

## **Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Monday 2 February 2015 in Cookstown District Council Offices**

**Members Present:** In the Chair, Councillor Kearney (Chair)

Councillors Bateson, Bell, Clarke, Cuthbertson, Gildernew, Glasgow, McEldowney, McKinney, McPeake, Mallaghan (7.40 pm), Mullen, T Quinn, Reid, Robinson and J Shiels

**Officers in Attendance:** Mr Tohill, Chief Executive  
Mr Boomer, Area Planning Manager  
Ms Sinead McEvoy, Principle Planning Officer  
Mrs Grogan, Committee Services/Senior Admin Officer (D&STBC)

The meeting commenced at 7.00 pm.

### **P9/15 Apologies**

None.

### **P10/15 Declarations of Interest**

The Chair reminded members of their responsibility with regard to declarations of interest.

### **Matters for Decision**

#### **P11/15 Receive and Confirm Minutes of the Planning Committee Meeting held on Monday 12 January 2015**

Proposed by Councillor Cuthbertson  
Seconded by Councillor J Shiels and

**Resolved** That the minutes of the meeting of the Planning Committee held on Monday 12 January 2015, (P1/15 – P8/15) were considered and signed as accurate and correct.

#### **P12/15 Planning Committee Protocol**

The Area Planning Manager presented a paper giving details of the document 'Protocol for the Operation of Planning Committees' published by the DoE.

The Area Planning Manager advised that the DoE protocol had been drafted to assist the 11 new councils set up and run planning committees. The protocol highlights what is considered best practice, is not mandatory and offers guidance for planning committees in terms of their remit, size, frequency, format and speaking rights at meetings. It addresses key subjects such as enforcement and schemes of

delegation. It provides advice on pre determination hearings and deferral of decisions. It also addresses how determinations which do not accord with the planning officer should be handled.

Mid Ulster Council can decide if it accepts the recommendations for incorporation into its specific standing order/ constitution. It may also supplement the protocol with setting its own practice guidance on speaking rights, formats for committees and conducting site visits

The Area Planning Manager recommended the Committee give consideration to the following contents of the Protocol:

Item 3.1 The Protocol advises that Planning Committees should:

- consider applications made to the council as the local planning authority and decide whether or not they should be approved.
- approve the local development plan before it is passed by resolution of the council.
- ensure that the local development plan is monitored annually, particularly in terms of the availability of housing and economic development land.
- review the plan every five years, giving consideration to whether there is a need to change the plan strategy of the zonings, designations and policies as contained in the local policies plan.

Item 3.2 The Protocol strongly recommends a planning committee should consist of between 20% and 50% of council members (depending on the size of the council) and that there should be a quorum of 50% of committee members.

Councils can decide whether substitute members are permitted. The Planning Manager would be expected to attend all planning committee meetings, in addition to the planning officers presenting their reports. The frequency of meetings is a matter for the Committee.

Item 3.3 The Protocol recommends that a scheme of delegation be set to facilitate around 90% - 95% of applications to be determined by Officers. Members should be provided the opportunity to refer applications to the Committee, however, they must specify planning grounds for doing so.

Item 3.4 The Protocol recommends all enforcement activities are delegated to planning officers, who can use their professional judgement on what enforcement action to take, if any, to address alleged breaches of planning control as established by the council's policies. Planning committees can be informed of progress on cases and can request a report from officers to the committee on any enforcement matter (but the committee should not take any decisions on enforcement action).

Item 3.5 The Protocol whilst recognising standing orders is a matter for the Committee, it recommends that:

- the planning officer should prepare a weekly list that will indicate which applications are to be considered by the planning committee and which are to be determined by officers under delegated powers;
- all planning committee members should be sent the agenda in advance of the meeting with a report on each application not delegated to officers;
- officers should prepare an addendum on the day of the meeting to report any updated since the agenda was issued; and
- the Chair should hold a briefing session with planning officers on each application to be considered in advance of the planning committee meeting.
- report is prepared by the Planning Officers recommending approval with conditions or refusal. Plans and photographs may be shown. After the planning officer presents the report members have an opportunity to listen to speakers, ask questions of the officer and debate the case.
- the planning committee then discusses the application before taking a vote (proposed and seconded followed by a show of hands) on whether or not to agree with the officer's recommendation. The Chair has a casting vote
- Members must be present for the entire item, including the officer's introduction and update; otherwise they cannot take part in the debate or vote on that item. However, the chair of the planning committee can use their discretion in exceptional circumstances.

Item 3.6 Where an application has been referred to the Department for call in but referred to the Council for determination, a council's planning committee will therefore have to hold a hearing prior to the application being determined. The Protocol advises that Councils may also hold pre-determination hearings, at their own discretion, where they consider it necessary, to take on board local community views, as well as those in support of the development. The intention is to give applicants and those who have submitted relevant representations the opportunity to be heard by the council before it takes a decision. It should be noted this is not the same as office meetings/site meeting which apply to local applications. It would be for an individual council to judge when a significant body of relevant planning objections was a sufficient material consideration to warrant a pre-determination hearing, taking account of

- relevance of the objections in planning terms;
- the extent to which relevant objections are representative of the community, particularly in the context of pre-application community consultation; and
- the numbers of representations against the proposal in relation to where the proposal is and the number of people likely to be affected by the proposal.

Item 3.7 The Protocol recommends that speaking rights should be established, limiting Members to 5 minutes and the public to 3 minutes. Details of the recommendation on speaking is provided in Para 28 of the report.

- Item 3.8 Advice is offered on where the Committee member's views differ from Officers. Where an office report is indefensible or has failed to consider matters which should have been considered, it is reasonable to ask the officer to reconsider the report. However normally differences of view may be just that and where the Committee decides to make a determination differing from the report the officer's recommendation and the reasons for making a different determination should be recorded in the minutes of the meeting. Equally where a decision does not accord with a development plan it must clearly set out its reasoning as to why.
- Item 3.9 Where decision is deferred for consideration at a later meeting the reason for this should be clearly set out and recorded. Site visits by the Committee are permissible but they should only allow opportunity to view the site and not to allow objectors and the applicant to lobby the Committee. The Committee Clerk should arrange such site meetings inviting agents, applicants and members to attend, keeping a record of the site meeting. The officer should report in writing on the findings of the site meeting.
- Item 3.10 Where a committee refuses an application recommend for approval consideration should be given to appointing a different officer or body to represent the council at appeal.
- Item 3.11 It is recommended that all members sitting on planning committees should be trained, a network of Planning Committee chairs established, an annual review of decisions undertaken, and access to legal advice established.

The Area Planning Manager advised that Committee arrangements may have financial implications and that the Department feels that these are adequate, although queried by Mid Ulster Council.

Mid Ulster Council has been considering a scheme of delegation, which although different from the recommendation, as referred, is acceptable in terms of the protocol. One difference is the refusals and objections will go to Committee. Lists of applications received will be sent to members to allow them to refer, with reasons, applications to the Committee. It is important the terms of reference and any additional guidance to be agreed by the Council concur with the protocol or the reasons for differing are clearly explained.

*Councillor T Quinn left the meeting at 7.15 pm and returned at 7.17 pm.*

The Chair thanked the Area Planning Manager for his presentation and asked members for views:

The Chief Executive highlighted that in relation to item 3.2, if a member is not present for the entire time during the discussion on an application the protocol states that they do not have the right to vote and noted that this was different to how decisions are normally made in a local government environment.

Members agreed that a decision should be made on full meeting attendance.

*Councillor Mallaghan entered the meeting at 7.30 pm.*

*Councillor Mallaghan left the meeting at 7.38 pm and returned at 7.40 pm.*

Councillor T Quinn referred to item 3.11 and stressed the importance of training for members to be kept up to date.

Proposed by Councillor McPeake  
Seconded by Councillor T Quinn and

**Resolved** That it be recommended to the Council to approve the paper on the Protocol for the Operation of Planning Committees.

*Councillor Mallaghan left the meeting at 7.50 pm and returned at 8.05 pm.*

### **P13/15      Scheme of Delegation**

The Area Planning Manager presented a paper providing members with information relating to the delegation of additional planning control and enforcement functions to planning officers within Mid Ulster Council from 1 April 2015.

A scheme brought forward on the additional planning control functions will have the benefit of allowing Committee the time and resources to decide on cases where their time is best served and required.

*Councillor T Quinn left the meeting at 8.09 pm.*

The paper sets out two Options which could inform the development of a Scheme of Delegation of the enforcement of planning control within Mid Ulster.

Option One: Delegate the enforcement of planning control to officers

Option Two: Seek Committee approval before serving any statutory notice or initiating court action however delegate all investigative and negotiation powers to officers and retain discretion by the Planning Manager on formal enforcement action where there is significant risk to Public Health and Safety

Councillor Reid stated that it would be difficult for Councillors to make a decision if a Site is not designated, a better system is needed. The Council would also need to work on a structure to help the developer.

The Area Planning Manager suggested holding a workshop to help the Committee to decide on such issues on enforcement.

The Area Planning Manager advised that the Schedule of Complaints can be brought before the Planning Committee where a member can raise issues.

Councillor Bateson stated that the Council should not be running away from their responsibilities and should tackle difficult decisions themselves.

In response to Councillor McPeake's query about review of the process, the Area Planning Manager advised that it would be beneficial to have a review within 6 to 12 months to see how the process is working.

The Chief Executive asked that the Area Planning Manager bring a further paper providing further clarity to the March Committee meeting.

#### **P14/15      Mid Ulster Employment and Economic Development Paper**

Ms Sinead McEvoy presented a paper which provided an overview of the employment and economic development base in the Mid Ulster District Council area and to consider land requirements for economic development uses to 2030.

Ms Sinead McEvoy advised on a number of recommendations:

- The Council should be seeking to facilitate the provision of 2500-3000 jobs in the short term to meet current needs. This need can be met on existing zonings.
- In the medium to long term the Council should be seeking to facilitate the creation of at least 8,500 jobs equating to a need for 170 hectares of economic land. This objective should be presented for public consultation in the Preferred Options Paper.
- How this should be apportioned between Magherafelt, Dungannon and Cookstown is a matter that should be presented in the Preferred Options Paper for public consultation. Each of the hub settlements should at least have a provision of 45-50 hectares. Following consultation the economic objectives should be finalised together with the allocation for publication of the Draft Plan Strategy.
- A review of policies contained in PPS4 should be undertaken identifying options for policy revisions for member consideration. This should include further consideration of whether sufficient protection is afforded to existing industrial sites. The findings should be presented in the Preferred Options Paper to inform industrial policies to be included in the Plan Strategy.
- There is a need for a full evaluation of the deliverability of existing zonings. The Preferred Options Paper should be used to test whether the owners of existing zonings are willing to provide their land for economic development and whether there are any other land owners willing to provide land. An evaluation of sites will be undertaken before final zoning are included in the Local Policies and Proposal Plan.
- The option of creating economic zones at Ballygawley interchange and Castledawson interchange should be included in the Preferred Options Paper for public comment. No commitment to this as of yet should be given.

Councillor Bell advised that policy changes would need to concentrate on the needs of people resulting from social deprivation.

Councillor Clarke stated that population trends should be investigated. He added, since the construction of the new A4 road at Ballygawley more people and families have decided to settle in the Ballygawley area because of its centrality. These areas have the potential for job creation as they are sitting in very strategic positions for employment. This is very important in the contribution to improving the rural population.

Councillor McPeake advised that it would be important to keep all options open and Ballygawley should be considered, as land at Castledawson is in the ownership of the Council.

Councillor Mallaghan stated that the trip to Scotland showed that if zoned land was not utilised within the timeframe then it is taken back. He felt that the same method should be applied to here.

The Chair thanked and congratulated Ms McEvoy on her impressive report.

The Committee agreed that the paper be taken as read.

#### **P15/15      Duration of Meeting**

The meeting was called for 7.00 pm and ended at 9.10 pm.

CHAIR \_\_\_\_\_

DATE \_\_\_\_\_