

NEWRY MOURNE AND DOWN DISTRICT COUNCIL

Minutes of Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 1 July 2026 at 11am in the Council Chamber, Downshire Civic Centre, Downpatrick.

Chairperson: Councillor M Larkin

Committee Members in attendance in Chamber: Councillor W Clarke Councillor V Harte
Councillor O Magennis Councillor S Murphy
Councillor M Rice Councillor J Tinnelly
Councillor H Young

Officials in attendance: Mr J McGilly, Assistant Director: Regeneration
Mrs A McAlarney, Planning Manager
Mr M Keane, Senior Planning Officer
Ms A Loughan, Senior Planning Officer
Ms L Jackson, Development Plan Manager
Ms E Kirk, Assistant Director: Legal & People
Mr P Rooney, Head of Legal Administration
Ms S Taggart, Democratic Services Manager
Ms F Branagh, Democratic Services Officer
Mr C Smyth, Democratic Services Officer

Officials in attendance On Teams: Mr P Rooney, Principal Planner

P/043/2026: APOLOGIES AND CHAIRPERSON'S REMARKS

Apologies were received from Councillors Devlin, McAteer and Reilly.

P/044/2026: DECLARATIONS OF INTEREST

There were no declarations of interest.

P/045/2026: DECLARATIONS OF INTEREST IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL- PARAGRAPH 25

Declarations of Interest in relation to Para.25 of Planning Committee Operating Protocol

There were no declarations of interest.

MINUTES FOR CONFIRMATION

P/046/2026: MINUTES OF PLANNING COMMITTEE MEETING OF WEDNESDAY 27 MAY 2026

Read: Minutes of Planning Committee Meeting of Wednesday 27 May 2026.
(Copy circulated)

AGREED: **On the proposal of Councillor Larkin, seconded by Councillor Rice, it was agreed to adopt the Minutes of the Planning Committee Meeting of Wednesday 27 May 2026 as a true and accurate record.**

FOR DISCUSSION/DECISION

P/047/2026: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 1 July 2026.
(Copy circulated)

Ms Kirk advised that there were erroneous statements made in the Addendum Report for item 8 – LA07/2021/0809/F, outlined the corrections to be made as detailed below and asked Members to note that the two statements would be corrected.

- Page 2 referenced "SES therefore advises that, in this instance, a negative condition is not recommended", with page 3 paragraph entitled "conclusion" implying that SES advice was binding.

Ms Kirk confirmed that while SES provided a recommendation not to use a negative condition, this did not mean that a negative condition could not be used to achieve the required standard.

- Page 3 also stated "in line with legal precedent"

Ms Kirk affirmed that this should have referred to the SES quotation of the case of R Wyatt v Fareham Borough Council [2022] EWCA Civ 983, as referenced in the last paragraph of their response letter dated 22/04/2026

"Planning permission can only be given following an appropriate assessment where the decision-maker is certain /beyond reasonable scientific doubt, as to the absence of lasting adverse effects on the integrity of designated sites (R (Wyatt) v Fareham Borough Council [2022] EWCA Civ 983). If reasonable doubt remains, permission must be refused. SES therefore advises that, in this instance, a negative condition is not recommended"

- Page 5, paragraph 1, stated that "Senior Management and the Council's Legal Services...."

Ms Kirk advised that this should read "Planning Manager and Officers sought legal advice, and the use of a negative condition can be used as no development will take place unless deliverable wastewater treatment solution is agreed with NI Water.

Mr Keane advised that the application sought full planning permission for the change of use of an existing chemist to a butcher's shop, together with internal alterations at ground floor level and the conversion of the former first-floor four-bedroom apartment into two one-bedroom apartments. He noted that the case officer's report was taken as read.

Mr Keane explained that the site was located within the settlement limits of Annalong, close to the harbour, within an Area of Outstanding Natural Beauty (AONB) and an Area of Archaeological Potential. He stated that while the principle of the proposed land uses was considered acceptable, the application was recommended for refusal due to objections from NI Water. He confirmed that NI Water had advised that the proposal could not be accommodated within the existing sewerage network, creating a risk of detrimental environmental impacts and adverse effects on existing properties. He noted that the applicant had been advised to engage directly with NI Water and to submit a Wastewater Impact Assessment (WwIA) to explore alternative drainage or treatment solutions, however to date, this had not happened.

He further advised that NI Water had clarified its position on the basis that the building had not been in use for the previous five years and, as such, the proposal would constitute an intensification of foul sewerage and surface water discharge.

Speaking rights:

Ms Rachel Moffitt and Ms Stephanie Reddick, representatives from NI Water, were present to answer any questions relating to the refusal reason for the application.

In Support:

Mr Brendan Starkey spoke in support of the application, stating that the application related to the re-use of an existing vacant building in the historic centre of Annalong, close to the harbour, and represented an opportunity to regenerate a prominent site, which would bring the building back into productive use through the provision of a butcher's shop at ground floor level and two one-bedroom apartments above, improving the appearance of the building and supporting the vitality of the village.

Mr Starkey noted that the sole reason for refusal related to NI Water's objection on wastewater network capacity and argued that NI Water had assessed the proposal as though it were a new connection, despite the building already benefiting from an existing connection and previously accommodating both retail and residential uses. He further stated that the Planning Department had confirmed that the ground floor retail use remained within the same use class and that the first-floor residential use was already established. In his view, the proposal would not result in a material intensification of wastewater discharge, as the change from one four-bedroom apartment to two one-bedroom apartments would generate a broadly comparable level of demand.

Mr Starkey concluded by stating that the proposal fitted with the objectives of the SPPS by promoting the reuse of an existing building, supporting village regeneration and contributing to the local economy and requested that Members approve the application.

Councillor Harte queried why the applicant's agent had not engaged with either the Planning Department or NI Water following notification of the wastewater network concerns several months earlier.

Mr Starkey advised that he had become involved after the application had been recommended for refusal and explained that commissioning a WwIA for a development of this scale would incur significant costs, in addition to engineering fees, and that the process often resulted either in no viable solution or the need for costly engineering works that would make the proposal financially unviable. He further noted that the lawful fallback position would allow the existing retail use and four-bedroom apartment to resume without planning permission and stated that the proposed two one-bedroom apartments were likely to generate lower water demand than the previous residential use.

Councillor Clarke sought clarification from NI Water on its assessment that the proposed butcher's shop and two one-bedroom apartments would result in greater wastewater demand than the previous retail use with a four-bedroom apartment. He also queried whether the planned upgrade to the Annalong pumping station could enable the application to proceed, potentially by way of a negative planning condition.

Ms Moffitt advised that NI Water assessed the proposal before it rather than the site's previous use and, based on its modelling, considered the development would represent an intensification of wastewater discharge due to the proposed butcher's shop and two residential units. She further explained that the issue did not relate to the pumping station but to the Harbour Main Street Combined Sewer Overflow (CSO), which was already discharging significant volumes of sewage to the environment. She added that there were also properties in the area included on NI Water's DG5 Register of properties at risk of sewer flooding and that NI Water could not support additional connections that would increase those risks.

Councillor Clarke queried the anticipated timeframe for the proposed upgrade to the Annalong pumping station and noted that several businesses in the village had closed in recent years. He also expressed the view that requiring a WwIA for a small-scale proposal could render the development financially unviable.

Ms Moffitt advised that, despite repeated requests, NI Water had received no engagement from the applicant. She noted that NI Water's website set out the process applicants should follow to establish the feasibility of development proposals, which had not been undertaken in this case. While acknowledging that these requirements could affect the viability of smaller schemes, she stated that NI Water's priority remained protecting existing customers and the environment. She further confirmed that improvements for Annalong were included within the proposed PC28 investment programme, subject to funding availability and investment priorities.

Councillor Tinnelly queried the basis and origin of NI Water's five-year rule, under which the proposal was treated as a new connection, and sought clarification on the evidence supporting NI Water's assessment that a butcher's shop would generate greater wastewater demand than a chemist.

Ms Moffitt advised that NI Water had applied the five-year rule to a number of planning applications in recent years where premises had been vacant for an extended period. She further explained that NI Water's assessment was informed by meter readings and historical consumption data, which provided average water usage figures for different business types.

Councillor Tinnelly sought clarification from the Planning Department that, should the applicant restore the building to its previous use as a chemist with a four-bedroom apartment above, no planning permission would be required.

Mr Keane confirmed that planning permission would not be required where the building was restored on a like-for-like basis to its lawful former use. However, he advised that, as the current proposal sought a different form of development and had been submitted as a planning application, it was necessary for the consultation process to be completed, and the application determined on its merits.

Councillor Rice sought clarification from NI Water on how the proposed change from a four-bedroom apartment to two one-bedroom apartments was considered to represent an intensification of use, to which Ms Moffitt advised that NI Water's assessment was based on its standardised domestic calculation rates. She explained that, as the applicant had not submitted any supporting information regarding anticipated discharge rates or water usage, NI Water could only assess the proposal using its baseline standard methodology.

Councillor Rice queried why the agent had not engaged with NI Water in relation to water usage comparisons between a four-bedroom apartment and two one-bedroom apartments, to which Mr Starkey advised that, in his view, NI Water should already have access to the relevant baseline information and stated that it was common sense that a four-bedroom apartment would typically accommodate a larger household than two one-bedroom apartments, which would generally be occupied by fewer persons.

Councillor Rice sought legal advice on the differing positions presented, specifically whether it was within the Planning Committee's discretion to determine the application contrary to the recommendation, or whether greater weight should be afforded to the response of the statutory consultee.

Mr Rooney advised that NI Water, as a statutory consultee, had raised an objection which Members should give careful consideration to. However, he noted reservations about the conclusion that the proposal represented an unacceptable intensification of wastewater discharge, given the existing sewer connection and the ability for the building to lawfully revert to its previous retail and residential use. He advised that, should Members be minded to approve the application contrary to the officer's recommendation, consideration could be given to imposing a condition requiring further engagement with NI Water to address the outstanding wastewater issues. He also advised that Members may be minded to ascertain from NI Water's objection, particularly in relation to any apparent change in position, whether this stemmed from internal policy or procedural considerations rather than statutory requirements.

Councillor Rice requested that NI Water expand on its position following the legal advice provided.

Ms Moffitt advised that NI Water's original consultation response had been issued in February 2024 on the incorrect assumption that the proposal represented a like-for-like development. She explained that, upon re-consultation in September 2025, outside the 18-month validity period for consultation responses, the error was identified and the response was amended accordingly. She confirmed that NI Water, as a statutory consultee, was entitled to revise its response where appropriate. She further explained that NI Water assessed applications based on the proposal submitted and applied a five-year rule, in place for over ten years, to determine whether previous uses could be taken into account. As the

building had been vacant for more than five years, the previous use was no longer reflected in NI Water's network modelling, and the proposal was therefore treated as an intensification of discharge to the sewerage network.

Ms Moffitt also advised that NI Water had a duty to balance facilitating new connections with protecting the environment under its agreement with the NIEA and its "no detriment" approach. She stated that approving a new connection in these circumstances would be contrary to that agreement and could expose NI Water to enforcement action. She therefore confirmed that NI Water maintained its objection to the application.

Councillor Larkin queried the 3,000 cubic metres of discharge per year, and the issues mentioned regarding other customers connected on that particular line, where the discharge went and what other issues were known on the line.

Ms Moffitt advised that NI Water maintained a DG5 Register of properties that had experienced, or were at risk of, internal sewer flooding. She confirmed that there were properties within the area already included on the register and that additional wastewater discharges could increase the risk of further flooding. She noted that NI Water's objective was to reduce, rather than increase, the number of properties on the DG5 Register. She further explained that the Main Street CSO discharged excess flows to the receiving watercourse when the sewer network exceeded capacity. She stated that permitting additional discharges would exacerbate existing pressures on the network, risk breaching NI Water's environmental consent, and could expose NI Water to potential regulatory enforcement action or prosecution.

Councillor Larkin queried the end point of the CSO, to which Ms Moffitt confirmed she did not have the specific locations but that the discharge would eventually end up in the sea.

Councillor Larkin queried what information would be required from the applicant to enable the application to proceed, to which Ms Moffitt advised that the appropriate course of action would be for the applicant to submit a WwIA, which would allow NI Water to assess the proposal in detail and identify any potential solution to the identified network constraints. She explained that the affected CSO did not have sufficient pipe capacity and was unscreened, resulting in untreated material being discharged to the environment. She further advised that, under NI Water's agreement with the NIEA, developments impacting this type of CSO would be required to deliver significant stormwater offsetting measures to reduce surface water entering the combined sewer system and advised that any such mitigation would need to be funded, secured and implemented by the developer.

Following a query from Councillor Tinnelly regarding the five-year rule, a discussion took place on whether it constituted an internal policy or a statutory requirement. Ms Moffitt advised that the rule formed part of a "heads of agreement" between NI Water and the NIEA and was treated by NI Water as a statutory requirement. Mr Starkey, however, advised that it was not a statutory obligation in legislative terms and instead reflected an internal arrangement between the two bodies.

Following this discussion, Members requested legal advice on whether the five-year rule constituted a statutory requirement or an internal process to be taken into account in the determination of the application.

Ms Kirk advised that NI Water's references to statutory obligations related to its own legal duties and regulatory arrangements with the NIEA in respect of mitigation measures, rather

than representing a statutory requirement that the Planning Committee was obliged to follow. She explained that statutory consultees provide a consultation response to the Planning Committee, whether by way of objection, support or suggested conditions, and that it remained for Members, as decision-makers, to determine the application in the exercise of their planning judgement.

Ms Kirk further advised that, on the basis of the information before Members, there was insufficient evidence to conclude that planning conditions could address NI Water's concerns. She therefore advised that Members should consider whether they agreed with NI Water's assessment that it had not been demonstrated that there was sufficient capacity within the sewerage network to accommodate the proposal, and that it would not result in significant detrimental impacts on the environment or existing properties.

Councillor Clarke queried whether the number of derelict buildings in the area had been factored into NI Water's capacity modelling, to which Ms Moffitt advised that NI Water's position was based on its network modelling, which reflected current assumptions on wastewater discharges. She explained that individual changes in occupancy or business use were not routinely captured and that any reassessment would require the relevant catchment area to be remodelled as part of NI Water's prioritised programme of work. She further advised that, should remodelling identify different discharge levels, NI Water would be required to seek approval from the NIEA to amend its assumptions and network constraints, a process which would take additional time.

Councillor Clarke expressed the view that the wastewater network modelling should be reviewed to reflect recent changes in the area, noting that a number of businesses within the village centre and harbour area had closed. While acknowledging existing issues within the sewerage network, he considered these to be primarily related to infrastructure capacity rather than overall wastewater loading and suggested that infrastructure investment, rather than restricting development, was required to address the underlying issues, with reference to the Council's role in supporting regeneration and development.

Ms Moffitt advised that the capacity of the sewerage network and the condition of the infrastructure were intrinsically linked. She noted that while future investment through the PC28 programme could deliver improvements, there remained existing properties at risk of flooding in the meantime. She further stated that increasing rainfall associated with climate change added pressure on the network and emphasised that removing surface water from the CSO was necessary to alleviate those pressures.

Councillor Larkin requested clarification on whether the Planning Department were able to impose a negative condition to allow the application to proceed to which Mr Keane confirmed that NI Water had issued its objection in September 2025, which was subsequently relayed to the agent. He noted that, despite further contact from officers in March and April, no additional information, evidence or commitment to engage with NI Water had been provided. Consequently, officers were unable to conclude that the matter could be addressed by way of a negative planning condition and therefore maintained the recommendation for refusal.

Following the extensive discussions, Councillor Rice proposed to overturn the recommendation to an approval, stating that, in his view, there would be a negligible change in the intensity of water use arising from the proposal and that he was not satisfied there would be an adverse impact on the wastewater network as suggested by NI Water.

sited significantly further from the side and rear boundaries, resulting in a different relationship with No. 27.

Mr Keane concluded by reiterating the recommendation for refusal under Policy QD1(a) and (h) of PPS 7 and Policy LC1 of Addendum to PPS 7.

Speaking rights:

In Support:

Mr Declan Rooney spoke in support of the application, supported by Mr Colin Dalton and Mr Malachy McCourt. He stated that the principle of residential development on the site was not in dispute, noting that it was located within the Newry settlement limit in an established residential area. He highlighted that NI Water had confirmed there was sufficient wastewater capacity to serve the development and considered that, given the current infrastructure constraints affecting housing delivery, sustainable development on suitable sites should be supported. He noted that neither statutory consultees nor neighbouring residents had objected to the proposal and confirmed that he believed that it complied with Policies QD1 and LC1. He advised that the proposed dwelling was identical in scale, form and design to the dwelling approved and currently under construction on the adjoining plot and therefore respected the character of the area and would complete an infill site within the existing streetscape.

Addressing residential amenity, Mr Rooney advised that amendments had been made to the window arrangement following discussions with the Planning Department and argued that overlooking would be limited due to the orientation of the dwelling and the presence of an established mature hedge along the shared boundary. He further submitted that any overshadowing or dominance would not be unacceptable, noting the existing vegetation, the site's orientation and the urban context.

Mr Rooney concluded by stating that the proposal represented sustainable infill development on a site where infrastructure capacity existed and requested that Members disagree with the officer's recommendation and approve the application.

Councillor Tinnelly queried the similarities between the proposed dwelling and the dwelling currently under construction, and whether the refusal reasons would equally apply to the adjacent approved dwelling.

Mr Keane advised that although the dwellings were of a similar scale, size and footprint, the key distinction related to siting and proximity to neighbouring boundaries. He explained that the adjacent dwelling under construction benefited from a rear separation distance of approximately 12 metres, which exceeded the 10-metre guidance in *Creating Places*, whereas the proposed dwelling would be set approximately 6 metres from the rear boundary, resulting in different amenity considerations. He confirmed that while the site could accommodate a dwelling in principle, officers considered the proposed dwelling to be excessive in size for its context. He noted that amendments had been made during the process, but these were limited to window arrangements and did not materially alter the overall scale or siting.

Councillor Tinnelly queried whether No. 27 had been consulted, to which Mr Keane confirmed that it had been notified as part of the neighbour notification process and no response had been received. He further advised that site visits had been undertaken,

Proposal:

Demolition of existing buildings and the erection of an apart hotel comprising of 14Nos. units, a restaurant, ancillary golf storage area, and all associated site works.

Conclusion and Recommendation from Planning Official:

Refusal

AGREED:

This application was withdrawn by the Planning Department to allow for further consideration.

ITEM RESTRICTED IN ACCORDANCE WITH PART 1 OF SCHEDULE 6 OF THE LOCAL GOVERNMENT ACT (NI) 2014**Agreed:**

On the proposal of Councillor Harte, seconded by Councillor Magennis, it was agreed to exclude the public and press from the meeting during discussion on the following items, which related to exempt information by virtue of para. 3 of Part 1 of Schedule 6 of the Local Government (Northern Ireland) 2014 – information relating to the financial or business affairs of any particular person (including the Council holding that information) – and the public may, by resolution, be excluded during this item of business.

Agreed:

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

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

P/049/2026:**QUARTERLY PLANNING ENFORCEMENT UPDATE****Read:**

Report from Mr J McGilly, Assistant Director of Regenerations, regarding Quarterly Planning Enforcement Update **(Copy Circulated)**.

AGREED:

It was agreed on the proposal of Councillor Harte, seconded by Councillor Magennis, to note the enforcement update.

FOR NOTING**P/050/2026:****LDP PROGRESS REPORT****Read:**

Report from Mr J McGilly, Assistant Director of Regeneration, presented by Mrs L Jackson, Development Plan Manager, regarding LDP Progress Report. **(Copy circulated)**

Ms Jackson provided an update on the progress of the LDP process, advising that it remained a lengthy and detailed process and that officers were currently analysing the

representations received. She advised that it was anticipated a further consultation would be undertaken on proposed focused and minor changes, in line with the process followed by councils that had already adopted their plans and expressed the hope that this stage of the process would be completed later in the year.

AGREED: **It was agreed on the proposal of Councillor Harte, seconded by Councillor S Murphy, to note the contents of the report.**

P/051/2026: NOTIFICATION OF WITHDRAWAL OF PLANNING APPLICATION

Read: Correspondence from DFI Regional Planning regarding Notification of Withdrawal of Planning Application. **(Copy circulated)**

AGREED: **It was agreed on the proposal of Councillor Harte, seconded by Councillor S Murphy, to note the correspondence.**

P/052/2026: HERATIGE AT RISK NORTHERN IRELAND (HARNI) REGISTER – UPDATE 2025/26

Read: Report from Mr J McGilly, Assistant Director: Regeneration, regarding Heritage at Risk Northern Ireland (HARNI) Register – Update 2025/26. **(Copy circulated)**

AGREED: **It was agreed on the proposal of Councillor Harte, seconded by Councillor S Murphy, to note contents of the report and Appendix A.**

P/053/2026: HISTORIC ACTION SHEET

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

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

There being no further business the meeting ended at 12.30pm

Signed: _____ **Chairperson**

Signed: _____ **Chief Executive**

NB: 40% of decisions overturned.

