

Derry City and Strabane District Council

Open Minutes of the Planning Committee Meeting held in the Chamber, Guildhall, Derry on Wednesday 6 February 2019 at 2.00pm.

Present: - Councillor Robinson (Chairperson), Aldermen Bresland, Kerrigan, McClintock; Councillors Dobbins, Hastings, Jackson, D Kelly, Logue, McGuire, McKnight, McLaughlin and Reilly.

In Attendance: - Head of Planning (Ms M Fox), Head of Planning Performance and Improvement (Mr E Molloy), Lead Legal Services Officer (Mr P Kingston), Principal Planning Officers (Mrs A McNee, Mrs S McCracken), Senior Planning Officers (Ms S Barrett, Mrs R McMenamin, Mr J Spottiswood), Business Officer (Mrs L McKean), Committee Services Assistants (Mrs J Short & Ms E Bell).

P20/19 Notice and Summons for Meeting

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

P21/19 Member Attendance and Apologies

The Head of Planning took the roll call and apologies were recorded from Councillor R McHugh.

P22/19 Declarations of Members' Interests

Councillor D Kelly declared an interest in planning application LA11/2018/1140/F listed under Agenda Item No. 12: Decisions Issued.

Open for Decision

Chairperson's Business

P23/19 Planning Applications withdrawn from the List with Recommendation for Decision:

LA11/2017/1132/F – Change of use from dwelling to 4 No. apartments at 24 Coshquin Road, Derry.

The Chair advised that a site visit request had been received and the above application was deferred on those grounds.

LA11/2018/0698/O – Proposed erection of dwelling and domestic garage adjacent to and south east of 61 Woodend Road, Strabane.

The Chair advised that a site visit request was received and the above application was deferred from the schedule for those reasons.

P24/19 Planning Meeting Schedule

The Head of Planning confirmed the dates of forthcoming Planning Meetings:

- LDP discussion meeting, Friday 8 February 2019 at 9.45am, Harbour House
- Special Planning Committee Meeting, Thursday 14 February 2019 at 1.30pm, Guildhall, Derry
- Monthly Planning Committee Meeting, Wednesday 6 March 2019 at 2.00pm, Chamber, Strabane
- Monday 25 March 2019 at 2.00pm, Chamber, Strabane (April Meeting)

Councillor Logue took the opportunity to remind Members of the importance to confirm their attendance at all meetings and training sessions. She referred to a recent training session whereby it was poorly attended by Members. She said that this was not good practice in terms of cost effectiveness and time management for the Officers facilitating the event.

P25/19 Planning Applications – Late Information Received

The Head of Planning referred to late information received and circulated to Members at the meeting in respect of the following applications included on the list with recommendation for decision. She said that Members would be given the opportunity to review the information prior to presentation of the application by the Planning Officer:

- J/2012/0069/F
- A/2008/0236/O
- LA11/2017/0510/F
- LA11/2017/1132/F

Councillor McLaughlin joined the meeting at this stage.

P26/19 Confirmation of the Open Minutes of the Planning Committee held on Wednesday 9 January 2019

The Open Minutes of Planning Committee meeting held on Wednesday 9 January 2019 (P01/19-P16/19) were confirmed and signed by the Chairperson.

P27/19 Matters Arising

There were no matters arising from the minutes.

P28/19 Planning Applications List with Recommendation for Decision

RECONSIDERED APPLICATIONS

J/2012/0069/F - Service road development linking 13 Derry Road with Ingleside Drive, including a mini roundabout on the Derry Road. (Notification re: amended roads plans, Construction Dust Assessment, Noise Assessment and Drainage Assessment) at site adjacent to including and to the rear of 13 Derry Road, Strabane.

The Head of Planning presented the above legacy application details of which had been previously circulated to Members. She advised that in light of late information received it was necessary to defer a decision to allow for further consultation with DfI (Roads).

Councillor Logue moved, seconded by Councillor Hastings to defer the above application to allow for consultation with DfI (Roads).

The Committee

Resolved that planning application J/2012/0069/F be deferred and presented at a future meeting, preferably the Planning Committee Meeting to be scheduled in June 2019.

LA11/2017/0764/F - Change of use to 39 Shipquay Street to provide extension to approved amusement arcade (A/2014/0314/F) at 1-2 Bank Place at 39 Shipquay Street, Derry.

LA11/2017/0763/LBC - Change of use to 39 Shipquay Street to provide extension to approved amusement arcade (A/2014/0314/F) at 1-2 Bank Place at 39 Shipquay Street, Derry.

The Head of Planning presented the above applications, details of which had been previously circulated to Members. She advised that the applications were returned to Committee following the

presentation at the previous Planning Committee Meeting, whereby Members voted not to accept the Officer recommendation to approve permission. She said that Officers considered the opinions of Members, however remained of the professional opinion to retain the recommendation to approve the applications.

The Members received speaking rights from Ms Kirsty Mairs, who outlined reasons to object to the recommendation to approve planning permission.

The Head of Planning clarified for Councillor Logue that Historic Buildings and Monuments were satisfied that the integrity of the building would be protected.

Councillor Jackson referred to PPS5 wherein it stated that the Department recognized that town centre management can contribute to the vitality and viability of town centres by generating civic pride and giving confidence to investors and retailers. He said that this type of re-development located within the commercial core of the City in his opinion did not meet the policy criteria.

The Head of Planning advised that there was no indication within the PPS5 policy that this particular change of use was not appropriate within town centres or settlements.

Councillor Reilly referred to the DCAN 1 (1983) supplementary guidance on Amusement Centres as outlined within the report. He said that the application was contradictory to the guidance because the building was located adjacent to residential property and to an area of historic interest namely the Derry City Walls.

Discussion ensued after which Councillor Logue moved, seconded by Councillor Reilly not to support the recommendation to approve planning permission due to the following planning refusal reasons: 1. Contrary to DCAN1; 2. Proliferation of amusement arcades; 3. Listed Building concerns on City Walls.

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

The Committee

Resolved that planning applications LA11/2017/0764/F and LA11/2017/0763/LBC be refused planning permission due to no demonstrable need and the listed building aspect of the application.

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

The Head of Planning presented the above application details of which had been previously circulated to Members. The application was returned for reconsideration following presentation on 28 November 2018, at which Members voted to defer the application for the submission of further information from the agent.

The Members received speaking rights from Mr Alan Boyle, Agent who outlined reasons to approve the planning application.

The Head of Planning advised that the information from the agent was considered, however the Planning opinion to refuse still remained for reasons as outlined within the report. She urged caution should Members be minded to overturn the recommendation as a serious precedent would be set and would have a negative impact when dealing with similar applications in the future.

Councillor Jackson commented that he was not convinced that the development would result in the loss of zoned industrial land as there was already residential activity on the site.

Councillor Hastings and Alderman McClintock spoke in support of approval of the application.

Discussion ensued after which Councillor Hastings moved, seconded by Councillor Jackson to overturn the decision to refuse planning permission and for permission to be granted subject to the conditions as outlined within the report.

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

The Committee

Resolved that planning application LA11/2018/0325/O be approved planning permission subject to conditions as outlined within the report.

LA11/2018/0482/O - Erection of farm dwelling and domestic garage – 285m north east of 15 Barleyhill Road, Castlederg.

The Head of Planning presented the above application details of which had been previously circulated to Members. She advised that the application had been returned to Committee following presentation at the meeting on 9 January 2019 wherein Members voted not to accept the officer recommendation to refuse. She confirmed that Officers remained of the opinion to refuse planning permission for the reasons as outlined within the report. However if Members were minded to overturn the planning decision then draft conditions had been included within the report for consideration.

Councillor McGuire moved, seconded by Alderman Kerrigan to overturn the planning opinion and for condition No. 4 to be removed from the conditions list.

The outcome of the vote; For 9, Against 0, Abstention 3. The proposal was carried.

The Committee

Resolved that planning application LA11/2018/0482/O be approved planning

permission and for condition no. 4 to be removed from the list.

NEW APPLICATIONS

A/2008/0236/O Site for residential development at Elagh Road/Buncrana Road, Londonderry. North/North East of the Cosh Bar and Grill.

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.

The Members received speaking rights from Mr Kenny Burke, agent who outlined reasons to approve planning permission.

The Head of Planning in response to queries raised by Alderman McClintock advised that if Members were minded to defer the application that it would be beneficial for an Official from DfI (Roads) to be present when the application is returned for consideration.

Councillor Dobbins joined the meeting at this stage.

Discussion ensued after which Councillor McKnight moved, seconded by Councillor Hastings that the application be deferred to allow for a site visit and for a DfI (Roads) Official to be in attendance at the site meeting and also when the application is returned to Committee.

The Committee

Resolved that planning application A/2008/0236/O be deferred to allow for a site visit and for an Official from DfI (Roads) to be invited to attend both the site visit and Committee Meeting.

LA11/2016/0782/F - Demolition of existing office block and construction of 4 houses & 15 apartments with associated parking and landscaping (Amendment to previous scheme approved under A/2009/0632/F to re-orientate 4 houses to include 7 additional apartments (incl design amendments) at 19 Main Street, Muff, Eglinton.

The Principal Planning Officer presented the above application details of which had been previously circulated to Members. She provided detail on 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.

The Members received speaking rights from Ms Gemma Jobling who outlined reasons to approve planning permission.

Councillor Hastings moved, seconded by Alderman McClintock to support approval of the application, subject to the conditions as outlined within the report.

The Committee

Resolved that planning application LA11/2016/0782/F be approved planning permission subject to the conditions as outlined within the report.

LA11/2017/0510/F - Proposed retention of underground slurry collection chamber, proposed pipework, safety fence and landscaping at Lands approximately 40 metres west of 24a Evish Road, Strabane, Co Tyrone.

The Senior Planning Officer presented the above application details of which were 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.

Members received speaking rights from Mr Patton who outlined reasons to object the application.

Members received speaking rights from Mr Declan McAleer, MLA and Mr Gavin McGill, Agent who outlined reasons to support the application.

The Principal Planning Officer clarified for Councillor D Kelly that they are content that odour issues would be addressed, however the fundamental issue for refusal was based on the need for the underground tank as it was not clearly demonstrated that there are no alternative buildings on site.

Councillor McGuire commented that the applicant had taken mitigating measures to address the issues and in his opinion the existing tank cannot be used again and the retention of an underground slurry collection chamber was the most suitable alternative due to restricted capacity on the farm holding.

Discussion ensued after which Councillor Jackson moved, seconded by Councillor Hastings not to accept the recommendation to refuse planning permission.

The outcome of the vote; For 10, Against 2, Abstention 1. The proposal was carried.

The Committee

Resolved not to support the recommendation to refuse planning application LA11/2017/0510/F. The application would be returned for reconsideration at next month's Committee meeting.

LA11/2017/0849/RM -Residential development comprising 263 units; 97 no. apartments, 166 no. 2 Storey Dwellings and associated landscaping/ open space, parking, and roads. (Phase 1 East of Zoned H1B development) at H1B Lands - Phase 1 East south of Beragh Hill Road and north of Skeoge Link Road, Galliagh, Derry.

The Senior Planning Officer presented the above application, details of which had been previously circulated to Members. She provided a brief overview of the application and provided a recommendation to grant planning permission, subject to the conditions as outlined within the report.

The Agent, Ms Jobling addressed the Committee on behalf of the applicant in support of the application.

Councillor Dobbins expressed her support for the application and stated that it provided much needed for housing for the area.

The Chair concurred with Councillor Dobbin's comments.

Councillor McKnight expressed her excitement for this application to be presented to the Committee and commended the work of Apex housing association in developing social housing. She particularly thanked Mr Kelly, who had progressed many social housing projects and wished him well in his retirement. A Mayoral recognition was suggested.

Councillor Dobbins moved, seconded by Councillor McKnight to grant approval of the application, subject to the conditions as outlined within the report.

The Voting was unanimous in support of the application.

The Committee

Resolved that planning application LA11/2017/0849/RM be granted planning permission subject to the conditions as outlined within the report.

LA11/2017/1051/O - Proposed dwelling and garage at 30M North of 25 Ballyskeagh Road, Artigarvan, Strabane.

The Senior Planning Officer presented the above report, details of which had been previously circulated to Members. He provided a summary of the application and after material consideration in-line with planning policy, he provided a recommendation to refuse planning permission for reasons as outlined within the report.

Mr McAleer, MLA and Mr Devine (Agent) addressed the Committee in support of the application.

In response to a query from Alderman McClintock, the Principal Planning Officer clarified that CTY10 required proof that the farm had been active for the past 6 years and explained that the Department of Agriculture, Environment and Rural Affairs utilised the securing of the Single Farm Payment for the purpose. She indicated that the accounts provided alone, were not sufficient to prove this as gaps from active training were evident throughout the accounts. She commented that other activities such as flock tracking numbers had been examined to prove active farming, however, there were still gaps evident.

Councillor D Kelly referred to the broad remit of active farming provided within footnote 16 of the Strategic Planning Policy Statement for Northern Ireland, stating that he felt the application satisfied this.

In response the Lead Legal Services Officer clarified that it was the responsibility of the applicant to provide adequate evidence of active farming.

Councillor D Kelly commented that he felt there was grounds for a case of exceptional circumstances within this application.

In response to further comments from Councillor D Kelly, the Lead Legal Services Officer stated that the threshold for evidence that needed to be provided was not high and included items such as receipts, documents of expenditure, evidence of contractors being employed. He reiterated that such information had not been provided to date.

Councillor McLaughlin suggested a deferral of the application for one month to allow the applicant to provide the information.

The Head of Planning indicated that the applicant had provided evidence, however nothing had been provided to fill the gaps that had been identified. She advised that alternative methods of proving active farming such as sheep movement had been utilised but this did not cover the time-line.

Alderman McClintock stated that she felt it would be harsh to refuse planning permission as the farm had been active to some extent. She voiced support of the application.

Councillor D Kelly expressed his opinion to credit the significant activity on the farm and reference the Strabane Area Plan 123.2.1 which stated that Planning Policy should be less restrictive. He proposed to deviate from the Officers recommendation and seek an approval.

Councillor Maguire commented that Members were not obliged to adhere to planning policy and stated that there was case law to deviate from planning policy where a precedent had been set.

Alderman Kerrigan commented that the applicants business ID had been in existence for more than 6 years and questioned why the applicant would possess an ID if they were not trading.

In response to a question from Councillor Dobbins, the Lead Legal Services Officer clarified that the Environmental Health Service would still support the application should Members vote against the Officer recommendation, he added that the only reason for refusal had been the lack of evidence of active farming.

Councillor D Kelly moved, seconded by Councillor Maguire not to accept the Officer recommendation and approve planning permission, subject to the conditions as outlined within the report.

The outcome of the vote; For 12, Against 0, Abstention1. The proposal was carried.

The Committee

Resolved not to support the Officer recommendation to refuse planning application LA11/2017/1051/O. The application would be returned for further consideration and presented at a future Committee meeting.

LA11/2018/0509/F-Proposed Refurbishment including new rear extension and new additional floor added to 6-7 Patrick Street to provide 28no. new self-contained apartments. New site works to include external Bin Store, raised planted beds and all associated site works for domestic use at 6-7 Patrick Street, Derry.

LA11/2018/0900/DCA - Proposed part demolition of internal walls & existing stairs at 6-7 Patrick Street, Derry.

The Principal Planning Officer presented the above application, details of which had been previously circulated to Members. She provided a synopsis of the application and following analysis of the elements of the application alongside planning policy, provided a recommendation to grant planning permission, subject to the conditions as outlined within the report.

Councillor Logue welcomed the application and expressed her contentment that the application addressed the issue of homelessness within the City.

Councillors Hastings, McLaughlin and Alderman McClintock concurred with the previous speaker.

Councillor Logue moved, seconded by Alderman McClintock to approve planning permission, subject to the conditions as outlined within the report.

The vote was unanimous in support of the proposal.

The Committee

Resolved that planning applications LA11/2018/0509/F and LA11/2018/0900/DCA be granted planning permission, subject to the conditions as outlined within the report.

LA11/2018/0691/F - Retention of 8 No. of two storey semi-detached dwellings with minor design changes from the previously approved application, which includes 18no in-curtilage car park spaces on sites 8 to 15, amended from previous planning approval A/2006/0175/F which indicated 8no of two storey terrace town houses with 13 communal car parking at lands 30m of 8 Creggmor Drive, Claudy.

The Principal Planning Officer presented the above application, details of which had been previously circulated to Members. She provided a summary of the application and after evaluation of the elements of the application against planning policy, provided a recommendation to approve planning permission, subject to the conditions as outlined within the report.

Councillor Hastings thanked the Officer for the report and commented on the benefits of the application to the rural area.

Council D Kelly welcomed the development.

In response to a question from Councillor Dobbins, the Principal Planning Officer clarified that the house at the end of each terrace would have 3 parking spaces in curtilage and that the development included 18 no. spaces in total.

Councillor Dobbins supported the parking provision within the development.

Councillor Hastings moved, seconded by Councillor D Kelly that planning permission be granted, subject to the conditions as outlined within the report.

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

The Committee

Resolved that application LA11/2018/0691/F be granted planning permission, subject to the conditions as outlined within the report.

LA11/2018/0916/O- Proposed 2 no. semi-detached dwellings at Sites 75 & 76 Victoria Gate, Derry.

The Principal Planning Officer presented the above application, details of which had been previously circulated to Members. She provided an overview of the application and following material consideration and in-line with planning policy, provided a recommendation to approve planning permission, subject to the conditions as outlined within the report.

Alderman McClintock welcomed the application and commented that the dwelling would complement the area.

Councillor Jackson advised that he felt a principle for approval had already been set at this stage and that the objections by neighbours should be addressed as the application progressed.

Alderman McClintock moved, seconded by Councillor Hastings to approve planning permission, subject to the conditions as outlined within the report.

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

The Committee

Resolved that application LA/2018/0916/O be granted planning permission, subject to the conditions as outlined within the report.

LA11/2018/0320/F-Proposal to reconfigure the existing 4 no. apartments at first floor & including for an additional 2 no. new floors above existing building to provide 8 no. additional new apartments, (12 no. total apartments) accessed via new stair and lift core from ground floor including all associated works for domestic use at 3 Bridge Street/42 Main Street, Strabane, Co. Tyrone.

The Principal Planning Officer presented the above application, details of which had been previously circulated to Members. She provided a summary of the application and after evaluation of the facts against relevant planning policy, provided a recommendation to approve planning permission, subject to the conditions as outlined within the report.

Councillor D Kelly welcomed the development to the Strabane area and expressed his pleasing to see the replacement of a building which he viewed as ghastly, he added that the proposed development would be a massive improvement to the building on a prominent location.

Alderman McClintock concurred with the previous speaker.

Councillor D Kelly moved, seconded by Alderman McClintock to grant planning permission, subject to the conditions as outlined within the report.

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

The Committee

Resolved **that application LA11/2018/0320/F be granted planning permission, subject to the conditions as outlined within the report.**

LA11/2018/0349/O-Erection of 1 detached dwelling and associated site works at urban waste lands at 47 Curleyhill Road, Strabane (accessed off Curleyhill Road).

The Senior Planning Officer presented the above application, details of which had been previously circulated to Members. An overview of the application was provided, following which the Officer considered the elements of the application against relevant planning policy and provided a recommendation to grant planning permission, subject to the conditions as outlined within the report.

Councillor D Kelly moved, seconded by Councillor Hastings to grant planning permission, subject to the conditions as outlined within the report.

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

The Committee

Resolved that application LA11/2018/0349/O be granted planning permission, subject to the conditions as outlined within the report.

P29/19 Anaerobic Digesters in the Derry City and Strabane District Council Area.

The Principal Planning Officer 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 above subject matter and to provide details regarding the processing of planning applications for Anaerobic Digesters in Derry City and Strabane District Council Area.

Councillor Hastings commented that he felt this issue had been passed around different Committees. He added that whilst he had no issue with the matter being dealt with by the Environment and Regeneration Committee, he felt that there were certain questions in relation to Planning Policy that the Officers of Environment and Regeneration could not answer.

The Head of Planning Performance and Improvement stated that he appreciated the difficulty Councillor Hastings had highlighted. However, he felt that the Planning Committee must be protected from possible issues surrounding the validity of the decision making process that could arise, given the fact that addressing the issue within the Planning Committee would require specific applications to be discussed.

Alderman Bresland highlighted issues with inappropriate materials being used within the digesters and odours which occurred as a result of this.

Councillor Dobbins raised concerns that Elected Members who served on both the Planning and Environment and Regeneration Committees could develop Conflicts of Interest in relation to this issue.

Councillor D Kelly concurred with Councillor Dobbins remarks.

In response to a query from Councillor D Kelly, the Head of Planning clarified that the topic of renewable energy had been included within the Local Development Plan Discussions, with separate policies being compiled for Solar Energy and Anaerobic Digesters. She gave her reassurance that these issues would be considered within the new Policies.

In response to concerns raised by Councillor Reilly, the Lead Legal Services Officer explained that dealing with the issue within the Environment and Regeneration Committee would be the less vulnerable option for Elected Members.

Councillor Hastings agreed that the Environment and Regeneration Committee would be the more appropriate place for members to discuss the matter.

In response to questions from Councillor McGuire, the Principal Planning Officer clarified that planning applications required waste codes to be supplied for the materials used to fuel Anaerobic Digesters, if these were indeed waste materials. She also advised that applications would need to specify where the materials are to be from and going to, as this would be important to assess, for example, traffic generation. Additionally, she clarified that the policy did not require a business case to be provided for a planning application for an Anaerobic Digester but it could be considered by the officer if one was submitted.

Councillor D Kelly expressed his horror that despite these requirements, he still came across issues where users had deviated from appropriate waste codes. He stated that a better and more detailed understanding of the issue was required.

The Committee

Recommended that Council note the update regarding Anaerobic Digesters and the issue is dealt with by the Environment and Regeneration Committee.

Open for Information

P30/19 Planning Appeals update

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

Councillor Logue expressed her disappointment that application LA11/2017/0242F had been allowed.

The Committee

Recommended that Council note the contents of the report.

P31/19 Planning Permission Granted by DFI for Wind Farm at Golundun Dolun, Killeter, Castlederg.

The Principal Planning Officer presented the above report, a copy of which had been circulated to Members. She advised that the purpose of the report was to advise Members that the Department for Infrastructure had granted planning permission for a Wind Farm consisting of 4 wind turbines each with a maximum overall base to blade tip height of 125 meters at Golundun Dolan, Killeter, Castlederg.

The Committee

Recommended that Council note the contents of the report.

P32/19 NI Planning Statistics 2017/18- Development Management Performance 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 and advise Members that on 20 December 2018, the Department for Infrastructure Northern Ireland Planning Statistics- 2017/18 Annual Statistical Bulletin was released and provide an update on planning statistics/targets.

Councillor Hastings thanked the Head of Planning for the report and credited Council staff for their work. He expressed his delight to see development and commented on the positive effect it would have on Council's penny product.

Councillor Dobbins echoed this sentiment and commented on the good relationship between Councillors and Officers.

Alderman McClintock and the Chair concurred with these comments.

Councillor D Kelly praised the Planning Department for the progress made, particularly for the achievements highlighted within paragraphs 3.1 and 3.6 in the report.

The Lead Legal Services Officer also expressed his congratulations to the Planning Department.

The Committee

Recommended that Council note the contents of the report.

P33/19 List of Decisions Issued- January 2019

Members noted the List of Decisions issued during the month of January 2019.

The meeting went into confidential business.

The meeting terminated at 7.25pm.