Councillor Corry and

Resolved That planning application LA09/2021/0495/O be refused.

LA09/2021/0691/F Change of house type (approved I/2011/0514/RM) and garage at Killycanavan Road 170m NE of Junction with Brookend Road, Ardboe for Hannah Quinn

Members considered previously circulated report on planning application LA09/2021/0691/F which had a recommendation for approval.

Proposed by Councillor Bell
Seconded by Councillor Colvin and

Resolved That planning application LA09/2021/0691/F be approved subject to conditions as per the officer's report.

Recess

The Chair advised that Members would be taking a recess for a comfort break.

Proposed by Councillor Glasgow
Seconded by Councillor Brown and

That members be allocated time for a recess.

Members took a recess at 9.20 pm.

Members returned to the meeting at 9.34 pm.

P165/21 Receive Response to Consultation from DfC Regarding Possible Listing at Glen Road, Maghera

The Service Director of Planning presented previously circulated report to provide members with background and draft response to a consultation by Department for Communities, Historic Environment Division (DfC, HED) regarding their consideration to list a Cow Tail Pump at 120a Glen Road, Maghera BT46 5JG. The consultation from DfC, HED on the Cow Tail Pump as attached at Appendix 1.

Proposed by Councillor S McPeake
Seconded by Councillor Black and

Resolved To note the contents of the report and agree that the previously attached response (Appendix 4) be issued to DfC, HED to support the listing of the aforementioned Cow Tail Pump.

P166/21 Review of Scheme of Delegation December 2021

The Service Director of Planning presented previously circulated report to allow members prior consideration of the issues to be resolved as part of the review and to agree a date for a workshop where all Councillors will be invited to participate.

Councillor S McPeake said that he would be happy to propose the recommendation but asked that the whole aspect of enforcement to be also focused elements of the workshop.

Councillor Mallaghan said that this would be a good opportunity to have a good open conversation and to explore other things. He concurred with Councillor S McPeake regarding including enforcement matters as it can be quite a delegate area at the best of times and welcome the opportunity for the workshop.

Proposed by Councillor S McPeake
Seconded by Councillor Black and

Resolved That all members of the Council be invited to attend a workshop on Tuesday 25 January 2021 in relation to the Review of Scheme of Delegation. The whole area of Enforcement to be also included in the workshop. This paper to be sent out to all members in order to inform them of the discussion.

Councillor Colvin declared an interest in Historic Monuments Council in the event of there being an a possible overlap.

Matters for Information

P167/21 Minutes of Planning Committee held on 2 November

Members noted minutes of Planning Committee held on 2 November 2021.

P168/21 Receive Response from DfC HED re Conservation Principle

Members noted previously circulated report which informed members of the Department for Communities, Historic Environment Division's written response to Mid Ulster District Council regarding the Council's submission to their '*Public Consultation Conservation Principles Guidance for the Sustainable Management of the Historic Environment in Northern Ireland*'. DfC, HED written response received via email on 18.11.2021, Annex A.

Live broadcast ended at 9.40 pm

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Brown
Seconded by Councillor Colvin 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 P169/21 to P175/21.

Matters for Decision

P164/21 Planning Applications for Determination – LA09/2021/0224/F
P169/21 Receive Response to Dfl on DPPN 11
P170/21 Receive Revocation Report
P171/21 Receive Enforcement Report

Matters for Information

P172/21 Confidential Minutes of Planning Committee held on 2 November 2021
P173/21 Enforcement Live Case List
P174/21 Enforcement Cases Opened
P175/21 Enforcement Cases Closed

P176/21 Duration of Meeting

The meeting was called for 7 pm and concluded at 10 pm.

Chair _____

Date _____

Annex A – Introductory Remarks from the Chairperson

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

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

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

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

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

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



ADDENDUM TO PLANNING COMMITTEE AGENDA

FOR PLANNING COMMITTEE MEETING ON: 7 December 2021

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

Chairs Business

Receive letters from DEARA in relation to Consultations on Planning Applications

Receive letter from DFI Planning in relation to Draft Plan Strategy

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
4.8	Objections received have not been considered.	Defer to allow consideration of objections and notification of amended scheme.
4.9	Objections received have not been considered.	Defer to allow consideration of objections and notification of amended scheme.
4.23	Additional letter in support and objection received	Members to note
5.1	Site plan with existing and proposed levels	Substitute drawing 02/1 bearing the stamp dated 30-NOV-2021 instead of drawing No 02 in conditions 2 and 3 and remove condition 4.
5.7	Agent has written to confirm the application is now withdrawn	Members to note
5.8	Agent has informed us of a misspelling of the applicant's surname which is correct on P1 form as Mr Raymond Paine	Members to note
5.9	Additional Objection received	Members to note and consider

Closed Business- Members are advised that LA09/2021/0014/CA Unauthorised mobile home and hardstanding to the rear of 17 Drumrot Road, Moneymore, Londonderry, BT45 7QH has been removed from the Enforcement Agenda. More information is required before proceeding to Notice.



Department of
**Agriculture, Environment
and Rural Affairs**
www.daera-ni.gov.uk

Name
Address/Email Address

Natural Environment Division

3rd Floor
Klondyke Building
Cromac Avenue
Gasworks Business Park
Malone Lower
Belfast
BT7 2JA

Telephone: 028 90 650207

Email: Planningresponse.team@daera-ni.gov.uk

Your reference:
Our reference:

Date: 8 November 2021

Dear [HEAD PLANNER]

DAERA ACTIONS TO IMPROVE PLANNING CONSULTATION DELAYS AND TEMPORARY IMPACT ON CASELOAD MANAGEMENT PRACTICES.

The purpose of my writing to you at this time is twofold: to provide you with an update in relation to the actions which the Department, as a Statutory Consultee in the planning process, is taking to improve our planning consultation response times, and consequently advise you of the temporary impact of these actions on a number of caseload management practices currently in operation.

Over the last 6 to 8 months the Department has been experiencing an increasing trend in the number of planning consultations being submitted to DAERA in our role as a Statutory Consultee; data provided by DfI in their most recent Northern Ireland Planning Statistics Bulletin for the first quarter of 2021/22 supported this position of increased levels of planning activity. While interventions undertaken in the earlier part of 2021 demonstrated that NIEA had significantly improved our performance, the Department recognises that this improvement is now in reverse and backlogs are accumulating.

The Department is taking a number of actions to address this situation with the aim of reducing the backlog over the coming months including the redeployment of staff and additional casual workers being secured. Nonetheless a significant contributory factor in the escalation of the backlog has been the large volume of queries from planners, agents and citizens alike seeking updates and prioritisations in relation to specific applications,

Update Requests

Since 1 January 2021 NIEA has dealt with approximately 1,750 update requests for information in addition to the number of direct phone calls and e-mails that case officers continue to receive. As I'm sure you can appreciate, only the specific case officer dealing with the consultation can evaluate the estimations of response times associated with these types of request, consequently this diverts their time away from processing actual responses.

Action One: To maximise the time case officers spend on assessing and responding to consultations, from **8 November 2021** DAERA will no longer provide indicative response times for any consultation until further notice.

While the Department recognizes the negative impact this action may have on our communications messaging it is hoped that the redirection of effort on the actual processing of consultations will yield an immediate impact on improving our statutory consultation return rates and response times; the ability to reduce the backlog will in turn reduce the number of such queries arising.

Prioritisation Requests

As Head Planners you will be familiar with the competing priorities in relation to the processing of a range of applications within your Planning Authority at any given time. To assist with these competing demands NIEA has provided a mechanism whereby requests can be made via yourselves to prioritise particular planning applications; over the past year the Department has received an ongoing and wide range of such types of requests. Although it was intended that this mechanism should only be used in exceptional circumstances, as there could be equality implications, we are receiving numerous requests for prioritisation per week which given our current resourcing level cannot be accommodated.

Action Two: To maximise the time case officers spend on assessing and responding to consultations and to consider whether a more robust prioritisation process could be developed, from **8 November 2021** DAERA will not be accommodating any prioritisation requests until further notice.

Similar to Action One above, it is hoped that concentrated focus on the actual processing of consultations within these competing demands will yield an immediate impact on improvements in our performance. The cumulative effect of both of these actions will in itself provide a more consistent framework for delivery thereby reducing the backlog which will in turn reduce the number of such queries arising.

DAERA Webpage Alert

To assist with the Departments communication around these temporary arrangements, an advisory message has been uploaded onto the DAERA webpage. This advises all users of our service that the Department has implemented a number of actions to improve our performance and we anticipate these steps will enable us to respond to our current backlog within the next **16 weeks**. The Department has consequentially taken the decision that we will no longer be providing responses to any requests for updates or prioritisations until further notice.

This is the standard departmental response that will be issued for the next 16 weeks should any update or prioritisation request be sought.

Action Three: A message has been uploaded onto the DAERA webpage advising customers of our actions; a copy of this message has been attached at Annex A for information.

Thank you for your cooperation and patience as we adopt these measures to improve our performance rate.

MARK HAMMOND
Head of Natural Environment Division Operations

Natural Environment Division - Planning Consultation Update

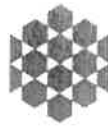
DAERA wish to alert all customers that we are currently experiencing a very heavy workload resulting in delays to planning consultation responses. The Department has implemented a number of actions to improve our customer service and to enable us to address our current backlog.

Providing indicative response times for inquirers diverts resource from making responses to consultations, the large volume of these are therefore slowing down our ability to respond. We appreciate the concerns of those waiting for responses so we will be focussing all resources **on making responses asap** rather than using resource to indicate when responses are anticipated.

The Department has consequentially taken the decision that it will no longer be providing responses to any requests for updates until further notice.

We acknowledge the delays in the current process and appreciate your cooperation and patience as we seek to address this situation and improve performance rates.

From the Office of the
Minister of Agriculture,
Environment and Rural Affairs



Department of
**Agriculture, Environment
and Rural Affairs**

www.daera-ni.gov.uk

Ms Anne Donaghy
Clerk & Chief Executive
Mid & East Antrim BC
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BT43 5EG
AnneDonaghy@midandeantrim.gov.uk

Room 438
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BT4 3SB
Telephone: 028 9052 4140
Email: private.office@daera-ni.gov.uk

Your reference: AD/KM
Our reference: CORR-0253-2021
Date: 2 March 2021

Dear Ms Donaghy

NIEA Operational Policy on Ammonia Emitting Projects

Thank you for your letter dated 18 February 2021 requesting an update on the Department's operational protocol for assessment of air pollution impacts. Unfortunately the Department was not able to publish a consultation before the end of last year. However, as advised by Minister Poots, work on the draft NI Ammonia Strategy is in its final stages of preparation and it is still the intention of my Department to consult on this important issue as soon as possible.

With regards to the reconsultations which have outstanding DAERA responses, I am aware of the frustration and distress that delays in the planning system can have on applicants. The Department is currently considering these cases and we will endeavor to respond as quickly as possible. I note, however, that it is within the planning authorities' power to determine these applications without further input from my Department.

Yours sincerely

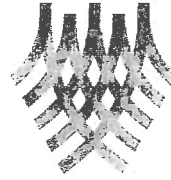
GORDON LYONS MLA
Minister of Agriculture, Environment and Rural Affairs

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**Mid & East
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Borough Council

Ref: TC/ab/NR

5 July 2021

Sent via email: private.office@daera-ni.gov.uk

Minister Edwin Poots MLA
Department of Agriculture, Environment and Rural Affairs
Dundonald House
Upper Newtownards Road
Ballymiscaw
Belfast
BT4 3SB

Dear Minister Poots

Re: NIEA Operational Policy on Ammonia Emitting Projects

At the June Full Council meeting, Elected Members agreed to write to you as Minister for Agriculture, Environment and Rural Affairs to get an update on your undertaking to progress a review of the operational policy for ammonia emitting projects. Council understands that the draft NI Ammonia Strategy is in the final stages of preparation and looks forward to the public consultation.

Council recognises there are a number of outstanding consultations with NIEA in relation to a number of intensive farming planning applications. In order for planning authorities to satisfy themselves that all risks to the environment have been properly considered, it is necessary to consult with NIEA who, as a statutory consultee, have a duty to provide a substantive response within 21 days.

NIEA consultation responses routinely advise that if the Natural Environment Division is to be re-consulted following the submission of additional information, the appropriate assessment undertaken by the competent authority should be included. However, when re-consulted NIEA is failing to respond.

In the absence of a substantive reply, Councils are unable to ascertain NIEA's position in its role as a Statutory Nature Conservation Body and any decisions taken by local authorities without further input from NIEA would therefore be at risk of legal challenge. NIEA has a statutory responsibility to provide timely responses and I would encourage you to instruct your officials to respond to the outstanding consultations without further delay.

Please reply to:

■ **Head Office**
The Braid
1-29 Bridge Street
Ballymena BT43 5EJ

Tel: 0300 1245 000

□ **Ballymena Office**
Ardeevin
80 Galgorm Road
Ballymena BT42 1AB

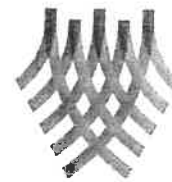
www.midandeantrim.gov.uk

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Museum & Civic Centre
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Carrickfergus BT38 7DG

□ **Larne Office**
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Silverwood Business
Park
190 Raceview Road
Ballymena
BT42 4HZ

Chief Executive OBE
Anne Donaghy



**Mid & East
Antrim**
Borough Council

I would also welcome a meeting at a suitable time to discuss the draft NI Ammonia Strategy.

Yours sincerely

Ms Anne Donaghy OBE
Clerk & Chief Executive

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Chief Executive OBE
Anne Donaghy

**From the Office of the
Minister of Agriculture,
Environment and Rural Affairs**



Department of
**Agriculture, Environment
and Rural Affairs**

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Email: private.office@daera-ni.gov.uk

Our Ref: INV-0401-2021
Your Ref: TC/ab/NR
Date: 29 July 2021

Dear Ms Donaghy

**MEETING TO DISCUSS DRAFT AMMONIA STRATEGY AND NIEA OPERATONAL
POLICY**

Thank you for your letter of 5 July 2021 requesting a meeting to discuss the draft Northern Ireland ammonia strategy and NIEA operational policy.

I would be pleased to meet with you and the members of Mid and East Antrim Borough Council to discuss these issues

My Diary Secretary, Lauri Hutton, will contact you in due course to make the necessary arrangements.

Yours sincerely

EDWIN POOTS MLA
Minister of Agriculture, Environment and Rural Affairs



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Edwin Poots MLA
Minister of Agriculture, Environment and Rural Affairs

E mail: private.office@daera-ni.gov.uk

12 October 2021

Dear Minister Poots,

NIEA Operational Policy on Ammonia Emitting Projects

I would like to thank you for taking the time to meet with Council on the 13 September 2021 to discuss your Department's review of the operational policy for ammonia emitting projects and of the progress on NIEA clearing a backlog of outstanding planning consultations.

At this meeting, you advised that the Habitats Directive did not apply to Northern Ireland, and that your Department was seeking legal advice on this matter from the Attorney General.

The Directive was transposed into domestic law i.e. **Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995**, and to ensure that the regulations remain operational after the EU transition period, changes were made by the **Conservation (Natural Habitats, etc.) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019**.

In December 2020, your Department published guidance explaining The Conservation (Natural Habitats, etc.) (Amendment) (NI) (EU Exit) Regulations 2019, which clarified that the obligations within the Directive have not changed, can you clarify your statement that the Directive no longer applies to Northern Ireland?

You also indicated at the meeting that you were taking legal advice from the Attorney General on the outstanding planning consultations and this was the rationale for the delay. I would like ask to what exactly you are taking legal advice on in respect to these outstanding consultations.

Finally, can you could provide a timeline for the completion of the review of the operational policy for ammonia emitting projects and publication of the draft NI Ammonia Strategy for public consultation. Shared Environmental Services is keen to

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Chief Executive OBE
Anne Donaghy

Tel: 0300 1245 000

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work collaboratively with DAERA to deliver a comprehensive approach to the reduction of ammonia levels across Northern Ireland and encourage the sustainable growth of the Agri-food business.

Yours sincerely

Nicola Rowles
Director of Development

Please reply to:

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Chief Executive OBE
Anne Donaghy



Ms Nicola Rowles
Director of Development
Mid & East Antrim Borough Council
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Email: private.office@daera-ni.gov.uk

Our Ref: CORR-1096-2021
Date: 21 October 2021

Dear Ms Rowles

NIEA Operational Policy on Ammonia Emitting Projects

Thank you for your correspondence of 12 October 2021. I will address each of your queries in order.

I can confirm that since our last meeting I have met with the Attorney General. I am currently considering her advice.

As I have previously stated I am aware of the frustrations and stress delays in the planning system cause for applicants. However, it remains within the power of the planning authorities to determine the outstanding reconsultations without further advice from my Department.

With regard to the time line on the publication of the draft Northern Ireland Ammonia Strategy and public consultation, it remains my desire to consult on the strategy soon.

I welcome the commitment to work collaboratively on this important subject and to deliver a comprehensive approach to the reduction of ammonia levels across Northern Ireland.

Yours sincerely

EDWIN POOTS MLA
Minister of Agriculture, Environment and Rural Affairs



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OAKLAND VILLAS RESIDENTS

15 NOV 2021

In response to Planning application LA09/2021/0146/0, Oakland Villas residents would like some views and concerns to be raised and considered at the planning meeting. Whilst we do not have any major issue with the infill site location, we do not support the current scheme design on the basis of the access through Oakland Villas to the proposed site.

CONCERNS

- Existing traffic from site (Builders yard?) has not been utilized through Oakland Villas as stated in the application. (Picture A)
- No consideration for residents has been made within the existing application. Parking is already tight within Oakland Villas without losing more space to further access.
- Heavy construction traffic may not be able to access the proposed site when vehicles are parked.
- Heavy construction traffic may cause damage to existing kerbing, ironwork and surfacing.
- Increased site traffic will cause an increased danger to residents who cross the existing road to access the green area.
- Existing concrete laneway access from the main road has not been considered as an alternative access to the proposed infill site application. (Picture B)
- A part of Greenspace and Mature trees within Oakland Villas has already been removed recently to achieve access to the proposed site. (Pictures C + D)

PROPOSALS

The residents of Oakland Villas propose that the above concerns be addressed prior to approval for the current application. We reiterate that we do not object to the placement of the proposed infill site but have major concerns about the access proposed. Particularly the increased heavy traffic causing damage and safety risk to residents during the construction phase.

SIGNED

Zandra Morgan
Uel Carson
SIRBATIVE
Q. Williams

ADDRESS

