

Derry City and Strabane District Council

Minutes of Meeting of the Planning Committee held in the Council Chamber - Strabane Council Offices on Wednesday 5 September 2018 at 2.00 pm

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

In Attendance:- Mrs M Fox (Head of Planning) Mr P Kingston (Lead Legal Services Officer), Mr E Molloy (Performance and Improvement), Mrs S McCracken, Mrs A McNee, Mr P McCaughey (Principal Planning Officers), Ms S Barrett, Mr K Donaghey, Mrs R McMEnamin, Mr J Duffy (Senior Planning Officers)and Mrs L McKean (Business Services Officer); Mrs J Shortt (Committee Services Assistant).

P138/18 Notice and Summons of Meeting

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

P139/18 Member Attendance and Apologies

The Head of Planning completed the roll call, apologies were recorded for Councillor Dobbins.

P140/18 Declarations of Member's Interests

Councillor Reilly declared an interest in Agenda Item No. 19: Prehen Revocation.

Chairperson's Business

P141/18 Late Items Received

The Head of Planning reported that late information was received in relation to the following applications for decision and Members would be afforded the opportunity to review the information prior to the presentation of same later in the meeting:

No. 1: LA11/2016/0854/O – Improvements to existing access to original dwelling at 154 Culmore Road, Derry.

No. 2: LA11/2015/0651/F – Construction of 2 No. turbine extensions to existing Monnaboy Wind Farm

No. 4: LA11/2017/0665/RM – Proposed residential development of 241 No. dwellings – Drumahoe

No. 8: LA11/2017/0203/F – Proposed retention of temporary vehicular access Altiskane Town Parks, Strabane

No. 13: LA11/2018/0334/F – Demolition of existing dwelling and erection of housing development – 64 Prehen Road

No. 18: Prehen Revocation

P142/18 Site Visit Deferral

LA11/2018/0244/O

The Chair agreed to a request for a site visit by Councillor McGuire for the above planning application.

LA11/2018/0260/O

The Chair agreed to a request for a site visit by Alderman McClintock for the above planning application.

P143/18 Agenda Item No.19 Prehen Revocation

The Lead Legal Services Officer advised that the above item presented on the agenda under confidential business, would be discussed in open business later in the meeting. Furthermore, he added that Item No. 18: Revocation Orders – Legal Advice would be discussed in confidential business, prior to Members making a decision on Item No. 19.

P144/18 RTPI- Planning Conference

Members noted that the Chair would attend the above conference on Tuesday 11 September 2018 in Belfast.

P145/18 Audio Recording

The Head of Planning Performance and Improvement reported that there was a technical issue with the recording of the Planning

Committee meetings held in the Guildhall on 6 June and 4 July 2018. The problem was subsequently resolved and the recording facility was now fully operational again.

P146/18 Judicial Review

The PPO updated the Committee of the dates for the hearing for the ongoing judicial review for tourism accommodation at Glenshane Road, Lisnacarrool. The dates scheduled are 17 and 18 September 2018 in the High Court, Belfast.

P147/18 Confirmation of the Open Minutes of the Planning Committee held on Wednesday 4 July 2018

The Open Minutes of Planning Committee Meeting held on 4 July 2018 (P114/18-P131/18) were confirmed.

P148/18 Matters Arising

There were no matters arising from the Minutes.

P149/18 Planning Applications List with Recommendation for Decision

RECONSIDERED APPLICATIONS

LA11/2016/0854/O - Improvements to existing access to original dwelling at 154 Culmore Road and Site for new dwelling and garage in side garden of 154 Culmore Road, with new access to Culmore Road at 154 Culmore Road, Londonderry, BT48 8JH.

The PPO presented the above application, details of which had been previously circulated to Members. She provided an outline of the history to the application and based on material consideration and in line with planning policy, continued to recommend a refusal for reasons as outlined within the report.

Councillor Jackson moved, seconded by Councillor McCauley to support the recommendation as outlined by the PPO. The outcome of the vote was For; 11, Against 0, Abstention 2. The proposal was carried.

The Committee

**Resolved that planning application
LA11/2016/0854/O be refused planning**

permission for reasons as outlined within the report.

LA11/2015/0651/F - Construction of a 2No. turbine extension to the existing Monnaboy Wind Farm (consented under planning reg. ref A/2009/0868/F); each turbine will have a hub height not exceeding 80M and blade diameter not exceeding 82.4M, associated access tracks, underground cabling, temporary construction compound, associated works and use of the existing passing bays along the Monnaboy Road and the Dunlade Road.

The PPO presented the above planning application, details of which had been previously circulated to Members. She provided an update on the background to the application and based on material consideration and in line with planning policy recommended that an approval be granted, subject to the conditions as outlined within the previous report.

The PPO also referred to the provision of refusal reasons should Members decide not to support the recommendation.

The Members received speaking rights from Ms McMenam in objection to the application.

Councillor D Kelly referred to the refusal reason regarding NI Renewable Energy targets. He commented that it was alarming to note recently that despite the fact that DCSDC had exceeded in meeting the renewable energy targets in comparison to other Councils, the Department had failed to recognise the achievement by not disclosing the league tables to the media.

The Head of Planning advised that the Officer team had taken on board the issues and comments raised by Members at the previous meeting and endeavoured to reflect this within the suggested refusal reasons. She stated however, that she was not convinced that the No. 3 refusal reason was robust in terms of challenge at an appeal but it was clearly a matter for Members.

Discussion ensued after which Councillor McGuire moved, seconded by Councillor Jackson not to accept the recommendation to approve planning permission. The outcome of the vote; For 11, Against 0, Abstention 2. The proposal was carried.

The Committee

Resolved that planning application LA11/2015/0651/F be refused planning permission for reasons as outlined within the report.

SITE VISIT DEFERRALS

LA11/2015/0518/F - Amendment to Wind Turbine planning approval J/2009/0340/F. Erection of a wind turbine - Change in hub type from 30M to 40M and change in rotor diameter from 26M to 54M at lands 260M South West of 76 Strabane Road, Birnaghs, Newtownstewart, Co Tyrone.

The SPO presented the above planning application, details of which had been previously circulated to Members. She provided an update 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.

The Members received speaking rights from Mr Foy, the agent on behalf of the applicant, who proceeded to outline reasons to approve planning permission.

Councillor D Kelly referred to the existing turbines on the site and highlighted that they were of a standard size, however the proposal presented a larger turbine. He also referred to the fact the no commercial information had been submitted to support the proposal.

The Head of Planning suggested that the refusal reasons be adjusted to include setting of AONB.

Councillor D Kelly moved, seconded by Councillor McGuire to support the recommendation to refuse planning permission for reasons as outlined within the report and to include an amendment to setting of the AONB.

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

The Committee

Resolved that planning application LA11/2015/0518/F be refused planning permission for reasons as

**outlined within
the report and for an amended
refusal
reason to be issued to include
setting of
AONB.**

LA11/2017/0665/RM - Proposed residential development of 241 No. dwellings comprising a mix of 102 detached, 124 semi-detached and 15 apartments, associated domestic garages, new right-hand turn lane, public open space including equipped children's play area; all associated landscaping and site and access works at Glenshane Road, Drumahoe (lands part of H25 housing zoning in Derry Area Plan 2011).

The SPO presented the above planning application, details of which had been previously circulated to Members. An overview on the background to the application was provided and based on material consideration and in line with planning policy, it was recommended to approve planning permission subject to the conditions as outlined within the report.

The Committee received speaking rights from Mr Stokes who outlined reasons to support approval of the application.

Alderman McClintock commented that she was not convinced that all measures were in place to ensure no increased risk of flooding in the area and she felt there was a lack of information to give assurances in that regard.

Mr Stokes clarified that in relation to the initial proposal the drainage system was redesigned to divert across the Glenshane Road and into the River Faughan.

The Committee received speaking rights from Mr Middleton, MLA who proceeded to outline reasons not to support the application.

Councillor Gardiner commented that more clarity was required in relation to the new drainage design so to ensure no risk of flooding.

The SPO advised that the relevant statutory agencies had responded positively to the proposal and that all information was open and transparent in terms of the application.

The Head of Planning further advised that the statutory consultee process had been adhered to and the recommendation presented was based upon the professional advice given. The Head of Planning suggested that a Pre-Determination hearing be held to give Members an opportunity to further discuss their concerns regarding flooding risk with the statutory agencies.

Discussion ensued after which Councillor Logue proposed, seconded by Councillor Gardiner that the application be deferred to allow for a Pre-Determination Hearing. The outcome of the vote was unanimous support of the proposal.

The Committee

Resolved that planning application LA11/2017/0665/RM be deferred to allow for a Pre-Determination Hearing.

NEW APPLICATIONS

LA11/2018/0477/F - Plinth restoration to include steam cleaning of ashlar walling and paving, stone repairs to existing piers and railing wall, repainting of existing boundary wall railings, new replacement railings to top of plinth, new cast iron type spiral staircase and guarding. Reposition of existing plinth entrance door to elevation facing Butchers Gate. Electric cables from plinth to mini pillar, corner of Palace Street & Society Street to be renewed to provide light and power at Royal Bastion, The Walls, Derry.

The SPO presented the above application, details of which had been previously circulated to Members. An overview of the background to the application was provided and based on material consideration and in line with planning policy it was recommended to approve planning permission subject to the conditions as outlined within the report.

Councillor McClintock moved, seconded by Councillor Hastings to support the recommendation to approve planning permission. The outcome of the vote was unanimous support of the proposal.

The Committee

Resolved that planning application LA11/2018/0477/F be approved planning permission, subject to the conditions as outlined in the report.

LA11/2017/0761/F - Proposed installation of 3 x external retractable awnings to part of the front façade of the existing building at Custom House, Queens Quay, Derry

LA11/2017/0778/LBC - Proposed installation of 3 x external retractable awnings to part of the front façade of the existing building at Custom House, Queens Quay, Derry.

The SPO presented the above applications, details of which had been previously circulated to Members. An overview on the background to the applications was provided and based on material consideration and in line with planning policy, it was recommended to refuse planning permission for reasons as outlined within the reports.

Members accepted speaking rights from Mr Cosgrove, agent representing the applicant who outlined reasons to support approval of the application.

The PPO in response to a query, clarified that whilst they appreciated the points made by the applicant in terms of material and quality being used the opinion remained that the site consisted of a strong trio of buildings and the architectural integrity of the site would want to be retained.

Councillor D Kelly commented that the evolution of historical buildings for alternative usage should be encouraged from an economical perspective.

Councillor Gardiner stated that she would be supportive of the proposal, however the design of the awning would have to be tasteful with no advertising. This was supported by Councillor Logue.

The Head of Planning urged caution with the decision as it would create a precedence when dealing with other similar applications in the future. She also asked Members to be mindful of the future regeneration plans for that particular area.

Discussion ensued after which Councillor Gardiner moved, seconded by Councillor Logue not to accept the SPO's recommendation to refuse planning permission (no reason given). The outcome of the vote; For 11, Against 2. The proposal was carried.

The Committee

Resolved not to accept the officer recommendation on planning application LA11/2017/0761/F and LA11/2017/0778/LBC. The applications would be presented at a future meeting with amended conditions to include no advertising and quality finish

LA11/2017/0203/F - Proposed retention of temporary vehicular access to facilitate the future development of planning applications ref LA11/2016/0786/F & LA11/2018/0115/F, approximately 50m South East of No 37 Altiskane Town Parks, Strabane, accessing onto Curlyhill Road, Strabane.

The SPO presented the above application, details of which had been previously circulated to Members. An update on the background to the application was provided and based on material consideration and in line with planning policy it was recommended to refuse planning permission, for reasons as outlined within the report.

Councillor McGuire expressed concern that DFI Roads had failed to ensure adequate standard of road safety to permit progression of the development in Strabane Town, despite the fact that they had entered into an agreement to progress the development at the Skeoge Road, Derry.

The SPO in response to a query from Councillor D Kelly, advised that application LA11/2018/0115/F was under consideration for approximately 186 houses and access issues were currently being worked through. She explained that an option was available for the construction traffic from Evisk Road directly and not through an existing housing development at Mount Carmel Heights.

Discussion ensued after which Councillor Reilly moved, seconded by Councillor Gardiner that the recommendation to refuse planning permission be supported.

The outcome of the vote; For 6, Against 7. The proposal fell.

Councillor McGuire moved, seconded by Councillor D Kelly to overturn the SPO's recommendation to refuse planning permission for the following reasons:

- DFI Roads had failed in the provision of adequate zoned network for zoned land.
- The proposal was not contrary to PPS3 as it would not prejudice road safety and convenience of road users. Councillor McGuire also requested that Council write to DFI Roads to seek the reason for not delivering adequate road infrastructure identified on the Strabane Area Plan. He also requested the inclusion of a condition to ensure signage for construction access.

The Lead Legal Services Officer referred to the request for Council to write to the DFI Roads and advised that this would be dealt with separately as part of the application. He also advised that the inclusion of condition would be considered when returning application for decision at a future meeting.

The outcome of the aforementioned proposal was; For 7, Against 6. The proposal was carried.

The Committee

Resolved not to accept the officer recommendation on planning application LA11/2017/0203/F and be presented at a future meeting.

LA11/2018/0244/O - Replacement of mushroom houses and farm buildings with proposed dwelling at Lands immediately North of 28 Lisnacloon Road, Castlederg.

The above application was deferred to allow for a site visit and would be presented at a future meeting.

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. Parade Ground, Ebrington, Derry.

The SPO presented the above planning application details of which had been previously circulated to Members. He 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 R McHugh left the meeting at this stage.

Mr Allen addressed the committee in objection to the application.

Councillor Hastings commented that he would prefer that the area was developed for multi-purpose usage.

Discussion ensued after which Alderman McClintock moved, seconded by Councillor Hastings to defer the application to allow for more information to be provided in order to assist in the decision making process by Members, and in particular get further clarity on the resin and drainage layout.

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

The Committee

Resolved that planning application LA11/2017/0972/F be deferred to allow for further consultation.

LA11/2017/0930/F - Conversion of vacant school house to dwelling and erection of one and half storey extension to same, Oghill School House on lands 60M North East of 191 Tamnaherin Road, Londonderry.

The SPO presented the above planning application, details of which had been previously circulated to Members. He 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.

Mr Tate, the agent on behalf of the applicant addressed the Committee and outlined reasons to approve planning permission.

The Head of Planning in response to comments raised by Members, advised that it was the scale and extent of the proposal that was the issue and there was scope to reduce the scheme.

Discussion ensued after which Councillor Hastings moved, seconded by Alderman McClintock to overturn the recommendation to refuse planning permission, as it was considered the design was sympathetic and the building was being brought back into use.

The outcome of the vote; For 11, Against 1, Abstention 1. The proposal was carried.

The Committee

Resolved not to accept the officer recommendation for planning application LA11/2017/0930/F and to be presented at a future meeting.

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 on lands at 32 Ballymongan Road, Killeter, Co Tyrone. (Site located approximately 30m west of 28a Ballymongan Road).

The SPO presented the above application, details of which had been previously circulated to Members. She provided an update 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.

Councillor McGuire said that he would not support the recommendation for the following reasons:

- Brownfield site with existing site lines
- No alternative office space available – PED 2
- Temporary accommodation for a short period
- Rural character would not be damaged / Backdrop of 40 turbines
- The proposal meets the requirements of the Strabane Area Plan

The Head of Planning advised that if Members were minded to overturn the recommendation, that a precedent would be set when dealing with similar applications in the future.

Discussion ensued after which Councillor McGuire moved, seconded by Councillor R McHugh not to accept the recommendation to refuse planning permission.

The outcome of the vote; For 7, Against 6. The proposal was carried.

The Committee

Resolved not to accept the officer recommendation on planning application LA11/2018/0082/F and be presented at a future meeting.

LA11/2018/0334/F - Demolition of existing dwelling and erection of housing development of 5 No. detached dwellings and ancillary development and associated site works, 64 Prehen Road, Brickkilns, Londonderry.

The Committee noted that the above application had been withdrawn in correspondence received from the agent.

LA11/2018/0260/O - Proposed housing development of 16 no. detached dwellings and ancillary development and associated site works, including re-located shared entrance with City of Derry Golf

Club at land approximately 40m south of the entrance to City of Derry Golf Club, 49 Victoria Road, Prehen, Londonderry.

The above application was deferred to allow for a site visit and would be presented at a future meeting.

Councillor Reilly left the meeting at this stage.

The meeting went into confidential business at this stage of proceedings to deal with Agenda Item No. 18: Revocation Orders – Legal Advice and the discussion was noted accordingly.

P150/18 Prehen Revocation

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 seek Members confirmation as to whether or not they wished to proceed with the part revocation of two Planning Applications at land at Prehen; A/2005/1166/F and A/2010/0203/F.

The Lead Legal Services Officer reported that for reasons as outlined within the report, it was recommended that Members do not proceed with revocation.

Mr Kennedy, agent on behalf of the applicants addressed the Committee and outlined reasons not to support revocation of both applications.

Members received speaking rights from representatives of Prehen Woodland Society, who outlined reasons to support revocation of both applications.

Councillor Logue commented that she was familiar with the case and unfortunately due to the lack of decision making by the Department over previous years, the application had been inherited by this Council, together with numerous planning applications and it raised the question as to the lack of efficiency by the Department.

She referred to the Davis report and agreed that there was evidence to suggest that the Planning process was open to criticism. She added that whilst she acknowledged the stress endured by the applicants and the representatives from the Prehen Woodland Trust over the years, it was the responsibility of Council to make a decision today.

The Lead Legal Services Officer reminded Members of the need to take a decision on the basis of expediency, taking into account the Derry Area Plan.

Discussion ensued after which Councillor Logue moved, seconded by Councillor McGuire to support the recommendation as outlined within the report.

The outcome of the vote; For 10, Against 2. The proposal was carried.

The Committee

Resolved that Council agree not to proceed to confirm the Part Orders for Revocation in respect of applications: A/2005/1166/F and A/2010/0203/F on the grounds that, giving particular weigh to the views of the PAC, it has not been established that it is expedient to do so in the particular circumstances of this case having regard to the Derry Area Plan.

Alderman McClintock left the meeting at this stage.
Councillor Reilly returned to the meeting at this stage.

P151/18 Consultation Response to Causeway Coast and Glens Borough Council re: Their LDP Preferred Options Paper (POP) and Interim Sustainability Report (SA)

The PPO presented the above report, details of which had been previously circulated to Members. The purpose of the report was to advise Members of the content of a proposed consultation response

from this Council to Causeway Coast and Glens Borough Council regarding the Preferred Options Paper (POP) for its Local Development Plan (LDP).

Councillor D Kelly moved, seconded by Councillor Logue to support the recommendation as outlined within the report. The outcome of the vote was unanimous support of the proposal.

The Committee

Recommended **that Members agree to confirm that this Council is content with the response and the course of action for continued co-operation with Causeway Coast & Glens Borough Council, including ongoing Officer participation in the 'Adjoining Councils Stakeholder Group' and ongoing liaison at informal/formal key stages of the process.**

P152/18 Appeals Update

The PPO presented the above report, details of which had been previously circulated to Members. The purpose of the report was to appraise Members on planning appeals currently in the system.

Barr Cregg Windfarm Appeal Update

The PPO provided Members with an update on the Barr Cregg Windfarm appeal that was not included on the report. She reported that the PAC had dismissed the appeal but it was subject to a Judicial Hearing and the decision was quashed. The appeal was reopened and due to be reheard in October 2018. A further paper would be presented to Members in October.

Councillor Logue stated that it was important for Members to become familiar with the Planning Appeals process and a refresher training opportunity would be welcomed.

The Head of Planning Performance and Improvement in response to the previous speaker, suggested that a training workshop be co-ordinated in that regard.

The Committee

Recommended **i) that Council notes the update on planning appeals currently in the system.**
ii) that a training workshop be co-ordinated for Members so to assist them in the decision making process.

P153/18 Meenbog Windfarm Approval - Donegal

The PPO presented the above report, details of which had been previously circulated to Members. The purpose of the report was to advise Member that DFI wrote to the Head of Planning on 3 July 2018 to advise that An Bord Pleanála has issued a notification of decision to approve planning permission for Meenbog Windfarm in Donegal.

The Committee

Recommended **that Council notes for information the above report.**

P154/18 List of Decisions Issued - July and August 2018

Members noted for information the List of Decisions issued during the period July and August 2018.

The meeting terminated at 8.40 pm