

Derry City and Strabane District Council

Open Minutes of the Planning Committee Meeting which was held as a hybrid/socially distanced meeting and conducted remotely via Webex and physically in the Main Hall, Guildhall on Wednesday 7 July 2021 at 2.30pm.

Present: - Councillor McKinney (Chairperson); Aldermen Bresland, Hussey, Kerrigan, McClintock; Councillors J Boyle, Dobbins, Gallagher, Jackson, 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 (Miss S Barrett, Miss L Coyle, Mrs R McMEnamin, Mr M McCarron), Business Services Officer (Mrs L McKean), Committee Services Assistant (Mrs J Short).

P133/21 Notice and Summons for Meeting

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

P134/21 Member Attendance and Apologies

The Head of Planning took the roll call and recorded apologies from Councillor J Barr.

P135/21 Statement for Remote Meetings

The Chair read the Statement for Remote Meetings.

P136/21 Declarations of Members' Interests

There were no declarations of interest from Members.

Open for Decision

Chairperson's Business

P137/21 Planning Portal Update

The Head of Planning referred to the new IT Planning portal system and advised Members verbally that there was an indication from the Board that there would be a slight delay in the roll out dates due to data migration process issues. She advised HOP's are likely to receive more clarity on this in summer months and suggested bringing a written report to provide a further update at the Planning Committee Meeting scheduled to take place on 8 September 2021.

P138/21 Update on response for consideration by Department for Infrastructure (DfI) re. Planning Application LA11/2019/0263/F and LA11/2018/0186/O

The Head of Planning referred to a request from Members at meeting held the previous month, for the Chair of Planning Committee to write to the Minister for Infrastructure to express Members' frustration with the delay in progress of the above applications. She clarified that a response was received to confirm that both applications were currently under consideration in line with Article 17 Direction, and no conclusion had been reached to date.

The Head of Planning agreed to keep Members updated accordingly.

P139/21 Deferred Planning Applications

The Chair confirmed that site visit requests from Members had been received in respect to the following applications and therefore the applications would be withdrawn from today's schedule and deferred until it was appropriate to present at a future Planning Committee Meeting:

- LA11/2020/0549/F
- LA11/2018/0216/F

Councillor Dobbins proposed, seconded by Alderman McClintock to defer planning application; **LA11/2019/0987/F** so to allow for a site visit of the location which would benefit Members in the decision-making process. This was agreed unanimously

The Committee

Resolved to defer planning application LA11/2019/0987/F in-order to facilitate a site visit. The application would be presented at a future Planning Committee meeting.

P140/21 Adherence to Planning Protocol

The Chair reminded Members of the Planning Protocol in respect to not considering recent direct correspondence from the applicant/agent regarding current cases on schedule prior to or during the meeting.

P141/21 Late Items Received

The Head of Planning advised that late items had been received in respect to the following applications and Members would be given the opportunity to review the information prior to the presentation of the application by the Planning Officer:

- A/2014/0035/RM
- LA11/2020/0549/F
- LA11/2019/0987/F

Matters Arising from the Open Minutes of the Planning Committee held on Wednesday 9 June 2021.

P142/21 Minute Ref: 128/21 – PAC Appeal Decision (Ref. 2020/A0017) at Victoria Road (Application Ref. A/2014/0592/F)

The Lead Legal Services Officer (LLSO) referred to the above item and advised that a legal opinion had been received and that he would provide a verbal update to Members during confidential business.

P143/21 Planning Applications List with Recommendation for Decision.

**A/2014/0035/RM - Residential housing development comprising a mix of detached and semi-detached units (164 in total) with garages. All associated site works including amendment of levels, landscaping, wastewater pumping station and off-site roadworks at Drumahoe Industrial Estate, Drumahoe Road, Londonderry.
Recommendation: Refuse**

The Senior Planning Officer (SPO) presented the above application, details of which was previously circulated to Members. The SPO outlined the background to the application and based on material consideration in line with planning policy it was recommended that a refusal be granted for reasons as outlined within the report.

Members accepted speaking rights from Mr Dean Blackwood (Objector), Mr Chris Bryson (Agent) and Mr Andrew Ryan (Solicitor representing the Agent).

The Chair invited Members to comment or seek points of clarification from the speakers followed by the SPO, if they so wished.

Councillor Gallagher referred to the legal principals associated with the application which had not been met and he was therefore concerned that the Planning Committee would be in breach of legislation.

The LLSO advised Members that the SPO had provided the legal opinions in respect to the application as outlined within the report, however the Planning Committee were responsible for making the final decision in relation to the matter. He further advised that if Members were minded not to accept the recommendation, then the reasons had to be clearly stated.

The SPO in response to queries raised by Alderman McClintock, advised that the information submitted had not demonstrated that the developer had not gained unfair/improper advantage through the demolition works on site. She further clarified that the proposal was EIA development and the ES as submitted by the applicant was insufficient as it did not address the environmental impact of the unauthorised works.

Councillor Gallagher stated that it was a difficult decision as he was aware of the housing need, however he was not convinced that based

on the information provided that there was adequate environmental protection of the River Faughan.

Discussion ensued, after which Councillor Gallagher proposed, seconded by Councillor Jackson to support the Officer's recommendation to refuse planning permission for reasons as outlined within the report.

The outcome of the vote was:

For: 10

Against: 1

Abstention: 2

The proposal was carried.

The Committee

Resolved to support the Officer's recommendation to refuse planning application A/2014/0035/RM, for reasons as outlined within the report.

LA11/2019/0374/F - 14 no. social and affordable housing units – 12 no. semi-detached and 2 no. detached two storey dwellings and associated works including access, visibility splays, roadways, footpaths in accordance with Policy CTY 5 of PPS 21 at lands between No. 85 and 93 Ervey Road, Tamnaherin, Co. Derry.

The Principal Planning Officer (PPO) 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 in line with planning policy it was recommended to refuse planning permission, for reasons as outlined within the report.

Members accepted speaking rights from Councillor McKeever and Mr Matt Kennedy (Agent) who outlined reasons to support approval of the application.

The Chair invited Members to comment or seek points of clarification from the speakers and the PPO if they so wished.

The PPO clarified for Members that as outlined within the report, the majority of the proposed sites do not meet Creating Places guidance in relation to private amenity space for back gardens (70m²) and therefore was contrary to Policy QD1 of PPS 7.

She further clarified for Councillor J Boyle that DfI (Roads) had been consulted and they are content with the proposal as presented in terms of road safety.

The Head of Planning advised that in terms of Planning Policy it was essential to determine the reason for the site to be located outside of the development limit and that this was the fundamental reason for refusal as it was contrary to the Derry Area Plan 2011. She also highlighted her concern in relation to the layout of the proposal which in her opinion was overengineered due to the high percentage of road layout required and inappropriate layout for a rural setting and therefore contrary to PPS7.

Councillor Gallagher proposed, seconded by Councillor J Boyle to support the Officer recommendation to refuse planning permission, for reasons as outlined within the report.

Councillor Mellon sought clarity in relation to amenity space as she felt there was conflicting views from the agent who assured Members that the minimum was 75sq metres.

Alderman Hussey expressed the view that the proposal was not contrary to policy in terms of sustainability and had met all of the requirements and he would therefore be minded to support approval of the application.

Councillor Jackson stated that he was somewhat uncomfortable with the recommendation because in his opinion SPPS and Policy CTY5 had been met. He acknowledged the need for social housing and the fact that the proposal was located on a prime site adjacent to recreational grounds and a local primary school. He stated that he would not be supportive of the recommendation to refuse planning permission. Councillor Dobbins concurred with the previous speaker. She agreed that adequate private and public amenity space was provided within the development and therefore would support approval of the application.

The outcome of the vote was:

For: 6
Against: 6
Abstention: 0

The outcome of the Chair's casting vote was not to support the PPO's recommendation to refuse planning permission.

Alderman Hussey proposed, seconded by Councillor Jackson that planning approval be granted because it was the opinion that the proposal was not contrary to PPS in terms of sustainability in the countryside and PPS7 in that adequate private amenity space was provided for the dwellings.

The outcome of the vote was;

For: 6
Against: 4
Abstained: 2

The proposal was carried.

The Committee

Resolved to overturn the PPO's recommendation to refuse planning application LA11/2019/0374/F and for approval to be granted subject to standard conditions.

LA11/2017/1115/F - Short let tourist apartment suite development with 22 no. suites at lands adjacent to 6 Great James Street, Derry.

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

Members accepted speaking rights from Mr Shane Birney (Agent) and Mr Brendan Duddy (Applicant).

The Chair invited Members to comment or seek points of clarification from the speakers followed by the PPO if they so wished.

Councillor Mellon proposed, seconded by Councillor J Boyle, to support the PPO's recommendation to approve planning permission, subject to conditions as outlined within the report.

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

The Committee

Resolved to accept the PPO's recommendation to approve application LA11/2017/1115/F, subject to conditions as outlined within the report.

LA11/2020/0609/O - Proposed 1.5 storey infill dwelling and detached garage at site between No 27 & 31 Loughan Road, Donemana.

The Senior Planning Officer (SPO) presented the above application, details of which was previously circulated to Members. The SPO outlined the background to the application and based on material consideration in line with planning policy, recommended a refusal for reasons as outlined within the report.

Members accepted speaking rights from Mr Ally Olphert (Agent).

The Chair invited Members to comment or seek points of clarification from the speaker followed by the SPO if they so wished.

Discussion ensued after which Alderman Kerrigan proposed, seconded by Alderman Hussey to overturn the PPO's recommendation and for approval to be granted, because they were of the view that the proposal was not contrary to the planning policies as outlined within the report.

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

The Committee

Resolved to overturn the recommendation to refuse planning application LA11/2020/0609/O and for approval to be granted, subject to standard conditions.

LA11/2018/0693/F - New 3 storey end of terrace dwelling house at lands adjacent to 22 West End Park, Derry.

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

Members accepted speaking rights from Mr Justin Hundt (Objector) and Mr Lee Kennedy (Agent).

The Chair invited Members to comment or seek points of clarification from the speakers followed by the SPO if they so wished.

The PPO in response to Members queries clarified that from a legal perspective they were content with the certificate of ownership on this occasion. She further stated that whilst they were aware of an ongoing legal issue associated with the location it was being dealt with separately and would have no bearing on the progress of this application, as it was outside of the remit of Planning Service. The PPO further advised Members that in terms of this application, a traffic survey was not required as there was sufficient scope within policy to permit parking provision on the site with no detrimental impact. She however referred to previous applications for multiple dwellings at the same area that required traffic surveys and those applications were subsequently referred to the PAC for consideration, however the outcome of which would have no detrimental impact on this application which was for a single dwelling.

Councillor Jackson acknowledged the fact that Westend Park was unique in terms of design and the concerns in relation to the appropriateness of the access arrangements that existed. He expressed concern that the current parking arrangements have led to the obstruction of emergency vehicles and refuse collection lorries from entering the area and he felt that the proposal would exacerbate

the existing parking pressures and he was therefore uncomfortable with the recommendation to approve the application.

Discussion ensued after which Councillor J Boyle proposed, seconded by Councillor Jackson to overturn the Officer's recommendation and for a refusal to be granted, because of issues associated with traffic obstruction due to the lack of parking provision within an urban development.

The outcome of the vote was:

For: 9

Against: 1

Abstention: 2

The proposal was carried.

The Committee

Resolved to overturn the Officer recommendation to approve planning application LA11/2018/0693/F and for refusal to be granted.

LA11/2021/0513/F - Amendment to planning approval LA11/2016/0628/F to include: Addition of 3.6m high catch nets above approved 2.4m high paladin fence (total height 6m), Addition of 2m high catch nets above approved 6m ballstop fence (total height 8m), Extension of existing 6m ballstop fence for additional 1m at former Clondermott High School, Irish Street, Derry BT47 2HJ

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

Councillor Jackson proposed, seconded by Councillor Gallagher to support the recommendation to approve the application as outlined by the Officer.

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

The Committee

Resolved to support the Officer recommendation to approve planning application LA11/2021/0513/F, subject to conditions as outlined within the report.

The meeting was adjourned at 18.20 and would reconvene the following day.