

<b>Planning Committee Report Item B</b>	<b>27<sup>th</sup> July 2016</b>
<b>PLANNING COMMITTEE</b>	

<b>Linkage to Council Strategy (2015-19)</b>	
<b>Strategic Theme</b>	Protecting and Enhancing our Environment and Assets
<b>Outcome</b>	Pro-active decision making which protects the natural features, characteristics and integrity of the Borough
<b>Lead Officer</b>	Shane Mathers
<b>Cost: (If applicable)</b>	N/a

# **ITEM B**

## **Red Bay Pier Coast Road Cushendall**

**LA01/2016/0256/F**

**27<sup>th</sup> July 2016**

<b><u>No:</u></b>	LA01/2016/0256/F	<b><u>Ward:</u></b>	LURIGETHAN
<b><u>App Type:</u></b>	Full Planning Permission		
<b><u>Address:</u></b>	Red Bay Pier Coast Road Cushendall		
<b><u>Proposal:</u></b>	Provision of facilities associated with RNLI lifeboat service: Two timber clad, pre-fabricated storage containers, steel stair from pier to beach and timber fenders fixed to the harbour wall to provide temporary berth (3 year temporary permission).		
<b><u>Con Area:</u></b>	N/a	<b><u>Valid Date:</u></b>	29.02.2016
<b><u>Listed Building Grade:</u></b>	N/a		
<b>Agent:</b>	RPS, Elmwood House, 74 Boucher Road Belfast		
<b>Applicant:</b>	RNLI, Airside Business Park, Swords		
<b>Objections:</b>	0	<b>Petitions of Objection:</b>	0
<b>Support:</b>	0	<b>Petitions of Support:</b>	0

Drawings and additional information are available to view on the Planning Portal- [www.planningni.gov.uk](http://www.planningni.gov.uk)

## 1 RECOMMENDATION

- 1.1 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 sections 7 and 8 and resolves to **GRANT** planning permission subject to the reasons set out in section 10.

## 2 SITE LOCATION & DESCRIPTION

- 2.1 The application site is located at Red Bay Pier, Coast Road, Cushendall. Access to this area is gained from Coast Road travelling past No. 100. There is a small beach area west of the pier but it is currently inaccessible.

- 2.2 The site is located within the countryside south of the settlement of Cushendall on the scenic route towards Waterfoot which forms part of the Antrim Coast and Glens AONB.

### **3 RELEVANT HISTORY**

There is no relevant history.

### **4 THE APPLICATION**

- 4.1 Full planning permission is sought for Provision of facilities associated with RNLI lifeboat service: Two timber clad, pre-fabricated storage containers, steel stair from pier to beach and timber fenders fixed to the harbour wall to provide temporary berth.

### **5.0 PUBLICITY & CONSULTATIONS**

#### **5.1 External**

There are no objections to this proposal.

#### **5.2 Internal**

**Transport NI:** No objections.

**Environmental Health:** No objections.

**Shared Environmental Services:** No objections.

**NIEA:**

- **Historic Monuments Unit:** No objections.
- **Historic Buildings Unit:** No objections.
- **Coastal Development:** No objections.

### **MATERIAL CONSIDERATIONS**

- 6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local development plan, the determination must be made in

accordance with the plan unless material considerations indicate otherwise.

6.2 The development plan is:

- Northern Area Plan 2016

6.3 The Regional Development Strategy (RDS) is a material consideration.

6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a new local plan strategy is adopted, councils will apply specified retained operational policies.

6.5 Due weight should be given to the relevant policies in the development plan.

6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

## **7.0 RELEVANT POLICIES & GUIDANCE**

The Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS)

A Planning Strategy for Rural Northern Ireland

Planning Policy Statement 6: Planning, Archaeology and The Built Heritage

Planning Policy Statement 21: Sustainable development in the Countryside

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 2: Natural Heritage

## **8.0 CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application relate to the principle of development, visual impact, movement and access, amenity, built heritage and natural heritage.

### **Principle of development**

8.2 The proposal is located within the countryside outside of any settlement limit. It is within the Antrim Coast and Glens AONB and the Red Bay Local Landscape Policy Area (Designation CLL 04). This LLPA includes the rocky coastal fringe to the south of Cushendall and the relatively open beach and slopes behind it to the north. Policy ENV 1 applies for LLPAs and development proposals must not adversely affect the environmental quality, integrity or character of a designated LLPA.

8.3 The aim of the SPPS in relation to the Coast is to protect the undeveloped coast from inappropriate development, consistent with the RDS and to support the sensitive enhancement and regeneration of the developed coast largely within coastal settlements.

8.4 The proposal entails facilities associated with the RNLI lifeboat service. Two pre-fabricated storage containers are proposed along the existing pier just south of Coast Road. One container measures approx. 6.1m long x 3.05m wide x 2.45m high and the dimensions of the other container are 6.05m long x 2.4m wide x 2.46m high. The containers are to be clad in softwood treated timber. The proposal also includes a galvanised steel stair from the pier to the beach in a central location to enable access. Timber fenders are also proposed fixed to the harbour wall at the end of the pier to provide a temporary berth. Two floodlighting columns are proposed at either end of the pier and measure approx. 6m high.

8.5 Policy CO 1 of PSRNI is to conserve the natural character and landscape of the undeveloped coast. Development will be permitted if there is a clear specific need. However, certain developments require a coastal location for example ports and marinas so assessment of its effect on the economy and environment is necessary.

## **Visual Impact**

- 8.6 All elements contained within the application are required to meet the specific needs of the RNLI lifeboat service and require a coastal location to help serve the local population should a sea rescue be required. The proposal should not harm visual amenity given the positioning of all the elements of the application along the pier. The containers are positioned adjacent to a high wall therefore views should be limited when travelling towards Waterfoot. On approach towards Cushendall, views of the containers may be apparent but these are short range given the winding nature of the Coast Road. To ensure views are protected on this sensitive coastal route, amendments to the finishes of the containers were requested. The original colours of pale green and Trafalgar blue for the containers was amended to external cladding of all elevations including the roof in softwood treated timber. This is to be left unpainted. This external finish will soften the visual impact. A condition relating to these containers for temporary permission will ensure a more appropriate permanent solution can be designed if required for long term use.

## **Movement and Access**

- 8.7 Transport NI were consulted in relation to this application and expressed no objections in relation to road safety or access requirements.

## **Amenity**

- 8.8 The proposed flood lighting includes two columns. Environmental Health have no objections subject to the proposed lighting adhering to the Institute of Lighting Professionals to mitigate any potential impact to neighbouring amenity. The proposal does not offend Policy NH 6 of PPS 2 as all elements are necessary to support the RNLI lifeboat service and are appropriate along this pier therefore no harm will occur to the Antrim Coast and Glens AONB or the Red Bay LLPA. The proposal should not result in any residential amenity concerns given separation distances from neighbouring properties.

## **Built Heritage**

- 8.9 The site is located on Red Bay pier which is a feature of industrial archaeological interest of local importance. The site is also in proximity to Red Bay Castle, a scheduled monument, which includes a medieval motte and bailey earthwork and the remains of a late medieval castle. NIEA: Historic Monuments Unit was consulted and advise that although the development is within an archaeologically sensitive landscape, the terrestrial components of the application will not have a detrimental impact on the known archaeology of the area. The proposal does not offend Policies BH 1 & 2 of PPS 6.
- 8.10 The application site is in proximity to Red Arch, Red Bay, a Grade B listed structure of special architectural and historic interest. NIEA: Historic Buildings Unit were consulted and expressed no objections in that the application does not affect the essential character of this listed structure. The proposal does not affect the setting of this listed Red Arch and complies with Policy BH 11 of PPS 6.

## **Natural Heritage**

- 8.11 NIEA: Coastal Development were consulted in relation to this application. The site is in close proximity to a National and European designated site - Red Bay SAC (Special Area of Conservation) and Waterfoot pMCZ (proposed Marine Conservation Zone). The works are adjacent to the pMCZ but 2.8km away from the SAC. The site selection feature of the pMCZ is seagrass so there should be no mooring or anchoring within the pMCA where possible and any construction that may cause adverse siltation should be kept to a minimum as this may cause smothering of the seagrass. Marine mammals such as cetaceans and seals should be protected and projects should include mitigation where necessary. Marine Environment Division has considered the impacts of the proposal and is content subject to a condition and informatives.
- 8.12 Shared Environmental Services were consulted and have considered the nature, scale, timing, duration and location of the project. They conclude that the proposal would not have any conceivable effect on the selection features, conservation objectives or status of any European Site. The potential impact



of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar Sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European Site. Following consideration of these consultation responses, the proposal therefore complies with Policies NH 1, 2 & 5 of PPS 2.

## **9.0 CONCLUSION**

- 9.1 This proposal is considered acceptable in this location having regard to the Area Plan and other material considerations. The proposed works are necessary and required to meet the specific needs of the RNLi and do not have an adverse negative impact on the built and natural environment. The visual impact has been reduced with the use of timber cladding and a temporary permission has been recommended to allow the applicant to consider a permanent solution. Approval is recommended.

## **10 CONDITIONS**

### **10.1 Regulatory Conditions:**

1. The proposed works must be begun not later than the expiration of 5 years beginning with the date on which this consent is granted as required by Article 94 of the Planning Act (Northern Ireland) 2011.

Reason: Time Limit.

2. The pre-fabricated storage containers, hereby permitted, shall be externally clad with unpainted/ unstained/ unvarnished softwood treated timber planks on all elevations and the roof in accordance with Drawing Nos. 02/1, 03/1, 08/1 and 09/1 date stamped 3rd June 2016 and 23rd May 2016 within one month of their location on site.

Reason: In the interests of visual amenity.

3. The pre-fabricated storage containers shall be for a temporary period of 3 years from the date of this permission, and the land

restored to its former condition within 4 weeks of the date of removal to the satisfaction of the Planning Authority in writing.

Reason: In the interests of visual amenity.

### Informatives

1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.

3. Environmental Health advise the following:

The installation or erection of any outdoor lighting should consider any adverse impacts to neighbouring properties. All lighting provisions should meet lighting guidance CIE – International commission on Illumination – Guide on the limitation of the effects of obtrusive light from outdoor lighting installations or ILP – Institute of Lighting Professionals – Guidance notes for the reduction of obtrusive light.

4. NIEA: HMU advise the following:

Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995

The applicant's attention is drawn to Article 42 of the Historic Monuments and Archaeological Objects (NI) Order 1995 that requires finders of archaeological objects to report within 14 days to a relevant authority. In the event of a discovery of an archaeological object and/or remains during works the Planning Authority would ask that you: (1) record the position and details of the site; (2) do not disturb the site further and (3) report your discovery to and seek further advice from Historic Environment Division, DOE, Causeway Exchange, 1-7 Bedford Street, Belfast BT2 7EG immediately. This is to ensure recovered archaeological material is recorded with the appropriate authority.

5. NIEA: Coastal Development advise the following:

There should be no mooring or anchoring within the pMCZ and any construction which may cause adverse siltation should be kept to a minimum as this may cause smothering of the seagrass. This is to protect the integrity of Waterfoot pMCZ and to avoid it being damaged.

6. Marine Licensing

Marine Licensing team have been in discussion with the agent in respect of this proposal. A marine licence application has subsequently been received on 8 March 2016 for the installation of temporary moorings and also the access steps. The marine licence application will be checked and issued for a 28 day consultation. Please contact Marine Division if Planning require further information in respect of the marine licence application details.

7. Marine National Protected Species

The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended), under which it is an offence to intentionally or recklessly kill, injury or take any wild animal included in Schedule 5 to the Order. This includes the common seal (*Phoca vitulina*), grey seal (*Halichoerus grypus*), basking shark (*Cetorhinus maximus*), angel shark (*Squatina squatina*), common skate (*Dipturus batis*) short snouted seahorse (*Hippocampus hippocampus*), spiny seahorse (*Hippocampus guttulatus*), spiny lobster (*Palinurus elaphus*) and fan mussel (*Atrina fragilis*).

Article 11 of the Wildlife (Northern Ireland) Order 1985 (as amended) provides that a person shall not be guilty of an offence under Article 10 (killing or injuring a species listed in Schedule 5 (as amended)) if the act was incidental to a lawful operation (i.e. activity permitted by a Marine Licence or Planning Permission) and could not reasonably be avoided. A separate marine Wildlife Licence is therefore not required for national marine protected species if a Marine Licence/Planning Permission has been granted, since

adherence to the conditions of the Marine Licence should reduce the likelihood of harm to national marine protected species.

Under Article 10 it is an offence to intentionally or recklessly disturb; common seals, grey seals or basking sharks. It is also an offence under Article 10 to intentionally or recklessly damage or destroy, or obstruct access to, any structure or place which these animals (Schedule 5<sup>1</sup>) use for shelter or protection; damage or destroy anything which conceals or protects any such structure; or disturb any such animal while it is occupying a structure or place which it uses for shelter or protection.

Under Article 13 it is an offence to sell or transport any Schedule 7 animal dead or alive at any time<sup>2</sup>.

Any person who knowingly causes or permits an act which is made unlawful under Article 10 or Article 13 shall also be guilty of an offence.

If there is evidence of Schedule 5 animals listed above at the site, all works must cease immediately and further advice must be sought from DOE Marine Environment Division, Klondyke Building, Cromac Avenue, Belfast BT7 2JA.

Under the Wildlife (Northern Ireland) Order 1985 (as amended) a licence may be required for any operations which might impact on protected species.

<sup>1</sup> Common skate and angel sharks in respect to Article 10 (1) only and within 6 nautical miles of coastal water only.

<sup>2</sup> Schedule 7 species includes all Schedule 5 species listed in Appendix A, with the exception of the common skate and angel shark. Sea urchin is protected under Schedule 7 only.

## 8. Marine European Protected Species

The applicant's attention is drawn to regulation 34 of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), which states that it is an offence to deliberately capture, injure or kill a wild animal of a European Protected Species included in Schedule 2 to these Regulations. This

includes all species of dolphins, porpoises and whales and the marine turtle species.

(1) It is also an offence to;

(a) deliberately disturb such an animal while it is occupying a structure or place which

it uses for shelter or protection;

(b) deliberately to disturb such an animal in such a way as to be likely to;

(i) affect the local distribution or abundance of the species to which it belongs;

(ii) impair its ability to survive, breed or reproduce, or rear or care for its young;

or

(iii) impair its ability to hibernate or migrate;

(c) deliberately take or destroy the eggs of such an animal;

(d) deliberately obstruct access to a breeding site or resting place of such an animal;

or

(e) damage or destroy a breeding site or resting place of such an animal.

(2) It is an offence for any person;

(a) to have in his possession or control,

(b) to transport,

(c) to sell or exchange, or

(d) to offer for sale or exchange,

any live or dead animal which is taken from the wild and is of a species listed in

Annex IV(a) to the Habitats Directive, or any part of, or anything derived from, such an animal.

If there is evidence of Schedule 2 animals listed above at the site, all works must cease immediately and further advice must be sought from DOE Marine Environment Division, Klondyke Building, Cromac Avenue, Belfast, BT7 2JA.

Under this legislation a licence may be required for any operations which might impact on European Protected Species.

<sup>1</sup> Following two European Court of Justice cases (C-103/00 and C-221/04) “deliberate actions are to be understood as actions by a person who knows, in the light of the relevant

legislation that applies to the species involved, and the general information delivered to the public, that his action will most likely lead to an offence against a species, but intends this offence or, if not, consciously accepts the foreseeable results of his action”

[http://jncc.defra.gov.uk/PDF/consultation\\_epsGuidanceDisturbance\\_all.pdf](http://jncc.defra.gov.uk/PDF/consultation_epsGuidanceDisturbance_all.pdf)