

NEWRY MOURNE AND DOWN DISTRICT COUNCIL

Minutes of Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 10 July 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 G Hanna
Councillor M Larkin Councillor D McAteer
Councillor S Murphy Councillor M Rice

Officials in attendance: Mr Pat Rooney, Principal Planning Officer
Ms A McAlarney, Senior Planning Officer
Mrs S Kieran, Democratic Services Officer
Mrs N Stranney, Democratic Services Officer

In attendance via teams: Ms S Taggart, Democratic Services Manager (Acting)

P/055/2024: APOLOGIES AND CHAIRPERSON'S REMARKS

Apologies were received from Councillors Finnegan, King and Tinnelly and Mr C Mallon, Director of Economy, Regeneration & Tourism; Mr J McGilly, Assistant Director of Regeneration and Mr Peter Rooney, Head of Legal Administration.

The Chairperson advised that items 9 and 17 had been deferred to a future date.

P/056/2024: DECLARATIONS OF INTEREST

There were no declarations of interest.

P/057/2024: 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.

Items 6, 7, 8 and 9: Cllrs Campbell, Hanna, Larkin, McAteer, D Murphy and S Murphy attended the site visits on 20 June 2024.

MINUTES FOR CONFIRMATION

**P/058/2024: MINUTES OF PLANNING DEVELOPMENT COMMITTEE MEETING
WEDNESDAY 12 JUNE 2024**

Read: Minutes of Planning Committee Meeting held on Wednesday 12 June 2024. **(Copy circulated)**

AGREED: On the proposal of Councillor Campbell seconded by Councillor Hanna, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 12 June 2024 as a true and accurate record.

FOR DISCUSSION/DECISION

P/059/2024: **ADDENDUM LIST**

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 10 July 2024. **(Copy circulated)**

AGREED: On the proposal of Councillor Hanna, seconded by Councillor Murphy, it was agreed to approve the officer recommendations in respect of the following applications listed on the Addendum List for Wednesday 10 July 2024:

- **LA07/2022/0128/F** - 147 Kilkeel Road Annalong - Erection of 7 Residential Dwellings comprised of 2no semi-detached, 5no detached dwellings. Provision of hard and soft landscaping including communal amenity space. Provision of in-curtilage car parking spaces and all associated site works
APPROVAL
- **LA07/2023/2534/O** - 22 Rathmore, Warrenpoint, Newry, BT34 3SF - Proposed New Dwelling and Access to existing garden area.
APPROVAL
- **LA07/2023/3395/F** - 51 Hearty's Folk Cottage, Lurgan Road, Newry, BT35 9EF - Proposed holiday park to include 17 no. chalets, parking, landscaping, open space, access and ancillary site works (Amended description)
APPROVAL
- **LA07/2023/3639/F** - Lands located within the Invest NI Business Park, approximately 150m east of Modern Tyres, at 18 Derryboy Road, Newry, BT35 6QJ - Erection of manufacturing facility for the production of paper/corrugated fibreboard products to incorporate dispatch and storage areas, waste room, office and welfare facility, car/lorry parking, turning and loading areas and associated boundary treatments and site works
APPROVAL
- **LA07/2023/2848/F** - Downshire House, 22 Merchants Quay, Newry - Change of use from apartments to dental surgery on rear wing of second floor and retention of external escape staircase (from first to second floor) at rear of existing building.
APPROVAL

DEVELOPMENT MANAGEMENT

P/060/2024

**PLANNING APPLICATIONS FOR DETERMINATION
(WITH PREVIOUS SITE VISITS)**

(1)

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

The Chairperson advised that a site visit took place on 20 June 2024 and as per the operating protocol, no additional speaking rights were allowed for this application.

Applicant Shane O'Neill was present to address any questions.

Powerpoint Presentation:

Mr Pat Rooney presented his report, which included site location plans, images from various angles of the application site, and the reasons for refusal. He outlined the application was initially assessed under CTY 8 of PPS 21. However, when the Agent was informed that the application contradicted these, it was requested to be evaluated under CTY 2A.

Councillor McAteer queried the status of the hall and whether LPS had clarified same. Mr Rooney advised that the Case Officer had carried out an extensive history search, revealing warehousing and extensions, but no permissions for a meeting hall and that Planning had no official confirmation of the status of the building.

Mr Rooney explained that the issue around the proof of community facility was only one issue and to establish the planning status they would need to have secured either planning permission or a Certificate of Lawful Use or Development.

Councillor McAteer asked for the applicant to confirm if rates were paid. Mr O'Neill confirmed that the church hall had recently been revalued and the church hall paid rates.

Councillor Hanna revealed that if the status of the church hall was community/voluntary that they would be exempt from paying rates.

Councillor Larkin proposed to accept the officer's recommendation, and this was seconded by Councillor Hanna.

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

FOR:	4
AGAINST:	1
ABSTENTIONS:	2

The proposal was declared carried.

AGREED: On the proposal of Councillor Larkin, seconded by Councillor Hanna it was agreed to issue a refusal in respect of planning application LA07/2023/2773/O supporting the officer recommendation as contained in the Case Officer Report.

(2) LA07/2023/3054/F

On agenda as a result of the Call-In Process

Location:

Lands opposite 2-6 Drumee Drive, Castlewellan

Proposal:

Proposed single storey dwelling

Conclusion and Recommendation from Planning Official:

Refusal

The Chairperson advised that a site visit took place on 20 June 2024 and as per the operating protocol, no additional speaking rights were allowed for this application.

Sinead Collins from NIHE was present to address any questions.

Councillor Hanna proposed to accept the officer's recommendation, and this was seconded by Councillor Campbell.

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

FOR:	6
AGAINST:	0
ABSTENTIONS:	0

The proposal was declared carried.

AGREED: On the proposal of Councillor Hanna, seconded by Councillor Campbell it was agreed to issue a Refusal in respect of planning application LA07/2023/3054/F supporting the officer recommendation as contained in the Case Officer Report.

(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

The Chairperson advised that a site visit took place on 20 June 2024 and as per the operating protocol, no additional speaking rights were allowed for this application.

Mr Gerry Tumelty was present to address any questions.

Powerpoint presentation:

Ms McAlarney explained the application details, citing a Planning Appeals Commission decision in a similar case. She highlighted that the recommendation for refusal was due to the lack of a substantial and continuously built-up frontage, which would result in ribbon development.

Councillor Larkin remarked on the Planning Appeal mentioned in the officer's report, stating that it was not comparable to the current situation. After visiting the site, he noted that the conditions on the ground differed and, in his view, the proposal complied with the policy. Consequently, he proposed overturning the recommendation and granting approval. Councillor Hanna seconded the proposal, agreeing that there was a clear continuous frontage.

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

FOR:	6
AGAINST:	0
ABSTENTIONS:	0

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 LA07/2023/3063/O contrary to officer recommendation as contained in the Case Officer Report.**

Planning Officers be delegated authority to impose any relevant conditions.

(4) 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

This item was deferred to a future date

DEVELOPMENT MANAGEMENT

P/061/2024

PLANNING APPLICATIONS FOR DETERMINATION

(1)

LA07/2023/3492/O

Location:

Immediately north-west of 102 Tullybrannigan Road, Newcastle

Proposal:

Renewal of previously approved application for an Infill dwelling - LA07/2020/0655/O

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

Ms McAlarney detailed the application using a site layout plan, noting that it was a renewal. She informed the members that two objection letters had been received from the same individual. All consultee responses had been received, and there were no objections. She explained that the application had been assessed against policy CTY 8 of PPS 21 and found to be compliant as it was a gap site within a continuous built-up frontage. The Planning Department recommended approval.

Speaking rights:

In Objection:

Mr Andy Stevens spoke on behalf of Tullybrannigan Road residents who had opposed site development since 2013. He asked the committee to evaluate using the current evidence, including recent decisions and objections. He highlighted that the previous decisions had not considered the "Building on Tradition" Guide, which was crucial for Northern Ireland's countryside. He stated that the three key points were:

- No certificate of lawfulness or planning permission existed for the building to the west.
- Without legal recognition, the outbuilding couldn't be part of the continuous built-up frontage.
- The building to the west didn't contribute to the continuous frontage as it lacked a plot and was screened by vegetation.

Mr Stevens suggested the committee should conduct a site visit to understand the building's lack of contribution to the continuous frontage and the site's role as a visual break

In Support:

Mr Declan Rooney spoke in support of this application and reminded Members that this was for renewing permission for an infill dwelling at 102 Tullybrannigan Road, which had been recommended for approval by the Planning Department. The proposal met the criteria of CTY 8, 13, and 14 of PPS 21.

He stated that in 2020, an application was approved for an infill dwelling as it met the rigorous tests of CTY 8, 13, and 14. In October 2023, the applicant sought to renew this permission, with no changes in policy or site characteristics since then. The Planning Department agreed that the proposal still met CTY 8 requirements with the site being part of a substantial and continuously built-up frontage, fitting within the buildings along the road, and reflecting a strong development pattern. This made it a suitable gap site under CTY 8.

In response to the objector's comments regarding the nearby building not complying with CTY 8, Mr Rooney stated the building had been on-site for over 20 years, making it lawful and immune from enforcement. Previous appeals cited by the objector involved disputes over the lawfulness of buildings, which was not the case with this application. He advised that the Planning Appeals Commission had supported the interpretation, confirming that a building immune from enforcement counted towards a substantial and continuous built-up frontage. Therefore there was no policy distinction between main and subordinate buildings if they had road frontage.

Mr Rooney outlined that the site was considered part of a substantial, continuously built-up frontage, therefore making it suitable for an infill. The proposal could accommodate up to two dwellings, respecting the existing development pattern in terms of size, scale, siting, and plot size. Therefore, the proposal conformed with CTY 8, and he requested the Planning Committee approve the application.

Councillor Hanna proposed to accept the officer's recommendation, and 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:	5
AGAINST:	3
ABSTENTIONS:	0

The proposal was declared carried.

AGREED: **On the proposal of Councillor Hanna, seconded by Councillor McAteer it was agreed to issue an approval in respect of planning application LA07/2023/3492/O supporting the officer recommendation as contained in the Case Officer Report.**

Planning Officers be delegated authority to impose any relevant conditions.

(2) **LA07/2022/1777/F**

Location:

75m SE of 169 Longfield Road, Forkhill, Newry

Proposal:

Erection of 2 agri sheds for the storage of machinery and animal feed. Provision of a hardstanding and underground wash water tank to facilitate washing agri machinery. Underground tank to be a precast concrete tank constructed and installed as per NAP requirements

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Mr Pat Rooney made use of a power point presentation to highlight the detail of the application alongside some aerial photos of the site. He advised that the site was located outside any settlement limits as defined within the Banbridge/Newry and Mourne Area Plan

2015 and was situated within an Area of Outstanding Natural Beauty (AONB), close to a designated Local Landscape Policy Area.

He highlighted that the proposed site was located on the edge of a fast, busy section of the public road, along which there had been a recently constructed access point that led to the main area of the application site, set back from the road and located within an agricultural field.

He stated there were concerns regarding the proposed access arrangements to serve the site in the context of PPS 3 stating the main area of concern was the nature of the proposed access arrangements. He confirmed that DFI Roads had raised concerns that visibility splays of 2.4 x 120 metres would be required and stated that a site inspection confirmed that the existing visibility was extremely limited, therefore much improved splays would be required to provide a safe access to the site.

He referenced communication from the Agent that referred to Article 80 approval and other applications previously approved and reiterated that Article 80 approval was for means of access to a field for agricultural purposes, i.e. a field gate. As this application was deemed to be in relation to a farm business requiring Planning Permission, such accesses (Article 80) did not constitute permitted development and therefore, all access standards were required to be in line with DCAN 15. He advised that the application was deemed as new development for the policies in PPS 3 (item 5.13, sub note 4), therefore a field gate was not an access and visibility splays would require to be amended.

In conclusion, Mr Pat Rooney advised that the Planning Department could not go against the direction of DFI Roads and the need for visibility splays.

In Objection

Mr Jason Killen, DFI Roads, advised that he had visited the site and confirmed that on review the required visibility splays had been relaxed to 2.4 x 80 in both directions and due to the speed and nature of the road along with the possibility of cars overtaking, DFI Roads could not reduce the visibility splay any further. He stated that the Agent's submission stated there was currently 2.4 x 80 on the near side, however, on the application it showed 2.4 x 33, which had raised some road safety concerns. He further advised that while the agent had stated that DCAN 15 was only guidance, DFI Roads considered DCAN 15 to be part of the policy as PPS 3 referred to it and that all access would be assessed against it.

Speaking rights:

In Support:

Mr Brendan Quinn spoke in support of the application stating that DFI Roads were recommending refusal due to access standards that were not required. Mr Quinn confirmed he had applied for an article 80 approval for his client in the summer of 2022 and this had been granted by DFI Roads with a condition that the access was only used for agricultural purposes and confirmed that this had been constructed and was in use. He further stated that he believed that side splays were not required to the left. He believed that DFI had ultimately reversed their consideration of applications in relation to their consideration of access to Agricultural sheds and that this had occurred without any changes to PPS3 and DCAN 15 in over 20 years.

Mr Pat Rooney responded to advise Members that the key point to consider was the change in the interpretation of Policy for the applications. He said it was his understanding that previously permitted accesses, such as the one under discussion had been considered as permitted development, however DFI Roads had stated that their interpretation of the legislation within the Planning Permitted General Order and in particular article 3 had been wrong. DFI Roads were now advising that such applications were not permitted

development and in fact required planning permission. He further confirmed the Planning Department shared this view. He stated that the policy needed to be applied properly within the terms of the legislation and confirmed that the Planning Department had received legal advice stating such applications now required planning permission with the splays required by DFI needing to be achieved at the application site.

In response to a query from Councillor Larkin, Mr Quinn confirmed that the applicant had taken steps to provide 2.4 x 80 splay in one direction but was unable to do so on the other as he did not own the lane, and further reiterated this was the first time in 25 years that he had ever been asked for visibility splays for farm buildings.

Following a further query from Councillor Larkin, Mr Quinn advised that he would investigate the possibility of relocating the access point in order to be able to achieve the required visibility splays.

Following a further query from Councillor Larkin, Mr Killen expanded on the legal basis for the change of interpretation, advising that there were two parts to the change. He stated that previously Article 80 would have been applied for field gate applications but following a query from a different Council area regarding the planning legislation, it was confirmed that these types of application had to be assessed as a planning application on the classified road. He further advised that if there was a development the application had to be assessed under DCAN 15. He confirmed over the past year the policy had been applied consistently and correctly for these types of accesses.

In response to a query from Councillor McAteer, Mr Killen advised that each application would be treated on its own merit and once an application proceeded through to the planning stage it had to be assessed through the guidance notes as part of the policy. He confirmed any development on a classified road was not Permitted Development.

Councillor Hanna queried whether DCAN 15 was an advisory note, to which Mr Killen quoted the policy and confirmed that DCAN 15 was the published guidance and it had to be complied with at all times.

In response to a query from Councillor Hanna, Mr Quinn advised that there were conflicting views on DCAN 15 and stated that he had been advised that it was only advice, not policy, and the overriding policy was PPS3.

In response to the same query, Mr Pat Rooney stated that he had spoken to the Council Solicitor and had been advised that road safety issues had been highlighted in the current proposal and any overturn would be vulnerable to challenge on this basis, reiterating that any application involving road safety needed to be handled carefully. He confirmed that should a statutory body responsible for aspects of road safety be challenged, the way forward needed to be clear.

Mr Killen confirmed the application was for a new access, which required the application of PPS3 which advised the reader to consider DCAN 15 in relation to vehicular access.

In response to a query from Councillor Rice, Mr Pat Rooney confirmed it was not a change of policy, the policy was now being applied correctly in terms of applying for planning permission for applications such as the one tabled at the meeting.

After further extensive debate and discussion, Councillor Hanna proposed to defer a decision to allow for a site meeting. This was seconded by Councillor Feehan. At the request of Councillor McAteer, it was also unanimously agreed that Mr Jason Killen, DFI Roads be invited to the site visit.

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

FOR: 6
AGAINST: 2
ABSTENTIONS: 0

The proposal was declared carried.

AGREED: On the proposal of Councillor Hanna, seconded by Councillor Feehan it was agreed to carry out a site visit in respect of planning application LA07/2022/1777/F

(3) LA07/2022/1521/F

Location:

Lands at Corcreechy Road, Newry (to be accessed from Lisserboy Road)

Proposal:

Erection of new commercial store with packing lines, and ancillary offices and staff welfare facilities; new and improved parking, turning and loading areas, retention of extended yard area with the relocation of fireworks storage containers; retention of boundary walls and associated landscaping and siteworks.

Conclusion and Recommendation from Planning Official:

Refusal

This item was deferred to a future date

(4) LA07/2023/2511/O

Location:

Lands South of 32 Moneyscalp Road, Kilcoo

Proposal:

New Dwelling and associated works on a farm.

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Ms McAlarney outlined the details of the application, noted that no objections had been received and outlined, with the use of a power point presentation, detailed the supporting information including a site location plan, an aerial view of the site and photographs from various critical views of the site. She outlined the Policies that the application was judged against, CTY 10, CTY 13, CTY 14 and CTY8 of PPS 21 and outlined how the refusal recommendation had been arrived at.

Speaking rights:

In Support

Mr Nicholas O'Neill spoke in favour of the application stating why he believed the application should have been recommended for approval. He stated Ms McAlarney had advised the application did not comply with CTY 10, but queried why this was not on the refusal reasons, and further stated the property does visually link the cluster with an established group of buildings. He said there were clearly 2 existing boundaries and, in his view, CTY 13 and CTY 14 should not apply to the proposed development as the application already fully complied with CTY 10.

In response to a query from Councillor McAteer, Ms McAlarney said she wished to clarify her presentation in regard to CTY 10 in terms of both the visual linkage and clustering and confirmed that CTY 10 was not contested by the Planning Department, however the issue was CTY 13, CTY 14 and CTY 8 was the ribboning issue in terms of the siting at the roadside location.

In response to a query from Councillor Larkin, Mr O'Neill confirmed that the boundaries at the Western side and the side that fronts the road are all made of stone walls with intermittent vegetation and fences and confirmed this was typical of all the boundaries in that area.

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2023/2511/0 contrary to officer recommendation on the basis that the proposed development does comply with CCTY 10, the business had DARD business ID, the farm business had been in existence for more than 3-6 years, the farm had claimed single farm payments, no development opportunities were sold off since 2008, the site was located in low lying area of the Mourne and would integrate into the country side and in his view there will be minimal Ribbon Development. This was seconded by Councillor Larkin.

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

FOR:	6
AGAINST:	2
ABSTENTIONS:	0

The proposal was declared carried.

AGREED: On the proposal of Councillor Hanna, Seconded by Councillor Larkin it was agreed to issue an approval in respect of Planning Application LA07/2023/2511/0 contrary to Officer recommendation on the basis that the application complied with CTY 10 and the site boundaries were typical of boundaries in Low Mourne.

Planning Officers to be delegated authority to impose any relevant conditions.

ITEMS RESTRICTED IN ACCORDANCE WITH PART 1 OF SCHEDULE 6 OF THE LOCAL GOVERNMENT ACT (NI) 2014

Agreed: On the proposal of Councillor McAteer, seconded by Councillor Larkin, it was agreed to exclude the public and press from the meeting during discussion on the following items, which related to exempt information by virtue of para. 3 of Part 1 of Schedule 6 of the Local Government (Northern Ireland) 2014 – Information relating to the financial or business affairs of any particular person (including the Council holding that information) and the

public may, by resolution, be excluded during this item of business.

Agreed: On the proposal of Councillor McAteer, seconded by Councillor Hanna, it was agreed the Committee come out of closed session.

The Chairperson advised the following had been agreed whilst in closed session:

FOR INFORMATION

P/062/2024 LDP Work Plan Update

Read: Report dated 10/07/2024 from Mr J McGilly, Assistant Director Regeneration, regarding LDP: Progress – July update. **(Copy circulated)**

AGREED: On the proposal of Councillor Campbell, seconded by Councillor Larkin it was agreed to note the content of the report.

P/063/2024 Audit Report Action Plan

Read: Report dated 10/07/2024 from Mr J McGilly, Assistant Director Regeneration, regarding Audit Report – Action plan for implementations. **(Copy circulated)**

AGREED: On the proposal of Councillor McAteer, seconded by Councillor Hanna it was agreed to note the content of the report with concerns raised by Members.

P/064/2024 HISTORIC ACTION SHEET

Read: Historic action sheet for agreement **(Copy circulated)**

AGREED: It was agreed on the proposal of Councillor Hanna, seconded by Councillor Campbell, to note the historic action sheet.

There being no further business the meeting ended at 12.54 pm.

Signed: _____ Chairperson

Signed: _____ Chief Executive

NB: 20% of decisions overturned