

**PLANNING COMMITTEE PRE-DETERMINATION HEARING MEETING HELD
FRIDAY 17 NOVEMBER 2023**

Table of Key Adoptions

No.	Item	Summary of Decisions
1.	Apologies	Councillor McMullan
2.	Declarations of Interest	Nil
3.	LA01/2016/1328/F – Full application for a Hotel and Spa Complex (including conference and banqueting facilities, holiday cottages, North West 200 visitor attraction (including exhibition space, tourist retail unit (c.150 sq m) and office space), demonstration restaurant, car/coach parking, access/junction alterations, landscaping, private sewerage treatment plant and water bore holes together with associated apparatus/infrastructure works on land south of 120 Ballyreagh Road, Portstewart BT55 7PT	<i>That a Site Visit is held for those Elected Members who did not have the opportunity to visit the site previously</i>

**MINUTES OF THE PROCEEDINGS OF THE MEETING OF THE PLANNING
COMMITTEE PRE-DETERMINATION HEARING HELD IN THE COUNCIL
CHAMBER, CIVIC HEADQUARTERS AND VIA VIDEO CONFERENCE
ON FRIDAY 17 NOVEMBER 2023 AT 10.30AM**

Chair: Alderman S McKillop, Vice Chair (C)

Committee Members: Alderman Boyle (C), Coyle (C), Hunter (R), Scott (C), Stewart (C); Councillors Anderson (C), C Archibald (C), Kennedy (C), McGurk (R), Nicholl (R), Peacock (R), Storey (C), Wallace (C), Watton (C)

Officers Present: D Dickson, Head of Planning (C)
S Mathers, Development Management and Enforcement Manager (C)
M Wilson, Senior Planning Officer (C)
J Lundy, Senior Planning Officer (R)
S McAfee, Head of Health and Built Environment (R)
M Jones, Council Solicitor, Corporate, Planning and Regulatory (C)
S Duggan, Civic Support Officer & Committee & Member Services Officer (R)
J Keen, Committee & Member Services Officer (C)

In Attendance: A Gillan, Department of Infrastructure (R)
A Montgomery, Tourism NI (R)

J Winfield, ICT Manager (C)
C Thompson, ICT Officer (C)

Public 15 no (C) and 2 no. (R)
Press 2 no (R)

Key: R = Remote C = Chamber

Registered Speakers

LA01/2016/1328/F	J Allister MLA, Objector (C) T Ferguson, Support (C) B Wilson, Support (C) P Neary, Support (C) S Terry, Support (R) J Banks, Support (R) K Blair, Support (C) G Campbell MP, Support (C)
------------------	--

The Head of Planning undertook a roll call of Committee Members in attendance.

The Chair read extracts in relation to the Remote Meetings Protocol and reminded the Planning Committee of their obligations under the Local Government Code of Conduct.

The Chair read an extract in relation to the format for the Pre Determination Hearing.

1. APOLOGIES

Apologies were received for Councillor McMullan.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. LA01/2016/1328/F – FULL APPLICATION FOR A HOTEL AND SPA COMPLEX (INCLUDING CONFERENCE AND BANQUETING FACILITIES, HOLIDAY COTTAGES, NORTH WEST 200 VISITOR ATTRACTION (INCLUDING EXHIBITION SPACE, TOURIST RETAIL UNIT (C.150 SQ M) AND OFFICE SPACE), DEMONSTRATION RESTAURANT, CAR/COACH PARKING, ACCESS/JUNCTION ALTERATIONS, LANDSCAPING, PRIVATE SEWERAGE TREATMENT PLANT AND WATER BORE HOLES TOGETHER WITH ASSOCIATED APPARATUS/INFRASTRUCTURE WORKS ON LAND SOUTH OF 120 BALLYREAGH ROAD, PORTSTEWART BT55 7PT

Report, addenda, erratum, site visit report and speaking rights, C&V Presentation and Peter Bolan Presentation were previously circulated. The application was presented by the Development Management and Enforcement Manager, S Mathers.

App Type: Full Application

Proposal: Full application for a Hotel and Spa Complex (including conference and banqueting facilities, holiday cottages, North West 200 visitor attraction including exhibition space, tourist retail unit (c.150 sq m) and office space, demonstration restaurant, car/coach parking, access/junction alterations, landscaping and associated infrastructure works) on land south of 120 Ballyreagh Road, Portstewart.

Recommendation

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 9 and the policies and guidance in Section 7 & 8 and resolves to **APPROVE** full planning permission subject to the conditions set out in Section 10.

Addendum Recommendation

That the Committee notes the content of this addendum and agrees with the recommendation to approve as set out in Section 9 of the Planning Committee Report.

Addendum 2 Recommendation

This is a significant proposal on the edge of Portstewart. There is a significant economic consideration and there is significant support for the proposal. There is also significant objection to the proposal. Having regard to the planning policies and all matters considered, approval is recommended.

Erratum Recommendation

That the Committee agrees with the recommendation to approve as provided in the Committee Report.

Addendum 3 Recommendation

That the Committee note the contents of this Addendum and agree with the recommendation to approve full planning permission subject to the conditions set out in Section 5.0 of Addendum 2 and paragraph 1.11 of Addendum 3

The Development Management and Enforcement Manager presented via Power point as follows:

- This full application proposes a hotel development with car parking just outside Portstewart, with the site separated from the settlement development limit by part of Portstewart Golf course. The hotel building includes 119 bedrooms, conference centre and spa complex including swimming pool. In addition, the hotel building accommodates a small exhibition area with shop and modest office accommodation all relating to the NW200 event. Other key elements of the proposal are 9 detached holiday cottages and a detached demonstration restaurant (all to the rear of the site) and car parking.
- As a major application, the application was preceded by a PAN and was accompanied by a Community Consultation Report and Design and Access Statement.
- Planning permission was granted on two previous occasions by the Council- on 29 June 2017 and 05 March 2018. On both occasions, the planning permissions were quashed by the High Court, most recently on 09 August 2019. Accordingly, processing of the application resumed and the application is now at a stage to be presented to the Planning Committee.
- In terms of the Northern Area Plan 2016, the site is located in the countryside outside the settlement limit of Portstewart. The Northern Area Plan does not provide specific policy on tourism development, rather directing that regional policies apply. Policy TSM 3 from PPS 16 Tourism is the lead policy to assess the proposal. This was confirmed by the High Court Judgement having regard to this specific proposal.

Main Issues

- Alternative Sites within a Settlement- Policy TSM 3 directs that a site in the countryside is dependent on demonstrating that there is no suitable site within the settlement or other nearby settlement. The application was accompanied by an updated submission which identified that there are no sites available to accommodate the development either in Portstewart or the nearby settlement of Portrush. The detail of why sites were discounted is provided in Addendum 2. The most frequent reasons were that sites were too small to accommodate the proposal and were not available.
- Conversion and Replacement Opportunities- Policy TSM 3 directs that a site in the countryside is dependent on demonstrating that there is no suitable opportunity in the locality to provide a hotel through conversion or replacement opportunities. In this case, through consideration of updated information, no such opportunities were identified near Portstewart or Portrush.
- Alternative Sites on Edge of Settlement- Policy TSM 3 requires, broadly, an appropriate site at the edge of a settlement. Alternative sites have been considered through updated information and discounted. The detail of the consideration is provided in Addendum 2.
- Delivery of Project- Policy TSM 3 requires demonstration that the proposal is firm or realistic. To this end, information has been provided, most recently in July and September this year. This includes an assessment of other hotel provision in the area to demonstrate that the proposal will provide a specific offering, distinguishable from that available currently. The up to date information included correspondence from WH Stephens (Project Management- Construction Consultancy), ASM Accountants and Interstate Hotels/ Aimbridge (Hotel Operators). Collectively, this states the project can be viable, is in a position to progress to construction stage once planning has been granted and that Interstate as hotel operator, remain committed to the project. Accordingly, this requirement of the policy is met.
- Integration and Rural Character- A detailed Landscape and Visual Impact Appraisal was provided. This considered how the proposal will be viewed from 11 viewpoints. Photomontages were provided for 4 of the views. Overall, the proposal is considered acceptable regarding integration/ rural character for the reasons set out in the report. While there will be a visual impact on the landscape, this is not unacceptable. The proposal includes a landscaping scheme.
- Design- The main hotel building has a “T” plan and is three storey. It is of modern design and its main finishes are dark grey stonework, white cladding panels, significant areas of glazing and a sedum roof. The demonstration restaurant is single storey while the holiday cottages are

single storey and of split-level design. Overall, the design and materials are considered acceptable given the edge of settlement location.

- Amenity- The amenity of nearby receptors (mainly dwellings and holiday units) was considered having regard to issues including noise, odour and lighting. Through consultation with the Environmental Health Department, the proposal is considered not to harm the amenities of nearby residents, a requirement of Policy TSM 7 of PPS 16 Tourism.
- Economic Consideration- Details accompanying the application state that the proposal will comprise a significant capital investment, will encourage visitor stays in the Borough and when operating will provide close to 100 full time jobs.
- Access and Parking- The proposal was accompanied by a Transport Assessment. A single access point is proposed off Ballyreagh Road, a Protected Route, with a right turn lane. This access will replace an existing access at this location. The new access is located slightly to the west (to Portstewart side) of the existing access and is wider than the existing access. While Policy AMP 3 of PPS 3 does not make provision for a new access in lieu of an existing access, the access arrangements are considered acceptable on the basis the overall objective of the Policy is met in that no additional access is being created. The proposal includes 318 car park spaces. A proposed condition requires these to be provided and broadly, be solely used for the hotel.
- Sewerage and Water Supply- Given lack of current network capacity identified in consultation with NI Water, the proposal was amended to include a sewerage treatment plant and boreholes for a water supply. Further to carrying out consultations, these arrangements are considered acceptable.
- Representations- The detail of the representations, both in objection and in support of the application, are set out in the report.
- Conclusion- The proposal is considered acceptable and the recommendation is to approve subject to a range of conditions set out in Addendum 2.

In response to questions the Development Management and Enforcement Manager advised the issues that were raised as a result of the Judicial Review were resolved. In order to provide further information, the Development Management and Enforcement Manager stated he would retrieve the relevant files.

- * **The Chair declared a recess at 11:04am.**
- * **The meeting reconvened at 11:12am.**

The Head of Planning undertook a roll call.

Council Solicitor advised that paragraph 3.112 of the Planning Committee Report contained the link to the Judiciary NI website, where the Judgments could be found.

The Development Management and Enforcement Manager advised the issues raised were easement of access, request to call in, NW200 being able to operate, Site Visit report, PPS 3 AMP 3 – protected route of access and the description of the access provided, screening determination and procedural unfairness. The Development Management and Enforcement Manager confirmed all the issues had been addressed.

The Chair invited J Allister, to speak in objection of the application.

J Allister stated that he was in attendance in a personal capacity as a spokesperson for the Ballygelagh Village Owners Association. Planning applications for this hotel had been approved by Planning Officers twice and twice the approval had been quashed by the High Court decreeing the granting of the application unlawful.

J Allister stated there were procedural irregularities; in August 2019 the planning approval was quashed; this was not put on the Planning Portal. There should have been a fresh appraisal of the planning application; there has been no new planning committee report produced; there has been reliance on a flawed report with additional information to patch it up; an objective reassessment has not been completed and there is a lack of objective reasoning. J Allister stated there has been a collaborative arrangement between the Applicant and the Planning Officer; the Planning Officer contacted the applicant to make amendments to the submission and questioned why. J Allister stated the Planning Officer contacted the Agent to state that only Councillors attending the Pre-Determination Hearing could vote on the application at the Planning Committee and questioned the relevance of this. J Allister referred to the Planning section of Council's website stating that applicants and objectors were entitled to one meeting; the Applicant had multiple meetings; during the reconsideration stage the Applicant/Agent had three further meetings with Planning Officers; objectors had one meeting in seven years.

J Allister stated that, for the Planning Committee, the vital issue was Policy AMP3 in relation to the Protected Route. Lord Justice McCloskey spent time analysing on meaning of Policy AMP3; does not permit enlargement and relocation of the access. Planning Officers were defying the judgment of Lord Justice McCloskey and inviting Committee Members to do the same. J Allister referred to Addendum 2 highlighting there was a planning issue and stated there was no overriding issue; the current access can be used. J Allister stated that if Council wished to challenge Lord Justice McCloskey's decision they should have appealed it but did not; instead Planning Officers were defying the High Court decision. The access was being enlarged to supply extra vehicles; this access is protected against that.

J Allister referred to paragraph 3.76 of Addendum 2 citing Section 42 of the Planning Act which states that Council should not entertain an application for Planning Permission without the relevant certificate. J Allister stated that Certificate C provided by the Applicant was flawed; folio 12451 Co. Londonderry states that the land directly at the access of the site, over which the new access will run; it is the sliver of land from no. 120 along the road to the Pitts area; it is owned by a third party who had never been contacted. J Allister stated that Council must not entertain an application that does not meet the requirements; that Council should look at a map of the folio for land ownership; Section 42 of the Planning Act has been breached. J Allister stated the significance of this was two fold:

1. Supreme legal importance; Section 42 of the Planning Act has not been complied with; this was an ongoing obligation therefore this was a void application.
2. The access easement is worthless as it does not include the land required for access; this leaves the application under the waterline due to Section 42 of the Planning Act.

J Allister stated that paragraph 7.14 of Policy TSM3 was equally very clear of what was required and cited from the Policy; sufficient evidence was required to indicate how realistic the proposal was and the sources of finance available; these issues are the Council's concern. J Allister stated the company has no hotel experience; has never filed audited Accounts with Companies House and this micro entity will be building a multimillion pound hotel on bank loans. J Allister stated the company has declared that this was a joint venture with another company, who, when looking at Companies House, is a dormant company with no employees and technically insolvent. There was a meeting on 8 September 2023 which revealed there was no lending offer in place and J Allister questioned why this was concealed from Council and how Council could be satisfied with the viability of this project. J Allister stated Committee Members were being asked to look the other way and it was devastating that this was the last remaining green area between Portrush and Portstewart.

In response to questions from Planning Committee Members, J Allister confirmed he owned a house in Ballygelagh Village for twenty-five years and was attending the meeting as an interested person and representative of the Ballygelagh Village Owners Association; that he had sold the property and was a rate payer residing elsewhere within the Borough. J Allister stated the Committee Members were invited to engage in a planning application and the Law says they cannot. He stated there were repercussions for this and each Member was individually liable. J Allister advised Members to seek their own independent legal advice.

The Chair invited speakers to speak in support of the application.

T Ferguson, representative from C&V Developments, stated that everyone would be speaking with the exception of K Blair, the legal representative, but she was available to answer questions. T Ferguson outlined what the presentation would cover and confirmed the overview of the timeline and that the NW200 was fully supported. As this was a major application all the

necessary procedures had been followed and completed including the EIA and public consultation; there were no statutory objections.

B Wilson, architect representing C&V Developments, stated that the company had been approached in 2015 to design and provide a permanent home and presence for the NW200. As a whole, the project would provide a boost for the local area in respect of tourism; it was on the edge of the settlement and set back from the frontage. This was the development of a 4 Star Hotel & Spa complex incorporating 119 Bedrooms, Conferencing facilities for up to 350 theatre style and 300 banqueting, independent meeting rooms, feature Restaurant and Bar, 4 Star Spa and Leisure Facilities, permanent home and Visitor Attraction for the NW 200, 9 no. Holiday Cottages, Demonstration Restaurant. It will minimise the visual impact of the development on the landscape, maintain a low lying form throughout the development, high quality development that was architecturally consistent and showcase its coastal location.

P Neary, Neo Environmental, highlighted the supporting information, undertaken by specialists in their field, updated in 2019, 2022 and 2023. Landscape and Visual Impact Assessment was produced in line with standard practices, policies and guidance:

- 11 representative viewpoints considered from a range of receptors: residents, visitors, golfers and road users. Included an assessment of residential amenity, with a focus on Ballygelagh Village, Portrush (no change) and Portstewart (no change for majority of receptors, with some on the eastern side experiencing minor to moderate effects).
- Whilst it was accepted there will be views of the development (as with almost all developments) the Landscape and Visual Impact Assessment states that for Ballygelagh Village: 'the lower setting of the proposed site and siting of some buildings partially into the hillside will help ensure views out to the Atlantic Ocean and in some directions towards that of Inishowen Peninsula remain largely unobstructed'.

There was limited potential to affect the Area of Outstanding Natural Beauty.

- In respect of ecology, the Habitats Regulations Assessment (HRA) produced by the Council confirmed there would be no impact upon the integrity of any European designated sites. The Natural Environment Division (NED) had no concerns, subject to Conditions.
- In respect of archaeology, a Cultural Heritage Impact Assessment was originally produced in October 2016, with an Addendum provided in December 2019 identified a low potential to directly or indirectly impact designated or non-designated assets.
- In respect of transport and access the Department of Infrastructure consider access to be adequate for road safety and geometry and capacity.
- There was no significant impact in relation to contaminated land, noise, air quality, drainage or flood risk.

T Ferguson, representative from C&V Developments, referred to Planning Policy AMP3 in relation to enlargement of existing access and TSM 3 in relation

to hotel demand which was largely aligned with other research as detailed in the table in the presentation. A sequential site assessment had been completed; 19 sites have been considered either not suitable, unavailable or viable. In relation to being firm and realistic this project was realistic and sufficient to meet Policy as per the Court Ruling and also demonstrated in the letters provided in the PowerPoint presentation. There were also economic benefits to the area as one hundred jobs would be created and there would be £15M investment.

S Terry stated he had worked with the Applicant since 2016 and knows the Northern Ireland hotel market well; there was a gap in the market for an upscale hotel in this area; globally this company operate over one hundred hotels and eighty in the UK.

P Bolan, Ulster University, emphasised the importance of having a hotel like this in the area; stating the key aspects were gaps in hotel provision, growth, lack of hotel accommodation meeting the capacity of 93 rooms, lack of 4 Star and 5 Star hotels in the area, health and wellness provision and golf tourism; adding that upscale hotels could encourage tourism.

In response to questions K Blair, legal representative, advised the use of the land at the entrance to the access was an issue that had not been raised before and would need to be looked into; detail would be provided to the Planning Officer. T Ferguson confirmed this was the first C&V Developments were made aware of another landowner and needed to be party to the information J Allister was referring to and could bring answers to the Planning Committee on Wednesday 22 November 2023.

In response to questions from Planning Committee members, G Campbell stated that developments like this were absolutely crucial. G Campbell cited the R&A Chief Executive highlighting the need for good quality accommodation in the area; this was something the R&A wished to see when they return to Royal Portrush in two years' time, in order that they are not faced with a lack of accommodation as they did previously; the Open Golf may not come back if accommodation was lacking. Objections such as spoiling the view of a second home should not get in the way of development.

The Chair invited questions for the statutory consultees present.

In response to questions from Planning Committee members, A Gillen, Department for Infrastructure, stated that interpretation of Planning Policy is for the Planning Officers; in terms of Road Service perspective the access is an improvement of the existing arrangement; it was the responsibility of the developer/Applicant to query land ownership and provide the appropriate Certificate C to Planning Officers.

In response to questions from Planning Committee members, the Chair confirmed the Council Solicitor was in attendance and available.

MOTION TO PROCEED 'IN COMMITTEE'

Proposed by Alderman Scott
Seconded by Councillor Anderson

AGREED – that Planning committee move *'In Committee'*.

* **Press and Public left the meeting at 12:16pm.**

The information contained in the following items is restricted in accordance with Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014.

In response to questions from Planning Committee members the Head of Planning provided clarification on what was required for Certificate C.

The Development Management and Enforcement Manager provided clarification on the access to the Hotel. He confirmed that Notice had been served on several parties in relation to the access. The Development and Enforcement Manager confirmed the procedure for presenting information to the Planning Committee.

Council Solicitor, provided legal advice in relation to the High Court Judgment and Certificate C and advised ownership of the strip of land highlighted by J Allister would be considered once all the information had been received.

Senior Planning Officer, M Wilson, clarified the number of meetings held with objectors.

The Head of Planning clarified that all planning applications were considered objectively; if information received would alter the current position it would be considered in light of Policy and if necessary, it may alter the recommendation made to Committee.

Alderman Boyle stated the NI Public Services Ombudsman report was not completed.

MOTION TO PROCEED *'IN PUBLIC'*

Proposed by Alderman Scott
Seconded by Councillor Anderson

AGREED –that Planning Committee move *'In Public'*.

* **Press and Public were readmitted to the meeting at 12:58pm.**

In response to questions from Planning Committee members, the Head of Planning clarified all planning applications were considered objectively. In

terms of the planning committee report, the Head of Planning confirmed the original report was presented to the Pre Determination Hearing and the Addendums, containing additional information, superseded sections of the original report; all information had been presented to the Planning Committee; which would also benefit new Planning Committee Members. The Head of Planning confirmed all planning applications were presented the same way.

In response to questions from Planning Committee Members, Senior Planning Officer, M Wilson, clarified the number of meetings held with objectors; he advised there was a meeting in 2016 at J Allister's house with four other people to find out about the Application. Following the application being quashed in 2019, himself and another Planning Officer met Mr and Mrs Agnew at their property, which had been followed up with an email, detailing the information which had been requested, on 6 March 2020. Senior Planning Officer stated these were the only two meetings that were requested.

In response to a question regarding verifiable evidence, the Development Management and Enforcement Manager referred to paragraph 3.57 of Addendum 2; citing Policy TSM3 and clarified the information provided was consistent with the High Court Judgment.

Proposed by Alderman Scott
Seconded by Councillor Kennedy

- That a Site Visit is held for those Elected Members who did not have the opportunity to visit the site previously

The Chair put the Motion to the Committee to vote.
15 Members voted For; 0 Members voted Against; 0 Members Abstained.
The Chair declared the Motion carried.

RESOLVED - That a Site Visit is held for those Elected Members who did not have the opportunity to visit the site previously.

This being all the business the Chair thanked everyone for being in attendance and the meeting concluded at 1:16pm

Chair