

LISBURN & CASTLEREAGH CITY COUNCIL

Minutes of Meeting of the Planning Committee held in the Council Chamber, Lisburn & Castlereagh City Council Offices, Island Civic Centre, The Island, Lisburn on Monday 7 December 2015 at 6.00 pm

PRESENT: Alderman M Henderson MBE (Chairman)

Aldermen : D Drysdale, G Rice MBE
Councillors: U Mackin, L Poots, John Palmer,
R Butler, P Catney, M Tolerton

OTHER MEMBERS: Aldermen: J Tinsley,
Councillors: N Anderson, B Bloomfield, B Harvey, V Kamble

IN ATTENDANCE: Transition Manager
Planning Manager
Principal Planning Officers (RH and LJ)
Senior Planning Officers (AS and PS)
Committee Secretary
Attendance Clerk

Cleaver Fulton & Rankin
Kate McCusker (Legal Advisor)

Commencement of Meeting

The Chairman, Alderman M Henderson, welcomed everyone to the meeting.

Introductions were made by the Chairman and some Housekeeping and Evacuation announcements were made by the Transition Manager.

1. **Apologies**

Apologies for non-attendance at the Meeting were accepted and recorded on behalf of The Right Worshipful the Mayor Councillor R T Beckett, Councillor A Girvin, The Director of Development and Planning and in addition Councillor R Butler had advised that he would be arriving late.

2. **Declarations of Interest**

The Chairman sought Declarations of Interest from Members and reminded them to complete the supporting forms which had been left at each desk.

The Legal Advisor reminded Members of their duty with regard to Declarations of Interest and other points of law. She stated that failure to declare an interest in a Planning Application may invalidate the Council's decision, leaving it open to legal

challenge and that it would be a breach of the Code of Conduct and that they may find themselves subject of a complaint to the Ombudsman.

She referred to the Protocol for the Operation of the Lisburn & Castlereagh City Council Planning Committee which provides guidance on decisions made which are contrary to Planning Officers' recommendations.

Reference was made to Paragraphs 43-46 within the Protocol which state that the decision as to whether planning permission should be approved or refused lies with the Committee. The views, opinions and recommendations of planning officers may on occasion, be at odds with the views, opinions or decisions of the Planning Committee or its Members. This is acceptable where planning issues are finely balanced.

The Legal Advisor further advised Members that the Committee could accept or place a different interpretation on, or give different weight to, the various arguments and material considerations.

Members were reminded that Committee decisions contrary to officer recommendation may be subject to legal challenge. Members must therefore ensure that the reasons for the decision are set out and based on proper planning reasons. Furthermore, the Planning Officer should always be given the opportunity to explain the implications of the Planning Committee's decision.

Therefore decisions contrary to an Officer's recommendation must be formally recorded in the Committee minutes and a copy placed on the application file.

The following Declarations of Interest were made:

- Alderman Rice advised that she was a customer of the Applicant re LA05/2015/0079/F, however she did not consider that this constituted an interest.
- Alderman Drysdale advised that he had received information in respect of Y/2013/0043/F but that he did not consider that this constituted an interest.
- During the course of the meeting Alderman Henderson advised that a relative had at one time received training from the Applicant re LA05/2015/0079/F however he did not consider that this constituted an interest.

3. Minutes

It was proposed by Councillor P Catney seconded by Councillor U Mackin and agreed that the following Minutes be signed.

- Minutes of Planning Committee Meeting held on 2 November 2015.

Matters Arising from the Minutes

The Chairman referred to the site visit, discussed at the previous meeting, which had been arranged for Monday 30 November 2015 but which had not proceeded due to the fact that it had been inquorate. After discussion it was agreed that this meeting be re-arranged for Thursday 17 December 2015 beginning with lunch at 12.30 pm.

Members were also asked to note that Application Number Y/2015/0065/F (Argos) would be presented to the Committee in its entirety in due course.

4. Report from The Director of Development and Planning

It was agreed that the report and recommendations of the Director of Development and Planning be adopted, subject to any decisions recorded below:-

4.1 Report from the Head of Planning

Items for Decision

4.1.1 Schedule of Applications:

The Chairman reminded Members that they needed to be present for the entire item. If absent for any part of the discussion they would render themselves unable to vote on the application.

The Chairman advised that there were a number of speakers in attendance at this particular meeting who would be making representation on some of the applications and that therefore the Schedule of Applications would be taken out of order to enable these applications to be taken first.

Members were asked to note that Planning Application LA05/2015/0124/O – Item 4.1.1.4 has been withdrawn from the Schedule at the request of the Agent.

- (2) LA05/2015/0079/F – Major Application – Change of use from vacant trade showroom with associated car parking to hairdressing salon and millinery manufacture, Unit 1, 127 Ballynahinch Road, Carryduff, Belfast.

The Committee considered the Application as outlined within the Report of the Planning Officer who highlighted the following issues as being:

- BMAP Zoning
- Public Inquiry
- Principle of Development
- Town Centres and Retailing
- Planning and Economic Development
- Justification of Site Selection

During the Officer's presentation Councillor R Butler entered the meeting at 6.21 pm.

The Committee received Mr Keith Kane, the Applicant, who spoke in support of the Application highlighting:

- The training element of his business
- His world champion status in competitive events
- The derelict state of his current premises
- The lack of alternative premises suitable for his use
- The Millinery element of his business
- The numbers he hopes to employ
- His plans to offer confidential services re implants and cancer patient care

This was followed by a question and answer session.

The Committee received Councillor N Anderson who spoke in support of the Application highlighting:

- Economic benefit the development would bring to the area
- Support from local residents
- The international nature of the proposed business
- The main strands to the business were not retail
- Lack of suitable alternatives

This was followed by a question and answer session.

The Committee received Councillor B Hanvey who spoke in support of the Application highlighting:

- The contribution the Applicant has made to the Carryduff area
- Four other Applications which had been approved which had also had an impact on the Town Centre function

This was followed by a question and answer session.

The Committee received Mr Trevor Lunn MLA who spoke in support of the Application highlighting:

- The world renowned nature of this business of which hairdressing was only a small part.
- The retail element currently at the proposed site
- That this is the only available site which is suitable
- Carryduff was no longer a Town Centre – the Shopping Centre was now derelict and the proposed site was only approximately half a mile away.

This was followed by a question and answer session. During the ensuing discussion Alderman G Rice made comments in relation to the Officer's Report. The Chairman intervened outlining that the Officer's Report was accurate at the time of being presented to the Committee and was provided to support Members and to inform their decision. At this point Councillor Catney

stated that he wished to distance himself from comments made by Alderman Rice.

At the culmination of the discussion and ensuing debate, the decision was put to a vote and by a majority of 5:0, with 3 abstentions, it was agreed that the recommendation of the Officer would not be accepted. (Councillor Butler was unable to vote or take part in discussions as he had not been in attendance for the entire consideration of the item).

The Chairman stated that the Professional Officer's recommendation to refuse planning permission had fallen and that a new motion was now under consideration. Section 45 of the 2011 Planning Act states that in dealing with planning applications, the Council, must have regard to the local development plan, so far as material to the application, and to any other material considerations.

It was then proposed by Councillor Poots, seconded by Councillor Catney and agreed that the reasons cited for the approval of the application were 'The Economic benefits of the development through the creation of new jobs or possible loss of local employment'.

At this stage the Chairman declared the Planning Application approved for the reasons stated above.

The Chairman highlighted that because the application had been recommended for refusal, no conditions had been drafted. Conditions would now need to be discussed and agreed in principle with the precise wording of these being delegated to the Head of Planning in accordance with section 7 of the Local Government (NI) Act 2014.

After discussion it was proposed by Councillor Catney that a condition was drafted to place restrictions on the approval. The Chair confirmed that a condition should be drafted and asked the Senior Planner for a suggested condition. This was provided as follows - 'The premises hereby approved shall be used for Class A1 (d) Hairdressing, Class B1 millinery manufacture and Class A1 (e) the display of millinery goods for retail sale and for no other purpose in the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015.

The Chairman stated that the new motion before the Committee was to approve Planning Permission for LA05/2015/0079/F – change of use from vacant trade showroom with associated car parking to hairdressing salon and millinery manufacture at Unit 1, 127 Ballynahinch Road, Carryduff, Belfast in accordance with the planning reasons agreed at this meeting and for the precise wording of conditions, agreed in principle at this meeting, to be delegated to the Head of Planning.

The motion was proposed by Councillor Poots, seconded by Councillor Catney and carried by a majority of 5:0, with 3 abstentions (Councillor R Butler being unable to vote).

Adjournment of Meeting

At this stage (8.20 pm) the Chairman declared that the meeting was being adjourned for a five minute comfort break.

Councillor M Tolerton left the meeting and did not return (8.20pm)

Resumption of Meeting

The Meeting resumed at 8.25 pm

- (5) Y/2015/0020/O – Local Application (Called in) – Proposed infill dwelling and garage adjacent to No 14 Lisleen Road East, Comber

The Committee considered the Application as outlined within the Report of the Planning Officer who highlighted the main issues as being:

- Principle of Development
- Sustainable Development in the Countryside
- Ribbon Development
- Integration and Design of Buildings in the Countryside
- Rural Character

The Committee received Mr Andrew Stephens who spoke against the Application outlining:

- Inaccuracies in respect of the original site address
- Lack of engagement with objectors
- Inaccuracies within the Planning Officer's Report
- Boundary issues
- Traffic issues

The Committee, having considered the information provided within the Report of the Senior Planning Officer and by Mr Andrew Stephens, agreed, by a majority of 7:1 with no abstentions, to approve the application for the reasons outlined in Officer's report and subject to the conditions stated.

- (1) Y/2013/0043/F – Major Application – Erection of 53 dwellings to include 17 detached and 36 semi-detached dwellings (change of house types on plots 328-334, 355-372 and 378-382 from previous approval Y/2009/0332 and to include additional lands) and all other associated site works (Amended Plans) on lands 100m East of Nos 24-48 Ardmore Avenue and accessed from Old Mill Heights.

The Committee, considered the information provided within the Report of the Senior Planning Officer who highlighted the main issues as being:

- Principle of Development
- Access, Movement and Parking
- Quality Residential Environments
- Open Space, Sport and Outdoor Recreation

After consideration it was agreed unanimously to approve the application as outlined in the Officer's report and subject to the conditions stated.

- (3) LA05/2015/0464/F – Local Application (Mandatory) – Proposed Domestic Garage, 44 Clontara Park, Lisburn BT27 4LB.

The Committee considered the Application as outlined within the Report of the Planning Officer who highlighted the main issues as being:

- Principle of Development
- Residential Extensions and Alterations

During the above presentation, Alderman G Rice left the meeting at 9.20 pm returning at 9.25 pm – this rendered her unable to speak or vote on the Application.

The Committee, having considered the information provided within the Report of the Senior Planning Officer, agreed unanimously to approve the application for the reasons as outlined in Officer's report and subject to the conditions stated (Alderman G Rice being unable to vote as she had not been present for the entire consideration of the item).

- (4) LA05/2015/0124/O – Local Application (Called in) – Farm Dwelling on lands located 100m Northwest of the junction between Tornagrough Road and Rusheyhill Road, Budore, Belfast BT17 0NL

The Committee noted that the above Application had been withdrawn from the schedule by the Agent pending receipt of additional information.

The two Senior Planning Officers left the meeting at 9.30 pm.

Items for Noting

4.1.2 Local Development Plan

Members noted information provided by The Principal Planning Officer (LJ) within a Report and three Position Papers one focusing on Tourism, a second focusing on Open Space, Sport and Outdoor Recreation and a third focusing on Waste Management. It was agreed that Members should note the information but that the Officer be invited to present the information to the Committee at its next meeting when more time could be devoted to it.

Members also noted a verbal update from the Planning Manager in respect of the Statement of Community Involvement.

4.1.3 Development Management

4.1.3.1 Decisions Issued – November 2015

Members noted that the Decisions Issued Report for November 2015 would be circulated by e-mail and via the Planning Portal when it was ready.

4.1.3.2 Proposals of Application Notice

Members noted information provided in respect of Proposals of Application notices submitted in accordance with Section 27 of the Planning Act.

4.1.4 Planning Advice Note from the Department of the Environment – Planning Policy Division in relation to the implementation of the Planning Policy for the Retention of Zoned Land and Economic Development uses.

Members noted information issued by the Chief Planner's Office in respect of the above on 16 November 2015 the purpose of which is to ensure an effective and consistent approach to implementing regional planning policy when determining planning applications and to assist with the preparation of Local Development Plans.

4.1.5 Letter from Department of the Environment – Chief Planner's Office in relation to a recent Ombudsman case – Investigation into the Processing of a Certificate of Lawfulness of Proposed use or Development.

Members noted the contents of correspondence dated 26 October 2015 from the Chief Planner's Office regarding a recent investigation into the processing by the Department of a Lawful Development Certificate.

4.1.6 Northern Ireland Planning Statistics 2015/2016 – First Quarterly Bulletin published by the Department.

Members noted that the DoE Northern Ireland Planning Statistics 2015/16 First Quarterly Bulletin had been released by the Department's Analytical Services Branch on 19 November 2015 and noted the contents of a copy of the document.

The Planning Manager highlighted that these statistics had been issued without any reference to the fact that some of the information in respect of Lisburn & Castlereagh City Council had been adversely affected by Planning Portal issues, legacy application issues, a Judicial Review in respect of a decision taken by the Department prior to Vesting Day and an application which had been lengthy and which should not have been included. The Chairman concurred stating that this issue had been highlighted at a recent NILGA conference which he had attended.

After discussion it was agreed that the Committee write to Department of the Environment highlighting their dissatisfaction at the lack of clarity in respect of the release of this information.

4.1.7 DoE Rural Development Programme

Members noted the content of correspondence dated 2 November 2015 from Mark H Durkan MLA, Minister of the Environment regarding the publication of the Department of Agriculture and Rural Development's (DARD) Rural Development Programme (RDP) 2014-2020.

It was further noted that the 2014-2020 Rural Development Programme had been adopted by the European Commission on 25 August 2015 and had replaced the 2007-2013 Programme.

It was proposed by Councillor R Butler seconded by Alderman G Rice and agreed that the report and recommendations of the Head of Planning be adopted, subject to any decisions recorded above.

5. Confidential Report from the Director of Development and Planning

'In Committee'

It was proposed by Alderman D Drysdale, seconded by Councillor R Butler and agreed that the following item be considered 'In Committee' in the absence of press or members of the public as the item included information relating to an individual, likely to reveal the identity of an individual and related to legal proceedings.

5.1 Enforcement

5.1.1 Enforcement Cases with Court Proceedings in December 2015

Having been provided with information on Enforcement Cases with Court Proceedings in December 2015 it was proposed by Councillor P Catney, seconded by Councillor J Palmer and agreed that the information provided within the Report should be noted.

Resumption of Normal Business

It was proposed by Alderman Rice seconded by Councillor R Butler and agreed to come out of committee and normal business was resumed.

7. Any Other Business

Threats re Legal Action by those making representations at Committee Meetings
Councillor P Catney

In response to a question from Councillor P Catney, the Planning Manager outlined how such comments should be dealt with.

Speaking on Applications whilst not present for entire discussion
Councillor R Butler

In response to a question from Councillor Butler the Planning Manager outlined paragraph 41 of the Protocol for the Operation of the Planning Committee.

As this would be the final formal Planning Committee Meeting before Christmas, the Chairman wished all present the compliments of the Season.

There being no further business, the meeting concluded at 9.45 pm.

CHAIRMAN / MAYOR