

# **Minutes of Meeting of Environment Committee of Mid Ulster District Council held on Monday 1 April 2019 in Council Offices, Burn Road, Cookstown**

**Members Present** Councillor Wilson, Chair

Councillors Buchanan, Burton, Colvin, Cuthbertson,  
Gillespie, Glasgow, Kearney, McGinley, B McGuigan,  
McNamee, O'Neill (7.05pm), M Quinn and Totten

**Officers in Attendance** Mr Cassells, Director of Environment and Property  
Mr Kelso, Director of Public Health and Infrastructure  
Mr Lowry, Head of Technical Services  
Mr McAdoo, Head of Environmental Services  
Mrs McClements, Head of Environmental Health  
Mr Wilkinson, Head of Building Control

The meeting commenced at 7.00 pm

## **E087/19 Apologies**

Councillors McFlynn and S McGuigan  
Mr Scullion, Head of Property Services

## **E059/19 Declarations of Interest**

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

## **E088/19 Chair's Business**

In response to query relating to the maintenance of graveyards the Director of Environment and Property stated that they were progressing as previous until the agreements were all signed.

## **Matters for Decision**

### **E089/19 DfI Roads Proposals to Mid Ulster District Council – Disabled Parking Bay at Main Street, Bellaghy**

Members considered previously circulated report which sought agreement to endorse the proposal submitted by Department for Infrastructure Roads for a disabled parking bay at Main Street, Bellaghy.

**Resolved** That it be recommended to Council to endorse the proposal submitted by DfI Roads for a disabled parking bay at Main Street, Bellaghy.

**E090/19      DfI Roads Proposals to Mid Ulster District Council – Proposed 40MPH Speed Limit – Sandholes Road and Strifehill Road, Cookstown**

Members considered previously circulated report which sought agreement in relation to proposal from Department for Infrastructure Roads with regard to proposed 40 MPH speed limit at Sandholes Road and Strifehill Road, Cookstown.

The Chair, Councillor Wilson stated that although Council and DfI Roads put the speed limits in place the PSNI need to enforce it and suggested that the PCSP perhaps monitor the speed limits.

Councillor Burton advised that currently the PCSP are using speed monitors to flag up speeds to motorists and one was in situ in Aughnacloy at present. She stated that if there is excessive speeding the PSNI follow-up with the mobile speed camera to catch motorists speeding, thus the softly, softly approach but fines will follow.

The Chair, Councillor Wilson acknowledged that the speed was being reduced from 60mph to 40mph.

**Resolved**      That it be recommended to Council to endorse the proposal submitted by Department for Infrastructure Roads in relation to proposed 40 MPH speed limit at Sandholes Road and Strifehill Road, Cookstown.

**E091/19      ECO Schools Programme Support 2019/20**

Members considered previously circulated report which recommended that approval be granted to continue providing financial support to the Eco Schools Programme in NI to the amount of £1650 requested in 2019/20.

Proposed by Councillor McNamee  
Seconded by Councillor Colvin and

**Resolved**      That it be recommended to Council to approve the continuation of provision of financial support to the Eco Schools Programme in NI to the amount of £1650 requested in 2019/20.

**E092/19      Dual Language Signage Request**

Members considered previously circulated report which advised of requests for Dual Language Signage from residents on streets/roads in the District.

Proposed by Councillor McNamee  
Seconded by Councillor M Quinn and

**Resolved**      That it be recommended to Council to proceed to survey the streets/roads on which a request for Dual Language Signage has been received as undernoted:

- Chapel Street, Cookstown
- Glen Gardens, Maghera

- Killymoon Street, Cookstown
- Tirnaskea Road, Pomeroy
- Gortsraheen Road, Pomeroy
- Loughview Close, Stewartstown

## **E093/19      Dual Language Signage Survey**

The Head of Building Control presented previously circulated report which advised on the results of surveys undertaken on all applicable residents on the streets/roads in response to Dual Language Signage nameplate requests.

Proposed by Councillor McNamee  
Seconded by Councillor McGinley

That it be recommended to Council to agree the application of Dual Language Nameplates in Irish for the streets/roads as noted below:

- **The Paddock, Magherafelt**
- **Lester Gardens, Magherafelt**
- **Union Road, Magherafelt**
- **Bellebrook Mews, Magherafelt**

Proposed by Councillor Cuthbertson  
Seconded by Councillor Buchanan

That it be recommended to Council not to agree the application of Dual Language Nameplates in Irish for the stress/roads aforementioned.

The Chair Councillor Wilson called for a vote on Councillor Cuthbertson's proposal

For	5
Against	8

The Chair, Councillor Wilson stated he was taking this as a direct negative thus Councillor McGinley's vote was carried

For	8
Against	5

**Resolved**      That it be recommended to Council to agree the application of Dual Language Nameplates in Irish for the streets/roads as noted below:

- **The Paddock, Magherafelt**
- **Lester Gardens, Magherafelt**
- **Union Road, Magherafelt**
- **Bellebrook Mews, Magherafelt**

## **E091/19      Street Naming and Property Numbering**

The Head of Building Control presented previously circulated report regarding the naming of new residential housing developments within Mid Ulster.

Proposed by Councillor Kearney  
Seconded by Councillor B McGuigan and

**Resolved**      That it be recommended to Council to name development  
Site off Chichester Avenue, Castledawson – *Dawsons Hill*

*Councillor J O'Neill entered the meeting at 7.05pm*

In response to Councillor Gillespie's query it was confirmed that the name was derived from Castledawson.

Proposed by Councillor Burton  
Seconded by Councillor Colvin and

**Resolved**      That it be recommended to Council to name development  
Site off Church Road, Ballygawley – Church View.

## **E092/19      Licensing of Houses of Multiple Occupation – Implementation Procedures**

The Director of Public Health and Infrastructure presented previously circulated report regarding The Houses in Multiple Occupation (HMO) Act NI 2016 commencing on 1<sup>st</sup> April 2019. This will transfer the responsibility for the Houses in Multiple Occupation ('HMO') Registration Scheme from Northern Ireland Housing Executive to local Councils. It also creates a new licensing system which requires landlords to demonstrate that they are a fit and proper person to be a HMO landlord. The report sought consideration of the role of the Environment Committee in the decision making process relating to the licensing of HMOs and to consider proposed amendments to the Scheme of Delegation. The Director sought approval for recommendation to Council to:

To assist with the timely administration of the functions of the Houses of Multiple Occupation (HMO) Act NI 2016 the Director of Public Health and Infrastructure and or his nominee to exercise the relevant powers in a delegated manner for and on behalf of Council in relation to the issue, but not refusal, of House of Multiple Occupation Licences and excluding provisions relating to:

- applications for the grant, renewal, transfer or variation of licences where objections are received;
- applications where officers believe there may be an issue in relation to the fitness of the applicant to hold a licence;
- approving any guidance documents;
- setting of licence fees;

- revocation of licences, except where in the public interest the Director, in consultation with the Council Solicitor, considers that there are particular circumstances which make it necessary to suspend a licence immediately.

The matters relating to the excluded provisions as identified above to be both considered and determined at meetings of the Environment Committee.

Proposed by Councillor McNamee  
Seconded by Councillor Glasgow and

**Resolved** That it be recommended to Council to approve the aforementioned recommendation.

#### **E093/19 Standard Conditions for HMOs and the approach to managing Anti-Social Behaviour**

The Head of Public Health and Infrastructure drew attention to the previously circulated report regarding the Standard Conditions and the approach to managing Anti-Social Behaviour with regards to houses of multiple occupation.

Proposed by Councillor M Quinn  
Seconded by Councillor Glasgow and

**Resolved** That it be recommended to Council to approve

- (i) The proposed Standard Conditions as detailed at appendix one of the report; and
- (ii) The proposed approach to tackling Anti-Social Behaviour as detailed at appendix two of the report.

#### **E094/19 Houses in Multiple Occupation (HMO) – Fees and Fixed Penalty Notices**

The Head of Public Health and Infrastructure drew attention to the previously circulated report seeking agreement to the fee structure for

- HMO licence applications
- Variation of HMO licence
- Fee for copy of HMO register
- Fixed Penalty notice amount for fixed penalties notices issued in respect of Section 64-66 of the Houses in Multiple Occupation (HMO) Act NI 2016

It was noted that although the regulator set out a maximum fee of £45 in the regulations a regional fee of £37 had been agreed allowing scope for increase should there be a future deficit in income.

Proposed by Councillor Colvin  
Seconded by Councillor Buchanan and

**Resolved** That it be recommended to Council to approve to

- (i) Set the Regional Fee of £37 per person per annum in respect of an application for a HMO licence;
- (ii) Set the additional fees for an application to vary a licence, and those for supplying a certified copies from or of the register as per table 3 & 4 detailed in the report;
- (iii) Note the information regarding the use of Fixed Penalty Notices as enforcement functions that are available to the Council under the Houses in Multiple Occupation (HMO) Act NI 2016;
- (iv) Set the regional value of any Fixed Penalty notices that may be issued as outlined in appendix 1 of the report.
- (v) Authorise the Director of Public Health and Infrastructure to exercise these functions for and on behalf of Council in accordance with designated delegated authority.

## **Matters for Information**

### **E095/19 Minutes of Environment Committee held on 12 March 2019**

Members noted minutes of Environment Committee held on 12 March 2019.

Councillor Cuthbertson drew attention to E069/19 The Roads Miscellaneous Provisions Act (NI) 2010 – Road Closures and stated that a constituent had approached him in relation to a previous road closure at Ballynakelly Road in Coalisland and had advised him that a steward working at the cycle race had not permitted the constituent to drive to the Bush Village and had claimed that no alternative route was offered and no diversion had been in place. Councillor Cuthbertson stated if Council was granting the permissions it must ensure that rules were adhered to.

In response the Director of Public Health and Infrastructure confirmed that the road closure process included that diversions must be appropriately sign posted.

The Head of Environmental Health advised that Council were the administrators and that it was the remit of the PSNI to enforce regulations and stated that she would contact them to establish what arrangements had been in place.

Councillor Burton drew attention to E060/19 Chair's Business and the discussion on roads policy. The Councillor advised that she had attended a meeting in Eglisli when the issue had been raised on the lack of a footpath at a business park and shop and that the situation was an accident waiting to happen highlighting one incident when two teenage girls had to jump onto the bank to avoid a lorry. Councillor Burton asked what power Council now had to address such issues and 'start the ball rolling' to get a footpath

In response the Director of Environment and Property stated that it would be an issue for Department of Infrastructure – Roads. He stated Council had the general power of competence that had been previously used in relation to roads not adopted and maintenance of same but when there was a statutory agency in charge of the function it should be their responsibility.

The Director of Environment and Property drew attention to E079/19 Administration of Street Naming and Dual Language Nameplate Policy and provided updated costings in that since the most recent quotation which was in November 2018, 102 single language signs had been erected and 123 bilingual signs of which 103 had been installed by a third party contractor at a cost of £88 per sign thus £9,0674 funded through the Culture and Arts Bilingual budget.

The Director of Environment and Property reminded Members that in January 2019 it had been agreed to submit applications to Ulster in Bloom Competition he stated that Moy and Castledawson had been included and they were now not in a position to go forward and asked members to note that applications would not be submitted for the two areas but sought permission for an application to be submitted for Swatragh. In response to Councillor Burton's question the Director advised that Caledon was included on the list of applicants.

Proposed by Councillor B McGuigan  
Seconded by Councillor Glasgow and

**Resolved** That it be recommended to Council that Swatragh be included on the application list for Ulster in Bloom Competition entrants.

#### **E096/19 WISH NI Ambassador Programme 2019**

Members noted previously circulated report which provided an update on a successful application to become a WISHNI Ambassador.

#### **E097/19 Operation of Prepayment System at Recycling Centres**

Members noted previously circulated report which advised on the operation of the prepayment system for the acceptance of commercial waste at Cookstown, Drumcoo and Magherafelt Recycling Centres.

#### **E098/19 Update on Recycling Centre Improvements**

Members noted previously circulated report which advised on improvement works to a number of recycling centres facilities.

#### **E099/19 Building Control Workload**

Members noted previously circulated report which provided update on the workload analysis for Building Control.

#### **E100/19 Entertainment Licensing Applications**

Members noted previously circulated report which provided update on Entertainment Licensing Applications across the Mid Ulster District.

The Director of Public Health and Infrastructure recalling the tragic events at the Greenvale Hotel, Cookstown asked Members if they would be of a mind to write to the Department of Communities to express a desire to have the model terms and conditions in relation to Entertainment Licensing amended to permit Council to

subsequently amend theirs. He advised there had been an in-house review process commenced by the Department of Communities in 2015 by the then Minister Mark Durkan. The Director stated that at that time the legislation had been in place for 30 years and that Council had reflected on the document welcoming the proposals and suggesting further amendments but due to the NI Assembly collapsing nothing more had happened. He stated he had followed up with the Department who had advised that the matter was pending awaiting a Minister but stated that if Council wrote referencing the serious need it could possibly be treated as emergency legislation.

Proposed by Councillor M Quinn  
Seconded by Councillor Colvin and

**Resolved** That it be recommended to the Council that a letter be sent to the Permanent Secretary of the Department of Communities highlighting the serious need for a review of Entertainment Licence Model Terms and Conditions

In response to Councillor McNamee's query the Director of Public Health and Infrastructure advised that a letter would be sent to the Permanent Secretary referencing the tragedy and requesting that the Department instigate the review process for amendments to the model terms and conditions. He advised it would be a trigger point to kick start the process which has been stalled for two years.

In response to Councillor Burton's query the Director of Public Health and Infrastructure advised that he did not have the Council's response to the aforementioned consultation in front of him but it could be forwarded if necessary.

### **E101/19 Consumption of Intoxicating Liquor in Designated Places**

Members noted previously circulated report on the current byelaws relating to the consumption of intoxicating liquor in designated places.

Councillor Cuthbertson drew attention to 3.8 of the report which detailed that since April 2015 MUDC had received three reports/complaints of drinking in a public place, all of which related to the Dungannon area (Railway Park/The Lines/Irish Street) and acknowledged there was many more incidents than what was being reported. He stated that he appreciated the level of work staff had carried out to bring the report to the meeting and as part of the way forward stated he would like to see the designated places list amended to include all of the Council's properties.

The Chair Councillor Wilson stated that the PSNI had to deliver the scheme.

Councillor Cuthbertson stated that Council was responsible for the byelaw.

The Chair, Councillor Wilson acknowledged this but stressed that the PSNI had to produce the evidence.

In response to Councillor Cuthbertson asking if Council employed park wardens ever referred any complaints the Head of Environmental Health reiterated that only three complaints had been received since 2015 in relation to drinking in parks.



Councillor Cuthbertson stated that there would appear to be a neglect on some staff as there were lots of issues and stated he had asked designated officers were they aware of reports coming to them. He reiterated that staff were neglecting duties if they see a child or vulnerable person in the park or drink being consumed not reporting it.

In response the Head of Environmental Health stated that the PSNI have to bring forward the information and the Council administer the byelaws. She further advised that Council staff do not have the powers to ask people their names and addresses.

The Chair, Councillor Wilson acknowledged the work to date and stated there were a lot areas not included but that was just one of the issues and suggested that the matter could be referred to PCSP as Council were limited in what they could do.

Councillor Cuthbertson asked if for example the Hill of The O'Neill and the Earls Pathway could be included in the designated places.

In response the Head of Environmental Health stated that the byelaws were detailed in the report and stressed they provided a broad guideline and drew Members attention to the fact that the Department of Environment guidance only provided an overview of drafting considerations to enable a broad consistency of approach across councils. The guidance states that byelaws should only be used where a more specific power does not apply and where an existing, genuine and specific local problem exists.

Members also noted detail at 4.1 of the report .... *that consideration should be given to the PSNI powers that exist to deal with anti-social behaviours in this type of situation and also specific problem areas may wish to be considered rather than a blanket approach. Consideration needs to be given to the effectiveness of the current Byelaws in place and the number of PSNI referrals/complaints received.*

The Head of Environmental Health stated that there had to be complaints for the byelaws to be applied and that reports were not being received.

The Director of Public Health and Infrastructure stated that the area surrounding the reservoir at Castlehill was included in the list of designated places.

In response Councillor Cuthbertson stated that at the time the area was incorporated in the list it had not been owned by Council. He stated that he had an email from a Chief Inspector in the PSNI stating that the area at Hill of The O'Neill was not included. He also stated that Council staff were bound to see what was going on and the matter could be like dog fowling it will end up back at Council doorstep.

Councillor McGinley stated he was not 100% sure that amending byelaws would bring the changes required. He stated that it could be approached in two ways (i) the PSNI to do what is within their remit; and (ii) PCSP fund youth workers to engage with young people.

Councillor Kearney reflected on the list of designated places for the Magherafelt area and stated that some of the schools listed had now closed, there was new housing developments and really the area had changed.

The Head of Environmental Health stated that the lists were from the legacy Councils and agreed that there are many aspects of change but reiterated to bring about changes there has to be specific complaints.

The Director of Public Health and Infrastructure stated that if there is a desire to move forward the regulatory teams could have a workshop with Members to build up a picture of the issues, new areas and to determine a process of refinement.

The Head of Environmental Health stated that as with any review a significant consultation process has to take place and there were a significant steps to follow to bring about changes and an extensive framework to go through.

The Director of Public Health and Infrastructure advised the legislative process required any changes after consultation to be brought back to committee and then publicised before being referred to the Department of Communities for ratification .

Councillor Colvin stated that the aforementioned suggestion may refresh the process but concurred with Councillor McGinley that there were other ways to engage.

Proposed by Councillor Cuthbertson  
Seconded by Councillor Buchanan

To initiate the process to incorporate all of Council estate in the list of Designated Places with regard to Byelaws on Consumption of Intoxicating Liquor.

In response to Councillor McGinley's question as to what officers thought, the Head of Environmental Health stated officers could review the process but it was a matter for the committee to decide a way forward, she advised there would be a cost and timeframe to the process and provision should be given for example if there was a wedding at the Hill of The O'Neill and there was alcohol served outside, or if people were caravanning at Dungannon Park and having a barbeque with a glass of wine. Ultimately however she reiterated it was for the committee to decide.

Councillor McGinley stated that officers could foresee challenges and sought a middle ground to progress as he was getting a sense there was opposition.

The Director of Public Health and Infrastructure stated that it was a reasonably straightforward process, however an officer resource would be required to move it forward. He indicated from discussions there appeared to be a desire to take on board new council public areas and look at other public spaces as well. He cautioned however if you added all new housing developments , the designation could impact on people perhaps carrying a tin of lager from their garden onto the public path and thus public consultation was needed.

Councillor Glasgow stated that he would have concerns that by tightening up byelaws you could actually make things worse and asked if it would be more beneficial to drive forward through PCSP and anti-social behaviours laws. He suggested bringing problematic areas to their attention and in turn getting the PSNI to address the issues as opposed to a blanket ban.

Councillor McGinley concurred and stated an options paper brought back to committee may be a way forward.

Councillor Cuthbertson stated that this was like a scare story and indicated within the byelaws there was exceptions reading that at 3 (i) (b) of Dungannon & South Tyrone Byelaw it was stated that *“in any park controlled by the Council in circumstances where the consumption of intoxicating liquor is otherwise permitted by the Council under its bye-laws for the regulation of parks.”*

Proposed by Councillor McGinley  
Seconded by Councillor Colvin

That it be recommended to Council that officers bring forward an options paper to committee on the matters aforementioned.

The Chair, Councillor Wilson called for a vote on Councillor Cuthbertson’s proposal

For	3
Against	10

The Chair, Councillor Wilson called for a vote on Councillor McGinley’s proposal

For	10
Against	3

**Resolved** That it be recommended to Council that officers bring forward an options paper to committee on the matters aforementioned.

### **Local Government (NI) Act 2014 - Confidential Business**

Proposed by Councillor Colvin  
Seconded by Councillor B McGuigan and

**Resolved** In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items E080/19 to E085/19.

#### **Matters for Decision**

E102/19	Tender report for collection and recycling/reprocessing of waste wood
E103/19	Waste Related Professional Services Contract Assignment

#### **Matters for Information**

E104/19	Confidential Minutes of Environment Committee held on 12 March 2019
E105/19	Capital Projects Update

### **E106/19 Duration of Meeting**

The meeting was called for 7.00 pm and ended at 7.42pm

The Chair, Councillor Wilson thanked Members for their assistance in progressing the business through his short time as Chair of the Committee and extended best wishes to Members in the forthcoming elections.

CHAIR \_\_\_\_\_

DATE \_\_\_\_\_