

**LISBURN & CASTLEREAGH CITY COUNCIL**

**Minutes of the Meeting of the Planning Committee held remotely and in the Council Chamber, Island Civic Centre, The Island, Lisburn on Monday 5<sup>th</sup> September 2022 at 10.00 am.**

**PRESENT:** Present in Chamber

Councillor John Palmer (Vice-Chairman)

Aldermen W J Dillon MBE, D Drysdale, O Gawith and A Grehan

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

**IN ATTENDANCE:** Present in Chamber

Director of Service Transformation  
Head of Planning & Capital Development  
Principal Planning Officer (RH)  
Senior Planning Officer (MB)  
Senior Planning Officer (RT)  
Member Services Officers (BS, CR and CH)

Mr B Martyn (Cleaver Fulton Rankin) - Legal Adviser

Mr S Cash (DfI Roads)

**Commencement of Meeting**

The Vice Chairman, Councillor John Palmer, who was chairing the meeting in the absence of the Chairman, Alderman J Tinsley, welcomed everyone to the meeting which was being live streamed to enable members of the public to hear and see the proceedings. He advised that recording of the meeting was not permitted.

The Vice Chairman stated that Planning Officers were present in the Chamber and that those persons speaking for or against the applications had the option of attending in person or on a remote basis. It was noted that the Head of Planning and Capital Development would be joining the meeting later in the proceedings.

The Principal Planning Officer advised on a number of housekeeping and evacuation procedures.

The Member Services Officer then read out the names of the Elected Members and Officers in attendance at the meeting.

1. **Apologies**

Apologies for non-attendance at the meeting were accepted and recorded on behalf of the Chairman, Alderman J Tinsley and Councillor J McCarthy.

## 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 remote attendance.

Alderman W J Dillon referred to LA05/2017/0021/F and advised that he had been lobbied on this application recently and had said at the time that he would not be taking a view on the application until he had heard all the evidence at the meeting.

Councillor A Swan referred to LA05/2017/0021/F and advised that he had been lobbied too on this application and that he had listened to the arguments but expressed no opinion.

Alderman D Drysdale referred to LA05/2022/0133/F and advised that he had met with both the applicants and the objectors to discuss the situation, both having expressed their points well. Alderman Drysdale stated he would withdraw from the meeting for consideration of this application and take no part in the discussions thereon.

A completed Declaration of Interest form had been completed by Alderman D Drysdale in relation to LA05/2017/0021/F which outlined that given the length of time this application had taken to come to the Council's Planning Committee, he had been contacted by a number of people seeking information. Alderman Drysdale recorded that he had not at any time expressed an opinion on the outcome of this application.

## 3. Minutes of Meeting of the Reconvened Planning Committee held on 8<sup>th</sup> August 2022

It was proposed by Alderman W J Dillon seconded by Councillor M Gregg, and agreed that the minutes of the Meeting of Committee held on the 8<sup>th</sup> August 2022 as circulated be signed.

## 4. Report from the Head of Planning & Capital Development

### 4.1 Schedule of Applications

#### 4.1.1 Applications to be Determined

The Legal Adviser (Mr B Martyn) 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.

- (i) LA05/2017/0021/F - Demolition of existing buildings and erection of a Care Home Class 3(b) of the Schedule of the Planning (Use Class) order (NI) 2015, comprising 86 bedrooms, day rooms, kitchens, offices, stores and ancillary accommodation (on three floors of accommodation), modification of an existing access to Saintfield Road and provision of car parking (in the basement), visitor parking and servicing at 531 Saintfield Road, Belfast, BT8 8ES

At this juncture Councillor D J Craig referred to his employ in the DUP Constituency Office for Lagan Valley and pointed out that one of the speakers for the above application was the DUP MLA for Lagan Valley, Emma Little-Pengelly, for whom he worked on a part-time basis. Councillor Craig stated that for the record the MLA had at no time discussed the planning application with him and therefore he had no conflict of interest in relation to this application.

At the outset the Principal Planning Officer advised that the DfI Roads Official, Mr S Cash, was present in the Council Chamber and that a representative from their consultancy, AMEY, was also in attendance remotely for this item of business should any Members have questions in relation to roads or other technical matters.

The Principal Planning Officer (RH) presented the above application as outlined within the circulated report and drew attention to the following:

- a site visit that had taken place on 15<sup>th</sup> October 2021, an addendum report having been provided to the Committee in this regard
- the main issues of concern expressed by Members previously were in connection with roads related matters but no new substantive evidence had been received in this regard.

#### Mr Gregory Jones QC

The Committee received Mr Gregory Jones QC who wished to speak in opposition of the application. A copy of a written submission had been provided to the Committee in advance of the meeting. Mr Jones highlighted the following: -

- the proposal was a wrong development a wrong place for number of reasons
- intensification of traffic as a result of the proposed development, being noted that a traffic survey had been requested by Committee but no such survey undertaken
- the application is in contravention of care home regulations in relation to outdoor amenity seating
- the land in question is industrial development land (Colliers report is wrong) and also there is no extant planning permission given.

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#### Questions to Mr Gregory Jones QC

- Councillor D J Craig enquired what evidence Mr Jones had to back up his assertions that the information contained in the TRICS database was outdated, such information being what DfI Roads rely on. Mr Jones stated that the TRICS data was based on a site in Birmingham which he said was an inappropriate comparison and therefore could not be relied upon. Mr Jones stated that the best evidence is data from actual traffic surveys.

#### Mr Simon Warke SW Consultancy Roads Engineer

The Committee received Mr Simon Warke from SW Consulting to the meeting who wished to speak in opposition to the application and who had provided the Committee with a written submission in advance of the meeting.

Mr Warke elaborated on the intensification of traffic, based on his consultancy's own traffic study at the location of the proposed development, the findings of which were 108 arrivals and 107 departures daily. Mr Warke stated that that the number of journeys quoted currently were not based on a like-for-like comparison.

#### Questions to Mr Simon Warke

- Alderman D Drysdale sought clarification in relation to the vehicle number findings referred to by Mr Warke, in particular if the findings were based on peak travel times. He stated that most of the traffic associated with a care home would be during off-peak hours. Mr Warke advised that his traffic survey had been broken down throughout the day. Mr Warke added that there were also inaccuracies in relation to the visibility splays. There was in the region of 11000 cars travelling at speed on this road and traffic turning right from this entrance have to cross four lanes of traffic. He stated that this was dangerous at any point in the day.

#### Councillor Nathan Anderson

The Committee received Councillor N Anderson to the meeting who wished to speak in opposition to the application and who had provided the Committee with a written submission in advance of the meeting. Councillor Anderson responded to questions from the Committee in connection with a number of matters, including:

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Councillor N Anderson (Cont'd)

- Clarification was sought from Alderman O Gawith on Councillor Anderson's reference to 'a finely balanced decision.' Councillor Anderson emphasised that the proposed development prejudiced other businesses at that location and accordingly it was also important to consider the important issue of job creation.
- Alderman W J Dillon sought clarification in regard to Councillor Anderson's comments about speed cameras on the Saintfield Road. In response Councillor Anderson stated that the introduction of speed cameras helps make the road safer and there are fewer accidents as a result, and for that reason traffic assessments were required. Councillor Anderson stressed that there are other serious issues with this road – people have been killed at this location. Councillor Anderson stated that having weighed up all these factors – he was highly opposed to this planning application.
- Alderman D Drysdale questioned the speaker about the matter of road safety policy versus people driving badly, and was of the opinion that if the speaker's stance was applied to other projects – nothing would be built. In response, Councillor Anderson referred to driver error being an issue but the fundamentals of the road were also considered. On this occasion the factors to be taken into account were traffic intensification and the fact that the right hand turn from the site involves crossing four lanes of traffic and the need for an up-to-date traffic impact assessment. This was one of the most dangerous roads in Northern Ireland. Councillor Anderson concluded by stating that DfI Roads are a statutory consultee for major planning applications such as this one.

Emma Little-Pengelly MLA

The Committee received Mrs Emma Lyttle-Pengelly MLA to the meeting who wished to speak in opposition to the application and who had provided the Committee with a written submission in advance of the meeting.

At the outset Mrs Little-Pengelly advised that she was attending today on behalf of her party colleague Edwin Poots MLA who had been unable to attend.

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Questions to Mrs Emma Little-Pengelly MLA

- Councillor U Mackin asked Mrs Little-Pengelly to elaborate on her point about employment lands. In response Mrs Little-Pengelly highlighted a number of environmental issues that would arise should any of the current businesses at the site in question expand their operations or should new businesses move into this area. This was an industry employment issue as there would be detrimental impact on future growth.
- Councillor A Swan challenged the speaker on employment issues as the care home would create employment. He also challenged the speaker in saying that road safety issues would apply to any new development at this location. In response Mrs Little-Pengelly stressed that the nature of the difficulty in this case is that the people visiting the care home could be regarded as vulnerable at a time when they are trying to cross a significantly and busy road. She stated that currently the layout of the road is inadequate. If there was to be further investment on this area this junction would need addressed.
- Councillor A Swan also challenged the speaker on the vulnerability of people travelling to the care home in that a significant number of drivers would be staff and delivery vehicles. The speaker reiterated that the junction was already inadequate and people tend to feel distressed when making dangerous manoeuvres. There was a real risk of serious injury.
- Alderman W J Dillon pointed out to the speaker that DfI Roads had no objection to the proposals and stated that DfI Roads are the experts on these matters. In her response the speaker advised that a number of years ago she and her colleagues had pushed for further investigations by DfI Roads and the issues were then realised; there had been 788 speeding offences during a two-month period during the Covid-19 pandemic when the road traffic was significantly reduced. Average speed was to be assessed after two years of speed cameras in operation.

Mr William Orbinson QC

The Committee received Mr William Orbinson QC, who was in attendance remotely and who wished to speak in support of the application and who had provided the Committee with a written submission in advance of the meeting.

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Mr William Orbinson QC (Cont'd)

At the outset Mr Orbinson QC stated that in light of Councillor D J Craig's employment he objected to Councillor Craig taking part in the debate and decision in connection with this application.

During his contribution Mr Orbinson QC highlighted the points set out in his submission.

Questions to Mr William Orbinson QC

At this point Councillor D J Craig wished to receive legal advice from the Council's legal adviser (Mr B Martyn) who was present at the meeting on the matter of his participation in the debate and decision in regards to this application.

"In Committee"

It was proposed by Councillor U Mackin, seconded by Councillor A Swan, and agreed to go into Committee to consider Councillor Craig's matter in the absence of the press, members of the public and the registered speakers. The livestream was paused at 11.17 am.

A discussion ensued during which a number of comments were noted from the legal adviser (Mr B Martyn), the Director of Service Transformation and the Principal Planning Officer in connection with matters pertaining to the decision making process for this planning application.

It was proposed by Councillor A Swan, seconded by Alderman D Drysdale, and agreed to come out of Committee and normal business was resumed (11.35 am).

Resumption of Normal Business

Adjournment of Meeting

The Vice Chairman, Councillor J Palmer, declared the meeting adjourned for a comfort break at 11.35 am.

Resumption of Meeting

The Vice Chairman declared the meeting resumed at 11.41 am and the livestream was recommenced.

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#### Questions to the Applicant and the Applicant's Representatives

The Vice Chairman, Councillor J Palmer, provided the Committee the opportunity to ask questions to the applicants representatives who were in attendance at the meeting; namely Mr Michael Gordon (Turleys), Mr Gareth Macklin (Applicant), Mr Declan Diamond (Kevin McShane Transport Limited) and Mr Daniel O'Neill (Merit Retail Limited).

There then followed a question and answer session.

- Alderman O Gawith enquired about the weight that should be put on the fact that DfI Roads state that there would be no intensification of traffic as a result of the proposed development and also the fact that no further traffic survey had been carried out. Mr Orbinson QC was of the opinion that no weight should be put on these factors; a survey was not required by DfI Roads or AMEY, the consultant, rather the industry standard approach had been used and it had been deemed that intensification would not occur. Mr Diamond concurred with Mr Orbinson's comments.
- Alderman O Gawith sought further clarification and asked why the Committee was looking at a position that did not exist. In response Mr Diamond advised that the TRICS data was a tried and tested methodology, based on the extant land use, ie. the operators that were currently on the site.
- Alderman D Drysdale queried the reference in the objector's submission (page 3 item 3) 'as far as safety goes the access is substandard.' Mr Diamond stated that the issue of site access had been considered by DfI Roads – they were aware that the trigger for intensification had not been met. He also pointed out that the applicant has undertaken to enhance the visibility at the access.
- Councillor U Mackin made the point that TRICS data does not necessarily deal with reality and asked if Mr Diamond could advise him what the traffic movement was when the site was fully occupied. Mr Diamond stated that there had not been a traffic survey carried out when the site was fully occupied and that the TRICS data was the best method which provided a methodology for what a fully operational site would generate.



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Questions to the Applicant and the Applicant's Representatives (Cont'd)

- Alderman A Grehan sought clarification on the proposed new right hand turn that had been deemed necessary and which had been referenced in the original application. Mr Diamond advised that a number of considerations had been taken into account in relation to traffic egressing the site but on a review of the access DfI Roads had deemed that the new right hand turn was not required.
- Alderman O Gawith referred to Wrights being concerned about this proposed development. Mr Diamond stated he couldn't speak for Wrights and added that all of our analysis had satisfied our own opinion. Mr Michael Gordon, Turleys, said that Wrights had concern about juxtaposition of land uses, ie. land uses side by side both operating in a controlled and regulated environment. Wrights are continuing to invest in their operations having recently opened four new state of the art facilities.
- Mr Gordon then made reference to the acoustic fence outside and another acoustic fence inside the site that were included in Mr Macklin's proposed development. Mr Gordon stated that he was aware that planning conditions would be required in relation to minimal noise levels. He referred also to the care home regulations and that the building needs to be fit for purpose - to be approved by the Council's Environmental Health Officials. He stated that Macklins would be very familiar with the residential and care home regulations. Mr Gordon made comment about the proposed external amenity space at the care home and added that care homes like to be shielded.

Mr Macklin [applicant] referred to the sound impact issues and the requirement to meet with their own regulator and at that point families will make their decision. He said that his family has been operating care homes for 40 years and that we take our responsibilities extremely seriously. This type of elderly care supports the NHS.

- Alderman O Gawith asked Mr Macklin about how satisfied he was with the access and egress from the property. Alderman Gawith asked if Mr Macklin if he had considered all aspects of the 'reality on the ground' in terms of attracting customers. Mr Macklin responded that he looks to DfI Roads to assess the safety aspects of traffic coming to and from the care home. He elaborated on the shift patterns that staff would be working, ie. 12 hour shifts starting at

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Questions to the Applicant and the Applicant's Representatives (Cont'd)

7.30/8.00 am and in the evenings staff would be leaving at 7.30 pm. He referred to the economic impact and job creation that would result from this care home.

- Mr Gordon referred to the TRICS data again and also the fact that despite there being about 200K vehicles travelling on this road every year – there has not been one single accident attributed to this particular access.

Questions to Planners

A question and answer session with the Planning Officers followed. The following issues arose:-

- Alderman D Drysdale referred to comments that had been made about the access being substandard and asked if DfI Roads considered the access adequate. Mr S Cash said in his opinion it was not substandard as it exists currently.
- At this point the Vice Chairman permitted one of the registered speakers seated in the public gallery to make comment. Reference was made to a consultation response from DfI Roads dated 30 May 2022 when it had been noted that the access would be considered substandard if intensification was clearly demonstrated. In view of these comments Mr S Cash withdrew his previous comments – but provided Members with clarification that no intensification had in their opinion been demonstrated. Mr Cash also stated that if intensification had been the case previously the access would have had to be redesigned to current industry standards but because it is an existing access – policy does not dictate.
- Alderman A Grehan made a number of comments about the dangerous nature of the Saintfield Road and the right hand turning movement from the location of the proposal. Alderman Grehan asked Mr Cash if he accepted that the road was too dangerous. Mr Cash's response was that the term dangerous was subjective and that DfI Roads were tied by policy on this matter. Alderman Grehan expressed concern that the access was deemed substandard and that approval was being recommended.

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Questions to the Planners (Cont'd)

- Alderman W J Dillon questioned if DfI Roads consulted with PSNI on such matters of access. Mr Cash advised that whilst PSNI had been contacted in relation to accident history, PSNI are not consulted on matters of access. Alderman Dillon put it to DfI Roads that this access for the care home is as safe as can be under the circumstances. Mr Cash reiterated that this was an existing access and that there is an obligation for people to drive with due care.
- Councillor D J Craig noted with interest at the site meeting the many vehicles coming out of Brackenvale and turning right towards Belfast and who have to cut across any vehicles that could be potentially turning in to this new site. He enquired of DfI Roads why the right turn was removed and was advised that the matter was further considered at the request of Members and following internal discussions within DfI Roads, it was accepted that the changes to queuing capacity and right turn provision was not required.
- Councillor D J Craig expressed concern about vehicles turning right into Brackenvale. This is one of the biggest road issues – this is where potential collisions would happen. He asked why have there been no recommendations from DfI Roads on this issue and why is there no requirement for road improvement assessments to be carried out? Mr Cash stated that this was because there was no intensification therefore there was no need for any assessments or improvements to be carried out.
- Alderman O Gawith enquired from the Planners in relation to Mr Jones' QC comments about outdoor seating not being of sufficient quantity. He also referred back to the TRICS data and requested the Principal Planning Officer to expand on other businesses that could have been at this site – and the fact that a fast food outlet at this location had been refused.

The Principal Planning Officer (RH) discussed the earlier PAC decision in relation to the fast food outlet and to how this decision had acknowledged that this small portion of the site had been conceded to a retail use.

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- Alderman O Gawith asked what would be acceptable use on the site. He said that the movement on the site could change tomorrow if someone else came in. The Principal Planning Officer (RH) acknowledged that the earlier application was for a large supermarket and that this appeal had been dismissed.

Members were advised that the site had been zoned for employment use and that this small part of the site was currently in retail use. For this reason it was difficult to advise definitively as to what an acceptable use would be and that such considerations in terms of vehicle movements would require a full understanding of what was actually being proposed onsite.

- The Principal Planning Officer (RH) elaborated on the issue raised by Mr Jones QC regarding the amenity space. It was explained that Environmental Health had provided clarification on the advice provided and that the view expressed by Environmental Health was that they had no objection to the amenity space as provided in the application and were satisfied with the proposals.
- Councillor U Mackin sought clarification from DfI Roads on the definition of intensification, in particular if the movement on site increased from 32 vehicles per day to over 200 vehicles per day could be considered as intensification. Mr Cash stated that the industry standard was the TRICS data and this was what had been informed for the development on site. Mr Cash acknowledged that there were increased trips associated with the development proposal but that it was still deemed to be no intensification of permitted use.
- Councillor M Gregg referred to PED 7 and PED 8 and enquired about the loss of employment lands and if other sites had been considered for this development. He also challenged the calculation for the required number of parking spaces. The Principal Planning Officer (RH) discussed how the number of parking spaces within the proposal had been calculated with reference made to Parking Standards and relative advice note. Reference was also made to the site being on a main route in and out of the City and that it would be well serviced by public transport. Advice was provided that parking provision was adequate.

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In response to the question on PED 7 and PED 8 the Principal Planning Officer (RH) drew attention to the relevant slide of her presentation, with the policy context outlined. Members were advised that the assessment did acknowledge that the proposal was contrary to policy but that this had been balanced against a number of other material considerations. With regard to PED8 and issues raised in relation to compatibility, Members were reminded of the mitigation measures proposed and that adjacent operators were required to operate within control standards. In this case any impact on other uses was likely to be minimal.

- Councillor D J Craig sought clarification from DfI Roads in regard to the TRICS modelling for vehicle movement for retail use and if there were bands within retail use modelling. He asked how come the conclusion was that there would be no intensification. Mr Cash stated the reason was that the appropriate subcategories had been used. Councillor Craig asked further questions in relation to the issue of non-intensification.
- Councillor D J Craig asked for clarification in relation to the legal advice based on the issue of the area plan for the area. With the aid of the Plan presentation slides, the Principal Planning Officer (RH) explained that the site in both plans lay within the settlement limit of Carryduff and that the assessment demonstrated consideration of the local development plan context.
- Councillor A Swan enquired if this application was refused – what was the likelihood of another business coming forward and making minimal improvements to the building that is in place – would that business get planning approval. Members were advised of the fall back position associated with the existing uses on the site whereby another retail business could operate from within the existing site with minimal intervention at a more intense level than what is currently happening. Any new business that required permission would have to be dealt with by the normal planning process with intensification of use being considered as a material consideration.
- The Chairman, Councillor J Palmer, enquired from DfI Roads why the PSNI Traffic Management had not been consulted on the road layout as it is the case that the PSNI have to deal with the aftermath of any collisions. In response Mr Cash advised that DfI Roads would not ask the PSNI their opinion on road layout but that PSNI would be consulted on speeding issues and speed limits. Following further comments from Alderman D Drysdale and the Vice Chairman, Councillor J Palmer, Mr Cash reiterated that when it comes to permitted use with an existing access - DfI Roads are led by policy.

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### Debate

During debate, the following comments were made:-

- Alderman W J Dillon:
  - acknowledged that he had listened carefully for the past 2 hours and had heard two very convincing sets of evidence both in conflict with each other. He also acknowledged that Mr Macklin would not have persisted for the past 8 years if he felt there was a problem with the access.
  - A care home was very necessary in the area
  - Informed that it is a suitable use for the site
  - DfI Roads have made a recommendation that this application can be approved and DfI Roads are the experts
  - There has never been an accident at this junction according to the evidence
  - There is case law that we have to follow
- Councillor D J Craig stated:
  - this application is very reflective of major large applications in terms of the information and policies that are applied
  - several areas of our policies are silent on a number of issues
  - one concern is that a key consultee – DfI Roads - hands are tied in that any information on an up-to-date traffic impact assessment cannot be used
  - the decision taken will have an impact on those in the locality and also those travelling up and down that road.
  - the actual information that was required to make an informed decision was not provided to the Committee
  - situation could be that the Council cannot legally request this information and this is a dreadful situation that the Committee has been put in
  - no matter what decision is taken today there are going to be legal ramifications

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- Councillor A Swan stated:
    - he would be supporting the planners on this occasion
    - having attended the site visit – this was not an ideal location
    - some of the concerns of locals were more environmental concerns
  - Councillor M Gregg stated:
    - he would be going against the planners' recommendation to approve this application based on the same reasons as outlined by Councillor D J Craig
    - the Committee does not have the information needed but we do have the CCTV survey which is widely contradictory to the TRICS data
    - believes there will be intensification of traffic at an uncontrolled junction
    - DfI Roads have changed their minds many times during this process
    - the application has changed many times
    - he has concern in relation to the right turn pocket into Brackenvale
    - a further 200 uncontrolled movements will impact an already dangerous stretch of road
    - the land was uncontested as employment land and therefore the proposal is contrary to PED 7 and PED 8 with the view expressed the development would have an impact on the continued operation of existing businesses and potential expansion. Comment was also made in relation to the incompatible nature of residential in what was zoned industrial/employment land.
  - Alderman O Gawith stated:
    - the two QCs each presenting two different cases - both cannot be entirely right
    - we had reference after reference to TRICS and the extant number of vehicle movements but also advised by the Planners that if something else came on to the site there could be 150 movements per day
    - whilst there was reference to staff coming in before rush hour in the mornings and after rush hour in the evenings – there was no mention of visitors coming in during the day

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- Alderman O Gawith stated: (Cont'd)
    - whilst there has been work done to the Saintfield Road over the years as well as the introduction of speed cameras, the actual road layout is substandard
    - main concern is about road safety and given the number of vehicles travelling on that road, he was struggling to support the Planners' recommendation but he could understand their position.
  - Councillor U Mackin stated:
    - trying to look at it logically but hearing time after time about how the care home development will not increase traffic
    - we as a Council have asked time and time again for actual traffic movements but for some reason we are told by a Department we cannot get these figures. We have been told that traffic movement from that building is 32 per day and has been this same figure for years. Also told there will be in excess of 200 movements for this new development. This is quite a considerable intensification. This in an increased danger
    - during the site visit it took him five minutes to turn right towards the Carryduff roundabout. He had no doubt that with 200 traffic movements per day that some people would take chances
    - he was very fearful of road safety and that policies AMP 2 & 3 of PPS3 didn't sit well with this application.
    - would not be voting in favour
  - Alderman W J Dillon stated:
    - he could not disagree with all that had been said
    - the recommendations from a number of professional experts is to approve this application
    - the recommendation from DfI Roads and the Planning team is to approve this application
    - to vote against it will leave us in a dreadful situation and felt compelled to vote in favour of this application due to this situation



- (i) LA05/2017/0021/F - Demolition of existing buildings and erection of a Care Home Class 3(b) of the Schedule of the Planning (Use Class) order (NI) 2015, comprising 86 bedrooms, day rooms, kitchens, offices, stores and ancillary accommodation (on three floors of accommodation), modification of an existing access to Saintfield Road and provision of car parking (in the basement), visitor parking and servicing at 531 Saintfield Road, Belfast, BT8 8ES (Cont'd)

It was proposed by Alderman W J Dillon, seconded by Councillor A Swan, and agreed that a recorded vote be taken on this application.

- Councillor M Gregg stated:
  - he did not feel the threat of a judicial review would make him change his mind
  - his decision to refuse planning permission would be based on intensification of the use of the access
  - one objector did bring forward the information required in the form of the CCTV data – we therefore do have this information and we are seeing serious intensification
- Alderman D Drysdale stated:
  - this was a health and safety matter.
- Alderman O Gawith stated:
  - he did not think anyone reviewing the Committee's decision would say we as a Committee had not given this robust consideration.

### Vote

Having considered the information provided within the report of the Planning Officer and taking account of the robust consideration of a number of matters raised, the Committee agreed to refuse the Officers recommendation to approve this application, a recorded vote having been taken at the request of Alderman W J Dillon, as follows:

In favour: Vice Chairman, Councillor John Palmer, Alderman W J Dillon and Councillor A Swan **TOTAL: 3**

Against: Alderman D Drysdale, Alderman O Gawith, Alderman A Grehan, Councillor M Gregg, Councillor U Mackin and Councillor D J Craig **TOTAL: 6**

### Adjournment of Meeting

The Vice Chairman, Councillor J Palmer, declared the meeting adjourned for lunch at 1.25 pm.

- (i) LA05/2017/0021/F - Demolition of existing buildings and erection of a Care Home Class 3(b) of the Schedule of the Planning (Use Class) order (NI) 2015, comprising 86 bedrooms, day rooms, kitchens, offices, stores and ancillary accommodation (on three floors of accommodation), modification of an existing access to Saintfield Road and provision of car parking (in the basement), visitor parking and servicing at 531 Saintfield Road, Belfast, BT8 8ES (Cont'd)

### Resumption of Meeting

The Vice Chairman, Councillor J Palmer, declared the meeting resumed at 2.03 pm.

The Vice Chairman stated that the Principal Planning Officer's recommendation to approve planning permission had fallen and that a new motion was now under consideration. Section 45 of the 2011 Planning Act stated 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.

The Principal Planning Officer (RH) by way of assistance to Members outlined the planning policy context associated with policy AMP 2 and AMP 3 and explained that Members needed to provide reasons linked to policy.

### New Motion and Reasons for Refusal

Prior to the new motion being put to the meeting a number of comments were noted from Councillor M Gregg in relation to the issue of intensification of traffic which, in his opinion, would jeopardise road safety contrary to the requirements of policies AMP 2 and AMP 3 of PPS 3. He also stated that, as per the argument from DfI Roads, the right hand turning pocket into Brackenvale would also compromise road safety on the Saintfield Road.

Councillor M Gregg also stated the land is currently zoned for development land within the Carryduff settlement and as BMAP had yet to be adopted he felt that PED 7 and PED 8 of PPS 4 still applied. It was considered that the application be refused on the grounds of loss of industrial/commercial land and protection of existing employment land as the type of development proposed could have an impact on the continued operation of existing businesses and their potential expansion.

The new motion, as proposed by Councillor M Gregg and seconded by Alderman D Drysdale, was put to the meeting and declared carried, there being 7 votes in favour and one vote against, and one Member abstaining.

The Principal Planning Officer (RH) asked that the Committee, having agreed the reasons for refusal as put forward by Members during discussion, agree that the precise wording of the reasons for refusal be delegated to Planning Officers. This was agreed by Members present.

Alderman D Drysdale left the meeting and the Head of Planning and Capital Development arrived to the meeting at 2.15 pm.

- (ii) LA05/2020/0118/F - Demolition of existing storage and warehouse buildings, containers and portacabins and the erection of two two-storey office buildings (Class B1) including associated car parking provision at land at 5 Ballygowan Road, Hillsborough BT26 6HX

The Senior Planning Officer (MB) presented this application as outlined within the circulated report and drew attention to the following:

- a site meeting had taken place on 25 January 2022
- PED4 provides for the redevelopment of an existing business within a countryside location subject to exceptional circumstances.
- One letter of support had been received

#### Questions to the Planning Officers

- Councillor D J Craig sought clarification in relation to the initial proposal that had been in front of the Committee before and he queried if all the concerns had been addressed since the site meeting in January 2022.

The Planning Officer explained that the original proposal was for 4 buildings and that this had been reduced to two to meet solely the needs of the existing business. This was not a proposed business park.

- Councillor A Swan also enquired about the previous application in relation to a third party letting arrangement and asked if this current application was for the use of Grahams solely. The Planning Officer confirmed that this was the case. He also commented further on the reasons for the business requirement for two buildings, one reason being that permanent accommodation was required for the IT support staff who had been working in temporary accommodation within the site. He also explained that it had not been possible to extend the main building.

There were no further questions to the Planning Officers.

#### Debate

- Alderman W J Dillon
  - welcomed the changes that had come forward since January 2022. He stated that Grahams was a first class company and that the Council should be grateful that this company was located in the Council area as there was in the region of 2200 employees. Alderman Dillon had no doubt that this development would bring great benefit to Hillsborough.

- (ii) LA05/2020/0118/F - Demolition of existing storage and warehouse buildings, containers and portacabins and the erection of two two-storey office buildings (Class B1) including associated car parking provision at land at 5 Ballygowan Road, Hillsborough BT26 6HX (Cont'd)

#### Debate (Cont'd)

- Councillor D J Craig
  - having concurred with Alderman Dillon's comments stated that Grahams was a world class employer which carried out major construction across the world.
  - referred to the row of very tall trees along the boundary which blocked out most of the visibility. He stated that he welcomed the recommendation to approve this application and that this was a large step forward for this company and a huge step forward for the Council also.
- Alderman O Gawith
  - stated he had found the site meeting in January past to be useful and stated that he welcomed this development.
- The Vice Chairman, Councillor J Palmer,
  - stated that he too welcomed these new proposals which would reduce the buildings on site from four buildings to two buildings.

#### Vote

Having considered the information provided within the report of the Planning Officer, the Committee agreed by a unanimous show of hands to adopt the recommendation of the Planning Officers to approve the application.

- (iii) LA05/2020/1009/F – Southern lateral extension to extraction operations, consolidation and deepening of the quarry void, relocation of processing plant, improvements to the existing quarry access, relocation of overburden and associated works including landscaping and planting; and quarry restoration at 11 Leverogue Road, Ballynagarrick, Lisburn

The Senior Planning Officer (RT) presented this application as outlined within the circulated report and drew attention to the environmental statement that had accompanied this application.

#### Questions to the Planning Officers

Councillor U Mackin stated whilst he had no issues overall with this application he sought clarification around the landscaping at the section of the Comber Road and Moss Road (South & South West of the site). Councillor Mackin stated that his reason for asking this question was due to another quarry operating a mile from

- (iii) LA05/2020/1009/F – Southern lateral extension to extraction operations, consolidation and deepening of the quarry void, relocation of processing plant, improvements to the existing quarry access, relocation of overburden and associated works including landscaping and planting; and quarry restoration at 11 Leverogue Road, Ballynagarrick, Lisburn (Cont'd)

Questions to the Planning Officers (Cont'd)

this site from which there had been noise issues at night for a number of neighbouring dwellings.

- The Planning Officer explained that as part of the application submission some 'tapering' had been carried out to make the proposed bunds less engineered to more natural levels at that part of the site – this having been completed as a consequence of issues raised by residents during the Pre-Community Consultation event.
- Councillor U Mackin stated that the plant itself was very well run and that the height issue was his only issue with this application. The Head of Planning and Capital Development explained that the importance of landscape and visuals had been addressed as part of the environmental statement and that chapter 11 set out what would happen over time. He stated that this was very much a critical consideration in informing the recommendation in front of the Members.
- Councillor M Gregg enquired about the boundary planting to replace planting that had been removed at the area in the direction of south/south west. The Planning Officer advised that the planting of shrubs at this location would assist with the visual impact. This planting would extend around the entire site.

In response to questions from Councillor M Gregg, the Head of Planning and Capital Development confirmed that water was deemed to be a waste material and that a licence was required for the pumping of water from the site. He also advised that drainage was addressed as an impact in the environmental statement and that acceptable mitigation was offered.

- The Head of Planning and Capital Development elaborated on a number of drainage issues and highlighted that drainage and the collection of water need to be managed on an on-going basis in conjunction with the Council's Environmental Health Unit and the Northern Ireland Environment Agency. Change to the actual environment needs checked to make sure no harm to species or people and for that reason this application was supported by an Environmental Statement and that acceptable mitigation was offered.

- (iii) LA05/2020/1009/F – Southern lateral extension to extraction operations, consolidation and deepening of the quarry void, relocation of processing plant, improvements to the existing quarry access, relocation of overburden and associated works including landscaping and planting; and quarry restoration at 11 Leverogue Road, Ballynagarrick, Lisburn (Cont'd)

#### Questions to the Planning Officers (Cont'd)

- Alderman O Gawith sought clarification on an acronym AMOD. During his response the Head of Planning and Capital Development noted comments from Members regarding the absence of explanations of acronyms in the report.
- The Head of Planning and Capital Development then elaborated on the process of blasting and the need for controls to ensure no harm or damage.
- Alderman Gawith enquired about the economic viability of the quarry, what mitigations would be required in the future and if conditions were required as part of the overall application process.
- During his response, the Head of Planning and Capital Development explained that operations could continue for 30+ years but that operations could stop if the operations were not economically viable and restarted so it was not normal to place a time condition of the mining operation.

#### Debate

During the debate the following comments were made:

- Councillor A Swan
  - stated he was supportive of the Officer's recommendation to approve this application and that he was not aware of any complaints thereon.
- Alderman O Gawith
  - commented that this application was a classic case of where drone footage would be useful in aiding the Committee's understanding.
- Councillor M Gregg
  - concurred with Alderman Gawith's comments in relation to the benefits of drone footage.
  - he was of the opinion that this was a well-run site with good operations and
  - he would be happy to support the planning officers' recommendation to approve this application.

- (iii) LA05/2020/1009/F – Southern lateral extension to extraction operations, consolidation and deepening of the quarry void, relocation of processing plant, improvements to the existing quarry access, relocation of overburden and associated works including landscaping and planting; and quarry restoration at 11 Leverogue Road, Ballynagarrick, Lisburn (Cont'd)

Debate (Cont'd)

- Alderman W J Dillon
  - stated that this was a long-established business and that he had no issues with this application
  - he referred to the increase in the cost of operations following Central Government's policy in respect of red diesel being no longer permitted for use in quarry machinery.
  - stated he would be supporting the Officers' recommendation to approve this application.
  
- Councillor U Mackin
  - stated that he was content with the Officer's recommendation this was a long established organisation of over 50 years
  - this was a well-respected organisation and that it was good to see a local company developing in this manner.
  
- The Vice Chairman, Councillor J Palmer
  - concurred with the previous speakers, and
  - stated that he would also support this application.

Vote

Having considered the information provided within the report of the Planning Officer, the Committee agreed by a unanimous show of hands to adopt the recommendation of the Planning Officers to approve the application.

- (iv) LA05/2022/0133/F - Car port with decking over the top 900mm balustrading on decking (Retrospective) at 8 Robbs Road, Dundonald, Belfast

The Senior Planning Officer (RT) presented this application as outlined within the circulated report, highlighting the following:

- works had already been completed
- some of the drawings were inaccurate
- the structure was longer than the existing dwelling
- the decking area was accessible currently via the upstairs bedroom window
- there was overlooking at the dwelling at 10 Robbs Road

(iv) LA05/2022/0133/F - Car port with decking over the top 900mm balustrading on decking (Retrospective) at 8 Robbs Road, Dundonald, Belfast (Cont'd)

- works were not in character with the area
- the applicant had offered to carry out additional works to raise screening and other works that would help blend the development

Mrs C Scott – Registered Speaker

The Committee received Mrs C Scott to the meeting who wished to speak in opposition to the application and who had provided the Committee with a written submission, including a number of photographic images, in advance of the meeting.

Questions to the Speaker

- Councillor A Swan enquired from the speaker at what point the applicant had approached her. Mrs Scott said the contact from the applicant had been made at the outset when she had been informed that the project would consist of a small decking area and that it would not impede or encroach upon the neighbour's privacy. Mrs Scott also indicated that the construction then went up in a matter of days and that the construction was significantly greater than expected.
- Councillor D J Craig asked how long ago had this all taken place to which Mrs Scott replied that this had taken place last February/March.
- Alderman W J Dillon enquired if planning permission had been granted for the car port at the time and stated that he felt this development was wrong.
- Alderman O Gawith enquired if the construction overlooked any other properties. Mrs Scott believed two properties were overlooked by the construction and elaborated on the extent of the overlooking.

At this point the Head of Planning and Capital Development advised that he was in receipt of late information by way of further clarification from the applicant and sought agreement from the Vice Chairman to circulate this information. The Vice Chairman agreed that the late information be circulated at the meeting.

Mr & Mrs S McMillen – Applicant

The Committee received, Mr and Mrs S McMillen, the applicants, to the meeting who wished to speak in support of their application and who had provided the Committee with a written submission in advance of the meeting.

Mrs McMillen at the outset stated that up until recently they had had a good relationship with the Scott family and proceeded to highlight the salient points from the written submission.



- (iv) LA05/2022/0133/F - Car port with decking over the top 900mm balustrading on decking (Retrospective) at 8 Robbs Road, Dundonald, Belfast (Cont'd)

Mrs McMillen responded to questions from the Committee:

- Alderman W J Dillon advised that he concurred with the concerns raised by the neighbour, Mrs Scott, and enquired if the applicants had any plans to remove the construction. Mrs McMillen stated that they had no immediate plans to remove the construction.
- Councillor A Swan enquired about the access to the decking area and what was currently sitting on the decking area. Mrs McMillen discussed a number of matters in relation to the access which was via the upstairs bedroom and advised that there was a table and a BBQ on the decking area currently.
- Alderman O Gawith enquired from Mrs McMillen the reason for building the car port in the first instance and how long they had lived at that location before realising they needed such a structure. In her response Mrs McMillen referred to a classic car that they owned that needed covering and also their plans to have shrubs and climbing flowers planted to conceal parts of the construction.
- Alderman O Gawith enquired about the decision to go for the current height of the balustrades as opposed to something lower or higher. Mr McMillen advised that he had built the balustrading himself and that 900mm is a standard height for such a construction and mentioned that when seated on the decking it was not possible to see over the balustrading into the Scott's back garden. He discussed the conversations they had had with the Council's Planners about the proposed balustrading. He also referred to the actions he had taken with the Council's Building Control unit. Mr McMillen stated that he would be more than willing to erect screening or higher fencing.

#### Questions to Planning Officers

- Councillor M Gregg asked the planners what their opinion was on the current access to the upper level of the decking and also on the 900 mm balustrade. The Head of Planning and Capital Development reminded the meeting that this was a retrospective application. He referred to the plan to erect a doorway and door which would require a separate planning application.
- The Head of Planning & Capital Development stated that there were 3 options for the Committee in this instance; either agree or disagree with the Officer's recommendation or defer the application for further consideration and/or negotiation. He highlighted a number of issues for consideration:

- (iv) LA05/2022/0133/F - Car port with decking over the top 900mm balustrading on decking (Retrospective) at 8 Robbs Road, Dundonald, Belfast (Cont'd)

Questions to Planning Officers (Cont'd)

- a) the 900 mm balustrade not being permitted development
  - b) the adverse impact of neighbourhood amenities,
  - c) the car port being acceptable in its own right
  - d) the decking above the car port being incongruous with other dwellings (which Mr McMillen has indicated he is content to alter)
  - e) the impact on amenity of the houses adjacent,
  - f) the plans to install a door,
  - g) the objector's views, and
  - h) the applicant's views
- Councillor U Mackin enquired if there was merit in deferring this application to consider the issue of 'permitted development' and other mitigation.
  - Councillor A Swan referred to the current access and pointed out that the window is halfway along the structure and enquired if it would be possible to end the structure at that point.
  - The Head of Planning and Capital Development pointed out that it was important to consider as a matter of fact and degree whether the structure was necessary for the car port or is an elevated deck area with parking underneath. It is being noted that the deck is not considered permitted development and the applicant has indicated it is an integral part of the proposal. The decision can be made solely on the information provided. He reminded Members had they had the right to request a deferral.
  - Alderman W J Dillon expressed concern that if this application was approved that the Council would be allowing 'a wrong' in view of the apparent planning and building control regulations being flouted. He was of the opinion that a decision should be made now.
  - Alderman A Grehan stated that the two main reasons for not passing this application were based on street scape and privacy, and felt that the Committee was in a difficult position and enquired if there was anything else that could be done by the applicant.
  - The Head of Planning and Capital Development discussed permitted development policies further and in particular the issue of the proposed door.
- Alderman O Gawith supported Councillor U Mackin's proposal to defer the application to allow for further remedial negotiation.

(iv) LA05/2022/0133/F - Car port with decking over the top 900mm balustrading on decking (Retrospective) at 8 Robbs Road, Dundonald, Belfast (Cont'd)

- Councillor A Swan was of the opinion that raised decking would change the main issue of street scape and felt that a solution would be to remove the decking and have a car port solely. He also said there was no point in deferring this application.
- The Vice Chairman, Councillor J Palmer, asked that the Committee vote on Councillor U Mackin's proposal to defer the application for further remedial negotiation. Alderman O Gawith seconded this proposal.
- Alderman W J Dillon stated that he was uneasy about the way in which this debate was going and that the Committee should not be coming in between a neighbour dispute. We have an application before us which contravenes planning regulations and this was fundamental to the whole debate.

The Head of Planning and Capital Development reminded the Committee that planning regulations allow planning permission to be granted retrospectively. He also stated that the applicant or third party had the right to request that the application be deferred. It is important to consider the reasons for deferral. He stated that the applicant could request to defer in order to consider whether or not additional privacy screening would address the concerns expressed in the recommendation. A further report would be brought to the Committee.

At this point the Senior Planning Officer (RT) provided the Committee with an overview of the dwelling of the applicant and it was deemed that there was no windows overlooking.

Vote on Deferral

Having considered the information provided within the report of the Planning Officer, and taking account of the ensuing debate, the Committee agreed on a show of hands that:

- a) the application be deferred for further remedial negotiation
- b) the applicant consider the issues raised
- c) a further report be brought forward to the Committee in due course

The voting was 5 votes in favour of the above proposal and 4 votes against, the Vice Chairman having used his casting vote.

Councillor M Gregg emphasised that it was important to put on record that the above decision was due to planning reasons and not due to the fact that the neighbour had objected to the application.

### Adjournment of Meeting

The Chairman, Councillor J Palmer, declared the meeting adjourned at 4.16 pm.

### Resumption of Meeting

The Chairman declared the meeting resumed at 4.25 pm.

- (v) LA05/2022/0047/F - Shed for housing agricultural machinery, feed and materials at 11 Tower Lane, Hillsborough Road, Moneyreagh, BT23 6AY

The Senior Planning Officer (RT) presented this application as outlined within the circulated report and drew attention to the apparent insufficient evidence of significant farming activity by the applicant since 2017.

### Mr Jonny Martin, Clyde Shanks Limited

The Committee received Mr Jonny Martin from Clyde Shanks Limited to the meeting who was in attendance remotely and who wished to speak in support of the application. Mr Martin had provided the Committee with a written submission in advance of the meeting.

Mr Martin responded to questions from Alderman W J Dillon in connection with the applicant's application in relation to the acreage of the holding, special farm payments from DAERA and other possible locations for the shed within the farm holding. Mr Martin confirmed that farm payments had not been received by the applicant. He also explained that an extension had not been considered due to the extensive hedges.

### Questions to the Planning Officers

- Councillor D J Craig asked further questions in connection with the existing sheds on the holding and was of the opinion that there appeared to be little evidence for the need for the additional shed. Councillor Craig asked why the applicant had not extended the shed on the holding.
- The Head of Planning and Capital Development stated that it was the applicant's responsibility to demonstrate that the shed was necessary and that no evidence had been offered.

### Debate

- Councillor A Swan
  - indicated that he would be supporting the Officer's recommendation to refuse this planning application as he could see no justification for the additional shed.

- 
- (v) LA05/2022/0047/F - Shed for housing agricultural machinery, feed and materials at 11 Tower Lane, Hillsborough Road, Moneyreagh, BT23 6AY  
(Cont'd)
- Alderman W J Dillon
    - stated that he felt he had not received satisfactory answers to his questions to Mr Martin and that he would be supporting the Officer's recommendation.
  - The Vice Chairman, Councillor J Palmer
    - stated that he too would be supporting the Officer's recommendation. He stated that he could see no reason why the applicant could not opt for an extension to the existing shed.

### Vote

Having considered the information provided within the report of the Planning Officer, the Committee agreed by a unanimous show of hands to adopt the recommendation of the Planning Officers to refuse the application.

- (vi) LA05/2020/0496/F Erection of a dwelling in compliance with PPS21 CTY6 Adjacent and south west of 66 Knockbracken Road, Lisnabreeny, Castlereagh

The Head of Planning and Capital Development advised the Committee that the above application would not be considered at the meeting but would be on the schedule for consideration at the October meeting of the Committee.

### 4.2 Statutory Performance Indicators – July 2022

It was proposed by Councillor M Gregg, seconded by Alderman A Grehan, and agreed that the Statutory Performance Indicators for July 2022, together with the explanatory narrative in this regard, be noted.

Councillor M Gregg left the meeting at 4.57 pm.

### 4.3 Northern Ireland Annual Statistics – Annual Statistical Bulletin (April 2021 – March 2022)

The Head of Planning & Capital Development stated that the Annual Statistical Bulletin, which had been published by the Department for Infrastructure, provided an overall view of planning activity across Northern Ireland including a summary on the performance of Council's measured against the two statutory targets for major and local planning applications. The bulletin also noted that planning activity and processing performance in 2021/22 had been impacted by the restrictions put in place due to the Coronavirus pandemic.

It was proposed by Councillor A Swan, seconded by Councillor D J Craig, and agreed that the Annual Statistical Bulletin (April 2021-March 2022) be noted.

4.4 Appeal Decision in respect of Planning Application LA05/2020/0791/F Application for an agricultural fodder store on lands 30m north east of 10 Killynure Road West Carryduff

It was proposed by Alderman A Grehan, seconded by Councillor A Swan, and agreed that the decision of the Planning Appeals Decision in respect of the Planning Appeal for the above planning application be noted.

4.5 Appeal Decision in respect of Planning Application LA05/2021/1081/F for the realignment of the roadway and 10 new dwellings at Governor's Gate Demesme, Hillsborough

It was proposed by Alderman A Grehan, seconded by Alderman W J Dillon, and agreed that the decision of the Planning Appeals Decision in respect of the Planning Appeal for the above planning application be noted.

5. Any Other Business

There was no other business of a non-confidential nature.

There being no further business, the meeting concluded at 5.02 pm.

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CHAIRMAN