

Derry City and Strabane District Council

Minutes of Meeting of the Planning Committee (Open) held in the Council Chamber - Strabane Council Offices on Wednesday 7 November 2018 at 2.00 pm.

Present: - Councillor Robinson (Chair); Aldermen Bresland, Kerrigan and McClintock; Councillors Hastings, Jackson, Logue, R McHugh, McGuire, Dobbins, Gardiner and Reilly.

In Attendance:- Mr E Molloy (Development Officer), Mr P Kingston (Lead Legal Services Officer), Mrs M Fox (Head of Planning), Mrs L McKean (Business Services Officer) and Mrs J Shortt (Committee Services Assistant);

P178/18 Notice and Summons of Meeting

The Head of Planning read the Notice and Summons for the Meeting.

P179/18 Member Attendance and Apologies

The Head of Planning completed the roll-call

P180/18 Declarations of Member's Interests

There were no declarations of interest.

Chairperson's Business

P181/18 Planning Application: LA11/2018/0325/O

The Chair agreed to accept request from Councillor Jackson to defer the above application to allow for a site visit request to be submitted.

P182/18 Pre- Determination Hearing

The Head of Planning confirmed that a Pre-Determination Hearing in respect to Planning Application: LA11/2017/0665/RM was scheduled to take place on Friday 9 November 2018 at 10.00am in the Guildhall.

P183/18 Confirmation of the Open Minutes of the Planning Committee held on Wednesday 3 October 2018

The Open Minutes of Planning Committee meeting held on Wednesday 3 October 2018 were confirmed.

P184/18 Matters Arising

There were no matters arising from the minutes.

P185/18 Planning Applications List with Recommendation for Decision

Reconsidered Applications

LA11/2017/0972/F - Remove existing gravel surface and replace with exposed aggregate concrete (amber beach A01) and grass. Approximate percentage area of each material as follows. Exposed aggregate 0.45ha and grass 0.1ha at Parade Ground, Ebrington.

The Head of Planning presented the above application, details of which had been previously circulated to Members. The application was previously presented to Planning Committee on 5th September 2018, at which Members sought a deferral to liaise with Council's Events Management and Environment teams. She provided an update on the outcome of the review of the application, based on material consideration and in line with planning policy and recommended an approval, subject to the conditions as outlined within the report.

Councillor Gardiner moved, seconded by Alderman McClintock to support the recommendation to approve planning permission as outlined by the Head of Planning.

The outcome of the vote was unanimous support of the proposal.

The Committee

Resolved that planning application LA11/2017/0972/F be approved planning permission, subject to the conditions as outlined within the report.

LA11/2018/0082/F - Temporary permission is sought for the retention of a mobile caravan measuring 35ft x 12ft (including associated ground works) for business use at lands at 32

Ballymongan Road, Killeter, Co Tyrone (site located approx. 30m west of 28a Ballymongan Road).

The Head of Planning presented the above application, details of which had been previously circulated to Members. The application was returned to Planning Committee following presentation on 5th September 2018, at which Members voted contrary to the Officer recommendation. She reported that following reconsideration of the various points raised by the Committee, officers remained of the opinion that a refusal be recommended for reasons previously presented within the report.

Alderman McClintock moved, seconded by Councillor Gardiner to support the recommendation to refuse planning permission for reasons as outlined within the report.

The outcome of the vote; For 5, Against 5, Abstention 1. The Chair's casting vote resulted; For 6, Against 5, Abstention 1. The proposal was carried.

The Committee

Resolved that planning application LA11/2018/0082/F be refused planning permission, for reasons as outlined within the report.

Councillor Dobbins joined the meeting at this stage.

Site Visit Deferrals

A/2014/0558/F - Installation of a wind turbine with tower height of 40m and a blade span of 30m accessed via the existing laneway at lands 800m west of 7 Sheriffs Road, Derry City.

The Head of Planning presented the above application, details of which had been previously circulated to Members. The application was returned to Planning Committee following presentation at the meeting on 3rd October 2018, at which Members agreed to carry out a site visit. The proposal was previously presented at which Members voted to defer decision to allow the applicant to submit further information for consideration by Planning Officers.

The Head of Planning reported that Planning Officers continued to maintain a recommendation to refuse permission for the reasons as set out in the report.

Councillor D Kelly reported inconsistency in Case Officers' reports for DAP 2011 versus Strabane Area Plan. The Lead Legal Services Officer suggested this was a matter that could be dealt with outside the Planning Committee.

In response to a query regarding the poor quality of visuals provided by the applicant, the Planning Officer advised that visual interpretations of the wind turbine are only required to aid the decision making the determining factor is based on site inspection.

The Head of Planning advised that, in terms of quality of data, the applicant/agent is encouraged to submit the best material possible and then it is a matter of judgement from a Planning perspective. Councillor Hastings moved, seconded by Councillor Reilly not to accept the recommendation to refuse planning permission.

The outcome of the vote; For 11, Against 0, Abstention 2. The proposal was carried.

The Committee

Resolved not to support the recommendation to refuse planning application A/2014/0558/F. The application would be further reviewed by the Planning Officer and returned for reconsideration at a future Committee meeting.

New Applications

LA11/2018/0325/O - Proposed site for dwelling and domestic garage at site adjacent to No. 74 Clooney Road, Campsie

The above application was deferred to allow for a site visit request to be processed by Planning Section.

LA11/2017/0833/F - Change of use from dwelling to 6-bedroom HMO at 19 West End Park, Derry City

The Senior Planning Officer presented the above planning application details of which had been previously circulated to Members. He gave an overview of the background to the application and, based on material consideration and in line with planning policy, recommended that planning permission be granted, subject to the conditions as outlined within the report.

The Members received speaking rights from Ms Anne McAteer who spoke in objection to the application.

The Members received speaking rights from Mr Matt Kennedy, Agent who outlined reasons to support approval of the application.

Councillor Logue commented that, whilst she agreed that there was a high level of need for social housing in the city and wider Council area, she had reservations in relation to this particular application in terms of whether it actually met the NIHE standards that govern HMO's. Planning Officers advised that the NIHE standards were not material planning issues and Planning Committee should only take account of planning material considerations with this item. The Lead Legal Services Officer explained that the application before Committee today was for change of house type from dwelling house to HMO. However, the 3 no. flats referred to previously within the same location have been identified as unauthorised and enforcement action had begun. He added that if the application presented was passed then a HMO would be lawful. However, if Council decided not to approve the application then enforcement proceedings for unauthorised use would continue and he assured Members that this was not an uncommon scenario for Council to deal with. He further assured Members that the approach taken by the applicant was appropriate from a Planning perspective.

The Lead Legal Services Officer in response to concern expressed by Alderman McClintock in relation to misleading information provided by the Officer team, stated that this was not the case and that the application before Committee was about change of use of property. He reiterated that unlawful use referred to was a separate issue and that Members are advised periodically on ongoing enforcement cases being dealt with by the Planning Enforcement Section. He further stated that if information was presented and not pertinent to the application it would be detrimental to the legal status of the case. He added that he did not accept any suggestion that the officer team had misled the Committee.

Discussion ensued after which Councillor Logue moved, seconded by Councillor Hastings to overturn the recommendation to approve planning permission.

The outcome of the vote; For 11, Against 2, Abstention 0.

The Committee

Resolved not to accept the recommendation to approve planning application LA11/2017/0833/F. The application would be returned for reconsideration at the next Committee Meeting.

LA11/2017/0342/F – Social housing bungalow to meet local need for APEX Housing Association at vacant site to the rear of 15 Melvin Court, Strabane.

The Senior Planning Officer presented the above planning application, details of which had been previously circulated to Members. She provided an overview on the background to the application and, based on material consideration and in line with planning policy, recommended a refusal for reasons as outlined within the report.

Discussion ensued after which Councillor Hastings moved, seconded by Alderman Bresland to defer a decision on the above application so to allow for a site visit.

The Committee

Resolved to defer planning application LA11/2017/0342/F to allow for site visit.

LA11/2017/0623/F - 8 No. 3 person/2 bedroom semi-detached general needs houses. 2 No. 5 person/ 3 bedroom semi-detached general needs houses. 2 No. 5 person/3 bedroom semi-detached complex needs houses. Total: 12 no. houses lands to the north of Ferndale Road and adjacent to Skeoge Business Park, Derry/Londonderry

The Principal Planning Officer presented the above application, details of which had been previously circulated to Members. She provided an overview of the background to the application and, based on material

consideration and in line with planning policy, recommended an approval, subject to the conditions as outlined within the report.

Councillor Dobbins welcomed the application, however expressed concern that the open space on the site would attract anti-social behaviour.

Councillor Dobbins moved, seconded by Councillor Logue to support the recommendation to approve the above application subject to change to drawings.

The outcome of the vote was unanimous support of the proposal.

The Committee

Resolved that planning application LA11/2017/0623/F be approved planning permission subject to inclusion of a condition for the change to drawings:- landscaping plan to match block plan. The application would be returned for information to Committee.

LA11/2018/0536/F – Proposed single storey dwelling and domestic garage and associated site works at 60m to west of 18 Aghalunny Road, Killeter.

The Senior Planning Officer presented the above planning application, details of which had been previously circulated to Members. She provided an overview of the background to the application and, based on material consideration and in line with planning policy, recommended a refusal for reasons as outlined within the report.

Councillor McGuire enquired as to the status of the Strabane Area Plan. This point was noted by the Lead Legal Services Officer. Discussion ensued after which Councillor McGuire moved, seconded by Alderman Kerrigan not to accept the recommendation to refuse planning permission.

The outcome of the vote; For 12, Against 1, Abstention 0. The proposal was carried.

The Committee

Resolved not to accept the recommendation to refuse

planning application LA11/2018/0536/F. The application would be further reviewed taking on board the opinions of Members and returned to Committee for further consideration at a future Committee meeting.

LA11/2018/0591/F – Proposed change of use from offices into 5 no. self-contained flats at 45 Bowling Green, Strabane.

The Senior Planning Officer presented the above planning application, details of which had been previously circulated to Members. She provided an overview of the background to the application and based on material consideration and in line with planning policy recommended an approval, subject to conditions as outlined within the report.

Alderman Bresland moved, seconded by Alderman Kerrigan to support the recommendation to approve the above planning application.

Councillor Logue stated that she was not supportive of the recommendation because, in her opinion, the proposed design was not conducive to the provision of quality space for the occupants. Councillor Hastings coincided with the previous speaker. The outcome of the vote; For 8, Against 2, Abstention 3. The proposal was carried.

The Committee

Resolved that planning application LA11/2018/0591/F be approved planning permission subject to the conditions as outlined within the report.

LA11/2018/0213/F – Change of use from former Barracks building to provide convenience store with minor alterations to include ATM and proposed shop front at Building 102, Ebrington Barracks, 46m west of No. 1 Browning Drive, Derry.

The Senior Planning Officer presented the above planning application, details of which had been previously circulated to Members. She provided an overview of the background to the application and, based

on material consideration and in line with planning policy, recommended an approval, subject to conditions as outlined within the report.

Discussion ensued after which Alderman McClintock moved, seconded by Councillor Jackson to support the recommendation as outlined by the Senior Planning Officer.

The outcome of the vote was unanimous support of the proposal.

The Committee

Resolved that planning application LA11/2018/0213/F be approved planning permission subject to conditions as outlined within the report.

LA11/2017/0086/F – The proposed development comprises a 3MW solar farm comprising photovoltaic cells mounted on racks and connected on-site by underground electrical cables; an underground cable connecting the proposed development to the electricity supply grid via an existing substation on the Curryfree wind farm site; ancillary infrastructure including a substation; an inverter cabin (housing inverters and transformers), dedicated site entrances and access track, boundary fencing and landscaping and ancillary site development. The proposed solar farm is wholly located in the townland of Curryfree, Co Londonderry and the grid connection is located in the townlands of Curryfree, Lisdillon and Creevedonnell, Co Londonderry and Taboe Glebe, Co. Tyrone.

The Senior Planning Officer presented the above planning application, details of which had been previously circulated to Members. She outlined to Members the background to the application and based on material consideration and in line with planning policy recommended that planning permission be approved, subject to conditions as outlined within the report.

Councillor D Kelly raised the following queries in respect to the application:

- No reference to Strabane Area Plan in the determination of the application.
- Galvanized fencing not acceptable.

- Landscaping should be on all 4 sides to conceal fencing
- CCTV – more detail required.
- Condition to permit planting scheme once fencing erected.

The Senior Planning Officer responded as follows:

- Agreed for Strabane Area Plan to be referenced within the report.
- Condition to be amended regarding fencing design
- Confirmed landscaping proposed applicable to all 4 sites.
- CCTV – installation of sensor cameras on gates
- Planting condition amended if required.
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Ms Helen O’Keeffe the applicant’s agent provided clarification on a number of concerns raised by Councillor D Kelly:

- Fencing design is open to change.
- Landscaping plan – intention to work with what already existed on site.
- Not considered as blanket bog.
- CCTV – inward facing cameras due to remote site.
- Commercial benefit – no proposal to extend.
- Security lighting – on site motion triggered only.

Discussion ensued after which Councillor Reilly moved, seconded by Alderman McClintock to support the recommendation to approve planning permission subject to the following amendment to conditions:

1. Landscaping timing condition.
2. Discharge of condition – Palladin fencing drawings.

The outcome of the vote was unanimous support of the proposal.

The Committee

Resolved that planning application LA11/2017/0086/F be approved planning permission, subject to amendment in conditions as outlined previously.

LA11/2017/0089/F - The proposed development comprises a 4.1M solarfarm comprising photovoltaic cells mounted on racks and

connected on-site by underground electrical cables; an underground cable connecting the proposed development to the electricity supply grid via an existing substation on the Carrickatane windfarm site; ancillary infrastructure including: a substation; an inverter cabin (housing inverters and transformers), dedicated site entrances and access track, boundary fencing and landscaping, and ancillary site development works. The proposed solar farm is wholly located in the townland of Carrickatane, Co Tyrone; and the grid connection is located in the townlands of Carrickatane in Co. Tyrone; and Killymallaght in Londonderry.

The Senior Planning Officer presented the above planning application details of which had been previously circulated to Members. She provided an overview of the background to the application and, based on material consideration and in line with planning policy, recommended an approval, subject to the conditions as outlined within the report.

Councillor Reilly moved, seconded by Alderman Bresland to support the recommendation to approve planning permission, subject to an amendment to the conditions as follows:

1. Landscaping timing condition.
2. Discharge of condition – Palladin fencing drawings.

The outcome of the vote was unanimous support of the proposal.

The Committee

Resolved that planning application LA11/2017/0086/F be approved planning permission, subject to amendment in conditions as outlined previously.

P186/18 Consultation on Transboundary Wind Farm Application - Momeen and Lettergull, Lifford, Co. Donegal (LA11/2018/0937/TBA)

The Principal Planning Officer presented the above report details of which had been previously circulated to Members. The purpose of the report was to advise Members of a consultation which had been received from DFI Strategic Planning Division in relation to application LA11/2018/0937/TBA for the erection of a wind farm in Co. Donegal. DFI Strategic Planning are processing a transboundary application and have consulted with Derry City and Strabane District Council with

regard to any comments they wish to make regarding this planning application.

The Committee

Recommended that a draft response be circulated to Members highlighting comments re. height, visuals from District and previous Donegal plans and consultation response.

P187/18 Appeals Update

The Principal Planning Officer presented the above report a copy of which was previously circulated to Members. The purpose of the report was to appraise Members on planning appeals currently in the system.

She also confirmed that an Appeals Workshop was scheduled to take place on Monday 3 December 2018 at 12.30pm in Harbour House.

The Committee

Recommended that Council i) notes the update report on planning appeals and that an Appeals Workshop was scheduled to take place on Monday 3 December 2018 at 12.30pm in Harbour House.

P188/18 Update on Judicial Review - River Faughan Anglers

The Lead Legal Services Officer presented the above report, details of which had been previously circulated to Members. The purpose of the report was to appraise Members on the decision by The Honourable Mr Justice McCloskey to dismiss the application for judicial review against Derry City and Strabane District Council by Mr Dean Blackwood representing River Faughan Anglers Ltd.

The Lead Legal Services Officer acknowledged the work of the Officers involved in the above process, and said that an immense amount of

time and work was committed to the whole process. He said that it was an extremely intense process wherein Officers found their professional judgement under scrutiny. He added that he was pleased for those Officers that the outcome was successful and expressed his personal appreciation for the professional manner in which the process was handled.

Members expressed their own appreciation to the Officers and congratulated them on the successful outcome.

The Lead Legal Services Officer in response to a query advised that it was only right and proper that Council decisions are open to scrutiny and subject to challenge and therefore Council have to ensure that processes are robust and Members are provided with the necessary training in the decision making process.

The Committee

Recommended

that Members note the decision outlined in the above report and that Council was successful in defending its position in relation to the grant of planning permission on 17 January 2018.

P189/18 Local Development Plan (LDP) Update

The Head of Planning presented the above report, a copy of which had been previously circulated to Members. She advised that the purpose of the report was to update members on the progress of the Council's Local Development Plan 2032 (LDP Draft Plan Strategy, dPS) and particularly to advise Members that it is intended to bring an update paper and a series of topic-based Chapters to the Planning Committee and/ or other Member sessions over the coming months, from next Committee meeting onwards.

The Committee

Recommended

that Council note the contents of this LDP Project update.

P190/18 List of Decisions Issued - October 2018

Members noted the List of Decisions issued during the month of October 2018.

The meeting terminated at 7.30pm