

NEWRY MOURNE AND DOWN DISTRICT COUNCIL

Minutes of Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 5 February 2025 at 10am 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 D McAteer
Councillor S Murphy	Councillor J Tinnelly

Committee Members in attendance via Teams:

Councillor M Larkin

Officials in attendance:

Mr C Mallon, Director Economy, Regeneration & Tourism
Mr J McGilly, Assistant Director Regeneration
Ms A McAlarney, Development Manager: Planning
Ms B Ferguson, Senior Planning Officer
Ms M Fitzpatrick, Senior Planning Officer
Mr M Keane, Senior Planning Officer
Ms P Manley, Senior Planning Officer
Miss S Taggart, Democratic Services Manager (Acting)
Ms F Branagh, Democratic Services Officer

Officials in attendance via Teams:

Mr Peter Rooney, Head of Legal Administration (Acting)

P/011/2025: APOLOGIES AND CHAIRPERSON'S REMARKS

Apologies were received from Councillors Feehan and Rice. Councillor Tinnelly was noted to be late.

Mrs McAlarney introduced Mrs Brenda Ferguson to the Committee, welcoming her to the role of Senior Officer for Development Management.

P/012/2025: DECLARATIONS OF INTEREST

There were no declarations of interest.

P/013/2025: 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 Enright, Finnegan, King, Larkin, McAteer and D Murphy attended the site visit on 08 January 2025.

Items 7, 8 and 9 - Cllrs Campbell, Enright, Finnegan, Hanna, Larkin, McAteer & D Murphy attended the site visit on 20 January 2025.

MINUTES FOR CONFIRMATION

P/014/2025: MINUTES OF PLANNING DEVELOPMENT COMMITTEE MEETING WEDNESDAY 18 DECEMBER 2024 AND WEDNESDAY 8 JANUARY 2025

Read: Minutes of Planning Committee Meeting held on Wednesday 18 December 2024 and Wednesday 8 January 2025. **(Copy circulated)**

AGREED: **On the proposal of Councillor McAteer, seconded by Councillor Campbell, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 4 December 2024 and Wednesday 8 January 2025 as a true and accurate record.**

FOR DISCUSSION/DECISION

P/015/2025: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 5 February 2025. **(Copy circulated)**

AGREED: **On the proposal of Councillor McAteer, seconded by Councillor Campbell, it was agreed to approve the officer recommendations in respect of the following applications listed on the Addendum List for Wednesday 5 February 2025:**

- **LA07/2023/2178/F** - 33 Main Street, Ballaghbeg, Newcastle, Down, BT33 0AD - Demolition Of Rear Return And Renovation & Extension To Existing Building To Provide 4 No. 1 Bed Apartments With Amenity Space. (Change Of Use Offices To Residential) Retention Of Ground Floor Ice Cream Shop.

APPROVAL

- **LA07/2024/1436/F** - Site to the SW of Cinema Complex and NE of Thomas Russell Park - Provide a sprayed concrete skateboard facility consisting of ramps and ridges including a pump track constructed from crushed aggregate, connecting the pump track and skate parks with the existing stone path around the site.

APPROVAL

DEVELOPMENT MANAGEMENT

P/016/2025: **PLANNING APPLICATIONS FOR DETERMINATION (WITH PREVIOUS SITE VISITS)**

(1) **LA07/2023/3470/F**

Previously tabled 8 January 2025.
On agenda as a result of the call-in process.

Location:

Site adjacent to and to the W of 15 Tullymacreeve Road, Mullaghbawn, BT35 9RD

Proposal:

Dwelling and attached garage

Conclusion and Recommendation from Planning Official:

Refusal

Power point presentation

Ms Fitzpatrick reminded members of the reasons for the recommendation for refusal of the application, advising that the application had been considered against numerous Planning Policies following a lack of clarity from the agent regarding the exception clause he wished the application to be considered against. She confirmed that the application did not meet any exception criteria as defined by CTY1 which outlined where permission may be granted for an individual dwelling house in the countryside along with other policies including CTY15 as the application would mar the distinction between the settlement limit and the urban sprawl. She reminded Members that the correct pathway to request an extension of the settlement limit was through a representation to the Local Development Plan Team rather than on an application-by-application basis.

Speaking Rights:

In line with Operating Protocol, no further speaking rights were permitted on this application.

Mr Barney Dinsmore was present to answer any questions Members may have had.

Councillor Larkin proposed to overturn the application recommendation to an approval, stating that following the site visit he believed that the site lay within the urban context, was bounded on two sides by the settlement limit, was situated several hundred metres inside the 30mph speed limit sign, was accessible by footpath and he didn't believe that it would mar the distinction between the settlement limit and the urban sprawl. He further stated that the design was reflective of the development within the area and would therefore not mar the Area of Outstanding Natural Beauty (AONB), but conditions could be delegated to ensure the design remained reflective of the area.

This was seconded by Councillor Finnegan.

The proposal was put to a vote by way of a show of hands vote 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 Finnegan, it was agreed to issue an approval in respect of planning application LA07/2023/3470/F contrary to officer recommendation as contained in the Case Officer Report.

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

(2) LA07/2024/0022/O

Previously tabled on 8 January 2025.
On agenda as a result of the call in process

Location:

Lands between 20 and 24 Carnalroe Road, Ballyward, Castlewellan

Proposal:

Proposed dwelling and garage and associated site works

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Ms McAlarney reminded Members of the details of the application following the recent site visit, noting that the application was recommended for refusal due to the proposed plot frontage of the application. She highlighted that the plot frontage fell below the average plot frontage of the area and was therefore not in keeping with the pattern of development of the area. She advised that the application also failed policy when considered against CTY13 as it failed to achieve a degree of integration, and CTY14 as it added to a ribbon of development, further stressing to Members that these were stand-alone Planning Policies that required consideration when making a recommendation on the application.

Speaking Rights:

In line with Operating Protocol, no further speaking rights were permitted on this application.

Mr William Wallace was present to answer any questions Members may have had.

Councillor Hanna proposed to overturn the application, stating that although Ms McAlarney referenced other planning policies, he believed that the application met the exception clause of CTY8, and that the frontage requirement had been achieved. He further stated that the dwelling would not be prominent and would be sustainable development within the area.

This was seconded by Councillor McAteer who stated that he felt the grass area adjacent to number 20 had a gate access, therefore he believed that it was a non-agricultural green space which fell under hobby space, consequently CTY8 was satisfied.

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

FOR: 7
AGAINST: 0
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 LA07/2024/0022/O contrary to officer recommendation as contained in the Case Officer Report.**

(3) LA07/2024/0275/F

Previously tabled on 4 December 2024
On agenda as a result of the Call-In Process

Location:

Land 205m SE of 7 Dunturk Road Castlewellan

Proposal:

1 ½ storey replacement dwelling and detached garage

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Ms McAlarney reminded Members that the application had been recommended for refusal inline with Planning Policies CTY3 where the dwelling to be replaced was required to exhibit characteristics of a building, CTY13 as it failed to achieve a degree of integration, and CTY14 as it added to a ribbon of development, further stressing to Members that these were standalone Planning Policies that required consideration when making a recommendation on the application. She advised that the Planning Department were of the opinion that the proposed replacement dwelling would also have a significant greater visual impact on the landscape.

Speaking Rights:

In line with Operating Protocol, no further speaking rights were permitted on this application.

Mr Barry Fletcher was present to answer any questions Members may have had.

Councillor Hanna queried if the agent had submitted evidence that the building had ever been used as a dwelling and whether the proposed dwelling would be placed on top of the existing building, or if it could be placed anywhere within the red line boundary of the application.

Ms McAlarney advised that the agent had submitted historical maps indicating a collection of buildings, but these were inconclusive as they did not indicate that the building in particular

had been used as a dwelling. She confirmed that the dwelling could be placed anywhere within the red line boundary.

Mr Fletcher stated that the building was referred to locally as “the TB house” as a family residing there many decades ago had suffered from TB.

Councillor Hanna then proposed to overturn the application, stating that he believed there were characteristics of a as evidenced by the shadow of a chimney breast, further stating that the proposal should be viewed sympathetically, and this was the best way to keep a community within the countryside.

This was seconded by Councillor Campbell who stated that he believed the dwelling showed the characteristics of a house with a chimney breast, beams, and windows within the building.

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

FOR:	7
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 an approval in respect of planning application LA07/2024/0275/F contrary to officer recommendation as contained in the Case Officer Report.**

Cllr Tinnelly joined the meeting during the above discussion – 10.32am

(4) LA07/2023/2376/O

Previously tabled on 6 November 2024
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 reminded Members of the recommendation for refusal in line with Planning Policies CTY10 as the proposal was not sited to cluster or visually link with a group of established buildings on the farm as it was situated on the opposite side of the road, adjacent to 131 Derryboy Road which was not part of the farm holding. She further advised that the application failed when considered against CTY13 as it failed to achieve a degree of integration and CTY14 as it added to a ribbon of development, further stressing to Members that these

were stand-alone Planning Policies that required consideration when making a recommendation on the application.

Speaking Rights:

In line with Operating Protocol, no further speaking rights were permitted on this application.

Mr Gerry Tumelty and Mr Woods were present to answer any questions Members may have had.

Following a query from Councillor Hanna regarding the agent’s position in relation to CTY14 and the application adding to a ribbon of development, Mr Tumelty advised that he believed this was the only suitable site and that it met farming criteria and while 131 was not in the farm holding, the applicant believed the proposal did cluster despite being positioned on the opposite side of the road.

Councillor Hanna proposed to overturn the recommendation to an approval, stating that he believed that the application would visually cluster with established buildings on the farm, and that this was a young applicant who wished to reside on his farm holding. He further stated that he believed that the proposal was compliant with CTY10 as it clustered with an existing group of buildings and was complaint with CTY13 as it would integrate into the area. He stated that he did not consider it to be contributing to ribbon development, therefore CTY14 need not be considered.

This was seconded by Councillor McAteer who stated that when moving from North to South along the road the dwelling would be sheltered from a visibility point of view, and when moving South to North that it would integrate with the existing buildings despite the road, allowing a balanced approach to the proposal which would help encourage people to remain living in rural areas.

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

FOR:	7
AGAINST:	0
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 LA07/2023/2376/O contrary to officer recommendation as contained in the Case Officer Report.**

(5) LA07/2023/3475/F

Previously tabled on 8 January 2025.
On agenda as a result of the call in process.

Location:
60m S of 68 Jericho Road, Crossgar, Downpatrick

Proposal:

Proposed new dwelling on a farm (under PPS21 CTY10)

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Mrs Annette McAlarney highlighted to Members that the application had been deferred from January 2025 committee as it had come to light that an amended plan had been submitted to the Planning Department and was not considered, therefore it had been tabled today with full consideration of the amended plan. She apologised for the oversight.

Ms McAlarney confirmed that no objections had been received following statutory consultations and neighbourhood notifications. She advised that the Planning Department were still recommending a refusal for the application as, while the proposed plan was compliant with CTY10 in that it was considered to visually link with established buildings on the farm, it had been relocated to higher ground which resulted in an increased prominence and visual impact within the area. Therefore, the application was not compliant with CTY13 as it failed to achieve a degree of integration and CTY14 as it added to a ribbon of development, further stressing to Members that these were stand-alone Planning Policies that required consideration when making a recommendation on the application.

Speaking Rights:In support:

Mr Brendan Starkey spoke in favour of the application, outlining that he believed the application did not add to a ribbon of development as the proposal did not create a linear line of development and would therefore have no detrimental change to the rural character of the area, therefore CTY14 would not be offended.

Mr Starkey advised that CTY13 did not state that a lack of integration should result in a refusal recommendation, stressing that it should be applied as a test if the site could visually integrate at critical viewpoints. He stated that the site was situated along a winding road with dense roadside vegetation and an undulating landscape which would result in only fleeting views of the site, further stressing that the quiet, rural Jericho Road carried little traffic. He further stated that the site was situated on a sloping field, bounded on three sides, and clustered with existing farm buildings all of which would help integrate the site, therefore the application was not reliant on planting for integration.

Following a request from Councillor Hanna regarding Mr Starkey's statement regarding how the application would not add to a ribbon of development, Mr Starkey referenced an extract from a 2019 appeal whereby it had been decided that a building set in a non-linear pattern to existing buildings did not create a linear pattern of development.

Following a query from Councillor McAteer, a discussion ensued regarding the new proposed positioning of the dwelling in relation to integration, floor levels and visibility from the road, the outcome of which was Mr Starkey stated that he was confident that the house would be lower than the farm buildings as the site continued uphill and was situated on a lower part of the incline, while the Planning Department stated that the site was highly visible from the road in both situations.

Mrs McAlarney further stressed that the proposal was considered by the Planning Department to be highly visible from both directions when travelling along the road, that it formed part of a linear development and although the land did rise behind the house, integration was still a concern of the Planning Department. She further stressed again that CTY13 and CTY14 were standalone policies that required consideration in their own right, and it was not enough to comply with CTY10 for an approval recommendation as evidenced by numerous PAC decisions subsequent to the 2019 decision referenced by Mr Starkey.

Councillor Hanna proposed to overturn the application to an approval, stating that he did not believe Jericho Road to be a busy road, it had roadside vegetation, and the site would not be visible unless right in front of it, that the dwelling would be positioned substantially lower than the existing farm buildings and could be conditioned with additional planting. He further advised that he believed Mr Starkey's statement regarding non-linear development and therefore the site would not add to a ribbon of development. He expressed his belief that the applicant had worked with the Planning Department as much as possible to make the application as compliant as possible, and it would be unreasonable for a young farmer not to have access to live on his own property.

This was seconded by Councillor McAteer who stated that CTY 13 was satisfied in terms of integration, adding that conditions could be delegated regarding the final design of the house.

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

FOR:	10
AGAINST:	0
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 LA07/2023/3475/F contrary to officer recommendation as contained in the Case Officer Report.

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

The meeting did then recess – 11.05am.

The meeting did then resume – 11.11am

DEVELOPMENT MANAGEMENT

P/017/2025: PLANNING APPLICATIONS FOR DETERMINATION

(1) LA07/2022/1648/O

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

Location:

Lands adjacent to 59 Culloville Road, Crossmaglen

Proposal:

Erection of mixed-use scheme – economic development (to include business/office units, light/general industrial and storage units) with a small residential development, associated site works and landscaping.

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Ms Patricia Manley outlined the details of the application, utilising power point images to highlight the red line boundary and the neighbouring development. She confirmed that the proposal had been reduced from 10 residential units to 6, and that they still had HGV access to the rear to facilitate the mixed economic use.

Mrs Manley further noted that the Planning Department were considering applications for 90 residential dwellings located to the South East of the site, and a further 46 to the North, further stressing that there were still housing zones within Crossmaglen that were yet to be developed.

Mrs Manley noted that following neighbourhood notifications, one letter of support and one letter of objection had been received. She also advised that following statutory consultees, NI Water had recommended refusal of the application, with all others offering no objection subject to conditions being met.

Speaking rights:

In Support:

Mr Colin O'Callaghan spoke in support of the application, accompanied by Mr Conor Fegan (legal counsel), Mr Michael Clarke (agent) and Mr & Mrs McArdle (applicants).

Mr Fegan argued that the recommendation for refusal was solely down to the zoning of site CM11, which was for mixed use that specified it should not include housing, which this proposal was in direct conflict with. He highlighted that despite this, it did not preclude the Planning Committee from recommending an approval, stating that policies were not like a straitjacket and did not have to be slavishly followed in all circumstances.

Mr Fegan further stated that Committee could depart from planning policies if they had a good reason for doing so, such as:

1. There was a need for housing in Crossmaglen and this would make contribution to that need.
2. This application struck the right balance of mixed use, located inside the settlement limit.

3. This application would deliver jobs and development and would be a welcome injection on investment in Crossmaglen.
4. There was broad community support, and at the pre application consultation there was overwhelming support for housing on the site.

Mr Fegan urged Members to approve permission for small amount of residential development on site, highlighting that all design and amenity concerns could be dealt with at the reserved matters stage.

Councillor Campbell queried how 6 additional houses would address the housing shortfall, to which Mr Fegan acknowledged that 6 houses would only make a modest contribution to the required housing in Crossmaglen.

Following a query from Councillor Campbell regarding the housing applications being considered, Mrs Manley confirmed that land North of the site had been granted permission for 117 units, 60 of which were still outstanding to be built; land to the South East of the site had received permission for 44 units, with further applications in progress close to Crossmaglen.

Following a further query from Councillor Campbell regarding housing, a discussion ensued regarding the Local Development Plan (LDP) that detailed zoning requirements within the area, with Mr Fegan stating that the LDP was 10 years out of date with some zoned lands not having been developed at all, therefore any housing development would be a benefit to the area.

Mrs Manley reminded Members that the Planning Department had to consider existing Planning Policies when considering applications and could not consider the hypothetical situation of what may change with regard to the LDP zoning requirements when finalised.

Following a query from Councillor Hanna, a discussion ensued regarding the economic development of the proposal, the outcome of which was it was agreed that housing in the area would have a definite impact on the type of industry that could be based there given the restricted hours of work and the potential for noise complaints, with Mr Fegan confirming that the applicant was happy to accept a condition with regard to noise pollution.

Following a query from Councillor Hanna regarding NI Water's refusal of the application, Mr Fegan stated that they had submitted a Waste Water Impact Assessment (WWIA) and had engaged with NI Water to find a solution that worked, but this could not be progressed any further without approval from the Planning Department.

Following a statement from Councillor Finnegan regarding the unfortunate situation of the LDP not being completed, Mrs McAlarney stated that it was important that the Committee be reminded that the LDP would direct development, and it was important not to step outside the LDP, as was being discussed. She highlighted that zoning within Crossmaglen as set out within the LDP stated that this area had been zoned for mixed use economic development that clearly excluded residential development.

A further discussion then ensued regarding lands zoned for housing under the LDP, and which zones had been developed and which had been left undeveloped, with Mr Fegan highlighting again that the LDP was some 10 years out of date from when originally published and argued that this gave the Committee the opportunity to consider the current housing requirement alongside this application, while the Planning Department confirmed

that it would set a dangerous precedent of eroding zoned areas should the Committee approve a proposal that was contrary to the LDP, regardless of when it was published.

Following this discussion, Councillor McAteer requested legal advice on whether the Committee could approve such a proposal, to which Mr Peter Rooney advised that it was worth repeating that the LDP was published following consultation with Members and was under consideration for update within the coming year. He highlighted that the KSR1 and CM11 zoned land clearly prohibited residential development, and should this proposal be granted it was a possibility that the residential element of the proposal could deter interest in the economic development for fear of complaints and restrictions on use.

Following a query from Councillor McAteer regarding previous approvals on the site that had not been utilised and whether this loss of commercial use would have a detrimental impact on the area, Mrs Manley advised that the current proposal fell below the threshold for economic use while Mr Fegan stated that the issue boiled down to whether the Committee felt that there were good reasons for departing from the LDP.

Councillor Campbell queried if there was evidence of broad community support given that there had only been one letter of support received, to which Mr O'Callaghan confirmed that 12 people had signed into the public event prior to the planning application being submitted. Mr Fegan further noted that this was standard for this type of event, stressing again that the applicant was happy to receive any conditions on the approval.

Following a query from Councillor Enright regarding the time taken to develop an LDP and how it could account for development 15 years in the future, Mr Peter Rooney advised that the LDP team were actively involved in preparing the new LDP in consultation with elected Members.

Following the discussions, Councillor McAteer proposed to overturn the officer's recommendations, stating that an approval would hopefully encourage future applications within CM11, with conditions to be imposed as necessary. He further stated that an approval would bring community benefit in relation to encouraging future economic development on site.

This was seconded by Councillor Enright.

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

FOR:	3
AGAINST:	7
ABSTENTIONS:	0

The proposal was declared lost.

Councillor Hanna then proposed to accept the Officer's Recommendations, 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:	7
AGAINST:	3
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 A07/2022/1648/O supporting officer recommendation as contained in the Case Officer Report.**

(2) LA07/2023/3683/O

On agenda as a result of the Call-In Process

Location:

Approx. 130m east of 6 McCleans Close, Kilcoo, Newry

Proposal:

Dwelling and garage on a farm under Planning Policy CTY10 of Planning Policy Statement 21.

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Mrs Ferguson summarised the application, noting that no objections had been received from statutory consultees, however two representations had been received relating to a P2 challenge to which the applicant submitted further evidence to demonstrate how the required access and visibility splays could be achieved.

Mrs Ferguson noted that the application had been considered against Planning Policies CTY1, 10, 13 and 14 of PPS 21 and NH5 and NH6 of PPS2. She confirmed that two criteria of CTY10 had been met, but the application failed when considered against criteria C, whereby the proposals would not be considered to cluster or visually link with an established group of buildings on a farm. She further outlined that the Planning Department could not consider the unauthorised structures in place adjacent to the proposed site as they were temporary in nature and did not benefit from planning permission or any certificates of lawfulness associated with development rights as per the Planning (General Permitted Development) Order (NI) 2015.

Mrs Ferguson confirmed that the Planning Department felt that the proposal did not constitute an exception in terms of an alternative siting away from the main group of farm buildings as there were no unique circumstances that would support this, highlighting that the submitted Health & Safety report did not contain any unique or persuasive evidence to support an alternative siting elsewhere.

Mrs Ferguson further advised that the application failed when considered against CTY13 as it failed to achieve a degree of integration and CTY14 criteria C and E as it would have a detrimental impact on the overall character of the area and stated that these were additional planning policies that required consideration in their own right in relation to the application.

Speaking rights:

In Support:

Mr Declan Rooney spoke in support of the application, supported by Mr Martin McClean, applicant, and Mr Larkin, a representative from Quantum Safety Consultancy.

Mr Rooney argued that the crux of the issue was that the Planning Department felt that the proposal did not visually link with existing farm buildings, and there was no justified health and safety reasons for locating the proposal at another location. He argued that the proposal did cluster and was compliant with CTY10 as there were farm buildings situated close to the proposal, constructed under permitted development rights. He further argued that Criteria C of CTY10 should be considered as met as the applicant had submitted a detailed health and safety report to support this, which stated that the dwelling should be located at least 100m away from the slurry tank otherwise there would be a risk to human health.

Mr Rooney further argued that CTY13 should also be considered satisfied as either site benefited from existing vegetation to help screen from public view and stated that the applicant was happy for either site to be conditioned with regard to further integration measures.

Following a request from Councillor Hanna regarding the health and safety report, a lengthy discussion ensued regarding the siting of the existing dwelling and the proposed dwelling. Mr Rooney stated that the report was provided by an organisation that was a chartered member of the Institute of Occupational Health and Safety and accredited on the Occupational Health and Safety Consultants Register, therefore not taking the report into consideration was unreasonable. While Mrs Ferguson noted that the Planning Department had considered the report and was mindful of the advice contained within, she confirmed that there was an existing dwelling already in close proximity to the farm buildings, therefore should there be serious health concerns, the siting of the existing dwelling would come into play. Mr Larkin noted that it should be best practice to have control measures in place to help alleviate risks, and distance would be the first measure.

Following a query from Councillor Hanna regarding the other locations for siting the proposal, Mr Rooney stated that the proposal couldn't be sited any closer to existing dwellings due to the potential impact on human health.

Following a query from Councillor Campbell regarding current safe distances from a slurry tank, Mr Larkin stated that in the South of Ireland the recommended distance was in excess of 100m from a slurry tank, however there were no official recommendations in the North. Mrs Ferguson noted that the Planning Department acknowledged the recommendations, however they were considered as general farm safety associated with farm holdings.

Following a query from Councillor Campbell regarding the weight applied to the existing structures, Mrs Ferguson advised that the Planning Department was not content that they met the criteria of a building in relation to planning policy as they had no planning permission or certificate of lawfulness associated with them.

Councillor D Murphy queried how to determine what was a reasonable distance from the slurry tank without official guidance from the Health & Safety Executive, to which Mrs McAlarney stated that CTY10 was the relevant planning policy as it set out guidelines regarding when health and safety concerns could override planning policy. She confirmed

that there were no unique operating scenarios that required special consideration when mixing slurry as it was considered common practice to all farms.

Councillor Hanna requested legal advice with regard to the lack of regulations in the North, to which Mr Peter Rooney noted that CTY 10 exception criteria C highlighted the consideration the Planning Committee needed to take note of in the absence of guidance from the Health and Safety Executive.

Councillor Hanna proposed to overturn the recommendation to an approval, noting that health and safety concerns should be a top priority and Council could lead the way in setting new standards, further stating that 100m was not an exceptional distance to still comply with CTY10. He stated that it would be too difficult to move the slurry tank so conditions could be delegated to ensure sustainable development within the countryside.

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:	9
AGAINST:	1
ABSTENTIONS:	0

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 LA07/2023/3683/O contrary to officer recommendation as contained in the Case Officer Report.**

Planning Officers be delegated authority to impose any relevant conditions.

**The meeting did then recess – 12.48pm
The meeting did then resume – 01.17pm**

(3) LA07/2024/0090/F

On agenda as a result of the Call-In Process

Location:

To the rear of 123b Ballylough Road, Castlewellan

Proposal:

Removal of condition 2 of planning approval LA07/2018/0995/F

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Mrs Ferguson outlined the details of the application, noting that three letters of objection had been received relating to road safety concerns for residents in close proximity to the entrance. Following statutory consultations, she advised that DFI Roads confirmed that visibility splays as previously conditioned had not been put in place.

Mrs Ferguson advised that the planning history on site was relevant to this application, noting that a previous overturn of a recommendation by the Committee resulted in a special condition being placed on the application restricting the occupants of the dwelling as follows:

The dwelling hereby approved shall be occupied only by the applicant Mr Ian Talyor, his wife and dependents and when the dwelling ceases to be occupied by the aforementioned the dwelling hereby permitted shall be removed and the land restored to its former condition.

Mrs Ferguson confirmed that there was no reasonable justification for the removal of the condition, the approval of which had since expired and there was no evidence that it had lawfully commenced. She further confirmed that the Planning Department had recommended refusal as the application was contrary to the SPPS and CTY 1 of PPS 21 in that there are no overriding reasons why this development was essential in this rural location and could not be located within a settlement. She stated that the proposal was contrary to the SPPS and CTY 6 of PPS21 which required that all permissions granted under CTY 6 – Personal and Domestic Circumstances must be subject to a condition restricting the occupation to a named individual and their dependants.

Speaking rights:In Support:

Mr Declan Rooney spoke in support of the application, supported by the applicant Mr Noel Gallagher. He argued that the occupancy condition was unnecessary as the demolition of the existing building had previously been confirmed as development by the Committee in 2019, therefore the applicant was considered to have lawfully commenced development on the site.

Mr Rooney argued that following the sale of the land in 2021 to the current applicant, the occupancy condition forbade him from living in the dwelling, therefore was requesting the Committee to overturn the Officer's Recommendation and reinforce their decision from 2019 to remove the occupancy condition development had commenced on the site prior to the planning permission expiring.

Councillor McAteer proposed to accept the Officer's Recommendation, which was seconded by Councillor Campbell.

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

FOR	4
AGAINST	4
ABSTENTION	2

The Chairperson utilised his casting vote as a result of the vote being tied, with the result being as follows:

FOR: 5
AGAINST: 4
ABSTENTIONS: 1

The proposal was declared carried.

Councillor D Murphy noted that he had amended his vote in support of the Officer's Recommendation as he did not fully understand the application.

Mr Gallagher then queried how it was possible that he be allowed to build a dwelling but not have permission to dwell within it, to which Mrs Ferguson advised that the planning permission had lapsed and therefore there was no permission in place.

Mr Rooney argued that the evidence of the foundations being laid had been sent to the Planning Department prior to the permission lapsing which gave officers the opportunity to view the site prior to the expiration of the permission, and therefore in his opinion Mr Gallagher was authorised to build and reside in a dwelling on site.

Mrs McAlarney stated that this was not the position of the Planning Department, and as the permission had lapsed the correct pathway was the submission of a CLUD to demonstrate whether the works on site were unlawful.

AGREED: **On the proposal of Councillor McAteer, seconded by Councillor Campbell it was agreed to issue a refusal in respect of planning application LA07/2024/0090/F supporting officer recommendation as contained in the Case Officer Report.**

(4) LA07/2024/0066/F

On agenda as a result of the Call-In Process

Location:

100m South of 57 Wateresk Road, Maghera, Castlewellan

Proposal:

2 storey dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Mrs Ferguson outlined the details of the application, confirming that no objections had been received following neighbourhood notifications while statutory consultees raised no objections, subject to conditions being met. She confirmed that the application site lay within the settlement limit of Maghera as defined by the Ards and Down Area Plan 2015 and was defined by a variety of dwelling types and styles within varying plot sizes.

Mrs Ferguson noted that the dwelling as proposed encompassed the entire width of the site, removing established boundary vegetation along the southern boundary to enable the dwelling to be developed. The position of the garage to the front was also considered to be at odds with the character of the area where garages were predominantly located to the side or rear of developments, which was consistently resisted within policy, such as paragraphs A11 and A12 of the addendum to PPS 7.

Mrs Ferguson confirmed that the application was recommended for refusal in line with criteria A of Policy QD1 of PPS7 – Quality Residential Environments in that the development did not respect the surrounding context and was not appropriate to the character of the area in terms of its layout.

Speaking rights:

In Support:

Mr Declan Rooney spoke in support of the application, supported by the applicant Mr Gary Brannigan. He stated that a wider view of the area should be considered when considering the character of the area, rather than those just along Wateresk Road, as he felt that there were a number of plots within close proximity to the application site that were located on more restricted plots.

Mr Rooney argued that the siting of the garage should not be a cause for a refusal recommendation, referencing a number of PAC decisions that had allowed a garage to be sited in front of a dwelling, provided that it was well screened from the street, further advising that this could be conditioned for this application.

Following a query from Councillor McAteer, Mrs Ferguson confirmed that outline approval had been granted for equally portioned plots for this proposal and an adjacent site, however the application to the North had allowed for an extension of the red line to the west and in doing so, this encompassed additional land within the site causing this site to be more restricted.

Councillor D Murphy then proposed a site visit, 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:	10
AGAINST:	0
ABSTENTIONS:	0

The proposal was declared carried.

AGREED: **On the proposal of Councillor D Murphy, seconded by Councillor Campbell, it was agreed to defer planning application LA07/2024/0066/F to allow for a site visit.**

(5) LA07/2022/1602/F

On agenda as a result of the Call-In Process

Location:

To the rear and immediately NE of 7 – 9 Queen Street, Warrenpoint

Proposal:

Proposed 4 no. 3 bedroom semi-detached dwellings with in curtilage parking with access onto Queen Street.

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Mr Keane detailed the application that was located within the settlement limit of Warrenpoint, the boundary of the town centre and also within the boundary of the Area of Townscape Character (ATC) and an AONB. He confirmed that the application was located to the rear of 7 – 9 Queen Street, with vehicular access between numbers 9 and 10 Queen Street, with further pedestrian access to the rear that opened onto Great Georges Avenue.

Mr Keane confirmed that the Planning Department had no objection in principle to residential development on the site, however the proposed development was considered to constitute over development of the site when taking account of the design, form and layout, raised finished floor levels, parking arrangements, balcony over the parking area alongside external steps. He confirmed that the Planning Department were of the opinion that the development was entirely alien to the ATC of the area and would not maintain or enhance the area. He further confirmed that there were concerns the impact of the development would have on the immediate properties in terms of overshadowing loss of light.

Mr Keane advised that zoning requirements within an ATC and AONB stated that housing proposals within these areas were required to maintain or enhance the overall distinctive character and appearance of the area, and there was a natural presumption within policy against proposals that would detract from the character of the area. He advised that these concerns had been raised with the agent and confirmed that no appropriate amendments had been made to the proposal.

Speaking rights:In Support:

Mr Barney Dinsmore spoke in support of the application, stating that the application would transform an unsurfaced, badly lit lane leading into an overgrown scrubland that was well known for anti-social behaviour into a safe, compact and sustainable residential development that would enhance the area and make a positive contribution to the townscape of Warrenpoint. He further stated that the development would respect the surrounding context, that the amenity space met published standards and that there was good access to public transport. He advised the development of the site would help to deter crime and anti-social behaviour.

Mr Dinsmore stated that at no point during the processing of the application had any concerns been raised with him with regard to the ATC or other reasons for refusal and that he was confident that all reasons for refusal under design policies could be satisfied with further engagement. He argued that the design as detailed within his application would not necessarily be the final design and was willing to engage with the department on any suitable amendments.

Councillor McAteer queried how many case officers had been involved in the processing of the application, highlighting Mr Dinsmore’s assertion that three case officers had been involved. He stated if that was the case then he believed Mr Dinsmore should be given the opportunity to engage with the Planning Department on any areas for amendment.

Mr Keane advised that the application had been submitted in October 2022, and had been progressed by different case officers, further advising that at a relatively early stage of the process, concerns had been raised regarding the density and no reduction in the proposal had ever been received. He advised that any subsequent design changes would not overcome the Planning Department’s primary concerns regarding over development, thus considered there was no merit in delaying the application further.

Mr Dinsmore alleged that he had only received one email that alluded to a concern about over development, further stating that he had never received any communication regarding any of the reasons for refusal that had been outlined by the Planning Department today.

Councillor McAteer proposed to defer the application to allow the agent to work with the Planning Department to provide further information regarding the design, scale, form and layout of the application within the ATC as discussed. This was seconded by Councillor S Murphy.

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

FOR:	10
AGAINST:	0
ABSTENTIONS:	0

The proposal was declared carried.

AGREED: **On the proposal of Councillor McAteer, seconded by Councillor S Murphy, it was agreed defer planning application LA07/2022/1602/F to allow the agent to work with the Planning Department to provide further information.**

(6) LA07/2023/2514/F

On agenda as a result of the Call-In Process

Location:
26 Station Road, Newry, BT35 8JH

Proposal:
Proposed replacement dwelling with original dwelling retained for ancillary domestic storage, gym and home office

Conclusion and Recommendation from Planning Official:
Refusal

Power-point presentation:

Mrs Fitzpatrick outlined the application, confirming that no objections or representations had been received following neighbourhood notifications and statutory consultations. She advised that the site formed a roadside plot, which included the dwelling to be replaced and additional lands to the South which were outside of the existing curtilage of the dwelling, which was where the proposed new dwelling was to be located.

Mrs Fitzpatrick utilised images to highlight that the existing dwelling had some characteristics of a rural vernacular building, including linear plan form, gable end to the road, chimney located on the ridge and door and window openings located primarily on the front and back walls. She advised that in line with Planning Policy, the dwelling did not make an important contribution to the heritage, appearance or character of the area, and the proposal did not show any physical link between the existing and the proposed dwelling, with the existing dwelling being retained in its entirety and therefore failed to be sympathetically incorporated into the layout of the overall development scheme, and as such the retained building would continue to have the appearance of a dwelling.

Mrs Fitzpatrick confirmed that the proposal was contrary to CTY13 as it failed to integrate into the area, CTY14 as it would result in a suburban style build up, and contrary to CTY 3, in that the proposed dwelling would have a visual impact significantly greater than the existing dwelling.

Speaking rights:

In Support:

Mr Murray spoke in support of the application, supported by Mrs Finnegan, applicant, advising that the intention was to refurbish and extend the existing dwelling, however this became unfeasible due to cost, so the applicant proposed a replacement dwelling adjacent to the existing dwelling with the original dwelling being retained as an ancillary structure as detailed.

Mr Murray advised that the site access points, planting and boundary would be retained to protect the area's established character and in relation to CTY3, 13 and 14 he believed that the proposal was sensitively incorporated into the existing cluster.

In relation to the curtilage, Mr Murray advised that the new building adhered to the existing farmyard boundary, with the farmyard becoming the focal point of the cluster and highlighted examples of similar clusters of domestic farmyard clusters that had been granted planning permission. He argued that the materials proposed were taken from Building On Tradition guidelines which had been approved and utilised in several areas over the past number of years.

Councillor Larkin queried the materials used and the agent's statement that he had used the proposed materials in design before, to which Mrs Fitzpatrick advised that clarification had been sought on some of the elements, including the cladding, and this along with the size, scale and massing of the design was taken into consideration during the processing of the application. She advised that if the refusal was solely due to the materials then further engagement would have been sought, however the Planning Department were of the opinion that the development was not acceptable for the area.

Following a further query from Councillor Larkin regarding the curtilage of the proposed dwelling being smaller than the existing dwelling, a discussion ensued regarding

replacement dwellings. Mrs Fitzpatrick stated that Planning Policy advised that any replacement footprint was to be placed on an existing footprint, but this wasn't possible given the proposed retention of the current dwelling.

Councillor Campbell queried whether the Building on Tradition guidelines had been considered when processing the application, to which Mrs Fitzpatrick advised that while the replacement policy was utilised, there would be two dwellings on site. Further, the justification amplification for replacement dwelling referenced innovative linkage design between the buildings, but there was no linkage proposed in this application, rather two standalone buildings.

Following a query from Councillor McAteer, a further discussion ensued regarding the vernacular aspects of the building and previous communications with the Planning Department regarding the removal of any non-vernacular elements of the proposal. It was that the Planning Department had discussed these elements with the agent, who had refused to make any amendments as it would have led to biodiversity checklists and additional surveys that would have been required. While Mrs Finnegan noted that they had refused to make the amendments as it would not have guaranteed an approval recommendation, Mrs Fitzpatrick stated that the Planning Department could not guarantee an approval until amended plans had been submitted and reviewed.

Following the discussions, Councillor McAteer proposed a site visit, which 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:	10
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 LA07/2023/2514/F 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 McAteer, 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 Hanna, it was agreed the Committee come out of closed session.

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

RESTRICTED – FOR DECISION

P/018/2025: PLANNING APPLICATION VALIDATION CHECKLISTS

Read Report from Mr P Rooney, Principal Planner, regarding Planning Application Validation Checklists.

AGREED: **On the proposal of Councillor Hanna, seconded by Councillor D Murphy, it was agreed to approve the recommendations as outlined within the Officer's Report.**

FOR NOTING

P/019/2025: HISTORIC ACTION SHEET

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

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

Following the meeting, a discussion was held regarding securing a date to attend the site visits as proposed during the course of the meeting. It was agreed that the site visits for applications LA07/2024/0066/F and LA07/2023/2514/F be scheduled for 10am on Monday 17th February 2025.

There being no further business the meeting ended at 14.49pm

Signed: _____ Chairperson

Signed: _____ Chief Executive

NB: 60% of decisions overturned