

**LISBURN & CASTLEREAGH CITY COUNCIL**

**Minutes of Reconvened Meeting of the Planning Committee held remotely and in the Council Chamber, Island Civic Centre, The Island, Lisburn Wednesday 21 July at 10.30 a.m.**

**PRESENT:**

Present in Chamber:

Alderman O Gawith (Chairman)

Aldermen WJ Dillon and J Tinsley

Councillors J Craig, M Gregg, U Mackin, and A Swan

Present in Remote Location:

Alderman D Drysdale (Vice-Chairman)

Councillors J McCarthy and J Palmer

**OTHER MEMBERS:**

**IN ATTENDANCE:**

Present in Chamber:

Head of Planning and Capital Development

Member Services Manager

Member Services Officer

Attendance Clerk

Present in Remote Location:

Principal Planning Officer (RH)

Senior Planning Officer (RT)

Legal Advisor:

B Martyn - Cleaver Fulton & Rankin

**Commencement of Meeting**

The Chairman, Alderman O Gawith, welcomed everyone to the reconvened meeting which was being live streamed to enable members of the public to hear and see the proceedings. He advised that seven members were present in the Council Chamber and three were participating in the meeting remotely.

He stated that planning officers, the Council's Legal Advisor and those speaking for or against the applications would also be attending the meeting remotely.

The Head of Planning and Capital Development advised on housekeeping and evacuation procedures. The Member Services Manager then read out the names of the Elected Members in attendance at the meeting.

1. Apologies

It was agreed that apologies for non-attendance at the meeting would be recorded from Alderman A Grehan. Alderman D Drysdale advised that he would have to leave the meeting at 11.00 am but hoped to return again.

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 following declarations of interest were made:

- Councillor J Craig referred to Application No LA05/2019/0640/F and advised that he had been present at an event during which the developer had spoken to him about the application but he had not made any comment on it and had not formed an opinion.
- Councillor U Mackin referred to Application No LA05/2019/0004/O and stated that he had had a conversation with another Member about the planning process and speaking rights but he had not expressed or formed an opinion in regard to the application.
- Councillor A Swan also referred to Application No LA05/2019/0004/O and advised that he had spoken to another Member regarding speaking rights but had not expressed or formed an opinion on the application.
- Alderman J Dillon referred to Application No LA05/2019/0640/F and stated that he had been approached regarding the application but had not expressed or formed an opinion.

During the course of the meeting, the following Declarations of Interest were submitted in writing:

- Alderman J Tinsley referred to Application No LA05/2019/0640/F and stated that he had met with the applicant before he had become a Member of the Planning Committee and had listened to his opinion.
- Alderman J Tinsley referred to Application Nos LA05/2019/0040/O and LA05/219/0347/RM and stated that he had called these applications in but had offered no opinion on them.
- Alderman J Tinsley referred to Application No LA05/2018/0347/RM and stated that he had met with the objector and called in the application but had not offered an opinion.

The following items are a resumption of Item 4.1 (Schedule of Applications) of the Minutes of the Adjourned Meeting of 6 July 2020.

4.1 Schedule of Applications (continued)

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

The Legal Adviser highlighted paragraphs 46 - 48 of the Protocol for the Operation of the Lisburn & Castlereagh City Council Planning Committee which, he advised, needed to be borne in mind when determinations were being made.

- (x) LA05/2019/0640/F – Proposed development of 5 residential dwellings (4 semi-detached and 1 detached), garages, landscaping and all other associated site works on Lands opposite and north-west of no. 10-20 (even), Old Church Heights, Milltown, Lisburn.

Councillor J Craig sought clarification as to whether this application was for outline or full planning approval and was advised that it was for full approval.

The Principal Planning Officer (RH) presented this application as outlined within the circulated report.

The Committee received Mr T Stokes and Mr K Garrett who wished to speak in support of the application. Mr Stokes had provided the Committee with a written submission in advance of the meeting and highlighted the following:

- The developer was a local family business established for many years and with many successful housing developments within the Council area.
- There had been no objection to the proposal from statutory consultees.
- The proposal was bounded on two sides by existing residential development and by mature vegetation to the north-eastern boundary.
- Phase 1 of the development had already breached the settlement limit and this proposal was a completion and rounding off of that development. There were exceptional circumstances that meant that this proposal could be considered for approval.
- The proposal would not present as a prominent feature in the environment and would not mar the urban/rural distinction.
- The applicant was happy to agree a negative condition requiring planting along the boundary.

In response to a Member's query, Mr Stokes stated that the proposal was located on a small piece of land adjacent to an existing development and forming a natural infill gap along the road.

It was then proposed by Alderman J Dillon, seconded by Councillor U Mackin, and agreed that the application be deferred to allow a site meeting to be held.

Alderman D Drysdale left the meeting during consideration of the above application.

#### Adjournment of Meeting

The Chairman, Alderman O Gawith, declared the meeting adjourned at 11.06 am

#### Resumption of Meeting

The Chairman, Alderman O Gawith, declared the meeting resumed at 11.13 am

- (vii) LA05/2019/0004/O - Proposed outline application for the replacement of an historic stone dwelling at lands 350 metres North West of 146 Saintfield Road, Temple, Lisburn.

The Principal Planning Officer (RH) presented this application as outlined within the circulated report.

The Committee received Mr A Johnston who wished to speak in support of the application. Mr Johnston had provided the Committee with a written submission in advance of the meeting and highlighted the following:

- The application was for replacement of an historic rural dwelling and Mr Johnston outlined the nature and history of the building which was listed in a valuation survey in 1860 and was last occupied in the 1970s.
- The building was located close to the northern site boundary and was linear in form. Originally it would have had a timber and thatched roof.
- The building demonstrated the essential characteristics of a dwelling.
- The walls were clearly defined and the external walls were substantially intact.
- All the original building materials remained on site.
- There was ample space for unobtrusive siting of a replacement dwelling within the curtilage.

Mr Johnston responded to Members' queries as follows:

- With regard to the biodiversity checklist requested by NIEA, he advised that the applicant had not provided this due to the prohibitive costs involved but that, if the principle of approval for the replacement dwelling was granted, the applicant would then undertake the costs of the biodiversity survey.
- There would be limited removal of surrounding vegetation.
- He confirmed that the photographs provided by the applicant showed what was in situ on the site.

The Committee then received Alderman J Baird who wished to speak in support of the application. Alderman Baird had provided the Committee with a written submission in advance of the meeting and highlighted the following:

- The dwelling had a long history of occupation commencing in the early 1800s.
- It had been purchased in 1941 as an investment property and the last occupant had lived there until 1971.
- The current owner had bought the building 18 years ago and at that stage the roof and walls had been intact.
- The front elevation had included two doors and three windows and, when the roof collapsed, that elevation had been particularly vulnerable.
- Roofing and other building materials remained on site.
- Photographs shown did not do justice to what remained on the site and he suggested that a site visit might be helpful.

Alderman Baird responded to Members' questions advising that roofing materials including the corrugated tin roof that had covered part of the dwelling as well as roofing slates were now on the floor of the building. He stated that the two gable walls were intact as well as most of the rear wall and an internal dividing wall. He confirmed that it was his opinion that the application qualified as a replacement dwelling.

There then followed a question and answer session with the Planning Officers during which the following issues arose:

- With regard to the biodiversity checklist, the Principal Planning Officer advised that the NIEA's response would have set out exactly what was required in relation to the biodiversity checklist. It was a standard checklist and the onus was on the applicant to have it completed by an ecologist. Depending on the responses to the checklist, additional survey work could be required.
- The Head of Planning and Capital Development advised that the checklist was to ensure that there was no harm done on the site to species, fauna or flora. This would have to be assessed by a competent person. NIEA had attempted to streamline and simplify the process but it was still a requirement for the applicant. He stated that the initial costs of the check list were not high but could increase if additional surveys were required. The planning office required this information at the outline planning stage to enable it to properly assess the application.
- The Head of Planning and Capital Development stated that the planning officer's conclusion that vegetation around the site was unlikely to be retained was based on the fact that the site was substantially overgrown. If the building was to be replaced, it would be replaced in situ and site clearance would be required.
- He advised that it was the planning officer's professional judgement that bats generally roosted in small gaps in roofs and walls and in this instance the building had collapsed to such an extent that it was unlikely for bats to be present. He advised however that the biodiversity checklist was required to confirm this.
- The Principal Planning Officer advised that the planning officer had visited the site and had taken 24 photographs of the site. She confirmed that these photos were taken in January 2019.
- The Principal Planning Officer stated that, while the gable walls were intact, the front and rear elevations and the roof had collapsed and she therefore considered that the walls were not substantially intact.
- With regard to the percentage of walls intact, the Head of Planning and Capital Development advised that there was about 70-80% of the rear wall intact and 30% of the front elevation. He confirmed that when the policy referred to all walls requiring to be intact, each wall was considered on its own merits.

During the debate section of the discussion, the following comments were made:

- Councillor M Gregg stated that he did not see that the planning criteria outlined in CTY3 for replacement dwellings had been met and he would be supporting the planning officer's recommendation.

- Councillor U Mackin stated that he had a dilemma and had some sympathy with the applicant. He stated that, with 70-80% of the rear wall intact, both the gables and 30% of the front wall, then on balance there was more there than not there. He referred to a similar application at Ballymullan Road that had been refused planning approval and he felt that the Committee should be consistent in its decisions. However he indicated that he would be voting against the recommendation on the basis that he thought there was sufficient evidence to prove that there was a dwelling on the site. He referred to the issues regarding bats and removal of vegetation and considered that there was no evidence of bats on the site and that over time seedlings would have taken root on the site and he saw no issue about their removal.
- Councillor John Palmer concurred with Councillor Mackin's comments and indicated he would be voting against the recommendation.
- Alderman J Dillon said that looking back over the years at similar applications, he could not recall one that had been approved where the dwelling was in a similar state. There was nothing in the evidence presented that would convince him that he should vote against the planning recommendation. He considered that there were lots of similar ruins around the countryside and approving this application could open the floodgates.
- Councillor J Craig stated that the difficulty was the interpretation of the term substantially intact. If all four walls were required to be substantially intact, then the application failed to meet the criteria. He indicated that he would be supporting the planning office recommendation.
- Councillor A Swan stated that he considered that the building was not substantially intact. He did not consider this application to be similar to the one at Ballymullan as that application proposed a replacement dwelling away from the footprint of the original building which was to be converted to stables. He indicated he would be supporting the planning office recommendation.
- Councillor J McCarthy agreed with Councillor Craig's comments and indicated that he would be supporting the planning office recommendation on the basis that the walls were not substantially intact.

The Committee, having considered the information provided within the report of the Principal Planning Officer and by those making representations, agreed by a majority of 7:2 with 0 abstention to refuse the application as outlined in the Officer's report.

#### Adjournment of Meeting

The Chairman, Alderman O Gawith, declared the meeting adjourned at 11.57 am

#### Resumption of Meeting

The Chairman, Alderman O Gawith, declared the meeting resumed at 12.05 pm

- (ix) LA05/2019/0347/RM - Proposed two additional dwellings comprising one 2.5 Storey Detached and one 2 Storey 3 Bed Detached Dwellings at 1 Bells Lane, Lambeg, Lisburn

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

The Committee receive Mr M Johnston who wished to speak in support of the application. Mr Johnston had provided the Committee with a written submission in advance of the meeting and highlighted the following:

- The application lay within the settlement limits of Lisburn.
- There was existing outline approval for a 2.5 storey dwelling and a 2 storey dwelling on the site.
- House type 2 on the site would sit on the footprint of the dwelling with outline approval and included an additional entrance hall and garage with living accommodation above.
- The additional elements proposed would have no more overlooking or dominant impact on the Queens Gate property than the outline proposal.
- The developer had responded to concerns raised by the planning office by amending the design to remove an upstairs balcony and amended access doors.
- There had also been reductions to the ridge height and to the proposed footprint.

Mr Johnston responded to Members' queries as follows:

- The main difference in the latest design submitted to the Planning Office included a reduction in ridge height, removal of an overlooking window and a reduction in the footprint thereby increasing amenity space.
- Amenity space of 72 sq. metres was provided to the rear and there was an additional 15 sq. metres in the north-west area.
- The reason why the application deviated from the outline proposal was that the applicant intended to live there and his preference was for house type 2. The house type that was considered acceptable at outline planning stage was house type 1.
- The separation distance between house type 2 and the property at Queens Gate remained the same.
- In house type 2, the room behind the garage was a garden storage room.

There then followed a question and answer session with the Planning Officers during which the following issues arose:

- The Senior Planning Officer advised that the house type 2 now proposed was double the length of the layout approved at outline stage; it did not have adequate amenity space and it would have a dominating impact on a property at Queens Gate.
- DfI Roads had indicated that they were content with the proposal; the turning area would be in the shared access and there was adequate parking on the site.
- The most recently submitted drawings did not go far enough to address the concerns of the planning office. Amendments did address the element of overlooking but the reduction in the footprint was not considered adequate

and the reduction in the ridge height did not reduce the dominating impact due to the increased overall length of the building.

- The planning office had written to the agent in June 2019 seeking amendments to the drawings and the response had only been received in June 2020.
- The dwelling approved at the outline stage was still close to the property at Queens' Gate but was located to the rear of that property. The separation distance had changed from 4.5 metres to 2.5 metres.

In the debate that followed the following comments were made;

- Councillor J Craig stated that there was clearly overdevelopment on the site and the proposed dwelling was located too close to existing properties. He advised that he would be supporting the planning office recommendation.
- Alderman J Dillon said that it was quite clear that this was an overdevelopment of a small site and he would be agreeing with the planning office recommendation.
- Councillor A Swan stated that the developer should recognise the limitations of the site and build accordingly. He would be supporting the planning office recommendation.
- Councillor J Palmer stated that the developer should have submitted plans that were in accordance with the outline planning approval. In response to his query as to whether a deferment could be made to allow submission of amended plans, the Chairman stated that the application had to be considered as submitted.

The Committee, having considered the information provided within the report of the Senior Planning Officer and by those making representations, agreed by a majority of 7:0 with 1 abstention to refuse the application as outlined in the Officer's report.

(Councillor J McCarthy had left the meeting briefly during consideration of this application and did not take part in the vote as he had not been present for the entirety of the discussions.)

(viii) LA05/2018/0900/F - Retention of retaining wall, yard, hard standing area and agricultural buildings for sheep/lambing, farm machinery & fodder storage in conjunction with proposed (dirty water) underground storage tank and associated site works at 4 Park Road, Dromara, Dromore

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

The Committee received Mr and Mrs P Girvan who wished to speak in opposition to the application. Mr and Mrs Girvan had provided the Committee with a written submission in advance of the meeting and highlighted the following:

- The shed was located too close to Mr and Mrs Girvan's property
- The proposal had given rise to an increased number of vermin



- The proposal would have a harmful impact on the resale value of the Girvans' property.
- The proposal was located much closer to the neighbouring property than recommended by Environmental Health.
- At nights there had been a lot of construction noise which was not consistent with farming activities.
- Noise survey recordings had taken place at times when noise levels were lower and did not reflect the reality.
- This was an application for retrospective approval which meant there had been no opportunity to seek amendments to the proposal or to request its relocation.

Mr and Mrs Girvan responded to Members' queries advising that their property was 15 years old and the shed had been built 3 to 4 years ago. They advised that the separation distance between the shed and their property was about 30 metres.

There then followed a question and answer session with the Planning Officers during which the following issues arose:

- The Senior Planning Officer advised that it was 34 metres from the corner of the shed to the closest part of the Girvans' property.
- She advised that in new applications Environmental Health suggest as matter of good practice that a separation distance of 75 metres from the nearest neighbouring property. She stated however that the planners were dealing with the application as submitted and had asked Environmental Health consider an air quality and noise assessment which addressed the questions of noise and nuisance for a building closer than the separation distance of 75 metres. Environmental Health had indicated that they were content with the application subject to conditions.
- With regard to noise levels, these had been assessed at different times both night and day and were found not to have significant impact on the neighbouring property. She stated that the orientation of the openings in the shed away from the neighbouring property would lessen any noise impact.
- She advised that a planning application approved in 2004 was probably for a domestic dwelling but that this did not preclude the owner from undertaking farming activity on the site.
- With regard to animal waste, she advised that the shed would be used for two months of the year for lambing activity which would involve dry bedding. She stated that any potential ammonia issues would have been factored into the air quality assessment that had been carried out.

In the debate that followed, the following comments were made:

- Councillor U Mackin commented that the planning office recommendation was to approve with conditions but he did not see how the conditions could be enforced. He said that the shed was much closer than recommended in Environmental Health guidelines. He was concerned that the recommendation to approve was simply rubber stamping what was there and he indicated that he would not be supporting the planning office recommendation.

At the request of the Chairman, the Head of Planning and Capital Development responded to Councillor Mackin's comment regarding enforcement of conditions. He advised that the planning office had consulted with the Council's Enforcement Unit regarding the detail of conditions and any conditions that were unenforceable had not been included. He stated that conditions applied to a recommendation to approve must be reasonable, enforceable and justifiable.

- Councillor M Gregg agreed with Councillor Mackin's comments and stated that, if this were coming as a new application, it would be refused as it did not fall within the 75 metre guidelines. He was concerned that approving the application could set a precedent.
- Councillor A Swan queried whether the applicant should have applied for planning permission before building the shed.  
In response to a request for advice on the point as to whether questions to officers could be permitted in the debate stage of proceedings, the Legal Advisor stated that it would be at the discretion of the Chairman to allow same. With the Chairman's agreement, the Head of Planning and Capital Development responded to Councillor Swan's query advising that the first farm building on a farm did require planning permission but that it could be applied for retrospectively. With regard to the separation distances, he advised that it was good practice for the building to be 75 metres from a neighbouring property but that, if those circumstances did not apply, the planning office took advice from the relevant agency and in this instance Environmental Health's assessment was that the application was acceptable.
- Alderman J Dillon stated that it was a close judgement call but that, since Environmental Health considered the application acceptable, he would have to support the planning recommendation.
- Councillor M Gregg outlined his concerns regard CTY12 and the issue of noise pollution. He considered that the application would have a detrimental impact on the neighbouring property and therefore he did not see how he could support the recommendation.

The Committee, having considered the information provided within the report of the Senior Planning Officer and by those making representations, agreed by a majority of 5:3 with 1 abstention that the recommendation of the Planning Officer would not be upheld.

The Chairman stated that the professional officer's recommendation to approve planning permission had fallen and a new motion was now under consideration.

It was then proposed by Councillor M Gregg, seconded by Councillor U Mackin, and agreed by a majority of 5:0 with 4 abstentions that the application be refused on the basis that it did not comply with SPPS and policy CTY12 of PPS21 as the amenity of the closest neighbour living 34 metres distant from building was being adversely impacted by the perception of a nuisance being caused by the farming activity. It was further agreed that the precise wording of the reasons for refusal would be delegated to the planning officers.

#### Adjournment of Meeting

The Chairman, Alderman O Gawith, declared the meeting adjourned at 1.27 pm

### Resumption of Meeting

The Chairman, Alderman O Gawith, declared the meeting resumed at 2.06 pm

(Councillor U Mackin did not return to the meeting at 2.06 pm)

#### 4.2 Covid 19 Emergency Planning Guidance

It was proposed by Councillor J Craig, seconded by Alderman J Tinsley, and agreed that the Committee note the modification in May 2020 to the Planning (Development Management) Regulations (Northern Ireland) 2015 and the associated Planning Guidance – Pre-Application Community Consultation (PACC) – Temporary Removal of Public Event Requirement.

#### 4.3 Appeal Decision - LA05/2019/0195/F

It was proposed by Councillor A Swan, seconded by Councillor J Craig, and agreed that the Committee note the appeal decision LA05/2019/0195/F and the information provided by way of explanation of the comments offered by the Commission in the assessment of this appeal

#### 4.4 Chief Planners Update 6

It was proposed by Councillor M Gregg, seconded by Councillor A Swan, and agreed that the Committee note the detail of the Chief Planners Update 6.

#### 4.5 Outdoor Business and Planning

It was proposed by Councillor A Swan, seconded by Councillor J Craig, and agreed that the Committee note the advice contained in correspondence from the Minister for Infrastructure in respect of COVID-19 and Outdoor Businesses and Planning.

#### 4.6 NI Planning IT System

It was proposed by Councillor M Gregg, seconded by Alderman J Dillon, and agreed that the Committee note the agreement of the Council to participate in a collaborative approach with other Councils and the Department for Infrastructure for a new Northern Ireland Planning Portal and to also note the appointment of a Consortium led by Terraquest to deliver the project.

In response to Members' comments and queries, the Head of Planning and Capital Development advised that he was not aware of the reason why a Council had decided to opt out of the collaborative approach and had no knowledge of what software that Council proposed to use. He also advised that the timescale for the project was anticipated to be two years and he confirmed that a presentation would be brought to Council in due course.

### 5. Any Other Business

5.1 Processing of Planning Applications – Alderman J Tinsley

Alderman J Tinsley referred to the fact that another Council had processed a very low number of planning applications since Covid lock-down had commenced and enquired about the Council's level of activity. The Head of Planning and Capital Development advised that, while observing the guidance issued by Council, the Planning Unit had continued operations throughout the lock-down period and there was no significant back log of applications. He undertook to provide a report on this at the next meeting of the Committee.

5.2 Next Planning Committee Meeting

The Chairman, Alderman O Gawith, reminded Members that the next meeting of the Planning Committee would be held on Monday 3 August 2020 commencing at 10.30 am.

There being no further business, the meeting concluded at 2.26 pm.

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CHAIRMAN / MAYOR