

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 November 2016 at 2.00 pm**

PRESENT

Councillor A Redpath (Chairman)

Councillor N Anderson (Vice-Chairman)

Aldermen: J Dillon MBE JP and G Rice MBE
Councillors: RT Beckett, P Catney, A Girvin, U
Mackin, L Poots, M Tolerton

OTHER MEMBERS

The Right Worshipful the Mayor, Councillor R B Bloomfield
Alderman J Tinsley
Councillor A Grehan

IN ATTENDANCE

Lead Head of Planning & Building Control
Planning Manager
Principal Planning Officers (LJ)
Senior Planning Officers (RT and MCON)
HPTO (PMcF)
Committee Secretary
Attendance Clerk

Cleaver Fulton & Rankin
Kate McCusker (Legal Advisor)

A & L Goodbody
Micaela Diver (Legal Advisor)

1. **Commencement of Meeting**

1.1 **Legal Advice**

It was proposed by Councillor U Mackin, seconded by Alderman G Rice, and agreed that this item be considered 'In Committee', in the absence of press and public being present.

'In Committee'

The Council's Legal Adviser, Ms K McCusker, advised Members regarding some inaccuracies in the minutes of the previous meeting. It was proposed by Councillor U Mackin, seconded by Councillor A Girvin and agreed to adjourn the meeting for a brief period to allow Members to discuss the advice received.

Adjournment of Meeting

The Chairman, Councillor A Redpath, declared the meeting adjourned at 2.22 pm for 10 minutes.

Resumption of Meeting

The Chairman, Councillor A Redpath declared the meeting resumed at 2.32 pm.

It was then proposed by Councillor U Mackin, seconded by Alderman G Rice and agreed to amend the minutes of the previous meeting as discussed.

Resumption of Normal Business

It was proposed by N Anderson, seconded by Alderman G Rice and agreed to come out of committee and normal business was resumed.

1.2 Commencement of Meeting

The Chairman, Councillor A Redpath, welcomed everyone to the meeting.

Introductions were made and some Housekeeping and Evacuation announcements were made by the Lead Head of Service (Planning & Building Control).

2. Apologies

Apologies were received on behalf of Alderman D Drysdale and Ms Rosaleen Heaney, Principal Planner. Members were advised that Councillor Catney had been delayed and would be arriving later.

3. 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 following Declarations of Interest were made:

- Alderman G Rice referred to Application LAO5/2015/0897/F and stated that she had previously been the Chair of Clanmil Housing Association but had had no involvement for four years and had not predetermined the application
- Alderman WJ Dillon referred to Application S/2014/0910/F and stated that he had met both the applicant and objectors before he had become a Member of the Council's Planning Committee and had not predetermined the application.

4. Minutes

4.1 Amendments to Minutes

It was proposed by Councillor U Mackin, seconded by Councillor M Tolerton and agreed that the Minutes of the Planning Committee of 3 October 2016 be amended to remove the third bullet point on page 791, i.e. 'the emerging policies in a local development plan that has not yet been approved or adopted'.

It was proposed by Councillor M Tolerton, seconded by Councillor N Anderson and agreed that the minutes of the Planning Committee of 3 October 2016 be amended at the 4th paragraph commencing 'At this stage..' on Page 791 to remove the word 'would prejudice the Development Plan' and replace them with the words 'would significantly prejudice the implementation of the local development plan's objectives and policies'.

It was proposed by Councillor M Tolerton, seconded by Alderman G Rice and agreed that the minutes of the Planning Committee of 3 October 2016 be amended at the 6th paragraph on Page 791 commencing 'After further discussion...' to remove the word 'did not prejudice the Development Plan' and replace them with the words 'did not significantly prejudice the implementation of the local development plan's objectives and policies'.

4.2 Adoption of Minutes

It was proposed by Alderman G Rice, seconded by Councillor M Tolerton and agreed that the Minutes of the meeting of the Planning Committee held on 3 October 2016, as amended above, be signed.

5. Report from the Lead Head of Planning and Building Control

It was agreed that the report and recommendations of the Lead Head of Planning and Building Control be adopted, subject to any decisions recorded below:-

5.1 Report from the Planning Manager

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

Items for Decision

5.1.1 Schedule of Applications:

The Chairman, Councillor A Redpath, 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 Legal Advisor 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 Officers' recommendations. Reference was made to Paragraphs 43-46 within the Protocol which states 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 material 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 file.'

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

- (1) **S/2014/0910/F – Major Application – Interim development proposal: Development of 123 dwellings and amendment to 3 dwellings on sites 1, 125 and 126 (being dwellings approved under S/2014/0209/F and S/2004/1466/F respectively) to give a total of 126 dwellings with associated open space and access arrangements (amended description and additional information) on lands North of Wellington Parks and South of HMP Maghaberry, Maghaberry.**

Members were provided with a copy of the initial planning report including a location map together with a copy of an addendum report with conditions only.

It was proposed by Alderman WJ Dillon, seconded by Councillor M Tolerton, and agreed to approve the conditions outlined in the addendum report and that planning permission in respect of this application be issued.

It was further proposed by Councillor U Mackin, seconded by Councillor M Tolerton, and agreed to authorise the signing of a Joint Section 76 Planning Agreement in respect of funding provision of £126,000 for the establishment of a Community Trust.

- (2) **LA05/2015/0101/O - Local Application (Previously deferred) – Infill site for proposed dwelling and garage with new access at Site 80m Northwest of 15a Tansy Road, Upper Ballinderry, Lisburn.**

The HPTO (PMcF) presented this application as outlined within the circulated report.

The Committee received Mr Ian Crockard who wished to speak in support of the application and highlighted the following:

- There had been a change from the information provided to the planners at the outset of the application in that a house on the site immediately to the east of the applicant site was now constructed up to roof level and this served to reinforce the applicant's contention that his proposal was for an infill site.

There then followed a question and answer session.

The Committee, having considered the information provided within the Report of the HPTO, agreed by a majority of 9 with 0 abstentions to refuse the application as outlined in Officer's report.

- (3) **LA05/2015/0033/F – Major Application – Retention of dog boarding and day care facility – Change of use of part of existing dwelling (retrospective) to accommodate same and proposed vehicular access (amended description) at 116 Halftown Road, Maze, Lisburn.**

The Senior Planning Officer (MCO'N) presented this application as outlined within the circulated report

The Committee received Mr Edwin Poots MLA who wished to speak in objection to the application and highlighted the following:

- Noise issues due to numbers of dogs and dogs being stressed
- Number of houses in close proximity to the site with neighbours opposed to the application
- Environmental health issues
- There was also a play group located close to the facility

There then followed a question and answer session.

The Committee, having considered the information provided within the Report of the Senior Planning Officer, agreed by a majority of 9 with 0 abstentions to refuse the application as outlined in Officer's report.

- (5) **LA05/2016/0542/F – Local Application – Proposed temporary surface level car park (for a maximum of 2 years) (additional information) at Lands at Antrim Street, Lisburn.**

The Chairman advised that, due to a conflict of interest, the Council's Legal Adviser, Ms Kate McCusker, would be replaced for consideration of this item. Ms McCusker then left the meeting and Ms Micaela Diver took her place.

The Senior Planning Officer (RT) presented this application as outlined within the circulated Report.

The Committee received Mr Liam Ward who wished to speak in objection to the application and highlighted the following:

- Vision for the city centre should be for a vibrant busy retail centre rather than a surface level car park
- Arguments on behalf of the application are contradictory
- Although the Council has taken enforcement action and closed the car park, the applicant has still not completed the enforcement conditions regarding removal of barriers and kiosks.
- There are objections from Transport NI to the reserve application to develop the site for mixed use and doubts as to whether this will progress
- Doubts as to whether the reserve application would be progressed as the continued use of the site as a car park would be attractive from the point of view of it being a cash business.

There then followed a question and answer session.

The Committee received Mr Trevor Lunn MLA who wished to speak in objection to the application and highlighted the following:

- The site was intended for retail or residential development and its use as a car park was only intended to be temporary but this has been going on for about 10 years.
- There is over provision of car parking within the city centre; Bow Street Mall car park has closed its upper two floors and Graham Gardens car park is operating at 20-30% capacity.
- Doubts about whether there is any serious intention to progress the reserved matters application for proper development of the site.
- With regard to traders' support for the car park, this site is no closer to the city's trading centre than other car parks.

There then followed a question and answer session.

The Committee received Mr Connor Hughes who wished to speak in support of the application and highlighted the following:

- He disputed that the use of the land had been unauthorised for 14 years and stated that the question of authorisation only became an issue in 2012
- Changes to planning policy context meant that the Council had greater flexibility to set its own policy for car parking within the city
- The Council had still to finalise its car parking strategy
- Local business community had expressed concern regarding the closure of the car park.
- A vacant site would contribute nothing to the life and vitality of the town centre.
- A survey taken at the car park in June 2014 indicated that the majority of people visiting the car park were from Lisburn and were there for shopping purposes; this was in line with the main thrust of planning policy which has been to ensure the supply of short stay car parking spaces within the city centre.

There then followed a question and answer session, during which the applicant joined with Mr Hughes to answer Members' questions.

The Committee received Mr Edwin Poots MLA who wished to speak in support of the application and highlighted the following:

- Under the new PPS the Council has flexibility to decide in favour of the application
- There is a demand for the car park demonstrated by the number of people who wish to use it and the support of local businesses
- The Council should be supporting the vitality and viability of Lisburn City centre; over the last 10 years little development has taken place in the city centre and the recession has seen the closure of shop after shop.
- Applicant should be given the opportunity to complete the reserved matters application and in the interim use the land as a car park that is popular with users and traders.

There then followed a questions and answers session.

The Chairman, Councillor A Redpath, indicated that, as the applicant had been allowed to answer Members' questions, Mr B O'Kane, an objector whose agent Mr Ward had earlier addressed the meeting, was asking if he could speak to Members. On a show of hands it was agreed to receive Mr B O'Kane.

The Committee received Mr B O'Kane who wished to speak in objection to the application and highlighted the following:

- Car park has been in operation for 14 years and there has been ample opportunity to develop the site over the years
- The car park at Graham Gardens has 150 spaces at ground floor level and has the convenience of close proximity to shops
- The Graham Gardens car park saw a slight increase in users with the closure of the Jordan Mills car park.
- Reopening the car park for another year or two would have a detrimental effect on the viability of the Graham Gardens car park.

There then followed a question and answer session.

It was proposed by Councillor M Tolerton, seconded by Councillor N Anderson and agreed to continue the discussion "In committee" in the absence of the press and the public to allow Members to seek legal advice on a particular issue.

In Committee

The Council's Legal Adviser, Ms M Diver, answered Members queries regarding planning legislation.

Resumption of Normal Business

It was proposed by Alderman G Rice, seconded by Councillor U Mackin and agreed to come out of committee and normal business was resumed.

The Committee, having considered the information provided within the Report of the Senior Planning Officer, agreed by a majority of 5 to 3 with 1 abstention that the above application receive planning permission pending the approval at the next Committee meeting of conditions that were to be drawn up in the interim by the Planning Manager.

It was proposed by the Chairman, Councillor A Redpath, seconded by Councillor L Poots and agreed that the material planning reasons for the Committee's decision to approve the application were:

- The economic benefits of the development
- The Committee disagreed with TransportNI's assessment of the adequacy of car parking provision.

Adjournment of Meeting

The Chairman, Councillor A Redpath, declared that the meeting would be adjourned at 5.10 pm for a period of 20 minutes during which refreshments would be available in the Members Room.

Resumption of Meeting

The Chairman, Councillor A Redpath, declared the meeting resumed at 5.50 pm.

Councillor P Catney joined the meeting at 5.50 pm

The Legal Adviser, Ms M Diver, then left the meeting and was replaced by Ms K McCusker.

- (6) **LA05/2015/0897/F – Local Application (Called in) – Erection of 36 apartments for social housing with on street parking, landscaping and associated site works at Lands immediately north of junction of Graham Gardens and Wardsborough Road, Lisburn.**

The Senior Planning Officer (RT) presented this application as outlined within the circulated Report

The Council received Mr Connor Hughes who wished to speak in support of the application and highlighted the following:

- The applicant represents an investment of over £4 million in Lisburn City centre and will be meeting a pressing need for social housing in the area.
- Clanmil has a history of successful development within the city
- The proposed development will enhance the vitality of the city centre

- The risk with the form of development lies with Clanmil who must find tenants who are content to live without car parking facilities
- The development is located within the city centre close to bus and rail centres
- If parking was available on site, this would be reflected in the rental charged to tenants which would be higher than rental for an apartment without car parking facilities
- There is existing car parking availability within the area and Clanmil could make available 8 additional spaces at a development in Seymour Street, 600 metres from the proposed development.

There then followed a question and answer session.

The Council received Mr Trevor Lunn MLA who wished to speak in support of the application and highlighted the following:

- Clanmil's successful record in housing development within Lisburn
- Prohibitive cost factors and the size of the site itself meant that provision of basement car parking was not feasible.
- There is ample car parking provision within the city centre
- Graham Street multi-storey car park had reached agreement with a nearby church for provision of car parking spaces on a Sunday and a similar agreement could be possible with regard to car parking for this development
- There was a great need for regeneration of Lisburn city centre and the provision of housing within the centre would contribute to this regeneration.

There then followed a question and answer session.

After consideration of the application, it was proposed by Councillor U Mackin, seconded by Alderman G Rice, and agreed that this application be deferred to the next Committee meeting to give the applicant the opportunity to investigate the possibility of reaching a legal agreement with a third party in respect of provision of car parking spaces.

- (4) **S/2015/0254/F – Local Application (Exceptions apply) – Repositioning of dwelling and garage approximately 45m North West of original position as approved and in substitution of application S/2002/0129/F at 14 Rock Road, Dromore.**

The Senior Planning Officer (MCO'N) presented this application as outlined within the circulated Report.

The Committee, having considered the information provided within the Report of the Senior Planning Officer, agreed by a majority of 10 with 0 abstentions to approve the application as outlined in Officer's report and subject to legal agreement and the conditions stated.

Items for Noting

It was proposed by Councillor A Girvin, seconded by Councillor N Anderson, and agreed that items 5.1.2 to 5.1.8 be noted.

5.1.2 Local Development Plan – Amended Position Paper 4: Retailing, Offices and Town Centres

Members were provided with and noted information included in the updated Position Paper 4 entitled 'Retailing Offices and Town Centres'.

Councillor N Anderson thanked officers for their work in production of the Local Development Plan and asked that this be recorded.

5.1.3 Development Management – Pre- Application Notices (PANS)

Members noted details regarding Proposal of Application Notices received since 1 September 2016.

5.1.4 Development Management – Live Appeals 20 October 2016

Members noted information provided in relation to live appeals as of 20 October 2016.

5.1.5 Development Management – Appeal Decisions

Members noted information provided in relation to recent appeal decisions as of 20 October 2016.

5.1.6 Planning Review on Renewable Energy and Countryside Development

Members noted information provided regarding the Infrastructure Minister's intended review of planning policies on renewable energy and countryside development.

5.1.7 Correspondence from Department for Infrastructure

Members noted copy correspondence from the Department for Infrastructure on lands at Annacloy House, 14 Trench Road, Hillsborough.

5.1.8 Listing of Buildings of Special Architectural or Historic Interest

5.1.8.1 145-147 Ballyskeagh Road, Drumbeg, Lisburn

Members noted information provided on the 16th additional to the List of Buildings of Special Architectural or Historic Interest in the Lisburn and Castlereagh City Council area – Listing of 145-147 Ballyskeagh Road, Drumbeg, Lisburn.

51.8.2 Ardfoyle, 4 Forthill, Lisburn

Members noted information provided on the 17th additional to the List of Buildings of Special Architectural or Historic Interest in the Lisburn and Castlereagh City Council area – Listing of Ardoyle including summer house, garage and garden walling, 4 Forthill, Lisburn.

5.1.8.3 136 Windmill Road, Aghnaleck, Hillsborough

Members noted information provided on the 18th additional to the List of Buildings of Special Architectural or Historic Interest in the Lisburn and Castlereagh City Council area – Listing of 136 Windmill Road including former forge and stable, Aghnaleck, Hillsborough.

5.1.8.4 Magheralave House, Magheralave Road, Thiepval Barracks, Lisburn

Members noted information provided on the 19th additional to the List of Buildings of Special Architectural or Historic Interest in the Lisburn and Castlereagh City Council area – Listing of Magheralave House, Magheralave road, Thiepval Barracks, Lisburn.

Items for Noting

It was proposed by Councillor A Girvin, seconded by Councillor P Catney and agreed that items 5.2 to 5.8 be noted.

5.2 Section 76 Planning Agreements

Members were provided with and noted copy of the proposed Section 76 Planning Agreements Position Paper which had been considered and agreed at the Development Committee held on 12 October 2016.

5.3 Northern Ireland Planning Statistics 2016/17 First Quarterly Statistical Bulletin

Members noted the Department for Infrastructure NI Planning Statistics 2016/17 First Quarterly Statistical Bulletin which had been released on 29 September 2016.

5.4. NIAO Publication – The Rivers Agency: Flood Prevention and Management Report

Members were provided with and noted an extract from the Audit and Risk Manager's report to the October Governance & Audit Committee regarding the NIAO Publication, The Rivers Agency: Flood Prevention and Management Report.

5.5 Belfast City Council Local Development Plan

Members were provided with and noted correspondence and timetable received from Belfast City Council regarding its local development plan.

5.6 January 2017 Planning Committee

Members noted that, as the proposed date for the January Committee meeting was due to fall on a public holiday, the Planning Committee would now take place on Monday, 9 January 2017.

5.7 Budget Report – Planning Unit

Members noted information provided within a copy of the summary Budget Report for the Planning Unit for the year to 31 March 2017 as at 30 September 2016.

5.8 Rolling Year Absence Figures for the Planning Unit

Members noted information provided within a copy of the rolling year absence figures for the Planning Unit for the period 1 April 2015 to 31 August 2016.

6. Confidential Report from the Lead Head of Planning and Building Control

It was agreed that the reports and recommendations of the Confidential Report of the Lead Head of Planning and Building Control be adopted, subject to any decisions recorded below.

The Chairman advised that the following item would be discussed 'in Committee' for the following reasons:

6.1. This item was confidential for reason of information relating to any individual; information which is likely to reveal the identity of an individual; and information in relation to which a claim to legal professional privilege could be maintained in legal proceedings.

'In Committee'

It was proposed by Alderman G Rice, seconded by Councillor N Anderson and agreed that the item in the Confidential Report be considered 'In Committee', in the absence of press and public being present.

6.1. Enforcement Cases with Court Proceedings in November 2016

Having been provided with information on Enforcement Cases with Court Proceedings in November 2016, it was agreed that the information provided within the report should be noted.

Resumption of Normal Business

It was proposed by Alderman G Rice, seconded by Councillor M Tolerton and agreed to come out of committee and normal business was resumed.

7 Any Other Business

The Chairman, Councillor A Redpath
Promotion of Legal Adviser

On behalf of the Committee, the Chairman, Councillor A Redpath, congratulated the Council's Legal Adviser, Ms Kate McCusker, on her recent promotion.

There being no further business, the meeting concluded at 7.03 pm.

CHAIRMAN / MAYOR