

**NEWRY, MOURNE & DOWN DISTRICT COUNCIL**

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**Minutes of Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 14 December 2022 at 10.00am in the Boardroom, Monaghan Row, Newry and via Microsoft Teams.**

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**Chairperson:** Councillor D McAteer

**In attendance: (Committee Members)**

Councillor R Burgess  
Councillor P Byrne  
Councillor Hanna  
Councillor M Larkin  
Councillor A Lewis  
Councillor D Murphy  
Councillor L McEvoy  
Councillor G O'Hare  
Councillor H Reilly

**(Officials)**

Mr C Mallon	Director of ERT
Mr A McKay	Chief Planning Officer
Mr Pat Rooney	Principal Planning Officer
Mr F O'Connor	Head of Legal Administration
Mr Peter Rooney	Legal Advisor
Ms A McAlarney	Senior Planning Officer (Teams)
Mr M Keane	Senior Planning Officer (Teams)
Ms P Manley	Senior Planning Officer (Teams)
Mr A Donaldson	Planning Officer (Teams)
Ms C Cooney	Dev. Mgt. HTPO Planning (Teams)
Ms G McEwan	Senior Environmental Health Officer
Ms S Taggart	Democratic Services Manager (Acting)
Ms L Dillon	Democratic Services Officer
Ms L Cummins	Democratic Services Officer
Ms C McAteer	Democratic Services Officer
Ms P McKeever	Democratic Services Officer

**P/112/2022: APOLOGIES AND CHAIRPERSON'S REMARKS**

Apologies were received from Councillor Devlin and Councillor Harte.

**P/113/2022: DECLARATIONS OF INTEREST**

There were no Declarations of Interest.

**P/114/2022:            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** - A site visit was held on 30 November 2022 – In attendance were Councillors Burgess, Hanna, Harte, Larkin, Lewis, Murphy, O’Hare.

**MINUTES FOR CONFIRMATION**

**P/115/2022:            MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 16 NOVEMBER 2022**

Read:                    Minutes of Planning Committee Meeting held on Wednesday 16 November 2022. (Copy circulated)

Councillor McEvoy asked it be noted she was not in attendance at the Planning Committee Meeting held on 16 November as indicated in the minutes.

**AGREED:                On the proposal of Councillor Hanna, seconded by Councillor Murphy, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 19 October 2022 as a true and accurate record.**

**FOR DISCUSSION/DECISION**

**P/116/2022:            ADDENDUM LIST**

Read:                    Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 14 December 2022. (Copy circulated)

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

- **LA07/2021/0245/F** - Existing toilet block in the car park is to be demolished and replaced with a public beach amenity building accommodating female and male toilets, universal toilet, first aid room, lifeguard store and ground store - Land immediately west of 40 Clanmaghera Road Tyrella Beach **APPROVAL**
- **LA07/2021/2131/F** - Residential development comprising 46 no. dwellings (16 no. detached and 30 no. semi- detached) - change of house type in respect of approval P/2011/1067/F - Land adjacent and to the west of Sacred Heart Grammar School 10 Ashgrove Avenue Newry BT34 1PR **APPROVAL**

- **LA07/2022/1034/F** - Proposed extension to existing building to include replacement sales area, WC, store and upcycling workshop. Re-roof existing building and build up glass curtain walling with masonry wall and windows and provision of on site parking using existing entrance. Retention of replacement polytunnel and proposed new lean to covered cleaning area. Removal of existing polytunnel and sales area - 1 Council Road Kilkeel BT34 4NP **APPROVAL**
- **LA07/2022/1224/F** - New, multi-use, non-bitmac, compacted gravel community trails - Corry Wood Station Road Castlewellan Co. Down **APPROVAL**

**DEVELOPMENT MANAGEMENT -  
PLANNING APPLICATIONS FOR DETERMINATION**

**P/117/2022: PLANNING APPLICATIONS FOR DETERMINATION**

**(1) LA07/2021/1935/F**

As Councillors Byrne, McAteer and McEvoy were not in attendance at the site visit, they withdrew from discussions on the application and Councillor Murphy assumed the Chair.

**Location:**

10 Dunbrae, Chancellors Road Newry BT35 8HG

**Proposal:**

Construction of a storey-and-a-half detached dwelling within the curtilage of the side garden of 10 Dunbrae

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point Presentation:**

Mr Pat Rooney, Principal Planning Officer provided Members with a short recap on the power point presentation previously presented to Committee.

**Speaking rights:**

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

Mr Pat McVarnock, architect and Mr Barney McKeivitt, agent were present to answer any queries from Members.

**Issues raised:**

- Mr McKeivitt said the fence would run at an angle resulting in 127 sq. metres of amenity space and minimum specified in the Creating Spaces document was 45 sq metres.

- Mr Rooney said when considering amenity space, it was important to note it was more than just a mathematical calculation, but it should be usable and Planning considered it was not, based on the configuration of the open space and he said it would overlook the amenity space of the existing house at No. 10 Dunbrae.
- Mr Rooney said the term usable amenity space meant it had to afford a certain amount of private residential amenity to the occupants.

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2021/1935/F on the basis that having attended the site visit, he considered the proposed application would integrate into the area. He acknowledged the site was tight, however he said there was enough amenity space and appropriate conditions could be attached to ensure maximum privacy. Councillor Burgess seconded the proposal.

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

FOR:	3
AGAINST:	3
ABSTENTIONS:	0

Councillor Murphy, as acting Chair had the casting vote and he voted against the proposal.

The proposal was lost.

Councillor Murphy proposed to issue a refusal as per Officer recommendation, Councillor O'Hare seconded the proposal.

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

FOR:	3
AGAINST:	3
ABSTENTIONS:	0

Councillor Murphy, as acting Chair had the casting vote and he voted for the proposal.

The proposal was carried.

**AGREED: On the proposal of Councillor Murphy, seconded by Councillor O'Hare it was agreed to issue a refusal in respect of Planning Application LA07/2021/1935/F as per the information contained within the Case Officer report and presented to Committee.**

Councillors Byrne, McAteer and McEvoy re-joined the meeting and Councillor McAteer assumed the Chair.

**(2) LA07/2017/1261/O**

(Councillor Reilly joined the meeting during discussion on Planning Application LA07/2017/1261/O)

**Location:**

Site abutting 20 Junction Road Saintfield

**Proposal:**

Proposed dwelling and 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 Conor Fegan BL, Ms Sheila Curtin, agent and Eugene and Fainant Murray, applicants presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Issues raised:**

- Mr Fegan confirmed the farm was jointly owned by Thomas Mageean and his brother Bernard, and he said Thomas's name had recently been formally added to the farm business.
- The applicant became a formal member of the farm business in 2018 and had been an informal member for many years prior to 2018.
- The farm was registered by DAERA as one entity.
- Mr McKay said the key issue was to decide if the application complied with CTY10 of PPS 21, which related to dwellings on a farm. Planning considered the buildings which the application sought to link with were not on the farm.
- Mr McKay said the land was let out in a conacre arrangement to the applicant and that did not typically represent a farm business, but rather a landlord/tenant arrangement which, he said the Committee had accepted in previous applications.
- Mr Fegan said Thomas Mageean's name had been formally added to the farm business in a good faith attempt to address ownership issues raised by Planning.
- Mr Fegan confirmed as Thomas Mageean was formally part of the farm business, the issue of the buildings, considered by Planning to not be part of the farm did not apply.
- Mr McKay said he had recounted the legal advice received, in his presentation to Members.
- Mr O'Connor said he could distribute hard copies of the legal advice if Members wished and he advised with reference to the DAERA position, counsel sought had indicated weight must be given to DAERA's decision.
- Mr McKay acknowledged there were huge difficulties with CTY10, but he said over the years, the interpretation of CTY10 had evolved and it was within Planning remit to interrogate the details of arrangements that existed around a farm.
- Mr McKay said simply adding a name, albeit formally, to the farm business did not satisfy planning policy and the conacre arrangement also had to be taken into consideration, however he said ultimately it was an exercise in judgement for the Members.
- Mr McKay said Planning had requested evidence to support the applicant was part of the farm business, they were not satisfied with the response received, therefore, he said it failed to comply with Policy CTY10 part C.
- Mr Fegan said it was his understanding the applicant did not take an income from the farm and the conacre issue was a red herring. He said it was clearly a case of

ownership between two brothers both of whom were involved in the farm business and he considered the evidence submitted had been sufficient.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2017/1261/O contrary to Officer recommendation on the basis that he considered all previous concerns had been addressed and the application as it was presented now fully complied with CTY10. Councillor Byrne 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: 0

**AGREED:** **On the proposal of Councillor Larkin, seconded by Councillor Byrne 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 10.**

**Planning Officers be delegated authority to impose any relevant conditions.**

(Break 11.20am – 11.30am)

### **(3) LA07/2019/0868/F**

**Location:**

107 Camlough Road, Newry

**Proposal:**

Proposed commercial development comprising ground floor retail unit and first floor creche with associated site works

**Conclusion and Recommendation from Planning Official:**

Approval

The Chairperson advised there were certain legal challenges in relation to Planning Application LA07/2019/0868/F and invited Mr O'Connor to apprise Members.

Mr O'Connor said a submission had very recently been received on behalf of the objectors. He said the submission highlighted complex issues and raised technical points and Members would need sufficient time to consider the content in detail and he requested Members defer Planning Application LA07/2019/0868/F to allow this to happen.

Councillor Murphy proposed, and Councillor O'Hare seconded to defer Planning Application LA07/2019/0868/F as per legal advice.

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

FOR: 6

AGAINST: 4  
ABSTENTIONS: 0

The proposal was carried.

**AGREED:** **On the proposal of Councillor Murphy, seconded by Councillor O'Hare it was agreed to defer Planning Application LA07/2019/0868/F to allow sufficient time to consider the late information submitted by the objectors.**

The Chairperson said Planning Application LA07/2019/0868/F had been on the June 2022 Planning Committee agenda and a late objection had been received and it had subsequently been removed from the agenda to allow legal consideration. The Chairperson expressed his dissatisfaction at objections being drip fed resulting in slowing up the planning process and he asked that going forward, all objections be submitted together, and in a timely fashion.

**(4) LA07/2020/1588/F**

**Location:**

Former St. Patrick's Primary School site, Ardglass Road Downpatrick

**Proposal:**

Development of petrol filling station, 1no. retail unit, 1no. hot food unit, ATM and jet wash with associated access, car parking, landscaping and site works

**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:**

On behalf of local residents

Councillor G Sharvin (neutral) presented on behalf of the local residents, detailing and expanding upon written statements that had been circulated to Committee Members.

In support

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

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2020/1588/F as per Officer recommendation saying it was the redevelopment of a brown field site and all outstanding issues had been addressed. He asked that a hedgerow be planted as part of the conditions to allay local residents' concerns. Councillor Larkin seconded the proposal.

**AGREED:** **On the proposal of Councillor Hanna, seconded by Councillor Larkin, it was unanimously agreed to issue an approval in respect of Planning Application LA07/2020/1588/F as per the information**

**contained in the Case Officer report and presented to Committee.**

**Planning Officers be delegated authority to impose any relevant conditions, including the planting of a hedgerow to allay local residents' concerns.**

**(5) LA07/2020/1651/F**

**Location:**

75m north of 18 Ballinasack Road, Mullaghbawn, Newry

**Proposal:**

Erection of dwelling (Change of house type from that previously approved under P/2006/2002/F) (Amended description)

**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.

Mr O'Connor advised Members that given the Judicial Review application received in 2019 on the decision reached, Council had sought advice from a barrister as to the prospect of successfully defending the Judicial Review and he said the advice given pointed to three factors that would be detrimental to Council's chance to successfully defending it:

1. Look closely at the issue of commencement and decide what the threshold was in determining if commencement had taken place.
2. Consideration of Planning Policy and the importance of aligning reasoning and decision making against the refusal reasons.
3. Ensure reasons for a decision to overturn an application were recorded.

**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 there was a requirement by Planning to impose a time limit on a planning approval and the key issue for consideration was to determine if the development had commenced before the date imposed. He said the date appeared on the formal decision notice issued.
- Mr Rooney said he was not aware of the Planning Department extending time limit dates.

Councillor Byrne proposed to defer Planning Application LA07/2020/1651/F for a site visit. Councillor Burgess seconded the proposal.

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

**FOR: 8**  
**AGAINST: 2**  
**ABSTENTIONS: 0**

The proposal was declared carried.

**AGREED: On the proposal of Councillor Byrne seconded by Councillor Burgess it was agreed to defer Planning Application LA07/2020/1651/F to allow a site visit to take place, so Members could assess the site in more detail.**

**(6) LA07/2021/1549/F**

**Location:**

Unit 11 Milltown Industrial Estate Warrenpoint

**Proposal:**

Application under section 54 for amendment of condition 03C of planning approval LA07/2018/0244/F as follows: Manufacturing operating hours extended from 7.00 - 23.00 hours Monday to Friday to 24 Hour production, 7 days per week

**Conclusion and Recommendation from Planning Official:**

Approval

**Speaking rights:**

In objection

Mr Andy Stephens, Matrix Planning presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

In support

Mr Tom Delahunt, agent presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Gail McEwen, Environmental Health, was also in attendance for this application.

**Issues raised:**

- Mr Stephens said there were discrepancies in the findings of the acoustic studies carried out on behalf of the objectors and those of the applicants, with the objectors reporting a slightly higher level of background noise.
- Mr Stephens acknowledged Newcel had taken steps to mitigate noise levels, however he said the difficulty lay in the fact there were two applications to consider, the current one for a long established business and one that had been granted for a new housing development, which he said, given the proposed extended working hours would have an impact on the future occupants of those houses.
- Mr Delahunt confirmed the schedule of works in mitigating noise levels was 90-95% complete; an acoustic wall to the rear of the building still had to be installed, which he said, would be completed within 12 weeks of planning permission being granted.
- Ms McEwan said Environmental Health had added appropriate conditions to mitigate against any concerns and there were no active complaints.
- Ms McEwan said she did not have any concerns regarding the discrepancies in the 2 acoustic studies carried out as they had been taken at different times and from different angles.

**AGREED:** On the proposal of Councillor Murphy seconded by Councillor Hanna it was unanimously agreed to issue an approval in respect of Planning application LA07/2021/1549/F as per the information contained within the Case Officer report and presented to Committee.

**(7) LA07/2022/0210/F**

**Location:**

Ground floor unit 12 Seaview Warrenpoint

**Proposal:**

Retention of existing outdoor customer seating area

**Conclusion and Recommendation from Planning Official:**

Approval

**Speaking rights:**

In objection

Mr Matthew McCamley and Mr Andy Stephens

In support

Written statement of support received from Julie McLarnon, applicant.

**(8) LA07/2022/0226/F**

**Location:**

This is a category 11 section 54 application

**Proposal:**

Ground Floor Unit 12 Seaview Warrenpoint

**Conclusion and Recommendation from Planning Official:**

Approval

**Speaking rights:**

In objection

Mr Matthew McCamley and Mr Andy Stephens

In support

Written statement of support received from Julie McLarnon, applicant.

Mr O'Connor advised Members that a late submission received from the objectors had alerted officers to certain issues that required further interrogation and he recommended Planning Applications LA07/2022/0210/F and LA07/2022/0226/F be deferred to allow time for this to take place.

Councillor Hanna proposed, and Councillor Lewis seconded to defer Planning Applications LA07/2022/0210/F and LA07/2022/0226/F as per legal advice.

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

FOR: 8  
AGAINST: 0  
ABSTENTIONS: 2

The proposal was declared carried.

The Chairperson expressed his dissatisfaction saying the application had already been deferred at the Planning Committee Meeting on 16 November 2022 at the request of the objector and it was grossly unfair to submit late information resulting in it being deferred again. Mr Stephens apologised for the inconvenience to all involved.

**AGREED: On the proposal of Councillor Hanna, seconded by Councillor Lewis it was agreed to defer Planning Applications LA07/2022/0210/F and LA07/2022/0226 to allow sufficient time to consider the late information submitted by the objectors.**

#### **(9) LA07/2022/0273/F**

**Location:**

54 Market Street Downpatrick Co Down

**Proposal:**

Change of use application from existing shop (Use Class A1) to proposed Amusement Arcade

**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:**

In objection

Mr Andy Stephens, Matrix Planning and Mr Philip Campbell (via Teams) presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

DEA Councillors Gareth Sharvin and Cadogan Enright (via TEAMS)

In support

Ms Carol Gourley, 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 he assumed the type of activities available would be wide ranging and would include entertainment machines, gambling and gaming.

- Ms Gourley said it was her understanding the application was for an amusement arcade.
- Clarity sought by Members on what would be included in the arcade whether it would be a family amusement arcade or if it would contain gambling machines.
- Mr McKay said DCAN1 provided advice to prospective applicants.
- Concern expressed as to the close proximity of the proposed application to a church, a youth centre and the SE Regional College.
- Mr McKay said it was up to Members to determine how much weight to put on opposing arguments and a balancing decision was needed.

Councillor Hanna proposed to defer Planning Application LA07/2022/0273/F for a site visit. Councillor Reilly seconded the proposal.

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

FOR:	4
AGAINST:	6
ABSTENTIONS:	0

The proposal was lost.

Councillor Byrne said the application included 28 AWP slot machines and it was important to look at the proximity to local groups and also to look at the wider area with regard to DCAN1.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2022/0273/F as per Officer recommendation. Councillor Hanna seconded the proposal.

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

FOR:	3
AGAINST:	6
ABSTENTIONS:	1

The proposal was lost.

Councillor Byrne proposed to issue a refusal in respect of Planning Application LA07/2022/0273/F contrary to Officer recommendation on the basis that it was not compliant with points 4 and 5 of DCAN1. 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:	6
AGAINST:	2
ABSTENTIONS:	2

The proposal was carried.

**AGREED: On the proposal of Councillor Byrne, seconded by Councillor Murphy it was agreed to issue a refusal in respect of Planning Application LA07/2022/0273/F contrary to Officer recommendation on the basis it was not compliant with points 4 and 5 of DCAN1.**

**(10) LA07/2022/1157/F**

**Location:**

Jane's Shore, River Quoile between A22 Killyleagh Road and A7 Belfast Road Downpatrick

**Proposal:**

Replacement and widening of existing walkway along Jane's shore to include a new walkway comprised of new hard-standing surface and timber boardwalks, upgraded and replacement stiles, gates, fencing and all associated site works

**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:**

In support

Ms Sarah McDowell (via Teams) presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**AGREED: On the proposal of Councillor Larkin seconded by Councillor Hanna it was unanimously agreed to issue an approval in respect of Planning Application LA07/2022/1157/F as per the information contained within the Case Officer report and presented to Committee.**

**P/118/2022: HISTORIC ACTION SHEET**

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

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

**P/119/2022: PLANNING COMMITTEE PERFORMANCE REPORT – NOVEMBER 2022**

Read: Planning Committee Performance Report – November 2022. **(Copy circulated)**

**AGREED: It was unanimously agreed to note the Planning Committee Performance Report**

**P/120/2022: CURRENT APPEALS AND DECISIONS**

Read: Current Appeals and Decisions. **(Copy circulated)**

**AGREED:                    It was unanimously agreed to note the Current Appeals and Decisions.**

Before the meeting concluded, the Chairperson took the opportunity to thank Fearghal O'Connor for his support and commitment to the Planning Committee and the Planning Call in Panel during his years at Council and he wished him well for the future.

The meeting concluded at 1.40pm.

**Signed: \_\_\_\_\_ Chairperson**

**Signed: \_\_\_\_\_ Chief Executive**