

## Derry City and Strabane District Council

**Open Minutes of the Planning Committee Meeting held remotely on Wednesday 3 March 2021 at 2.00pm.**

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**Present: - Councillor Jackson (Chairperson), Aldermen Bresland, Kerrigan, McClintock; Councillors J Barr, J Boyle, Dobbins, Gallagher, Harkin, Kelly, McGuire, McKinney, Mellon and Mooney.**

**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 S McCracken, Mrs A McNee), Senior Planning Officers (Ms L Coyle, Ms S Barrett, Mr C Rogers and Mr M McCarron), Business Services Officer (Mrs L McKean), Committee Services Assistant (Mrs J Short).**

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### **P55/21 Notice and Summons for Meeting**

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

### **P56/21 Member Attendance and Apologies**

The Head of Planning took the roll call and full attendance was noted.

### **P57/21 Statement for Remote Meetings**

The Chair read the Statement for Remote Meetings.

### **P58/21 Declarations of Members' Interests**

There were no declarations of interest from Members.

## **Open for Decision**

### **Chairperson's Business**

### **P59/21 Agenda Item: Ebrington DFI Consultation**

The Chair referred to the above item that was listed under 'Open for Information' on the agenda. He explained that the report required a decision by Members and it was therefore necessary to present the item under 'Open for Decision' on the Agenda.

**P60/21 Request to Defer Planning Application: LA11/2019/0936/F**

The Chair advised that a request had been received from the applicant to defer the above application, due to exceptional personal circumstances.

**P61/21 Update on Late Items Received**

The Head of Planning provided a summary of the late items received in respect to the following applications to be presented for decision (a copy of the information was circulated to Members in advance of the meeting):

- LA11/2020/0844/F
- LA11/2020/0650/O

**P62/21 Update regarding withdrawal of Planning Application: LA11/2018/0676/F**

The Head of Planning advised that due to the submission of an extensive amount of late information in relation to the above application, it was necessary to withdraw the application to allow the Planning Case Officer and consultees adequate time to review the detail in line with planning policy. The application would be presented at a future meeting.

The Chair reassured Members that he had discussed the issue with the Officers and he was content that the application would be presented to Committee at the earliest opportunity.

Councillor Dobbins expressed concern with the overall issue in relation to late items received. She felt that the submission of late information in some cases was a mechanism to stall the smooth operation of the planning system.

The Head of Planning in response to Councillor Dobbins, advised that whilst she understood the frustration by Members in relation to late items received and the impact on the progress of applications, there was however no mechanism in place to deal with the current issue. She further clarified that she raised the issue at previous meetings of the Planning Forum and highlighted the negative impact on the smooth operation of the planning system. She suggested that the issue be

included in the Review of Legislation and Call for Evidence response to the Department.

**P63/21 Update on Addendum to Report regarding Planning Application: LA11/2019/0988/RM**

The Head of Planning referred to the above application and advised that an Addendum to the Report: DFI Roads NIEA Conditions (2 March 2021) was included as a late item and circulated to Members.

**P64/21 Planning Portal Operational Issues Update**

The Head of Planning referred to concerns raised by Members at a previous meeting, in relation to operational issues associated with the Planning Portal. She clarified that the Chief Planner was written to and a response was received advising that an upgrade of the system would be carried out. She assured Members that they would be updated in advance of any operational changes to the Planning Portal.

**P65/21 Special Planning Committee Meeting on 24 March 2021**

The Chair confirmed that it was necessary to schedule an additional Special Planning Committee Meeting on Wednesday 24 March 2021 and the time of the meeting would be confirmed shortly.

**P66/21 Review of Planning Legislation and Call for Evidence**

The Head of Planning referred to the review of Planning Legislation and Call for Evidence correspondence received from the Chief Planner, details of which was previously circulated to Members. She advised that a comprehensive report to include a draft response would be presented at the Special Meeting of Planning Committee, scheduled to take place on Wednesday 24 March 2021. She further advised that a holding letter would be forwarded to the Chief Planner to explain that there was insufficient time for Members to discuss the review document and that a response would be submitted following consideration by Members at the Special Meeting.

**P67/21 Update on response under consideration by Department for Infrastructure (DfI) re. Planning Application LA11/2019/0263/F: Erection of a supermarket, associated car park and amended access off approval A/2004/0879/F, landscaping and site works on undeveloped land to the East of Kilfennan Link Roundabout and 100m North East of No. 20 Crescent Link, Derry.**

The Head of Planning referred to a previous decision by Members to overturn the recommendation to refuse the above application and for approval to be granted. She reminded Members that in line with planning procedure it was necessary to inform the Department of the decision and the deadline for response by DFI was 10 March 2021. She agreed to keep Members informed of the outcome in due course.

**P68/21 Matters Arising from the Open Minutes of the Planning Committee Meeting held on Wednesday 3 February 2021.**

There were no matters arising from the above minutes.

**P69/21 Matters Arising from the Open Minutes of the reconvened Planning Committee Meeting held on 4 February 2021**

There were no matters arising from the above minutes.

**P70/21 Planning Applications List with Recommendation for Decision**

To present to Members planning applications for decision.

**LA11/2018/0676/F – Proposed residential development consisting of 5 no. detached dwellings accessed off a private drive at 12 Clooney Road, Caw Roundabout, Derry.**

The above application had been withdrawn due to the submission of an extensive amount of late information to be reviewed by Officers. The application would be presented at a future Committee meeting.

**LA11/2019/0936/F – Erection of wind turbine on 55m tower with 52m rotor diameter (additional information received) at lands 330m south of 29 Erganagh Road, Castlederg, Co. Tyrone.**

The above application was deferred on request by the applicant due to exceptional circumstances of a personal nature. The application would be presented at a future Committee Meeting.

**LA11/2019/0988/RM – Proposed residential development of 295 no. dwellings comprising of mix of 110 no. detached, 166 no. semi-detached and 19 no. apartments; associated domestic garages, public open space, new equipped children’s play area, car parking, landscaping and all associated site works, and including the upgrade of the Gransha Road/A2 Clooney Road Roundabout to accommodate access to the development at lands situated to the south east of the A2 Clooney Road and North West of Rosstowney Road to the north of Nos. 106, 110, 114 and 116 Rosstowney Road, Co. Londonderry (lands forming part of the H30 Housing Zoning in the Derry Area Plan 2011).**

The Principal Planning Officer presented the above application, details of which were previously circulated to Members together with an addendum to report from DFI Roads NIEA Conditions (received 2 March 2021). An overview of the background to the application was provided and based on material consideration in line with relevant planning policy it was recommended to approve planning permission, subject to conditions as outlined within the report.

Members accepted speaking rights from Mr Stokes (Agent) and Mr Foy (Atkins) who outlined reasons to support approval of the application.

Members welcomed the application.

Alderman McClintock proposed, seconded by Councillor Mooney to accept the recommendation to approve the application.

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

The Committee

**Resolved that planning application LA11/2019/0988/RM be approved subject to the conditions as outlined within the report.**

**LA11/2020/0378/O – Proposed site for dwelling and garage approx. 50m south of No 72 Drumlegagh Church Road, Drumlegagh**

The Senior Planning Officer presented the above application, details of which were previously circulated to Members. An overview of the application was provided and based on material consideration in line with planning policy it was recommended to refuse planning permission, for reasons as outlined within the report.

Members accepted speaking rights from Ms Dallas (on behalf of objectors) and Mr Johns (on behalf of Agent) after which they sought points of clarification in relation to the application.

The Senior Planning Officer in response to Councillor McKinney, clarified that issues in relation to land ownership was outside the remit of the planning process.

The Principal Planning Officer further advised on the issue regarding land ownership. She clarified that in terms of the legal status they were content that the planning notices had been served appropriately with all interested parties.

Councillor McGuire commented that he was confused with the interpretation of policy in relation to accompanying property to the rear of the site and the private lane scenario. He said that his interpretation of the proposal was that it was an infill and he felt that the reasons for refusal contradicted planning policy.

Councillor Dobbins referred to Councillor McKinney's previous comment and queried if an application can be considered despite a pending legal dispute.

The Lead Legal Services Officer (LLSO) advised that it was possible for a planning application to be submitted and approval granted in respect of land which was not under the ownership of the applicant.

Councillor Dobbins stated that whilst she appreciated the advice given by the LLSO, she felt it was inappropriate to be expected to consider an application when not all relevant information was made available to assist in the decision-making process.

Alderman Kerrigan referred to planning policy CTY14 and said that in his opinion the proposal would not result in a suburban style build-up. He added that whilst he appreciated the concerns expressed by

the objectors, he felt there was the potential to include a condition in respect to the size of the development.

Councillor Gallagher referred to the concerns by Members in relation to the legalities over land ownership. He expressed the view that this should not deter the decision-making process, because the application presented today was valid and therefore the decision to proceed remained with the Committee Members. He also highlighted that similar applications had been dealt with previously by Committee.

Councillor Boyle agreed with the previous speaker. He stated that Members had to apply their consideration in line with relevant planning policy and not outstanding legalities in relation to land ownership.

Councillor McGuire proposed to overturn the recommendation by the Planning Officer to refuse permission on the grounds that the proposal met para 123.2.1 of the rural remainder policy in the Strabane Area Plan and relevant Planning Policy. He proposed that approval be granted, subject to standard conditions. Councillor Gallagher seconded the proposal.

The outcome of the vote was; For 9, Against 3, Abstention 2. The proposal was carried.

The Committee

**Resolved to overturn the recommendation to refuse planning application LA11/2020/0378/O and for approval to be granted, subject to standard conditions.**

**LA11/2020/0650/O – Proposed conversion of building into single storey dwelling. Outbuilding immediately west of 203 Kildoag Road L’Derry.**

The Senior Planning Officer presented the above application, details of which were previously circulated to Members. An overview of the background to the application was provided and based on material consideration in line with relevant planning policy, it was recommended to refuse planning permission for reasons as outlined within the report.

Members accepted speaking rights from Mr Clarke (Applicant) who outlined reasons to approve the application.

Councillor Gallagher queried refusal reason No. 4 as outlined within the report and sought further clarification. The SPO explained that the application was assessed against Planning Policy Statement 21 which

was relevant in terms of ecology value and this was not provided and therefore it was deemed unacceptable. He added that it was felt that it would have been unfair to ask the applicant to pay for an ecological survey when the application was deemed unacceptable and therefore as a precautionary measure the issue was included as a refusal reason.

Discussion ensued after which the PPO clarified that in terms of the ecology issues associated with the proposal, she would advise that an ecology survey be submitted in order to assist with the preliminary issues associated with the refusal of the application.

Councillor Boyle proposed, seconded by Councillor Dobbins to defer the application for a 3-month period, so to allow the applicant an opportunity to submit further information.

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

The Committee

**Resolved to defer application LA11/2020/0650/O for a period of 3 months, so to allow the applicant sufficient time to submit further information.**

**LA11/2020/0844/F – Extension to the reconfiguration of building to accommodate arts and culture centre comprising performance space, multi-use space, art and tuition rooms, dance studio, offices, café and ancillary spaces and associated site works at 20-22 Hawkin Street and vacant site to the immediate South West fronting onto Kennedy Place, Derry.**

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

Alderman McClintock welcomed the application and said that it was an innovative design that respected the existing character of the building.

The Senior Planning Officer clarified for Members that a noise verification report would have to be submitted to demonstrate that the noise was within acceptable limits from residential property.

Councillor Boyle welcomed the application and said that it would add to the cultural offering that already existed within the City and District Council area.

Councillor Dobbins referred to noise impact and queried if the 7am - 11pm operational hours could be adjusted. The SPO advised that it was entirely within the remit of Members, if they felt it was appropriate to alter the operational hours identified within the conditions as outlined within the report.

Alderman McClintock proposed, seconded by Councillor Dobbins to support approval of the application and to include an amendment to condition in relation to the operational start time from 7am to 8am.

Councillor Harkin supported the proposal and he looked forward in anticipation to the opening of the venue in the future. He however expressed concern in relation to illegal parking within the vicinity.

It was noted that Councillor J Barr would abstain from the vote because he was not present during the presentation of the application, due to technical difficulties.

The outcome of the vote was all in favour of the proposal with the exception of Councillor J Barr who abstained. The proposal was carried.

The Committee

**Resolved that the recommendation to approve planning application LA11/2020/0844/F be accepted, subject to conditions as outlined within the report.**

**LA11/2020/0850/DCA – Alterations to existing building at No 20-22 Hawkin Street involving part removal of walls to facilitate internal reconfiguration and extension to the rear; and demolition of walls on vacant site to rear at 20-22 Hawkin Street and vacant stie to the immediate south west fronting onto Kennedy Place, Derry.**

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

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

Councillor J Barr abstained from the vote because he was not present during the presentation of the application due to technical difficulties.

The outcome of the vote was all in favour of the proposal with the exception of Councillor J Barr. The proposal was carried.

The Committee

**Resolved that the recommendation to approve planning application LA11/2020/0850/DCA be accepted, subject to conditions as outlined within the report.**

**LA11/2021/0027/F – Proposed erection of side and rear extension along with alterations to front elevation. 6 Eden Road, Park, Co. Derry, BT47 4BJ.**

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

Councillor Boyle proposed, seconded by Councillor McKinney to support the recommendation to approve the application, as outlined by the Senior Planning Officer.

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

The Committee

**Resolved that the recommendation to approve planning application LA11/2021/0027/F be accepted, subject to conditions as outlined within the report.**

**LA11/2020/0887/F – Proposed new build visitor centre. Lands to the rear of and including 70 Ebrington Square, Derry, BT47 6FA, (Walled City Brewery).**

The Senior Planning Officer presented the above application, details of which were previously circulated to Members. An overview of the background to the application was provided and based on material consideration in line with relevant planning policy, it was recommended

to approve planning permission, subject to conditions as outlined within the report.

Alderman McClintock proposed, seconded by Councillor Mooney to accept the recommendation to approve the application.

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

The Committee

**Resolved that the recommendation to approve planning application LA11/2020/0887/F be accepted, subject to conditions as outlined within the report.**

**P71/21 Request to change the date of the April Planning Committee Meeting**

The Head of Planning Performance and Improvement presented the above report, details of which was previously circulated to Members. The purpose of the report was to request approval for change in date of the April Planning Committee Meeting from Wednesday 7 April 2021 at 2.00pm to Monday 12 April 2021 at 2.00pm.

Councillor Kelly proposed, seconded by Councillor Gallagher to support the recommendation as outlined within the above report.

The Committee

**Recommended that Council approve the change in date of the Planning Committee from Wednesday 7 April at 2.00pm to Monday 12 April at 2.00pm.**

**P72/21 Consultation from DFI re: LA11/2018/0926/RM – Building 40, Ebrington Square, Derry, BT47 6FA**

The Principal Planning Officer presented the above report, details of which was previously circulated to Members. The purpose of the report was to appraise Members on receipt of a consultation from DFI regarding the content reserved matters proposal within Ebrington site.

Councillor Boyle proposed, seconded by Councillor Kelly to support the recommendation as outlined within the above report.

The Committee

**Recommended that Council note the revised scheme and agree that a response with no objections be issued to DFI via the consultee portal.**

### **Open for Information**

#### **P73/21 Planning Appeals Update**

The Planning Appeals update report was provided by the Principal Planning Officer which included the status of any live appeals and decisions made since the previous Committee meeting.

Members noted for information the update on the Planning Appeals schedule.

#### **P74/21 An Bord Pleanála Decision – Barnesmore Wind Farm, Co. Donegal**

The Principal Planning Officer presented the above report, a copy of which was previously circulated to Members. The purpose of the report was to advise Members of receipt of correspondence from DFI Planning regarding a decision by An Bord Pleanála to allow development at the existing Barnesmore wind farm site in Co. Donegal for the removal of 25 no. existing wind turbines and the erection of up to 13 no. wind turbines with an overall height of up to 180 metres.

Councillor McGuire commented that he found it somewhat bazar that this application would proceed despite the recent landslide at Meenbog, Co Donegal.

Members noted the contents of the above report for information.

#### **P75/21 Enforcement Review October-December 2020 (3<sup>rd</sup> Quarter)**

The Senior Planning Officer (Enforcement Section), presented the above report details of which was previously circulated to Members. The purpose of the report was to provide an update to Members on the progress made by the Planning Enforcement section for the third quarter of the business year 2020-2021.

Alderman McClintock referred to the increase of advertisement hoardings throughout the City and District Council area. She queried what enforcement action was taken to alleviate the problem.

The SPO clarified that the Enforcement Section was currently dealing with a high volume of illegal advertisement hoardings

throughout the City and District Council area. He assured Members that they would be dealt with as speedily as possible.

Members noted the contents of the above report for information.

**P76/21 List of Decisions Issued – February 2021**

Members noted the List of Decisions issued during the month of February 2021.

**The meeting went into confidential business.**