

LISBURN & CASTLEREAGH CITY COUNCIL

Minutes of Meeting of the Planning Committee held remotely and in the Council Chamber, Island Civic Centre, The Island, Lisburn, on Monday 4 April 2022 at 10.00 a.m.

PRESENT:

Present in Chamber:

Councillor A Swan (Chairman)

Aldermen WJ Dillon, D Drysdale, O Gawith and A Grehan

Councillors J Craig, M Gregg, U Mackin,

Present in Remote Location:

Councillors J McCarthy, John Palmer

IN ATTENDANCE:

Present in Chamber:

Director of Service Transformation

Principal Planning Officer (RH)

Senior Planning Officer (MB)

Senior Planning Officer (MCO'N)

Member Services Officer (PS)

Member Services Officer (BS)

Present in Remote Location:

Legal Adviser – B Martyn, Cleaver Fulton & Rankin

Commencement of Meeting

The Chairman, Councillor A Swan, welcomed everyone to the meeting which was being live streamed to enable members of the public to hear and see the proceedings.

He stated that those speaking for or against the applications would be attending the meeting remotely as would the Council's legal adviser.

The Principal Planning Officer advised on housekeeping and evacuation procedures. The Member Services Officer (BS) 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 J Tinsley and the Head of Planning and Capital Development.

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. He indicated that a form would also be available for those Members attending remotely.

The following Declarations of Interest were made:

- Alderman O Gawith declared an interest in LA05/2021/0423/O as the applicant was a family friend. He said he would be withdrawing from the meeting during its determination.
- Alderman O Gawith declared an interest in LA05/2021/1106/F stating that the applicant was a party colleague, he said he would be withdrawing from the meeting during its determination.
- Councillor M Gregg declared an interest in LA05/2021/1106/F stating that the applicant was a party colleague, he said he would be withdrawing from the meeting during its determination.
- Councillor M Gregg referred to LA05/2020/0208/F stating that he had liaised with the applicant and the planning office in relation to the application but had not pre-determined his decision.
- Alderman A Grehan declared an interest in LA05/2021/1106/F stating that the applicant was a party colleague, she said he would be withdrawing from the meeting during its determination.
- Councillor J McCarthy declared an interest in LA05/2021/0423/O stating that he would be withdrawing from the meeting during its determination.

3. Minutes of the Planning Committee Meeting held on 7 March 2022

It was proposed by Councillor J Craig, seconded by Councillor M Gregg, and agreed that the minutes of the Committee meeting held on 7 March 2022 as circulated be signed.

4. Report from the Head of Planning and Capital Development

4.1 Schedule of Applications

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 43 - 46 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.

- (1) LA05/2021/1106/F – Dwelling and garage on lands 30m south of 9 Pinehill Road, Hillhall Road, Belfast and adjacent to No 4 Dows Road.

(Alderman A Grehan, Alderman O Gawith and Councillor M Gregg left the meeting at 10.15 having declared an interest in this application).

At this stage, Councillor J Craig referred to LA05/2020/0862/O and referred to the refusal reasons which were largely relating to clustering issues, he proposed that determination of the application be deferred pending a site visit being arranged to view the site and context. The Chairman suggested this matter might be better considered later in the meeting when the three members who had just left had returned to the meeting.

The Principal Planning Officer (RH) presented this application as outlined within the circulated report explaining that it had come before the Committee as the applicant was a member of Council.

There were no speakers in relation to this application and there were no questions for the Planning Officers.

During the ensuing debate, the following comments were made:

- Alderman J Dillon and Alderman D Drysdale said they were happy to support the recommendation.

The Committee, having considered the information provided within the Report of the Principal Planning Officer, agreed by a unanimous vote to approve the application as outlined in the report and subject to the conditions stated therein.

(Alderman A Grehan, Alderman O Gawith and Councillor M Gregg returned to the meeting at 10.25am).

- (2) LA05/2020/0862/O - Proposed 1 ½ storey private dwelling and garage with surrounding garden on Land 20m east of No 52 Gransha Road, Comber.

Councillor J Craig then referred to the proposal he made earlier in the meeting which was that the determination of this application be deferred pending a site visit being arranged to enable the Committee to view the site and context, he said that this would be beneficial to the Committee as the refusal reasons were mainly around issues of clustering.

The proposal was seconded by Alderman D Drysdale and was carried by a majority show of hands and it was therefore agreed by the Committee that the application be deferred pending a site visit being arranged to view the site and context.

At this stage the Chairman advised that the meeting was now running ahead of scheduled timings and that the Director of Service Transformation would now be updating the Committee on some legal matters within Confidential Business.

Confidential Business – Verbal Update

The matters considered would be dealt with “In Committee” due to containing information to which a claim to legal professional privilege could be maintained in legal proceedings.

“In Committee”

It was proposed by Councillor J Craig, seconded by Alderman D Drysdale and agreed that the following matters be considered “in committee”, in the absence of members of the press and public.

Update on Planning Advice Note (PAN) on Implementation of Strategic Planning Policy for Development in the Countryside.

The Director of Service Transformation and the Legal Advisor provided the Committee with an update on the current status of the above matter. It was agreed that the Committee note the information provided.

Resumption of Normal Business

It was proposed by Alderman J Dillon, seconded by Alderman O Gawith and agreed to come out of committee and normal business was resumed.

The Committee then returned to considering the Schedule of Applications.

- (3) LA05/2021/0423/O - Proposed new dwelling and 320m _____
NW of 8 Clontariff Road, Upper Ballinderry, Lisburn, BT28 2JD

(Alderman O Gawith and Councillor J McCarthy left the meeting at 11.05 having declared an interest in this application).

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

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

- The farm was an active business and now more active than at any time in the past.
- He outlined how the ecosystem was being managed.
- He outlined what was grown on site and the plans for the future.

- He advised that the house was essential to respond to customer requirements and manage the planting/plant maintenance process.

Mr Buller then responded to Members' queries as follows:

- Councillor U Mackin asked if anyone had been paid to maintain the land and was advised by Mr Buller that the farm payments had been transferred to the tenant in 2019 and was claimed for by them. He outlined the arrangements made with the tenant who, in return, had maintained the land.
- Alderman D Drysdale asked whether there were any other receipts/invoices available to support the application. Mr Buller explained that any livestock or sundries would have been purchased by the tenant as per the agreement.
- Alderman J Dillon sought clarification on the single farm payment situation which was provided by Mr Buller. Alderman J Dillon asked how much of the land was currently farmed and was advised that this would be around a half or three quarters of an acre.
- Councillor U Mackin sought clarification on the arrangements with the tenant asking how exactly it worked and Mr Buller explained the arrangements in place as per the written statement submitted by him.
- Councillor U Mackin asked if any evidence of the payment of the single farm payment had been submitted to the planning unit and was advised that this was claimed by the tenant farmer. Councillor U Mackin then asked whether it was the case that the person making the claims is the farmer and he was advised by Mr Buller that he certainly did not think that this was the case.
- Alderman D Drysdale asked why the house was necessary on this site and was advised by Mr Buller that this was due to the nature of what they were doing on site. It was necessary for someone to be there at all times to make adjustments to watering regimes, frost cover for plants and to meet the needs of customers. The siting of the property has been done to make the best use of the solar ray for energy. He and his family would live there.

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

Councillor J Craig asked for advice from Officers on what constituted farming activity. The Senior Planning Officer replied that this matter was evidence based, a one-off activity was not enough. The issue was that the Lease Agreement with the tenant farmer was clear and states that the tenant was carrying out all of the maintenance work. There is no evidence to support any farming activity being carried out by the applicant. The Principal Planning Officer made reference to paragraph 5.39 of the justification and amplification to Policy CTY 10 which explains that for the purposes of this policy, agricultural activity refers to the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, or maintaining the land in good agricultural and environmental condition

During the ensuing debate, the following comments were made:

- Alderman J Dillon said that the Planning Officers had got this one correct. The farm is being farmed by the tenant and we have no evidence to support the application.
- Councillor J Craig said that this was a unique case and he considered that the recommendation was the correct one.
- Alderman D Drysdale said that he did not think there was adequate evidence not to support the recommendation.
- Councillor M Gregg said he had some sympathy for the applicant but he did not think there was adequate grounds not to support the recommendation.
- Councillor U Mackin concurred and suggested that possibly in future the applicant could review the tenancy arrangements and re-visit this application.
- The Chairman, Councillor A Swan said that this seemed to him more akin to allotment arrangements and therefore there was actually no need for a house, he said he would be supporting the recommendation.

The Committee, having considered the information provided within the report of the Senior Planning Officer and by those making representations, agreed unanimously to refuse the application as outlined in the Officer's report.

(Alderman O Gawith and Councillor J McCarthy returned to the meeting at 12.00 noon).

- (4) LA05/2020/0208/F - Proposed erection of 6 detached dwellings, including demolition of existing dwelling, associated road layout, car parking & landscaping at 6 Fort Road, Dundonald.

The Senior Planning Officer (MB) presented this application as outlined within the circulated report. He highlighted that a revised type 'C' house design had been submitted in an effort to address the concerns of the home owner in a neighbouring property.

The Committee received Ms A Fee who wished to speak in opposition to the application and who had provided the Committee with a written submission in advance of the meeting and highlighted the following:

- Ms Fee was aware of the revised house type C.
- Ms Fee explained that there was upset in the local community and that she represented a number of concerned residents.
- She was concerned at the loss of privacy, light and overshadowing that this would cause.
- The ridge height of the amended house type, which was a chalet bungalow, was actually higher than that of a two storey house.
- She outlined why she felt there would be overlooking.
- She outlined her concern at the accuracy of the information given that initially it showed her property in the wrong location.
- The approval would affect her ability to enjoy her home and garden.

- The height of the proposed dwellings was a concern and referring to Fort Manor as being examples of higher homes in the area was incorrect as this was a considerable distance away so this was wrongly used as an example of similar height properties in the area.
- She outlined the effect of the removal of trees

Ms Fee then responded to Members' queries as follows:

- Alderman D Drysdale sought clarification of the distance the proposal would be from her house and was advised that it would be on the other side of a hedge, approximately two car lengths from her gable wall.
- Alderman D Drysdale asked where the sun rose and set on her property and how this would be impacted. Ms Fee clarified these points and also advised that she represented 5 elderly parties who would also be impacted by the proposal.

The Committee received Councillor S Skillen who wished to speak in opposition to the application and who had provided the Committee with a written submission in advance of the meeting and highlighted the following:

- She outlined the impact this application would have on Ms Fee and she voiced her support for her and the elderly residents she represented.

Councillor S Skillen then responded to Members' queries as follows:

- Councillor J Craig said that the issue appeared to be the removal of a hedgerow, he asked whether this could be mitigated by conditioning. Councillor S Skillen outlined issues of ownership and suggested that a site visit by the Committee might be beneficial.
- Alderman D Drysdale asked whether the hedgerow belonged to Ms Fee and was advised that as far as she was aware, this was not the case.

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

- He welcomed the recommendation to approve.
- The applicant had engaged with principal objectors and made amendments to the plans.
- He confirmed that his client owned the trees referred to.
- He said that the new house type had a reduced ridge height and mass, overlooking had been minimised and he went on to explain how this had been done.
- He said he felt there would be no detrimental impact.
- He stated that policy tests had all been met and he urged approval.

Mr Worthington then responded to Members' queries as follows:

- Councillor J Craig asked why the hedge had been reduced in height. Mr Worthington said that this was mainly because it had become over grown. He also stated that it had been done in response to objections from Ms Fee. Councillor J Craig asked what height the trees were now as opposed to what they had been and Mr Worthington stated that he honestly did not know.
- Councillor U Mackin sought clarification on over-looking and over-shadowing and this was explained by Mr Worthington. Councillor U Mackin then sought clarification on the fact that the chalet bungalow was still higher than a two storey house. Mr Worthington advised that a two storey house was normally around 8m high, the new house type was 6.5m to the ridge as the first floor accommodation was now included within the roof. Councillor Mackin then asked if any windows were overlooking the side of the house into Ms Fee's garden and was advised that there were none, there was one window slightly overlooking her garden but the view was minimal as it was at an angle.
- Alderman D Drysdale asked Mr Worthington to provide more information on his comment that Ms Fee had complained about the trees and their height. Mr Worthington then read out an excerpt from Mrs Fee's original objection.
- Alderman D Drysdale asked whether anyone had met with the objector and if they had, what had been the outcome. Mr Worthington said that the applicant and the architect had met with Ms Fee and this meeting had led to changes being made to address the issues. He said that overshadowing would be minimal and only in the height of summer as there was a single storey to that side, He said he did not believe there would be any issue of over-shadowing or dominance above what was already there.
- Alderman D Drysdale asked what the distance was between the two gable walls and was advised that it was around 20 metres.

At this stage Ms Fee was invited to clarify her complaint regarding the tree canopy. She stated that the previous owner had maintained them but they had become overgrown. Regarding Mr Worthington's comment that there would only be a loss of light in the height of summer, she wished to state that this was the time when her garden would be used most. Alderman D Drysdale asked whether originally the trees had blocked her light and was advised that they did not significantly block the light when maintained.

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

- Alderman D Drysdale referred to ridge height and asked how the amended house type compared. The Senior Planning Officer explained this with the aid of a drawing and stated that there had been no concerns with the original house type proposed so therefore there were no issues with the amended one.
- Councillor J Palmer asked whether any consideration had been taken of surrounding properties and the Senior Planning Officer highlighted where this had been dealt with in the report and how it had been demonstrated that this met policy requirements.

- Councillor J Craig asked whether the Planning Officer had visited the site and if this was the case did you notice the height of the trees. He was advised that the case officer had visited the site after the trees had been cut back.

During the ensuing debate, the following comments were made:

- Councillor M Gregg said that he felt that the developer had gone some way to addressing concerns and he did not see any reasons to vote against the recommendation.
- Alderman D Drysdale said that he did not consider that there were strong planning reasons to overturn the recommendation.
- Alderman J Dillon said that he would be supporting the recommendation.
- The Chairman, Councillor A Swan said that he also would be supporting the recommendation.
- Councillor J Palmer said that he felt that more consideration should have been given to this and he would not be supporting it.

The Committee, having considered the information provided within the Report of the Senior Planning Officer, and by those making representations, agreed by a vote of 9:1 with 0 abstentions to approve the application as outlined in the report and subject to the conditions stated therein.

- (5) LA05/2020/0614/O – Site for dwelling, garage and associated site works at a side garden of 21 Moss Brook Road, Carryduff.

The Committee was advised that the above application had been withdrawn from the Schedule.

Adjournment of Meeting

The Chairman, Councillor A Swan declared the meeting adjourned at 1.00 pm

Resumption of Meeting

The Chairman, Councillor A Swan declared the meeting resumed at 1.40 pm

4.2 Northern Ireland Housing Conference

Members of the Committee had been provided with information on the above conference which was due to be held on Wednesday 11 May 2022 in the La Mon Hotel at a cost of £225.00 plus VAT. It was proposed by Alderman J Dillon, seconded by Councillor J Craig and agreed that the Chairman and/or Vice Chairman or their nominees attend the event.

The Chairman, Councillor A Swan asked if any member of the Committee wished to attend in his place as he was unable to do so and it was agreed by the

Committee that, due to his position as Chair of the Housing Forum, Councillor J Craig be nominated by the Chairman to attend in place of the Chair

4.3 Statutory Performance Indicators

Members of the Committee had been provided with information on monitoring statistics for February 2022 together with a verbal update from the Director of Service Transformation during which he advised that a workshop would be held in April to consider the NI Audit Office Report and during this event some of the issues regarding performance indicators could be addressed.

It was proposed by Councillor J Craig, seconded by Alderman J Dillon and agreed that the information be noted.

Councillor J Craig sought assurance that some of the smaller matters would be addressed as they seemed to have become lost with the focus being on other issues. Assurance that this would be the case was provided by the Director.

Alderman D Drysdale drew attention to issues of applications being with Ministers and to the issue of legacy applications.

4.4 Appeal Decision in respect of planning application LA05/2020/0705/O

4.5 Appeal Decision in respect of planning application LA05/2018/0080/F

4.6 Appeal Decision in respect of planning application LA05/2020/0054/F

Members of the Committee had been provided with information in respect of the above three planning appeals which had been dismissed.

The Director of Service Transformation summarised the key issues with each application and advised of any associated learning. After responding to a number of queries from members it was proposed by Alderman D Drysdale, seconded by Councillor M Gregg and agreed that the information be noted.

(Alderman J Dillon left the meeting at 2.00 pm).

4.7 End of Emergency Period – The Planning (Development Management)(Temporary Modifications) (Coronavirus) Regulations (Northern Ireland) 2020

Members of the Committee were provided with copies of correspondence from the Chief Planner and Director of Regional Planning dated 15 March 2022 which advised that the emergency end date of 31 March 2022 was fast approaching and that there would be no further extension to the temporary modifications. The impact of this was highlighted within the report and it was proposed by Councillor M Gregg, seconded by Alderman O Gawith and agreed that the information be noted.

4.8 Notification by telecommunication operator(s) of intention to utilise permitted development rights

Members of the Committee were advised that two different telecommunication operators had advised of their intention to utilise permitted development rights at to locations within the Council area to install electronic communications apparatus in accordance with Part 18 (Development by Electronic Communications Code Operators) F31 of the Planning (General Permitted Development) Order (NI) 2015.

It was proposed by Councillor M Gregg, seconded by Councillor J Craig and agreed that the information be noted.

4.9 EPLANI Webinars - Recent Planning and Environmental Judicial Review Decisions (Online Event)

Members of the Committee were provided with information circulated by NILGA on a forthcoming EPLANI Webinar which offered all persons with an interest in the operation of the planning system, an update on recent Planning and Environmental Judicial Review Decisions. The Honourable Mr Justice Scofield would be the key speaker and the webinar was scheduled to take place on Thursday 28 April 2022 at 3.30 pm.

Members were provided with joining instructions should they wish to attend the Webinar.

It was proposed by Councillor M Gregg, seconded by Councillor J Craig and agreed that the information be noted.

5. Any Other Business

Confidential Matters

(The Legal Advisor left the meeting at 2.05 pm)

Councillor M Gregg stated that he wished to raise a matter of Confidential Business.

The matter would be dealt with "In Committee" for reason of information relating to the financial or business affairs of any particular person (including the Council holding that information).

"In Committee"

It was proposed by Alderman O Gawith, seconded by Councillor J Craig and agreed that the following matters be considered "in committee", in the absence of members of the press and public being present.

The Principal Planning Officer provided an update as requested by members of the Committee on ongoing matters.

It was agreed that the verbal updates provided be noted.

Resumption of Normal Business

It was proposed by Councillor J Craig, seconded by Councillor M Gregg and agreed to come out of committee and normal business was resumed.

The Chairman, Councillor A Swan reminded the Committee that the next meeting of the Committee would be on Monday 9 May 2022.

There being no further business, the meeting concluded at 2.15 pm.

CHAIRMAN / MAYOR