

NEWRY, MOURNE & DOWN DISTRICT COUNCIL

Minutes of the Planning Committee Meeting of Newry Mourne and Down District Council held on Wednesday 1 August 2018 at 10.00am in the Boardroom, District Council Offices, Monaghan Row, Newry

Chairperson: Councillor M Larkin

Deputy Chairperson: Councillor D McAteer

In attendance: **(Committee Members)**

Councillor C Casey
Councillor W Clarke
Councillor G Craig
Councillor L Devlin
Councillor G Hanna
Councillor J Macauley (10.00am – 11.55am)
Councillor M Murnin

(Officials)

Ms M Ward	Director- Enterprise, Regeneration & Tourism
Mr A McKay	Chief Planning Officer
Ms A McAlarney	Senior Planning Officer
Ms J McParland	Senior Planning Officer
Mr A Davidson	Senior Planning Officer
Ms L Coll	Legal Advisor
Ms C McAteer	Democratic Services Officer
Ms P McKeever	Democratic Services Officer

P/067/2018: APOLOGIES AND CHAIRPERSON'S REMARKS

Apologies were received from Councillors Harte, Loughran and Ruane.

P/068/2018: DECLARATIONS OF INTEREST

There were no Declarations of Interest received.

P/069/2018: DECLARATIONS IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL PARA. 19 – MEMBER TO BE PRESENT FOR ENTIRE ITEM

- **Item No. 11 – LA07/2015/1219/F – Malachy Burns – erection of dwelling and garage on a farm – Kilmonaghan Road, Armagh – Councillor Harte was not in attendance for the first presentation on 1 March 2017 and cannot therefore take part in the discussion/decision on this application.**

MINUTES FOR CONFIRMATION

P/070/2018: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 4 JULY 2018

Read: Minutes of Planning Committee Meeting held on Wednesday 4 July 2018. **(Copy circulated)**

AGREED: On the proposal of Councillor Clarke, seconded by Councillor Murnin it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 4 July 2018 as a true and accurate record.

FOR DISCUSSION/DECISION

P/071/2018: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 1 August 2018. **(Copy circulated)**

AGREED: On the proposal of Councillor Hanna, seconded by Councillor Craig it was agreed to approve the Officer recommendation in respect of the following Applications listed on the Addendum List for Wednesday 1 August 2018:-

- **Item 8 – LA07/2018/0190/RM** – Mrs Josephine Watson – Dwelling and garage on a farm – Adjacent to 57 Tullyree Road, Kilcoo. **REFUSAL**
- **Item 10 – LA07/2018/0841/F** – Newry, Mourne and Down Council – Proposed play park – 35m West of No. 4 Old Road, Mayobridge. **APPROVAL**
- **Item 12 – LA07/2017/0501/0** – Ms Jacqueline Magee – Proposed dwelling on a farm – Land adjacent to and East of 15 Commons Hall Road, Newry. **REFUSAL**

DEVELOPMENT MANAGEMENT – PLANNING APPLICATIONS FOR DETERMINATION

P/072/2018: PLANNING APPLICATIONS FOR DETERMINATION

The following applications were determined by the Committee:-

(1) LA07/2017/1261/0 – Mr Thomas Mageean

Location:

Site abutting 20 Junction Road, Saintfield

Proposal:

Proposed dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Sheila Curtin, Agent, presented in support of the application detailing and expanding upon her written submission that had been circulated to Committee Members.

Ms A McAlarney, Senior Planning Officer, gave a power-point presentation on the application, with supporting information including a site location plan; an aerial view of the site and photographs from various critical views of the site. She advised that the registered owner of the farm business was Mr B Mageean; the application site was on land owned by the applicant Mr T Mageean and that Mr T Mageean let his land to his brother, the farmer. Their concern was that the applicant's name had now been added to the farm business in order to achieve planning approval.

Discussion took place and it was agreed this was a very unique situation which would require careful consideration in that although the Applicant Mr T Mageean was the owner of the land on which the proposed dwelling was to be built, he had only recently been added as a registered member of the farm business, which previously was in the sole name of his brother Mr B Mageean.

Mr McKay stated that the issue of concern was not land ownership but rather the fact that Mr T Mageean's name had recently been added to the farm business. All other policy requirements remained the same i.e that the dwelling needed to be visually linked to and cluster with buildings on the farm and Mr Thomas Mageean's buildings did not cluster and were not part of the farm complex. Therefore fundamentally the planning issues had not changed.

Ms Coll, when asked for legal advice, said this was a very unusual case and that it would be prudent to take time to consider the legal implications of this application before giving advice.

AGREED: On the proposal of Councillor Clarke, seconded by Councillor Macauley it was agreed to defer Planning Application LA07/2017/1261/O to allow sufficient time for Ms Coll to explore the legal implications before giving advice to the Committee.

(2) LA07/2017/1625/F – Diane Coulter

Location:

Adjacent to 77 Leestone Road, Killeel

Proposal:

Self-Catering accommodation comprising 8 self-catering units, open space and car parking

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Diane Coulter, Agent, in support of the application.

Mr McKay advised that although this application had appeared on the Agenda, Planning officials had decided to withdraw it in order to discuss with the applicant the need for reports to be submitted from various consultees so that full consideration could be given when assessing the application.

AGREED: On the proposal of Councillor Casey seconded by Councillor Murnin it was agreed to remove this Planning Application from the Agenda.

(3) LA07/2017/1558/0 - Mr P McCormack

Location:

275m North of no. 35 Tobercorran Road, Downpatrick

Proposal:

Farm dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Kieran Gilmore, Agent, presented in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Ms A McAlarney, Senior Planning Officer, gave a power-point presentation on the application, with supporting information including a site location plan; an aerial view of the site and photographs from various critical views of the site.

In response to an enquiry from Councillor Clarke as to whether the Applicant had considered alternative sites that would be more acceptable in planning terms, the Agent replied there was a potential site located beside a number of single dwellings and farm holdings, however, the Applicant did not want to consider this as an option as he would need this site should he decide to further develop the farmyard. They had also considered applying for a replacement dwelling but Planners had said that the old dwelling was a venicular dwelling and could not be knocked down. Any re-design would mean a lot of work and expense for his client.

Councillor Craig proposed and Councillor Hanna seconded to accept the officer's recommendation to issue a refusal in respect of Planning Application LA07/2017/1558/O.

AGREED: On the proposal of Councillor Craig, seconded by Councillor Hanna it was unanimously agreed to issue a refusal in respect of Planning Application LA07/2017/1558/0 as per the information and recommendation contained in the Case Officer report presented to Committee and on the basis that the proposed site is across the road from existing buildings and there would be other more suitable sites available.

(Break 11.25am – 11.35am)

(4) LA07/2018/0480/F – Parish of Saul & Ballee

Location:

Adjacent to No. 10 S Patrick's Road, Saul, Downpatrick

Proposal:

Retention of Pastor Centre/Hall

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Michael Bailie, Agent, presented in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Speaking rights:

DEA Councillor Gareth Sharvin in support of the application.

Ms A McAlarney, Senior Planning Officer, gave a power-point presentation on the application, with supporting information including a site location plan; an aerial view of the site and photographs from various critical views of the site.

Councillor Sharvin stated that the photographs presented by the Senior Planning Officer should not be considered as they were taken from the side of the Church as opposed to the front and were therefore not a true reflection of the visual impact the pastoral centre / hall had on the listed building Church. He said that to remove the pastoral centre would have a detrimental effect to parishioners.

Councillor Devlin asked if the Historic Environment Division, Historic Buildings (HED:HB) had been opposed to the retention of the hall. Ms McAlarney replied that the HED:HB had advised that should the Council be minded to permit the retention of the hall, HED:HB would request that the condition of a two year time limit was repeated in order that a more appropriate long term solution could be considered.

Councillor Craig said whilst he understood the valuable asset the pastoral centre was to the area, policy must be adhered to and he would want to see a long term solution put in place. Councillor Clarke agreed with this.

Councillor Clarke proposed and Councillor Murnin seconded to grant a two year extension as outlined in the HED:HB report, but they stipulated that discussions should take place as soon as possible between Planning officials, HED:HB and the Applicant to ensure a more appropriate long term solution was agreed.

AGREED: On the proposal of Councillor Clarke seconded by Councillor Murnin it was unanimously agreed to issue an approval in respect of Planning Application LA07/2018/0480/F on the following conditions:

- **A two year time limit be imposed and discussions take place as soon as possible between Planning officials, HED:HB and the Applicant to agree a long term solution.**
- **It was also agreed Planning Officers be granted authority to delegate any relevant conditions.**

(5) LA07/2015/1219/F – Malachy Burns**Location:**

Lands adjacent and 40m SE of No. 39 Kilmonaghan Road, Armagh

Proposal:

Erection of dwelling and garage on a farm

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Stephen Hughes, Agent, presented in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Mr A Davidson, Senior Planning Officer, gave a power-point presentation on the application, with supporting information including a site location plan; an aerial view of the site and photographs from various critical views of the site.

Councillor Craig asked for clarification on Refusal Reason No.1 and said if the Applicant had provided evidence that no sites or development opportunities had been sold off from the farm holding within ten years of the date of the application, then this part of Policy CTY10 had been met, Mr Davidson agreed the Applicant had met this part of the policy and this therefore was not a reason for refusal.

Mr Davidson said DAERA had confirmed that the farm business had been set up in 2015 and that regardless of receipts and con acre agreements submitted by the Applicant for dates prior to July 2015, the application failed Part A of Policy CTY10 in that the farm had not been active and established for the requisite six years.

Mr Hughes said the farm business had been active prior to 2015 and that the policy only required the business must be active, it did not stipulate that a business ID number must be provided.

Councillor Larkin asked Ms Coll for legal advice on this. Ms Coll replied that legal opinion stated that a business ID number was required and evidence that the farm business had been established and active for six years.

Councillor Macauley proposed and Councillor Craig seconded to accept the officer's recommendation to issue a refusal in respect of Planning Application LA07/2015/1219/F

AGREED: On the proposal of Councillor Macauley seconded by Councillor Craig it was unanimously agreed to issue a refusal in respect of Planning Application LA07/2015/1219/F as per the information and recommendation contained in the Case Officer report presented to Committee.

(11.55 pm – Councillor Macauley left the meeting)

(6) LA07/2017/0699/0 – Brian & Laura Fealy**Location:**

130m West of No. 21 Kilkeel Road, Hilltown

Proposal:

Proposed dwelling and detached garage on a farm

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Karl Sherry, Agent, presented in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Ms J McParland, Senior Planning Officer, gave a power-point presentation on the application, with supporting information including a site location plan; an aerial view of the site and photographs from various critical views of the site.

Councillor Casey referred to the only building on the holding, and asked when it had been built. Ms McParland replied that she could not provide an exact date, however she said it was not visible in overheads in 2008/9 but it was visible in 2014. She continued saying that the building did not appear to have planning approval and it would not qualify under permitted development as this would require it to be located within 75m of another building on the farm which was not the case.

Ms McParland said the documentary evidence submitted to prove active farming over the required six years was unacceptable in that there were only complete records for 2016/17 and that although there was evidence there was a farm business ID for the required six years, both of these elements would have to be in place to satisfy the Policy.

Mr Sherry said he had provided all the information that had been requested of him and he could provide any additional information as required.

Councillor Murnin asked if the building on the holding would be regarded as one or two buildings, given it was subdivided into two separate areas.

Ms McParland replied that a single subdivided building would be regarded as one unit.

Councillor Murnin proposed and Councillor Hanna seconded to accept the officer's recommendation to issue a refusal in respect of Planning Application LA07/2017/0699/O on the basis that there was only one building on the holding and this was contrary to planning policy.

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

For: 7
Against: 1
Abstentions: 0

The proposal was declared carried.

AGREED: On the proposal of Councillor Murnin seconded by Councillor Hanna it was agreed to issue a refusal in respect of Planning Application LA07/2017/0699/O as per the information and recommendation contained in the Case Officer report presented to Committee.

(7) LA07/2017/1198/O – Terence Murphy

Location:

Opposite & immediately South of No. 40 Hall Road, Lislea, Newry

Proposal:

Farm domestic dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Terence Murphy, Applicant and John Young, Collins & Collins, Agents, presented in support of the application detailing and expanding upon the written submission that had been circulated to Committee Members.

Mr A Davidson, Senior Planning Officer, gave a power-point presentation on the application, with supporting information including a site location plan; an aerial view of the site and photographs from various critical views of the site.

Mr Young, Agent said the only reason Planning officials had given for refusal was that it had not been demonstrated the farm business was currently active, however he continued, saying it was a long established farm currently with 41 sheep, although lambing yields in previous years had not been very productive.

When asked if he could provide an up to date farm map, Mr Young replied that the applicant was not eligible to claim the Single Farm Supplement payment as the extent of his farm was .39 of one hectare short of the required size to be in receipt of the Single Farm supplement and consequently he was not in possession of an up to date farm map.

Mr Davidson said on a recent site visit to the farm, there were no visible signs of active farming. Mr Young advised that the Applicant has mountain grazing rights and therefore this would have been a plausible reason for Mr Davidson to assume there was no farm activity.

Discussion took place regarding the evidence that had been submitted. Mr McKay said the recommendation for refusal had been based on the evidence that had been submitted and the late information that had been received by Democratic Services within the last week had not been considered. He did, however, recognise that the level of farming activity could fluctuate from year to year.

In reference to obtaining evidence of accounts from a farm shop that the Applicant had previously been in possession of, Mr Young replied that it might be difficult to get suitable invoices as proof of farming activity.

Mr Davidson referred to two buildings on the site that did not appear to have any planning permission and said clarification would need to be sought as to the ownership of these buildings.

Councillor Hanna proposed and Councillor Craig seconded to accept the officer's recommendation to issue a refusal in respect of Planning Application LA07/2017/1198/O.

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

For: 7
Against: 1
Abstentions: 0

The proposal was declared carried.

AGREED: On the proposal of Councillor Hanna seconded by Councillor Craig it was agreed to issue a refusal in respect of Planning Application LA07/2017/1198/O as per the information and recommendation contained in the Case Officer report presented to Committee.

(8) LA07/2017/1326/F – P Morgan

Location:

30m South of 28 Bog Road, Kilcoo, Newry

Proposal:

Dwelling and garage on a farm

Conclusion:

Refusal

Speaking rights:

Ewart Davis, Agent and Ryan Morgan, Applicant's son presented in support of the application detailing and expanding upon the written submission that had been circulated to Committee Members.

Ms A McAlarney, Senior Planning Officer, gave a power-point presentation on the application, with supporting information including a site location plan; an aerial view of the site and photographs from various critical views of the site.

Councillor Larkin referred to the late information regarding the proposed re-siting of the dwelling and garage and said that as Planning officials had not had time to consider this information he suggested that Planning Application LA07/2017/1326/F be deferred to allow Planning officials time to consider the revised information.

Councillor Hanna stated that consistency was important for all applications and that the deadline for receipt of all information was three weeks and as a Committee this deadline should be adhered to for all applications.

Mr McKay agreed with Councillor Hanna that consistency was needed and that planning protocol should be fully understood by all parties.

Councillor Clarke said he believed there was consistency and in this instance there was a misunderstanding in that the Agent believed the appropriate information had been submitted.

Councillor Larkin proposed and Councillor Clarke seconded to defer Planning Application LA07/2017/1326/F to allow time for the Planning officials to consider the late information that detailed the proposed re-siting and design of the dwelling and garage.

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

For: 6
Against: 2
Abstentions: 0

The proposal was declared carried.

AGREED: On the proposal of Councillor Larkin seconded by Councillor Clarke it was agreed to defer Planning Application LA07/2017/1326/F to allow time for Planning officials to consider the late information that detailed the proposed re-siting and design of the dwelling and garage.

(9) LA07/2017/1494/0 – John Murnion

Location:

Opposite and North of No. 43 Bryansford Road, Stang, Hilltown

Proposal:

Proposed one and a half storey dwelling and detached domestic garage

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Cormac McKay, Agent, and Teresa Murnion, applicant's mother, presented in support of the application detailing and expanding upon the written submission that had been circulated to Committee Members, outlining why they believed the proposed site was the only suitable one on their land and stating that they did not own the land necessary to provide proper sight lines at the home farm at 72 Kilkeel Road, Hilltown.

Ms A McAlarney, Senior Planning Officer, gave a power-point presentation on the application, with supporting information including a site location plan; an aerial view of the site and photographs from various critical views of the site.

Councillor Devlin asked if the access issues at 72 Kilkeel Road, Hilltown as outlined in the report had been considered. Ms McAlarney replied that 72 Kilkeel Road was not the subject of the application, and Transport NI had not therefore been consulted on it. She confirmed that Planners did not have any information from the agent confirming that there was even a requirement for sight lines for any proposed dwelling at 72 Kilkeel Road.

Councillor Murnin proposed and Councillor Clarke seconded to defer Planning Application LA07/2017/1494/O to allow Planning officials time to investigate the application again and to look at sight lines at 72 Kilkeel Road, Hilltown.

AGREED: On the proposal of Councillor Murnin seconded by Councillor Clarke it was unanimously agreed to defer Planning Application LA07/2017/1494/O to allow Planning officials time to investigate the application again and to look at sight lines at 72 Kilkeel Road, Hilltown.

FOR NOTING

P/073/2018: HISTORIC ACTION SHEET

Read: Planning historic action sheet. **(Copy circulated)**

AGREED: It was unanimously agreed to note the Planning historic action sheet

The Meeting concluded at 1.40pm

For confirmation at the Planning Committee Meeting to be held on Wednesday 29 August 2018.

Signed: _____ Chairperson

Signed: _____ Chief Executive