

## **NEWRY, MOURNE & DOWN DISTRICT COUNCIL**

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**Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 17 November 2021 at 10.00am in the Mourne Room, Downshire Estate, Downpatrick and via Microsoft Teams.**

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**Chairperson:** Councillor D McAteer

**In attendance: (Committee Members)**

Councillor C Enright  
Councillor L Devlin  
Councillor G Hanna  
Councillor V Harte  
Councillor M Larkin  
Councillor D Murphy  
Councillor L McEvoy  
Councillor H McKee  
Councillor G O'Hare  
Councillor J Trainor

**(Officials)**

Mr C Mallon	Director Enterprise Regeneration & Tourism
Mr A McKay	Chief Planning Officer
Mr P Rooney	Principal Planning Officer
Mr A Hay	Principal Planning Officer (via Teams)
Ms A McAlarney	Senior Planning Officer (via Teams)
Mr M Keane	Senior Planning Officer (via Teams)
Mr A Davidson	Senior Planning Officer (via Teams)
Mr M McQuiston	Senior Planning Officer (via Teams)
Ms P Manley	Senior Planning Officer (via Teams))
Ms N Largey	Legal Advisor
Mr F O Connor	Legal Advisor
Ms S Taggart	Democratic Services Manager (Acting)
Ms L O'Hare	Democratic Services Officer
Ms L Dillon	Democratic Services Officer
Ms C McAteer	Democratic Services Officer

**P/103/2021: APOLOGIES AND CHAIRPERSON'S REMARKS**

Apologies were received from Councillor Burgess.

**P/104/2021: DECLARATIONS OF INTEREST**

Councillor McKee declared an interest in item 20 – LA07/2021/0758/0 – dwelling with garage – lands immediately south of No. 40 Quarter Road, Annalong and advised he would not be taking part in the discussion/decision on this application.

Councillor Devlin declared an interest in item 15 – LA07/2021/0786/RM demolition of former school building, erection of food store and mountain rescue, provision of car parking, landscaping, and associated site works - Site of former St Mary's Primary School (opposite and east of 1-15 Shan Slieve Drive and south of 32-38 Bryansford Road and 2-8 Tullybrannigan Road) and portion of Bryansford Road Newcastle – and advised she would not be taking part in the discussion/decision on this application.

**P/105/2021:            DECLARATIONS OF INTEREST IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL- PARAGRAPH 25**

- **Item 10 – LA07/2019/1134/O** – Cllrs Burgess, Hanna, Harte, Larkin, Murphy, O'Hare and Trainor attended the site visit on this application.

**MINUTES FOR CONFIRMATION**

**P/106/2021:            MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 20 OCTOBER 2021**

Read:                    Minutes of Planning Committee Meeting held on Wednesday 20 October 2021. **(Copy circulated)**

**AGREED:**            **On the proposal of Councillor Hanna, seconded by Councillor O'Hare, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 20 October 2021 as a true and accurate record.**

**FOR DISCUSSION/DECISION**

**P/107/2021:            ADDENDUM LIST**

Read:                    Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 17 November 2021. **(Copy circulated)**.

**AGREED:**            **On the proposal of Councillor Devlin, seconded by Councillor Hanna, it was agreed to remove the following applications listed on the addendum list for Wednesday 17 November 2021:**

- Item 14 - LA07/2020/1689/F - Overflow asphalt car park (163 car parking space & 13 disabled car parking spaces) accessed via existing Donard Park, car park, erection of 6m high ball stop & 1.8 paladin fence, new footpaths and associated lighting, landscaping and drainage - Land 120m NW of 5 Donard Park & west of the existing Donard Park car park Newcastle **APPROVAL**
- Item 22 - LA07/2021/0911/F Conversion of existing agricultural barn to self-contained holiday accommodation 6 Clonduff Road Ballyaughian Hilltown Co. Down BT34 5XF **REFUSAL**

**AGREED:**                   **On the proposal of Councillor Devlin, seconded by Councillor Hanna, it was agreed to approve the Officer recommendation in respect of the following applications listed on the addendum list for Wednesday 17 November 2021:**

- Item 12 - LA07/2020/0873/F - 118 detached & semi-detached dwellings, pumping station, landscaping and all site works - Lands 100m west of 14-24 Lime Trees and 20m SE of 62 & 64 Lisburn Road Ballynahinch. **APPROVAL**
- Item 13 - LA07/2019/0369/F - Erection of Fun Fair Ferris Wheel - Castle Park to rear of 1 to 11 Central, Promenade, Newcastle Co. Down **APPROVAL**
- Item 16 - LA07/2021/0921/F - Filling of existing ground level to convert existing horsebox parking area to carparking area. Carparking area to consist of 31 no carparking spaces, a parking space suitable to accommodate a mobile coffee van trailer. turning area, cycle racks. picnic tables & 1.1m high perimeter fence - 300m South-South East of No 141 Drumnaquoile Road Dromara **APPROVAL**
- Item 23 - LA07/2021/1483/F - Proposed new play park - Play Park at Kilmorey Park, Adjacent to and immediately North of 15 Cowan Street Newry BT34 2AR **APPROVAL**
- Item 24 - LA07/2021/1485/F - Proposed new play park - Play park at Annalong Marine Park, 30m East of Community Centre Annalong Glassdrumman Road Annalong BT34 4QL **APPROVAL**

#### **LOCAL DEVELOPMENT PLAN (CLOSED SESSION)**

**AGREED:**                   **On the proposal of Councillor McKee, seconded by Councillor Enright, it was agreed to exclude the public and press from the meeting during discussion on the following items:**

**P/108/2021:**               **LDP: PROGRESS REPORT - QUARTERLY UPDATE**

Read:                       Report dated 17 November 2021 from Mr A McKay Chief Planning Officer regarding a quarterly progress report on the Local Development Plan. **(Copy circulated)**

**P/109/2021:**               **LDP: RETAIL & COMMERCIAL LEISURE CAPACITY STUDY**

Read:                       Report dated 17 November 2021 from Mr A McKay, Chief Planning Officer regarding a review and update on the LDP Retail & Commercial Leisure Capacity Study. **(Copy circulated)**

**P/110/2021:**               **AMENDMENT OF PLANNING COMMITTEE PROTOCOL**

Read:                       Report dated 17 November 2021 from Mr F O Connor Head of Legal Administration (Acting) regarding a judgement issued following a judicial review which require Councils to consider Standing Orders regarding the Call In process and also the operation of Planning and Licensing Committee Operating Protocols. **(Copy circulated)**

On the proposal of Councillor Enright, seconded by Councillor Hanna, it was agreed to come out of closed session.

When the Committee came out of closed session, the Chairman advised the following decisions had been agreed:

**P/108/2021:**            **LDP: Progress - Quarterly Update**

**AGREED:**            **On the proposal of Councillor McKee, seconded by Councillor Enright, it was agreed to note the quarterly update provided in Report dated 17 November 2021 from Mr A McKay Chief Planning Officer regarding the Local Development Plan.**

**P/109/2021:**            **LDP: Retail & Commercial Leisure Capacity Study**

**AGREED:**            **On the proposal of Councillor Devlin, seconded by Councillor McKee, it was agreed to note Report dated 17 November 2021 from Mr A McKay Chief Planning Officer regarding a review and update on the LDP Retail & Commercial Leisure Capacity Study.**

**P/110/2021:**            **Amendment of Planning Committee Protocol**

**AGREED:**            **On the proposal of Councillor Devlin, seconded by Councillor O'Hare, it was agreed to approve the draft amendments outlined in Report dated 17 November 2021 from Mr F O Connor Head of Legal Administration (Acting), to Paragraphs 23 and 25 of the Planning Committee Operating Protocol, and the addition of Paragraph 78 also shown in the draft amended Protocol.**

**DEVELOPMENT MANAGEMENT -  
PLANNING APPLICATIONS FOR DETERMINATION**

**P/111/2021:**            **PLANNING APPLICATIONS FOR DETERMINATION**

The following applications were determined by the Committee.

**(1)        LA07/2019/1653/F**

**Location:**

Lands to the East of No 5 Ferry Quarter View and Lands to the North East of No 3 Ferry Quarter View Strangford

**Proposal:**

Apartments, Bin store, Car parking and Associated Site Works

**Conclusion and Recommendation from Planning Official:**

Approval

**Power-point presentation:**

Ms A McAlarney, Senior Planning Officer gave a power point presentation via Teams 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 Tony Stevens and Mr Nick Laird presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Mr Philip Stinson, agent, and Mr Andrew Groves Architect, presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Issues Raised:**

- Access road into Ferry Quarter is narrow, at 4.1 m wide, with no pavements.
- Emergency vehicles would be restricted and with additional houses there would be additional car parking space needed, resulting in an overspill into the turning area which would have an impact on vehicle turning and access.
- Concerns regarding sufficient storage and collection area for the additional bins that would result if approval were given.
- Significant loss of privacy highlighted by one objector.
- Consultation had taken place with local residents and scheme had been amended – building was designed to appear as a single development when looking at it from the front and sat sympathetically within the context of the site.
- There was sufficient bin storage provided within the proposed development along with an additional communal area to accommodate the lifting of bins

**AGREED: On the proposal of Councillor Enright, seconded by Councillor McKee, it was agreed to defer Planning Application LA07/2019/1653/F for a site visit and that a representative from DfI be invited to attend the site visit also.**

Councillors Enright, Devlin, McAteer, McEvoy, and McKee withdrew from the discussion/decision on the next application.

It was agreed Councillor Larkin Chair the meeting.

**(2) LA07/2019/1134/O**

**Location:**

90 Manse Road Darraghcross Crossgar

**Proposal:**

Replacement Dwelling

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

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

Mr Gerry Tumilty agent was in attendance to question any questions from Members.

**Issues Raised:**

- Application previously considered by Committee – the agent provided the required information to NIEA regarding a bat survey and NIEA has since confirmed they had no ecological concerns to the proposal – as such the second reason for refusal was removed from the recommendation. However the officer's recommendation to refuse still remained on the basis that the building to be replaced in considered to be a vernacular rural building which should be retained.

- Agent said it was not financially viable to retain the existing building as it did not have foundations and did not lend itself to renovation.
- Policy stated this was an important building in the countryside and the only way permission could be granted for its replacement was if it could not be made structurally sound and if this was the case, information/evidence would need to be provided to show this.

**AGREED: On the proposal of Councillor Hanna, seconded by Councillor Murphy, it was agreed to defer Planning Application LA07/2019/1134/O for the agent to submit an Engineer's report on the existing building. The application to be brought back to the December Committee Meeting.**

(All Councillors who had withdrawn for the application returned to the meeting and Councillor McAteer resumed the Chair)

**(3) LA07/2020/0653/O**

**Location:**

Approx 40m south west of 11 St Patrick's Circle Saul Downpatrick

**Proposal:**

Dwelling and garage.

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point presentation:**

Ms Annette McAlarney, Senior Planning Officer gave a power point presentation via Teams 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 Gerry Tumilty Agent, presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Issues raised:**

- The application site is within the development limit but the proposed access is outside the settlement limit and therefore lies in the countryside.
- Agent advised access to the site could only be gained by the applicant providing a laneway through lands in his ownership adjacent to housing at St. Partrick's Circle. The applicant would be willing to screen the access with mature hedging and planting.
- Planning were of the view that the site was not landlocked and the applicant should be employing whatever opportunity there was to access this land from within the development limit.
- There were a number of objections to this proposal and any approval would override the agreed Development Plan.

**AGREED: On the proposal of Councillor McAteer, seconded by Councillor Devlin it was agreed to defer Planning Application LA07/2020/0653/O for a site visit.**

**(4) LA07/2021/0601/F**

**Location:**

1A Slievemoyne Park Newcastle

**Proposal:**

Proposed Single & 2 storey side and rear extensions and demolition of existing side and rear extension

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point presentation:**

Ms Anette McAlarney Senior Planning Officer gave a power point presentation via Teams 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 Barry Hillen Agent, presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Issues:**

- The development pattern in the area was mixed.
- Mature screening exists to the front of the dwelling and the entire frontage was not visible as a whole from any location – particular reference to critical viewpoints along the Tullybrannigan Road.
- Extension is suburbanite to the existing dwelling with a lower ridge height.
- There are a variety of different house types in the area but every site must be considered in terms of it's own unique characteristics – this is a very large side extension to an existing dwelling which has to comply with PPS7 in terms of the scale and massing is it appropriate to the house.
- There will be critical views in terms of this two storey extension in relation to its bulk and mass.

Councillor Hanna proposed and Councillor Devlin seconded to issue an approval in respect of Planning Application LA07/2021/0601/F contrary to Officer recommendation on the basis that it would not detract from the pattern of development in this particular area; it was sympathetic to the type of houses that were there and it would not be disproportionate given the trees and screening that were already there.

The proposal was put to a vote and voting was as follows:-

FOR:	10
AGAINST:	1
ABSTENTIONS:	0

The proposal was carried.

**AGREED:**

**On the proposal of Councillor Hanna, seconded by Councillor Devlin, it was agreed to issue an approval in respect of Planning Application LA07/2021/0601/F contrary to Officer recommendation on the basis that it would not detract from the pattern of development in this particular area; it was**

**sympathetic to the type of houses that were there and it would not be disproportionate given the trees and screening that were already there.**

**(5) LA07/2021/0652/O**

**Location:**

Lands adjacent and to the south-east of 32 Dromara Road Leitrim Castlewellan

**Proposal:**

2 infill dwellings and garages

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point presentation:**

Ms Annette McAlarney Senior Planning Officer gave a power point presentation via Teams 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 William Wallace Agent, presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Issues Raised:**

- In depth discussion on CTY8 focusing in issues relating to continuous and built up frontage and how they applied to this site.

Councillor Larkin proposed and Councillor Hanna seconded to issue an approval in respect of Planning Application LA07/2021/0652/0 contrary to Officer recommendation on the basis that No. 30 has 20m frontage to the road and that it creates a bookend for a gap for an infill opportunity, with conditions being delegated to officers.

The proposal was put to a vote and voting was as follows:-

FOR:	9
AGAINST:	0
ABSTENTIONS:	2

The proposal was carried.

**AGREED:**

**On the proposal of Councillor Hanna, seconded by Councillor Devlin, it was agreed to issue an approval in respect of Planning Application LA07/2021/0601/F contrary to Officer recommendation on the basis that No. 30 has 20m frontage to the road and that it creates a bookend for a gap for an infill opportunity, with conditions being delegated to officers.**



**(6) LA07/2019/1000/F**

**Location:**

Lands east of Harmony Heights Ballyholland Newry

**Proposal:**

Construction of 14 no Social Housing Units together with associated car parking, landscaping and site works for Registered Housing Association

**Conclusion and Recommendation from Planning Official:**

Approval

**AGREED:** **At the request of Councillor McAteer it was unanimously agreed to defer Planning Application LA07/2019/1000/F for consideration at either the Planning Committee Meeting in either December 2021 or January 2022, to facilitate the preparation of a contribution by local residents of Ballyholland who are objecting to this application.**

**AGREED:** **On the proposal of Councillor Devlin, seconded by Councillor O'Hare it was agreed to exclude the public and press from the meeting during discussion on the following item:**

(Cllr. McKee and Cllr Trainor withdrew from the discussion/decision on the next application)

**(7) LA07/2021/0758/O**

**Location:**

Lands immediately south of No. 40 Quarter Road Annalong BT34 4QZ.

**Proposal:**

Dwelling and garage

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point presentation:**

Mr Mark Keane, Senior Planning Officer gave a power point presentation via Teams 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 Brendan Starkey Agent and Ms Lynn Edgar applicant, presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

On the proposal of Councillor Devlin, seconded by Councillor O'Hare, it was agreed to come out of closed session.

When the Committee came out of closed session, the Chairman advised the following had been agreed:

**AGREED:** **On the proposal of Councillor Hanna, seconded by Councillor Larkin, it was agreed to defer Planning Application**

**LA07/2021/0758/O for 3 months to allow for additional medical consultants information to be forwarded to the Planning Department and also to have a site visit on this application.**

(Cllr. McKee rejoined the meeting)

**(8) LA07/2021/0835/F**

**Location:**

87 Oldtown Road Annalong Co Down

**Proposal:**

Proposed Domestic Garage and Extension to Existing Curtilage

**Conclusion and Recommendation from Planning Official**

Refusal

**Power-point presentation:**

Mr Mark Keane Senior Planning Officer gave a power point presentation via Teams 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 Brendan Starkey Agent, presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Issues raised:-**

- It was the opinion of Planning office that the established curtilage was sufficiently sized and had ample room to accommodate the garage proposed and there was no justification for the removal of the existing natural dry-stone wall and the proposed extension to the curtilage, for which there was no Policy support.
- Agent – insufficient space to the rear of the dwelling to provide a garage – the topography of the land to the east, was extremely challenging and dropped in level by over 10 feet and was entirely covered by dense vegetation. Significant site clearing work and land levelling would be required to make the eastern boundary capable of accommodating the garage.
- Details given of the proposed new curtilage.
- Proposal would have no impact on the Mourne Wall.
- New western boundary to be formed from the existing dry-stone wall by re-locating it from it's existing position and amended drawings had been submitted to show this.

Councillor Hanna proposed and Councillor McKee seconded issue an approval in respect of Planning Application LA07/2021/0835/F contrary to Officer recommendation on the basis that this proposal was a gain for the area in that it was reducing the curtilage size; it was retaining some of the natural ruggedness of the Mournes in that the rough countryside would be remaining and there would be minimum intrusion when moving a Mourne stone wall as it sits in the shape of the land.

Ms Largey said the second refusal reason was that the removal of the wall would not be sympathetic to the existing built form and appearance of the existing property and would cause the unacceptable loss of a local landscape feature. She said she was assuming that as part of Councillor Hanna's proposal he did not believe it would be an unacceptable loss of a

local landscape feature because officers would be given authority to impose conditions that the wall would be re-built.

Councillor Hanna said he would be happy to condition that 2 dry stone walls would be replacing those that would be lost.

The proposal was put to a vote and voting was as follows:-

FOR:	10
AGAINST:	1
ABSTENTIONS:	0

The proposal was carried.

**AGREED:**                    **On the proposal of Councillor Hanna seconded by Councillor McKee it was agreed to issue an approval in respect of Planning Application LA07/2021/0835/F contrary to Officer recommendation on the basis that this proposal was a gain for the area in that it was reducing the curtilage size; it was retaining some of the natural ruggedness of the Mournes in that the rough countryside would be remaining and there would be minimum intrusion when moving a Mourne stone wall as it sits in the shape of the land.**

**Planning Officers to be delegated authority to impose any relevant conditions, including a condition that the 2 dry stone walls are to be replaced.**

**(9)    LA07/2021/0586/O**

**Location:**

Lands immediately south of No 7 Glenmore Road, Mullaghbane

**Proposal:**

Proposed dwelling and garage

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point presentation:**

Ms Andrew Davidson, Senior Planning Officer gave a power point presentation via Teams 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 Paul McKernan agent and Mr Oliver Hearty, applicant presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Issues raised:**

- Planning Office key concern was the gap between buildings which was 150m in length and was too big and did not constitute a small gap site or respect the pattern

of frontages in the area. Issues also with integration and impact on the special rural character of the area.

- Applicant had the site accurately measured which demonstrated that plot sizes in the immediate area ranged from 63m to over 80m with an average 70m width. The application site was 67.5m and sat comfortably within the range of plot sizes and would easily blend with the settlement pattern.
- Agent also addressed refusal reasons relating to integration, ribbon development and the rural character of the area.

**AGREED:**                    **On the proposal of Councillor Larkin, seconded by Councillor Murphy it was agreed to hold a site visit to see what the situation on the ground was and to get a broader picture of what the situation was in relation to measurements in respect of Planning Application LA07/2021/0586/O.**

**Also the agent to provide a map/clearer visuals indicating the plot sizes as discussed.**

### **(10) LA07/2021/0665/O**

#### **Location:**

Lands approximately 50 meters North East of No. 21 Jacks Road Killeen Newry City Co Armagh N Ireland BT35

#### **Proposal:**

Proposed erection of outline rural detached infill dwelling house and detached domestic garage, site works and associated landscaping.

#### **Conclusion and Recommendation from Planning Official:**

Refusal

#### **Power-point presentation:**

Mr Andrew Davidson Senior Planning Officer gave a power point presentation via Teams 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 Barney McKeivitt, agent and Mr Brian McKeivitt, presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

#### **Issues raised:**

- Planning Department accept there are 3 buildings along the frontage of Jack's Road but No. 21 and associated farm buildings are set back from the roadside and are accessed via a laneway which also runs adjacent to the application site and therefore do not benefit from frontage onto the road.
- Area to the front of the main dwelling has the appearance of an agricultural field and not within the residential curtilage of the dwelling. The area was overgrown in nature and appeared separate from the main dwelling and did not appear to have the features of a domestic garden.
- The key issue for Planning is that the buildings are set back from the road and are separated from the road by an agricultural field – proposal falls because there is not a substantial and continuously built-up frontage.

- Agent's view that the adjacent plot, with frontage onto Jacks Road, should be considered at the entire curtilage of No. 21 and therefore met the required frontage.
- The applicant did not claim single farm payment for the garden area which was associated with the dwelling house and buildings which were over 100 years old. Further information given as to why this area should be considered as a garden area and not an agricultural field.

Councillor Larkin proposed and Councillor Hanna seconded issue an approval in respect of Planning Application LA07/2021/0665/0 contrary to Officer recommendation on the basis of the evidence presented by the agent that the agricultural field referred to has been an established garden for the house and that frontage has been achieved.

The proposal was put to a vote and voting was as follows:-

FOR:	11
AGAINST:	0
ABSTENTIONS	0

The proposal was carried.

**AGREED:**                    **On the proposal of Councillor Larkin seconded by Councillor O'Hare it was agreed to issue an approval in respect of Planning Application LA07/2021/0665/0 contrary to Officer recommendation on the basis of the evidence presented by the agent that the agricultural field referred to has been an established garden for the house and that frontage has been achieved.**

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

**(11) LA07/2021/0816/O**

**Location:**

Adjacent to No. 10 Hillhead Road, Newry, BT35 8TN

**Proposal:**

Proposed replacement dwelling to create an infill dwelling -

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point presentation:**

Ms Patricia Manley Senior Planning Officer gave a power point presentation via Teams 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 John Feehan, agent presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Issues raised:**

- Building did not have the characteristics of a dwelling house and therefore did not meet the Policy for replacement.
- Application was not considered an infill site as the applicant proposed to demolish the existing building to create the infill opportunity.
- Opportunity was given to the applicant to demonstrate that the proposed access would not prejudice road safety or significantly inconvenience the flow of traffic along the Hillhead Road but despite the opportunity to address this Dfi had responded the same as before advising the application was unacceptable as submitted.
- Applicant already has an existing gap between buildings and do not need to replace the building at the front in order to create the gap in order to qualify under CTY8.
- Issues discussed in relation to information required by Roads Department.

(Councillor Harte left the meeting)

(Councillor Enright left the meeting)

Councillor Larkin proposed and Councillor Murphy seconded to hold a site visit in relation to planning application LA07/2021/0816/0 and also request that the Planning Department seek the information that Roads Service had requested from the agent and that it be provided swiftly by the agent to the satisfaction of the Department.

**AGREED:**                    **On the proposal of Councillor Larkin seconded by Councillor Murphy it was agreed to hold a site visit in respect of Planning Application LA07/2021/0816/0 and also request that the Planning Department seek the information that Roads Service had requested from the agent and that it be provided swiftly by the agent to the satisfaction of the Department.**

(Cllr Devlin left the meeting)

**(12) LA07/2021/0786/RM****Location:**

Site of former St Mary's Primary School (opposite and east of 1-15 Shan Slieve Drive and south of 32-38 Bryansford Road and 2-8 Tullybrannigan Road) and portion of Bryansford Road Newcastle

**Proposal:**

Demolition of former school building, erection of food store and mountain rescue, provision of car parking, landscaping, and associated site works.

**Conclusion and Recommendation from Planning Official:**

Approval

**Power-point presentation:**

Ms Annette McAlarney, Senior Planning Officer gave a power point presentation via Teams 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.

Ms A McAlarney highlighted the following points:

- Outline permission has already been granted in respect of this application and conditions attached have been complied with.
- Consultees reported no objections but indicated approval would be subject to conditions.
- One letter of objection was received.
- Planning Service recommend approval with relevant conditions attached.
- The proposed Food Store is a low level building.
- The proposed landscaping scheme included trees and new planting.

**Speaking rights:**

Mr Conleth Rooney Don Holdings (NI) Ltd, presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee Members

Mr Rooney highlighted the following points:

- Primary issue relating to Conditions 2 and 4 have not been addressed since the granting of outline permission, which requires the submission of an accurate scale plan and site survey by the applicant to deal specifically with the proposed access and sightlines which is paramount to road safety at the site.
- Expert evidence has been provided to Council on a number of occasions demonstrating these conditions cannot be met as access visibility splays are not achievable - they cut across neighbouring land on the road front resulting in danger to access users, road users and pedestrians - the revised plan submitted by the applicant still lacks detail regarding this key issue.
- The sightlines proposed are significantly reduced therefore posing the need for even more vigilance by Council when considering this application in terms of road safety.
- The Case Officer's report fails to deal with this particular objection indicating this is a private land issue. In this case the sightlines cannot be achieved due to neighbouring land and therefore should be a planning matter and a relevant safety issue.
- Deferring the matter to DfI Roads is not appropriate but requires full consideration by Council.
- This Reserved Matters application cannot be considered in the absence of a detailed and accurate survey confirming visibility splays are achievable and evidence provided to this effect.

Mr Dermot Monaghan Architect, presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Mr Monaghan raised the following points:

- The proposal is a major investment project which will regenerate a derelict site, bring employment and many benefits to the community.
- The application was made following Outline permission previously granted in October 2020, at which proposed access details were debated at length. - following submissions from DfI Roads, the applicant and Planning Department, the outline application was approved with access being approved as part of this permission. Condition 4 of this permission, which was requested by DfI Roads, seeks to ensure that the access, as shown on the Reserved Matters drawings, is consistent with that approved under the outline permission, and shows a satisfactory means of access in the interests of Road Safety and convenience of road users.

- The drawings submitted with the Reserved Matters application is in accordance with details approved under the outline permission and DfI are content with same. The access is safe and will not inconvenience or prejudice road users.
- The Planning Committee decision to approve the outline application was not legally challenged.
- Planning Dept have indicated there is no requirement for land ownership boundaries to be shown on drawings.
- With regard to sightlines not being achievable in terms of road safety, DfI have recommended the inclusion of a condition whereby development cannot commence until access and sightlines have been provided, which therefore will ensure no road safety issue. There has been no reason identified as to why this standard condition should not be in place in respect of this application.
- No other issues have been raised with the content of the Reserved Matters application.

### **Issues raised:**

Cllr Hanna asked for clarification from a legal perspective, on whether the matter of ownership of sightlines should be taken into consideration.

Ms Largey responded, providing clarification as follows:

- The issue of sightlines ownership had been discussed at outline stage during which the Planning Committee heard evidence on the matter and decided to grant approval.
- The outline approval was not judicially reviewed and therefore remains extant.
- The Committee have been advised of all the information required by the applicant, and the objector has had opportunity to submit their information which is before Committee today.
- The application has been assessed by Planning Officers and DfI Roads who have no objection to the application and it is entirely a matter for the Committee to exercise its own discretion in terms of the evidence presented and decide whether or not this is a sufficient issue that would cause to refuse or grant a reserved matters application.

Ms Largey added that deliverability or otherwise of a planning permission by virtue of third party ownership of visibility splays, in her view is not a reason upon which to refuse an application, however should an issue arise at a later stage where pre-commencement conditions cannot be complied with, or are not complied with and development takes place, then this will become an enforcement matter.

Councillor Larkin asked for confirmation from the Planning Officer and DfI Roads that they are content with the situation in relation to the sight splays as raised by Councillor Hanna.

Mr Rice said the issue regarding sight splays had been discussed at length at outline stage and the standards agreed have been provided shown on the outline plan at Reserved Matters stage therefore DfI Roads are content the sight splays appear to be achievable within the red line and DfI Roads have issued a decision of no objections.

Ms McAlarney said the drawings reflected the outline permission and appears to be in order in consultation with statutory consultees and confirmed that on this basis she was content the issue has been addressed and will be subject to a pre-commencement condition.



Councillor McAteer referred to concerns that the type and scale of the drawings were not accurate and asked for clarification from DfI Roads in terms of the size and scale of drawings that would normally be submitted for this type of application.

Mr Rice confirmed the drawings were in line with what would normally be received and the red line appeared to cover ample land for sight splays and added that if land ownership is not as per the red line then the application could not be fulfilled.

Mr Rooney referred to the issue of land ownership being addressed at enforcement stage, and questioned why the Committee would approve a reserved matters application where they cannot be satisfied as to the drawings and given the difference in opinion regarding the drawings and he felt this will present difficulty to Council in making a decision based on inaccurate drawings. He added that the point remains that more detail was required at the outline stage process and the Committee have not been given this detail therefore the issue remained as to why would the Committee approve the application at this point in the absence of the necessary detail to make this determination.

Mr Monaghan said there was nothing contained in planning policy or legislation that indicated to refuse an application if an applicant could not demonstrate ownership of land and added that it was the responsibility of the applicant to ensure they have necessary title in order to deliver a development.

Councillor Hanna proposed to accept the Officer recommendation in respect of Planning Application LA07/2021/0786/RM. 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	7
Against	0
Abstentions	0

The proposal was carried.

**AGREED: On the proposal of Councillor Hanna seconded by Councillor O Hare it was agreed to issue an approval in respect of Planning Application LA07/2021/0786/RM as per the information and recommendation contained in the Case Officer report presented to Committee.**

#### **FOR NOTING**

**P/112/2021: HISTORIC ACTION SHEET**

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

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

**P/113/2021: PLANNING COMMITTEE PERFORMANCE REPORT  
- OCTOBER 2021**

Read: Planning Committee Performance Report for October 2021.  
**(Copy circulated)**

**AGREED: It was unanimously agreed to note the Planning Committee  
Performance Report October 2021.**

**P/114/2021: CURRENT APPEALS AND DECISIONS -OCTOBER 2021**

Read: Planning Appeals and Decisions Report for October 2021.  
**(Copy circulated)**

**AGREED: It was unanimously agreed to note the Report on Planning  
Appeals and Decisions for October 2021.**

The meeting concluded at 4.30 pm.

For confirmation at the Planning Committee Meeting to be held on Wednesday 15 December 2021.

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

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