NEWRY, MOURNE & DOWN DISTRICT COUNCIL

Minutes of Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 11 January 2023 at 10.00am in the Boardroom, Monaghan Row, Newry and via Microsoft Teams.

Chairperson: Councillor D McAteer

In attendance: **(Committee Members)**
Councillor R Burgess
Councillor P Byrne
Councillor L Devlin
Councillor V Harte
Councillor G Hanna
Councillor M Larkin (Teams)
Councillor A Lewis
Councillor D Murphy
Councillor L McEvoy
Councillor G O'Hare
Councillor H Reilly (Teams)

(Officials)

Mr C Mallon	Director of ERT
Mr A McKay	Chief Planning Officer
Mr Pat Rooney	Principal Planning Officer
Ms N Largey	Legal Advisor
Mr Peter Rooney	Legal Advisor
Ms A McAlarney	Senior Planning Officer (Teams)
Mr M Keane	Senior Planning Officer (Teams)
Ms S Taggart	Democratic Services Manager (Acting)(Teams)
Ms L Dillon	Democratic Services Officer (Teams)
Ms L Cummins	Democratic Services Officer
Ms C McAteer	Democratic Services Officer
Ms P McKeever	Democratic Services Officer

P/001/2023: APOLOGIES AND CHAIRPERSON'S REMARKS

No apologies were received.

P/002/2023: DECLARATONS OF INTEREST

There were no Declarations of Interest.

P/003/2023: 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.

There were no Declarations of Interest in relation to Para. 25.

MINUTES FOR CONFIRMATION

P/004/2023: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 14 DECEMBER 2022

Read: Minutes of Planning Committee Meeting held on Wednesday 14 December 2022. (Copy circulated)

AGREED: On the proposal of Councillor Burgess, seconded by Councillor Hanna, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 14 December 2022 as a true and accurate record.

FOR DISCUSSION/DECISION

P/005/2023: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 11 January 2023. (Copy circulated)

AGREED: On the proposal of Councillor Hanna, seconded by Councillor Burgess, it was agreed to approve the Officer recommendation in respect of the following applications listed on the addendum list for Wednesday 14 December 2022:

- **LA07/2022/0527/F** - 41 Windmill Road Kilkeel BT34 4LP - Proposed alterations & 2 story extension to front of existing dwelling including new replacement garage with store over at rear of dwelling **APPROVAL**

DEVELOPMENT MANAGEMENT - PLANNING APPLICATIONS FOR DETERMINATION

P/006/2023: PLANNING APPLICATIONS FOR DETERMINATION

(1) LA07/2019/1254/F

Location:
42 Downpatrick Road Killyleagh

Proposal:
Demolition of existing garage and erection of 4 No. detached dwellings with modified existing access

Conclusion and Recommendation from Planning Official:
Approval

Power-point Presentation:
Mr Anthony McKay, Chief 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.

Speaking rights:
Mr David Worthington, Planning Consultant and Mr Kieran Dempsey, agent presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

AGREED: **On the proposal of Councillor Reilly, seconded by Councillor Hanna it was unanimously agreed to issue an approval in respect of Planning Application LA07/2019/1254/F as per the information contained within the Case Officer report and presented to Committee.**

(2) LA07/2021/2005/F

Location:
Lands approximately 25m northeast of 212 Concession Road and approximately 20 south west of Shelagh Youth Club Cullaville Co. Armagh

Proposal:
Erection of dwelling and garage

Conclusion and Recommendation from Planning Official:
Refusal

Power-point Presentation:
Mr Pat Rooney, Principal 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.

Speaking rights:
In support
Mr Colin O'Callaghan, agent presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Issues raised:
- Mr O'Callaghan considered there was development on two sides, the youth club to the east and the three dwellings to the south west.
- Mr Rooney accepted there was an existing entrance on to the protected route, but he said for the proposed development to be acceptable in this regard, it would have to meet the requirements of planning policy, which he said it did not.

- Mr Rooney did not consider the petrol filling station located on the Concession Road formed part of the cluster.
- Mr O'Callaghan said given the role played by the petrol filling station and off-licence in the community there was considerable linkage with the laneway and he considered it was part of the same cluster.
- Mr Rooney said he accepted the petrol filling station and the group of buildings were apparent when driving along the Concession Road, however due to the relationship of the application site and the youth club, it did not read as a visual entity as required by CTY2A.
- Mr Rooney said to get a true awareness of the site, the presentation slide should have shown the remainder of the agricultural field.
- Mr Rooney said Planning did not accept the application site was bound on both sides by development as it was across the road from Shelagh youth club and he considered it would be very difficult to resist further development if permission was granted in this instance.
- Ms Largey said the test for Members was to determine if they considered there was a suitable degree of enclosure and she said the inclusion of the laneway did not impact on their decision.
- Mr O'Callaghan said the red line extended to the public road and he considered this indicated that legally and visually the proposed site directly adjoined the site of the youth club.
- Mr Rooney said Planning did not consider the application was acceptable and policy requirement was twofold: 1. The site provided a degree of enclosure and 2. It was bounded on at least two sides; He said there was no enclosure as it opened on to an open field.
- Mr Rooney said DfI Roads did not have any objections to the proposal, however as the A37 was a protected traffic route, Planning must be satisfied the application fell within the exceptions listed in the policy relating to accesses onto protected routes, which he said, the application failed to do so and therefore it should be refused.

Councillor Murphy proposed to issue an approval in respect of Planning Application LA07/2021/2005/F contrary to Officer recommendation on the basis that he considered it complied with CTY 2A and Shelagh youth club should be taken into consideration. He said the site was bounded on two sides, it rounded off the cluster and he did not see any grounds for further development. Councillor Larkin seconded the proposal saying he agreed it complied with CTY2A.

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

FOR:	11
AGAINST:	1
ABSTENTIONS:	0

The proposal was carried.

AGREED: **On the proposal of Councillor Murphy, seconded by Councillor Larkin it was agreed to issue an approval in respect of Planning Application LA07/2017/1261/O contrary to Officer recommendation on the basis that it fully complied with CTY 2A.**

Planning Officers be delegated authority to impose any relevant conditions.

(3) LA07/2022/0030/F

Location:
Approximately 265 metres west of No. 30 Levallyreagh Road Rostrevor

Proposal:
Erection of replacement dwelling and garage with associated ancillary site works

Conclusion and Recommendation from Planning Official:
Refusal

Power-point Presentation:
Mr Pat Rooney, Principal 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.

Speaking rights:
In support
Mr Colin O'Callaghan, agent presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Issues raised:

- Mr O'Callaghan advised the applicant did not own the existing access, he only had a right of way to his own land, and he said the lane led to another farm not owned by the applicant.
- Mr O'Callaghan said the applicant did not intend to replace the dwelling for a considerable amount of time, however if he was permitted to build a garage on the site it would ensure he had a lawful planning permission.
- Mr Rooney said it was permitted, under agricultural permitted development to open an access, however, he said that did not negate the need to properly assess an access to serve a private dwelling.
- No local objections had been received.
- Mr Rooney said DfI Roads had concerns as there was the potential to use the substandard access, and one of the stipulations of planning policy for replacement dwellings was that road safety would not be prejudiced.
- Ms Largey said the issue with the proposed application was that a condition could not be imposed to close up a lane that was used by others.
- Ms Largey said DfI Roads had raised concerns regarding access and she said Members should ask themselves if they would be content to set aside DfI Roads concerns.
- Mr Rooney said the purpose of an informative was to advise and it would not be possible to achieve a condition via an informative in this case.

Councillor Hanna proposed and Councillor Lewis seconded to issue a refusal as per Officer recommendation.

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

FOR:	3
AGAINST:	7
ABSTENTIONS:	2.

The proposal was lost.

Discussion took place regarding the new laneway constructed by the applicant and whether it would be possible to modify the laneway to ensure access to the unsafe agricultural access would not be possible. Mr Rooney said Planning had to consider what was within the red site line and to do otherwise was not good practice; He said the current application had clear potential for the substandard access to be used. Mr McKay said it was not as simple as changing the means of access and he considered the application would have to be withdrawn and brought back with a properly constructed formulated planning application.

Councillor Larkin proposed to defer Planning Application LA07/2022/0030/F to allow for the agent to include the intended agricultural access that was proposed to run alongside the existing lane contained within the red line and for the red line to be amended so that it did not include the existing lane thereby negating the need to use the existing substandard access on to the public road. Councillor Murphy seconded the proposal.

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

FOR:	11
AGAINST:	0
ABSTENTIONS:	1

The proposal was carried.

AGREED: **On the proposal of Councillor Larkin, seconded by Councillor Murphy it was agreed to defer Planning Application LA07/2022/0030/F to allow for the application to be amended to ensure the red line did not include the existing laneway. This would negate the need to use the existing access onto the public road.**

(4) LA07/2022/0751/F

Location:
Land adjacent and to the rear of 18-28 Moor Hill Newry

Proposal:
Proposed dwelling, garage and associated site works

Conclusion and Recommendation from Planning Official:
Refusal

Power-point Presentation:
Mr Pat Rooney, Principal 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.

Speaking rights:
In support
Mr Colin O'Callaghan, agent presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Issues raised:

- Mr Rooney said Planning considered the proposed application would be very prominent, being sited on an open, sloping field and would be highly visible from the Commons School Road. He said there was no enclosure and the existing boundaries to the north and west of the site represented the extent of the existing cluster, and he said the proposal would break new ground and intrude into the countryside.

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2022/0751/F contrary to Officer recommendation saying whilst he accepted there was some intrusion into the countryside, he said it was minimal and he considered it did constitute a cluster, all buildings were in close proximity to the crossroads, there was a focal point, it was enclosed on at least two sides, and he considered it would round off the development and would have no adverse effect on neighbouring dwellings.

Councillor Larkin seconded the proposal saying he accepted there was a slight intrusion into the countryside, however he did not consider it was enough to have a negative effect on the countryside.

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

FOR:	10
AGAINST:	2
ABSTENTIONS:	0

The proposal was carried.

AGREED: **On the proposal of Councillor Hanna, seconded by Councillor Larkin, it was agreed to issue an approval in respect of Planning Application LA07/2022/0751/F contrary to Officer recommendation on the basis that it did constitute a cluster, all buildings were in close proximity to the crossroads, there was a focal point, it was enclosed on at least two sides, it would round off the development and have not adverse effect on neighbouring dwellings.**

Planning Officers be delegated authority to impose any relevant conditions.

(5) LA07/2022/0096/RM

Location:
Land West of No.1 Crieve Road Newry

Proposal:
Dwelling and garage

Conclusion and Recommendation from Planning Official:
Refusal

Power-point Presentation:
Mr Pat Rooney, Principal 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.

Speaking rights:
In support
Mr Declan Rooney, agent presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Issues raised:

- The agent said commercial businesses could be considered when determining the character of an area.
- Mr Rooney accepted the character of an area was made up of all buildings that existed within the area both commercial and residential, but the issue to consider was if it was appropriate to justify the design of a residential building based on the design of a non-residential building.
- Mr Rooney said a design that fitted with the overall dominant residential character of the area would be more acceptable in deflecting from the NIE substation located to the west of the application site.
- Mr Rooney said policy required adequate provision for usable and private open space, he said most of the open space at the application site was to the front, which lacked privacy, and the site was too tight to provide it to the rear.
- Mr Rooney said the application would fail QD1C and the agent could take into account other buildings.
- The agent said there was a rear open space of 140 sq. meters and a roof terrace of 40 sq. meters which, he said was in excess of the minimum requirements as set out in 'Creating Places'.
- The agent said the application site was located on a prominent corner and as per 'Creating Places' it offered an opportunity to provide an interesting building of visual interest. He said as it was not a typical housing development site it should be allowed a degree of flexibility in assessment.
- The agent said if permission was granted, it may be possible to move the building forward by one meter.
- Mr Rooney said Planning considered the open space arrangement was not sufficient.
- Ms Largey said there was nothing to preclude the committee from considering the open roof space in their assessment.
- Mr Rooney said a judgement call was needed when considering the immediate context of the area, which, he said was traditional form with pitched roofs and he said the proposed application would jar in terms of scale and massing.

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2022/0096/RM on the basis that he considered it would be provide quality residential accommodation, it would integrate well into the surrounding area and there was adequate open amenity space. Councillor Larkin seconded the proposal.

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

FOR: 11

AGAINST: 0
ABSTENTIONS: 1

The proposal was carried.

AGREED: **On the proposal of Councillor Hanna seconded by Councillor Larkin it was agreed to issue an approval in respect of Planning Application LA07/2022/0096/RM on the basis that it would provide quality residential accommodation, it would integrate will into the surrounding area and there was adequate open amenity space.**

Planning Officers be delegated authority to impose any relevant conditions.

(6) LA07/2022/1066/O

Location:
Lands approx. 45m South East of 33 Ardnabannon Road Castlewellan

Proposal:
Dwelling and Garage on a Farm

Conclusion and Recommendation from Planning Official:
Refusal

Power-point Presentation:
Mr Anthony McKay, Chief 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.

Speaking rights:
In support
Mr Declan Rooney, agent and Mr John McKibbin, applicant presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Issues raised:
- Mr McKay said there was a judgement call to be made in terms of determining clustering and visual linkage and he said the assessment had been made given the separation by the public road of the farm holding and the application site.
- Mr McKibbin said the alternative site as outlined by Planning would result in the loss of good agricultural ground.
- Mr McKay said normally diversification or expansion would be in terms of buildings, however, he said there was no reason why the use of the land could not be considered if there was strong planning argument for doing so.
- The agent said given the 33m separation distance from the farm holding, he considered the application site did cluster with the farm holding.
- Mr McKay said the application had initially been assessed under CTY 10 for a dwelling on a farm, however, he said officers had also explored CTY 2A and CTY 8.
- The agent said the crossroads was known locally as 'Four Roads' and he considered it was a staggered crossroads.

- Mr McKay said he accepted the road layout constituted a staggered crossroads, however he said it was a judgement call for the Committee to determine if it was a visual entity.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2022/1066/O on the basis that he considered it complied with CTY 2A, there was an established cluster and it complied with all required criteria. Councillor Devlin seconded the proposal.

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

FOR:	9
AGAINST:	0
ABSTENTIONS:	3

The proposal was carried.

Mr McKay said the application had been for a dwelling on a farm and asked if that was what Members were approving. Councillor Larkin said the application had also been assessed under CTY 2A by Planning Officers, and it was under CTY 2A that approval was being granted.

AGREED: **On the proposal of Councillor Larkin seconded by Councillor Devlin it was unanimously agreed to issue an approval in respect of Planning application LA07/2022/1066/O contrary to Officer recommendation on the basis that it complied with Planning Policy CTY 2A.**

Planning Officers be delegated authority to impose any relevant conditions.

(Lunch break: 1.25pm – 1.55pm)

(7) LA07/2022/0578/O

Location:
Approx. 55m North-west of 61 Dromore Road Ballynahinch

Proposal:
New Dwelling and Domestic Garage

Conclusion and Recommendation from Planning Official:
Refusal

Power-point Presentation:
Mr Anthony McKay, Chief 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.

Speaking rights:
In support
Mr David Burgess, agent presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Issues raised:

- Mr McKay said a key issue to note was that the boundaries of No. 61 as shown on the Location of Development drawing included in the Case Officer report was probably much changed now as it had been the subject of enforcement action and the curtilage was now much reduced.
- Mr Burgess said the owner of No. 61 Dromore Road had sub-divided his garden with a fence, but it was all maintained in the same manner.
- Mr McKay said the fence was not a sub-division of the garden but had been erected in response to an enforcement order and the fence-line now outlined the approved curtilage. He said, what was outside of the fence– line was countryside and therefore the application site was not bounded on two sides as the barn could not be considered.
- Mr McKay clarified to have a cluster of development, it had to lie outside the farm and therefore there could be no reliance on farm buildings.
- Mr McKay said at the time of the application, Officers were not aware of the hall and its role and that was new information and if Members wanted to rely on that in their consideration that was a judgment call for them, however he said, the application site was divorced from the existing cluster and was therefore contrary to policy.
- The agent said a cluster had to be made up of four buildings, three of which had to be dwellings and he considered the agricultural building which bounded it to the NE of the site was the fourth building.
- Mr McKay said a cluster of development must sit outside of a farm and as the agricultural building was located on a farm it could not be included in the assessment.
- Ms Largey concurred with Mr McKay in that the starting point was that a cluster of development must lie outside a farm and therefore farm buildings could not be considered.
- Mr Burgess said the barn had been used for both domestic and agricultural purposes.
- Mr McKay said the agent had previously referred to the barn as being used only for agricultural purposes and to extend the cluster out to include it would not be acceptable in planning terms. He said as a result of the curtilage of No. 61 having been altered in response to an enforcement order, it had made the barn even more remote from the application site.

Councillor Byrne proposed to defer Planning Application LA07/2022/0578/O for a site visit, Councillor Devlin seconded the proposal.

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

FOR:	6
AGAINST:	6
ABSTENTIONS:	0

The Chairman using his casting vote, voted for the proposal.

The proposal was carried.

AGREED: **On the proposal of Councillor Byrne seconded by Councillor Devlin it was agreed to defer Planning Application LA07/2022/0578/O for a site visit, so Members could assess the site in more detail.**

(2.30pm - Councillor Harte left the meeting at this point)

(8) LA07/2022/0995/O

Location:
Between 27 and 31 Lessans Road Saintfield

Proposal:
New Storey and half dwelling under PPS21 CTY8.

Conclusion and Recommendation from Planning Official:
Refusal

Power-point Presentation:
Mr Anthony McKay, Chief 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.

Speaking rights:
In support
Mr Michael Bailie, agent presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Issues raised:

- M McKay said the building to the rear of the sand school filled the gap and if that building was not there, there would be a gap and therefore in terms of planning policy it failed and should be refused.
- The Chairman said it was his understanding that once a building did not appear within the red line it could be ignored. In response, Mr McKay said what the red line encapsulated was not the issue and there was a danger of reading extracts of policy and justification and amplification and not getting the complete picture. He said, quite simply, if there was a gap, you could see through it.
- To provide more clarity, Mr McKay read from the policy saying: 'a substantial and built up frontage includes three or more buildings along a road frontage without accompanying development to the rear', and as there was development to the rear of the sand school he considered it did not comply with policy.

AGREED: **On the proposal of Councillor Larkin seconded by Councillor Hanna it was unanimously agreed to issue an approval in respect of Planning Application LA07/2022/0995/O contrary to Officer recommendation on the basis that it would not be detrimental to the area and complied with policy as interpreted in the past by Committee.**

Planning Officers be delegated authority to impose any relevant conditions.

(2.50pm - Councillors Burgess, Hanna and Lewis left the meeting at this point)

(9) LA07/2022/1115/O

Location:

2 Rathcuan Heights Downpatrick

Proposal:
New Split Level Dwelling.

Conclusion and Recommendation from Planning Official:
Refusal

Power-point Presentation:
Mr Anthony McKay, Chief 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.

Speaking rights:
In support
Mr Gary Hunt, agent and Mr Chris Smith, applicant presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Issues raised:
- Mr Smith confirmed the proposed site was part of the existing site at No. 2 Rathcuan Heights which he had purchased as a new build 27 years ago.
- Mr Hunt said the private amenity space was marginally smaller than that of the five adjoining plots, but nothing to suggest it was totally out of character with that end of the site.
- Mr Hunt said the topography of the area was very steep from the mini roundabout approaching the Saul Road. He said all the properties were split level in design and all had retaining structures.
- Mr McKay said the amenity space would be predominately to the side of the dwelling as opposed to neighbouring properties which all had more amenity space to the rear of their dwellings, and he considered there was a deficiency of really private amenity space with the proposed application.
- Mr McKay said the rear area of the garden of No. 2 Rathcuan Heights would be unaffected by the proposed application.
- Mr Hunt said the five adjacent plots were all somewhat limited to the rear of their sites.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2022/1115/O contrary to Officer recommendation on the basis that it was an outline planning application, and the Reserved Matters would ensure an appropriate design for the site. Councillor McEvoy seconded the proposal.

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

FOR:	6
AGAINST:	0
ABSTENTIONS:	1

The proposal was carried.

AGREED: **On the proposal of Councillor Larkin seconded by Councillor McEvoy it was agreed to issue an approval in respect of Planning Application LA07/2022/1115/O contrary to Officer recommendation on the basis that as it was an outline planning**

permission, the Reserved Matters could ensure a suitable design for the site.

P/007/2023: HISTORIC ACTION SHEET

Read: Historic Action Sheet. **(Copy circulated)**

AGREED: It was unanimously agreed to note the Historic Action Sheet

P/008/2023: PLANNING COMMITTEE PERFORMANCE REPORT – NOVEMBER 2022

Mr McKay advised that due to teething problems with the IT system, it had not been possible to generate the Planning Committee Performance Report.

P/009/2023: CURRENT APPEALS AND DECISIONS

Mr McKay advised that due to teething problems with the IT system, it had not been possible to generate the Current Appeals and Decisions Report.

The meeting concluded at 3.14pm.

Signed: _____ Chairperson

Signed: _____ Chief Executive