

NEWRY MOURNE AND DOWN DISTRICT COUNCIL

**Minutes of Planning Committee Meeting of Newry, Mourne and Down District Council
held on Wednesday 12 June 2024 at 10.00am in the Boardroom Council Offices,
Monaghan Row, Newry**

Chairperson: Councillor D Murphy

Committee Members

In attendance in Chamber:

Councillor Campbell	Councillor C Enright
Councillor K Feehan	Councillor A Finnegan
Councillor G Hanna	Councillor C King
Councillor M Larkin	Councillor D McAteer
Councillor S Murphy	Councillor M Rice
Councillor Tinnelly	

Officials in attendance: Mr J McGilly, Assistant Director of Regeneration
Mr Pat Rooney, Principal Planning Officer
Mr Peter Rooney, Head of Legal Administration
Mr M Keane, Senior Planning Officer
Ms A McAlarney, Senior Planning Officer
Ms S Taggart, Democratic Services Manager (Acting)
Ms F Branagh, Democratic Services Officer
Mrs N Stranney, Democratic Services Officer

P/047/2024: APOLOGIES AND CHAIRPERSON'S REMARKS

Councillor D Murphy welcomed Councillor Hanna as Deputy Chairperson.

The Chairperson advised that item 18 had been deferred to a future date.

P/048/2024: DECLARATIONS OF INTEREST

There were no declarations of interest.

**P/049/2024: DECLARATIONS OF INTEREST IN ACCORDANCE
WITH PLANNING COMMITTEE PROTOCOL- PARAGRAPH 25**

**Declarations of Interest in relation to Para.25 of Planning Committee Operating
Protocol – Members to be present for entire item.**

Item 6 - Cllrs Finnegan, Larkin, King, McAteer, D Murphy and S Murphy attended a site visit on 23.05.2024.

MINUTES FOR CONFIRMATION

P/050/2024: MINUTES OF PLANNING DEVELOPMENT COMMITTEE MEETING WEDNESDAY 15 MAY 2024

Read: Minutes of Planning Committee Meeting held on Wednesday 15 May 2024. **(Copy circulated)**

AGREED: On the proposal of Councillor McAteer seconded by Councillor Finnegan, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 15 May 2024 as a true and accurate record.

FOR DISCUSSION/DECISION

P/051/2024: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 15 May 2024. **(Copy circulated)**

Councillor Hanna proposed that item 8, LA07/2022/0128/F be deferred to allow objectors an opportunity to request speaking rights. This was seconded by Councillor Rice.

Councillor S Murphy proposed that item 11, LA07/2023/2511/O be deferred as the Agent was unable to request speaking rights due to illness. This was seconded by Councillor Hanna.

AGREED: On the proposal of Councillor Hanna, seconded by Councillor Rice, it was agreed to defer item 8, LA07/2022/0128/F to a future Committee date.

AGREED: On the proposal of Councillor S Murphy, seconded by Councillor Hanna, it was agreed to defer item 11, LA07/2023/2511/O to a future Committee date.

AGREED: On the proposal of Councillor McAteer, seconded by Councillor Hanna, it was agreed to approve the officer recommendations in respect of the following applications listed on the Addendum List for Wednesday 12 June 2024:

- **LA07/2023/2415/F** - 91 Windmill Road, Cranfield, Kilkeel - Replacement Single Storey Dwelling
APPROVAL
- **LA07/2023/3581/F** - Newtownhamilton GAC, 47 Dundalk Street, Newtownhamilton - Proposal for 2no. ball stops at either end of existing playing field
APPROVAL
- **LA07/2022/1201/F** - 67 & 67a Ballyhornan Road, Ballyalton, Downpatrick - Demolition of Existing Licensed Premises and Proposed Erection of 2no Dwellings
APPROVAL

DEVELOPMENT MANAGEMENT

P/052/2024

PLANNING APPLICATIONS FOR DETERMINATION (WITH PREVIOUS SITE VISITS)

(1)

LA07/2022/1696/O

On agenda as a result of the Call-In Process

Location:

Land approx. 58m East of No. 11 Flagstaff Road, Newry.

Proposal:

Proposed dwelling and detached domestic garage on an infill site.

Conclusion and Recommendation from Planning Official:

Refusal

The Chairperson advised that a site visit took place on 23 May 2024 and as per the operating protocol, no additional speaking rights were allowed for this application. Agent Declan Rooney and Applicant Stephanie Malone were present to address any questions.

Power-point Presentation:

Mr Pat Rooney reminded Members of the detail of the application, outlining which Policies the application had been considered against and what requirements had not been met, advising there had been no objections to the application. He stated that the Planning Department did not feel the proposed development constituted continuous built-up frontage and felt that Brogies Road broke up the frontage that the applicant was relying on. He further advised that some buildings did not form part of the same frontage and that the Planning Department considered the gap site to be excessively large.

Councillor Larkin proposed to overturn the officer's recommendation. He explained that after visiting the site twice, he was confident that there was no indication of Brogies Road's presence, primarily due to the factory's proximity to the road. He proposed granting approval as an exception under CTY8, arguing that the site represented a gap suitable for a maximum of two dwellings and aligned with the current development in the area. This was seconded by Councillor Hanna who agreed that the application complied with CTY8.

The proposal was put to a vote by way of a show of hands and voting was as follows:

FOR:	10
AGAINST:	0
ABSTENTIONS:	1

The proposal was declared carried.

AGREED:

On the proposal of Councillor Larkin, seconded by Councillor Hanna it was agreed to issue an approval in respect of planning application LA07/2022/1696/O contrary to officer recommendation as contained in the Case Officer Report.

It was agreed that Planning Officers be given delegated authority to impose any relevant conditions.

DEVELOPMENT MANAGEMENT

P/053/2024

PLANNING APPLICATIONS FOR DETERMINATION

(1)

LA07/2023/2374/F

On agenda as a result of the Call-In Process

Location:

80 Dublin Road, Drumena, Newry

Proposal:

2 No glamping pods with associated landscaping

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

Ms McAlarney advised that the application site was outside the settlement limits of Kilcoo and in an Area of Outstanding Natural Beauty. She noted that the consultation process and neighbour notification had taken place and no objections had been received. She outlined the relevant Policy was PPS21, which referred to the tourism Policies TSM6 and TSM7 of PPS16. She advised that the Department for Infrastructure (DfI) Roads had been consulted, and since the proposal involved access onto a protected route, the A25, it was deemed unacceptable in planning terms under PPS21 and did not qualify for any exceptions.

Speaking rights:

In support:

Mr Martin Bailie spoke in support of the application and referenced the benefits the application would bring to the area, in particular from a tourism perspective, with its location beside Lough Island Reavy and close to the Theirafurth Inn.

He stated that the main issue was whether the proposal was prominent and integrated into the landscape. He drew attention to the case officer's report and the focus on the views of the pods from Bog Road when approaching from the southwest on Dublin Road. His opinion was that views from Bog Road would be minimal, if any, and that the site would only be visible for about 100 meters from the southwest on Dublin Road and would not be visible when approaching from Castlewellan.

He went on to state that the application showed minimal excavation on the site and the small pods, with a ridge height of around 2.7 meters, a width of 3 meters, and coloured brown or green, would integrate into the landscape. He believed that visibility splays could be achieved at the existing access, therefore there would be no impact on the countryside from a new entrance.

Mr Bailie highlighted a previous approval for a glamping development (LA07/2020/1291) around a mile from the site, that was previously approved, with no objections from DfI Roads. He requested the Committee to investigate the case officer's opinion and question the lack of photos in the report to support the recommendation.

Mr Bailie summarised that the case officer report highlighted two critical viewpoints on Dublin Road from the Southwest and Bog Road and it was his opinion that these locations offered limited views, especially on Bog Road. He encouraged the Committee to carry out a

In support:

Mr FitzLarkin spoke in favour of the application, emphasising his belief that it should have been recommended for approval. He pointed out that the house design had already received approval in principle through a previous planning decision, and the application only included changes to the roof and a few minor adjustments, such as decorative plaster and the chimney design. Mr FitzLarkin confirmed that the roof height had been raised by 40 centimetres and the porch widened by 50 centimetres. He referenced the Policies under which the application was now refused and noted that existing properties in the surrounding area featured the same hip roof design.

Councillor Campbell referred to the initial planning approval and asked whether the surrounding properties were taken into consideration during the assessment. Ms McAlarney explained that the other house design examples were located on a different road and were therefore too far from the site to be considered within the assessment.

Councillor Hanna sought clarification regarding the reasons for refusal. Ms McAlarney confirmed that the primary reason was the unacceptable combination of the dominant roof and chimney design.

Councillor Hanna asked Mr Peter Rooney whether the Planning Committee could take a contrary opinion. Mr Peter Rooney advised that planners had made their decision based on their knowledge and experience, deeming the design unsuitable for that location and unduly prominent due to the roof and chimney amendments. However, ultimately it was up to the Committee as to whether they formed a different view.

Councillor Hanna subsequently asked the Agent to confirm the distance between the application site and the house with similar design details. The Agent confirmed this to be approximately 500 metres.

Councillor McAteer asked for evidence of difficulties in constructing the initial design to which Mr Scally advised that they would face several design challenges with the detailed design, which had become apparent at the Building Control stage.

Councillor Feehan entered the meeting at this stage - 10.52am

Councillor Rice queried why houses on neighbouring roads were not considered. Ms McAlarney explained that there had to be a limit as to how far the assessment extended, therefore only the immediate houses were considered, and the design was contrary to the design guide 'Building on Tradition'.

Ms McAlarney asked the Committee to note that the initial application, with the roof design had been previously rejected by Planning, which led to the applicant switching to a pitched roof style and was subsequently approved. She stated now, the applicant was trying to revert to the originally rejected design.

Councillor Hanna proposed to overturn the officer's recommendations commenting that his opinion was that the changes were minor and he felt the hip roof would integrate well into the countryside. This was seconded by Councillor Campbell.

After extensive debate and discussion, the proposal was put to a vote by way of a show of hands and voting was as follows:

FOR:	9
AGAINST:	2
ABSTENTIONS:	0

The proposal was declared carried.

AGREED: On the proposal of Councillor Hanna, seconded by Councillor Campbell it was agreed to issue an approval in respect of planning application LA07/2023/3328/F contrary to officer recommendation as contained in the Case Officer Report.

It was agreed that Planning Officers be delegated authority to impose any relevant conditions.

(3) LA07/2023/3063/O

On agenda as a result of the Call-In Process

Location:

Between 64 The Heights & 32 Teconnaught Road, Loughinisland

Proposal:

Infill dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Ms McAlarney presented her report, including images of site location maps, and an ariel view of the application site. She stated that no objections had been received and referenced the responses from statutory consultees. She outlined the Policies that the application was judged against stating the application had 2 frontages and not a continuous one. She also referred to a rejected case with the Planning Appeals Commission (PAC) - 2001/A0239.

Speaking rights:

In support:

Mr Tumelty spoke in favour of the application, stating why he believed it should have been recommended for approval. He disagreed with the case officer's comparison to a PAC decision, explaining his own interpretation of the road frontages and using the case officer's presentation for reference. He also noted that a nearby gap site had previously received approval.

Councillor McAteer sought clarification on the reason for refusal and Ms McAlarney confirmed that it was because 32 Teconnaught Road was the bookend on a different road from the site.

Mr Tumelty elaborated further on the boundaries of the roads, emphasising that it was a minor road.

Councillor Campbell asked Mr Peter Rooney if, from a legal standpoint, these were technically considered as two separate roads. Mr Peter Rooney stated that according to the interpretation of the policy endorsed by the Court of Appeal, if there were two roads, it could not be considered as a single frontage. He stated it might be helpful for Members to visit the site, however the clear message from the Court of Appeal's decision was that Council must adopt a strict interpretation of the policy moving forward, which cannot be disregarded.

Councillors Hanna, Larkin and McAteer asked for clarification regarding the road layout and adjacent roads, and Mr Tumelty provided an explanation.

Following the discussion Councillor Larkin proposed a site visit, this was seconded by Councillor McAteer, the proposal was put to a vote by way of a show of hands and voting was as follows:

FOR:	12
AGAINST:	0
ABSTENTIONS:	0

The proposal was declared carried.

AGREED: **On the proposal of Councillor Larkin, seconded by Councillor McAteer it was agreed a site visit should take place.**

(4) LA07/2023/2576/F

On agenda as a result of the Call-In Process

Location:

NE of No. 35 Downpatrick Road and SE of No. 43 Downpatrick Road, Ardglass

Proposal:

Site for dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Ms McAlarney provided an overview of the application, noting that there had been no objections. She advised that the application was evaluated based on Policy PPS21 CTY10, and while meeting Criteria A and B, it failed to satisfy Criterion C, which required that the new dwelling visually link or cluster within the farm. Additionally, Ms McAlarney presented slides that explained why the application also contravened Policies CTY 8 and 14.

Speaking rights:

In support:

Mr McBurney spoke in favour of the application, explaining the connections to the neighbouring farms and presented several photos from different angles with examples to counter the argument that the new building would lack visual linkage. He expressed his belief that the application complied with policy CTY10.

Councillor Larkin inquired about the distance from the site to the main road and whether the photos had been taken from public roads. Mr McBurney confirmed that the site was approximately 600 metres from the main Downpatrick Road in Ardglass and the photos were taken from public roads.

In support:

Councillor Sharvin concurred with Mr McBurney, noting his familiarity with the site and highlighting that various points along the road provided visual linkage.

stated that the planning department did not agree with the applicant's claim that the loss would be minimal, as the assessment could not be based solely on a mathematical exercise. He went on to say that the Planning department did not agree that the protocol cited by the applicant, agreed between DOE and NIHE, applied in this respect, and this had not been agreed with the Council.

Speaking rights:

In support:

Mr Fox of Rural Housing stated he had been involved with the case since June 2020, outlining it referred to a family with three members who had complex needs. He stated the goal was to try to keep the family in the Castlewella area due to the additional support they received from nearby relatives and although several alternatives had been considered, such as purchasing and adapting a local property or buying land to build on, these options proved unfeasible.

Ms Collins from NIHE stated that the family had been NIHE tenants for 20 years and on the transfer list for 10 years and all efforts were being made to keep them within the South Eastern Health Trust, as moving them outside the area would negatively impact their care.

Councillor Campbell inquired whether any conditions could be imposed to protect the green space from future development if the decision was overturned, in order to prevent setting a precedent. Mr Pat Rooney stated that no conditions could be imposed to make acceptable what was fundamentally unacceptable and approving this application would diminish the community value of the open space.

Councillor D Murphy remarked that while he sympathised with the applicants' needs, the residents' concerns must also be considered and suggested that a site visit might be beneficial.

Councillor Enright asked how approving the application would not benefit the community, considering the need for social housing in the area. Mr Pat Rooney explained that the benefit would be limited to one family, not the entire community, as currently the open space served the whole community and although he acknowledged the need for social housing, this site was not suitable.

Councillor Finnegan disagreed, stating that this application should be evaluated as a mathematical exercise since it only occupied 3% of the total open space. Mr Pat Rooney said that for it to be considered a mathematical exercise, it needed to be evaluated based on the on-the-ground reality and how the entire area functioned.

In response to a query from Councillor Finnegan on the legal obligations if the decision were overturned, Mr Peter Rooney reiterated the Policy, explaining that building on open space was permissible only when substantial community benefit justified overriding the Policy.

Councillor Hanna inquired about the suitability of the current family accommodation for adaptation, and whether funding would be available should the decision be overturned. Ms Collins confirmed the current premises was unsuitable for adaptation and expressed hope for prioritisation due to exceptional circumstances with regard to funding.

Councillor Hanna also questioned the designated purpose of the green space and community consultation. Mr Pat Rooney confirmed it was mainly for children's play and dog walking and noted local community objections to the planning application.

Councillor Tinnelly asked whether positioning in the lower open space, with less visual impact on neighbours, had been considered. Mr Fox said the parking loss there would be too

significant and Mr Pat Rooney added that the planning recommendation for refusal would remain due to the loss of open space.

After extensive debate and discussion, Councillor D Murphy proposed a site visit and this was seconded by Councillor Finnegan. The proposal was put to a vote by way of a show of hands and voting was as follows:

FOR:	12
AGAINST:	0
ABSTENTIONS:	0

The proposal was declared carried.

AGREED: **On the proposal of Councillor D Murphy, seconded by Councillor Finnegan it was agreed a site visit should be carried out.**

(6) LA07/2023/2773/O

On agenda as a result of the Call-In Process

Location:

Lands North of 49 Bridge Road, Burren, Warrenpoint

Proposal:

Infill dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Mr Keane presented his report, which included site location plans, images from various angles of the application site, and the reasons for refusal. He noted that no objections were received and cited satisfactory responses from statutory consultees. He outlined the policies considered for the application were PPS 21 CTY 8, however, when the Agent was informed that the application contradicted these, it was requested to be evaluated under CTY 2A.

Mr Keane believed the application failed to meet 5 of the 6 necessary criteria for consideration as the rath that the Agent mentioned had no relevance to the case, as it is not classified as a building or facility. He advised that an extensive history search had been conducted, revealing warehousing and extensions, but no permissions for a meeting hall. Therefore, planning's opinion was that no community facility or building existed.

Speaking rights:

In support:

Mr Colin Dalton spoke in support of the application and aimed to address some of the points raised by Mr Keane. He stated that he disagreed with the visual entity stating that there were 17 buildings which included 6 dwellings, out houses, sheds and various businesses, and stated the cluster was easily identified from all approaches.

He referred to the Planning Appeals Commission (PAC) decision on application 2014/A0245, where the Commissioner noted that when traveling past a cluster from all directions, there was recognition that the cluster of developments formed a visual entity in the local landscape.

