

Minutes of Meeting of Mid Ulster District Council held on Thursday 28 January 2016 in the Council Offices, Circular Road, Dungannon

Members Present: Councillor Dillon, Chair

Councillors Ashton, Bateson (7.07pm), Bell, Buchanan, Burton, Clarke, Cuthbertson, Elattar, Forde, Gildernew, Gillespie, Glasgow, Kearney, Mallaghan, McAleer, McEldowney, McFlynn, McGinley, B McGuigan, S McGuigan, McKinney, McLean, McPeake, Molloy, Mulligan, C O'Neill, J O'Neill, M Quinn, T Quinn, Reid, Robinson, J Shiels, Totten and Wilson

Officers in Attendance:

Mr A Tohill, Chief Executive
Ms Canavan, Director of Organisational Development
Mr Cassells, Director of Environment and Property
Mr Kelso, Director of Public Health and Infrastructure
Ms Linney, Head of Community Services
Mrs Mezza, Head of Marketing Communications
Mr McCreesh, Director of Business and Communities
Mr Moffett Head of Democratic Services
Mr Tohill, Director of Finance
Mrs Forde, Member Support Officer

The meeting commenced at 7pm

C1/16 Apologies

Councillors Cuddy, Mullen, Monteith, McNamee, G Shiels

C2/16 Declarations of Interest

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

Councillor S McGuigan sought clarity regarding declarations of interest asking if it was sufficient to declare the interest or if a reason for the declaration was required to be given, highlighting the scenario when discussing Planning Applications.

The Head of Democratic Services advised that the maintained Register records the item of business relating to the disclosure made together with the nature of the interest and hence the nature of the declaration should be referenced by members when declaring an interest.

The Chief Executive stated that when a Member declares an interest they should withdraw from the decision making regarding the issue. He indicated that a reminder surrounding the process would be reissued.

In response to Councillor McLean's query the Head of Democratic Services advised that it was good practice to declare the interest and the reason should and it would

not be sufficient to declare the interest and provide the reason at a later date, after the business in question had been considered.

Councillor Bateson entered the meeting at 7.07pm

Referring to the 'Annual Register of Interest' Councillor S McGuigan stated that a Member may not become aware of an interest until later in the year and how should they handle this. In response the Head of Democratic Services advised that if a Member becomes aware of an interest they have a 28 day period to update the annual register and further clarified that a separate list was kept of disclosures recorded at meetings.

C3/16 Chair's Business

Councillor McAleer requested that the Chair host a civic reception for Errigal Ciaran Ladies Minor and Senior teams who both won the Tyrone Club Championships in 2015.

Councillor Wilson requested that a letter of congratulations be sent to Mr Colin Rea who was awarded a BEM for services to young people through the Scout Association and to Mrs Maria Hackett, Head of the Training Department, South West College who had been awarded an MBE for services to skills development in South West Northern Ireland. Councillor Buchanan requested that he be associated with request concerning Mr Colin Rea.

Councillor Wilson requested that a civic reception be hosted to recognise the achievements of three local businesses namely Windell Windows who won the regional Chamber Awards - Small Medium Enterprise award and went on to win the National competition; Workspace Draperstown who won the Social Enterprise of the Year; and The Jungle, Moneymore who in Outdoor NI Awards won the Best Unique Outdoor Experience and Best Thrill Seeking Provider.

The Chair, Councillor Dillon stated that she had requested that officers ensure requests were in line with the policy and if so the achievements would be recognised as requested.

Councillor Clarke acknowledged that the Council meetings were recorded and stated that as a member of the Planning Committee he believed that they too, should be recorded given the important nature of the business and the subsequent implications. Councillor Clarke stated that he didn't know the protocol surrounding recording of meetings but proposed that planning meetings be recorded.

The Chief Executive stated that there was only a legislative requirement to record Council meetings but if the Council considered it to be appropriate to record planning committee meetings the matter could be considered. He indicated that he would receive initial legal opinion from the Council Solicitor as to how recordings may be used given the quasi-judicial nature of the business transacted and review costs to make such recording arrangements.

Councillor Clarke stated that the Planning Committee carried huge responsibilities given its role and remit as they were deciding on matters equivalent to what could be considered by a Council meeting.

The Chair Councillor Dillon asked if it was only the planning committee that Councillor Clarke was proposing to record. Councillor Clarke responded that it was only the Planning Committee. Councillor Cuthbertson stated that he did not think there was a major benefit from recording Planning Committee meetings as the decision was based on the proposal of the application and although discussion does take place it is the sentence detailed in the approval recommendation that is approved. Councillor Cuthbertson reiterated that he saw no need to record the Planning Committee meetings.

Councillor McPeake speaking in terms of the decision making process within planning asked that if there was a legal challenge and there was no recorded vote taken how the situation would manifest itself, for example those who voted for the decision were in breach of the law but those who voted against would not be.

The Chair, Councillor Dillon asked Councillor McPeake if he was proposing a recorded vote at Planning Committee meetings. Councillor McPeake advised that he was seeking clarity and that he would suggest a recorded vote if it was required.

Councillor S McGuigan stated that perhaps meetings should be recorded as the decision made is based on the debate prior to the proposal and at present only the proposer and seconder's names are detailed within the minute. He added that discussion could be viewed as 'here-say' as the decision is then made on evidence that no one will be able to substantiate.

The Chief Executive stated that the information in relation to planning matters was detailed in the officer's report. In response to Councillor McPeake's question regarding a legal challenge, the Chief Executive advised that it would be taken against the Council and not an individual Member unless they had taken a particular action. The Chief Executive clarified that a recorded vote would show who voted for or against a proposal but advised that the Council had delegated authority to the Planning Committee. The Chief Executive concluded that the matter required consideration and stated that he would follow up with a report following consultation with the Council Solicitor.

Councillor McAleer asked, if the recording of Planning Committee meetings was not a legal requirement then what would be the advantage of recording and how could such recordings be used. The Chief Executive advised that if Council held recordings they could be called on as evidence in any future cases.

Councillor McLean stated that he had listened to the debate and that there should not be concern about what was recorded but that Members should consider what they say and stand over it or not speak at all. The Councillor concurred with the Chief Executive that the matter required more thought. In conclusion Councillor McLean stated that in his opinion either all committees should be recorded or none and that he was somewhat sceptical as to why the matter was being raised.

Councillor Kearney stated that if the planning meeting was to be recorded then agents, applicants and members of the public in attendance would also be recorded. Councillor Kearney advised that Belfast City Council were considering the matter and suggested that perhaps Mid Ulster District Council should await the outcome of their investigations.

Resolved That research is undertaken and considered with regard to the recording of Planning Committee meetings.

Matters for Decision

C4/16 Receive and consider minutes of matters transacted in “Open Business” at Council meeting held on Thursday 17 December 2015

Proposed by Councillor T Quinn
Seconded by Councillor Bateson and

Resolved That the Minutes of the Meeting of the Council held on Thursday 17 December 2015 (C231/15 – C244/15 and C251/15), transacted in “Open Business” having been printed and circulated were considered and signed as accurate and correct.

C5/16 Receive and consider the minutes and recommendations of matters transacted in “Open Business” at the Planning Committee held on Monday 11 January 2016.

Councillor McFlynn requested that the last sentence of paragraph one of page three of the minute be amended to read, “The Objectors called for a deferral of this application for an office meeting.”

The Chair, Councillor Dillon stated that a member of the public could not seek a deferral it could only be granted by request from a member of the committee.

Councillor Clarke expressed concern that all of the comments he had made at the planning meeting had not been incorporated in the minutes and requested the undernoted amendment be made to the minute at page 15 and 16 Planning applications I/2014/0296/F Wind Turbine at lands 350m N of 25 Ballynagilly Lane Cookstown for Mr D Campton and I/2014/0375/F Wind turbine at lands 270m N of 20 Beaghbeg

Councillor Clarke advised he had been present at the site meetings for these applications at which one viewpoint had been visited in relation to application I/2014/0296/F and two viewpoints in relation to application I/2014/0375/F. The Councillor felt that additional viewpoints should have been included in the visits. The Councillor drew attention to the fact that the Sperrins AONB had been consolidated and reconstituted in 2008 and had been re-drawn in the general area of applications and both areas in question were within the redefined boundary that has been redrawn around the area that currently meets with the AONB standard. In relation to application I/2014/0296/F, the Councillor advised that the proposed turbine would be

located on a prominent site within the Sperrins AONB and that this application would have a massive detrimental impact in the area.

Councillor Clarke referred to the substantial number of objectors to this application with concerns related to health and noise, it was also felt that if this proposal went ahead it would have an adverse effect on sites which could have been used for future replacement dwellings. The Councillor also commented that the owner, who is present this evening, of the lane adjacent to that which is proposed to be used for access to the turbine had not been consulted in the relation to the provision of sight lines.

Councillor Clarke further advised that the Slieve Gallion Landscape Character Area indicated that the hill slopes, particularly those facing south and east are extremely sensitive and part of the wider setting of Cookstown and Magherafelt and was highly sensitive to wind energy development and quoting from the document stated, "they were exposed to long views and provide a visual focus over a wide area."

Referring to application I/2014/0375/F, Councillor Clarke advised that this proposal will also be located within Sperrins AONB but additionally it will be within an area of archaeological significance as the turbine will overlook Beaghmore Stone Circles. The Councillor again advised of numerous objections to this application and re-emphasised that the site visit should have included the view point from the Beaghmore Stone Circles which he visited alone in the following days and stated that the turbine would be clearly viewed from that site.

The Councillor highlighted the significance of this site together with the general Beaghmore area which together with Davagh and Broughderg are part of the area of significant archaeological interest and highlighted in ASAI accompanying map. In relation to the Cookstown Area Plan 'policy con 4' the Councillor drew attention to the statement that particular attention would be paid to the impact of proposals from the "Beaghmore Stone Circles and other critical viewpoints within this area."

In conclusion Councillor Clarke advised that as an example the Broughderg Stone Circles which is a scheduled monument within the Areas of Significant Archaeological Interest document sits about 100feet below the base height of the proposal which is less than one mile to the south and is in complete view from the Broughderg Stone Circle Site.

Councillor Clarke also referred to page three of the ETSU document in which there is a disclaimer for what is written in the report.

Councillor Mallaghan stated that in approving standing orders the Council had delegated powers to the Planning Committee and as such wind turbine applications as aforementioned by Councillor Clarke had been approved. Councillor Mallaghan continued making reference to the Corporate Plan, the commitment to develop tourism in the region through projects such as Davagh Forest and stated that the approval of the wind turbines in his opinion was a huge mistake and an insult to the heritage of the Island as 5000 years ago people had gathered at the site and created a monument to follow the stars. The councillor continued by highlighting that the monument was developed at the same time as Stonehenge in England where the visitor centre was situated two kilometres from the actual stones so it would not impact the view and there would be no way a wind turbine would be approved. The

Councillor concluded stating that the approval of the wind turbines was an outcry and a sad day for Mid Ulster.

Councillor Cuthbertson stated that it was unfair to expect a minute taker to take down 'word for word' the comments of Members that this was not a requirement of Mid Ulster District Council nor the legacy Council of Dungannon and South Tyrone. Councillor Cuthbertson drew attention to the comments of Councillors McPeake and Mallaghan and stated that both had made reference to monuments which were the responsibility of Northern Ireland Environment Agency (NIEA). He added that it was evident from the Planning Officers report that they had consulted with the organisation and Members took guidance from these reports. Councillor Cuthbertson concluded by emphasising that the NIEA governs monuments.

The Chair, Councillor Dillon stated that she accepted that the minutes were not taken 'word for word' but a Councillor should be able to request to have their comments recorded.

Proposed by Councillor Reid
Seconded by Councillor Robinson and

Resolved That the Minutes and recommendations of the Planning Committee meeting held on Tuesday 11 January 2016 (P1/16 – P6/16 and P10/16) transacted in "Open Business", having been printed and circulated, subject to the foregoing, were considered and adopted.

C6/16 **Receive and consider the minutes and recommendations of matters transacted in "Open Business" at the Environment Committee meeting held on Tuesday 12 January 2016**

In response to Councillor Glasgow's expression of concern regarding staff response times in relation to members of the public calling at one the Council Offices to enquire about street naming plates the Director of Public Health and Infrastructure advised that he was unaware of any difficulties but would investigate the matter.

Councillor McGinley sought clarity on the request for a deferral at the Planning Committee meeting. The Chief Executive advised that deferrals could only be requested by Members of the Planning Committee. Councillor McFlynn stated that the deferral referred to was not granted. Councillor Cuthbertson stated that anyone can ask for a deferral but the request would not always be considered.

Proposed by Councillor B McGuigan
Seconded by Councillor McFlynn and

Resolved That the Minutes and recommendations of the Environment Committee meeting held on Tuesday 12 January 2016, (E1/16 – E16/16 and E25/16), transacted in "Open Business", having been printed and circulated, were considered and adopted.

C7/16 Receive and consider the minutes and recommendations of matters transacted in “Open Business” at the Policy and Resources Committee held on Wednesday 13 January 2016

Proposed by Councillor S McGuigan
Seconded by Councillor M Quinn and

Resolved That the Minutes of the Meeting of the Policy and Resources Committee held on Wednesday 13 January 2016 (PR1/16 – PR7/16 and PR19/16), transacted in “Open Business” having been printed and circulated were considered and signed as accurate and correct.

Councillor Mallaghan left the meeting at 7.35pm

Councillor Wilson declared an interest in a matter in Development Committee minutes concerning at800 in that a family member had been offered £15 and not £50.

C8/16 Receive and consider the minutes and recommendations of matters transacted in “Open Business” at the Development Committee meeting held on Thursday 14 January 2016.

Councillor Wilson requested that the location on the minute be amended to Cookstown.

Councillor Wilson referred to matter regarding at800 discussed at Development meeting and expressed concern that they were reluctant to meet with Council. The Councillor stated that he was not opposed to 4G being implemented but emphasised that he did not believe that residents in any area should have to pay to reinstate their Freeview television nor was it acceptable that they be told by at800 to watch television via a skybox. Councillor Wilson referred to a recent meeting with Ofcom and also a newspaper article which stated that at800 were offering payment of £50 as a good will gesture to those who had encountered the problem. Councillor Wilson declared an interest in that a family member had been offered £15 and not £50 as reported in the newspaper.

Councillor Wilson emphasised that people were encountering the problem through no fault of their own and reiterated his disappointment that at800 were reluctant to meet with Council and proposed that the invitation be reinforced.

Councillor Buchanan concurred with Councillor Wilson and stated that anyone experiencing costs to reinstate Freeview television should be reimbursed in full.

Resolved That at800 be requested to meet with Council to discuss customer concerns regarding the 4G rollout across Mid Ulster District

Proposed by Councillor Wilson
Seconded by Councillor T Quinn and

Resolved That the Minutes and recommendations of the Development Committee meeting held on Thursday 14 January 2016, (D1/16 – D15/16 and D26/16) transacted in “Open Business”, having been printed and circulated, were considered and adopted.

C9/16 Receive and consider the minutes and recommendations of matters transacted in “Open Business” at the Special Planning Committee held on Tuesday 19 January 2016

Proposed by Councillor Bateson
Seconded by Councillor Clarke and

Resolved That the Minutes and recommendations of the Special Planning Committee meeting held on Tuesday 19 January 2016, (P11/16 – P16/16 and P18/16), transacted in “Open Business”, having been printed and circulated, were considered and adopted.

C10/16 Conferences and Seminars

The Head of Democratic Services referred to details of the undernoted conferences and sought approval and retrospective approval for the attendance of Members and Council officers, the payment of attendance fees and associated costs as incurred.

- (i) Celebrating Progress and Looking to future of the Regional Community Resilience Group (Red Cross and Regional Community Resilience Group)
Thursday 11 February - Long Gallery, Stormont (9.30am-12.30pm)
- (ii) Centre for Cross Border Studies: 2016 Annual Conference
Thursday 18 to Fri 19 February - Crowne Plaza Hotel, Dundalk
- (iii) Study Trip to Leuven Institute, Belgium organised by ICBAN on EU
Tuesday 16 February to Thursday 18 February - Leuven Institute, Belgium
Councillor McPeake to attend.
- (iv) Democratic Government and its Survival: 27th Colmcille Winter School
Friday 26 to Saturday 27 February - Colmcille Heritage Centre,
Letterkenny
- (v) Presentation and Health & Safety Seminar
Thursday 10 March – Dunadry Hotel, Templepatrick (9am – 1pm)
1 officer request to attend: Director of Environment & Property
- (vi) Somme Commemoration and Trip 2016 organised by Somme Association
Thursday 30 June to Sunday 3 July 2016

Retrospective Approval

- (i) General Power of Competence Training - NILGA and APSE Event
Thursday 28 January (9.30am to 12.30pm)

The Head of Democratic Services advised that four places had been assigned to Council for Members to attend the Somme Commemoration trip 2016 and advised that confirmation was required that the Council would be availing of all four places or they would be released.

Councillor McLean advised that two Members of the DUP would attend the 2016 Somme Trip.

Councillor Wilson advised that two Members of the UUP would attend the 2016 Somme Trip.

Councillor Mulligan advised that he wished to attend the Somme Trip but requested permission to use an alternative tour operator.

Councillor Kearney advised that one Member of the SDLP would like to attend the 2016 Somme Trip.

Councillor J Shiels stated he would relinquish his place to afford the SDLP with an opportunity to attend. Councillor Wilson advised that the UUP would also be happy to relinquish a place to afford the SDLP with an opportunity to attend. The Head of Democratic Services stated that as Councillor Mulligan wished to travel with an alternative Tour Operator that the four spaces allocated from the Somme Association Tour should be allocated two to DUP, one to UUP and one to SDLP.

Councillor Mallaghan sought approval should he wish to attend the Study Trip to Leuven Institute, Belgium organised by ICBAN on EU Activity on Tuesday 16 February to Thursday 18 February - Leuven Institute, Belgium.

Councillor Cuthbertson left the meeting at 7.42pm

The Head of Democratic Services sought approval for the Director of Finance to attend PwC Local Authority VAT Seminar on Wednesday 24 February 2016 in PwC Offices, London at a cost of £300 plus VAT together with travel and subsistence.

Resolved That the attendance of Members and officers, the payment of attendance fees and associated costs as incurred be approved, as required

Matters for Information

C11/16 Consultations notified to Mid Ulster District Council

The previously circulated paper on consultations notified to Mid Ulster District Council was noted.

Resolved That the consultations contained within the previously circulated report be noted

C12/16 Correspondence List

The previously circulated paper on correspondence notified to Mid Ulster District Council was noted.

Resolved That the correspondence contained within the previously circulated report be noted

C13/16 Consideration of Motion

C13.1/16 Councillor McGinley to move

Councillor McGinley made reference to discussion at the Environment Committee meeting of 12 January 2016 stating that the Lough Shore Heritage Group and a local heritage association had contacted him seeking a more appropriate name to a housing development name agreed by the committee and thus he proposed the undernoted motion.

"That Mid Ulster Council rescinds the decision of Council taken to name the development - Ballinderry Bridge Mews, considered and agreed by Environment Committee on 13 October 2015 (Minute E181/15 - Item 1) and ratified at Council Meeting on Thursday 22 October following the request of Triangle Housing Association to have further name options considered"

In response to Councillor Ashton's question regarding the procedure of rescinding decisions the Chief Executive advised that this was allowed for within Council Standing Orders and clarified that the motion was in order with procedures incorporated within the Standing Orders.

Councillor Bell seconded Councillor McGinley's proposal.

The Chair, Councillor Dillon declared the motion carried.

Confidential Business

Proposed by Councillor Mallaghan
Seconded by Councillor S McGuigan and

Resolved That items C14/16 – C28/16 be taken as confidential business.

The press left the meeting at 7.47 pm

Councillor C O'Neill left the meeting at 7.47pm

C29/16 Duration of Meeting

The meeting was called for 7pm and ended at 8.50pm.

CHAIR _____

DATE _____