

NEWRY MOURNE AND DOWN DISTRICT COUNCIL

Minutes of Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 7 August 2024 at 10.00am in the Boardroom Council Offices, Monaghan Row, Newry

Chairperson: Councillor D Murphy

Committee Members

In attendance in Chamber: Councillor P Campbell Councillor C Enright
Councillor A Finnegan Councillor G Hanna
Councillor M Larkin Councillor S Murphy
Councillor M Rice Councillor J Tinnelly

Officials in attendance: Mr C Mallon, Director Economy, Regeneration & Tourism
Mr J McGilly, Assistant Director Regeneration
Mr Pat Rooney, Principal Planning Officer
Ms M Fitzpatrick, Senior Planning Officer
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/065/2024: APOLOGIES AND CHAIRPERSON'S REMARKS

Apologies were received from Councillors King and McAteer. It was noted that Councillor Rice was delayed.

The Chairperson noted that Item 11 had been withdrawn due to an error on the proposal address and would have to be readvertised.

P/066/2024: DECLARATIONS OF INTEREST

There were no declarations of interest.

P/067/2024: 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 Campbell, Hanna, Larkin, McAteer, D Murphy and S Murphy attended a site visit on 20 June 2024.

MINUTES FOR CONFIRMATION

**P/068/2024: MINUTES OF PLANNING DEVELOPMENT COMMITTEE MEETING
WEDNESDAY 10 JULY 2024**

Read: Minutes of Planning Committee Meeting held on Wednesday 10 July 2024. **(Copy circulated)**

AGREED: On the proposal of Councillor Hanna, seconded by Councillor Campbell, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 10 July 2024 as a true and accurate record.

FOR DISCUSSION/DECISION

P/069/2024: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 7 August 2024. **(Copy circulated)**

AGREED: On the proposal of Councillor Campbell, seconded by Councillor S Murphy, it was agreed to approve the officer recommendations in respect of the following applications listed on the Addendum List for Wednesday 7 August 2024:

- **LA07/2023/2911/A** - 24-36 Bagnalls Retail Park Castle Street, Newry - Change the current painted signage on gable wall adjacent to car park on approach from Abbey Way to include the Irish language version of the Museum's name: Iarsmalann an Lúir agus Mhúrn
APPROVAL
- **LA07/2023/3429/F** - Warrenpoint Beach / Baths Seaview, Warrenpoint - Application is to place 2 x 20ft shipping containers on the beach to the north of Warrenpoint baths from May to September each year from 2024 – 2028 (inclusive) in order to facilitate swimmers for changing. These shipping container units are stand alone and do not require a water supply or electricity
APPROVAL

DEVELOPMENT MANAGEMENT

**P/070/2024 PLANNING APPLICATIONS FOR DETERMINATION (WITH
PREVIOUS SITE VISITS)**

(1) LA07/2023/2374/F

On agenda as a result of the Call-In Process

Location:
80 Dublin Road, Newry

Proposal:

2 x infill dwellings

Conclusion and Recommendation from Planning Official:

Refusal

PowerPoint presentation:

Ms Annette McAlarney outlined the detail of the application, noted that there were no objections from statutory consultees or from neighbourhood notifications and confirmed that the policies applied were CTY8 and CTY14 of PPS21 relating to ribbon development. She highlighted that CTY8 was a restrictive planning policy that needed a number of requirements to be satisfied, in particular that there had to be a substantial and continuously built-up frontage of three or more buildings, along a road frontage. Ms McAlarney noted the current application involved number 20 and associated garage at number 24 but highlighted that number 24 did not have road frontage, therefore the requirement of a continuously built-up frontage was not met. She further noted that the agent relied upon the original approval for number 24 being implemented, confirmed that it had yet to be implemented and therefore the Planning Department could not take that into consideration when assessing the current application. Ms McAlarney ended by noting that the access arrangements could not be recommended for approval as the paired access arrangement did not integrate with the surroundings.

Speaking rights:In Support:

Mr Tiernan FitzLarkin put forth his arguments as to why he believed that this application should have been recommended for approval, referenced a number of planning applications that had been recommended for approval by the Planning Department that he believed were similar in nature to this application and did have shared access proposals and frontage to the road, especially regarding number 24's location to the application site. He reiterated that the Case Officer report confirmed that the site benefitted from vegetated boundaries and did not rely on new planting for integration, further confirmed that this was an outline application and any concerns such as already discussed could be dealt with as the application progressed.

Councillor Hanna queried the objection regarding paired access, to which Ms McAlarney confirmed that paired access was not a common feature in the countryside but rather more common to urban areas. She advised that CTY8 stated any development must respect that of the area and development along the road frontage, which was singular access to houses.

Following a further query from Councillor Hanna regarding amending the application, Ms McAlarney confirmed that it was up to the applicant to amend the application in relation to site access, and that opportunities had existed for this to be done as the application had progressed through to this stage.

Mr Scally interjected to remind Members of the examples he had previously mentioned and confirmed that at least 2 of them were situated along a 1KM stretch of same road as this application, and they made use of a paired access.

Councillor Larkin queried the impact on the road frontage should the approved planning application for number 24 be approved, to which Mr Scally confirmed that should this application be implemented, curtilage along the road would be confirmed and CTY8 would be met.

Following the discussions, Councillor Hanna proposed to overturn the officer's recommendation for the following reasons:

- He believed that the application did meet the road frontage requirements of CTY8
- He noted that the Committee had previously approved applications that had considered the access to a property as road frontage, which he believed was the case for this application in relation to number 24, therefore the road frontage was achieved.
- He confirmed that he saw no issue with the paired access, and noted this was not uncommon along the Crawfordstown Road.
- He noted this was an outline application and that the house design would require minimal cut and fill, and any further conditions could be incorporated as the application progressed, to ensure integration into the area.

This was seconded by Councillor Larkin who confirmed that he believed any integration issues could be overcome at the reserved matters stage, and further confirmed his belief of paired access being found in the countryside.

Prior to the proposal being put to a vote, Mr Pat Rooney wanted to urge Members to be cautious prior to reaching a decision as he believed that the Planning Department's main concerns had not been addressed during the discussion to date, that being that the required road frontage had not been met. He urged Members to further explore if the required number of buildings had been achieved.

Councillor Hanna responded by stating that he saw three buildings with road frontage when he accepted number 24's access as road frontage.

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 LA07/2023/2051/O contrary to officer recommendation as contained in the Case Officer Report.

Planning Officers be delegated authority to impose any relevant conditions.

(3) LA07/2021/2010/O

On agenda as a result of the Operating Protocol and Scheme of Delegation.

Location:

Approx. 100m west of 42 Crawfordstown Road, Downpatrick

Proposal:

Farm Dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

PowerPoint presentation:

Ms McAlarney highlighted that this application had been recommended for refusal in June 2022 but was then deferred to allow officers an opportunity to reconsider the application. She advised that no new information had come forward, therefore the Planning Department had to proceed with the application as submitted. She noted that as the application was for a farm dwelling the relevant policy was CTY10, noted that DAERA had been consulted and confirmed that the farm business had been established in 2005 but that it didn't currently claim any subsidies. Ms McAlarney advised that evidence had been requested by the Planning Department, as per policy, to confirm that the business was currently active. She further confirmed that the agent had referenced the past approvals for a farm dwelling on the site since 2016 but confirmed that these had lapsed and therefore carried no material weight in the determination of this application.

Ms McAlarney further confirmed that in relation to policy, certain requirements had to be met, those being

- an active and established farm for 6+ years
- no evidence of development opportunity sold off from the farm holding
- the application would be required to achieve visual linkage with existing buildings.

Ms McAlarney confirmed that none of these criteria had been met, and further noted that in relation to CTY13 integration into the landscape, the application site was devoid of any farm holdings and therefore was not met.

Speaking rights:

In Support:

Mr Gerry Tumelty confirmed the details as presented by Ms McAlarney in relation to dates and previous planning permission, advised that the applicant was an aged woman, and that the property was to pass to her disabled granddaughter. He noted the previous planning approval of 2019 had a restrictive requirement of a full application deadline of one-year, which Mrs Jinkinson had not read fully. He stressed that the applicant was a vulnerable woman who had been isolating during the pandemic and was therefore unable to contact an architect to discuss designs, and had she done so there would be a dwelling there now.

Councillor D Murphy queried whether the site for this application was the same as the previously approved applications, and if so, why the previous approval and subsequent renewal permissions had all been granted given the circumstances for refusal.

Ms McAlarney advised that it was the same site and at the time of previous approvals there was an active farm business, and confirmed that when the Planning Department consider renewals, they assume that the primary principles had been met for the application.

Following a query from Councillor Campbell regarding the operating protocol during the Covid pandemic and whether there had been any leniencies put in place for situations such as this, Ms McAlarney confirmed that the Planning Department had still been operational during the pandemic and while the facility for submitting applications had changed, applications were still being processed.

Councillor Larkin further queried the previous approvals on the site and how the application could be compliant with CTY10 previously and was not now, to which Ms McAlarney

confirmed that the original application was considered prior to CTY10 of PPS21 being enacted and following a judicial review of farm dwellings being approved on a farm without buildings, the Department considered it unlawful to approve farm dwellings in those circumstances.

Councillor Campbell queried why the application had been renewed three times since 2010, to which Mr Tumelty noted that this was not uncommon, and it had been continuously renewed while waiting for the granddaughter to come of age for independent living.

Councillor D Murphy queried whether the applicant had considered an alternative location, and Mr Tumelty advised that there were no viable alternative sites, and noted again that had reserved matters been implemented within the required time frame there would already be a building on site, therefore the applicant was here to try to correct her misreading of the previous permission with only a one year restriction rather than three.

Councillor Larkin queried why Mr Tumelty had proceeded with the application against CTY10 when he knew the application would likely be recommended for refusal, and not submit an application against CTY6 instead.

Mr Tumelty explained that should this application be recommended for refusal, he would explore this option.

Following the discussions, Councillor Larkin proposed to accept the Officer's recommendations. 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:	7
AGAINST:	0
ABSTENTIONS:	1

The proposal was declared carried.

AGREED: **On the proposal of Councillor Larkin, seconded by Councillor Campbell, it was agreed to issue a refusal in respect of planning application LA07/2021/2010/O supporting officer recommendation as contained in the Case Officer Report.**

Councillor Rice joined the meeting during the above discussions – 11.01am

(5) LA07/2023/2956/O

On agenda as a result of the call-in process.

Location:

Lands between 34 and 36 Flagstaff Road, Newry

Proposal:

2no infill dwellings

Conclusion and Recommendation from Planning Official:

Refusal

PowerPoint presentation:

Ms Maria Fitzpatrick outlined the details of the application, confirmed that no statutory consultees had objected, and one objection had been received following neighbourhood notification. She made use of a series of images to outline the location of the application site and noted that as it was located within an AONB the relevant policy was CTY1 and CTY8. She highlighted the history of the site, in particular a previous refusal of a similar application in 2017 for similar reasons, and when the decision was appealed the PAC ruled in favour of the Council's recommendations. She confirmed that the application was recommended for refusal when considered against CTY1, 8, 13 and 14 and noted that following a recent site inspection the circumstances on the ground remained the same as the previous 2017 application.

Ms Fitzpatrick reminded Members that CTY8 was a restrictive policy which was intended to prevent the creation of, or addition to, a ribbon of development but noted the exception of a small gap site sufficient to accommodate up to a maximum of 2 houses within an otherwise substantially and continuously built-up frontage. She confirmed that the Planning Department believed that the site could house up to three developments, therefore the application failed to meet the restrictive requirement of CTY8 regarding infill dwellings, which also resulted in a failure to meet CTY13 and 14 as the site was located within an AONB and would be unsympathetic to the special character of the area.

Speaking rights:In Support:

Mr John Cole outlined his reasons for believing the application should be recommended for approval, focusing on the size of the gap site as outlined in the Case Officer's Report. He noted that within the area, the average plot size was 44.5m, and argued that if the gap site could accommodate three developments as stated by the Planning Department, the proposed developments would actually be overlapping as the total gap site was 125m, whereas the actual plot size was 92m. He further noted that in relation to the prominence of the application, the proposal location consisted of 14 differing dwellings, a large number of agricultural and industrial buildings and the undulation of the road, therefore the site would integrate into the area, unlike some of the other developments within the area that had no natural screening or fencing. He stated that due to the built-up nature of the area that he believed that this development could not be considered unsympathetic to the area.

Councillor Larkin queried the business opposite the application site, which was confirmed to be an industrial business, and following further discussion about the surrounding buildings and businesses, Mr Cole confirmed that he believed that this application would consolidate the area, not actually extend the cluster.

Councillor Larkin then queried when considering the substantial development surrounding the site, could it be argued that there was not much to protect as the area was already so built up.

Ms Fitzpatrick confirmed that the Planning Department felt that as the area was so built up that it was more important to offer some visual relief along the road and that the gap should therefore be protected.

Councillor Tinnelly queried whether the 5m access lane was in place and if not how it would affect the perception of the continuous built up frontage as he believed that it would break the frontage.

Mr Cole advised that the lane was yet to be created, but that it was common along all countryside road frontage, confirmed that it would not constitute a break as the sites would not be visible on approach from either direction, they would only be visible along the road frontage and would not result in any prominence.

Ms Fitzpatrick confirmed that the access was irrelevant when considering the site, and the Planning Department had considered the gap between the buildings either side of the gap site, and while the site itself had to be considered, the introduction of the access would not be fundamental to the proposal

Councillor D Murphy requested clarification on the point of access, to which Mr Cole stated that he listed 8 approvals that ranged from 120m – 167m between buildings, and this site was 120m which he argued fell within the range of previously approved applications.

Following the discussions, Councillor Larkin proposed a site visit which 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:	9
AGAINST:	0
ABSTENTIONS:	0

The proposal was declared carried.

AGREED: On the proposal of Councillor Larkin, seconded by Councillor Hanna, it was agreed to it was agreed to defer the item to allow for a site visit.

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

Agreed: On the proposal of Councillor Campbell, seconded by Councillor Hanna, 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. Five of Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014 – Information in relation to which a claim to legal professional privilege could be maintained in legal proceedings and the public may, by resolution, be excluded during this item of business.

Agreed: On the proposal of Councillor Campbell, seconded by Councillor S Murphy, it was agreed the Committee come out of closed session.

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

P/072/2024 LEGAL ADVICE RE A JUDICIAL REVIEW

Read: Legal Counsel's opinion was shared at the meeting.

AGREED: On the proposal of Councillor Larkin, seconded by Councillor S Murphy, it was agreed to accept the legal opinion provided.

P/073/2024 **HISTORIC ACTION SHEET**

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

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

There being no further business the meeting ended at 11.52am.

Signed: _____ **Chairperson**

Signed: _____ **Chief Executive**

NB: 25% of decisions overturned