

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

<b>Members Present</b>	Councillor Mallaghan, Chair	
	Councillors Bell*, Black*, Brown, Clarke, Colvin, Corry, Cuthbertson, Glasgow, Martin*(7.10 pm), McFlynn, McKinney, D McPeake, S McPeake, Quinn*(7.03 pm), Robinson	
<b>Officers in Attendance</b>	Dr Boomer, Service Director of Planning (SD: PI) Ms Doyle, Head of Local Planning (HLP) Ms Donnelly, Council Solicitor Mr Marrion, Senior Planning Officer (SPO) Ms McKinless, Senior Planning Officer (SPO) Mr McClean, Senior Planning Officer (SPO) Miss Thompson, Committee and Member Services Officer	
<b>Others in Attendance</b>	Councillor Gildernew*** Councillor S McGuigan*** Ms Kiley, Barrister***	
	LA09/2022/0520/F LA09/2022/1326/O	Mr Ross*** Ms McGahan*** Mr Maneely
	LA09/2022/1426/O LA09/2020/1140/O	Councillor N McAleer*** Councillor Monteith Councillor B McGuigan
	LA09/2021/0599/O LA09/2021/0719/F LA09/2021/1182/F	Ms Muldoon*** Mr Cassidy*** Councillor Molloy*** Ms Curtin
	LA09/2022/0437/F LA09/2022/1226/O LA09/2022/1230/O	Mr Cassidy*** Mr Cassidy*** Mr Cassidy***

\* 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

**P012/23 Notice of Recording**

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

## **P013/23      Apologies**

None.

## **P014/23      Declarations of Interest**

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

## **P015/23      Chair's Business**

The Service Director of Planning (SD: PI) highlighted that prior to Christmas the other Councils launched their planning portal and referred to the press coverage since then on the problems being experienced with this new portal. The SD: PI stated that this Council had been wise to ensure that its own system worked when it went live. The SD: PI stated that he had no doubt that the problems related to the Department's planning portal will be resolved however he felt that on looking at that Department's portal he was convinced that this Council made the right decision in terms of best value and also product as he felt this Council has the better of the two portals.

The SD: PI referred to addendum and letter therein from Department for Infrastructure in relation to the Planning Improvement Programme and what Council is doing in relation to this. The SD: PI referred to the questions posed within the letter as follows and suggested responses –

Good record keeping and transparency in recording of decisions – The SD: PI felt that this Council is the most transparent of all the authorities and he would reflect this as he already had to the Audit Public Accounts Committee.

Planning authorities should regularly review past decisions to understand real world outcomes – The SD: PI felt that this would be a good thing and once at the summer period he would ask the Head of Development Management to look at some of the decisions taken on more controversial applications.

Committee Minutes in relation to where the Committee takes a decision contrary to the planning officer recommendation – The SD: PI advised that this Council has the lowest number of overturned decisions and that he was not overly concerned on this as he always pushes Members to explain their reasoning in such a situation and that this is properly recorded in the minutes.

Minutes should outline reasons why an application is brought to committee – The SD: PI advised that this information is detailed on the front of the officer report.

Immediate action is required to ensure the system is operating fairly and appropriately with regard to overturn rates – The SD: PI stated he had no concerns in relation to this and that if he did he would advise the Committee.

Rural housing policy should be implemented equally and consistently – The SD: PI stated that the rural housing policy is as set out and that he felt it was being implemented equally and consistently. The SD: PI advised that the policy does be

balanced against other material considerations and that this is recorded which is how the planning system is supposed to operate. The SD: PI stated that he felt there were differences in how this Council operates compared to other Councils.

Consistency in enforcement outcomes should be investigated and best practice shared – The SD: PI stated that there are structures in place for sharing best practice, he highlighted that there is a difference in that this Council operates enforcement based on lodged complaints as opposed to looking for cases to open. The SD: PI stated it is up to each Council to decide how it wants to operate its enforcement system.

Training in terms of Officers and Members – The SD: PI advised that Covid affected the ability to keep officer training up to date but that there is a professional development programme in place for officers which will now be returning to a more normalised position. The SD: PI referred to the upcoming elections in May and that training programmes for Members will take place in June when the composition of the planning committee becomes known.

The SD: PI stated that if Members were content he would respond to the correspondence from the Department as outlined above.

Members were agreeable to the approach and responses as outlined.

The SD: PI drew attention to addendum and appeal decision outlined with regard to dwelling on a farm and interpretation regarding 10 year rule. The SD: PI highlighted that the appeal was dismissed.

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 5.1 – LA09/2019/1430/F - 4 new dwellings, associated parking, landscaping, roads and footpath at lands 110m SE of 30 Pound Road, Magherafelt.

Agenda Item 5.4 - LA09/2021/1260/O - Dwelling and garage at approx. 80m E of 24 Garrison Road, Magherafelt.

Agenda Item 5.5 - LA09/2021/1286/O - Dwelling and garage at 30m SW of 30 Cloane Road, Draperstown.

Agenda Item 5.6 - LA09/2021/1385/F - Widening of previously approved vehicle access position to allow paired access onto the Moneysharvin Road at 250m N of 2 Gortinure Road, Maghera.

Agenda Item 5.10 - LA09/2021/1779/O - Domestic dwelling and garage on a farm at 30m SW of 3 Macknagh Lane, Upperlands.

Agenda Item 5.12 - LA09/2022/0201/O - Single storey dwelling adjacent to 64 Reaskmore Road, Reaskmore, Dungannon.

Agenda Item 5.13 - LA09/2022/0249/O - Dwelling & domestic garage on a farm at land adjacent to & immediately S of 14 Tychaney Road, Ballygawley.

Agenda Item 5.16 - LA09/2022/0490/O - Dwelling and garage on a farm at 194M SW of 8 Killybearn Lane, Cookstown.

Agenda Item 5.18 - LA09/2022/0551/F - Two storey dwelling at lands at 64 Drumcoo Green, Dungannon.

Agenda Item 5.20 – LA09/2022/0732/O - Dwelling and garage at 110m NE of 26 Broagh Road, Knockcloghrim, Magherafelt.

Agenda Item 5.21 - LA09/2022/0739/F - Buildings to house wood and coco fibre plant, storage bay, chip feed bin, access (in situ) and ancillary site works. at lands approx. 7m N of 16 New Ferry Road, Bellaghy.

Agenda Item 5.22 - LA09/2022/1061/O - Dwelling and garage at lands 160 Metres NE of 136 Mayogall Road, Clady.

Agenda Item 5.23 - LA09/2022/1062/O - Dwelling and garage at 95m S of 4 Drumgarrell Road, Cookstown.

Agenda Item 5.25 - LA09/2022/1413/O - Site for dwelling and garage on a farm at 90m N of 2A Brackaghreilly Road, Maghera.

Agenda Item 5.26 – LA09/2022/1419/O - Detached bungalow with associated external private amenity space and garage at lands W of 4,5, 6 & 7 Riverdale Drive, Cookstown.

Agenda Item 5.28 - LA09/2022/1504/O - Site for dwelling and domestic garage at 160m NE of 116 Lurgylea Road, Dungannon.

Agenda Item 5.29 - LA09/2022/1512/O - Two storey dwelling with single storey garage, associated ancillary site works, landscaping and new access to the public road at 25m N of 15 Annaginny Road, Dungannon.

Councillor Brown stated he was content to propose the deferrals but referred back to the documentation sent through on Friday and that there was to have been a request for deferral sent through for agenda item 6.7, the Councillor asked if this had been received.

The Head of Local Planning (HLP) advised that a request for deferral was received from the agent and within that request it was outlined that additional information would be submitted. The HLP advised that she contacted the agent to clarify what the additional information would be and it was advised that the applicant had met with an MLA and that there would be a request for a deferral from the MLA for an office meeting. The HLP advised that there had been no request received for a deferral from an MLA for this application.

The SD: PI advised that MLAs have no status within the planning committee and that an application would not automatically be deferred because an applicant had gone to

an MLA. The SD: PI stated that this was an application which had already been deferred and therefore would not automatically be deferred again but highlighted that when this item is being considered later in the meeting Members can take their own decision.

Councillor S McPeake seconded Councillor Brown's proposal to defer the items listed above.

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

## **Matters for Decision**

### **P016/23 Planning Applications for Determination**

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

**LA09/2019/1430/F 4 new dwellings, associated parking, landscaping, roads and footpath at lands 110m SE of 30 Pound Road, Magherafelt for Noeleen Kidd**

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

**LA09/2021/0090/F Replacement access laneway to dwelling (amended access) at 37 Mullybrannon Road, Dungannon for Farasha Properties Ltd**

**LA09/2021/0091/F Dwelling and garage (amended access and additional landscaping) at 150m SW of 35 Mullybrannon Road, Dungannon for Farasha Properties Ltd**

Members considered previously circulated report on planning applications LA09/2021/0090/F and LA09/2021/0091/F which both had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor McFlynn and

**Resolved** That planning applications LA09/2021/0090/F and LA09/2021/0091/F both be approved subject to conditions as per the officer's reports.

**LA09/2021/1260/O Dwelling and garage at approx. 80m E of 24 Garrison Road, Magherafelt for Donna & Danny O'Shea**

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

**LA09/2021/1286/O Dwelling and garage at 30m SW of 30 Cloane Road,  
Draperstown for Sean Gallagher**

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

**LA09/2021/1385/F Widening of previously approved vehicle access position to  
allow paired access onto the Moneysharvin Road at 250m N  
of 2 Gortinure Road, Maghera for Mr Rafferty**

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

**LA09/2021/1575/RM Demolition of workshop & erection of a 1.5 storey  
detached dwelling at to the rear of 11 Adair Gardens,  
Cookstown for R & F Developments**

Members considered previously circulated report on planning application  
LA09/2021/1575/RM which had a recommendation for approval.

Proposed by Councillor Colvin  
Seconded by Councillor Glasgow and

**Resolved** That planning application LA09/2021/1575/RM be approved subject to  
conditions as per the officer's report.

**LA09/2021/1652/F Entrance to approved site at 85m E of 3 Tulnacross Road,  
Cookstown for Wesley Carson**

Ms McKinless (SPO) presented a report on planning application LA09/2021/1652/F  
advising that it was recommended for refusal.

Councillor Brown proposed writing to the agent asking them to reconsider moving  
the entrance out of the flood plain.

Councillor McKinney seconded Councillor Brown's proposal.

**Resolved** That planning application LA09/2021/1652/F be deferred to seek an  
amended access to the site.

**LA09/2021/1739/F Sand and gravel extraction using dry screeners/loading  
shovel. Proposed access road including passing bays,  
wheel wash and welfare facilities. Construction of noise  
attenuation bund. (Renewal of H/2014/0019/F) at rear of 5  
Brackaghlistea Road, Desertmartin for Mea Ltd**

Members considered previously circulated report on planning application  
LA09/2021/1739/F which had a recommendation for approval.

Proposed by Councillor Corry  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2021/1739/F be approved subject to conditions as per the officer's report.

**LA09/2021/1779/O Domestic dwelling and garage on a farm at 30m SW of 3 Macknagh Lane, Upperlands for Mrs Mary Rafferty**

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

**LA09/2022/0131/F Storage/warehouse for the storage of metal components at 111 Ballynakilly Road, Coalisland for James Mackle**

Members considered previously circulated report on planning application LA09/2022/0131/F which had a recommendation for approval.

Proposed by Councillor S McPeake  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2022/0131/F be approved subject to conditions as per the officer's report.

**LA09/2022/0201/O Single storey dwelling adjacent to 64 Reaskmore Road, Reaskmore, Dungannon for Kieran McGartland**

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

**LA09/2022/0249/O Dwelling & domestic garage on a farm at land adjacent to & immediately S of 14 Tychaney Road, Ballygawley for Jenna Robinson**

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

**LA09/2022/0418/F 2 pair of semi detached houses (4 houses) to replace detached house M/2013/0071/F at 1 Castle Glen Avenue, Ranfurly Road, Dungannon for M & L Property Developments Ltd**

Members considered previously circulated report on planning application LA09/2022/0418/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Colvin and

**Resolved** That planning application LA09/2022/0418/F be approved subject to conditions as per the officer's report.

**LA09/2022/0440/F Residential development of 30 dwellings (3 & 4 bed detached and semi-detached houses) with associated access & parking, landscaping and public open space at 140 Old Caulfield Road, Castlecaulfield, Dungannon for Alskea Ltd**

Members considered previously circulated report on planning application LA09/2022/0440/F which had a recommendation for approval.

Proposed by Councillor S McPeake  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2022/0440/F be approved subject to conditions as per the officer's report.

**LA09/2022/0490/O Dwelling and garage on a farm at 194M SW of 8 Killybearn Lane, Cookstown for Martyn Devlin**

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

**LA09/2022/0520/F 30m telecommunication mast with 3No. antennae, 3no. radio units and 2No. radio dishes; to include an equipment compound and associated ancillary development at lands C.107m S of 19 Lisnagleer Road, Dungannon for Cornerstone**

Members considered previously circulated report on planning application LA09/2022/0520/F which had a recommendation for approval.

Councillor Colvin proposed the recommendation.

Councillor Corry seconded Councillor Colvin's proposal.

Councillor Brown stated that the proposal is to replace an existing mast and highlighted that the existing mast has four providers on it. The Councillor stated that the proposal is only for two providers and also referred to a further application in the system for another pole with two providers. Councillor Brown asked if there had been any discussions with the applicants as to why the pole can't be for all four providers given that the existing mast is for four providers. The Councillor referred to policy CTY10 in relation to pole sharing and stated that if there have been no discussions is this something that should be looked at as there would be no desire to have a lot of unnecessary additional poles going up around the country.

Mr Marrion (SPO) stated that there was an application for a street works pole which has already been approved and that officers have had discussions with the applicant to try to understand what is happening and the need for the new telecoms mast. It was advised that the new mast is needed as the permission for the current mast has been revoked by the landowner and therefore the existing mast has to be removed. Mr Marrion advised that there have been discussions to explore having all providers on one site but that nothing has come forward in that regard.



Councillor Brown asked for clarification if an application had already been approved.

Mr Marrion advised that there was one application which had already been approved, the application before Members tonight and then a further application which is still to be determined, three applications in total in the area.

The SD: PI advised that it was reasonable in the circumstances to defer the application for an office meeting.

The Chair, Councillor Mallaghan stated that Councillor Brown had raised an interesting series of questions and invited Mr Ross to speak on the application.

Mr Ross stated that the existing mast has to be removed as the landowner has decided that they do not want the mast on their land anymore. Mr Ross advised that the providers have gone to find new sites and that there are a variety of options but that in this case two of the operators have decided they want to build slimline poles along the roadside which will service their needs whilst two of the providers want to build a mast which is taller which fits in with their wider cell network. Mr Ross stated that to service the two providers a 30m slimline lattice tower can be built however if the mast had to service three providers then the tower would need to be 5m taller and of a stronger structure so it was felt that, on balance, a suitable solution is to have two providers on one mast and the other two providers each have a street pole. Mr Ross stated that the situation has been thought out and a lot of effort has been put into finding a solution for all providers in this locality.

The SD: PI asked to see drawings of each of the applications.

Members were shown image of mast being proposed.

Members agreed to come back to this item when drawings of the approved application and other application still to be determined could be provided.

**LA09/2022/0551/F Two storey dwelling at lands at 64 Drumcoo Green,  
Dungannon for Ryan Graham McCurry**

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

**LA09/2022/0556/O Domestic dwelling and garage adjacent to 37 Moss Road,  
Ballymaguigan, Magherafelt for Ciara McGrath**

Ms McKinless (SPO) presented a report on planning application LA09/2022/0556/O advising that it was recommended for refusal.

Councillor McFlynn stated this was a rural road which is close to Ballymaguigan School and that she felt a site visit would be beneficial in this case. Councillor McFlynn proposed that a site visit be held.

Councillor D McPeake seconded Councillor McFlynn's proposal.

**Resolved** That planning application LA09/2022/0556/O be deferred for a site visit.

**LA09/2022/0732/O Dwelling and garage at 110m NE of 26 Broagh Road, Knockcloghrim, Magherafelt, for Martin McErlean**

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

**LA09/2022/0739/F Buildings to house wood and coco fibre plant, storage bay, chip feed bin, access (in situ) and ancillary site works. at lands approx. 7m N of 16 New Ferry Road, Bellaghy for Bulrush Horticultural Ltd**

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

**LA09/2022/1061/O Dwelling and garage at lands 160 Metres NE of 136 Mayogall Road, Clady, for Colm McNally**

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

**LA09/2022/1062/O Dwelling and garage at 95m S of 4 Drumgarrell Road, Cookstown, for Mr Ryan O'Neill**

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

**LA09/2022/1326/O Dwelling and detached garage at lands 45m SE of 101 Drummurrer Lane, Coalisland for Michael Quinn**

Mr Marrion (SPO) presented a report on planning application LA09/2022/1326/O advising that it was recommended for refusal.

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

Ms McGahan advised that she was speaking against the application and that passing this type of development would create an undesirable precedent not only in Drummurrer Lane but across Mid Ulster. Ms McGahan felt it would be difficult to challenge other 'cluster' applications of the same nature and would quickly result in the erosion of rural character across the Council area. Ms McGahan stated that to approve the application would result in another detrimental precedent of the acceptance of ribbon development which is strictly prohibited under policy. Ms McGahan stated that policy is there to guide and protect and any diminishment of this would open floodgates for irreversible and unfavourable development across the council area. Ms McGahan stated that the property and outbuildings at 101 Drummurrer Lane are subject to demolition and a small farm holding is no longer in use. Ms McGahan stated that she believed this application was contrary to policy CTY1, CTY2a, CTY8 and CTY14.

Mr Maneely stated that a request for a deferral had been made for an office meeting but that it appeared this had not reached the planning team.

The SD: PI asked if the request had been made in time and through the Committees Section.

Mr Maneely advised that the request was made through an MP.

The SD: PI stated that the request was not received.

Mr Maneely stated that this was an outline application for a dwelling in the countryside. Mr Maneely stated that clustering was not mentioned in the planning application however it was referred to in the officer report. Mr Maneely stated that policy CTY1 advises that a range of development is acceptable in the countryside and that this includes dwellings sited in a cluster of buildings or if the development is in a small gap site within a built up frontage. Mr Maneely outlined that policy CTY2a states that planning permission will be granted for dwellings if the existing cluster meets criteria in that it lies outside of a farm and consists of four or more buildings excluding ancillary buildings such as garages and at least three dwellings. Mr Maneely stated there are at least six residential properties around the proposal site. Mr Maneely stated that policy states that the cluster should appear as a visual entity on the local landscape and with road frontage properties in a linear development. Mr Maneely referred to focal points and advised that there is a crossroads within 50m of the proposal which is not shown on the map nor a number of existing dwellings. Mr Maneely referred to requirement regarding enclosure and advised that there are two residential properties existing to the west and north of the site. Mr Maneely stated that the proposal will not impact on rural character and that the site shows a gap in building line on Drummurrer Lane and that the site meets the aspirations as laid out for new buildings in existing clusters and that to the north of the site there is 110m of uninterrupted residential development, four dwellings, which have a single junction on to the road and then paired off after that. Mr Maneely stated that to the south of the site there is 310m of uninterrupted development, six dwellings and a commercial facility and that there are seven existing access points off the Drummurrer Lane. Mr Maneely stated that access to this site has been positioned along a strong mature hedge and that it is believed this site has many possibilities and asked for a deferral in order to discuss the application further.

Councillor Colvin stated that there are a lot of crossroads around the country and if that is being used as a focal point he did not feel it was a robust argument. Councillor Colvin stated that the planning officer was recommending refusal of the application and that he proposed to accept the recommendation.

Councillor McFlynn seconded Councillor Colvin's proposal.

**Resolved** That planning application LA09/2022/1326/O be refused on grounds stated in the officer's report.

**LA09/2022/1413/O Site for dwelling and garage on a farm at 90m N of 2A Brackaghreilly Road, Maghera, for Mr Tomas Convery**

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

**LA09/2022/1419/O Detached bungalow with associated external private amenity space and garage at lands W of 4,5, 6 & 7 Riverdale Drive, Cookstown for Mr Sammy Lyle**

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

**LA09/2022/1426/O Site for dwelling and garage within a cluster at 40m NE of  
178 Battery Road, Moortown for Peter Devlin**

Mr Marrion (SPO) presented a report on planning application LA09/2022/1426/O advising that it was recommended for refusal.

The Chair advised the committee that a request to speak on the application had been received and invited Councillor N McAleer to address the committee.

Councillor N McAleer proposed a site visit in order to give Members a better understanding of how the proposal would blend into the existing cluster of properties. Councillor N McAleer stated he did not think the proposal would result in urban sprawl as it would be hemmed in by the GAA grounds and properties to the east and west of the site.

Councillor Bell seconded Councillor N McAleer's proposal for a site visit. Councillor Bell stated he is from the area and would concur with the comments made by Councillor N McAleer.

The SD: PI stated he was conscious that the Committee had just dealt with an application where the argument was for a cluster and it was concluded to refuse the application. The SD: PI stated he did not hear an argument presented that this proposal is within a cluster and it poses the question what is the purpose of the site visit.

Councillor McKinney asked how far the proposal is from the existing piggery.

Mr Marrion showed on the map the proximity of the piggery to the proposal site.

The Chair, Councillor Mallaghan referred to the report and the focal point being inside the settlement limit and asked where focal point is.

Mr Marrion advised that there is no focal point as development within the settlement limit cannot be used as an argument for a dwelling in the countryside. It was advised that to the north of the site there is a football club and grounds however this does not associate with the proposal site.

The SD: PI asked if the piggery was associated with the site.

Mr Marrion advised that the piggery is not related to the applicant.

Councillor S McPeake stated that it would depend on the scale and nature of the piggery in that a small piggery may not be as much of nuisance as an industrialised unit. The Councillor felt it would be useful to see how close the football ground is to the site and that a site visit may be beneficial.

Members were shown an aerial image of the site and the proximity of the football ground.

The SD: PI stated that the aerial image was helpful and that he felt the wrong argument had been presented in that it is not development within a cluster but could be rounding off and that he would be content for Members to take a look at the site.

Councillor Cuthbertson asked that if the farmer wanted to extend his holding in the future would the dwelling then have rights to object to this.

The SD: PI stated the officers would have to consult with environmental health in relation to the piggery.

Councillor Colvin asked if piggeries are a material consideration.

The SD: PI advised that it should be treated like any other business. The SD: PI advised that when a house is built certain rights go to the occupant and the occupant can then make certain complaints which environmental health would need to investigate. This could result in action being taken which is why the scale of the operation should be ascertained.

**Resolved** That planning application LA09/2022/1426/O be deferred for a site visit.

**LA09/2022/1504/O Site for dwelling and domestic garage at 160m NE of 116 Lurgylea Road, Dungannon for Mr Patrick Clarke**

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

**LA09/2022/1512/O Two storey dwelling with single storey garage, associated ancillary site works, landscaping and new access to the public road at 25m N of 15 Annaginny Road, Dungannon for Mr and Mrs Philip Brown**

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

**LA09/2022/1535/F Two storey dwelling, access and associated works (development already commenced- M/2009/0016/F) adjacent to 71 Aghintoher Road, Dungannon for Mr A McManus**

Members considered previously circulated report on planning application LA09/2022/1535/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/1535/F be approved subject to conditions as per the officer's report.

**LA09/2022/1623/F Change of house type and relocation of extant planning  
LA09/2018/1657/F Curtilage to be extended with garage to  
remain as previously approved at site between 117 and 119  
Mullaghboy Road, Bellaghy, for Bronagh and Paul Doherty**

Members considered previously circulated report on planning application LA09/2022/1623/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor S McPeake and

**Resolved** That planning application LA09/2022/1623/F be approved subject to conditions as per the officer's report.

**Continuation of**

**LA09/2022/0520/F 30m telecommunication mast with 3No. antennae, 3no. radio units and 2No. radio dishes; to include an equipment compound and associated ancillary development at lands C.107m S of 19 Lisnagleer Road, Dungannon for Cornerstone**

Members were shown image of the street works pole proposed on A29 at junction with Lammy Road. Members were also shown the street works pole which has been approved on A29 at Agharan Road junction.

Councillor Brown asked how many providers were on the approved street works pole.

Mr Marrion advised that there was one provider on the street pole approved.

Councillor Colvin stated that the images looked acceptable and that one of the complaints he gets in the area is that broadband is poor. Councillor Colvin stated he had previously made a proposal to proceed with the officer recommendation and that he would continue to stand by his proposal.

The Chair, Councillor Mallaghan stated it had been useful to see the images of the different types of masts and that the street poles were less obtrusive than the lattice towers.

Councillor Glasgow seconded Councillor Colvin's proposal.

**Resolved** That planning application LA09/2022/0520/F be approved subject to conditions as per the officer's report.

**LA09/2019/0768/F Retention of two storage sheds and yard at lands 70m W of 33 Kanes Rampart, Coalisland, for Barran Yennie Peat Products**

Members considered previously circulated report on planning application LA09/2019/0768/F which had a recommendation for approval.

Proposed by Councillor Colvin  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2019/0768/F be approved subject to conditions as per the officer's report.

**LA09/2019/1051/O Site for a dwelling and domestic garage at Approx 80m S of 103 Moyagall Road, Magherafelt for Mr Conor O'Neill**

*Councillor S McPeake declared an interest in this application.*

Members considered previously circulated report on planning application LA09/2019/1051/O which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2019/1051/O be approved subject to conditions as per the officer's report.

**LA09/2020/0213/F Restructuring and alterations of vehicular access at 18 Cookstown Road, Dungannon for Mr Barry O'Neill**

Members considered previously circulated report on planning application LA09/2020/0213/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2020/0213/F be approved subject to conditions as per the officer's report.

**LA09/2020/0905/F Retention of change of use of former farm shed to engineering works at Approx 40m S of 28 Slatmore Road, Clogher for Wiltshire Engineering**

Members considered previously circulated report on planning application LA09/2020/0905/F which had a recommendation for approval.

Proposed by Councillor Cuthbertson  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2020/0905/F be approved subject to conditions as per the officer's report.

**LA09/2020/1140/O Dwelling on a farm with a detached garage between 104 Ballygawley Road and an agricultural building 100m NE of 104 Ballygawley Road, Glenadush for Mr Bernard McAleer**

The Head of Local Planning (HLP) presented a report on planning application LA09/2020/1140/O advising that it was recommended for refusal.

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

Councillor Monteith stated that it has been well laid out twice by the planners as to why the application is unsuitable. Councillor Monteith stated that it is important that the application is refused and it is vital to stick to planning policy to ensure that the rural way of life and farming way of life is maintained and it is clear that this is not a farm holding and there is no history of farming on the site. Councillor Monteith stated that on the day of the site visit no access was permitted to the agricultural building despite a request to do so. Councillor Monteith stated that a mud wall has also appeared on the site to hide it from the road. Councillor Monteith stated that the Lamont decision removes any ambiguity and potential for exception to be made which would leave the Council open to legal challenge if the planning officer recommendation was overturned. Councillor Monteith stated that it is important to adhere to policy in this case.

Councillor B McGuigan referred to points from the deferred consideration report. Councillor B McGuigan stated he was satisfied that the proposal satisfies criteria A and B of policy CTY10. In relation to criteria C, the Councillor felt that the planning officer interpretation will prevent all farmers who only have one building or no buildings on their holding from ever gaining permission to build a dwelling on the farm. The Councillor stated that Members may feel this is unduly harsh and as such may wish to exercise an exception to policy. In relation to policy CTY13 it is considered that should a dwelling be allowed on the site it can be conditioned to a ridge height of 5.5m and would therefore not appear to be prominent on the landscape. Having been to the site visit, Councillor B McGuigan stated he agreed with the previous assessment and did not consider that a new dwelling would adversely impact on rural character of the area and that previous reports address all concerns raised by the objectors to the application. Councillor B McGuigan stated that there has been a lot of weight attached by the objector to the Lamont decision where the planning permission was quashed. The Councillor stated that the issue with that case was in relation to internal DoE planning processes and the way they documented the interpretation of the policy and the approval. Councillor B McGuigan stated that the DoE approved that particular site stating that it was fully in accordance with policy when it fell short on a similar situation to this one. Councillor B McGuigan stated that officers have documented the relevant policy, where the site satisfies the policy and where it does not and why this site could be approved as an exception to policy. Councillor B McGuigan stated that if Members did approve the application as an exception to policy he did not feel it would be open to judicial review as due process has taken place and it is for this reason that there is a formal recommendation to refuse but that it has been highlighted the application could be approved. Councillor B McGuigan stated that officers have conditions prepared should a decision be taken to approve the application as an exception. Councillor B



McGuigan stated that the application will have no adverse impact on the rural character of the area and that all issues of concern have been addressed.

The SD: PI referred to the argument put forward that there is no farm and advised Members not to go down that line the reason being that Committee could be found wanting on the grounds of perversity because it allowed the farm building as being on the farm. The SD: PI stated that the farm building may have been a tool to get a permission for a house but that this can happen in a lot of instances. The SD: PI stated that the application did not fall under a house in a cluster nor infill. The SD: PI stated that the argument put forward is that the application is against policy which is correct however he stated that policy is not a tablet of stone but also that it cannot be set aside lightly and rationale and reasoning must be set out for doing so. The SD: PI stated that a long time has been taken over this application and that both options are available so long as a rationale is set out. The SD: PI stated he did not know what would happen if the application went to planning appeal.

Councillor Cuthbertson stated he had been unable to go to the site visit but that the site has come before Members for consideration numerous times. Councillor Cuthbertson stated he did not feel the application would have any detrimental impact and that he would be content to overturn the officer recommendation and approve the application.

The Council Solicitor advised that if the Member had not attended the site visit it may be best not to make a proposal.

Councillor Cuthbertson stated he did not think it was a legal requirement to go to site visits as there had been instances in the past where only one person turned up on site and that one person cannot propose and second an application. Councillor Cuthbertson stated he was content to take the legal advice being given.

The SD: PI stated that if a Member is familiar with the site then that is ok but he would be more concerned with a proposal being put forward from someone who did not know a site. The SD: PI stated that this site is on a main road into Dungannon and he would suspect most Councillors from that area would be aware of it.

Councillor Cuthbertson stated he was happy to hear what other Members had to say on the application and would withdraw his proposal.

Councillor S McPeake stated he did attend the site visit and that he did see the differentiation argument put forward. The Councillor stated that the Committee would be stepping outside policy to approve the application but that he felt to refuse the application would be too harsh. Councillor S McPeake stated that the proposal will not change the rural character of the area and that the condition for a single storey dwelling will not make a material difference in the landscape and therefore proposed that the application be approved.

Councillor Glasgow stated he went on the site visit and asked if there were any additional photographs of the earth bund as the photograph being shown was not what Members saw on the day.

The HLP advised that the photograph being shown tonight was taken in September 2022. The officer advised that there were no photographs taken on the day of the site visit but agreed that there may have been more earth added to the bund since the time of the photograph taken in September 2022.

The Chair, Councillor Mallaghan referred to the late objection and asked if there was anything included in that which had not been previously considered.

The HLP advised that there was nothing new to address in the late objection.

Councillor Corry seconded Councillor S McPeake's proposal.

The SD: PI stated that the proposal to approve is based on the fact that whilst there is only one building and the application fails the policy test it is accepted the application is for a dwelling on the farm. The SD: PI stated that the proposal can nestle into the remaining corner of the site and is concealed and whilst it does not meet the letter of the policy it does meet the spirit of the policy which is clustering buildings together to minimise the impact on the landscape. Conditions to be attached should be 5.5m ridge height and landscape and hedging between the road and earth bund.

Councillor McKinney stated that he felt the Committee had done wrong in passing the shed in the first instance and he believed it had done wrong again tonight. Councillor McKinney asked that a vote be taken on the proposal to approve the application.

The Chair, Councillor Mallaghan asked if Councillor McKinney was making a counter proposal.

Councillor McKinney stated he was not making a counter proposal but asked that a vote be taken on the proposal put forward.

The Chair, Councillor Mallaghan stated that he did not need to take a vote if there was no counter proposal.

Councillor McKinney proposed the officer recommendation to refuse the application.

Councillor Glasgow seconded Councillor McKinney's proposal.

Members voted on Councillor S McPeake's proposal to approve the application –

For – 7

Against – 1

Abstain – 8

**Resolved** That planning application LA09/2020/1140/O be approved subject to conditions as outlined.

**LA09/2020/1322/O Dwelling adjacent to 59 Drumaspil Road, Drumcrow,  
Dungannon for Eamonn Donnelly**

Members considered previously circulated report on planning application LA09/2020/1322/O which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2020/1322/O be approved subject to conditions as per the officer's report.

**LA09/2021/0129/O Site for dwelling house & double domestic garage at  
approx. 40m NE of 2 Ballynagilly Road, Cookstown, for Mr  
James Harkness**

The Head of Local Planning (HLP) presented a report on planning application LA09/2021/0129/O advising that it was recommended for refusal.

Members were reminded that the agent had indicated that the applicant had spoken to an MLA regarding a deferral however no request for deferral from an MLA was received.

Councillor Glasgow stated that an MLA has no remit within the planning committee however they are entitled to write. Councillor Glasgow proposed that the application be deferred as he did not want to think someone had misinterpreted procedures. The Councillor asked that officers go back to the agent advising what the procedures are.

The HLP advised that the agent was unclear what the request for a deferral was for and that he had indicated that there would be new information submitted. On speaking with the agent it was advised that the new information would be a request from an MLA and that the applicant had spoken to the MLA.

The SD: PI advised that an MLA is not a decision maker on the planning committee. The SD: PI advised that an office meeting had already been held on the application and he did not see the purpose of a further meeting. The SD: PI stated that the applicant has been given a chance and it would appear they cannot formulate an argument and if someone is dissatisfied with a decision then they have right of planning appeal.

Councillor Glasgow stated he feared someone had misinterpreted procedures and proposed that the application be deferred but that it needed to be highlighted that this was the last chance.

The Chair, Councillor Mallaghan suggested that the application be held for 30 days to give opportunity to follow correct procedure.

Councillor Glasgow proposed that the application be held for 30 days.

Councillor Mallaghan seconded Councillor Glasgow's proposal.

**Resolved** That planning application LA09/2021/0129/O be held for 30 days.

**LA09/2021/0599/O 2 infill detached dwellings with associated detached garages, shared access onto Rogully Road and landscaping at adjacent and NW of 6 Rogully Road, Loup, Moneymore for Ashling McNicholl**

The Head of Local Planning (HLP) presented a report on planning application LA09/2021/0599/O advising that it was recommended for refusal.

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

Ms Muldoon contended that the application is compliant with CTY1 and CTY8 and CTY14 and that this rationale is supported by the drone footage. Ms Muldoon stated that the gap site is proportional in its scale and plot size to those adjacent and is large enough to accommodate two dwellings. Ms Muldoon stated that the gap site is set along a continuous set back line and the line of development, although set back from the road, does have a frontage to the road. Ms Muldoon stated that the hedge lines which are reflected in the images are not thick and allow for views in from the Rogully Road and when driving along this section of road you can clearly see the dwellings and other buildings. Ms Muldoon stated that when looking at the eastern view it is clear that the proposal is not detrimental nor would it have a significant negative impact on the countryside or rural character. By aligning the proposal with the existing built fabric which is set back from the road it was felt that this application is compliant with the three core policies which are the rationale for refusal. Ms Muldoon stated there would be no change to the rural character nor would there be a detrimental change to the reading of the site nor the surroundings. Ms Muldoon stated that the drone footage submitted reinforces this and that although there are fields to the front, those fields do not detract from the continuous built up line of development which is a mix of dwellings and commercial shed. Ms Muldoon felt strongly that the application meets with policy conditions and would therefore appreciate the support of the Committee.

Councillor Clarke stated he had not been at the site visit but on looking at the images provided it appeared this is the outworkings of an urban policy in the countryside where buildings are expected to be lined along the roadside. The Councillor stated it is traditional for farm dwellings to be set back from the road but that policy does not cover this and felt this is something that needs to be kept in mind in the future.

Councillor McFlynn stated she attended the site visit, lived near to the site and travelled the road most days. Councillor McFlynn stated that the adjoining residents to the site do have road frontage bar a small hedge and felt the application could be approved with condition that it is kept in line with the other houses. Councillor McFlynn stated she did not feel another dwelling on this road would make any difference and that rural character would not be affected. Councillor McFlynn proposed that the application be approved.

Councillor McKinney stated he had also attended the site visit and felt that the garden of one of the existing properties is incorporated into the area of ground closest to the road as there is no fence and only a small hedge between the two.

Councillor McKinney stated he did not feel the application would affect rural character and seconded Councillor McFlynn's proposal to approve the application including setting the proposal back from the road.

The SD: PI stated the application did not meet infill policy.

The Chair, Councillor Mallaghan interjected and stated that the site visit had been beneficial because if he had been looking at the application on a map he would have taken a similar view however from being on site Members could see that where it was marked 'field' on the map this was now the garden of the dwelling adjacent.

The SD: PI stated there was nothing to stop the Committee saying the application does not meet the strict letter of the policy but due to the buildings already there it feels it meets the spirit of the policy in that the existing buildings are in the existing line of buildings although not strictly road frontage and are contained thus avoiding urban sprawl.

Councillor Black stated he appreciated the officer report in that the application does not strictly meet policy but that looking at the line of the existing development he felt that the application is in the spirit of the policy and would be supportive of its approval.

The SD: PI stated that a siting condition should be applied so that the proposal is set back in line with the existing development.

**Resolved** That planning application LA09/2021/0599/O be approved subject to conditions as outlined.

**LA09/2021/0719/F Farm dwelling and garage at approx 25m E of 25 Creagh Hill Road, Toomebridge for Mr Brendan Mulholland**

Ms Doyle (HLP) presented a report on planning application LA09/2021/0719/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 Cassidy to address the committee.

Mr Cassidy stated it is accepted that there is a full working farm and the only issue is the siting. Mr Cassidy referred to the building of the new dual carriageway and that at this time the applicant lost three acres of land to facilitate an overpass and road widening, this land was essential to the farm holding however the applicant only received a small amount of compensation for it. Mr Cassidy stated that the picture shown depicts the site in relation to the farm and the road overpass, it was advised that the site is on the edge of the applicant's holding and that a site at that location will not erode a further acre of his land which will happen if forced to locate the proposal beside the existing farm sheds. Mr Cassidy stated that a site beside the farm building would also hinder future expansion of the farm. Mr Cassidy stated that planning policy can be granted for a new dwelling even though the degree of visual link is limited or non visual. In this case, Mr Cassidy stated that the site and farm buildings can be visually linked from the minor road. Mr Cassidy stated that the proposal sited at the chosen location would allow the applicant to sell the site and

that the money generated would allow the applicant to purchase further acres to compensate for those lost. Mr Cassidy stated this is a fairly unique situation and felt that a precedent is unlikely to be set and asked that the application is treated as an exception to policy.

The SD: PI asked what the argument was for this application not extending a ribbon.

Mr Cassidy stated he felt the application was more a case of rounding off due to the neighbouring dwellings and new entrance into adjoining field.

The SD: PI stated that the policy is clear and felt it was difficult to see how the application could be justified.

Councillor Colvin proposed the officer recommendation.

Councillor Cuthbertson asked was if there was discussion at the office meeting of an alternative location.

The SD: PI advised that no alternative location has been put forward.

Councillor Cuthbertson seconded Councillor Colvin's proposal.

Councillor S McPeake stated he did not live that far from the site but supported what Mr Cassidy had said in that the whole area has been transformed with the building of the new bypass. The Councillor stated that the new road has dissected land and felt that a site visit would be useful. Councillor S McPeake proposed a site visit be held.

Councillor McFlynn seconded Councillor S McPeake's proposal.

Councillor D McPeake stated he knew the area as he had been brought up along that road. The Councillor stated that when his father died in 2020 a number of people got lost coming to the wake due to the new road and realignment of others. Councillor D McPeake stated he appreciated what had been said however he would also be supportive of a site visit.

Councillor Colvin withdrew his proposal.

**Resolved** That planning application LA09/2021/0719/F be deferred for a site visit.

**LA09/2021/0874/O Dwelling and garage on a rounding off site in a cluster at 30m NE of 122 Creagh Road, Anahorish, Castledawson, for Mr Malachy Gribbin**

Members considered previously circulated report on planning application LA09/2021/0874/O which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2021/0874/O be approved subject to conditions as per the officer's report.

**LA09/2021/1182/F Retention of agricultural building for uses ancillary to the farm, including offices, storage spaces and area for sale of goods produced on the farm (amended description) at 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 approval and highlighted addendum which included late objections to the application.

The Chair, Councillor Mallaghan stated that speaking rights have already been used for this application but due to the fact the application has changed so much since it was last presented he would make an exception and allow further speaking. The Chair called on Councillor Molloy who wanted to speak against the application.

Councillor Molloy stated that no matter what the application changes to there would be continued intensification of entry/exit onto the A29. Councillor Molloy stated there is an objection from DfI Roads and highlighted that on the day of the site visit Members were advised not to try to turn right from Dungannon side but rather should proceed towards Moy in order to turn around and come back. Councillor Molloy felt that this was telling in that if Members are being asked not to approach from the right because of road danger how is the public expected to. Councillor Molloy stated he did not understand how the goods being sold will be monitored and advised that there is a factory processing operation on the farm so if pork comes to the farm from elsewhere and is processed on the farm did this mean it could be sold in the farm shop as being packaged on the farm. Councillor Molloy stated that access is the main area of contention and the continued intensification. Councillor Molloy stated that the business has operated as a retail shop for a number of years and to retain the buildings would be to reward something which is against planning policy. Councillor Molloy stated he objected to the retention of the buildings.

Ms Curtin advised that works within the unit have been completed and that the number of goods for sale have been reduced with the remaining areas being used for ancillary offices and storage. Ms Curtin advised that the applicant has also purchased a business unit within Portadown town centre and the intention is to move a large amount of the retailing to Portadown and that evidence of this can be provided. Ms Curtin stated that the applicant is grateful for all the meetings and their intention is to comply with the conditions proposed. Ms Curtin referred to the objections in relation to the laneway and felt that they were not relevant as planning does not confer ownership.

The SD: PI referred to the enforcement notice and asked when it came into effect.

Mr Marrion advised that the enforcement notice was due to come into effect on 1 February but that it has been appealed.

The SD: PI stated that he felt the solution being put forward is the right solution as a farm can have a shop which sells goods from the farm. The SD: PI stated that the objector does not take issue with the building but rather the use and people coming and going. The SD: PI also highlighted that it would be unreasonable to make a decision based on the proposition that someone was not going to comply with the

conditions of an approval. The SD: PI stated it would also be unreasonable to assume Council won't enforce as an enforcement notice has already been served. The SD: PI stated that, if the Committee desired, he would not be adverse to getting external legal advice in relation to whether the propositions put forward are correct.

Councillor Cuthbertson stated the original application had been brought in the past and a site visit was held, the application was then brought back to committee and at that stage the committee were minded that they could not approve the application the way it was. Councillor Cuthbertson stated that the applicant has now amended the original application and felt that the objections referred to tonight are nothing new. Councillor Cuthbertson stated that if the application before Members tonight is refused it would still not do away with traffic on the lane and proposed the officer recommendation to approve the application.

The Council Solicitor stated she had not been involved in previous discussions due to being on maternity leave and would like to get a briefing on the matter to ensure that Members have been appropriately advised.

Councillor Cuthbertson asked if his recollection of the stages of the application were correct.

The SD: PI stated that Councillor Cuthbertson's recollection of events were correct and that the application before Members now was based on his advice. The SD: PI stated that his view is that the building itself is not the issue however what muddys the water is intensification. The SD: PI stated he had some concern that there will be parties who are in dispute and an appeal to enforcement has been lodged. The SD: PI felt that in order to give the Committee confidence it is reasonable to get further legal advice on the application.

Councillor Colvin stated he had recently been driving behind someone who wanted to turn right into the laneway where the premises is situated. The Councillor stated this was a frightening experience due to the corners on the road and the vast amount of traffic. Councillor Colvin stated there is no turning space on the road and felt the Council Solicitor has provided a good suggestion as there are a number of loose ends and he would be uncomfortable accepting the recommendation tonight. Councillor Colvin proposed that legal advice be obtained.

Councillor Corry agreed with Councillor Colvin's comments in relation to the danger of that road and seconded his proposal as she would also like to have further legal advice before making a decision.

Councillor Cuthbertson felt that some Members were confusing this amended application with the original application and stated that if this amended application is refused it will make no difference to the traffic on the lane.

The SD: PI stated that the application as it stands now is for an agricultural building and not in planning terms a shop. The SD: PI stated that if this application is refused then there would be nothing to stop the applicant going back to operating the way he was before. The SD: PI stated that the Committee has come this far and he did not see the harm in taking advice so that the Committee can move forward with confidence.



Councillor McKinney referred to the houses opposite the laneway and that those houses have no visibility splays and are a bigger danger when exiting onto the road than those travelling to the farm shop. Councillor McKinney stated he agreed that whilst there may be reduced products in the shop there would still be vehicles travelling up and down the laneway. Councillor McKinney stated that warning signs on the corner in the area may be helpful.

The Council Solicitor stated that legal advice would be sought in relation to what is being recommended.

The Chair, Councillor Mallaghan stated it would also be useful to have more information on how enforcement would be carried out at this location if it was approved.

The SD: PI stated that there is a condition on the application which refers to items produced on the farm and questioned if the use has not changed whether this condition is needed. This then raises the question on if a condition is used are you then prejudicing yourself. The SD: PI stated that it would be beneficial to obtain legal advice on the matter to ensure it is dealt with in the best possible way and the spirit in which it is intended.

Councillor McKinney stated that the Committee pass many applications that may not be built within red lines or to ridge height. Councillor McKinney stated that this Council acts on enforcement upon notification.

The SD: PI stated that this is an unusual case and there have been a lot of arguments presented and he just wanted to make sure what has been put forward is correct.

Councillor Cuthbertson stated that DfI have placed warning signs of the corners and also 30mph signage on the road. Councillor Cuthbertson stated that if the application is refused there is nothing to stop the applicant erecting a pop up shop to sell the farm produce at the same location. Councillor Cuthbertson stated that this amended application rectifies the issues with the original application and it is clear that Members are confused between the two.

**Resolved** That planning application LA09/2021/1182/F be deferred in order to seek legal advice.

**LA09/2021/1299/F Semi-detached dwelling at site adjacent to 41 Waterfoot Road, Ballymaguigan, Magherafelt for James Sheridan**

Members considered previously circulated report on planning application LA09/2021/1299/F which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2021/1299/F be approved subject to conditions as per the officer's report.

**LA09/2021/1449/O Dwelling and garage within a cluster site at 15m E of 6 Tamnadeese Road, Castledawson for Derek Fulton**

Members considered previously circulated report on planning application LA09/2021/1449/O which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2021/1449/O be approved subject to conditions as per the officer's report.

**LA09/2022/0122/O Dwelling at land 20m SE of 96 Reenaderry Road, Derrytresk, Coalisland for Mr Stephen McCaffrey**

Mr Marrion (SPO) presented a report on planning application LA09/2022/0122/O advising that it was recommended for refusal.

The Chair, Councillor Mallaghan asked if it was fair to say the applicant/agent had stopped engaging in the process.

Mr Marrion stated that nothing had been received since last June.

Proposed by Councillor Mallaghan  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/0122/O be refused on grounds stated in the officer's report.

**LA09/2022/0168/O Dwelling and garage in a cluster at 25m N of 2 Coltrim Lane, Moneymore for Mr Mark Hamilton**

The Head of Local Planning (HLP) presented a report on planning application LA09/2022/0168/O advising that it was recommended for refusal.

Councillor Brown asked if the railway yard and bus yard could be perceived as a focal point.

The HLP advised that the railway yard and bus yard are both focal points but where the site is located it does not associate with either of them. The HLP stated that the applicant is relying on neighbouring properties and their association to focal points but development has to be on two sides of an application site and that cluster must be associated with a focal point. The HLP stated that each of the two houses are associated with two separate focal points and are therefore distinct and not part of a cluster of development.

The SD: PI stated there was not development on two sides because the permissions already obtained have not been built. The SD: PI referred to the nearby coach park and karting track and permissions could prejudice the operation of both businesses because of noise. The SD: PI stated his view was that the application did not meet planning policy and is not within the spirit of policy and if the applicant is not happy

they have two options – either to build and apply later when the character has changed or he can appeal. The SD: PI stated that this approach is a lot easier than for Members to try to explain why they are allowing the development to appear.

The Chair, Councillor Mallaghan clarified that if the existing permissions are built then this would be within a cluster.

Councillor Corry proposed the officer recommendation.

Councillor D McPeake seconded Councillor Corry's proposal.

**Resolved** That planning application LA09/2022/0168/O be refused on grounds stated in the officer's report.

**LA09/2022/0242/F Retention of domestic store as built (not in accordance with LA09/2021/0259/F) at 20 Ardchrois, Donaghmore for Conrad McGuigan**

Members considered previously circulated report on planning application LA09/2022/0242/F which had a recommendation for approval.

Proposed by Councillor Colvin  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/0242/F be approved subject to conditions as per the officer's report.

**LA09/2022/0437/F Retrospective application for the retention of farm dwelling at 59 Derryvaren Road, Coalisland for Mr James Campbell**

Mr Marrion (SPO) advised that additional information had been received in relation to this application and suggested that this item be deferred to allow officers time to consider what had now been presented.

Proposed by Councillor Mallaghan  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/0437/F be deferred to consider additional information submitted.

**LA09/2022/0645/O Dwelling and domestic garage at 70m N of 135A Five Mile Straight, Maghera for Patrick McKenna**

Members considered previously circulated report on planning application LA09/2022/0645/O which had a recommendation for approval.

Proposed by Councillor Corry  
Seconded by Councillor S Clarke and

**Resolved** That planning application LA09/2022/0645/O 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**

Members considered previously circulated report on planning application LA09/2022/0662/O which had a recommendation for approval.

Proposed by Councillor Bell  
Seconded by Councillor D McPeake and

**Resolved** That planning application LA09/2022/0662/O be approved subject to conditions as per the officer's report.

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

Members considered previously circulated report on planning application LA09/2022/0685/O which had a recommendation for approval.

Proposed by Councillor Glasgow  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/0685/O be approved subject to conditions as per the officer's report.

**LA09/2022/1226/O Site for dwelling and domestic Garage at 100m S of 25A Cloane Road, Draperstown at the junction of Cloane Road and Cloane Lane, for Mr Mark Quinn**

**LA09/2022/1230/O Site for dwelling and domestic garage at 155m S of 25a Cloane Road, Draperstown, for Mr Mark Quinn**

Ms McKinless (SPO) presented a report on planning applications LA09/2022/1226/O and LA09/2022/1230/O advising that they were recommended for refusal.

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

Mr Cassidy stated he believed the application works under both policy CTY2a and policy CTY8. Mr Cassidy stated that policy CTY2a asks for at least 3 houses and that the photograph shows 3 dwellings and a number of outbuildings and therefore meets that part of the policy. Mr Cassidy stated that the cluster is a visual entity and is associated with a focal point of a crossroads. Mr Cassidy stated the site has a suitable degree of enclosure and can be absorbed into the rural character. Mr Cassidy stated in terms of infill, the site is bookended by a new development, and referred to area used by adjoining dwelling as part of their garden. Mr Cassidy stated that the area is kept in good condition with the lawn being mown and a trampoline being sited within. Mr Cassidy referred to decision taken earlier tonight where there was a small hedge between the house and the road and it was accepted. In this case, Mr Cassidy stated that the garden does abut the road and that policy allows for the two sites.

The SD: PI asked if there is planning permission to extend the curtilage.

Mr Cassidy advised that the garden does not belong to his client but from looking at aerial photography it would appear to have been used as a garden from 2008/2010.

The SD: PI stated that the photograph being displayed shows a farm and agricultural fields.

Mr Cassidy stated this was not the case as there is a garden with a domestic gate and trampoline.

The SD: PI drew Members attention to the guidance in relation to infill development which asks for consideration of the buildings but also the nature of the gap and whether it is an important visual break. The SD: PI stated that in this instance the photograph shows what appears to be an important visual break and when this is removed and the character changes into something more urban. The SD: PI stated that you cant have two new dwellings in a cluster as one would have to be built in order to get another. The SD: PI stated that the site did not meet infill as the site is clearly big enough to take the two houses plus the adjoining field would be three and would clearly change rural character.

Councillor Cuthbertson proposed to accept the recommendation to refuse.

Councillor Colvin seconded Councillor Cuthbertson's proposal.

Councillor S McPeake stated that it is important to determine whether the green space is amenity or agricultural use. Councillor S McPeake felt that a site visit would be useful to determine the use and proposed same.

The SD: PI stated he did not feel a site visit would clear this issue up but that a farm map would.

Councillor S McPeake stated that the success of this application hinges on whether the area is amenity or agricultural.

The SD: PI stated that a certificate of lawful development would be required which changes the use of the field. The SD: PI stated that there is a fence which is separating the field from the curtilage albeit a trampoline has been put in.

Councillor S McPeake stated that the area could be amenity and if proved that it has been there for a certain length of time it could be accepted.

The SD: PI stated that the issue is the area is not the applicant's. The SD: PI stated he had no objection to Members taking a site visit but he would caution into looking at something and saying whether it is one thing or another.

Councillor S McPeake referred to previous similar issue when a site visit had been undertaken but that, in that case, there had been an objector who was disputing the use of the land. Councillor S McPeake asked if there has been an objector in relation to this application.

The SD: PI stated that Members can decide to take a site visit if they wish but that making decisions on what a land use is a very risky thing to do.

Councillor Corry seconded Councillor S McPeake's proposal for a site visit as she felt there was a cluster and a focal point.

The SD: PI stated that the application cannot be considered against policy CTY2a as this policy only allows for a single dwelling, not for two.

Councillor McKinney stated he did not feel this was the same situation to that discussed earlier as there is clearly a fence and well established hedge separating the garden from the field in this case. Councillor McKinney stated that a site visit will not change circumstances but asked the planning officers to ascertain if the field is being claimed as agricultural.

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

For – 3  
Against – 9  
Abstain – 3

*Councillor Glasgow was out of the room for the vote.*

Members voted on Councillor S McPeake's proposal for a site visit –

For – 11  
Against – 1  
Abstain - 2

*Councillor Glasgow was out of the room for the vote. Councillor Black was not present for the vote.*

**Resolved** That planning applications LA09/2022/1226/O and LA09/2022/1230/O be deferred for a site visit.

## **Matters for Information**

### **P017/23 Minutes of Planning Committee held on 9 January 2023**

Members noted minutes of Planning Committee held on 9 January 2023.

*Live broadcast ended at 9.55 pm.*

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

Proposed by Councillor McKinney  
Seconded by Councillor D McPeake and

**Resolved** In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P018/23 to P021/23.

**Matters for Decision**

P018/23 Receive Enforcement Report

**Matters for Information**

P019/23 Confidential Minutes of Planning Committee held on 9 January 2023

P020/23 Enforcement Cases Opened

P021/23 Enforcement Cases Closed

**P022/23 Duration of Meeting**

The meeting was called for 7 pm and concluded at 11.37 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 February 2023**

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

### **Chairs Business –**

Appeal Decision – Margaret Donelly, Dwelling, Reclaim

Letter from DFI Re Planning Improvement Programme

-

<b>ITEM</b>	<b>INFORMATION RECEIVED</b>	<b>ACTION REQUIRED</b>
5.21	Revised plans to address concerns.	Members to note
6.5	Late objection from J McNulty	Members to note. No new issues raised.
6.8	Additional information and aerial images received from agent.	Members to note
6.9	Additional aerial image received from agent	Members to note
6.11	Late objection received from F Molloy MP	Members to note
6.21	Additional aerial image received from agent	Members to note
6.22	Additional aerial image received from agent	Members to note