

NEWRY MOURNE AND DOWN DISTRICT COUNCIL

**Minutes of Planning Committee Meeting of Newry, Mourne and Down District Council
held on Wednesday 6 November 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 C King Councillor M Larkin
Councillor D McAteer Councillor S Murphy
Councillor M Rice Councillor J Tinnelly

Officials in attendance: Mr C Mallon, Director of Economy, Regeneration & Tourism
Mr J McGilly, Assistant Director Regeneration
Mr Pat Rooney, Principal Planner
Ms A McAlarney, Development Manager: Planning
Ms L Jackson, Development Plan and Enforcement Manager
Mr M McQuiston, Senior Planning Officer
Ms M Fitzpatrick, Senior Planning Officer
Mr M Keane, Senior Planning Officer
Mr G Murtagh, Planning Officer
Mr Peter Rooney, Head of Legal Administration (Acting)
Ms F Branagh, Democratic Services Officer
Mrs N Stranney, Democratic Services Officer

P/091/2024: APOLOGIES AND CHAIRPERSON'S REMARKS

An apology was received from Councillor Feehan.

The Chairperson noted that item 19 had been removed from the agenda.

Councillor D Murphy congratulated Ms Annette McAlarney on her appointment as Development Manager for Planning, and these sentiments were echoed across the Chamber.

P/092/2024: DECLARATIONS OF INTEREST

There were no declarations of interest.

**P/093/2024: 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 8: Cllrs Finnegan, Hanna, Larkin, King, D Murphy & Tinnelly attended a site visit on 29 August 2024.

Item 9: Cllrs Campbell, Finnegan, Hanna, Larkin, McAteer and D Murphy attended a site visit on 19 September 2024.

MINUTES FOR CONFIRMATION

P/094/2024: **MINUTES OF PLANNING DEVELOPMENT COMMITTEE MEETING
WEDNESDAY 2 OCTOBER 2024**

Read: Minutes of Planning Committee Meeting held on Wednesday 2 October 2024. **(Copy circulated)**

AGREED: **On the proposal of Councillor Hanna, seconded by Councillor King, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 2 October 2024 as a true and accurate record.**

FOR DISCUSSION/DECISION

P/095/2024: **ADDENDUM LIST**

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 6 November 2024. **(Copy circulated)**

AGREED: **On the proposal of Councillor Hanna, seconded by Councillor McAteer, it was agreed to approve the officer recommendations in respect of the following applications listed on the Addendum List for Wednesday 6 November 2024:**

- **LA07/2021/1258/RM** - Lands to the rear of 11 Hilltown Road Newry and adjacent and south of 'Ardfreelin' Hilltown Road, Newry - Erection of 42 residential dwellings comprised of 28no. semi-detached, 14no. 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

- **LA07/2024/0541/F** - Lands at Ballydugan Retail Park, Ballydugan Road, Downpatrick, BT30 6AJ - Proposed erection of an ASDA superstore (replacement) with associated Petrol Filling Station including shop; and 4 no. retail units (replacement). Development includes car parking, service yard and all associated ancillary, site and access works

APPROVAL

- **LA07/2023/3677/F** - Lands north of Unit 2G Carnbane Gardens, Carnbane Industrial Estate, Newry BT35 6FY - Proposed 3no. light industrial units and associated site works
APPROVAL
- **LA07/2021/2043/F** - Lands 10m SW of 27 Low Road, Newry, BT35 8RH - Conversion of existing farm outbuildings to one self-catering holiday chalet, with extensions and alterations and proposed new building for the provision of toilet and wash facilities and use of adjoining land for caravan pitches (short term use) with associated landscaping and site works
APPROVAL

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

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

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

FOR DECISION

P/096/2024 COUNTRYSIDE POLICIES FOR DRAFT PLAN STRATEGY

Read: Report from Mr J McGilly, Assistant Director of Economy, Regeneration & Tourism, regarding Countryside Policies for Draft Plan Strategy **(Copy circulated)**

AGREED: On the proposal of Councillor Larkin, seconded by Councillor Hanna, it was agreed to consider comments from Members and review the final text of the enclosed draft Countryside Policies, with amendments to be brought back to a future Planning Committee Meeting.

FOR NOTING

P/097/2024 CLIMATE CHANGE POLICY

Read: Report from Mr J McGilly, Assistant Director of Economy, Regeneration & Tourism, regarding LDP Climate Change Policy. **(Copy circulated)**

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

Councillor Enright left the meeting at this point– 11.29am

DEVELOPMENT MANAGEMENT

P/098/2024 **PLANNING APPLICATIONS FOR DETERMINATION (WITH PREVIOUS SITE VISITS)**

(1) **LA07/2023/2956/F**

On agenda as a result of the Call-In Process

Location:

Land between 34 & 36 Flagstaff Road, Newry

Proposal:

2no. infill dwellings

Conclusion and Recommendation from Planning Official:

Refusal

Councillor Hanna proposed that the applicant should be afforded the opportunity to present their reasons why they believed the application should be recommended for approval, noting that the site visit had occurred some three months prior. This was seconded by Councillor D Murphy.

PowerPoint Presentation:

Ms M Fitzpatrick reminded Members of the details of the application, outlining that the application was recommended for refusal as it was contrary to Planning Policies CTY1, 8, 13 and 14, along with PPS2 NH 6 as the application was located within an Area of Outstanding Natural Beauty (AONB) and was deemed unsympathetic to the special character of the AONB. She further outlined to Members that a similar application on the same parcel of land had been refused by Council in July 2017, and an appeal had been dismissed by the Planning Appeals Commission (PAC) for the same refusal reasons as relevant to the application.

Ms Fitzpatrick stated that the gap relating to the application site was approximately 120m which could readily accommodate three dwellings with a frontage of 40m, therefore the application failed to meet the exception requirement of CTY8, and the development would add to the existing ribbon of development that defined the section of the Flagstaff Road.

Speaking rights:

In Support:

Mr Cole confirmed that there was a gap of 120m relating to the application site but stated that should three dwellings be situated within the gap, in keeping with the character of the area, each would be 44m, with the end result being two of the three dwellings would have to include the curtilage of the neighbouring dwellings. He stated that two dwellings as

proposed, one at 42m and one at 45m, would be in keeping with the character of the area. He further stated that any reasons for refusal relating to prominence should be disregarded as all the dwellings within the area were prominent and confirmed that the proposal was situated in the middle of a cluster of 14 dwellings and a number of agricultural and industrial buildings.

Mr Peter Rooney interjected at this stage to highlight that the PAC had already determined that this site was capable of siting three properties and that the situation on the ground had not changed in that regard, as highlighted within the officer's report. He further highlighted to Members that the exception to CTY8 would only apply for gaps that could accommodate no more than two dwellings.

Following this, Councillor Larkin proposed to overturn the recommendation for refusal, stating that following the site visit and having viewed the site plans, he believed that the site was only capable of holding two dwellings. He stated he believed that the proposal would not be unsympathetic to the character of the area, that it would comply with PPS2, and would comply with CTY13 and 14 with adequate planting out of the site. 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:	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 LA07/2023/2956/O contrary to officer recommendation as contained in the Case Officer Report.

Planning Officers be delegated authority to impose any relevant conditions.

(2) LA07/2023/3065/O

On agenda as a result of the Call-In Process

Location:

Site located to NE of No. 46 Slievenabole Road, Dromara, Co. Down, BT25 2HW

Proposal:

Proposed farm dwelling, access and site works

Conclusion and Recommendation from Planning Official:

Refusal

PowerPoint Presentation:

Ms A McAlarney reminded Members of the details of the application, noting that the application did not comply with CTY10 Criterion C, as the proposed siting did not visually link

or cluster with an established group of buildings on a farm and reiterated to Members that number 46 was not within the farm holding.

Councillor Larkin then proposed to accept the Officer's Recommendation, which 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:	4
AGAINST:	1
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 LA07/2023/3065/O supporting officer recommendation as contained in the Case Officer Report.

Councillor Finnegan left the meeting at this point – 11.50am

DEVELOPMENT MANAGEMENT

P/099/2024 PLANNING APPLICATIONS FOR DETERMINATION

(1) LA07/2023/2507/O

On agenda as a result of the call-in process

Location:

40m SW of 58 Kiltybane Road Newry

Proposal:

Dwelling and garage on a farm

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Ms M Fitzpatrick outlined the details of the application, confirming that no statutory consultees had raised any objections, no responses had been received following neighbourhood notifications, and the application was still recommended for refusal in line with Planning Policy CTY10, Criterion C that stated that any new building must be visually linked or sited to cluster with an established group of buildings on the farm. She stated, as the proposed site was located across the road from the existing established group of buildings, it was not considered to be visually linked to any existing buildings and would read as a stand-alone dwelling with no obvious physical or functional connection with the farm holding. She reiterated that the Planning Department's recommendation was supported by numerous PAC decisions and noted that the application had also been considered against Planning Policies CTY 8, 13 and 14.

Ms Fitzpatrick went on to outline the exceptions to the Policy, noting that the exception clause could only be applied where other sites at the farm or out-farm were not available, and confirmed that there were buildings on the farm located at Alina Road, 2 miles or 5 minutes' drive away that had not been evidenced as having been explored as an alternative site.

Speaking rights:

In Support:

Mr John Feehan outlined the reasons that he believed the application should have been recommended for approval, stating that should visual linkage be proven in line with CTY10 then all other reasons for refusal would fall and stated that a drive along Kiltybane Road alone would prove visual linkage. He noted that paragraph 5.41 of PPS21 stated that planning permission could be granted for a new dwelling even though the degree of visual linkage was either very limited or virtually non-existent due to the amount of screening vegetation and reiterated that CTY10 did not stipulate that a dwelling across a road or accessway could not be visually linked.

Mr Feehan referenced an application within another Council area that was similar to this application, and referenced the PAC decision to allow that application to be approved as the road separating the dwellings in that situation was not prominent and therefore were visually linked when travelling along the road. He then requested that the Committee consider an alternative site elsewhere on the farm, not the out farm, as the applicant had advised him that the 2-mile journey was impassable in extreme weather and therefore the Alina Road siting would not be suitable.

Councillor Larkin queried the access to the proposed site, to which Mr Feehan noted that the entrance did previously overlap with the flood plain but had been amended to avoid this.

Councillor McAteer queried whether the field to the south of the group of buildings was part of the farm holding and in the flood plain and whether an application on that site would have been approved.

Ms Fitzpatrick noted that she was unable to comment on a theoretical application and confirmed that the out farm at Alina Road could have been a suitable alternative location but noted that it had not been evidenced as having been explored as an option despite a request from the department to do so.

Councillor D Murphy queried the location of the out farm, to which Mr Feehan noted that it had been explored as an option and was rejected due to the inability to travel on the road in extreme weather conditions, and this should have been evidence enough for the Planning Department.

Councillor D Murphy then queried the visual linkage, to which Ms Fitzpatrick confirmed that the road separating a proposed site from the main group of farm buildings stopped any potential visual linkage, and that this position was supported by several PAC decisions as outlined.

Councillor D Murphy then proposed a site visit, which 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:	9
AGAINST:	0

ABSTENTIONS: 0

The proposal was declared carried.

AGREED: On the proposal of Councillor D Murphy, seconded by Councillor Larkin, it was agreed to defer planning application LA07/2023/2507/O to allow for a site visit.

(2) LA07/2023/2457/O

On agenda as a result of the call-in process

Location:

40m of 66 Silverbridge Road, Silverbridge Newry

Proposal:

Infill dwelling and detached garage under CTY8

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Mrs Fitzpatrick outlined the application, noting that the site was located outside the settlement area and was therefore assessed under PPS 21, specifically CTY 1 and CTY 8. She advised that no objections had been raised following statutory consultations and neighbourhood notifications.

Mrs Fitzpatrick highlighted that CTY 8 was a restrictive policy aimed at preventing ribbon development and allowed exceptions only in the case of a small gap site which must be capable of accommodating no more than two houses within a substantial and continuously built-up frontage. She advised that the policy stated that this must respect the existing development pattern in terms of size, scale, siting and plot size and must meet other planning and environmental requirements. She confirmed that a substantial and continuously built-up frontage for the purposes of the policy was defined as a line of at least three buildings along a road frontage with no significant development to the rear.

Mrs Fitzpatrick stated that as the site did not form part of a substantial and continuously built-up frontage and it did not meet the policy exception, stating that the proposed development would contribute to an existing ribbon of development along this section of Silverbridge Road. She stated this view was supported by the policy's subtext in paragraph 5.34, which stated that certain gaps in the countryside should be preserved as visual breaks.

Mrs Fitzpatrick continued, stating that as a result of the previous consideration and notwithstanding the lack of the required 3 buildings, the gap was taken to be between No. 66 and 72 which measured approximately 298m. She stated this could therefore accommodate a large number of houses and would not be considered a small gap sufficient only to accommodate a maximum of 2 dwellings.

In conclusion, Mrs Fitzpatrick stated that the proposal did not qualify as an exception to the policy on ribbon development and therefore was contrary to PPS 21 specifically CTY 14, criteria B and D.

Speaking rights:

In Support:

Mr Barney Dinsmore spoke in support of the application, highlighting the Planning Appeals Commission's four-step approach for assessing proposals under CTY 8:

1. Identify whether there is a substantial, continuously built-up frontage.
2. Establish whether the site is a small gap.
3. Determine if the proposal respects the existing development pattern in terms of size, scale, siting, and plot size.
4. Assess the proposal against other planning and environmental requirements, particularly regarding its integration with the rural character.

Regarding step 2, Mr Dinsmore stated that the Planning Officer's report suggested the small gap should be large enough for two dwellings that respected the existing size, scale, and plot size. He advised that these details could be addressed with conditions and considered further at the reserved matters stage and stated he was confident that the size, scale, and siting could be managed to align with surrounding development.

Mr Dinsmore commented that for step 3 the officer's report confirms that the proposal satisfied PPS 13.

In relation to Step 4 concerning other planning and environmental requirements especially PPS 14, Mr Dinsmore stated the Planning Officer had set this aside citing the inability to meet step 1—identifying a substantial continuously built-up frontage.

On the matter of built-up frontage Mr Dinsmore disagreed with the planner's assessment stating that the annotated map showed a distinct frontage of three or more buildings (numbers 64, 66, 70 and 72).

Mr Dinsmore concluded that the proposed site complied with CTY 8 as it was part of a continuously built-up frontage with at least three buildings, the gap of approximately 8 meters wide was in keeping with the existing context along Silver Bridge Road which followed the contours of the land.

He asked that the Planning Committee overturn the Planning Department's recommendation and approve the application as reasons for refusal 1, 3, 4 and 5 were unsustainable.

Following a query from Councillor Larkin regarding the frontage of the application site, a discussion ensued where Ms Fitzpatrick outlined the Planning Department's opinion of the frontages and the detail regarding the application site alongside the map for visual reference, confirming that it was the opinion of the Planning Department that there was a break in the frontage and therefore the application was not compliant with Planning Policy.

Following the discussion, Councillor McAteer proposed a site visit, which 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: 9
AGAINST: 0
ABSTENTIONS: 0

The proposal was declared carried.

AGREED: On the proposal of Councillor McAteer, seconded by Councillor Larkin it was agreed it was agreed to defer planning application LA07/2023/2457/O to allow for a site visit.

(3) LA07/2023/2516/F

On agenda as a result of the call-in process

Location:

22m NE of 54a Foxfield Road, Crossmaglen, Newry

Proposal:

2 semi-detached dwellings and 1 garage

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Mrs Fitzpatrick outlined the details of the application, stating that the application had been considered against CTY8 of PPS 21, CTY13 and 14, confirmed that no objections had been raised following statutory consultations and neighbourhood notifications and reminded Members that the site had been recommended for refusal.

Mrs Fitzpatrick highlighted the site history as LA07/2017/0893/F had been granted approval for 2 infill dwellings and another application LA07/2019/0979/F had been approved to substitute plot 1 from the 2017 application.

Mrs Fitzpatrick reminded Members of the restrictive nature of CTY8, and confirmed that while the proposed site qualified as a small gap, the application for 2 semi-detached dwellings exceeded the policy's limit of 2 dwellings for the entire gap, stating that it appeared that the site had been artificially subdivided to accommodate a third dwelling, which was contrary to the intent of the policy

She stated that the proposed semi-detached dwellings would not align with the existing development pattern in terms of size, scale and plot size and advised that the Department believed the proposal represented overdevelopment as it included excessive hardstanding, shared driveways and a large garage which would detract from the site's ability to integrate with its surroundings.

Speaking rights:

In Support:

Mr O'Callaghan stated that Policy CTY 8 of PPS 21 defined a built-up frontage as a line of 3 or more buildings along a road or lane and stated that the site in question was a gap in such a frontage, with two co-joined dwellings to the immediate southwest. He stated that officers argued that the site was only suitable for one dwelling, based on the original form of the adjacent buildings as traditional barns, however he advised that the buildings were now recognised as two separate dwellings, making it appropriate to consider two dwellings on the site.

Mr O'Callaghan stated that officers had recommended refusal, referencing previous decisions that authorised one dwelling, however, the context had changed since the previous approvals, with the adjacent site now containing two attached dwellings, and confirmed that the converted barn did appear as two attached dwellings. He further outlined that the required number of buildings was in place as per CTY8, regardless of whether an application was for separate or co-joined buildings and stated that the proposal also respected the development of the area as there were co-joined buildings on adjacent sites.

Councillor Hanna requested clarification regarding the application in relation to the two previous infills to which Mrs. Fitzpatrick clarified that plot 1 had already been developed, while plot 2 pertained to the new application to change the plan from 1 dwelling to 2 dwellings.

Councillor Hanna requested legal opinion on the matter, with Mr Rooney noting that the policy clearly allowed for 2 dwellings with the first dwelling having been completed, this application now sought to amend the approval for the second plot to a co-joined dwelling, which was essentially a third dwelling being requested.

Councillor D Murphy sought clarity regarding the original application having been granted approval for two buildings and whether it was the same applicant now requesting three dwellings.

Mr O'Callaghan explained that the original applicant had sold the plot for the second dwelling and the new applicant had requested a change of house type which was approved and given the financial cost of construction felt that a co-joined dwelling was more cost effective.

Following the discussions, 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:	9
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 LA07/2023/2516/F supporting the officer recommendation as contained in the Case Officer Report.**

(4) LA07/2023/3370/O

On agenda as a result of the call-in process

Location:

To the rear of 44 Bavan Road, Mayobridge, BT34 2HS

Proposal:

Infill dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Mr Keane noted that the site was located in the rural countryside and therefore key Planning Policies were PPS21 and CTY8 and highlighted that no objections had been raised following statutory consultations and neighbourhood notifications. He further reminded Members that CTY8 was a restrictive policy that did allow for the development of small gap sites sufficient to accommodate up to a maximum of two dwellings within a continuously built-up frontage and confirmed that it was the opinion of the Planning Department that the site was not within an otherwise continually built-up frontage as Ballykeel Road was considered to break the frontage.

Mr Keane confirmed that the Planning Department did not consider this was a gap site within an otherwise continuously built-up frontage, as continuous meant unbroken or un-interrupted and stated that it was the opinion of the Planning Department that Ballykeel Rd broke and interrupted the frontage along Bavan Rd, therefore there was no continuous frontage

Mr Keane highlighted a number of PAC decisions whereby the Commissioner ruled that a road did break the frontage, alongside the examples submitted by the agent in support of the application, confirming that these had all been considered by the Planning Department when processing the application.

Speaking rights:

In Support:

Mr Martin Bailie outlined why he believed that the application should have been recommended for approval, stating that the test of frontage was while traversing the public road and stated that a driver would be unaware of the Ballykeel Road until next to it. He further referenced a number of PAC decisions that had ruled that a road did not break the frontage. He stated that the application site was situated in an already built-up area and would not be prominent as it was surrounded by a large farm to the rear with mature hedges and trees to the boundaries. Mr Bailie then referenced the planning history of the site, stating that there had been no mention of prominence when those applications were being considered, but did advise that he was aware of the change in policy relating to CTY8.

Councillor Larkin queried the consideration given to the topography of the road and the weight applied to this when considering the application, to which Mr Keane noted that the Ballykeel road did break the frontage, and the topography and alignment of the Bavan Road drew the person's awareness to this break and that the site was effectively at a crossroads

Councillor Larkin then queried what the three or more buildings as required by policy were, to which Mr Bailie referenced the nearby farm complex that hosted a number of buildings and stated that the proposed application added to the character of the area

Councillor Tinnelly confirmed with the applicant that there were PAC decisions submitted to the Planning Department that ruled a road was not considered a break in frontage and further queried of Mr Keane that the Planning Department had given equal weight to each ruling of the PAC in support of and in objection to a road being considered a break in frontage.

Mr Keane advised that all relevant material considerations had been considered by the Planning Department, including the information submitted by the agent, the PAC decisions referred to by the agent and other relevant PAC decisions, and further outlined the detail of each of the 4 PAC decisions referred to by the agent, where one was in relation to a private driveway and not a public road, another had been overturned by a Planning Committee in this Council area having been recommended for Refusal, and 2 further rulings did not take into consideration the issue of the road as it had not been raised by that Authority.

Councillor McAteer then proposed a site visit to allow the Committee to view the situation on the ground, 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 McAteer, seconded by Councillor Hanna, it was agreed defer planning application LA07/2023/3370/O to allow for a site visit.**

(5) LA07/2023/3151/F

On agenda as a result of the call-in process

Location:
160 Downpatrick Road, Ballynahinch

Proposal:
Proposed replacement vehicular access to dwelling

Conclusion and Recommendation from Planning Official:
Refusal

Power-point presentation:
Ms Annette McAlarney outlined the details of the application, advising that the application was for a proposed new vehicular access within an enlarged curtilage of the dwelling, with no objections raised following statutory consultations and neighbourhood notifications, and one letter of support being received. She advised the application had been assessed against Planning Policies PPS21, CTY1 and PPS 3 for roads consideration and was recommended for refusal as it was not justified in terms of need within the countryside.

Speaking rights:
In Support:

Mr Michael Smith advised the Committee that the current entrance was substandard, and the proposed entrance was an attempt to make the entrance compliant with current road safety standards. He noted that in 2018, the applicant had been involved in a road traffic collision and subsequently met with a DFI Roads representative who had recommended the entrance be located as proposed. He advised that for this stretch of road the stopping distance of a car travelling at the speed limit was some 73m and highlighted that the curve in the road did not allow for this line of sight, further stating that should the Committee approve the application, it would allow full visibility for 95m, resulting in improved road safety standards for the public and the applicant and their family.

Mr Smith then noted that the Case Officer's Report referred to the amended curtilage size in relation to an application for an extension on the property and confirmed his belief that the full curtilage was in domestic use and was within the red line of the application.

Councillor Campbell queried a recent application that had been tabled before the Planning Committee where it had been noted that DFI Roads had adjusted their interpretation of visibility splay requirements and whether this amendment had been taken into consideration here.

Ms McAlarney advised that those amendments were in relation to agricultural applications, and as such were not applicable to residential applications.

Councillor McAteer noted that the collision had occurred in 2018 and queried the delay in this application to 2024 given the alleged safety concerns of the stretch of road.

Mr Smith stated that the applicant had moved into the dwelling 6 months prior to the accident, had a young family to look after and during Covid had submitted a parallel application seeking an extension on the property.

Councillor Rice then queried if DFI Roads kept an accident record for that stretch of road, to which Mr Smith advised he was aware of two accidents on that stretch of road but stated that records kept by DFI Roads and the PSNI were incomplete.

Following a query from Councillor Tinnelly regarding the parallel application referenced by the agent, a discussion ensued regarding the impact of this application and the siting of the entrance on the parallel application, along with the impact of the curtilage enlargement between the two applications, with the outcome being that if the parallel application was for extension only and not involving the entrance way then there would be no impact. However, if the parallel application relied on the entranceway being relocated, then the application as tabled would have an impact on the parallel application.

Mr Smith then advised that the application for an extension did not depend on any alleged extended curtilage and advised that the parallel application had been assessed utilising the existing entrance therefore was not dependent on this application to proceed, stressing that this application was in relation to public safety and making the entrance compliant with current road safety standards.

Ms McAlarney then advised that the two applications were interdependent as the parallel application did show the proposed amended access and therefore one was reliant on the other, to which Mr Smith noted that the entrance had been excluded from the parallel application and therefore the two were not linked.

A further discussion ensued regarding the curtilage on both applications, with the outcome being that Ms McAlarney confirmed that regardless of the omission of the entrance way, the

two applications were linked as the curtilage boundary was differing for both applications and therefore dependent on this application being recommended for approval.

Following the discussions, Councillor Larkin proposed to overturn the officer's recommendation, stating that he believed that the application was essential for road safety reasons and believed that the red line shown was the current residential curtilage of the property.

Councillor Hanna seconded the motion, stating that a condition be applied in that the existing entrance should be permanently closed.

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 issue an approval in respect of planning application LA07/2023/3151/F contrary to officer recommendation as contained in the Case Officer Report.

Planning Officers be delegated authority to impose any relevant conditions.

Councillor Larkin left the meeting at this stage – 1.18pm

**The meeting did then recess – 1.18pm
The meeting did then resume – 1.53pm**

(6) LA07/2024/0470/F

On agenda as a result of the Call-In Process

Location:
4 Cargagh Road Annacloy, Downpatrick, BT30 9AG

Proposal:
Retention of existing granny flat with single storey flat roof extension to side

Conclusion and Recommendation from Planning Official:
Refusal

Mr Peter Rooney advised that this application was to be deferred in line with Operating Protocol as there was a live enforcement matter under consideration which was referenced in the Case Officer's Report, to allow the issue to be resolved before the application was considered.

AGREED: It was agreed to defer this item in line with Operating Protocol until such time as the live enforcement issue had been resolved.

(7) LA07/2023/2376/O

On agenda as a result of the Call-In Process

Location:

60m SW of 131 Derryboy Road, Crossgar

Proposal:

Proposed dwelling on a farm under Policy CTY10 of PPS21

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Ms McAlarney detailed the application, noting that it had been recommended for refusal following consideration against Planning Policies CTY10, 13 and 14, and confirmed that there were no objections following neighbourhood notifications and statutory consultations. She advised that the farm holding was located at 130 Derryboy Road and the proposed site was adjacent to 131, which was not part of the farm business and would not be visually linked or sited to cluster with already existing buildings on the farm, further outlining that the proposed site would add to a ribbon of development within the area.

Speaking rights:

In Support:

Mr Gerry Tumelty stated that the crux of the application relied upon an active farm business being entitled to a dwelling on the farm and noted that the farmer's son was present in the chamber who had the intention of residing in the proposed dwelling on the farm. He advised that although there was an alternative site that could be utilised on the farm, the applicant preferred not to use this as it would result in a large amount of cutting and requested that if this application was recommended for refusal, could the Planning Department suggest an alternative location for the application.

Councillor Campbell queried if the applicant had sought suggestions of other sites with the Planning Department or if it was first mentioned at the meeting today, to which Ms McAlarney advised that she was not aware of any request and that the application had to be considered as received.

Following a query from Councillor Tinnelly regarding how the Planning Department came to the conclusion that the application did not visually cluster, a discussion ensued regarding the road dissecting the farm and the implication of the road being a dissecting feature despite the farm being located on both sides of the road. Members were reminded that 131 Derryboy was not registered as part of the farm holding and therefore could not be deemed to be visually linked.

Following a query from Councillor McAteer regarding 131 Derryboy road, a further discussion ensued regarding the lands opposite 131 Derryboy Road on the same side as the farm holding as being a potential site, with the outcome being that it was a preference of the applicant not to build there as it would deprive both residents of privacy due to the orientation of the existing building.

Councillor McAteer then queried the entitlement of a farmer to have a dwelling on a farm, to which Ms McAlarney noted that there was no given entitlement to a house on a farm, it relied on compliance with Planning Policies.

Councillor D Murphy queried how much consideration was given to the alternative site as an option given that the proposal was for a bungalow and would not result in a large loss of privacy, to which Mr Tumelty advised that it was a concern of the applicant that had to be taken into consideration.

Following the discussions, Councillor McAteer proposed a site visit to allow the Committee to see the siting of the buildings on the ground. This was seconded by Councillor D Murphy.

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

FOR:	8
AGAINST:	0
ABSTENTIONS:	0

The proposal was declared carried.

AGREED: **On the proposal of Councillor McAteer, seconded by Councillor D Murphy, it was agreed to defer planning application LA07/2023/2376/O to allow for a site visit.**

Councillor Larkin rejoined the meeting during the above discussion – 2.31pm

(8) LA07/2024/0054/F

On agenda as a result of the Call-In Process

Location:

Lands to the north of 28 Crabtree Road Ballynahinch

Proposal:

Infill dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Ms McAlarney confirmed that the principle of an infill on site had been established, with permission being granted in April 2022, but advised that the issue regarding granting approval on the site lay with the bulk and scale of the proposed dwelling. She confirmed to Members that during the processing of the application the Planning Department had requested that the agent reduce the bulk and scale of the dwelling and confirmed that while

changes had been made, they didn't go far enough to address the Planning Department's concerns regarding this.

Ms McAlarney confirmed that the proposal was being recommended for refusal as it was deemed to have an unacceptable visual impact on the rural character, in line with CTY13 and 14.

Speaking rights:

In Support:

Mr. Scally stated that the reasons for refusal were related to Integration, Design, and Rural Character, with the Planning Department asserting that the proposal did not meet Policy CTY 13 of PPS 21, specifically Criteria (a) and (e). Mr. Scally noted that the Case Officer's report confirmed the front elevation design was acceptable, and the main concern of the Planning Department related to the impact of the rear returns, stating that he believed the appearance of the property from Crabtree Road was appropriate as it integrated with the area.

In relation to prominence, Mr. Scally referenced Paragraph 5.81 of PPS 21, which explained that the impact of a new building on rural character should be assessed from critical viewpoints such as public roads and rights of way, stating that the site was only visible from Crabtree Road, where it was screened by existing and approved buildings and mature vegetation.

Following a query from Councillor D Murphy regarding the proposed cut, a discussion ensued regarding the required cut and the proposed bulk of the dwelling on site, the outcome of which was Ms McAlarney confirming that the proposed cut was not the issue, rather the Planning Department's concerns related to the bulk of the dwelling on the site, which she believed could have been reduced to work better than what had been proposed. She further confirmed that the proposed house type would require a more extensive excavation on site, whereas a modified design would not require such a significant cut.

Following this, Mr Scally stated that the depth of the cut on the approved land was 5.7m while the proposed cut was just under 5.6 metres so was slightly less in depth, and further explained that although the plans may appear to show a deeper cut due to the building's design the actual level of excavation required was similar.

Following the discussions, Councillor Hanna proposed to overturn the refusal recommendation, stating that the design of the houses within the area were larger than the proposed application and therefore the application would integrate well, and stated that the level of cut was acceptable. 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:	8
AGAINST:	1
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 LA07/2024/0054/F contrary to officer recommendation as contained in the Case Officer Report.

(9) LA07/2023/3259/F

On agenda as a result of the Call-In Process

Location:

Between 116 - 118 Finnis Road, Dromara, Dromore, BT25 2HT

Proposal:

Dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Ms McAlarney outlined the details of this application, confirming no objections had been received following statutory consultations and neighbourhood notifications. She advised that the application was assessed against CTY 8 of PPS21, reiterating to Members the restrictive nature of CTY8 following the High Court ruling. She confirmed that the application complied with policy in that it met the requirement of a substantial and continuously built-up frontage, however as the gap was 103m, it failed to meet the exception requirement of CTY8 and could accommodate more than two dwellings without disrupting the existing settlement plan. She further advised that the gap was considered by the Planning Department to be an important visual break that contributed to the rural character of the area, and as the site was located within an AONB the applications failure to integrate into the landscape was another key reason for the recommendation for refusal.

Speaking rights:

In Support:

Mr Starkey outlined why he believed the application should have been recommended for approval, noting in particular the 103m building to building gap as assessed by officers and considered against the 96m site frontage stating that the frontages of No. 118 (50m) and No. 116 (40m) were smaller, and while the proposed 38m frontage aligned closely with No. 116, the site size of 1,615sqm was consistent with neighbouring properties, making the proposal in keeping with the built form.

Mr Starkey further explained that while the site lacked significant existing vegetation, CTY13 did not require established boundaries for integration, stating that the proposal would blend well with nearby development benefiting from the mature hedge at No. 118 and the site's slope.

Mr Starkey stated that the proposed ridge height of 6.5m was appropriate, advising that Officers had incorrectly identified the neighbouring dwellings as single storey when they

were 1.5 storeys with ridge heights between 6.2m and 6.5m and confirmed that the proposed dwelling was modest in scale and comparable to the surrounding properties.

Following a query from Councillor D Murphy, a discussion ensued regarding the 103m gap, the peculiar shape of the site and the impact of fitting two or three dwellings into that, the outcome of which was Ms McAlarney confirming that for the purposes of Policy, the measurement required was that of building to building on either side of the gap site and was the pertinent measure in terms of assessing the number of dwellings a site could accommodate and while the application site would differ as it was drawn, the gap was the important measure in terms of Policy.

Following a further query from Councillor D Murphy regarding the shape of the application site and if a second dwelling would be contorted in size and whether this was taken into account by the Planning Department, Ms McAlarney highlighted the restrictive nature of CTY8 and confirmed that one of the two dwellings if approved would be a contorted size and would not respect the development pattern of the area, hence the recommendation for refusal.

Mr Starkey then stated that the PAC had repeatedly advised that it was not a mathematical exercise when considering planning applications, further stating that common sense should prevail in situations such as this where it was clearly not possible to accommodate two dwellings on the unusually shaped application site, regardless of gap size.

Councillor Hanna then proposed to overturn the application to an approval, stating that the size of the house was akin to the neighbouring property on a small gap site within a continuously built-up frontage, and would integrate well with the current houses in situ, further advising that he believed the application was compliant with NH6, PPS21 and CTY1, 8, 13 and 14.

Councillor D Murphy seconded the proposal, stating that he believed the application should be considered as submitted, and consideration should not be given to what may happen with neighbouring properties or further dwellings on the site.

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

FOR:	6
AGAINST:	2
ABSTENTIONS:	1

The proposal was declared carried.

AGREED: On the proposal of Councillor Hanna, seconded by Councillor D Murphy, it was agreed to issue an approval in respect of planning application LA07/2023/3259/F contrary to officer recommendation as contained in the Case Officer Report.

(10) LA07/2023/3521/O

On agenda as a result of the Call-In Process

Location:

Land between 16a and 22 Raleagh Road, Crossgar

Proposal:

Dwelling, garage and associated siteworks as per CTY 8 PPS21 - Ribbon Development.

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Ms McAlarney outlined the details of the application, stating that the application had been considered against CTY8, 13 and 14 and was recommended for refusal for several reasons, one being that CTY8 was a restrictive policy, and the application failed to meet the exception clause as the gap of 121m could accommodate more than 2 dwellings while still respecting the existing settlement pattern. She further outlined that previous approvals were noted on the site but had expired, and the current application was considered in light of the Duff High Court ruling that highlighted the restrictive nature of Planning Policy CTY8.

Speaking rights:

In Support:

Mr William Wallace outlined his reasons that he believed the application should be recommended as approval, confirming that the recent high court decision as referenced by the Planning Officer did show the restrictive nature of CTY8, but also highlighted conditions whereby exceptions could be made such as the development of a small gap site that was within a substantial and built up frontage and respected the existing settlement pattern, which he stated this application did, and further stated that he believed the gap site could only accommodate one dwelling, not three as stated by the Planning Department.

Councillor Larkin then queried the time delay since 2021 and confirmed if it had lapsed.

Mr Wallace confirmed that the farmer had originally sold the land to the applicant where the application approval had lapsed, with Ms McAlarney confirming that the latest application was a change of house type, which would have had a restrictive time frame alongside the expiry date of the full application.

Councillor Hanna then proposed to overturn the officer's recommendations, stating that he believed the application complied with CTY8 as the continuously built-up frontage and site layout were in line with the Policy, and that all other reasons for refusal reasons fell in light of this.

This was seconded by Councillor Larkin, who stated he also believed that the previous approvals for the same site should have been given more weight when the application was being considered.

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 Hanna, seconded by Councillor Larkin, it was agreed to issue an approval in respect of planning application LA07/2023/3521/O contrary to officer recommendation as contained in the Case Officer Report.

P/100/2024 **HISTORIC ACTION SHEET**

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

Councillor McAteer requested an update on applications that had been on the action sheet for some time.

Mr Pat Rooney noted that LA07/2019/0868/F had been tabled as an approval but following objections was now being progressed without the retail element, which was being considered by the Planning Department; LA07/2022/0309/O was still awaiting some detail to be provided by the applicant and LA07/2021/1479/F was awaiting legal advice which had been received recently and would be progressed.

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

There being no further business the meeting ended at 2.54pm.

Signed: _____ **Chairperson**

Signed: _____ **Chief Executive**

NB: 45% of decisions overturned